

# Kaplan SQE Limited

## Solicitors Qualifying Examination (SQE)

### Appeals Policy

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#### 1. Definitions

Mitigating circumstances:

- a) A mistake or irregularity in the administration or conduct of the assessment; or
- b) Evidence of bias in the conduct of the assessment; or
- c) Subject to the Fit to Sit Policy and SQE Assessment Regulations a candidate's illness or other personal circumstances beyond his/her reasonable control

which materially and adversely affects a candidate's marks or performance in the assessment.

Mitigating Circumstances Panel (MCP):

The panel which considers mitigating circumstances claims.

#### 2. Introduction

##### 2.1 Scope and purpose

This Policy sets out the procedures to be followed in cases where a candidate wishes to appeal against a decision of the Assessment Board.

##### 2.2 Fairness

We are committed to ensuring that this Policy is fair and transparent and is operated in a manner which:

- treats all candidates equally and fairly in the consideration of their claims
- gives reasons for our actions taken and the decision we make
- is free from bias

- has reasonable timescales for both submissions to and responses from us.

### 2.3 Confidentiality

Information provided by candidates under these procedures will be treated confidentially and only shared with those persons necessary to consider their claim.

### 2.4 Timescales

We consider that candidates will normally be able to meet the time limits in communicating with us. Where there are circumstances which mean a candidate cannot reasonably meet such time limits, they must communicate this to us at the earliest opportunity.

### 2.5 Candidates with a disability

Where a candidate indicates that they have a disability, information will be made available to them in appropriate formats and reasonable adjustments will be made to proceedings to accommodate their needs.

### 2.6 Review of this Policy

This Policy will be monitored by Kaplan SQE and any necessary amendments will be made and implemented at the earliest opportunity. As a minimum, Kaplan SQE will review this and all associated policies on an annual basis as part of its ongoing quality assurance procedures.

## **3. Request for clarification of result**

3.1 A candidate may wish to raise a query about the decision of the Assessment Board and seek early clarification of their result. In these circumstances the candidate should first raise the issue by email to us within 7 working days of being informed of the exam result.

3.2 In the event that the candidate remains dissatisfied and considers they have grounds for an appeal they may lodge a first stage appeal within 10 working days from the date of the response from Kaplan SQE to the clarification of result.

## **4. Request for a clerical check**

4.1 A candidate may request a clerical check for errors in the calculation or collation of marks.

4.2 Requests must be submitted on the Request for a Clerical Check Form within

15 working days of the notification of the result to which the request relates.

4.3 A fee of £100 will be charged for a clerical check. This fee will be refunded if an error is found.

4.4 Where a request for a clerical check is made and the candidate remains dissatisfied and considers they have grounds for an appeal they may lodge a first stage appeal within 10 working days of receiving the result of the clerical check.

## **5. Appeals**

5.1 This Policy provides for a formal appeals process with two stages: a first stage appeal and a final appeal.

5.2 Where a candidate submits an appeal which also contains a complaint, we will suspend consideration of the appeal until the complaint has been investigated according to the SQE Complaints Policy. The appeal process will continue once the complaints process has been concluded.

5.3 The standard of proof in an appeal is on the balance of probabilities.

## **6. First stage appeal**

6.1 For the purpose of this Policy, a first stage appeal means a request for a review of the decision of the Assessment Board to fail a candidate in any assessment comprising SQE1 and/or SQE2 of the Solicitors Qualifying Examination (SQE) or of a finding of malpractice.

6.2 A first stage appeal may be made on one or more of the following grounds only:

6.2.1 there are mitigating circumstances which could not have been put before the MCP or the Assessment Board before it made its decision; or

6.2.2 the decision of the MCP or of the Assessment Board, or the manner in which that decision was reached involved material irregularity and/or was manifestly unreasonable and/or irrational; or

6.2.3 the candidate disputes the Assessment Board's finding of malpractice or improper conduct.

6.3 For the purposes of 6.2.1 the fact that the candidate was not yet aware of their results is not a reason why mitigating circumstances could not have been put before the MCP or the Assessment Board. If there is a concern that there was an administrative error in the results, this should be addressed by

a request for a clerical check.

6.4 No appeal will be considered solely on the grounds that a candidate:

6.4.1 wishes to challenge the academic judgement of the assessor or the criteria applied to assess the candidate's work;

6.4.2 disagrees with the outcome of their mitigating circumstances claim; or

6.4.3 did not understand or was not aware of the SQE Assessment Regulations.

6.5 Subject to 3.2 and 4.4 above, a candidate wishing to appeal on one or more of the grounds in 6.2 must submit their appeal within 10 working days of the date of the decision of the Assessment Board in respect of which the appeal is made. Where evidence cannot be provided within the 10 working days, the first stage appeal should be submitted within the time limit with evidence to follow.

6.6 The first stage appeal must be submitted on the appropriate form (*add link*), contain full details of the appeal and be accompanied by copies of all relevant documentation and evidence supporting the grounds for appeal. Receipt of a first stage appeal occurs when the appeal, together with all accompanying evidence and documentation has been received and the charge under 6.7 has been paid in full. Receipt of the appeal will be acknowledged within 5 working days.

6.7 A charge of £350 will be made for a first stage appeal. This will be refunded if the appeal is upheld.

## **7. Procedure for considering a first stage appeal**

7.1 The Head of Equality and Quality will appoint an Adjudicator to consider the appeal within 10 working days of receipt of the appeal.

7.2 The Adjudicator will be a Solicitor of England and Wales (practising or non-practising) who was not a member of the MCP or the Assessment Board that considered the candidate's result.

7.3 The Adjudicator will determine whether the appeal:

7.3.1 is made on one or more of the grounds set out at 6.2; and

7.3.2 is substantiated by the evidence provided.

7.4 The Adjudicator may consult with the Chair of the Assessment Board and MCP members and any other relevant persons for evidence and information.

## **8. Decision of the Adjudicator**

8.1 The Adjudicator may reach one of the following decisions:

8.1.1 uphold the appeal

8.1.2 dismiss the appeal

8.2 Where the Adjudicator upholds the appeal, they may recommend further action. Except in the case of a successful appeal against a finding of malpractice or improper conduct (in which case the candidate's mark in the assessment will stand), candidates whose appeals are successful will ordinarily be given the opportunity to retake the assessment and have their original attempt discounted. The Adjudicator may also recommend a fee waiver or refund in whole or part of the assessment fee. The marks of a candidate whose appeal is successful will not be adjusted where the request relates to illness or personal circumstances beyond their reasonable control.

8.3 The Adjudicator will advise the candidate and the Head of Equality and Quality of their decision within 30 working days of receipt of the appeal, giving reasons.

8.4 Except in the case of manifest error, the Assessment Board will implement the Adjudicator's findings, either by decision of the Chair of the Assessment Board (acting under the authority of the Board as a whole) or by a decision at an exceptional meeting of the Board.

8.5 The outcome of the appeal will be minuted and recorded in the Appeals Register which is subject to inspection by the Solicitors Regulation Authority (SRA).

## **9. Final appeal**

9.1 For the purpose of this Policy, a final appeal means a request for a review of the decision of the Adjudicator.

9.2 A final appeal may be made on the following ground only:

9.2.1 The decision of the Adjudicator, or the manner in which that decision was reached involved material irregularity and/or was manifestly unreasonable and/or irrational.

9.3 The appeal must be submitted on the appropriate form (*add link*) within 10 working days of the date the candidate was notified of the decision of the Adjudicator. It must contain full details of the appeal and be accompanied by copies of all relevant documentation and evidence supporting the ground for appeal. Where evidence cannot be provided within the 10 working days, the

final appeal should be submitted within the time limit with evidence to follow.

- 9.4 A charge of £850 will be made for a final appeal. This will be refunded if the appeal is upheld.
- 9.5 Receipt of a final appeal occurs when the appeal, together with all accompanying evidence and documentation has been received, and the charge under 9.4 has been paid in full. The Director of Learning and Qualifications Kaplan (or their nominee) will decide, taking advice as appropriate, within 10 working days of its receipt, whether the appeal is frivolous or vexatious. The Director of Learning and Qualifications Kaplan (or their nominee) may in their discretion, reject an appeal which they reasonably considers to be frivolous or vexatious. The Director of Learning and Qualifications Kaplan (or their nominee) will inform the candidate of their decision, giving reasons.
- 9.6 The Director of Learning and Qualifications Kaplan (or their nominee) will, unless the appeal appears frivolous or vexatious, convene a panel to consider the appeal (the Panel).

## **10. Procedure for considering a final appeal**

- 10.1 The Panel will meet within 30 working days of the decision of the Director of Learning and Qualifications Kaplan (or their nominee) under 9.5 above.
- 10.2 The Panel will comprise three members. None of the panel members will have been members of the MCP or the Assessment Board which considered the candidate's claim or result or the Adjudicator in the case. At least two of the members will be solicitors of England and Wales (practising or non-practising). One of the solicitor members will be appointed Chair of the Panel.
- 10.3 The candidate may elect for an oral hearing or a paper-based determination. If the candidate elects an oral appeal hearing, he or she has the right to be accompanied by a friend or relative. Legal or other representation is not permitted. Guidance on procedure will be provided by the Director of Learning and Qualifications Kaplan (or their nominee).
- 10.4 The Director of Learning and Qualifications Kaplan (or their nominee) will ensure that the candidate and the Panel are provided with all appropriate information at least 5 working days prior to the Panel meeting to consider the appeal. Late evidence may be circulated only with the consent of the candidate and the Chair of the Panel.
- 10.5 If, having elected for an oral appeal hearing the candidate fails to attend, the hearing will proceed with the candidate "in absentia" and on the information

already supplied. If the candidate provides a documented acceptable reason for their absence the hearing date may be rearranged.

10.6 The Panel may require the presence of a further person for the sole purpose of providing appropriate advice. This person may not participate in the discussions of the Panel nor are they entitled to vote in any decision.

## **11. Panel decision**

11.1 The Panel may reach one of the following decisions:

11.1.1 reject the decision of the Adjudicator

11.1.2 uphold the decision of the Adjudicator

11.2 Where the Panel reject the decision of the Adjudicator, the Panel may make further recommendations.

11.3 The Panel will inform the Director of Learning and Qualifications Kaplan (or their nominee) and the candidate of the decision of the Panel within 15 working days of the hearing or paper-based determination, giving reasons.

11.4 Except in the case of manifest error, the Assessment Board will implement the Panel's findings, either by decision of the Chair of the Assessment Board (acting under the authority of the Board as a whole) or by a decision at an exceptional meeting of the Board.

11.5 The decision of the Panel is final.

11.6 The outcome of the final appeal will be minuted and recorded in the Appeals Register which is subject to inspection by the SRA.