

Enquiries,
Complaints
and Appeals

English Speaking Board

Enquiries, Complaints and Appeals



| | |
|-----------------------------|--|
| Policy Name: | Enquiries, Complaints and Appeals Policy and Guidelines |
| Implementation Date: | December 2015 |
| Review Date: | August 2018 |

Contents

| | |
|---|----------|
| Section 1 – Overview of the Policy | 3 |
| 1.1 Policy Introduction..... | 3 |
| 1.2 Purpose of the Policy | 3 |
| 1.3 Communication of Policy | 4 |
| 1.4 Review of Policy | 4 |
| 2.0 Policy Definitions | 5 |
| 3.0 Enquiry Process..... | 11 |
| 4.0 Complaints Process..... | 6 |
| 5.0 Appeals Process | 13 |

Section 1 – Overview of the Policy

1.1 Policy Introduction

English Speaking Board (ESB) is committed to providing its customers and learners with the best possible service. ESB customers have the right to express dissatisfaction about the way in which ESB has carried out its service. ESB will ensure the complaint, enquiry or appeal is dealt with in an effective manner in accordance with our published documentation and shared with the regulatory authorities on request.

The policy has been divided into five sections - policy overview, definitions of the policy, complaints, enquiries and appeals and outline the guidance for each.

1.2 Purpose of the Policy

The purpose of this policy is to explain the simple, identifiable process and timeframes within ESB for effectively dealing with complaints, enquiries and/or appeals.

The policy outlines:

- How to make an appeal, complaint and/or enquiry
- How ESB deals with the complaint, appeal and/or enquiry
- Timeframes involved with the complaint, appeal and/or enquiry
- How ESB will communicate the findings of the complaint, appeal and/or enquiry
- Country specific requirements i.e. England – Wales – Scotland – Southern Ireland

ESB commits to ensuring that:

- No one should be inhibited, disadvantaged or discriminated against when making a complaint, appeal or enquiry
- Customers can be confident that all complaints will be treated with equal diligence
- Customers are treated with courtesy and receive appropriate contact, as and when necessary, throughout the handling of a complaint, appeal or enquiry
- When mistakes happen, ESB will acknowledge them, apologise, explain what went wrong and put things right quickly and effectively
- ESB learns lessons from complaints and uses these to improve service.
- Future treatment will not be adversely affected

1.3 Communication of Policy

ESB complaints, enquiry and appeals policy must be widely communicated, owned, understood and adhered to by all internal and external staff.

1.4 Review of Policy

ESB will review this policy in accordance with its published timescales, to ensure its procedures and practices continue to meet legislative and regulatory compliance. It reserves the right to make on-going changes in line with customer and stakeholder feedback, changes in its practices, actions from the regulatory authorities or external agencies or changes in legislation.

2.0 Policy Definitions

- **Appeal:** If the outcome of a complaint or enquiry is not accepted by the complainant, the next stage may be to lodge an appeal. a) In the case of assessment results, this may only be done once the previous investigatory stage has been completed b) For other decisions regarding either Reasonable Adjustments or action to be taken against learners or centres following an investigation into malpractice or maladministration, an appeal may be lodged directly, provided the listed timescale is followed.
- **Customer:** An approved centre.
- **Centre:** A *centre* is an organisation approved by ESB to offer ESB qualifications.
- **Complaint:** as any expression of dissatisfaction about the way in which it has carried out, or failed to carry out, its work and which requires a response from ESB.
- **External Assessment:** an examination carried out and/or marked by an ESB examiner.
- **Examiner:** A representative from the Awarding organisation who judges learners performance against a criteria.
- **Enquiry about Results (EARs):** A centre wishing to seek information on behalf of their learners result. The enquiry process is about an externally marked assessment/examination.
- **Internal Assessment:** an assessment carried out and marked internally by the centre
- **Learner** - Individual who is registered with ESB.
- **Ofqual:** The Office of Qualifications and Examinations Regulation (Ofqual) regulates qualifications, examinations and assessments in England and vocational qualifications in Northern Ireland.
- **Qualification Wales:** Qualifications Wales is the independent organisation responsible for regulating general and vocational qualifications in Wales.
- **Remark:** Conducting a remark of the paper, which will be carried out by someone other than the original marker.
- **SQA Accreditation:** As a qualification regulator in Scotland, SQA Accreditation quality assures qualifications by approving awarding bodies, as well accrediting and regulating their qualifications.
- **SPSO:** The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public bodies in Scotland, including councils, the National Health Service, housing associations, colleges and universities, prisons, most water and sewerage providers, the Scottish Government and its agencies and departments and most Scottish authorities.
- **Working Day** - A *working day* is any day other than Saturday or Sunday or a statutory holiday in the country of that centre.

- **Written report:** This is sent to the centre following the remark and outlining the recommendations and/or decisions.
- **Whistleblower:** is a person who exposes any kind of information or activity that is deemed illegal, dishonest, or not correct within an organization that is either private or public

3.0 Complaints Process

ESB defines a complaint as any expression of dissatisfaction about the way in which it has carried out, or failed to carry out, its work and which requires a response from ESB.

Types of Complaints

The types of complaints ESB would consider under this policy are about aspects of the service it has provided. This may include complaints about:

- mistakes or poor service
- unreasonable delay or failure to take action
- unprofessional behaviour or conduct of staff
- bias or unfair treatment

Confidentiality and whistle blowing

Sometimes a complainant will wish to remain anonymous. However, it is always preferable for complainants to reveal their identity to ESB. If complainants are concerned about possible adverse consequences, they should inform ESB that they do not wish their identity to be divulged. ESB is not obliged (as recommended by the regulators) to disclose information if to do so would be a breach of confidentiality and/or any other legal duty. While ESB is prepared to investigate issues which are reported to us by anonymous (whistle-blowers), it will always try to confirm the grounds of an allegation by means of a separate investigation, before taking up the matter with those to which the complaint/allegation relates.

ESB's complaints policy does not cover types of complaints that are:

- All centres are required to have complaints and appeals procedures in place and ESB expects that all learners are informed of these upon enrolment. Disputes between a learners and Centre will not be considered unless it has exhausted the Centre's complaints process.

How to make a complaint to ESB?

A complaint can be made in the following ways:

- **By writing directly to Customer Service Manager, English Speaking Board, 9 Hattersely Court, and Burscough Road, Ormskirk, L39 2AY.**
- customer@esbuk.org
- 01695 573439 (Option 1)
- If the initial contact with ESB is by phone or as Centre Feedback, no investigation can be made until the details have been received in written form as a specific complaint.
- Complaints sent to other sections of ESB, including the Senior Management Team, will be forwarded to the Customer Service Team for action under this complaints policy.

How ESB will record the complaint?

The Customer Services Manager will record the complaint on ESBs 'Complaint Log', updating the log each time there is a development within the complaint. This information helps ESB to consider how it can improve its service delivery.

How ESB deal with a complaint?

- The Customer Service Team will normally review the complaint. If the complaint is about a member of the Customer Service Team, another ESB team member may deal with the complaint. Exceptionally, the investigating team may sometimes refer a complaint to an independent person for investigation, for example where we consider the matter is particularly complex, has wider implications or where there is a potential conflict of interest.
- It is important that complainants tell ESB about any issue quickly and in full, stating the reasons for the complaint clearly, and including any supporting evidence or examples and the names of people involved, if known. This will allow ESB to handle the complaint thoroughly from the start and reduce the need to ask for more information.
- On receipt of a letter of complaint, the Customer Service Manager will acknowledge receipt using the standard acknowledgement letter. This acknowledgement should be sent to the complainant **within 2 working days**.
 - ❖ If a complaint does not fall within the scope of the complaints policy, ESB will write to the complainant to explain why. If they disagree, they can appeal.
 - ❖ Should the complaint signify fraudulent activity, or safeguarding concerns, the matter will automatically be referred to the Responsible Officer.

- The Customer Service Manager will identify all persons directly or indirectly involved in the complaint and will undertake a thorough investigation of the events surrounding the complaint.
- The Customer Service Manager will respond to the complaint with an outcome **within 15 working days** and log all correspondence and outcomes, in case of an appeal. ESB's response will include a full explanation, setting out the results from the investigation; it will clearly state whether the complaint has been upheld or not and, if necessary, what steps will be taken to put matters right. If ESB is unable to uphold the complaint, it will explain why.

Complaints relating to SQA Accredited qualifications

In relation to SQA accredited qualifications, learners and centres have the right to complain to SQA Accreditation should they be dissatisfied with the way in which ESB has handled a complaint.

Following a review, should SQA Accreditation uphold the complaint, ESB will ensure that appropriate preventative and/or corrective action is taken. You can contact SQA Accreditation by:

- e-mail: regulation@sqa.org.uk
- Telephone: 0345 213 5249
- Fax: 0345 213 5011

Or in writing to:

SQA Accreditation

Scottish Qualifications Authority

The Optima Building

58 Robertson Street

Glasgow

G2 8DQ

In certain circumstances, learners or centres may have the right to escalate a complaint to the Scottish Public Service Ombudsman (SPSO) as the final arbiter.

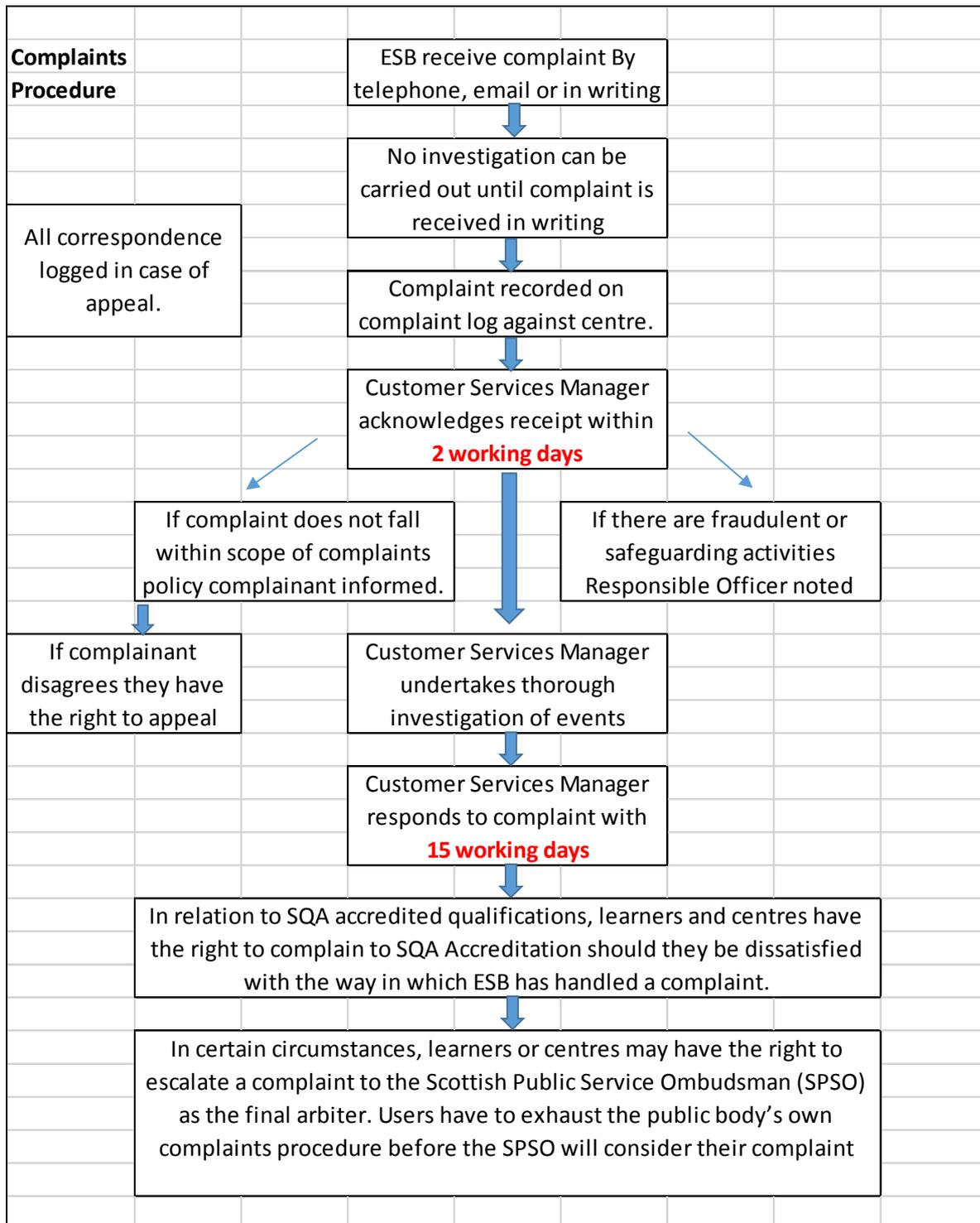
Users have to exhaust the public body's own complaints procedure before the SPSO will consider their complaint and it must usually have been raised within the previous 12 months. The complaint cannot be under consideration in a court of law.

Centres classed as public bodies are required to implement a documented complaints process which makes it plain that learners and centres can complain, in turn, and once the previous stage has been exhausted, to the centre or ESB (whichever is appropriate), to SQA Accreditation and to the SPSO.

The SPSO will not consider complaints about academic decisions, such as the outcome of an assessment. These types of complaints should be treated as an appeal and should follow ESB's appeal processes.

SPSO's Model Complaints Handling Procedure can be found at

<http://www.valuingcomplaints.org.uk/wp-content/media/The-Further-Education-Model-Complaints-Handling-Procedure.pdf>



4.0 Enquiry Process – Externally Marked

An enquiry raises doubts over results, either for any one learner or for a group of learners. This procedure provides the opportunity for Centres to seek a check on decisions affecting a learner's external assessment results. All enquiries, whether by an adult learner or the learner's parent/guardian for a minor, must be made through the Centre Organiser, as this may delay the issuing of certificates for other learners. Organisers and learners should be aware that results from the whole group assessed may be adjusted either up or down as a result of an enquiry. No certificates will be issued by ESB for any assessment session subject to an enquiry until the process has been completed, and its outcome accepted.

How to make an enquiry to ESB

The Centre must send an enquiry to ESB **within 14 working days** of receiving the results, via the Customer Service team - customer@esbuk.org. The centre must provide the following information in writing as applicable:

- Centre name
- Centre Organiser's name
- Candidate/learner's name and ESB Registration ID
- Title and level of the qualification/units
- Date of examination
- Result
- Issue

How ESB deal with an enquiry

- ESB will acknowledge receipt of the enquiry **within 2 working days**.
- ESB's Senior Examiners will:
 - ❖ Review the reports/results
 - ❖ Contact the examiner to confirm and seek further information
 - ❖ Review all associated documentation
 - ❖ Consider specific points raised in the enquiry

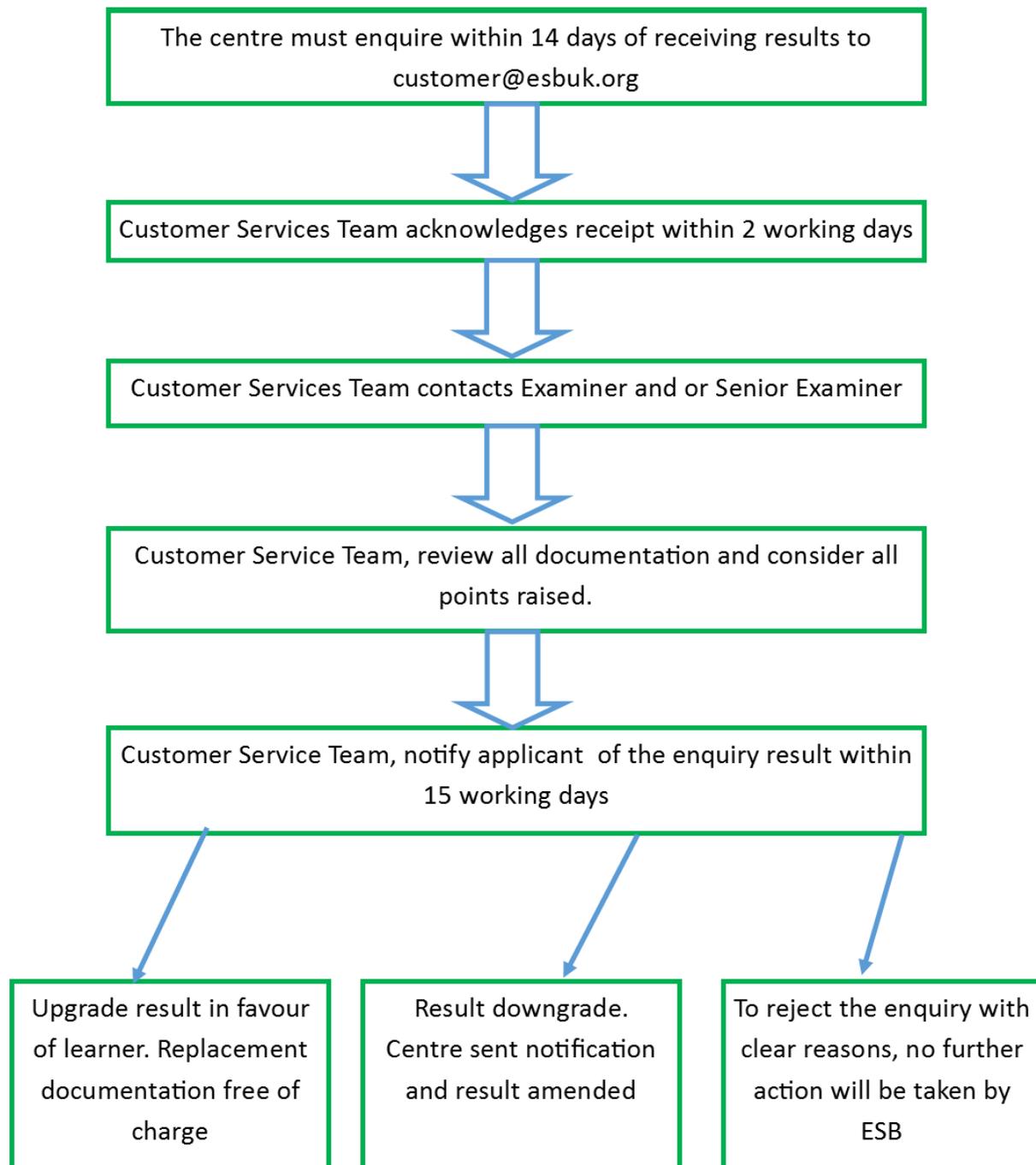
Outcomes

ESB will notify the applicant of the result of their enquiry **within 15 working days** of receipt of the request. The decisions and outcomes may be:

- ❖ To upgrade the examination result in favour of the learner. The centre will be sent a letter outlining the justification. Overall learner result(s) may be adjusted. The replacement documentation will be issued without charge.
- ❖ To downgrade the examination result. The centre will be sent a letter of notification and the result will be amended.
- ❖ To reject the enquiry basis, with clear reasons being given. No further action will be taken by ESB.

Internally marked units

If a candidate wishes to appeal the results of an internal assessed unit, the candidate must go through the Centre's internal appeals procedure.



5.0 Appeals Process

Introduction

The Regulatory bodies' state appeals should focus on whether or not Awarding Organisations have:

- ❖ used procedures that were consistent with the Code of Practice
- ❖ Applied its procedures properly and fairly in arriving at judgements.

In accordance with the latest regulatory requirements, ESB accepts appeals in relation to the following areas of its work:

- **Appeals against results** – when a Centre is still dissatisfied with an examination result or results following the enquiries about results process.
- **Appeals against malpractice decisions** – following a decision to apply a penalty because of malpractice in an examination/assessment.
- **Appeals against decisions made in respect of access arrangements and special consideration.**
- **Appeal against centre approval decisions** - The Customer Service Manager deals with all centre approval enquiries and decides whether the centre should be granted ESB centre approval. The recommendation is made on receipt of the centre recognition form and other documentation essential to the approval process. In the event that approval is not granted, the Customer Service manager will provide the centre with a written account of the outcome.
- **Appeal against to change a centres approval status** – ESB Customer Service Department is responsible for monitoring all ESB centres to ensure that the centre approval criteria are met. When it is made known to ESB that a centre is in breach of its compliance with ESB centre approval criteria, an investigation is initiated. This may result in temporary suspension and removal from the ESB website. In the case of a serious breach, the centre may have their approval status withdrawn permanently. The centre will be informed in writing of the reasons for any change to the centre's approved status. Including: misleading advertising, failure to register learners, complaints, ESB reputation

Who can appeal?

Appeals are accepted from either directly from the centre or on behalf of a candidate through the Centre.

How to appeal to ESB?

- The Centre Organiser must submit a written appeal **within 15 working days** of receiving the outcome of an enquiry using the appeal form and must state clearly the nature of the concern and the reasons for it.
- The form must be emailed to the Customer Service Team customer@esbuk.org with the relevant fees (see website for up-to-date fees).
- ESB will acknowledge receipt of the appeal in writing **within 2 working days**.
- ESB will make a decision whether or not to accept the appeal based on:
 - ❖ the grounds for the appeal put forward
 - ❖ whether an enquiry about the results has been completed
 - ❖ The timescales of the application.

If an appeal is not accepted, the reason(s) for this will be given.

Appeals Process – Stage 1

- Stage 1 of the Appeals Process involves a preliminary examination of the case by a person who has not had any previous involvement with the matter. This investigation will take into account the written submission from the appellant
- The procedures which are open to investigation include the full range of processes involved in, and leading to, the award of grades. The Appeals Process is not directly concerned with making judgements about the quality of candidates' work since this is the responsibility of senior examiners and moderators.
- An appeal investigation does not generally involve a further review of the candidates' work. However, such action may be authorised following the Stage 1 or Stage 2 Appeal.
- After the investigation, the appeal will either be rejected (disallowed) or upheld (allowed). If the appeal is upheld (allowed) any necessary further work on the candidates' scripts or results will be undertaken if applicable.
- A report on the Stage 1 Appeal, detailing ESB's decision will be sent to the Centre Organiser.
- All Stage 1 Appeals will be dealt with as quickly and thoroughly as possible.

Appeals Process – Stage 2

- If the Centre Organiser remains dissatisfied with the outcome of the Stage 1 Appeal, a written request using the Stage 2 Appeal Form should be sent to the Customer Service Manager.
- A request for a Stage 2 Appeal must be made **within 10 working days** of receipt of the Stage 1 Appeal outcome letter.

- For a Stage 2 Appeals hearing, ESB typically convenes a panel of three or four people – including the CEO, DCEO, one other employee plus a Trustee and an independent person who is not directly employed by ESB.
- One of the Panel will be nominated as the Chair. He/she will ensure that the hearing is conducted in accordance with the procedures detailed in this document and will verify from the start that the members of the panel have had no previous connection with, nor any personal interest in, the case.
- Prior to the meeting, all the necessary documentation will be supplied to the Panel. ESB will ensure compliance with any relevant provisions of the Data Protection Act.
- The Panel may request the Centre Organiser to be called to the hearing. If the Centre Organiser has been asked to attend, but does not do so, the hearing will continue.
- The Centre Organiser may call any representatives to the case. Candidates and/or their parents/carers will not be called as representatives. The names and contact details must be submitted to the Panel (**within 10 working days**) prior to the scheduled hearing date.
- The Panel has the right to contact the representatives.
- Legal representation is not normally permitted at Stage 2 Appeal hearings, as a Stage 2 Appeal hearing is not a legal function.
- The hearing will take the form of a re-examination of the evidence, comments and reports provided to and by ESB.
 - ❖ **In an appeal concerning an enquiry about results**, the test applied by the panel will be whether ESB has:
 1. used procedures that were consistent in line with the latest regulatory guidance
 2. Applied its procedures properly and fairly when arriving at a judgement.
 - ❖ **In an appeal related to malpractice, (which includes maladministration)** the panel will consider whether there was sufficient evidence to support the finding of malpractice and how appropriate the original penalty or sanction was in light of the ESB guidelines.
 - ❖ **In an appeal focusing on access arrangements or special consideration**, the panel will consider whether ESB's actions were consistent with the published procedures and were fair.
- In reaching its decision, the panel will also consider whether, in the event of a failure of procedures having been identified at an earlier stage, any remedial action then taken by ESB was sufficient to rectify the matter.

Outcome

Possible outcomes:

- Appeal declined
- Appeal upheld
- Requires further investigation.

After the hearing

- The decision of the Appeals Panel will not normally be communicated orally to the centre organiser on the day of the hearing.
- The decision will be sent to the Centre Organiser (**no later than five working days**) after the hearing.
- A draft report of the hearing will be provided to the Panel and the Centre Organiser (if appropriate) and **within 28 calendar days**.
- The Panel and Centre Organiser (if applicable) will be offered the opportunity to correct errors of fact made in the report. The decision whether or not to accept amendments suggested by the Centre Organiser will be at the sole discretion of the Panel Chair.
- The hearing by the Panel will complete the ESB internal appeals procedure. No further appeal will be accepted by ESB.

Appeals relating to SQA accredited qualifications

In relation to SQA accredited qualifications, learners and centres have the right to appeal to SQA Accreditation should they be dissatisfied with the way in which ESB has handled an appeal.

Where a referral is made to SQA Accreditation, it may undertake activities to assess the effectiveness of ESB's appeals process and/or that of an approved centre. The aim being to ensure that such processes are in line with regulatory requirements.

Where SQA Accreditation raises any concerns ESB and/or the approved provider must take the appropriate preventative and/or corrective action to prevent re-occurrence.

Please note that SQA Accreditation is unable to overturn assessment decisions or academic judgements.

You can contact SQA Accreditation by:

- e-mail: regulation@sqa.org.uk
- Telephone: 0345 213 5249
- Fax: 0345 213 5011

Or in writing to:

SQA Accreditation

Scottish Qualifications Authority

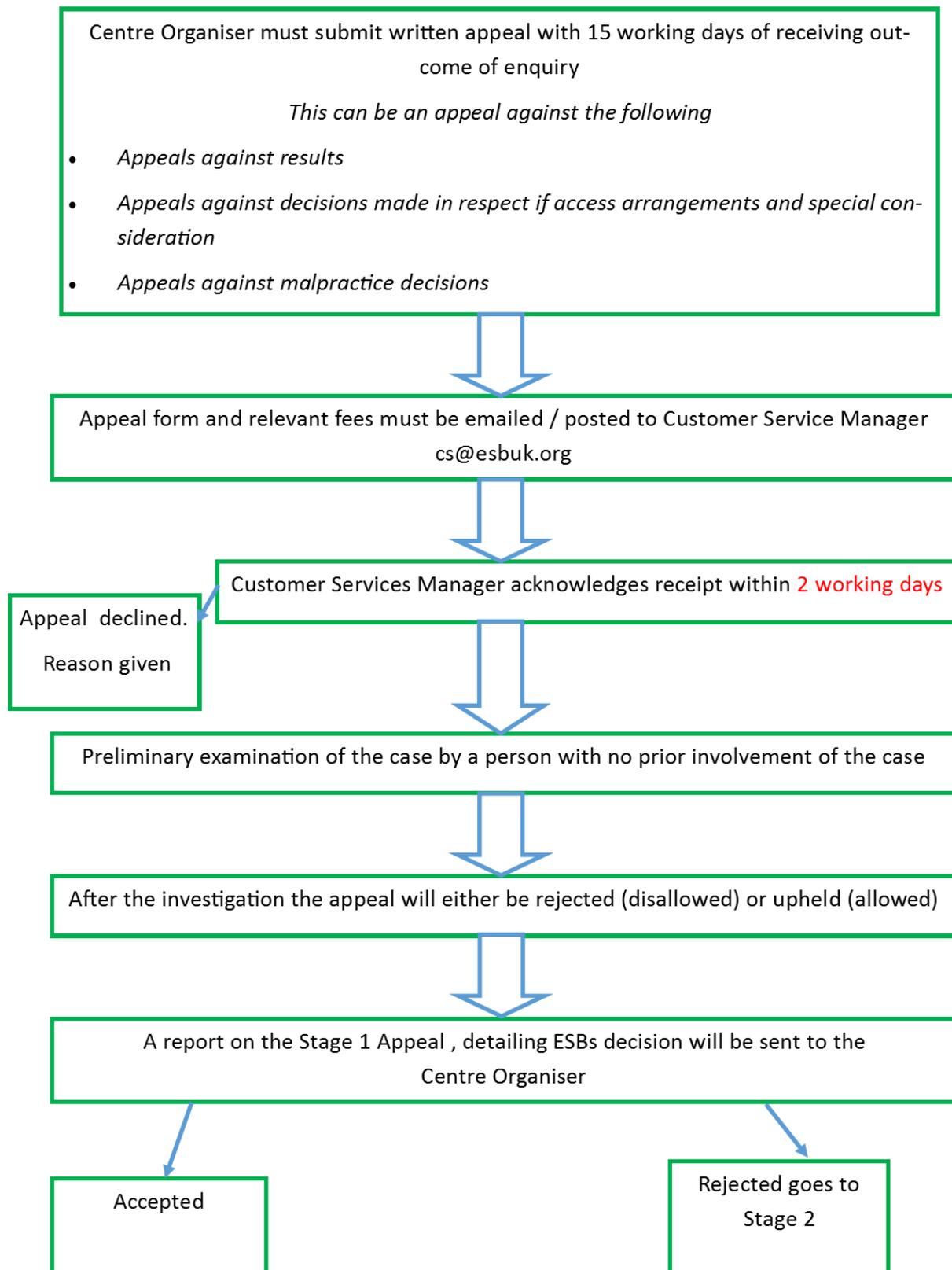
The Optima Building

58 Robertson Street

Glasgow

G2 8DQ

Stage 1



Stage 2

