

Appealable decisions relating to applications for entry onto the Specialist Register or GP Register through a CESR, CEGPR or CCT

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Background

1 Background

You should read this factsheet if:

- You want to appeal a decision about your application for entry onto the Specialist Register or GP Register through a CESR, CEGPR or CCT
- Or
- You are a representative of an applicant who wants to appeal a decision

If you haven't made an application, you can find information about how to apply to have your name included in the general practitioner (GP) or specialist register on our website at <http://www.gmc-uk.org/doctors/applications.asp>

This factsheet is not a legal document. You can find details of the appropriate legislation, rules and procedures at the end of this document.

2 Who administers specialist registration appeals?

The Appeals Team handle these appeals. They are a separate team within the GMC. Members of the team do not have any involvement in making or issuing decisions on matters relating to entry to the GP or specialist register.

3 Which decisions can I appeal?

There are a range of decisions relating to applications for entry onto the Specialist Register or GP Register through a CESR, CEGPR or CCT against which the law gives you a right of appeal. A full list of these can be found in paragraph 2A to schedule 3A to the Medical Act 1983.

There is also a right of appeal under paragraph 3(3) to Schedule 3A of the Medical Act in the event of the GMC failing to notify certain applicants of a decision on a complete application within the requisite period specified in rule 3 of the Registration Appeals Panels Procedure rules 2010 (the period of three or four months referred to below).

Your right of appeal will fall into one of the following categories:

- A decision not to include your name in the GP or specialist register(s). This includes a right of appeal against the length of any additional training or adaptation period specified in a decision, the fields to be covered by it or any examination, assessment (including a specified period of assessment) or other test of competence specified.
- Failure by the GMC to notify you of a decision within three months of receipt of your complete application for GP Registration under Article 4(4)

of the Postgraduate Medical Education and Training Order of Council 2010 (2010 Order) or specialist registration under Article 8(3) or 8(4) of the 2010 Order.

- Failure by the GMC to notify you of a decision within four months of receipt of your complete application for GP registration under Article 5 of the 2010 Order or specialist registration under Article 9 of that Order.
- A decision not to indicate a sub-specialty against your entry in the specialist register.
- A decision to refuse the award of a Certificate of Completion of Training (CCT) or a Certificate of Acquired Rights (CAR) or to withdraw a CCT.

You can only appeal a decision if:

- you made an application for inclusion in the relevant register or for the issue of the appropriate certificate, and
- that application is **complete** when you appeal. This means that you must have submitted all the necessary evidence and information in support of your application and paid the relevant application fee.

4 Will I be advised about my right of appeal?

When we issue a decision against which you have a right of appeal we are required to give you notice of:

- The decision.
- The reasons for the decision, and
- Your right of appeal against that decision.

We cannot advise you of your right of appeal where that right is the result of our failure to issue you a decision within the required period (the period of three or four months referred in section 3 above).

We will write to you to confirm when your application is complete. The date of that letter will be the start date of the required period for us to issue a decision. **If you have not received a decision by the end of the required period you need to exercise your right of appeal, should you wish to do so, within 28 days of the end of the required period.**

5 Are there any other options available to me apart from appealing the decision?

Yes. If you have been issued with a decision on your application you can ask us to undertake a formal review of that decision before you exercise your right of appeal.

You should submit an application for a review to our GMC Specialist Applications Team, **not** to the Appeals Team. You can find further details about how to apply for a review, including the application fee, on our website at: http://www.gmc-uk.org/doctors/review_page_1.asp

6 What if I am unhappy about, or disagree with, the outcome of the review?

You can appeal the decision in accordance with the information set out in this factsheet.

7 Can I apply for a review if I disagree with the outcome of an appeal?

No. If you choose to appeal our decision you cannot then apply for a formal review.

Making an appeal

8 How long do I have to submit my appeal?

If you **have received a decision** on your application, or review, and wish to appeal, you must give notice of appeal **no later than 28 days from the date of the letter advising you of the Registrar's decision and your right of appeal.**

If you **have not received a decision** on your application within the requisite period (see section 3 above), you must give notice of appeal no later than **28 days following the end of the requisite period.**

The only circumstances in which you are allowed a late appeal is where you can demonstrate that the appealable decision was notified late (outside the 14-day time limit specified in the Medical Act) as per section 9 below.

In addition to submitting a notice of appeal within the timescales specified above you must also provide the Appeals Team with all the documentation that you intend to rely on in support of your appeal. The documentation must be sent to the Appeals Team no later than 56 days after the last date for giving notice of appeal as detailed at the start of this section.

This documentation, referred to as the 'appellant's bundle', must include the information in section 15 below.

9 Can I submit a late appeal?

The Registrar has discretion to extend the time limit within which you submit an appeal **only** where:

- notice of the appealable decision was issued by post, and
- the Registrar is satisfied that you did not receive that notice within 14 days beginning with the day on which the decision was issued.

10 How do I make an appeal?

You must complete the 'notice of appeal' form and return it to the Appeals Team along with the appropriate fee in the time limits in section 8.

You can:

- download the notice of appeal form (AP1) from www.gmc-uk.org/doctors/appeals.asp

- find contact details at www.gmc-uk.org/about/contacts.asp
- find information about fees at www.gmc-uk.org/doctors/fees.asp

You must complete the notice of appeal in full to meet the appeals panel's rules which state an appeal must include:

- The appellant's name and GMC reference number.
- An address to which the Registrar is able to send notices and documents relating to the appeal.
- The appropriate fee.

You must also:

- tell us whether you wish the appeal to be dealt with as a written appeal or an oral appeal (known as the 'the form of the appeal'). The fee for oral and written appeals differs. If you do not specify the form of appeal you require, the Registrar will use the amount of the fee you have submitted to decide the form of appeal.
- In addition to the notice of appeal you must also send us all the documentation that you intend to rely on for the purposes of your appeal. We call the information you provide us the 'appellant's bundle'. Details are in section 15 below.

11 Can I instruct a legal representative?

Yes. If you are going to be represented, you must complete an AP3 form to enable us to release confidential information to your representative.

You can download an AP3 form from www.gmc-uk.org/doctors/appeals.asp

12 What is the difference between an oral appeal and a written appeal?

Written appeals (also referred to as an appeal meeting) are held in private. The appeal is conducted as a meeting of the Appeal Panel without the appellant or the GMC being present. All evidence and information is submitted to the Panel in paper form.

Oral appeals (also referred to as appeal hearings) are generally held in public. You have a right to attend, and to be represented at, an oral appeal. Both you and the GMC may put your cases directly to the Panel. It is also open to the Panel to receive oral evidence from witnesses. Further details about what

happens at these hearings can be found in the 'Conducting the appeal' section below.

Because of the challenges of scheduling panellists, witnesses and legal representatives, there will normally be a longer wait before an oral appeal is heard

13 Can I change my mind about the form of the appeal?

Yes, if you ask for the appeal to be dealt with as a written appeal and then decide that you want it to be dealt with as an oral appeal, (or vice versa,) you can write to the Appeals Team at any time and let them know that you have changed your mind.

You will need to tell the Appeals Team **before** the appeal is due to start so that the arrangements can be changed – the earlier you do this the better. You also need to be aware that a request to change the form of appeal may mean the date of the appeal will be later.

14 How much is the appeal fee?

There are different fees for written and oral appeals. You can find the latest fees on our website at: www.gmc-uk.org/doctors/fees.asp

You must pay the appropriate fee when you submit the completed 'notice of appeal' form. We will not be able to proceed with the appeal if the appropriate fee has not been paid. Details of how to pay can be found on our website at: <http://www.gmc-uk.org/doctors/fees/appealsfees.asp>

15 Will I receive a refund of the appeal fee if my appeal is successful?

Information about refunds of appeal fees can be found on our website at: <http://www.gmc-uk.org/doctors/fees/appealsfees.asp>

16 What documents do I need to include in the appellant's bundle?

Your bundle must include the following:

- a copy of the decision advising you that your application has been refused and stating that you have a right of appeal **or** if you have not received a decision within the requisite period, a copy of your application, and
- copies of the documents you intend to rely on, and
- any written submissions in support of your appeal, and
- where the appeal is an oral appeal:

- details of the witnesses you intend to rely on (including your own name if appropriate)
- signed witness statements setting out their evidence (including your own statement if appropriate).

You should sequentially number each page of the appellant's bundle, including the decision letter(s), your personal statement and the supporting papers, using the prefix A (for example, A1, A2, A3, etc). You should also include a list of contents of the documents contained in your bundle. We check the appeal documents and send them to be scanned. Therefore please **do not** bind your documents in any way.

You must send your bundle to the Appeals Team **no later than** 56 days after the last date for giving notice of appeal (see section 8 above).

The appeals process is independent from the initial decision-making process, so the Appeals Team will not have access to any documentation that you previously submitted to the GMC in relation to your application. It is your responsibility to ensure that you include all of the documents that you intend to rely upon for the purposes of your appeal with your appeal application. You **must** also ensure that any documentation you submit complies with the data protection legislation and the GMC's confidentiality guidance. For example, any records with reference to patients should be redacted for anonymity. You can find more information about this on our website at:

www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp

17 What is the purpose of witness statements?

If you wish to call witnesses to give oral evidence for your oral appeal hearing, you must provide a witness statement for each of these witnesses. This should set out the evidence they intend to give at the hearing.

Your full appeal bundle will be sent to the GMC for their response and should they decide to defend the appeal, they will inform us if they would like to contest any of the witness statements. If the GMC do not wish to contest any of the witness statements the independent Appeal Panel, formed to consider your appeal, will decide if there is a need to call those witnesses to attend the oral hearing.

After you have submitted your appeal

18 What happens after I have submitted notice of appeal and the appellant's bundle?

The Appeals Team will forward the documents you have submitted to the GMC once they have received both your notice of appeal and the documentation you intend to rely on (the appellant's bundle).

If you are appealing against a decision issued by the Registrar, the GMC may decide to:

- Accept your application in light of new information and evidence received.
- Confirm its original decision and contest the appeal. If this is the outcome, your appeal bundle and the GMC's evidence in support of its decision will be placed before an independent appeal panel to decide. The appeal panel will not have seen your application before.

If you are appealing because the GMC's failed to issue a decision within the requisite period the GMC may confirm that:

- They do not intend to contest the appeal and issue a decision without further delay.
- They intend to contest the appeal. If this is the outcome, your appeal bundle along with the GMC's responding submissions giving reasons why it failed to reach a decision in time will be placed before an appeal panel to decide. The appeal panel will not have seen your application before.

19 Will I receive copies of the documents upon which the GMC intends to rely?

The GMC will receive a copy of the documents you intend to rely on. You will receive copies of all documents that the GMC intends to rely on for the purpose of the appeal.

The Appeals Team will send the documents to you and they will include:

- Documents and advice which were considered by the GMC when making the decision against which you are appealing.
- The GMC's written submissions on the appeal.
- For an oral appeal, details of the witnesses the GMC intends to call, along with written statements from those witnesses setting out their evidence.

20 Will I have an opportunity to submit further documentation?

If you (or the GMC) have evidence and documents that are relevant to the appeal, and they were not available at the time the original bundle was served, either party can submit supplementary evidence.

The rules on evidence allow the Panel to:

- Admit any evidence which they consider fair and relevant to the appeal.
- At an appeal hearing, to receive oral evidence which the Panel considers is desirable to enable it to reach a fair decision.
- Issue directions which may include a request for further evidence or for supplemental witness statements responding to the other party's submissions (see section 20 below).

The allowance for either party to submit further evidence and documentation is restricted to certain defined circumstances. **You should always aim to disclose all relevant evidence when you submit your appeal bundle.**

21 Can I be asked to submit further information or evidence in advance of the appeal?

Yes, the person managing the appeal (a legally qualified chair or case manager) may ask the appellant, the GMC, or both, to submit additional evidence, documents, or information to help ensure the hearing is conducted justly, efficiently and effectively.

Full details about the directions that may be given can be found in rule 7 of the Registration Appeal Panel Rules. www.gmc-uk.org/The_General_Medical_Council_Registration_Appeals_Panels_Procedure_Rules_2010_31074723.pdf

They include:

- Requiring each party to provide skeleton arguments.
- For an appeal hearing, asking each party to express a preference as to the date of the hearing and to provide an estimate as to the likely length of a hearing.
- Asking each party to indicate which facts and/or evidence are admitted and which remain in dispute.

- Asking each party whether any preliminary legal arguments are to be made.

A record of any directions issued must be served on both parties and the Panel.

22 What happens if the Appeal Panel has any questions for the witnesses prior to the hearing?

Any questions the Appeal Panel may have will be dealt with in their written instructions, called directions, to the Appellant and the GMC. Directions are issued prior to the hearing and will give both parties the opportunity to submit supplementary witness statements to deal with any outstanding points.

23 What if I fail to comply with the rules or with any directions issued by the legally qualified chair or case manager?

The person managing the appeal can make an order to strike out your appeal if you fail to progress your appeal or to take specified steps within a specified period of time.

24 Can I withdraw my appeal? If so, will I receive a refund of the appeal fee?

You may apply in writing to withdraw your appeal at any time before the appeal is determined. Applications should be sent to the Appeals Team.

Once you have withdrawn your appeal you cannot make a further application to appeal that decision.

Information about refunds of appeal fees can be found on our website at:

<http://www.gmc-uk.org/doctors/fees/appealsfees.asp>

25 How will I be informed of the appeal date?

If the appeal is to be dealt with as a written appeal, the date of the meeting will be stated in the notice of meeting.

If the appeal is to be dealt with as an oral appeal, the Appeals Team will talk to you and the relevant teams at the GMC to agree a suitable date. Confirmation of the date of your appeal will be included in the notice of hearing.

26 What happens once a date has been set for my appeal?

The Appeals Team will send you a notice of meeting or hearing. This must be issued to you and the GMC no later than 28 days before the date of the appeal meeting or hearing.

In addition to the date, time and venue of the meeting or hearing, the notice will:

- Specify whether the appeal is to proceed as a written or as an oral appeal.
- Identify who has been selected to act as Chair and as panellists. If you object to any one or more of the proposed Chair or panellists, you can give notice to the Appeals Team within 15 days of receipt of the notice, stating why you object. If the Appeals Team is satisfied the objection is valid, it may nominate a substitute Chair or panellists.
- Provide details of the Panel's powers of disposal in dealing with the appeal, and
- If the appeal is an oral appeal the notice must also inform you of:
 - Your right to attend and to be represented.
 - The power of the Panel to proceed in your absence.
 - Your right to submit evidence.

An appeal bundle will also be included with the notice of appeal. The bundle will consist of:

- A contents sheet.
- The appellant's bundle, including your notice of appeal and any documents that you have submitted in support of your appeal (whether you have submitted these with the notice of appeal or at a later date).
- The GMC's bundle (the evidence that the GMC intends to rely upon for the purposes of the appeal, including submissions in support of its original decision).

Each page of the appeal bundle will be clearly numbered at the bottom of the page and evidence will be considered with reference to those page numbers. You must not alter the sequence or the numbering of these pages. If you do it will make it difficult for those present at an appeal hearing to ensure that they are referring to the same piece of evidence.

27 Can I ask for my appeal to be postponed once a date has been agreed and notice has been served?

Yes. The case manager or a legally qualified chair can decide to postpone the hearing after an application from either party, or if they decide it is necessary.

28 Can I claim costs associated with my appeal?

You may be awarded costs relating to the cost of bringing your appeal. Or, the GMC may be awarded costs (which you would be liable to pay) relating to the costs of defending the appeal.

The Panel will decide on awarding costs taking into account guidance issued on behalf of the General Council of the GMC. The Panel may decide to award costs in any case on its own or on application from either party. They will also decide the level of those costs and when they should be paid.

They will only award costs in exceptional circumstances. Exceptional circumstances will usually arise where a party to the proceedings has acted in a frivolous, vexatious, abusive or disruptive or otherwise unreasonable manner, in bringing or during the appeal.

Costs are not automatically awarded after a successful, partial or otherwise, appeal, or because one of the parties has been found to have been wrong or made an error in relation to the matter being appealed.

Any evidence relating to a claim for costs must be submitted:

- by the party making the application for costs
- as a schedule
- **at least 24 hours before the appeal** (where the claim relates to the bringing of the appeal).

Conducting the appeal

29 How do the Panel conduct the appeal?

The Panel consider your appeal in light of the evidence and documents you and the GMC submit. An appeal is a reconsideration of the evidence, not a review of the decision made by the GMC.

30 What decisions about the appeal can the Panel's make?

The Panel may decide to:

- Dismiss the appeal.
- Allow the appeal and overturn the decision you are appealing against.
- Make any new decision which could have been made by the person making the original decision
- Remit the case to the person making the decision to dispose of in accordance with the directions of the Appeal Panel.

The Panel also has the power to make an order as to costs (or, in Scotland 'expenses'). Further information about costs can be found in section 27 above.

31 Who will sit on the appeal panel?

At least three people must sit on the Panel. In, addition to a Chair, it must include at least one medical and one lay (non medical) panellist.

In practice appeal panels dealing with appealable postgraduate medical education and training appeals are made up of:

- A legally qualified chair.
- A lay panellist (a person who is not a registered medical practitioner and who does not hold a registrable medical qualification).
- Two registered medical practitioners, who are not qualified in the same specialty as each other. Only one of these practitioners may be qualified, and practising, in the same specialty as the appellant, but neither need to be. In this context the term specialty means either general practice or one of the specialties listed in the 2010 Order. The Chair and the panellists are selected from a pool of panellists appointed and maintained by the General Council.

- The Chair and the panellists are selected from a pool of panellists appointed and maintained by the General Council.

32 Can I attend my appeal?

You can attend an **oral** appeal.

If you choose an oral appeal and either you or your representative does not appear on the day, the Panel can decide to proceed in your absence.

If you choose a written appeal you cannot attend the meeting. A written appeal is held without the GMC, the appellant and their representatives being present.

33 Can I be represented at my appeal?

You can be represented at an **oral** appeal (hearing) by:

- A solicitor or counsel.
- A representative from any professional organisation of which you are a member.
- A member of your family or other person (**at the discretion of the Panel**).

You **cannot** be represented by (or accompanied by) any person who gives evidence at the hearing.

You **cannot** be represented at a written appeal meeting. A written appeal is held without the GMC, the appellant and their representatives being present.

34 Can I ask for members of the public to be excluded from my appeal hearing?

The Panel can decide, subject to the rules, to exclude members of the public from all or part of an appeal hearing. It may decide to do so either on application from you or from the GMC, or if they decide it is necessary.

35 Where will my appeal hearing take place?

All hearings take place at the GMC's Hearing Centre in Manchester.

36 What happens at an appeal hearing?

Appeal hearings involve three groups of people:

- The appeal panel as described in section 30 above.
- You as the appellant, your representative and your witnesses.
- The GMC and their representatives, which may include a legal representative and their witnesses.

The rules specify a number of things that must happen at a hearing (see rule 10 of the Registration Appeals Panels Procedure Rules 2010). Otherwise it is for the Panel to decide its own procedure.

In practice, most hearings proceed as follows:

- When you arrive you will be shown to a room provided for you and anyone attending with you to use. You can use this room during any breaks in the hearing. The GMC and its representatives will be in a separate room.
- The proceedings take place in a hearing room.
- At the start of the hearing the Chair will introduce the Panel. The Chair will ask you to introduce yourself, your representatives and those accompanying you. They will ask the GMC to do the same. They will also explain how the day will be structured and will introduce anyone else who is there.
- You, or your representative, will be asked to present your case to the Panel and to call your witness(es). The Panel and the GMC will be given an opportunity to ask questions of you and your witness(es) when you have finished.
- The Chair will ask the GMC to present its case to the Panel and to call its witness(es). You, your representative and the Panel will then be given the opportunity to ask questions of the GMC and its witnesses.
- There are specific rules about receiving evidence from witnesses and these are detailed in rule 10(2)(d) of the Registration Appeals Panels Procedure rules 2010. www.gmc-uk.org/The_General_Medical_Council_Registration_Appeals_Panels_Procedure_Rules_2010_31074723.pdf
- When all evidence has been presented and the Panel has clarified any issues, both parties will be given the opportunity to make closing statements.

- The Chair will close the hearing and the Panel will leave to consider your appeal. Once the Panel has left, you and your representatives may leave.

37 How long will the appeal hearing last?

Written hearings are completed within the day.

Oral hearings may take longer to hear the case. The person managing your appeal will ask you and the GMC to estimate the likely length of the hearing. The Appeals Team will then decide on the number of days to schedule for your appeal and the notice of hearing will indicate how long the hearing is expected to take.

Every effort will be made to complete your appeal within the agreed timescale. However, the length of an appeal hearing can be affected by issues that arise during the course of the hearing, or an adjournment, so there is no guarantee that the hearing will be concluded within the agreed timescale. A Panel can also adjourn an appeal (see section 37 below).

38 Can I ask for the proceedings to be adjourned?

The Panel can decide to adjourn a hearing, either on application from you or the GMC, or if it decides it is necessary.

39 How and when will I be told the outcome of my appeal?

We aim to issue written decisions no later than 28 days after the appeal hearing or meeting. Both you and the GMC will get written confirmation of the Panel's decision. The decision will include a statement of findings along with reasons for the Panel's decision.

40 What happens if the appeal is decided in my favour?

The GMC is required to act in accordance with the Panel's decision, whether by entering your name in the relevant register, awarding you a CCT or taking any other action to implement the Panel's decision.

41 What can I do if my appeal is unsuccessful?

If your appeal is unsuccessful you have a further right to appeal against the Panel's decision. You will need to appeal to the county court or, in Scotland, to the Sheriff. You must appeal within 28 days from the date of the Panel's written decision. The Panel's letter advising you of their decision should include information about your further right of appeal.

42 Legislation, rules and procedures

The legislation, procedures and rules relevant to appeals are listed below along with links to this information on the GMC's website.

- The Medical Act 1983 (as amended). Schedule 3A deals with Registration and Postgraduate Medical Education and Training Appeals. www.gmc-uk.org/about/legislation/medical_act.asp
- The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010. Paragraph 17 of Schedule 1 deals with amendments to Schedule 3A of the Medical Act to incorporate appealable decisions relating to Postgraduate Medical Education and Training. <http://www.legislation.gov.uk/uksi/2010/234/contents/made>
- The General Medical Council (Constitution of Panels and Investigation Committee) Rules Order of Council 2004, 2005, 2009 and 2010.
- 2004: www.opsi.gov.uk/si/si2004/20042611.htm
- 2005: www.opsi.gov.uk/si/si2005/20050402.htm
- 2009: www.gmc-uk.org/Constitution_of_Panels_Rules.pdf 28141392.pdf
- 2010: www.gmc-uk.org/The_General_Medical_Council_Constitution_of_Panels_and_Investigation_Committee_Amendment_Rules_2010_31023807.pdf
- The General Medical Council (Registration Appeals Panels Procedure) Rules Order of Council 2010.
- www.gmc-uk.org/The_General_Medical_Council_Registration_Appeals_Panels_Procedure_Rules_2010_31074723.pdf