



Children's Rights and Wellbeing Impact Assessment: SQA Appeals Service 2021

Publication date: June 2021

Publication code: AA8342

Published by the Scottish Qualifications Authority
The Optima Building, 58 Robertson Street, Glasgow G2 8DQ
Lowden, 24 Wester Shawfair, Dalkeith, EH22 1FD

www.sqa.org.uk

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Section 1: Background and context

Approach to impact assessment

This document summarises the evidence which SQA has reviewed in developing the Appeals Service for Graded National Courses in 2021 which relates to impacts on children's rights and wellbeing. SQA supports lifelong learning, and awards qualifications to learners across the age spectrum, but it is clear that many learners taking SQA graded National Courses are aged 15, 16 or 17 and would identify as children or young people.

In developing this appeals service, SQA extended the principles of the [alternative certification model \(ACM\) 2021](#) and drew on the [Children's Rights and Wellbeing Impact Assessment](#) of the ACM published on behalf of the NQ 2021 Group in February 2021.

SQA reviewed the range of available evidence to inform its decisions in the context of its duties as the statutory national awarding body in Scotland for qualifications other than degrees. These duties are set out in the Education (Scotland) Act 1996, as amended.

The principal components of the appeals service were determined by SQA's Board of Management following advice from its Qualifications Committee, Advisory Council and Code of Practice Governance Group. These were subsequently discussed with SQA's sponsor department within Scottish Government following the May 2021 election result.

Section 4 sets out the assessment of the impact of key components of the Appeals Service for Graded National Courses in relation to children and young people's rights and wellbeing.

As with the impact assessment for the ACM, other groups of learners, such as those who are socio-economically disadvantaged, or who experience other circumstances that present barriers to accessing qualifications, have also been considered wherever possible. Although such groups are not covered specifically by the Equality Act 2010, SQA recognises that a wide range of factors can have an impact on a learner's ability to achieve qualifications. Furthermore, SQA has a specific corporate parenting commitment to ensure its EIA process considers the needs of care-experienced young people, by treating care experience as if it were a protected characteristic covered by the Equality Act. More information with an equality focus is available in SQA's [Equality Impact Assessment](#).

Section 2: CRWIA Stage 1 Screening: key questions

1. Name the policy and describe its overall aims

SQA Appeals Service for Graded National Courses in 2021

The appeals service builds upon the ACM designed by the National Qualifications Group 2021. The service has been designed with learners' interests as a core consideration, constrained by the fluid and challenging circumstances affecting the education sector in 2021.

The ACM for 2021 commits centres to provide ongoing feedback to learners regarding their progress and assessments, including, at the conclusion of the course, provisional grades based on evidence of demonstrated attainment. The appeals service enables learners to appeal to SQA, following one or more clarification conversations with their centre, where the learner remains dissatisfied with their result. Learners can register that they want to appeal to SQA via its website, soon after receiving their provisional result in late June 2021.

2. What aspects of the service will affect children and young people up to the age of 18?

SQA supports lifelong learning, and awards qualifications to learners across the age spectrum, but it is clear that many learners taking SQA graded National Courses are aged 15, 16 or 17 and would identify as children or young people. Therefore, all aspects of the appeals service have potential to affect those children and young people taking SQA graded National Courses in 2021. Key components assessed for their impact on children and young people's rights and wellbeing are:

- ◆ learner-led appeals
- ◆ no direct cost recovery
- ◆ evidence-based appeals (demonstrated attainment)
- ◆ roles and responsibilities of SQA and centres
- ◆ types of appeal
- ◆ priority appeals service

3. What likely impact — direct or indirect — will the service have on children and young people?

The appeals service will have a direct impact on young people as it will be the mechanism by which a learner who is dissatisfied with their National Qualification grade can ask to have it reviewed and confirmed or changed.

4. Which groups of children and young people will be affected?

SQA understands that 'child' means every human being below the age of 18. We also understand that our corporate parenting responsibilities under the Children and Young People (Scotland) Act 2014 not only apply to children who are looked after by local authorities, but also to young people up to the age of 26 who were looked after at age 16 or later.

SQA recognises that any changes made to awarding graded National Qualifications in 2021 and the associated appeals service will impact on children and young people.

5. Will this require a CRWIA?

While there is no formal or legal requirement for SQA to undertake or publish a Children's Rights and Wellbeing Impact Assessment, SQA recognises that any changes made to awarding graded National Qualifications in 2021 and the associated appeals service will impact on children and young people. In line with good practice, SQA has described in this document its assessment of the positive and negative impacts of the Appeals Service for Graded National Courses in 2021, and actions adopted to maximise positive impacts and minimise negative impacts. SQA respects the rights of the child contained within the United Nations Convention on the Rights of the Child and the rights protected by the European Convention on Human Rights.

Section 3: The CRWIA

3.1 The CRWIA Context

Review of appeals

Scotland is set to directly incorporate the [United Nations Convention on the Rights of the Child \(UNCRC\)](#) into domestic law. The UNCRC (Incorporation) (Scotland) Bill was introduced to the Scottish Parliament on 1 September 2020. When enacted, it will be unlawful for public authorities to act in any way that is incompatible with the incorporated UNCRC requirements.

More recently, in response to the Priestley Review, the Scottish Government stated that it fully recognises ‘that young people are rights-holders and key stakeholders within the education system. We will ask the SQA to review the appeals system for National Qualifications, working closely with education partners, including young people, to ensure it best meets the needs of young people in line with the principles of the UNCRC’. We agreed to implement the recommendation, so this is a key consideration in the design of the appeals process.

3.2 The CRWIA: key questions

1 Which UNCRC articles are relevant to the service?

SQA considers that the following articles are particularly relevant to the [service](#):

- ◆ Article 2
- ◆ Article 3
- ◆ Article 6
- ◆ Article 12
- ◆ Article 17
- ◆ Article 23
- ◆ Article 28 and
- ◆ Article 29.

The formal United Nations definitions of these Articles are explained in Appendix One. The United Nations Children’s Fund (UNICEF) child-friendly descriptors have been set out below.

Article 2: non-discrimination

All children have all these rights, no matter who they are, where they live, what language they speak, what their religion is, what they think, what they look like, if they are a boy or girl, if they have a disability, if they are rich or poor, and no matter who their parents or families are or what their parents or families believe or do. No child should be treated unfairly for any reason.

Article 3: best interests of the child

When adults make decisions, they should think about how their decisions will affect children. All adults should do what is best for children. Governments should make sure children are protected and looked after by their parents, or by other people when this is

needed. Governments should make sure that people and places responsible for looking after children are doing a good job.

Article 6: life survival and development

Every child has the right to be alive. Governments must make sure that children survive and develop in the best possible way.

Article 12: respect for children's views

Children have the right to give their opinions freely on issues that affect them. Adults should listen and take children seriously.

Article 17: right to information

Children have the right to get information from the Internet, radio, television, newspapers, books and other sources. Adults should make sure the information they are getting is not harmful. Governments should encourage the media to share information from lots of different sources, in languages that all children can understand.

Article 23: children with disabilities

Every child with a disability should enjoy the best possible life in society. Governments should remove all obstacles for children with disabilities to become independent and to participate actively in the community.

Article 28: right to education

Every child has the right to an education. Primary education should be free. Secondary and higher education should be available to every child. Children should be encouraged to go to school to the highest level possible. Discipline in schools should respect children's rights and never use violence.

Article 29: aims of education

Children's education should help them fully develop their personalities, talents and abilities. It should teach them to understand their own rights, and to respect other people's rights, cultures and differences. It should help them to live peacefully and protect the environment.

2 What impact will the service have on children's rights?

SQA has developed the Appeals Service for Graded National Courses in 2021 with learners' interests at heart, constrained by the fluid and challenging circumstances affecting the education sector in 2021. The service has the potential to advance the realisation of children's rights in Scotland. The table below outlines the UNCRC rights that will be engaged by each component of the appeals service.

The appeals service follows the principles of the alternative certification model (ACM) designed by the National Qualifications Group to support public confidence in this year's quality assured grade awards. The ACM 2021 commits centres to provide ongoing feedback to learners regarding their progress and assessments, including, at the conclusion of the course, provisional grades based on evidence of demonstrated attainment.

Article	Component of appeals service
2 Non-discrimination	Learner-led appeals No direct cost recovery Evidence-based appeals (demonstrated attainment) Types of appeal Priority appeals service
3 Best interests of the child	Learner-led appeals No direct cost recovery Evidence-based appeals (demonstrated attainment) Roles and responsibilities of SQA and centres Types of appeal Priority appeals service
6 Life survival and development	Evidence-based appeals (demonstrated attainment) Priority appeals service
12 Respect for children's views	Learner-led appeals No direct cost recovery Evidence-based appeals (demonstrated attainment) Roles and responsibilities of SQA and centres Types of appeal Priority appeals service
17 Right to information	Types of appeal
23 Children with disabilities	Types of appeal
28 Right to education	Evidence-based appeals (demonstrated attainment) Priority appeals service
29 Aims of education	Evidence-based appeals (demonstrated attainment) Priority appeals service

The appeals service enables learners to appeal to SQA following one or more clarification conversations with their centre, where the learner remains dissatisfied with their result. Where any errors are identified by the centre at this point, the centre can bring these to SQA's attention. The conversation(s) can take place before and/or after certification of their award on 10 August. This dialogue advances young people's involvement in decisions about the assessment of their knowledge, understanding and skills leading to SQA graded National Courses, in the spirit of UNCRC Article 12.

Where this is agreed between the centre and the learner following this conversation (or conversations), the centre can put forward the learner's appeal on their behalf. Where the centre and learner do not agree but the learner still wants to appeal, the learner will be able to initiate an appeal with SQA directly. The appeal will proceed where the learner and centre confirm that a clarification conversation has taken place, and where the centre provides any information and assessment evidence asked for by SQA. The centre will advise the learner of their view of the likelihood of the appeal being in their best interests, in the spirit of UNCRC Article 3.

The appeals model enables three types of appeal to be requested:

- A Academic judgement — the learner disagrees with the centre's quality assured academic judgement in its assessment of the learner's original evidence.
- B Administrative error — the learner believes that there has been an error in transferring the provisional result from the centre to SQA, or in SQA processing the provisional result, or
- C Discrimination — learners can appeal in two circumstances:
 - There has been discrimination or other unlawful conduct contrary to the Equality Act 2010, acknowledged in writing by the centre, or established through court proceedings or by a ruling of the SPSO.
 - The centre failed to comply with SQA's requirements in relation to providing assessment arrangements in relation to assessment evidence that contributed to a disabled learner's provisional result.

The learner will be asked to identify the type of appeal that applies, and to explain their reasons for appeal for types B and C.

This year, learners' provisional results are being determined by schools and colleges based on demonstrated attainment. The fundamental principle of the ACM — that all awarding decisions are based on evidence of demonstrated attainment — must be carried through into the approach to appeals.

All awarding decisions — even those where the evidence is subject to an additional review because of an appeal — will be solely based on demonstrated attainment. This means that, at any stage, including appeals, a learner's result will be consistent with the knowledge, skills and understanding that they have evidenced. The requirement for grade decisions to be based on a quality assured assessment of demonstrated attainment alone indirectly supports UNCRC Article 2 because it should mitigate against discrimination.

Learners should be aware that any appeal could potentially result in an award remaining the same, being upgraded or being downgraded. The purpose of an appeal is to ensure that a learner achieves the grade their evidence merits. The centre should advise the learner of their view of the likelihood of the appeal being in their best interests, in the spirit of UNCRC Article 3.

In session 2020–21, the substantial costs of providing a learner-led Appeals Service for Graded National Courses will not be recovered directly from learners through a charge, even where the appeal does not lead to a change in grade. The provision of an appeals service that does not charge a fee from learners or their centres has potential to advance young people's involvement in decisions about the assessment of their knowledge, understanding and skills leading to SQA graded National Courses, in the spirit of UNCRC Articles 2 and 12.

Centres will be asked to identify any appeals which will impact directly on young people's progression into employment, apprenticeships, or further or higher education in autumn 2021, and these will be seen as the highest priority for rapid resolution. This is consistent with the spirit of UNCRC Articles 3 and 28.

Section 4: Assessment of impact and mitigations

Components of appeals service

This part of the impact assessment further examines the components of the appeals service in line with the relevant UNCRC Articles as outlined in section 3.2.2, and considers:

- ◆ whether the service may have different impacts on different groups of children and young people
- ◆ what mitigating actions might be adopted if a potential negative impact was identified for any area of rights or any group of children and young people
- ◆ where the appeals service can contribute to the wellbeing of children and young people in Scotland

4.1 Learner-led appeals

a) description of evidence considered

Learners have told SQA that it is important that they are able to challenge an SQA grade award where they believe that it is wrong. Learners described their experiences in previous years where they wanted to challenge an SQA grade award and, following discussion, their centre declined to proceed with a challenge.

Established SQA post-results services place reliance on the professional judgement of senior staff in SQA centres to balance their awareness of a learner's knowledge, understanding and skills with their understanding of the national standard for that qualification before deciding whether to proceed with an appeal on their behalf. Post-results services apply where the learner's grade award results from external assessment by SQA.

In its equality impact assessment of the 2020 alternative certification model and the planned post-certification review service, SQA identified a potential source of discrimination and therefore negative impact, in that a centre might decide not to make a post-certification review request on behalf of a learner.

SQA research reviewed a range of approaches around the world to allowing learners to challenge academic judgements leading to award of national qualifications. The research found that:

Different countries' approaches to appeals are as different as their education systems and, largely, reflect historical practices and culture. For instance, the balance between external and internal assessment in different countries varies enormously. In some countries, the basis for an appeal can encompass a broad range of issues, whereas in others, an appeal is confined to what is essentially a clerical check.

While processes and practices vary greatly across these countries, it seems rare that a candidate would appeal to an exam board about an assessment decision from their centre. Some exam boards or ministries of education, however, do require centres to have appeals processes in place.

Many of the countries covered here accept appeals directly from candidates. However, while this is not a specific focus of the research, it is clear that many countries do not

routinely deal with large numbers of appeals each year. Certainly, in non-COVID years, there is little conflation of appeals processes and what we in Scotland would refer to as 'exceptional circumstance' processes.

In a number of countries, re-sit opportunities are an important aspect of the assessment process.

Finally, it is common for unsuccessful appeals (if not necessarily clerical checks) to incur a fee.

It appears from the range of assessment, awarding and appeals models operating internationally that different countries take very different views of what is needed in this context to respect children's rights under the UNCRC.

The Children and Young People's Commissioner for Scotland has indicated his view that it is consistent with children's rights in law for their views to be heard and given due consideration in all decisions about them. The Commissioner has expressed a view that centres' existing processes to involve children in decisions about their education should extend to the centre assessment processes leading to their provisional National Course results for 2021.

Schools must already have processes in place which ensure children and young people are fully involved in the decision-making processes and should be supported to understand the rationale and evidenced-based reasons for teachers' assessments, judgments and estimates. They should also have the right to challenge these processes at every stage. This should mean that no young person will be unaware of the reasons for their teachers' judgements, before submitting provisional/centre estimated grades to the SQA. Indeed, if the young person has been able to participate in discussions and decisions, including when provisional grades are under consideration, we believe that the likelihood of such disputes would be reduced, as the young person would gain understanding of why they had been awarded those grades as well as being afforded an opportunity to discuss alternative evidence and any extenuating or personal circumstances or protected characteristics which are being taken into account.

(CYPCS response to SQA appeals consultation, March 2021)

The Commissioner has further indicated that he believes that where young people dispute their centre's judgement, they should have access to an external review. SQA does not agree with the Commissioner that Article 12 requires children to have the right to challenge the process at every stage. SQA fully acknowledges the importance of a child being able to participate in decisions that affect them. However, the nature of the appeals service, and the ACM more generally, means it would not be appropriate for children to have decision-making responsibilities in relation to certain decisions, such as decisions that involve academic judgement. Accordingly, SQA has developed the appeals service to ensure that children can participate in the process as far as is appropriate.

The Commissioner has indicated that the Team Around the Child, which will include staff in SQA centres, has a duty to act in the best interests of the young person. This might include advising the young person that their interests are not best served by progressing with an

appeal in their specific circumstances.

SQA has considered evidence in terms of equal access to challenge decisions. A concern has been identified that not all learners will have equal access to support from home to articulate the reason for their appeal.

There is a risk that the SQA appeals process will be disproportionately used by candidates from more affluent backgrounds whose parents/carers and in many cases, tutors, will be influential in young people's decisions as to whether to appeal or not, and in determining the grounds for any appeal. The concomitant risk is that those who experience disadvantage as a result of socio-economic background will be less likely to access their right to use the service.

(EIS response to SQA appeals consultation)

SQA is aware that learners sometimes need or prefer to ask a representative to handle complex matters on their behalf, as a result of a disability or due to lack of confidence. This can be a parent/carer, or a third-party advocacy organisation. CYPSC further highlighted this point in his consultation response.

To ensure the appeal system is just, fair and accessible, it must allow a young person to be supported or represented by someone else of their choosing, for example a parent, family friend or support worker throughout the assessment and/or appeal processes.

(CYPSC response to SQA appeals consultation, March 2021)

b) potential impacts on children and young people identified from evidence

- ◆ children and young people may want to appeal and find their centre will not make an appeal on their behalf
- ◆ children and young people may not be able to make an appeal without appropriate support to do so

c) relevant parts of UNCRC

Article 2: non-discrimination

Article 3: best interests of the child

Article 12: respect for children's views

d) steps taken by SQA to mitigate impacts

The appeals service for 2021 enables learners to appeal to SQA through their centre, or directly where necessary. SQA's standard arrangements for learners to authorise representatives to progress an appeal on their behalf will apply. The ability to use representatives to ensure that the appeals service is accessible to all is in line with children's rights under **Articles 2 and 3**. SQA will also include details of advocacy organisations that can support learners in the appeal process on its website and in appeals communications, which may help learners to access the service who may not get the required support at home.

SQA consulted its Equality and Inclusion Key Partners' Group and Learners' Panel on how best to inform learners, parents/carers and others about how to understand and access the appeals service where needed.

The appeals process seeks to ensure young people can participate, in so far as is appropriate, in decisions affecting them, in support of children's right to have their views heard and given due consideration (**Article 12**). This will be done by initial conversations between centres and candidates, and the availability of a direct appeal to SQA.

4.2 No direct cost recovery

a) description of evidence considered

Established SQA post-results services do not involve learner-led appeals. They are initiated by an SQA centre following a professional judgement by senior centre staff. In post-results services the costs of administering the system are partly recovered from learners' centres if a clerical check or marking review does not lead to a change in grade.

SQA research reviewed a range of approaches around the world to allowing learners to challenge academic judgements leading to award of national qualifications. The research identified that, where a learner is able to challenge this type of decision, it is common for unsuccessful appeals to incur a fee. In some countries a fee applies regardless of the outcome of the appeal, and in some countries the fee is very substantial.

b) potential impacts on children and young people identified from evidence

- ◆ children and young people may want to appeal but if there was a cost, may not be able to do so

c) relevant parts of UNCRC

Article 2: non-discrimination

Article 3: best interests of the child

Article 12: respect for children's views

d) steps taken by SQA to mitigate impacts

SQA identified a concern that any fee attached to direct learner-led appeals would present a barrier to learners from lower income households. It is recognised that candidates who have one or more protected characteristics are disproportionately more likely to come from a lower income household. A concern was identified that a fee attached to direct learner-led appeals could have a negative impact on children's right to non-discrimination (**Article 2**) and for decisions to be made in children's best interests (**Article 3**). The appeals service is no cost and therefore contributes to children having the right to have their views heard and given due consideration (**Article 12**).

4.3 Evidence based appeals (demonstrated attainment)

a) description of evidence considered

The impact assessments for the 2021 ACM set out the importance of demonstrated attainment in terms of the national standard, to ensure that qualifications remain a reliable indicator of a learner's knowledge, understanding and skills. This enables learners to access the opportunities for employment or further learning they seek when taking SQA

qualifications. Much of the evidence, analysis of impacts and mitigations described in the assessments of the ACM will also apply here.

Concerns were identified that public health measures resulting in a variable and negative disruptive effect on learning and assessment might impact on children's rights to life development and education. More specifically for assessments leading to SQA qualifications, a concern was identified that disruption to learning might have a negative impact on children's right to non-discrimination, particularly for those learners who have been asked to shield because of a disability of their own or of someone within their household, or those who are managing mental health conditions that might be exacerbated by circumstances arising from the pandemic.

SQA has been asked to examine whether the appeals service for 2021 graded National Courses can include consideration of contextual information about individual learners' circumstances as a relevant factor in determining their grade award at appeal. The information suggested to SQA might include an individual's experience of ill health or bereavement, socio-economic characteristics, care experience or young carer status.

SQA commissioned specific primary research to better understand views of employers and education providers who provide the opportunities that learners seek to access by means of their SQA qualifications. It reported that:

When those participating in the research were asked what was important to them about SQA qualifications — and why these aspects were of importance to their organisation — all three audiences (HEIs, colleges and employers) stated that it was important that SQA qualifications can demonstrate the same standard for all learners within a cohort.

For HEIs and colleges, this allowed them to make confident comparisons between learners when applications are being made, whilst in a similar vein, for employers, this allowed them to make accurate comparisons between job applicants.

In addition, all three audiences stated that it was important that SQA qualifications accurately represent the knowledge, skills and abilities of learners.

SQA is aware that learning has been widely disrupted across schools and colleges this year, and that the individual impact on learners' access to continued learning and ability to generate assessment evidence to demonstrate their learning has varied widely. The Equity Audit published in January 2021 by Education Scotland and Scottish Government explores the disruption to learning in some depth. A range of partners in the NQ 2021 Group have undertaken activity to support learners to recover lost learning, where possible. The impact assessments for the ACM describe the mitigations adopted by SQA to provide flexibility that offers the maximum possible opportunity for learners to demonstrate their knowledge, understanding and skills.

When asked if an appeal outcome should be evidence-based, the vast majority of respondents to SQA's appeals consultation agreed. This view was shared across the respondent types, with the majority of each respondent type agreeing that an appeal outcome should be the grade that the evidence shows ought to be awarded. Many of these positive responses also highlighted that exceptional circumstances should be considered, and that learners should be aware of the nature of the appeals process, but if there was no

risk of a grade being downgraded, the appeals process could be overwhelmed with appeals from all learners.

A very small number of respondents stated that they did not agree with an appeal outcome being based on assessment evidence relating to knowledge, understanding and skills alone. Most of these respondents disagreed with the potential downgrading of grades, as some felt that learners had suffered enough in the past year and some believed exceptional circumstances should also be considered.

Around 15% of respondents did not answer the question or did not explicitly state whether they agreed or disagreed with an appeal outcome being evidence-based. However, most of these respondents disagreed with the potential downgrading of grades, while some questioned the need for an appeal when the grades should be based on evidence anyway.

SQA has provided guidance to centre staff in determining provisional results based on assessment evidence in relation to a national standard based on knowledge, understanding and skills. This aims to prevent unconscious bias leading to discrimination. SQA has not been able to find a fair and practical way of considering individual contextual information in an appeal of a grade award without creating a real risk of inconsistency and unmanageable variations in response to that contextual information.

b) potential impacts on children and young people identified from evidence

- ◆ children and young people have the right to understand why they have been awarded a particular grade and what evidence has been used to reach that decision
- ◆ children and young people may not wish to appeal if they believe their result could be downgraded
- ◆ children and young people should have confidence in the integrity of the qualification they are being awarded

c) relevant parts of UNCRC

Article 2: non-discrimination

Article 3: best interests of the child

Article 6: life survival and development

Article 12: respect for children's views

Article 28: right to education

Article 29: aims of education

d) steps taken by SQA to mitigate impacts

The impact assessments for the 2021 ACM set out the importance of demonstrated attainment in terms of the national standard to ensure that qualifications remain a reliable indicator of a learner's knowledge, understanding and skills. Many of the mitigations described in the assessments for the ACM also apply here. These include course modifications, provision of assessment instruments and SQA support around understanding standards and quality assurance.

As with the ACM, the requirement for grade decisions to be based on a quality assured

assessment of demonstrated attainment alone is necessary to maintain the integrity of qualifications, and to mitigate against risk of bias or discrimination. This approach is consistent with children's rights to education and life development through accessing progression opportunities with their qualifications. SQA is conscious that the decision not to take account of contextual information does have the potential to impact on children's rights — **articles 3 and 12** are most relevant here, while **article 2** may also be relevant. On balance however, SQA considers that the approach adopted is appropriate and proportionate, with the various mitigating measures that have been put in place to support children in light of this approach. An approach centred on demonstrated attainment is consistent with children's rights described in other articles of the UNCRC relating to rights to education and life development (**Articles 6, 28 and 29**).

The model provides for centres to hold a clarification conversation with learners to explain the possible outcomes of an evidence-based appeal, as an opportunity to provide supportive advice to learners as to their best interests when deciding whether to initiate an appeal. An appeal may result in a grade remaining the same, being upgraded, or being downgraded in line with the evidence on which it is based. The model asks that centres and learners confirm that this conversation has taken place, so that learners have had the benefit of this professional advice. This ensures that children and young people are able to participate in decisions about appeals.

4.4 Roles and responsibilities of SQA and centres

a) description of evidence considered

SQA reviewed the evidence available on the involvement of SQA and centres at different stages of the appeals process. The internal assessment appeals model is known to work well in relation to many internally assessed SQA qualifications, particularly in colleges. Much of the evidence available addressed the very real practical considerations for an appeals process in light of the significant challenges affecting schools, colleges, practitioners and learners in 2021.

In relation to children's rights and wellbeing, a number of responses to SQA's appeals consultation identified benefits and risks of centres having a greater involvement in the appeals process. The benefits included their greater knowledge of learners' individual circumstances, immediate access to assessment evidence and rationale, and position close to the learner to enable a speedy resolution to many appeals. The risks included a perception of reduced objectivity in centres, who may be subject to undue pressure to adjust their judgements, and the related adverse impact on relationship dynamics between learners, their parents/carers and the centre.

We support young people having an opportunity to approach their school or college initially if they are unhappy with their provisional grades. Young people's right to remedy includes a right to resolution as quickly and as close to the decision as possible.

(CYPCS response to SQA appeals consultation, March 2021)

SQA recognises that learners and those who are involved in their lives care deeply about their National Course grade awards. The ACM provides for ongoing dialogue between learners and their centres so that the provisional grade results submitted by their centre do

not come as a surprise to learners. For those learners who are not satisfied with their provisional result ahead of certification, there will be a period when centres close for summer break and learners are not able to take any positive steps towards review, understanding or acceptance of their result. For those learners who are dissatisfied with their result and are managing mental health issues, this could be an acutely difficult period.

b) potential impacts on children and young people identified from evidence

- ◆ children and young people can participate in clarification conversations about their results with their centres
- ◆ children and young people can appeal their provisional results through their centre or directly to SQA
- ◆ children and young people face a period of time — between their centre closing for the summer and before centres re-open and they can provide required information to SQA in August — where their appeals cannot be progressed

c) relevant parts of UNCRC

Article 3: best interests of the child

Article 12: respect for children's views

d) steps taken by SQA to mitigate impacts

The appeals service follows steps taken by SQA, centres and others in the education sector, as described in the ACM, to provide robust quality assured grade results, that are communicated to learners at the end of their course, building on ongoing conversations about their progress and assessment. These clarification conversations between learners and their centres contribute to children's right to have their views heard and given due consideration (**Article 12**) and the duty for adults around the child to act in their best interests (**Article 3**).

SQA is discussing with partners in the education sector the arrangements that can be put in place to support as many learners as possible to be satisfied with their result ahead of certification, and to provide or signpost appropriate sources of support for those who are dissatisfied, over the summer break period.

4.5 Types of appeal

a) description of evidence considered

SQA's appeals consultation set out proposed grounds for appeal, grounded in fairness, where learners would be asked to explain the reason for their appeal with reference to SQA assessment requirements.

A significant number of respondents to SQA's appeals consultation, largely teachers and parents/carers, expressed views that some groups of learners were less likely to make use of the appeals system than learners from affluent households. These groups included learners from more deprived backgrounds, learners who may not have strong parental support, including care-experienced young people, and learners with English as an additional language or who have additional support needs. Concerns were identified that the requirement, within the proposed grounds described in the consultation, for children to explain the reason for their appeal with reference to SQA assessment requirements, might

have a negative impact on children's rights to have their voice heard and to non-discrimination.

Some respondents felt that the main consequence would be that some learners would miss out on appeals that would otherwise have been successful.

A small number of comments suggested actions that SQA could take to ameliorate the issues described above. Several respondents suggested that SQA should gather data to determine how the appeals system is used. Others suggested that there is a need for young people to understand the system better.

A number of respondents raised issues around additional assessment arrangements. Some concerns were expressed that learners may not get the support that they need, due to disruption caused by COVID-19. Respondents mentioned learners with additional support needs, and learners with English as an additional language as groups that may be disadvantaged by the appeals process. The perceived disadvantages were that learners in these groups may not be aware of the appeals process and how to use it, that they may not have the support required to access the process, and that they may not have the confidence to use the process. Some respondents also suggested independent advocacy to support learners who may not have support at home.

A number of respondents from all respondent groups raised issues of bias, whether conscious or unconscious. Some respondents also argued that it was important that appeals were carried out by SQA to limit the possibility of bias within a centre.

A large number of respondents, from all different groups, stated the importance of SQA and schools and colleges communicating clearly with learners in support of children's right to information. This was seen as essential so that learners are aware of their right to appeal and understand when they can and cannot appeal. This has to be done in a way which is accessible to learners.

b) potential impacts on children and young people identified from evidence

- ◆ some children and young people may be less likely to make an appeal because they are unable to explain the reason for their appeal due to various factors
- ◆ children and young people need to be able to understand the appeals service to make informed decisions about whether to make an appeal or not
- ◆ some children and young people with disabilities or additional support needs may not have received the adjustments they need for assessments (assessment arrangements) leading to their result due to the disruption caused by COVID-19

c) relevant parts of UNCRC

Article 2: non-discrimination

Article 3: best interests of the child

Article 12: respect for children's views

Article 17: right to information

Article 23: children with disabilities

d) steps taken by SQA to mitigate impacts

The appeals service will include a type of appeal where a learner can indicate that they disagree with their centre's academic judgement, without having to explain a reason that relates to SQA's assessment requirements. This mitigates potential negative impact on children's rights to have their voice heard (**Article 12**) and to non-discrimination (**Article 2**).

The appeals service also provides an opportunity through type C appeals to address any disadvantage caused to a child or young person as a result of the appropriate assessment arrangements not being in place, in support of the rights to non-discrimination and participation for disabled children provided in **Articles 2** and **23**.

For learners who believe that they have been subject to discrimination or other conduct contrary to the Equality Act within their centre in relation to their SQA qualification, where this has been acknowledged in writing by the centre or established through court proceedings or by the SPSO, SQA will take actions necessary to provide a solution in relation to the qualification. The solution might involve, for example, a review of existing alternative assessment evidence created in the correct assessment conditions. This mitigates potential negative impact on children's rights to non-discrimination (**Article 2**).

To mitigate the potential for some learners to find it more difficult to access the appeals service, SQA's standard arrangements will apply for learners to authorise representatives to progress an appeal on their behalf. SQA will include details on its website and in appeals communications of advocacy organisations that can support learners in the appeal process. Learner communications will be developed using accessible language. These mitigations support the duties and rights outlined in **Articles 3** and **17**. SQA consulted its Equality and Inclusion Key Partners' Group and Learners' Panel about how best to inform learners, parents/carers and others to understand and access the appeals service where needed.

4.6 Priority appeals service based on immediate progression need

a) description of evidence considered

Following suggestions made in response to the appeals consultation, SQA explored expanding the definition of priority appeals to include learners with immediate workplace progression needs, known mental health conditions and those facing the kind of personal circumstances that in other years would make them eligible for the exceptional circumstance consideration service.

This would recognise that there are circumstances beyond progression opportunities where learners would benefit from a swifter conclusion to their appeal.

This was discussed with stakeholders, who thought that it is appropriate and important to extend the priority appeals definition to take in workplace progression, but that an extension into the second proposed type of priority would be subjective and raise equity issues. This is because the decision to include the learners in the expanded categories would be at the discretion of the head of centre — and different heads of centre would draw different conclusions as to who should benefit from this approach, leading to inequity if different centres applied the criteria in different ways. Any attempt to aid consistency by tightly defining the criteria was also seen as problematic, as it was inevitable that the definition would, at the margins, exclude some learners, leading to a different but equally difficult contestability.

Furthermore, stakeholders also expressed the view that, given the context of 2020–21, many learners may reasonably be considered to have faced acute personal challenges and/or mental health issues. This, in turn, would increase the volume of priority appeals far beyond the capacity of the education system to support and determine these appeals in a timely manner (ie ahead of the UCAS deadline in early September) thereby negating the benefit of a priority appeal process.

To help mitigate the risk to learners' wellbeing over the seven weeks between receiving their provisional results and certification day, it was suggested that SQA should run the appeals process from June for those appeals we define as priority appeals.

Some stakeholders were firmly against this approach. The key arguments against it centred on:

- ◆ an equity issue: time required by teachers to support these priority appeals was time not spent on other learners in a crucial learning and teaching period (June)
- ◆ a concern that such an approach would send the wrong signal to the education system about seeking evidence for priority appeals before the period of teaching, assessment, quality assurance and checking results has been completed (by 25 June)
- ◆ teacher workload issues: this would be a further series of task for teachers. This would include packaging evidence for SQA but would also include dialogue with learners who could lodge a priority appeal, and explaining to those that are not eligible why they can't appeal. SQA received strong feedback from SLS, ADES and EIS that introducing this would have a materially negative affect on teacher and lecturer workload and, as a consequence, wellbeing.
- ◆ that learners in June would only have provisional results: the formal result would not be known prior to 10 August and so it was inappropriate to appeal ahead of 10 August

Other stakeholders were more supportive, noting that the priority appeals would only apply to learners where they had fallen short of a conditional offer requirement for immediate HE, FE or employment progression — in 2019 these totalled fewer than 350 appeals, an average of fewer than one appeal per centre. Some education system stakeholders were comfortable that:

- ◆ they would know in advance of the provisional result submission deadline of 25 June which of their learners had fallen short of their progression requirements
- ◆ consequently, packaging evidence to send to SQA would be possible before the end of term for the small number of affected learners per centre

From an SQA perspective, there is a risk that the short period before the 'go live' date provides a limited window to get the processes required to manage priority appeals up and running.

Delivery would also be at risk if SQA were unable to secure senior appointees and evidence from centres in the very limited time available for considering priority appeals. Given the time constraints, the SQA processes to support such appeals would also be manual, meaning there is a higher risk to safe and secure delivery.

b) potential impacts on children and young people identified from evidence

- ◆ not all children and young people will benefit from a priority appeals service which is available from August
- ◆ children and young people face a period of time — between their centre closing for the summer and before centres re-open and they can provide required information to SQA in August — where their appeals cannot be progressed

c) relevant parts of UNCRC

Article 6: life survival and development

Article 28: right to education

Article 29: aims of education

d) steps taken by SQA to mitigate impacts

Given the practical difficulties identified, SQA has decided to expand the definition of priority appeals to bring in those learners with a workplace progression need. This is a limited extension of the eligibility criteria for the priority appeals service, in support of children's rights to have their life develop in the best way possible (**Article 6**). The Service will carry forward similar priority appeals opportunities from other years for those learners with conditional offers for further and higher education, in support of children's rights to education (**Articles 28 and 29**). SQA did not identify a way in which it could fairly, equitably, or practically further extend the criteria for priority appeals.

On balance, despite some support for early delivery of priority appeals, the range of delivery risks is such that SQA is not confident that the education system could enable a process for priority appeals that can run in June 2021. The priority appeals service will open from 10 August.

Summary table

Potential impacts	Children's rights	Mitigating actions
If SQA charges a fee to make an appeal, it may not be possible for some people to afford it.	Article 2 Article 3 Article 12	SQA won't charge a fee.
Schools and colleges may not want to make an appeal on a learner's behalf.	Article 2 Article 3 Article 12	The appeals service enables learners to appeal directly to SQA and register that they want to appeal soon after their provisional result are known in June 2021.
Learners may not have all the information they need to help them decide whether to appeal or not.	Article 2 Article 3 Article 12	Discussions between learners and schools or colleges should take place and make sure learners have all the information they need before deciding whether to appeal or not.
Some learners may find it difficult to understand or access the appeals service. This may mean they do not make an appeal.	Article 2 Article 3 Article 12 Article 17	Clear communications to learners and centres, to include an easy read version, and available in languages other than English. SQA will include details of organisations that can support learners on its website and in communications.
Some learners may not have the support to make an appeal. Some learners may not find the service accessible. This means some learners may use the appeals service less. This means they might miss out on a successful appeal.	Article 2 Article 3 Article 12 Article 17	Clear communications to learners and centres, to include an easy read version, and available in languages other than English. SQA will include details of organisations that can support learners on its website and in communications.
Some learners who have agreed assessment arrangements may not have these arrangements put	Article 2 Article 3 Article 12	Discussion between learners and their schools or colleges should make sure learners are able to raise any questions about assessment arrangements with their school at an earlier stage,

Potential impacts	Children's rights	Mitigating actions
<p>in place due to disruption caused by COVID-19.</p>		<p>and that they have all the information they need before deciding whether to appeal.</p> <p>The service includes a type of appeal that allows learners to appeal if assessment arrangements were agreed but not in place.</p>
<p>The appeals service only considers evidence of demonstrated attainment when determining the grade. This means evidence of knowledge, understanding and skills for the qualification, related to a national standard.</p> <p>It doesn't take into account a learner's personal circumstances, for example the level of disruption they faced during the academic year.</p>	<p>Article 2 Article 3 Article 6 Article 12 Article 28 Article 29</p>	<p>There are mitigating actions in the awarding model, including:</p> <ul style="list-style-type: none"> ◆ Learners need to produce less evidence than in any other year. ◆ Schools and colleges can assess candidates in ways that take their personal circumstances into account. ◆ Schools and colleges have until 25 June to finalise results, giving as much time as possible for learning and assessment to create evidence. <p>Also, the Incomplete Evidence Contingency service allows more time for some learners to complete assessments in late August.</p>
<p>Rapid resolution of appeals is not possible over the summer months, meaning there is at least a seven-week period between learners receiving results in June and appeals processing beginning in August.</p> <p>The stress of waiting for an outcome over the summer may have an</p>	<p>Article 2 Article 3 Article 6 Article 12 Article 28 Article 29</p>	<p>The appeals service opens to allow learners to register an appeal from 25 June.</p> <p>Support for learners across the summer break is being developed across the Scottish education system. SQA is helping to coordinate this and is working with the Scottish Government and others so that support is available for learners who need it.</p> <p>Discussion between learners and their schools or colleges should make sure learners have all the information they need before deciding whether to appeal or not.</p>

Potential impacts	Children's rights	Mitigating actions
adverse impact on some learners' mental health.		
Some learners may miss out on a progression opportunity in further or higher education, or employment, if an appeal cannot be resolved quickly.	Article 6 Article 28 Article 29	The priority appeals service will open from 10 August. SQA has extended the eligibility criteria for the priority appeals service to include those with an immediate workplace progression opportunity which depends on the outcome.

Section 5: Evidence and consultation

What evidence have you used to inform your assessment?

In developing the Appeals Service for Graded National Courses in 2020–21, SQA reviewed evidence from a wide range of sources. These included evidence from children themselves, in support of the Article 12 right to have their voice heard and taken seriously. The sources also included the evidence gathered in relation to appeals for National Courses in 2020 and the ACM for 2020–21. These also include a desktop review of evidence from other sources, including the Equity Audit completed by Education Scotland and Scottish Government in January 2021. They include engagement with:

- ◆ organisations representing learners, SQA centres, teachers and lecturers
- ◆ organisations who hold regulatory roles in terms of relevant areas of law
- ◆ organisations in other areas of the UK who have similar responsibilities to SQA
- ◆ the senior committees within SQA that have specific experience and responsibility for decisions relating to the principles of assessment, awarding and appeals.

SQA completed a review of available evidence from secondary sources to ensure that its decisions in developing the appeals service were well informed. SQA commissioned specific primary research to better understand the views of employers and education providers who provide the opportunities that learners seek to access with their SQA qualifications. SQA commissioned research and advice on relevant areas of law which affect appeals decision making.

Have you consulted with relevant stakeholders?

Yes. SQA also opened a public consultation to seek views on the principal components of the appeals service. In two weeks, the consultation received over one thousand responses.

SQA has engaged with the National Qualifications 2021 Group throughout development of the ACM for 2020–21 and discussed the components of the appeals service with this group and its supporting working group on a number of occasions. In relation to the appeals service, SQA considered the range of views expressed in discussions with this group as part of the overall evidence base.

SQA discussed components of the appeals service with its regular Equality and Inclusion Key Partnership Group. The discussion had a particular focus on support for learners who are considering an appeal of their award, especially when there is an agreed assessment arrangement in place as a reasonable adjustment for a disability.

Have you involved children and young people in the development of this policy/measure?

Yes. SQA met and exchanged letters directly with the Equality and Human Rights Commission Scotland and the Children and Young People's Commissioner for Scotland to better understand their interpretations of areas of law relating to appeals decision making.

Many members of SQA staff and committees have experience and understanding of working with learners and their families through previous teaching roles, through their work

with SQA and as parents themselves. That experience was supplemented with activity to seek views from learners, parents and carers through individuals and representatives within SQA's Learner Panel, Qualifications Committee, NQ2021 Group and directly through the appeals consultation. A range of individuals and organisations responded to the appeals consultation, including learners, parents/carers, teachers and lecturers, professional associations, schools, colleges, local authorities, and other organisations including the Scottish Youth Parliament.

Section 6: Conclusion

SQA has developed the Appeals Service for Graded National Courses in 2021 with learners' interests at heart, constrained by the fluid and challenging circumstances affecting the education sector in 2021.

The model for the appeals service follows the principles of the alternative certification model designed by the National Qualifications Group to support public confidence in this year's quality assured grade awards.

This impact assessment identifies the principal sources of evidence reviewed by SQA, the positive and negative impacts identified within that evidence, and the decisions taken by SQA to maximise the positive impacts of the appeals service for children and young people's rights and wellbeing, and to mitigate any negative impacts identified.

The appeals service itself offers a degree of mitigation of any negative impacts that may occur from the implementation of the alternative certification model.

The rights of children and young people have been a primary consideration in the development of this model. The appeals service is designed to further advance the realisation of children and young person's rights, while ensuring SQA can deliver qualifications that provide a reliable indicator of knowledge, understanding and skill.

Appendix One UNCRRC Article Definitions

Article 2: non-discrimination

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3: best interests of the child

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 6: life survival and development

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 12: respect for children's views

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 17: right to information

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Articles 13 and 18.

Article 23: children with disabilities

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 28: right to education

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general

and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29: aims of education

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or Article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.