

Commentary by **Ane Vernon, Dispute Resolution Partner and schools and education specialist lawyer at Payne Hicks Beach**, originally published by The Independent online on 28 August 2020 and reproduced with kind permission
<https://www.independent.co.uk/news/education/education-news/level-gcse-results-exam-appeal-lawyers-cags-a9691171.html>



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Education News

Law firms say they are being approached by students wanting to appeal their teacher-estimated exam grades

Exam results: Students unhappy with estimated grades seek legal advice about appealing GCSE and A-levels

‘Significant number’ of pupils unhappy with teacher-estimated grades, lawyer claims

Zoe Tidman

Pupils unhappy with their estimated grades have been approaching law firms to help navigate the “narrow” appeals process for GCSE and A-levels.

Lawyers have told *The Independent* pupils are seeking advice after feeling let down by grades their teachers estimated after exams were cancelled this year over coronavirus.

In a U-turn after [A-level](#) results day, the government announced A-level and [GCSE](#) pupils [could use these Centre Assessed Grades \(CAGs\) if higher](#) than moderated marks.

Student protests followed results day, which saw nearly 40 per cent of A-levels downgraded in a controversial moderation process.

However, one education and public law expert told *The Independent* there was a “significant number” who are unhappy with the teacher estimates students have been allowed to revert back to.

Jennifer Wright, of law firm Irwin Mitchell, called England exam regulator’s appeals process a “narrow route”.

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Under [Ofqual's current process](#), schools can show evidence they made a mistake when submitting a student's CAGs - including an "exceptional clerical error" or not taking into account important information that should have been included when determining a student's likely performance, and was included for others.

Pupils can also submit allegations of malpractice, including bias or discrimination.

But the exam regulator [says](#): "A student cannot appeal because they disagree with their school's or college's professional judgement of the grade the student would most likely have achieved if exams had taken place."

[Protesters in London last week told *The Independent*](#) they had lost their top [university](#) places with their A-levels and wanted a better way to appeal these teacher-submitted marks, which they felt were lower than they deserved.

Ms Wright said: "We have been approached by many students who feel that the grades awarded to them are inaccurate, where the school or college have not taken individual circumstances or relevant information into account, such as periods of illness and special educational needs, when determining their grades."

She added: "When the system of awarding grades relies solely on subjective assessment of a student's work, it is important in terms of procedural fairness that there is an adequate review or appeals system in place, allowing a student to seek a review or to appeal their grade where it is unclear how that subjective view has been reached."

"If there is no fair process, then this might be susceptible to a legal challenge."

Rob Price, of HCB Solicitors, told *The Independent* his firm have also been supporting GCSE and A-level pupils through the appeals process.

"Many students I speak to are being left completely in limbo by the schools with little or no guidance with regards to appeals," the lawyer said.

Mr Price told *The Independent* his firm is advising students to write to the school to request full disclosure around their CAGs, rank order placement and other details around how their grades were calculated - and to ask the school to confirm there is grounds for appeal given a mistake was made over the student's position in the rank order of pupils.

“We have been inundated with enquiries regarding both A level and GCSE enquiries from parents and students,” he said. “The common issue, somewhat unsurprisingly, seems to be how the CAGs have been calculated.”

Joshua Ellis, a paralegal and adviser at Alpha Academic Appeals said “nearly everybody” getting in touch after A-level and GCSE results were handed out have been asking for advice on appealing their CAGs.

Although students and parents can do appeals on their own, he told *The Independent* people may need help with legal literacy, and also using an outsider to put together a rational argument amid heightened tensions.

Ane Vernon from Payne Hicks Beach solicitors also said they have been approached by several people asking for advice over possible appeals.

As well as being able to appeal against CAGs if they made an error, schools can also appeal if they believe the exam board made a mistake when handling the grade.

Under the section in its appeals guidance about schools making mistakes when sending teacher grades to exam boards, Ofqual says: “Given the care with which schools and colleges determined CAGs, we expect that it would be very unusual for them to identify such issues with CAGs.”

A Department for Education spokesperson said:

“In light of the Education Secretary’s announcement on 17 August, appeals against A and AS level and GCSE grades will only be accepted from schools or colleges where they think they made a mistake when submitting a student’s centre assessment grade, or if they believe the exam board made a mistake when it communicated that grade.

“As in any other year, students will be able to raise a complaint to their centre if they have evidence of bias or that they were discriminated against in the grading process.”

An Ofqual spokesperson said: “We have made clear the basis on which Centre Assessed Grades can be appealed, with additional guidance published this week.

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