

**The Royal College of Surgeons of Edinburgh
The Royal College of Surgeons of England
The Royal College of Physicians and Surgeons of Glasgow
The Royal College of Surgeons in Ireland**

Intercollegiate Committee for Basic Surgical Examinations (ICBSE)

APPEAL REGULATIONS

January 2020

1 INTRODUCTION

- 1.1 These Appeal Regulations (**Regulations**) apply to all candidates for the examinations governed by the Intercollegiate Committee for Basic Surgical Examinations (**ICBSE**).
- 1.2 Candidates should note that, by entering to sit an ICBSE examination, they are deemed to have understood and agreed to abide by all relevant regulations, including these Regulations.
- 1.3 Any dispute as to the interpretation of these Regulations shall be referred to the Chair of ICBSE, whose decision in the matter shall be final.
- 1.4 These Regulations apply to all ICBSE examination appeals.
- 1.5 An 'appeal' (**Appeal**) is defined as a request by a candidate for a review of a decision made by or on behalf of an ICBSE Examining Board about that candidate's performance in an ICBSE examination.
- 1.6 A candidate who has been unsuccessful in one of the ICBSE examinations may request an Appeal only on the following grounds:
- 1.6.1 **Procedural defects or irregularities in the conduct of the examination**, including administrative error, which could have adversely affected a candidate's performance or the outcome of the examination; and/or
- 1.6.2 **Exceptional personal circumstances** should be communicated to the College in writing at the time of application or before the commencement of the examination date if appropriate. A candidate may appeal on the grounds of a failure of the College to take account of any exceptional personal circumstance, such as medical or adverse personal circumstances intimated in advance, as appropriate.
- NB. Candidates should note that an Appeal cannot lead to a fail result being changed into a pass result, unless it has been established that there was an error in the collation, recording or reporting of the marks that had an effect on the outcome such that if the procedural defect or irregularity had not occurred, the candidate would have passed the examination concerned.
- 1.7 A candidate does not have the right of Appeal against the outcome of an ICBSE examination in any other circumstances, including the following:
- Lack of understanding or awareness of the Examination Regulations
 - Seeking to question the professional or academic judgement of the examiners.
- 1.8 Subject to the note in 1.6.2 above, the outcome of an Appeal submitted under these Regulations may only be determined as either:
- 1.8.1 Rejected as considered to be unsubstantiated.
- 1.8.2 Rejected as outside the permitted grounds, out of time or incomplete.
- 1.8.3 Upheld, result of the examination (or relevant section) annulled and first attempt expunged.

- 1.9 ICBSE and the four surgical royal colleges of the UK and Ireland operate a policy of “fit to sit”; that if a candidate presents to an examination they are confirming that they are in a fit state to take the examination. Claims pertaining to fitness to sit the exam do not fall under the purview of the Appeal Regulations. Candidates should instead refer to the ICBSE Mitigating Circumstances policy.

2 PROCEDURE

- 2.1 A candidate must submit their Appeal in writing to the **Head of Examinations** at the College to which the examination application was made. This must be **within 30 working days** of the date of the formal result letter (or email) to which it relates. The candidate should include the grounds for appeal (in accordance with 1.6 above) and provide detailed supporting information. The candidate may, if they wish, contact the College to which they applied to discuss their case and receive advice on how to lodge the appeal. The College can explain to a candidate what is involved in the process of lodging an appeal but cannot advise whether or not a candidate should lodge an appeal.

NB Candidates should note that third parties are not permitted to submit an appeal on a candidate’s behalf.

- 2.2 The Head of Examinations will acknowledge receipt of the Appeal documentation and will then investigate ensuring that a report including written statements from those concerned is presented to the **Chair of the Board of Examiners** for review. The Head of Examinations will discuss the case with the Chair of their Board of Examiners and may undertake further investigations, as he/she deems necessary. If the Head of Examinations or Chair of the Board of Examiners forms part of any alleged irregularity relating to the Appeal, they will be replaced by the Head of Examinations or Chair of the Board of Examiners from an unconnected surgical Royal College.
- 2.3 If the Chair of Board of Examiners considers that the Appeal is within the permitted grounds, and the procedural defect, irregularity or exceptional personal circumstance has had an effect on the outcome, the matter will be referred to the **Chair of ICBSE** for their approval, recommending the result be annulled and the attempt expunged. The candidate’s examination fee will be either refunded in full or they will be granted a free attempt at a future sitting (as determined by the College). The Head of Examinations will wait for the approval of the Chair of ICBSE before notifying the candidate accordingly.
- 2.4 If the Chair of the Board of Examiners considers that the Appeal is outside the permitted grounds, out of time or incomplete the Appeal will not be progressed further and the Head of Examinations will notify the candidate of this.
- 2.5 It is recognised that on occasion it may be initially unclear whether a case constitutes an **appeal** or a **complaint**; hence the individual College reserves the right to reclassify an appeal as a complaint or vice-versa at any stage in the proceedings, in consultation with the person 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 the reclassification.
- 2.6 If the candidate is not satisfied with the reasons given for rejection of their Appeal by the Chair of the Board of Examiners as considered under paragraph 2.4, they may contact the Head of Examinations **within 10 working days** of the date of the notification letter to request that their case be considered by the Chair of ICBSE. The candidate may provide additional information at this stage. All such requests will be

reviewed in the first instance by the Chair of ICBSE, who will determine whether sufficient evidence exists for consideration by an ICBSE Appeal Panel.

- 2.7 If the Chair of ICBSE refers the appeal to an **ICBSE Appeal Panel**, the candidate will be required to **pay an appeal fee of £600** (or Euro equivalent). In the event that an appeal is upheld, the candidate will be entitled to a full refund of the appeal fee paid.
- 2.8 If the Chair of ICBSE considers that sufficient evidence does not exist for consideration by an Appeal Panel, or that the Appeal is outside the permitted grounds, the ICBSE Manager will notify the candidate of this with reasons and confirm that the appeal procedure is at an end. The decision made by the Chair of ICBSE will be final.

3 CONDUCT OF AN ICBSE APPEAL PANEL

- 3.1 A meeting of an ICBSE Appeal Panel (**Panel**) shall be organised by the ICBSE Manager. The ICBSE Manager, or an alternate, shall act as Secretary to the Panel.
- 3.2 The Panel shall meet as soon as reasonably practicable and shall comprise three individuals. The Panel will consist of:
- The Chair of the ICBSE Sub Group to which the Appeal relates (who will act as the Chair of the Panel).
 - An **Examiner** from a surgical Royal College not involved in the incident giving rise to the Appeal.
 - A **Lay Representative** from a surgical Royal College not involved in the incident giving rise to the Appeal.

The Chair of the Panel may request attendance of other representatives and details of these representatives will be provided to all parties in advance of the Panel meeting.

- 3.3 The ICBSE Manager's role shall be to record the proceedings and deliberations of the Panel by taking a handwritten note and to advise on procedural or regulatory matters as required. He or she may not influence the decisions of the Panel in any way. The Panel report will be sent to the candidate.
- 3.4 The candidate shall have the right to attend the Panel meeting and to present their written or oral evidence to the Panel. Proceedings of the Panel shall not be invalidated by reason of the absence of the candidate. Where such facilities are available, the candidate may attend by videoconference.
- 3.5 The candidate has the right to be accompanied, but not legally represented at a Panel meeting by a companion, who normally may not be a legally-qualified representative. The companion may advise and counsel the candidate, but may not cross-examine any other person present at the Panel meeting. If the candidate wishes to be accompanied by a companion, they must provide the ICBSE Manager with the name, address and role of the nominated person **not less than five working days** before the Panel meeting.

In exceptional circumstances a candidate may be accompanied by a legal representative. This will be granted at the discretion of the Panel on a case by case basis. Under these circumstances the ICBSE reserves the right for the Panel to also have legal representation present.

- 3.6 The ICBSE Manager shall inform the candidate of the scheduled date of the Panel meeting as soon as possible and not fewer than **15 working days** before the date of the meeting. The Panel may convene at any of the four Royal Colleges of Surgeons in the UK or Ireland. The ICBSE Manager will then arrange for a copy of each document that is to be presented to the Panel to be sent electronically to the candidate **not fewer than 10 working days** before the meeting date set. The candidate may ask for hard copies of the documents to be sent by post. Such documents shall include any statement(s) provided by the candidate, whose responsibility it is to ensure any such documents are received by the ICBSE Manager at **least 12 working days** before the meeting date set. Documents may not be presented to or referred to by the Panel if they have not been circulated in this manner, unless there are exceptional circumstances, in which case the Panel may allow it.

4 ICBSE APPEAL PANEL PROCEDURE

- 4.1 The Panel may, at its discretion, meet before the scheduled start of the meeting for preliminary discussions.
- 4.2 At the start of the Panel meeting all present shall introduce themselves. The Panel Chair shall then invite the candidate to present their appeal and any documentary evidence in support of their case. The Panel may then question the candidate.
- 4.3 Before the Panel meeting is closed, the Chair shall give the candidate the opportunity to make a closing statement.
- 4.4 The Panel shall then consider the matter and reach a reasoned decision.
- 4.5 The Panel shall be empowered to make the following decisions:
- 4.5.1 Appeal rejected with no further action to be taken; or
 - 4.5.2 Appeal upheld, result of the examination (or relevant section) annulled, attempt expunged and appeal fee refunded. The candidate's examination fee will be either refunded or they will be granted a free attempt at a future sitting (as determined by the College).
- 4.6 The ICBSE Manager will notify the candidate of the outcome in writing within **10 working days** of the Panel meeting.
- 4.7 The decision of Panel will be final and represent the conclusion of the appeal process.
- 4.8 The ICBSE Manager will keep a record of the outcome and advise the ICBSE at their next meeting of the decision of the Panel.

Start Date: January 2020

Review Date: January 2023