SCOTTISH QUALIFICATIONS AUTHORITY

CODE OF PRACTICE GOVERNANCE GROUP – APRIL 2020

CHALLENGE TO THE NEED FOR AN ESCALATED APPEAL FOLLOWING POST CERTIFICATION REVIEW 2020

1 Context

This paper sets out a range of considerations, options and a recommendation in relation to the inclusion of an escalated right of appeal model within the post certification review service.

2 Status

In 2020, National Qualifications grades will be awarded based on an enhanced estimates model. A commitment has also been given that post-certification there will be a free review service which will allow centres to request a review of the grade awarded to a learner or a group of learners. This paper sets out to challenge the need for the inclusion of an escalated appeal following the post certification review.

Any appeal against the enhanced estimate model itself made by a stakeholder such as local authority or centre is not included in this paper as a justified reason for escalated appeal as this is considered out with the scope of this paper.

3 Considerations



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b. Other UK Regulators (see appendix 2 for fuller text)

- The Northern Ireland Council for the Curriculum, Examinations and Assessment has not yet published information describing its approach to appeals in 2020 (as at 17 April) beyond a statement that the usual arrangements for marking and appeals will not apply.
- Ofqual's consultation, launched 15 April, proposes a narrow 'procedural irregularity' focus for appeals raised by centres with awarding organisations, and an opportunity for students with concerns to take some cancelled examinations in Autumn 2020
- Ofqual's escalated appeals service (Exam Procedures Review Service) will also be offered in 2020. This is a rarely used service with a narrow focus on procedural irregularity, with judgements made by Ofqual officers.

c. Related SQA Appeals processes (see Appendix 3 for a summary of appeal processes)

- SQA publishes *Appeals Process: Information for Centres* on its website, which explains the principles and procedures applied to appeals of a range of decision types. This document makes cross references where appropriate to *Post Results Services: Information for Centres* and *Exceptional Circumstances Consideration Service: Information for Centres*
- Following the appeal outcome, appeals can be escalated to Appeals Sub Committee (where there has been perceived procedural irregularity, not where academic judgement has been appealed)
- There is no precedent for any appeal process in SQA to have additional escalated appeal route other than escalation to Appeals Sub Committee
- Historically, the Appeals service prior to 2014 had no further right of appeal, the academic decision made at that time was final (tbc)
- The only appeal process that candidates or their representative can appeal directly is where candidate malpractice has been identified
- Centres make the appeal in all other types of appeal processes

d. Exceptional Circumstances Consideration Service

- Review of candidate alternative evidence and completed or partially-completed components of course assessment by subject experts
- Relies on the academic judgement of the subject expert
- Eligibility criteria apply
- Grade award utilises senior team members such as depute PA or PA as subject expert
- Subject expert "finalises" non QP component and exam (if available), so no eligibility for PRS
- Subject expert awards grade pre-certification based on holistic judgement of all available evidence
- Centre has right to appeal a decision that a request is not eligible, and potentially then escalate to Appeals Sub Committee
- Centre has right to post certification appeal if it disagrees with the award
- Post certification appeal is referred to panel of relevant subject area H of S (and another H of S from QDD) for decision in relation to grade awarded. In practice, subject experts (QM/SIM/PA) are involved also

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- Academic judgements are generally considered final after second review of the alternative evidence

e. Comparison of Post Certification Review (PCR) appeals with Exceptional Circumstances Consideration (ECC) Service
   - Both include review of a range of variable candidate alternative evidence by subject experts
   - Both rely on the academic judgement of the subject expert
   - Both have eligibility/validation criteria that apply
   - For ECC, subject expert awards grade pre-certification
   - For PCR appeals, subject expert reviews award post certification
   - For ECC there is an appeal post certification
   - Can be argued PCR appeal is equivalent to ECC appeal as both happen post certification

f. Evaluation of ECC appeals (see appendix 4 for data 2016 -2019)
   - Small number of appeals in relation to the number of ECC cases and has been decreasing year on year (1.5% in 2016 and 1.1% in 2019) (see Table 1)
   - Data for 2019 shows that 9/45 (that 1 in 5) appeals were submitted late, all of which were stetted
   - Changes are still being made at appeal stage, although the number of changes recorded has been decreasing (from 47% in 2016 down to 22% in 2019) (see Table 1)
   - All changes are recorded as upgrades, there have been no recorded downgrades
   - Reason for upgrades are recorded as “sufficient original evidence”, “EC Principles not followed”, “admin/process error”
   - Of total upgrades made 2016-19, vast majority (70%) are due to the reason “sufficient original evidence”. This proportion did come down in 2019 to 50% (see Table 2)
   - 11% of changes were due to admin/process error (see Table 2)
   - Highest number of successful EC appeals have been for English, then Mathematics (see Table 3), which are proportionally high uptake subjects
   - In comparison to Post Results Service, change as a proportion of EC appeals is significantly higher than change as a proportion of PRS requests (see Table 4)

g. Potential number of escalated appeals and changes (see appendix 5 for data)
   - Based on 2019 data for post results service and EC
   - Could be in the region of 120 escalated appeals
   - Could be approximately 26 changes to award

4 Risks

a. Fairness and/or SQA reputation

- SQA may not be seen to adopt a consistent approach relative to its other processes involving academic judgements of candidate evidence if the initial assessment of that candidate evidence at post certification review is not subject to a further review
- The variable range of assessment evidence that may be provided to support post-certification review for candidates may result in an assessment judgement with which other subject specialists may not agree
- Prolonging the timeline for finalising a candidate's grade through a further escalated appeal process may prevent centres, candidates and SQA from moving on to focus on priorities for the new academic session, beyond the point at which any progression opportunities have passed
- If post certification review is final, any centres and/or families with remaining questions in terms of a candidate's grade and no further SQA mechanism available, may seek to lobby other stakeholders and/ or raise an action for judicial review to confirm that the appropriate grade has been awarded for the relevant candidate and,
- There is a risk that any such judicial review proceedings and outcome may undermine public confidence in the integrity of SQA qualifications, particularly if any system or human error made during post-certification review is identified in a public forum,
- May be increased complaints to SQA from centre, parents and candidates if there is no further right of appeal
- Public nervousness around teacher/lecturer estimates being changed as a result of SQA moderation process as part of the enhanced estimated model may result in greatly increased numbers of appeals at post certification review stage, with concomitant increased risk of errors of judgement at this stage,
- Ofqual regulated awarding bodies' offer of a reduced autumn diet for some subjects may be perceived as being unfair by Scottish centres and/or candidates,
- Inclusion of an escalated appeal could be interpreted by the public as SQA's lack of trust in the post certification review, or conversely it could be interpreted as SQA ensuring all avenues of appeal are open in this unprecedented time

b. Resourcing

- There is a risk that a significant and unpredictable number of centres submit unsuccessful requests for post-certification review, and then seek to pursue an escalated appeal
- There is a risk that there may not be subject specialist capacity to support any escalated appeal which considered the academic judgement element of the post-certification review, either because appointees are fully stretched between their substantive teaching

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roles and supporting post-certification review, or because the most senior appointees have been involved within the earlier post-certification review and would have a conflict of interest in reviewing their own academic judgement, and
- There is a risk that significant SQA staff resource may potentially be required to support an escalated appeal process

c. Mitigation of risks

- Robust QA at Post Certification Review stage, for example
  - reviewers trained to deal with non-standard material and award grades rather than bands.
  - additional checks/balances included in the process prior to release of outcomes (sampling of reviewers work by senior appointees)
  - checklist that all steps being followed by all reviewers
  - record of reasoning for outcome of the review
- Provide additional safety valve of escalated appeal
- Escalate procedural irregularity to appeals sub committee

5 SQA options

a. Escalated appeal with further review of alternative assessment evidence by panel of senior SQA managers experienced in assessment/handling appeals, advised by senior subject experts not involved in original outcome. The outcome of the escalated appeal will be final for academic judgements.
Exception where there is alleged procedural irregularity of escalated appeal with escalation to Appeals Sub Committee

b. Escalated appeal with further review of alternative assessment evidence by panel of SQA Heads of Service, advised by senior subject experts not involved in original outcome
No further right of escalation to Appeals Sub Committee for any reason

c. Escalated appeal only on procedural irregularity of original Post Certification Review appeal to Appeals Sub Committee

d. No escalated appeal and no escalation to Appeals Sub Committee

6 Recommendation

[redacted] **Redacted under s36** the position of other awarding bodies and other SQA appeals processes, including exceptional circumstances, there is no obligation for SQA to include an escalated appeal

in the post certification review process.
However, when the data surrounding exceptional circumstances is considered and that data is used to provide an indication of the number of potential errors that could result from subject expert judgement of alternative evidence in the post certification review, then a case starts to be made for including an escalated appeal in the post certification review process. This is further strengthened when risks are considered, especially around the aspect of fairness and risk to SQA reputation. With careful communications, inclusion of an escalated appeal SQA could send out a powerful message that SQA is ensuring fairness and equity for all candidates by ensuring all avenues of appeal are open in this unprecedented time.

On balance, it is recommended that option (a) is considered, subject to the recommendations and assumptions in section 8 below which introduces limits to the escalated appeal.

7 Future actions

If the group decides that an opportunity for escalated appeal should be offered, an implementation plan and draft 'Information for Centres' document will be developed for further approval by the group. A new appeals policy document for 2020 would also be required to be drafted and approved. [redacted] **Redacted under s36**

8 If option (a) is considered, the following would be recommended:

- An escalated appeal will only be accepted for individual candidates (not a full cohort),
- An escalated appeal will only be accepted in relation to a candidate who attained a lower grade than the grade estimate submitted on their behalf by their centre,
- Escalated appeals will not be accepted from candidates or their representatives. This ensures alignment with other SQA appeals processes and the way in which we operate in partnership with centres. It is the centre who has the relationship with the candidate, and this relationship could be weakened by accepting an appeal from a candidate. Furthermore, this reduces the risk of undermining teacher/lecturer professionalism. Candidates can complain through their centre and/or local authority if they disagree with the way in which their teacher/lecturer came to their estimate.
- An escalated appeal will only be accepted from the relevant Head of Centre accompanied by a robust and specific justification as to why the outcome of the post certification review is not being accepted
- The centre must seek permission from the candidate prior to submitting an escalated appeal
- The Head of Centre should identify in their escalated appeal request letter any organisation to whom any amended grade should be notified (eg University, College or employer), with confirmation of the specific dependency
- SQA's decision in terms of acceptance of an escalated appeal is final
- No new alternative evidence will be accepted from the centre

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- Appeal requests will not be accepted after the cut off date
- An escalated appeal will involve a review by a panel of assessment experts drawn from SQA senior staff, advised by subject experts not involved in the initial Post Certification Review appeal to minimise any conflict of interest
- The escalated appeal will comprise further review of the documentation held by SQA related to the post-certification review, to identify whether the correct procedures had been applied by SQA and/or the correct academic judgement had been made
- The outcome of the escalated appeal will be limited to confirmation of the grade awarded and/ or a change in the grade awarded following post-certification review
- A change in grade awarded can move either upwards or downwards
- The escalated appeal will represent the final stage of SQA's appeal process, with no further right of escalation to SQA's Appeals Sub Committee, except where the centre has reason to believe that there has been procedural irregularity in the handling of the escalated appeal
- SQA's decision in terms of grade awarded following escalated appeal will be confirmed to the Head of Centre and any relevant organisation named in the Head of Centre's escalated appeal request,
- Where the grade awarded is changed as a result of the escalated appeal, an amended certificate will be sent directly to the candidate
- This will be a free service in line with post certification review service

Assumptions

- Timescale for escalated appeal will as short as possible
- The number of escalated appeals will be relatively small
- No new additional evidence will be accepted for an escalated appeal
- There will be SQA staff and senior subject specific appointees available in timescale
- There will be evidence available to review. If there is no evidence available in either the post certification review and/or this escalated appeal, the appeal will be invalid
- Panel members will be able to review alternative evidence materials together
- SQA staff will be available to distribute materials to panel members
- A record of senior subject specific appointees involved in the original post certification review will be available so that there is no conflict as to who should undertake review of evidence at the escalated appeal stage

Appendix 1 [redacted]

[redacted]

[redacted]

[redacted]. **Redacted under s36**

Appendix 2 Other UK Regulators

The Northern Ireland Council for the Curriculum, Examinations and Assessment has not yet published information describing its approach to appeals in 2020 (as at 17 April) beyond a statement that the usual arrangements for marking and appeals will not apply.

Ofqual's consultation, launched 15 April, proposes a narrow 'procedural irregularity' focus for appeals raised by centres with awarding organisations, and an opportunity for students with concerns to take some cancelled examinations in Autumn 2020:

'appeals should be made to exam boards by centres, on behalf of one or more of their students, on the grounds that the wrong information was used to generate calculated grades or that a mistake was made when the exam board standardised the grade or communicated the grades to the centre. We propose that appeals on such grounds should normally be investigated by the exam boards and any mistakes quickly found and corrected, using a streamlined process. We also propose that exam boards should provide a formal appeal process for a centre concerned that an error remains unfound and/or uncorrected after any initial check. As usual, the grade for a student on whose behalf an appeal is made could go down as well as up following an appeal, as necessary to correct any error.

We propose a student who believes they have been given the wrong grade should ask their centre to review the accuracy of the data the centre submitted to the exam board. If the centre finds it made a mistake, the centre should ask the exam board to correct the impact of that mistake and issue the student with a revised grade if appropriate. If the centre believes the student's concern was caused by an exam board's mistake in the way it processed the centre's data, the centre should appeal to the exam board. Again, any mistake made by the exam board should then be corrected and the student's grade changed if necessary.

In his direction to Ofqual the Secretary of State said the appeals process should focus on whether the right data was used and correctly applied, rather than on teachers' professional judgment. We … do not believe it would be meaningful or appropriate for students to appeal on the basis of their centre's judgement of their likely performance in the exams, had they gone ahead, or on their position in the centre's rank order. We also … do not believe it would be fair or appropriate for students or their centres to appeal on the grounds of the standardisation model. Students who believe they would have received a better grade had they taken their exams will have an opportunity to do so in the additional autumn series.'

Ofqual's escalated appeals service (Exam Procedures Review Service) will also be offered in 2020. This is a rarely used service with a narrow focus on procedural irregularity, with judgements made by Ofqual officers.

Appendix 3 – Other SQA Appeals (as explained in SQA's The Appeal Process: Information for Centres

https://www.sqa.org.uk/files_ccc/Appeals_Process.pdf)

Centre approval and quality assurance processes

Type of appeal	Original decision	Appeal initiated by	Pre appeal discussion with SQA	Appeal submitted to & considered by	Right of appeal to SQA Appeals Sub Committee (available grounds)
Approval of centre	See pages 4 & 5 Appeals Process	Centre representative	Yes (page 6)	SQA Director (in consultation with appropriate SQA colleagues)	Yes (reasonableness and procedural)
Approval of specific qualifications	See pages 4 & 5 Appeals Process	Centre representative	Yes (page 6)	SQA Director (in consultation with appropriate SQA colleagues)	Limited (only for procedural irregularity in handling of initial appeal)
Systems verification	Outcome of systems verification, required actions and/or sanctions placed as a result	Head of Centre (or representative)	Yes (page 7)	SQA Director (in consultation with SQA QA colleagues)	Yes (reasonableness and procedural)
External verification of internal assessment	Outcome of external verification of internally assessed qualifications, required actions and/or sanctions placed as a result	Head of Centre (or representative)	Yes (page 9)	SQA Director (in consultation with SQA subject specialist colleagues)	Limited (only for procedural irregularity in handling of initial appeal)
Finding of malpractice against a centre	See pages 5 & 6 Appeals Process	Head of Centre	Yes (page 11)	SQA Director	Yes (reasonableness and procedural)

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Breach of the terms of the M of U for Devolved Authority	See page 8 Appeals Process	Authorised representative	No	SQA Director (in consultation with SQA QA colleagues)	Yes (reasonableness and procedural)
Breach of the terms of a COA	Decision that there has been a breach of COA, and any required actions and/or sanctions placed as a result	Head of Centre (or representative)	Yes (page 10)	SQA Director (in consultation with SQA QA colleagues)	Yes (reasonableness and procedural)

Candidate assessments

Type of appeal	**Original decision**	**Appeal initiated by**	**Pre appeal discussion with SQA**	**Appeal submitted to & considered by**	**Right of appeal to SQA Appeals Sub Committee (available grounds)**
Finding of malpractice against a candidate	See page 13 Appeals Process	Candidate or their representative, centre	No	SQA Director	Yes (reasonableness and procedural)
Assessment arrangements for disabled candidates and/or those with additional support needs	See page 14 Appeals Process	Centre	Yes (page 15)	SQA Director & referred to an assessment arrangements panel of senior managers	No
Exceptional circumstances (NQ external assessment only)	See page 14 Appeals Process	Head of Centre	No	Results Services Operations Manager & referred to panel of HofS for decisions to challenge or refuse ECCS requests & referred to panel of relevant subject area	Refusal decisions: Yes (reasonableness and procedural) Grade decisions: Limited (procedural

				HofS (and another HofS from QDD) for decision in relation to grade awarded	irregularity in initial appeal)

In relation to candidate assessments for National Qualifications, SQA offers Post Results Services. Arrangements are described *Post Results Services: Information for Centres*. *Appeals Process: Information for Centres* refers readers to this other document for details.

Request	**Original decision**	**Request initiated by**	**Pre appeal discussion with SQA**	**Appeal submitted to & considered by**	**Right of appeal to SQA Appeals Sub Committee (available grounds)**
Clerical check	SQA grade/ band awarded for National Qualifications	Head of Centre	No	SQA officers	No
Marking review, post marking review		Head of Centre	No	SQA subject specialist appointees	No

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Appendix 4 Exceptional Circumstances data

Table 1:

Year	Total Number of ECC	Appeals received	Appeals as % of total ECC	Upgrades	Upgrades as % of total appeal requests
2016	3616	53	1.5%	25	47%
2017	3480	43	1.2%	18	42%
2018	3768	46	1.3%	18	39%
2019	4139	45, (9 late)	1.1%	10	22%

Table 2: Reasons for Upgrades

Year	EC Principles not followed (evidence reviewed again)		Sufficient original evidence/prelim issue		Admin/process error		Total upgrades
	Number	% of total upgrades	Number	% of total upgrades	Number	% of total upgrades	
2016	3	12%	18	72%	4	16%	25
2017	4	22%	14	78%	0	0	18
2018	2	11%	13	72%	3	17%	18
2019	4	40%	5	50%	1	10%	10

Table 3

Subject where upgrade was given	Number (combined total from 2015-19)
English	16
Mathematics	12
Biology/ Human Biology	8
Chemistry	7
Modern Studies	6
Art and Design/ History/ Business Management	4
RMPS	3
Spanish/ French/ Graph Comm / Geography	2
PE/ Admin and IT/ physics/ Eng Sci/ Comp Sci/ Health and Food Tech/ Accounting/ Drama/ ESOL	1

Table 4: Comparison between PRS and EC (change as a % of requests)

Year	PRS (change as % of requests)	EC (change as % of appeals)
2016	19.3	47
2017	16.5	42
2018	14.5	39
2019	14.6	22

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Appendix 5

Table 1 PRS data for 2019

Level	Number of entries	Marking review requests (% of total entries)	Change as % of number of requests
N5	291 399	4199 (1.5%)	11.5 %
H	186 881	6231 (3.4%)	16.3 %
AH	23 624	708 (0.5%)	16.0 %

Table 2 Potential numbers of appeals (conservative estimate based on 2019 figured for PRS and EC)

Level	Entries (as at 14 April)	Post certificate review	Escalated appeal (1.1% of PCR requests)	Number of changes (22% of escalated appeal requests)
N5	305 432	4600 (1.5% of entries)	50	11
H	188 796	6400 (3.4% of entries)	70	15
AH	23 844	120 (0.5% of entries)	1	0
total	518 072	11 120	121	26