

European Board of Gastroenterology and Hepatology Examination Appeals Regulations

1. Introduction

- 1.1 These Regulations apply to all candidates taking the European Board of Gastroenterology and Hepatology (EBGH) Examination.
- 1.2 Candidates should note that by virtue of entering to sit an examination they are deemed to have understood and agreed to respect and abide by all relevant regulations, including these Appeals Regulations.
- 1.3 Throughout these Regulations, the Policy Office may delegate any of the duties ascribed to him/her to another appropriate member of staff.
- 1.4 Any dispute as to the interpretation of these Regulations shall be referred to the Medical Director, whose decision in the matter shall be final.

2. Definitions

- 2.1 These Regulations are to be used to investigate all academic and examination appeals.
- 2.2 An 'appeal' is defined as a request for a review of a decision made by or on behalf of an Examining Board about the performance in an examination of a candidate or group of candidates.
- 2.3 A candidate who has attempted any Part or component of an examination may, in the circumstances set out below, have the right of appeal against the result. The only grounds for appeal are that:
 - There is clear evidence of procedural irregularity in the conduct of the examination (including administrative error) which has adversely affected a candidate's performance;
 - There were exceptional circumstances, such as illness or some other extenuating circumstance (for which clear documentary evidence must be provided), which adversely affected a candidate's performance in the examination. Candidates are advised to submit details of any such circumstances as soon as possible (i.e. within three working days) of the examination and not wait until after they receive their results. (*Candidates*

should note that the Regulations make clear that there is a right of withdrawal from any examination due to exceptional circumstances, and candidates appealing on these grounds must provide a valid reason explaining why they were unable to do this.)

- 2.4 Appeals will not be accepted on the grounds that a candidate:
- Considers his or her efforts were under-marked;
 - Did not understand or was unaware of the EBGH Examination Regulations
 - Seeks to question the exercise of professional or academic judgement.
- 2.5 Any expression of a specific concern about the provision or quality of a service, including issues such as staff conduct, disputes about the regulations, other procedures or the application thereof is defined as a 'complaint' and as such will not be considered under these Regulations (but may instead be handled in accordance with the Complaints Procedures).
- 2.6 It is recognised that on occasion it may be initially unclear whether a case constitutes an appeal or a complaint; hence the EBGH reserves the right to reclassify appeals to complaints or vice-versa at any stage in proceedings, in consultation with the person(s) appealing or complaining. Such reclassification will always be done so that the matter can be considered in the most appropriate and fair way, and candidates will not be required to resubmit their cases following any reclassification.

3. Procedure

- 3.1 Any appeal shall be made in writing to the Policy Office, within thirty days of the despatch of the result to which it relates, and include supporting documentary evidence.
- 3.2 Any appeal submitted after this period must include an explanation and evidence as to why it could not be submitted sooner, and will only be accepted at the sole discretion of the Policy Office.
- 3.3 Candidates are assured that they have the opportunity to raise matters of legitimate concern through these Appeal Regulations without risk of disadvantage or criticism. Towards this end, the EBGH recognises the importance of confidentiality when handling appeals, and will maintain an appellant's anonymity as far as is possible during any investigation. However, it will occasionally be necessary to disclose an appellant's identity to progress an investigation, and this will be done as a matter of routine should any hearing by an Appeals Panel be necessary. Candidates who are not willing for their identity to be disclosed in this way should notify the Policy Office.
- 3.4 On receipt of an appeal the Policy Office will investigate and collate all relevant information, before referring it to the Chair of the relevant Examining Board¹ for

¹ The Chair of the relevant Examining Board may authorise another member (or members) of the Examining Board to consider appeals on his/her behalf.

initial consideration. The Chair may discuss the case, or direct the Policy Office to undertake further investigations, as he/she deems necessary.

- 3.5 If it is considered by the Chair that the appeal is frivolous, unsubstantiated or outside the permitted grounds, the candidate will be notified of this and informed that the appeals procedure is at an end. If it is considered that the appeal is vexatious or malicious, or that the appellant has used false information, the appeal procedure will also be at an end but in this instance the appellant may be liable for action under the Academic Misconduct Regulations.
- 3.6 If it is considered by the Chair that there is a case in support of the appeal "at first sight" (*prima facie*), he/she may arrange for an immediate remedy to be offered to the candidate. Alternatively, if the Chair is unable to determine whether there is a *prima facie* case, or (particularly in the absence of precedent, or in any case involving the possible correction of results and/or marks) decides the appeal requires wider discussion, he/she may refer the appeal to the next scheduled meeting of the relevant Examining Board for consideration.

3.7 Procedure for Multiple Choice Examinations

- 3.7.1 Where there is evidence that a candidate's examination performance was adversely affected by a procedural irregularity in the conduct of that exam, the Chair of the Examining Board shall consider the case. If the Chair is satisfied that there is sufficient evidence to determine that the candidate would by every reasonable expectation have passed the examination under normal circumstances, he/she may consider the candidate for the award of a condoned pass. Such evidence could include the candidate already achieving a 'borderline pass' (i.e. being within the Standard Error of Measurement of the pass mark, or similar measure), or (in cases where a candidate has been unable to complete the entirety of the examination) performing at a clear passing standard (i.e. above the SEM of the pass mark, or similar measure) in the part of the exam they did complete. Candidates must have successfully completed at least 50% of the examination, and their results for that portion must be available in order for a candidate to be eligible for consideration for a condoned pass.
- 3.7.2 In cases of extenuating circumstances due to candidate illness (etc.), or in cases of procedural irregularity where the Chair is not satisfied that there is sufficient evidence that a candidate would have passed, he/she may consider alternative remedies such as a resit or a refund.
- 3.8 The decision of the Chair or Examining Board will be communicated to the candidate within 10 working days of it being made.
- 3.9 The appeals procedure is normally expected to take no more than 60 days from the date of the appeal being received by the Policy Office.
- 3.10 If the candidate is not satisfied with the outcome of any appeal considered under paragraph 3.5, they must contact the Policy Office within 10 working days of being notified of it to request that their case be reconsidered by an Appeals Panel. All such requests will be reviewed by the Medical Director, who will determine

whether sufficient evidence remains for consideration by an Appeals Panel, following the decision of the Chair or Examining Board.

4. Conduct of an appeal hearing panel

- 4.1 An Appeal Hearing Panel shall be convened at the discretion of the Medical Director, and established by the Policy Office, which will nominate a Secretary to the Panel.
- 4.2 The Panel shall meet as soon as is practicable, and constituted with one member from each of the following categories, or their nominee, provided that none have been previously involved with any academic assessment of the candidate:
- (a) The Medical Director, Deputy or Associate Medical Director, who shall be Chair;
 - (b) The Chair or Medical Secretary of the Examining Board
 - (c) The Chair of the Examination Committee of the EBGH (if a nominee they must be a member of the EBGH)
 - (d) A Lay Representative²
- 4.3 The Secretary's role shall be to record the proceedings and deliberations of the Panel, and he/she may advise on procedural or regulatory matters. He or she may not influence the decisions of the Panel in any way.
- 4.4 The candidate shall have the right to be present at all proceedings of the Panel subject to the procedures detailed below in paragraphs 5.1, 5.7 and 5.8, and to present written or oral evidence to the Panel. Proceedings of the Panel shall not be invalidated by reason of the absence of the candidate, provided that the procedure detailed below has been observed.
- 4.5 The candidate has the right to be accompanied at the Hearing by a Friend. The Friend may advise and counsel the candidate, but may not make any statements to, or cross-examine, any other person present at the Hearing. If the candidate wishes to be accompanied by a Friend they must provide the Secretary to the Appeal Hearing Panel with the name, address and roles of the nominated person, and the reasons for their involvement, not less than five working days before the hearing.
- 4.6 The Secretary shall inform the candidate of the scheduled date of the Appeal Hearing Panel as soon as possible and not less than 15 working days before the date of the Hearing. The Secretary will then arrange for a copy of each document that is to be presented to the Panel to be sent to the candidate not less than 10 working days before the date set for the Hearing. Such documents shall include any statement(s) provided by the candidate, whose responsibility it is to ensure any such documents and list of witnesses they intend to call in support of their appeal are received by the Secretary at least 12 working days before the date set for the Hearing. No documents or witnesses may be presented to or referred to by the Panel, unless details have been circulated in this manner, except with the consent of both the Panel and the candidate. All documents will also be circulated

² To be an individual not directly employed by or acting in any official capacity and may include individuals already acting as Lay Representatives on other committees.

in advance to members of the Panel so that they may familiarise themselves with the details of the case before the date of the Hearing.

5. Appeal hearing panel procedure

- 5.1 The Panel may, at its discretion, meet before the scheduled start of the Hearing for preliminary discussions. The Secretary shall be present and keep a record of proceedings.
- 5.2 At the start of the Hearing Panel all present shall introduce themselves. The Chair shall then invite the candidate to present their appeal, documentary evidence and call any witnesses in support of their case. The Panel may then question the candidate and his/her witnesses.
- 5.3 The Hearing Panel may, at its discretion and at any time, interrupt proceedings to ask questions.
- 5.4 Before the appellant is dismissed, the Chair shall give them the opportunity to make a closing statement. Before leaving, the candidate shall be reminded that he/she will be notified of the outcome within five working days.
- 5.5 The Panel shall then consider the matter, whether there are sufficient grounds and evidence for the appeal to be upheld, and what, if any, remedy should be offered to the candidate. The comments and decisions of individual Panel members shall always be treated as confidential.
- 5.6 Following the meeting the Secretary shall prepare a written report summarising the proceedings and the decisions of the Panel. This shall be sent to the candidate within five working days of the Hearing, and a copy presented to the next meeting of the relevant Board of Examiners for its information and action, if appropriate. The candidate shall be reminded that the decision of the Appeals Hearing Panel is final, and that the appeals procedure is at an end.