

# 2020 exam appeals

Exam grades will be allocated in 2020 and the importance of how teachers make their pupil assessments this year. This briefing is in relation to the current position on possible appeals against awarded grades.

15 June 2020

## **Please note: the information contained in this legal update is correct as of the original date of publication**

Further to our earlier [briefing](#) on how exam grades will be allocated in 2020 and the importance of how teachers make their pupil assessments this year, this briefing is in relation to the current position on possible appeals against awarded grades.

Firstly, it is worth reiterating that students and parents should not be made aware of the grades submitted by the school before results day.

Notwithstanding the efforts to ensure fairness, there will inevitably be students who are unhappy with their awarded grades and who believe that the results are wrong. In this instance Ofqual has ruled that it is not going to be possible for a student to appeal directly to their school or college in respect of the grading or assessment made by them. The rationale for this decision is threefold:

1. Any reassessment would have to be undertaken by someone better placed to know the student and their capabilities; this is not possible as the person with the best knowledge has already made the judgement.
2. To make the appeal, the student would have to have access to the information used to make the assessment which Ofqual believe would compromise the reliability of the process.
3. If there was an adjustment required, because of the ranking process, it would affect all the other candidates who in turn would then want to appeal.

The option for the student who feels that they have been wrongly judged is to take the exams again in the autumn and the higher of the two outcomes used as the final award.

## When can appeals be made?

There are three instances where appeals can be made:

1. Where the exam centre notifies Ofqual that it has made a mistake when submitting the information. This could presumably include administrative errors as well as errors of judgement.
2. Where the centre believes that an exam board has made an error when calculating, assigning or communicating a grade.
3. Where a student has evidence that the grading could be incorrect because of discrimination or bias. In this instance the student can appeal to the centre or direct to the exam board who could investigate for potential malpractice.

Schools are going to need to be confident of the assessments they have made. In reality it is going to be hard for a student to evidence discrimination or bias (option three) especially if they cannot have sight of the information the assessor used when making their grade judgement. If a student has a record of grades achieved throughout the year which are significantly different from the awarded grade this may suggest bias. Whilst they could not request the actual proposed grading to the exam board, there would be nothing to stop them requesting information about previous assessments through a Subject Access Request. If the education records, including attainment

showed that the exam outcome was different to what might be expected based on past marks then the student could approach the centre or if not satisfied by the reply, the exam board itself.

Interestingly, there are no timelines given for appeals although the inference is that the ultimate appeal is to sit the exam in the autumn and take the higher grade. This option is not indicated as a requirement however, so a decision by the student to not resit their assessment may not preclude an appeal.

## Challenges for Schools

Schools may see an increase in complaints following the publishing of the allocated results. The complaints may focus on the grades put forward by the school or the grades received, and disparity between them and the student's educational record. The complaints could also focus on discrimination claims and reasonable adjustments not being made appropriately.

In any event, disgruntled students and parents are likely to feel that the school has been responsible and careful communication is going to be key when the results are delivered.

If you receive a complaint, Freedom of Information or Subject Access Request in relation to this year's assessments (or any other matter) and would like to discuss your options with one of our legal experts please [contact us](#).

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