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**Enclosure 01 – Appeals process FMQ brief, 6 August 2020**

**APPEALS PROCESS FMQ BRIEF (6 August 2020)**

**Whilst there should be confidence in this year's awarding process, and the qualifications gained as a result of it, further assurance is provided by a free post-results appeals service.**

- This is now open for schools and colleges to lodge appeals on behalf of pupils where they believe there is appropriate and robust evidence to support the original grade estimate.
- The post-results review process is an integral part of awarding.
- SQA have ensured that sufficient resources are in place to support this appeals process.
- I welcome that our Higher Education institutions have indicated that they will work with learners who may be reliant on an appeal to meet the terms of their course offer.
- **QUOTE:** Larry Flanagan, EIS: *"Schools will wish to examine in detail the impact of the SQA's statistical modelling on their results and where there is disquiet the evidence based appeal system should be utilised, in the endeavour to ensure that all young people receive results that accurately reflect their achievements throughout the year."*

**If candidates didn't get the results they needed or were expecting they should contact their school/college as soon as possible**

- Appeals can only be made by a school or college.
- Schools and colleges can only appeal if the grade awarded is lower than the estimated grade that was submitted to the SQA.
- The SQA website provides guidance for schools and colleges on how to support an appeal.
- It confirms that appeals will be based solely on a candidate's individual merit, based on the evidence presented by the school or college.
- Schools and colleges are encouraged to submit a wide range of alternative evidence, and not solely a class test or prelim, wherever possible.
- 14 August is the deadline for those candidates confirming a college/university place.
- Results will be sent to the school/college by 4 September.
- 21 August is the deadline for all other for all other appeals.
- The appeal review date will be advised by the SQA shortly.

**SQA was clear that it was not possible to enter into dialogue with exam centres on changes to teacher estimates - this is an operational decision for SQA**

- SQA could not engage with individual centres as this would have required a very significant number of conversations that could not have been accommodated in the very short timescale available.
- It would not have been fair to all learners if only some centres got the opportunity to engage with SQA.

**Enclosure 02 – Email: Submission: SQA awards: legal advice and next steps**

**From:** Logan G (Graeme) <Graeme.Logan@gov.scot> **On Behalf Of** Director of Learning  
**Sent:** 10 August 2020 21:14  
**To:** Deputy First Minister and Cabinet Secretary for Education and Skills  
<DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Johnston P (Paul)  
<Paul.Johnston@gov.scot>; Wilson M (Mick) <Mick.Wilson@gov.scot>; Pentland MK  
(Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted  
s38(1)(b)]@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>; Solicitor to the  
Scottish Government <solicitor@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted  
[Redacted s38(1)(b)] ; DG Education, Communities & Justice  
s38(1)(b)]  
<DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Director of  
Advanced Learning and Science <DirectorofAdvancedLearningandScience@gov.scot>  
**Subject:** Submission: SQA awards: legal advice and next steps

DFM

Please find attached a submission for you to consider in relation to your decision to direct the SQA to make awards based on teacher estimated grades.

Thanks  
Graeme.

[Attachment redacted s36(1)]

**Enclosure 03 – Email: RE: Submission: SQA awards: legal advice and next steps**

**From:** [Redacted s38(1)(b)]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills  
**Sent:** 10 August 2020 23:22  
**To:** Director of Learning <DirectorofLearning@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Wilson M (Mick) <Mick.Wilson@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Advanced Learning and Science <DirectorofAdvancedLearningandScience@gov.scot>  
**Subject:** RE: Submission: SQA awards: legal advice and next steps

Hi Graeme,

DFM is content with this note but does not want ADES, COSLA etc. engaged until the statement has been shared with the Opposition at 13.50.

Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)] John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | Tel: 07[Redacted s38(1)(b)] | E: DFMCSE@gov.scot

**From:** Logan G (Graeme) <Graeme.Logan@gov.scot> **On Behalf Of** Director of Learning  
**Sent:** 11 August 2020 18:41  
**To:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison@educationscotland.gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>  
**Subject:** URGENT: letter of direction to SQA to issue tonight

DFM

Further to my email at 1730, please find attached a letter of direction to SQA for you to review, approve and sign and for your office to issue to the SQA Chief Executive this evening.

As you know, we have consulted with the SQA on this. Following several exchanges, [Redacted s30(c)] the SQA, confirmed at 1829 that the attached version of the letter of direction is acceptable to the SQA.

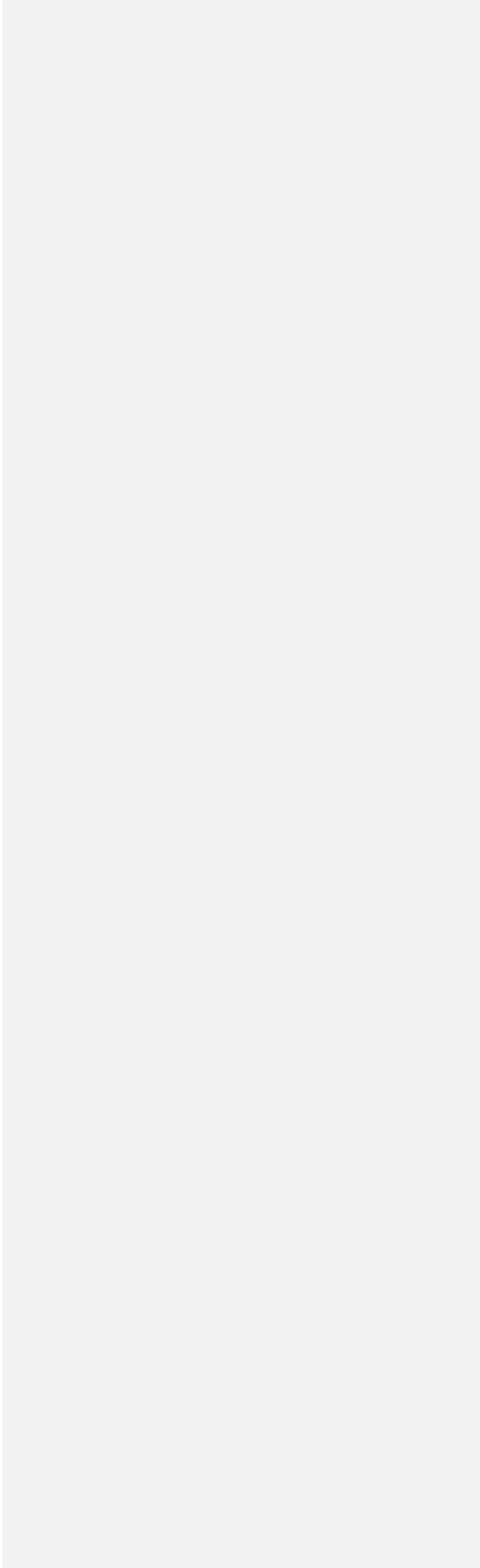
The key issue to resolve now is around the extent of the appeals process and I have asked for a call with you tomorrow to discuss this further.

[Redacted s30(c)] have offered the following summary of the process today:

[Redacted s36(1)]

Graeme Logan  
Director of Learning  
The Scottish Government

Tel: 07[Redacted s38(1)(b)]



**Enclosure 03.1 – Attachment: Word document**

[Draft of Ministerial direction – see Enclosure 06.1]

**Enclosure 04 – Briefing for Parliamentary Statement on 11 August 2020**

**BRIEFING – DEPUTY FIRST MINISTER AND CABINET SECRETARY FOR EDUCATION AND SKILLS –  
PARLIAMENTARY STATEMENT ON THE 2020 SQA RESULTS - TUESDAY 11 AUGUST 2020**

**Briefing Contents:**

Annex A: SQA results and Q&A

[Redacted – not in scope]

**ANNEX A**

**SQA RESULTS**

[Redacted – not in scope]

**As a result of the change in approach to awarding qualifications, there will no longer be the need for the appeals process that was planned for where grades had been adjusted.**

- If a learner feels they have been discriminated against by their centre they can appeal direct to the SQA or where a learner or centre feel that the process has not been applied correctly due to administrative error, again, they can appeal directly to the SQA.
- A result of this change in approach to awarding qualifications, while there will no longer be the need for the breadth of appeals process that was planned there will still be the need for an appeals process and we will be working with the SQA and others across education to agree the details.

[Redacted – not in scope]

**QUESTIONS AND ANSWERS**

[Redacted – not in scope]

- Can the DFM outline whether young people who have the evidence to show that they have worked hard and deserve a higher mark than their teacher estimate will be able to appeal their result?
  - The SQA is being asked to consider a revised appeal process and further details will be released in due course.

[Redacted – not in scope]

**SQA PUBLIC STATEMENTS**

The following public statements have been issued:

[Redacted – not in scope]

**Enclosure 05 – Speaking note for statement on 11 August 2020**

**DEPUTY FIRST MINISTER SPEAKING NOTE  
SQA 2020 RESULTS STATEMENT – 11 AUGUST 2020**

[Redacted s25(1) – <https://news.gov.scot/speeches-and-briefings/deputy-first-minister-sqa-2020-results>]

**Enclosure 06 – Email: Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills**

**From:** [Redact s38(1)(b)]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills

**Sent:** 11 August 2020 21:56

**To:** Fiona Robertson <fiona.robertson@sqa.org.uk>

**Cc:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

**Subject:** Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

Dear Fiona

Please find attached a letter of direction from the Deputy First Minister and Cabinet Secretary for Education and Skills.

Kind regards

[Redact s38(1)(b)]

[Redact s38(1)(b)] | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | Tel: 0131 244

[Redact s38(1)(b)]/07 [Redact s38(1)(b)] | E: DFMCSE@gov.scot

**Enclosure 06.1 – Ministerial direction from Deputy First Minister to SQA**

**Direction given to the Scottish Qualifications Authority under section 9 of the Education (Scotland) Act 1996**

1. The Scottish Ministers in exercise of their powers conferred by section 9(1) of the Education (Scotland) Act 1996 (c.43) (“the 1996 Act”), and in recognition of their duty under section 3A of the Standards in Scotland’s Schools etc. Act 2000 (asp 6), give the following Direction to the Scottish Qualifications Authority (“the SQA”), the body corporate established by the Scottish Qualifications Authority (Establishment) (Scotland) Order 1996 (S.I. 1996/2248) which is made under section 1 of the 1996 Act.
2. In accordance with section 9(1) of the 1996 Act, the Scottish Ministers have consulted with the SQA before giving this Direction.

**The Scottish Ministers direct as follows:**

3. Paragraph 4 of this Direction applies only in respect of learners—
  - a. who, but for the cancellation of the 2020 diet of examinations for National 5, Higher and Advanced Highers, would have been presented for an examination for an SQA qualification, and
  - b. who were, as a result of the moderation process applied by the SQA, awarded a lower refined band than that estimated by the centre that presented them.
4. The SQA is required, in respect of those learners and those awards referred to in paragraph 3, to revise each such award so as to conform to the centre estimate and, as soon as reasonably practicable, confirm and certificate each such revised award.
5. The SQA is required to make no change to awards where the refined band awarded to a learner is the same as or higher than the refined band estimated by the centre that presented them.
6. The SQA is required to submit to the Scottish Ministers by 5pm on 13 August 2020 its proposals for adaptation of its appeal processes in consequence of paragraphs 4 and 5.

**Commencement and duration**

7. This Direction has effect from 22:00 on 11 August 2020.
8. This Direction has effect until it is revoked by a further Direction given by the Scottish Ministers.

Signed by



**John Swinney MSP**  
**Deputy First Minister and Cabinet**  
**Secretary for Education and Skill**  
11 August 2020

**Enclosure 07: Email: RE: Appeals process/ letter of direction update**

**From:** [Redacted s38(1)(b)]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills  
**Sent:** 12 August 2020 07:31  
**To:** Director of Learning <DirectorofLearning@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison@educationscotland.gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)] ; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>  
**Subject:** RE: Appeals process/ letter of direction update

Morning Graeme

DFM said:

*I am tending to take a very limited view on appeals. We have taken a very generous stance in relation to supporting estimates so I am not sure we want to open up broader appeal grounds.*

I will schedule a brief call for 09:30 this morning – could you let me know who you would like invited please?

Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

07 [Redacted s38(1)(b)]

**From:** Logan G (Graeme) **On Behalf Of** Director of Learning  
**Sent:** 11 August 2020 17:30  
**To:** Deputy First Minister and Cabinet Secretary for Education and Skills; McAllister C (Colin) ; Johnston P (Paul) ; Morrison E (Elizabeth) (Education Scotland) ; Pentland MK (Malcolm) ; [Redacted s38(1)(b)] ; [Redacted s38(1)(b)]@gov.scot ; [Redacted s38(1)(b)]@gov.scot  
**Subject:** Appeals process/ letter of direction update

DFM

Discussions between ourselves and SQA on the appeals process continue. As stated in your statement this afternoon, we need to finalise the grounds for a revised appeals system and set this out by the end of the week.

Today's direction to the SQA will therefore not include specific direction on the nature of the appeals process, and SGLD are continuing to develop a form of wording (following consultation with the SQA's legal representatives) that will enable work to be done to develop an appeals process over the next few days, with SQA submitting their proposals to us by 5pm on Thursday. SQA are keen that a further direction is issued by Ministers when the approach is finalised.

The SQA's view is that appeals should be kept very limited in scope – to procedural, administrative or discriminative grounds. We are placing an emphasis on the primacy of

teacher judgement and need to stick with that or risk that beginning to unravel if there is a wide appeals process, which would be very difficult to implement consistently.

The issue of enabling pupils to appeal against their teacher estimate needs to be considered carefully. SQA are strongly of the view that this should be resisted, as it could lead to a long and protracted process which could further undermine the system. There is also a risk of an increasing number of appeals against teacher estimates as it becomes clearer that some schools have been more rigorous than others in reaching estimated grades. One suggestion is that an appeal against a teacher estimate by a pupil could be treated as a complaint, which would need to be investigated locally and a decision reached on whether or not there are grounds to uphold this, before passing the appropriate evidence to SQA. I don't think the SQA could be asked to directly consider appeals of this nature, as it could create major tensions within schools between the teacher and pupil – would both be asked to submit evidence to support their view to SQA? This would not be appropriate or palatable and many pupils would not have the materials or resources to do this. It could also lead to a breakdown in relations. From an initial discussion this afternoon, local government colleagues are very strongly against a process of this nature and using complaints procedures in this way. We have a further call scheduled with ADES, COSLA and SOLACE tomorrow afternoon on this issue.

We also need to guard against a situation where a teacher wants to change their estimates (after a conversation with a pupil for example) – we are putting all our emphasis on the primacy of teacher judgement during these extraordinary times and teachers need to stand by those judgements, unless a procedural or administrative error has been made and there is evidence of this.

So the decision is whether to develop an appeals process only on the grounds of 'procedural irregularity, administrative error or discrimination', or whether we widen this to allow appeals against the academic professional judgements of teachers, which will bring with it significant risks.

**It would be helpful for officials to have a discussion with DFM on this issue on Wednesday morning.**

**The letter of direction regarding the re-issuing of awards (which SGLD have drafted) and has been subject to consultation with the SQA will follow shortly for your approval, signature and issue.**

Graeme Logan  
Director of Learning  
The Scottish Government

Tel: 07[Redacted s38(1)(b)]

**Enclosure 08 – Email: RE: Updated advice on SQA appeals process**

**From:** [Redacted s38(1)(b)]

**Sent:** 12 August 2020 19:37

**To:** [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison@educationscotland.gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>

**Subject:** RE: Updated advice on SQA appeals process

To see an updated version included the SQA material, and an additional paragraph on the cases where estimates weren't submitted by centres due to concerns regarding quality of attainment evidence.

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Thanks for this [Redacted s38(1)(b)]

All to see a draft sub for DFM. I haven't had any material from SQA yet, but have looked to cover that off with a high level discussion of the material on the call – I'll add the material in when I get it.

I'd welcome any comments early tomorrow morning to then get this to DFM.

[Redacted  
s38(1)(b)]

[Redacted s36(1)]

**Enclosure 08.1 – Attachment: Word document**

From: [Redacted s38(1)(b)]

Curriculum, Qualifications & Gaelic Division

12 August 2020

Deputy First Minister

**SQA APPEALS UPDATED PROCESS FOR 2020**

**Purpose**

1. To provide further advice considering the approach to the SQA appeals process this year following the decision to award the majority of grades on teacher and lecturer estimates.

**Priority**

2. Urgent – there is a commitment to provide an update to the system by the end of the week

**Background**

3. Tuesday's announcement to award the majority of grades this year on the basis of teacher estimates changed the likely requirement and subscription to the already advertised appeals process. This free appeals process had been put in place to allow schools and colleges to challenge SQA's downgrading of any results, in addition to these academic appeals a procedural process was also in place for administrative errors and instances of possible discrimination and bias.

**Discussion**

4. Tuesday's statement set out that there remains the need for the option of an appeal in some circumstances and that detail on this will be set out by the end of the week. Officials have been engaging with legal colleagues, SQA and Local Authority organisations to consider what appeal options are necessary.
5. The SQA are tasked with providing advice on the appeals process by 5pm tomorrow, and we are working to ensure that this will be compatible with your thoughts on the matter. It has also been agreed that a second direction will be needed for SQA to take forward an appeals process, and this will look to be drafted and available to be issued on Friday.
6. [Redacted s36(1)]
7. There is a strong argument for retaining the procedural appeal element so that administrative errors in submitting estimates and potential cases of discrimination or bias can still be considered. SQA have provided material at annex A as to how this process would work. It remains the case that the centre would be responsible for submitting an appeal to SQA even in the case of where they have been accused of discrimination. One issue which we are continuing to explore with SQA is what steps can be taken to remove any option for centres to use an administrative appeal as a route to increase learner grades out with of incidences of administrative errors. In some cases, especially where a learner has missed out on a college or university course or a teacher feels that in retrospect they may have estimated too low a grade for the learner, there may be a tendency to seek to correct this.
8. Officials have engaged with COSLA, SOLIS, and ADES officials and they are in agreement that the appeal process should be a narrowly focussed one. They also indicated that they should

be part of the design process, but this is an operational matter for SQA and in this case under direction from yourself.

9. There is much merit to agreeing a narrowly focussed appeals process on the basis of the still relevant elements of what had already been planned. Such an approach would be consistent with what had previously been planned, and would now apply to potentially very small numbers and so could be concluded quickly. However, it would not grant a right of appeal to those learners who disagreed with their estimated grades. In Tuesday's statement you stated *"But the system also meant some people did not receive awards they felt they were capable of achieving – and that their teachers believed they deserved."* This may be seen as linking what the pupil thought they deserved to what the teacher estimated and as such may rule out the need for an appeal right against a teacher estimate. However, it may be seen that this year due to the exceptional circumstances there should be every opportunity for learners to receive the grade they believe they deserved which would need to include the option to appeal against teacher judgement. It is also the case that some final awards are higher than teacher estimates due to the SQA moderation process, so it may be said that teacher estimates have already been overruled.
10. SQA believe this is an issue for schools and local authorities, local authorities do not believe that this is an issue that should be under the remit of an appeals process. Such a right of appeal has the potential for a large number of appeals, would be contentious in schools with an impact of teacher/pupil relationships, and would drag out the 2020 awarding process. Also, it may bring attention to reports that some schools took a less evidence based approach to making estimates, which as it has led to greater levels of attainment may be pursued by others if given the opportunity.
11. Additionally the issue of candidates who did not have a grade estimate made for them by their school or college has also been an issue before results were announced and since. These incidents concerned a small number of individuals where a school or college would not enter a grade for a candidate because they could not reassure themselves as to the quality of the evidence provided. SQA will only accept an entry if the school or college is content with the standard of the evidence. These cases tended to revolve around the use of private tutors and either an inability for schools or colleges to verify the standards of the tutor, or an unwillingness to do so. SQA's view was that this was an issue between the learner and the school or college and they would not get involved in it. To add it into an appeals process now would be creating a difficult precedent, and there is a strong chance that SQA would object to its inclusion. Such instances may be able to be resolved under a procedural appeal if a school or college acknowledged that it was an administrative error to have not submitted a grade, although it would be up to SQA as to whether to accept such an appeal.

#### Next steps

12. Officials would welcome any feedback you have to agree a position with SQA. Once they submit that position officials will prepare a direction for you to issue to them.
13. As you announced that there would be an updated appeals process and updated detail would be provided by the end of the week it is not anticipated that there would need to be specific commss issued by the SG around this, and that it would be issued by the SQA under their normal processes.

#### Conclusion

14. There are strong reasons to support a narrowly focussed appeals process, not least that it is based on what had already been accepted as part of the process, it would significantly reduce resource requirements, and would look to bring to a conclusion awarding of the national qualifications in 2020. Extending this to allow a challenge to teacher estimates would likely deliver the opposite, not doing so would run the risk that given the absence of exams some learners may still feel that they would have achieved more than their teacher estimates and

hold a sense of disappointment, but teachers regularly have to deal with this each year following results

Recommendation

15. You are invited to note whether you would prefer a more narrowly focussed appeals process based on the relevant aspects of what had previously been planned, or whether you would like this to include an option for teacher estimates to be challenged.
16. Officials are happy to meet and talk through these options.

[Redacted s38(1)(b)]

Curriculum, Qualifications and Gaelic Division

## **Annex A**

### **IN DRAFT - Centre requests to amend centre estimates or entry information by exception**

A centre may discover that an administrative error was made when they submitted their estimate or entry information for a candidate. Alternatively, a centre's internal review process may disclose that a candidate's estimate was affected by discrimination or other conduct by the centre that is unacceptable under the Equality Act 2010. SQA anticipates that these circumstances will arise only exceptionally.

In such cases a centre can request a change to an estimate or entry, using a dedicated helpdesk email address. All requests approved by SQA will be processed in due course, but we will give priority to cases where the candidate needs to confirm a university or college place.

Details about the helpdesk service:

- The request must be submitted using SQA's "*request for consideration by exception*" form
- The request must come from the head of centre and include justification for the request.
- Candidate's consent must be obtained by the centre before submitting a request.
- Correction of an administrative error made by the centre may result in a change of grade – up or down.
- The centre must confirm that the new estimate or entry now sought can be supported by evidence held by the centre if requested
- Priority requests for university or college admission must be submitted by 20 August. Outcomes will be advised to UCAS by 4 September.
- All other requests must be submitted by 31 August.

### **Escalated appeal**

If the head of centre believes that a procedural irregularity has taken place during SQA's application of this consideration by exception process, and that the procedural irregularity has affected the outcome, they can use SQA's escalated appeals process. We will publish full information on this process on SQA Connect by 31 August 2020.

In summary:

- The escalated appeal service will open on 4 September 2020. A head of centre can request an escalated appeal if they believe there has been a procedural irregularity on the part of SQA in the conduct of the process of consideration by exception which has led to the award or confirmation of a grade that they believe is wrong. A request must be accompanied by a detailed explanation of why they believe this to be the case.
- SQA will not accept escalated appeals directly from candidates or their representatives (this is in line with other SQA appeals processes, except in cases of candidate malpractice, where a candidate or representative can appeal).
- The appeal process applies to procedural irregularities by SQA; it does not apply to processes within an SQA centre.
- The appeal will not consider matters of academic judgement, and no additional academic evidence on behalf of the candidate can be considered as part of the escalated appeal.
- It will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System or Higher Education Institution deadlines for admission to courses for 2020–21 and centres will be advised of this.

Conduct of the escalated appeal process:

- Information gathered will be reviewed by a panel of senior SQA staff who were not involved in the first decision made when the centre submitted a request for consideration by exception.

- The request for an escalated appeal may be rejected if the panel considers that the request does not amount to a claim that there has been a procedural irregularity by SQA in the application of the consideration by exception process.
- If an escalated appeal request is granted, procedural records relating to the consideration by exception process for an individual candidate's award will be scrutinised. This will establish whether there is evidence to support the procedural irregularity that the centre believes has occurred.
- If it is confirmed that procedures have been applied correctly in the consideration by exception process for the candidate, the centre will be informed that no further action will be taken in respect of the candidate's award. At this point, the centre can elect to escalate their appeal to the Appeals Sub-Committee.
- If an appeal is escalated to the Appeals Sub-Committee, this will decide whether or not a procedural irregularity has occurred. If it decides that there has been irregularity, then SQA will process the centre's request for amendment arising from their centre's error.
- Decisions by the SQA Appeals Sub-Committee represent the final stage in SQA's appeals process, and as such are binding and final.

**Enclosure 09 – Email: RE: Updated advice on SQA appeals process**

**From:** Logan G (Graeme) **On Behalf Of** Director of Learning

**Sent:** 13 August 2020 09:07

**To:** [Redacted s38(1)(b)] ; [Redacted s38(1)(b)]@gov.scot ; [Redacted s38(1)(b)]@gov.scot ; Johnston P (Paul) ; Pentland MK (Malcolm) ; Morrison E (Elizabeth) (Education Scotland) ; Solicitor to the Scottish Government ; McKay D (Denise)

**Subject:** RE: Updated advice on SQA appeals process

Many thanks for drafting this Jonathan.

Please find attached a couple of tracked changes. I think this needs to go to DFM urgently this morning, so can other colleagues please comment early this morning as Jonathan has requested.

Please note that following further discussion with local government, which involved Paul and Sally Loudon, we need to seek DFM's agreement to share annex A in draft with local government colleagues who were on our call yesterday at 1330 (in the strictest of confidence). We would ask for any written comments within a window of a couple of hours. Can you add this to the sub and ask if DFM is happy for this to take place, which would be in addition to the discussions that we have already had with them over the last couple of days on the process?

Graeme.

[See Enclosure 08 for remainder of email chain]

## Enclosure 09.1 – Attachment: Word document

From: [Redacted s38(1)(b)]

Curriculum, Qualifications & Gaelic Division

12 August 2020

Deputy First Minister

### SQA APPEALS UPDATED PROCESS FOR 2020

#### Purpose

1. To provide further advice considering the approach to the SQA appeals process this year following the decision to award the majority of grades on teacher and lecturer estimates.

#### Priority

2. Urgent – there is a commitment to provide an update to the system by the end of the week

#### Background

3. Tuesday's announcement to award the majority of grades this year on the basis of teacher estimates changed the likely requirement and subscription to the already advertised appeals process. This free appeals process had been put in place to allow schools and colleges to challenge SQA's downgrading of any results, in addition to these academic appeals a procedural process was also in place for administrative errors and instances of possible discrimination and bias.

#### Discussion

4. Tuesday's statement set out that there remains the need for the option of an appeal in some circumstances and that detail on this will be set out by the end of the week. Officials have been engaging with legal colleagues, SQA and Local Authority organisations to consider what appeals options are necessary.
5. The SQA are tasked with providing advice on the appeals process by 5pm today, and we are working to ensure that this will be compatible with your thoughts on the matter. It has also been agreed that a second direction will be needed for SQA to take forward an appeals process, and this will look to be drafted and available to be issued on Friday.
6. [Redacted s36(1)]

[Comment from Graeme Logan on a reference to the existing appeals process in redacted text: "Can you explain – not the one which existed before the decision to go with teacher estimates – but one based on procedural, admin, or discrimination?"]

7. There is a strong argument for retaining the procedural appeal element so that administrative errors in submitting estimates and potential cases of discrimination or bias can still be considered. SQA have provided material at annex A as to how this process would work. It remains the case that the centre would be responsible for submitting an appeal to SQA even in the case of where they have been accused of discrimination. One issue which we are continuing to explore with SQA is what steps can be taken to remove any option for centres to use an administrative appeal as a route to increase learner grades out with of incidences of administrative errors. In some cases, especially where a learner has missed out on a college or university course or a teacher feels that in retrospect they may have estimated too low a grade for the learner, there may be a tendency to seek to correct this.

Commented [LG(1)]: May be needed? If we reach agreement with SQA on an appeals approach which is in line with para 6 of the original direction will we need a new one?

8. Officials have engaged with COSLA, SOLACE, and ADES officials and they are very strongly in agreement that the appeal process should be a narrowly focussed one. They have also strongly indicated that they should be part of the design process, but this is an operational matter for SQA and in this case under direction from yourself.
9. There is much merit to agreeing a narrowly focussed appeals process on the basis of the still relevant elements of what had already been planned. Such an approach would be consistent with what had previously been planned, and would now apply to potentially very small numbers and so could be concluded quickly. However, it would not grant a right of appeal to those learners who disagreed with their estimated grades. In Tuesday's statement you stated *"But the system also meant some people did not receive awards they felt they were capable of achieving – and that their teachers believed they deserved."* This may be seen as linking what the pupil thought they deserved to what the teacher estimated and as such may rule out the need for an appeal right against a teacher estimate. However, it may be seen that this year due to the exceptional circumstances there should be every opportunity for learners to receive the grade they believe they deserved which would need to include the option to appeal against teacher judgement. It is also the case that some final awards are higher than teacher estimates due to the SQA moderation process, so it may be said that teacher estimates have already been overruled.
10. SQA believe this is an issue for schools and local authorities, local authorities do not believe that this is an issue that should be under the remit of an appeals process. Such a right of appeal has the potential for a large number of appeals, would be contentious in schools with an impact of teacher/pupil relationships, and would drag out the 2020 awarding process. Also, it may bring attention to reports that some schools took a less evidence based approach to making estimates, which as it has led to greater levels of attainment may be pursued by others if given the opportunity.
11. Additionally the issue of candidates who did not have a grade estimate made for them by their school or college has also been an issue before results were announced and since. These incidents concerned a small number of individuals where a school or college would not enter a grade for a candidate because they could not reassure themselves as to the quality of the evidence provided. SQA will only accept an entry if the school or college is content with the standard of the evidence. These cases tended to revolve around the use of private tutors and either an inability for schools or colleges to verify the standards of the tutor, or an unwillingness to do so. SQA's view was that this was an issue between the learner and the school or college and they would not get involved in it. To add it into an appeals process now would be creating a difficult precedent, and there is a strong chance that SQA would object to its inclusion. Such instances may be able to be resolved under a procedural appeal if a school or college acknowledged that it was an administrative error to have not submitted a grade, although it would be up to SQA as to whether to accept such an appeal.

#### Next steps

12. Officials would welcome any feedback you have to agree a position with SQA. Once they submit that position officials will prepare a direction for you to issue to them (if required?).
13. As you announced that there would be an updated appeals process and updated detail would be provided by the end of the week it is not anticipated that there would need to be specific communications by the SG around this, and that it would be issued by the SQA under their normal processes.

#### Conclusion

14. There are strong reasons to support a narrowly focussed appeals process, not least that it is based on what had already been accepted as part of the process, it would significantly reduce resource requirements, and would look to bring to a conclusion awarding of the national

qualifications in 2020. Extending this to allow a challenge to teacher estimates would likely deliver the opposite, not doing so would run the risk that given the absence of exams some learners may still feel that they would have achieved more than their teacher estimates and hold a sense of disappointment, but teachers regularly have to deal with this each year following results. It should be noted that the appeals process SQA had in place before your decision to direct SQA to make awards based on teacher estimates did not include the right to appeal against a teacher estimate where this was awarded; but rather to appeal in the case where the SQA moderated grade was lower than the teacher estimate. So sticking with the SQA proposal of a narrow appeals system as outlined in this submission would be consistent with that. In the challenging circumstances, we are placing an emphasis on the primacy of teacher judgement, and to allow changes to those judgements could lead to a long, drawn out process and further increases to the already very high, unprecedented pass rates.

#### Recommendation

15. You are invited to note whether you would prefer a more narrowly focussed appeals process based on the relevant aspects of what had previously been planned, or whether you would like this to include an option for teacher estimates to be challenged.
16. Officials are happy to meet and talk through these options.

[Redacted s38(1)(b)]

Curriculum, Qualifications and Gaelic Division

## **Annex A**

### **IN DRAFT - Centre requests to amend centre estimates or entry information by exception**

A centre may discover that an administrative error was made when they submitted their estimate or entry information for a candidate. Alternatively, a centre's internal review process may disclose that a candidate's estimate was affected by discrimination or other conduct by the centre that is unacceptable under the Equality Act 2010. SQA anticipates that these circumstances will arise only exceptionally.

In such cases a centre can request a change to an estimate or entry, using a dedicated helpdesk email address. All requests approved by SQA will be processed in due course, but we will give priority to cases where the candidate needs to confirm a university or college place.

Details about the helpdesk service:

- The request must be submitted using SQA's "*request for consideration by exception*" form
- The request must come from the head of centre and include justification for the request.
- Candidate's consent must be obtained by the centre before submitting a request.
- Correction of an administrative error made by the centre may result in a change of grade – up or down.
- The centre must confirm that the new estimate or entry now sought can be supported by evidence held by the centre if requested
- Priority requests for university or college admission must be submitted by 20 August. Outcomes will be advised to UCAS by 4 September.
- All other requests must be submitted by 31 August.

### **Escalated appeal**

If the head of centre believes that a procedural irregularity has taken place during SQA's application of this consideration by exception process, and that the procedural irregularity has affected the outcome, they can use SQA's escalated appeals process. We will publish full information on this process on SQA Connect by 31 August 2020.

In summary:

- The escalated appeal service will open on 4 September 2020. A head of centre can request an escalated appeal if they believe there has been a procedural irregularity on the part of SQA in the conduct of the process of consideration by exception which has led to the award or confirmation of a grade that they believe is wrong. A request must be accompanied by a detailed explanation of why they believe this to be the case.
- SQA will not accept escalated appeals directly from candidates or their representatives (this is in line with other SQA appeals processes, except in cases of candidate malpractice, where a candidate or representative can appeal).
- The appeal process applies to procedural irregularities by SQA; it does not apply to processes within an SQA centre.
- The appeal will not consider matters of academic judgement, and no additional academic evidence on behalf of the candidate can be considered as part of the escalated appeal.
- It will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System or Higher Education Institution deadlines for admission to courses for 2020–21 and centres will be advised of this.

Conduct of the escalated appeal process:

- Information gathered will be reviewed by a panel of senior SQA staff who were not involved in the first decision made when the centre submitted a request for consideration by exception.

- The request for an escalated appeal may be rejected if the panel considers that the request does not amount to a claim that there has been a procedural irregularity by SQA in the application of the consideration by exception process.
- If an escalated appeal request is granted, procedural records relating to the consideration by exception process for an individual candidate's award will be scrutinised. This will establish whether there is evidence to support the procedural irregularity that the centre believes has occurred.
- If it is confirmed that procedures have been applied correctly in the consideration by exception process for the candidate, the centre will be informed that no further action will be taken in respect of the candidate's award. At this point, the centre can elect to escalate their appeal to the Appeals Sub-Committee.
- If an appeal is escalated to the Appeals Sub-Committee, this will decide whether or not a procedural irregularity has occurred. If it decides that there has been irregularity, then SQA will process the centre's request for amendment arising from their centre's error.
- Decisions by the SQA Appeals Sub-Committee represent the final stage in SQA's appeals process, and as such are binding and final.

**Enclosure 10 – Email: RE: Updated advice on SQA appeals process**

**From:** [Redacted s38(1)(b)]

**Sent:** 13 August 2020 09:25

**To:** Director of Learning <DirectorofLearning@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Johnston P (Paul) <Paul.Johnston@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison2@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>

**Subject:** RE: Updated advice on SQA appeals process

Thanks Graeme

I'll add these in, and am working through [Redacted s38(1)(b)]'s comments. If anyone has anything in the next 15 mins please that would be great and I'll get this up by 9.45.

On the need for a direction I had taken from the conversation that SQA would want a direction even if they were in agreement with what was being asked, but I may have got this wrong, and agree it may be odd for them to ask for a direction on something they've suggested (if we agree with their process).

[Redacted  
s38(1)(b)]

[See Enclosure 09 for remainder of email chain]

**Enclosure 11 – Email: RE: IMMEDIATE - Submission on an SQA appeals process**

**From:** [Redacted s38(1)(b)]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills  
**Sent:** 13 August 2020 14:15  
**To:** [Redacted s38(1)(b)] ; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>  
**Cc:** DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison@educationscotland.gov.scot>; [Redacted s38(1)(b)]@educationscotland.gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>  
**Subject:** RE: IMMEDIATE - Submission on an SQA appeals process

Hj [Redacted s38(1)(b)]

Please see a response from the DFM below:

*I am content to agree the recommendations. I favour a narrow appeal basis and do not support any of the suggested areas of extension. I would want reassurance that there is sufficient scope in the provisions to ensure that a young person who believes they are a victim of discrimination or bias to be able to appeal and not be thwarted by their school.*

*I am happy for COSLA etc to see that Annex. I am keen to get to an agreed position with the SQA. I do not want to make a further Direction.*

Thanks

[Redacted s38(1)(b)]  
07[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]  
**Sent:** 13 August 2020 09:57  
**To:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>  
**Cc:** DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison@educationscotland.gov.scot>; [Redacted s38(1)(b)]@educationscotland.gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>  
**Subject:** IMMEDIATE - Submission on an SQA appeals process

PS/DFM

To see an urgent submission considering an SQA appeals process following Tuesday's statement and the commitment to provide further advice to the system by close tomorrow.

This has been informed by discussions with DFM yesterday, as well as work with legal colleagues, SQA, and Local Authority officials.

SQA are due to offer you advice by 5pm today and it would be very useful to be able to align that with current thinking. If this can't be done then a direction may be required.

It may also be useful to share annex A with Local Authority colleagues for quick comment.

A response from the DFM as soon as possible would be very useful.

Officials would be happy to discuss any of this with the DFM this morning.

Thanks

[Redacted  
s38(1)(b)]

Curriculum, Qualifications and Gaelic - Learning Directorate  
Scottish Government:

[Redacted s38(1)(b)]

email: [Redacted s38(1)(b)]

## **Enclosure 11.1 – Attachment: Word document**

From: [Redacted s38(1)(b)]  
Curriculum, Qualifications & Gaelic Division  
12 August 2020

Deputy First Minister

### **SQA APPEALS UPDATED PROCESS FOR 2020**

#### **Purpose**

1. To provide further advice considering the approach to the SQA appeals process this year following the decision to award the majority of grades on teacher and lecturer estimates.

#### **Priority**

2. Urgent – there is a commitment to provide an update to the system by the end of the week.

#### **Background**

3. Tuesday's announcement to award the majority of grades this year on the basis of teacher estimates changed the likely requirement and subscription to the already advertised appeals process. This free appeals process had been put in place to allow schools and colleges to challenge SQA's downgrading of any results, in addition to these academic appeals a procedural process was also in place for administrative errors and instances of possible discrimination and bias.

#### **Discussion**

4. Tuesday's statement set out that there remains the need for the option of an appeal in some circumstances and that detail on this will be set out by the end of the week. Officials have been engaging with legal colleagues, SQA and Local Authority organisations to consider what appeal options are necessary.
5. The SQA are tasked with providing advice on the appeals process by 5pm today, and we are working to ensure that this will be compatible with your thoughts on the matter. It has also been agreed that a second direction may be needed for SQA to take forward an appeals process if agreement cannot be reached with them. If a direction is needed then this will look to be drafted and available to be issued on Friday.
6. [Redacted s36(1)].
7. There is a strong argument for retaining the procedural appeal element so that administrative errors in submitting estimates and potential cases of discrimination or bias can still be considered. SQA have provided material at annex A as to how this process would work. It remains the case that the centre would be responsible for submitting an appeal to SQA even in the case of where they have been accused of discrimination. One issue which we are continuing to explore with SQA is what steps can be taken to remove any option for centres to use an administrative appeal as a route to increase learner grades out with of incidences of administrative errors. In some cases, especially where a learner has missed out on a college or university course or a teacher feels that in retrospect they may have estimated too low a grade for the learner, there may be a tendency to seek to correct this.
8. Officials have engaged with COSLA, SOLACE, and ADES officials and they are very strongly in agreement that the appeal process should be a narrowly focussed one. They have also strongly indicated that they should be part of the design process, but this is an operational

matter for SQA and in this case under direction from yourself. However, it has been discussed if they could see the material at annex A later today with a short window to provide comments

9. Given the very short timescales involved officials have not been able to undertake any consultation with young people. The SQA had worked with the Scottish Youth Parliament when considering the appeals process previously set out, however, there has been no chance to do so since the statement. Therefore a question remains as to whether young people would support the right to appeal teacher estimates. It is likely that those who would want to use such an appeal would support the right to appeal, but it is unknown what proportion of the learner population they would comprise of.
10. There is much merit to agreeing a narrowly focussed appeals process on the basis of the still relevant elements of what had already been planned. Such an approach would be consistent with what had previously been planned, and would now apply to potentially very small numbers and so could be concluded quickly. However, it would not grant a right of appeal to those learners who disagreed with their estimated grades. In Tuesday's statement you stated *"But the system also meant some people did not receive awards they felt they were capable of achieving – and that their teachers believed they deserved."* This may be seen as linking what the pupil thought they deserved to what the teacher estimated and as such may rule out the need for an appeal right against a teacher estimate. However, it may be seen that this year due to the exceptional circumstances there should be every opportunity for learners to receive the grade they believe they deserved which would need to include the option to appeal against teacher judgement. It is also the case that some final awards are higher than teacher estimates due to the SQA moderation process, so it may be said that teacher estimates have already been overruled.
11. SQA believe this is an issue for schools and local authorities, local authorities do not believe that this is an issue that should be under the remit of an appeals process. Such a right of appeal has the potential for a large number of appeals, would be contentious in schools with an impact on teacher pupil relationships, and would drag out the 2020 awarding process. Also, it may bring attention to some anecdotal reports that some schools may have taken a less evidence based approach to making estimates, which as it has led to greater levels of attainment may be pursued by others if given the opportunity.
12. Additionally the issue of candidates who did not have a grade estimate made for them by their school or college has also been an issue before results were announced and since. These incidents concerned a small number of individuals where a school or college would not enter a grade for a candidate because they could not reassure themselves as to the quality of the evidence provided. SQA will only accept an entry if the school or college is content with the standard of the evidence. These cases tended to revolve around the use of private tutors and either an inability for schools or colleges to verify the standards of the tutor, or an unwillingness to do so. SQA's view was that this was an issue between the learner and the school or college and they would not get involved in it. To add it into an appeals process now would be creating a difficult precedent, and there is a strong chance that SQA would object to its inclusion. Such instances may be able to be resolved under a procedural appeal if a school or college acknowledged that it was an administrative error to have not submitted a grade, although it would be up to SQA as to whether to accept such an appeal.

#### Next steps

13. Officials would welcome any feedback you have to agree a position with SQA. Once they submit that position officials will prepare a direction for you to issue to them if required.
14. As you announced that there would be an updated appeals process and updated detail would be provided by the end of the week it is not anticipated that there would need to be specific communications by the SG around this, and that it would be issued by the SQA under their normal processes.

### Conclusion

15. There are strong reasons to support a narrowly focussed appeals process, not least that it is based on what had already been accepted as part of the process and replicated the approach of previous years, it would significantly reduce teacher and SQA resource requirements, and would look to bring to a conclusion awarding of the national qualifications in 2020. Extending this to allow a challenge to teacher estimates would likely deliver the opposite, not doing so would run the risk that given the absence of exams some learners may still feel that they would have achieved more than their teacher estimates and hold a sense of disappointment, but teachers regularly have to deal with this each year following results. It should be noted that the appeals process SQA had in place before your decision to direct SQA to make awards based on teacher estimates did not include the right to appeal against a teacher estimate where this was awarded; but rather to appeal in the case where the SQA moderated grade was lower than the teacher estimate. So sticking with the SQA proposal of a narrow appeals system as outlined in this submission would be consistent with that. In the challenging circumstances, we are placing an emphasis on the primacy of teacher judgement, and to allow changes to those judgements could lead to a long, drawn out process and further increases to the already very high, unprecedented pass rates.

### Recommendation

16. You are invited to
- Note whether you would prefer a more narrowly focussed appeals process based on the relevant aspects of what had previously been planned, or whether you would like this to include an option for teacher estimates to be challenged.
  - Note whether you are content for the material at annex A to be shared with Local Authority officials later today with a short window for comments.
17. Officials are happy to meet and talk through these options.

[Redacted s38(1)(b)]

Curriculum, Qualifications and Gaelic Division

## **Annex A**

### **IN DRAFT - Centre requests to amend centre estimates or entry information by exception**

A centre may discover that an administrative error was made when they submitted their estimate or entry information for a candidate. Alternatively, a centre's internal review process may disclose that a candidate's estimate was affected by discrimination or other conduct by the centre that is unacceptable under the Equality Act 2010. SQA anticipates that these circumstances will arise only exceptionally.

In such cases a centre can request a change to an estimate or entry, using a dedicated helpdesk email address. All requests approved by SQA will be processed in due course, but we will give priority to cases where the candidate needs to confirm a university or college place.

Details about the helpdesk service:

- The request must be submitted using SQA's "*request for consideration by exception*" form
- The request must come from the head of centre and include justification for the request.
- Candidate's consent must be obtained by the centre before submitting a request.
- Correction of an administrative error made by the centre may result in a change of grade – up or down.
- The centre must confirm that the new estimate or entry now sought can be supported by evidence held by the centre if requested
- Priority requests for university or college admission must be submitted by 20 August. Outcomes will be advised to UCAS by 4 September.
- All other requests must be submitted by 31 August.

### **Escalated appeal**

If the head of centre believes that a procedural irregularity has taken place during SQA's application of this consideration by exception process, and that the procedural irregularity has affected the outcome, they can use SQA's escalated appeals process. We will publish full information on this process on SQA Connect by 31 August 2020.

In summary:

- The escalated appeal service will open on 4 September 2020. A head of centre can request an escalated appeal if they believe there has been a procedural irregularity on the part of SQA in the conduct of the process of consideration by exception which has led to the award or confirmation of a grade that they believe is wrong. A request must be accompanied by a detailed explanation of why they believe this to be the case.
- SQA will not accept escalated appeals directly from candidates or their representatives (this is in line with other SQA appeals processes, except in cases of candidate malpractice, where a candidate or representative can appeal).
- The appeal process applies to procedural irregularities by SQA; it does not apply to processes within an SQA centre.
- The appeal will not consider matters of academic judgement, and no additional academic evidence on behalf of the candidate can be considered as part of the escalated appeal.
- It will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System or Higher Education Institution deadlines for admission to courses for 2020–21 and centres will be advised of this.

Conduct of the escalated appeal process:

- Information gathered will be reviewed by a panel of senior SQA staff who were not involved in the first decision made when the centre submitted a request for consideration by exception.

- The request for an escalated appeal may be rejected if the panel considers that the request does not amount to a claim that there has been a procedural irregularity by SQA in the application of the consideration by exception process.
- If an escalated appeal request is granted, procedural records relating to the consideration by exception process for an individual candidate's award will be scrutinised. This will establish whether there is evidence to support the procedural irregularity that the centre believes has occurred.
- If it is confirmed that procedures have been applied correctly in the consideration by exception process for the candidate, the centre will be informed that no further action will be taken in respect of the candidate's award. At this point, the centre can elect to escalate their appeal to the Appeals Sub-Committee.
- If an appeal is escalated to the Appeals Sub-Committee, this will decide whether or not a procedural irregularity has occurred. If it decides that there has been irregularity, then SQA will process the centre's request for amendment arising from their centre's error.
- Decisions by the SQA Appeals Sub-Committee represent the final stage in SQA's appeals process, and as such are binding and final.

**Enclosure 12 – Email: RE: Appeals process to support SQA results 2020**

**From:** [Redacted s38(1)(b)]  
**Sent:** 13 August 2020 17:38  
**To:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>  
**Subject:** RE: Appeals process to support SQA results 2020

Thanks Graeme

I've replied to SQA including the points below. I'll also reply to the LA group thanking them for their comments and an ambition to meet the deadline set out in the statement on Tuesday.

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]  
**Sent:** 13 August 2020 17:19  
**To:** Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>  
**Subject:** RE: Appeals process to support SQA results 2020

Thanks Malcolm

I'll go back to SQA in the first instance with a few questions and thoughts as we haven't seen the advice for DFM yet.

[Redacted s38(1)(b)]

**From:** Logan G (Graeme) <Graeme.Logan@gov.scot> **On Behalf Of** Director of Learning  
**Sent:** 13 August 2020 17:26  
**To:** Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)]  
[Redacted s38(1)(b)]  
**Subject:** RE: Appeals process to support SQA results 2020

Thanks [Redacted s38(1)(b)] and Malcolm – a few comments in green too.

I think we need to get a couple of changes made here (as indicated below), none of which change the substance of the approach in my view. So I think a further exchange with SQA on that would be useful.

If they agree to the changes suggested we can finalise, update DFM and then ask them to issue Friday afternoon. If not we may need a further call with them tomorrow morning.

Graeme.

**From:** Pentland MK (Malcolm)  
**Sent:** 13 August 2020 17:15  
**To:** [Redacted s38(1)(b)]; Director of Learning  
**Subject:** RE: Appeals process to support SQA results 2020

Thanks [Redacted s38(1)(b)], few comments below. [Redacted s30(b)(ii)]

**From:** [Redacted s38(1)(b)]

**Sent:** 13 August 2020 17:04

**To:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>

**Subject:** RE: Appeals process to support SQA results 2020

Hi both

I think the main areas raised here are

- Concern that an appeal could result in a downgrade which would be against DFM statement. I'll need to check with SQA, but I don't think it means that, I think it means that a school could own up to an administrative error which reduces a grade – that wouldn't be a downgrade in that same way it would be reflecting the true teacher estimate, but either way I can't see it happening. **Agree, in the unlikely event that this was to happen it wouldn't be a 'downgrading' in the way DFM clearly meant in his statement.** Also agree, however given how highly sensitive the situation is and how much scrutiny there will be of the process, I don't think it is necessary to include the example of a grade going up or down in this line, which would be open to mis-interpretation, so ask them to delete.
- Concern over the inability to guarantee an appeal before 4 September. I'm not sure there are many options here, you can't hold a uni place forever, but equally if we think there will be very few appeals could SQA not indicate that they would make every effort to make the UCAS deadline. **Agreed Could SQA consider exceptional circumstances (accepting that this wouldn't resolve issues around securing an HE place if that was relevant to the case in question)**
- An objection to requiring pupil consent for administrative reasons. I think we would be in trouble with the CYPC if we didn't have a consent requirement? **Agree – if a school has made an error in the grade a child has been given they need to tell the child/parent and explain the error and how they will rectify it, so I don't think we should ask the SQA to change the wording they have in the draft**
- The process is too like the old. However, it doesn't make clear what particular issue isn't being addressed. **And if we aren't opening up an appeal on TPJ grounds, that's not surprising. Agreed**
- Process is too complex for an administrative error. I don't know if SQA could provide more streamlined guidance? Not enough clarity in the document. Maybe the SQA could do a user guide to it? **I can see why SQA are keeping this as brief as possible – perhaps if centres have enquiries they could contact the dedicated email address highlighted in the paper or they SQA contact? Or we could signal that SQA will produce a FAQ to follow (next week?)**
- Needs further work to be credible with young people. No indication of what is missing.

I think the SQA may be able to clear some of these up and maybe not others. Depending on what others think the quick actions which may be able to be taken would be

- Clarity over downgrade
- SQA to provide user guidance

The more tricky one is the UCAS deadline – I don't know if we could look to say again that universities and colleges should be flexible around cases where appeals are still being held?

The other comments aren't totally clear in the deficiency or the solution, but given the lack of any overall disagreement I think it could go ahead with the actions above?

Happy to provide some comments to SQA, although this will impact on the clearance for tomorrow.

Happy to discuss.

[Redacted  
s38(1)(b)]

**From:** [Redacted s38(1)(b)]@cosla.gov.uk>

**Sent:** 13 August 2020 16:34

**To:** Carrie Lindsay <Carrie.Lindsay@fife.gov.uk>; [Redacted s38(1)(b)]  
[Redacted s38(1)(b)] ; Sheena Devlin <SDevlin@pkc.gov.uk>; Karen Reid  
<kreid@pkc.gov.uk>; Jane O'Donnell <jane@cosla.gov.uk>; Jane O'Donnell  
<jane@cosla.gov.uk>; [Redacted s38(1)(b)]@cosla.gov.uk>

**Cc:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm)  
<Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland)  
<Elizabeth.Morrison@educationscotland.gov.scot>

**Subject:** RE: Appeals process to support SQA results 2020

Hi [Redacted  
s38(1)(b)]

Thanks for sharing this it is appreciated.

We are guided by and support the comments from Carrie, Sheena and Karen and have nothing further to add. It would however be good to keep the dialogue going and get an indication of how the concerns outlined can be addressed before any public announcements.

Thanks

[Redacted s38(1)(b)]

**From:** Carrie Lindsay <Carrie.Lindsay@fife.gov.uk>

**Sent:** 13 August 2020 16:27

**To:** [Redacted s38(1)(b)] ; Sheena Devlin <SDevlin@pkc.gov.uk>; Karen Reid  
<kreid@pkc.gov.uk>; Jane O'Donnell <jane@cosla.gov.uk>; [Redacted  
s38(1)(b)]@cosla.gov.uk>; Jane O'Donnell <jane@cosla.gov.uk>; [Redacted  
s38(1)(b)]@cosla.gov.uk>

**Cc:** DirectorofLearning@gov.scot; Malcolm.Pentland@gov.scot;  
Elizabeth.Morrison@educationscotland.gov.scot

**Subject:** Re: Appeals process to support SQA results 2020

[Redacted  
s38(1)(b)]

Comments regarding SQA Appeals Draft from Sheena and myself -

The overall feel from reading this is that it's trying to fit the old process into a completely new set of circumstances. It's quite hard to make constructive comment when we're not able to discuss and neither Sheena nor I are clear what this actually means in the escalated section.

In addition to a centre's internal review process a pupil may also disclose discrimination - presumably this could be done in either circumstance not just through the internal review process.

**Candidate's consent must be obtained by the centre before submitting a request -**

This seems more than would normally be expected. If there had been a mistake ( an administrative error) the teacher would submit the appeal and the pupil would not always be aware until a grade was changed. What happens if the pupil is no longer in the school how do we track them to gain consent, would it slow down process so that they miss the cut off date? If the pupil asks or is informed regarding the appeal that's a different story to seeking consent. Just seems an unnecessary addition and will create excess work for teachers. If we maintain a grade going down then that would be a reason for consent but see statement below.

**Correction of an administrative error made by the centre may result in a change of grade – up or down -** I'm unclear how this fits with the DFM's statement that there will be no detriment to any candidate?

Dates all seem fine and should work ok.

**Escalated appeal -**

Is this an escalation of the appeal in first stage? If so that's not clear from wording used.

Now that there has been no SQA process other than the SQA converting estimates to certificates and submitting certificates to candidates does this also refer to what we would understand as administrative error eg if a wrong grade was entered on a certificate. if that is the case this section seems too extensive and complex for an administrative error.

Maybe I'm missing something as to what this would look like but if I'm advising schools on this and I don't understand it fully I would have to ask if it has enough clarity?

I think the inclusion of the detail in this section suggests that we don't understand the change in the whole process, its still referring to information being discussed by a panel. I'm assuming this is the SQA looking at the school's process? No academic evidence/information should be provided if appeal is about process so what would the panel look at.

Timescales should not further penalise young people's places for Uni or college etc

The appeals sub-committee seem an unnecessary step.

Happy to discuss, this needs further work to be credible and support our children and young people.

Carrie Lindsay

Executive Director for Education & Children's Services

Fife Council

4<sup>th</sup> Floor

Fife House

North Street

Glenrothes

KY7 5LT

[Redacted s38(1)(b)]

---

**From:** [Redacted s38(1)(b)]

**Sent:** 13 August 2020 15:07

**To:** Sheena Devlin <SDevlin@pkc.gov.uk>; Carrie Lindsay <Carrie.Lindsay@fife.gov.uk>; KReid@pkc.gov.uk <KReid@pkc.gov.uk>; jane.o'donnell@cosla.gov.uk ; [Redacted s38(1)(b)]@cosla.gov.uk>; jane@cosla.gov.uk <jane@cosla.gov.uk>; [Redacted s38(1)(b)]@pkc.gov.uk>; [Redacted s38(1)(b)]@cosla.gov.uk>

**Cc:** DirectorofLearning@gov.scot <DirectorofLearning@gov.scot>; Malcolm.Pentland@gov.scot <Malcolm.Pentland@gov.scot>;

Elizabeth.Morrison@educationscotland.gov.scot  
<Elizabeth.Morrison@educationscotland.gov.scot>

**Subject:** Appeals process to support SQA results 2020

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

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All

Following up from yesterday's meeting, please see attached a proposed approach to appeals this year from the SQA. It sets out a narrowly focussed appeals process supporting appeals against cases of administrative error and cases of possible discrimination or bias.

In order to allow a communication with the system tomorrow, as indicated in the DFM's statement of Tuesday, please could I have any written comments by 5pm today.

This draft is being shared in the strictest confidence to the copy list only, if it could not be shared more widely please.

Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)]

Curriculum, Qualifications and Gaelic - Learning Directorate

Scottish Government

[Redacted s38(1)(b)]

email: [Redacted s38(1)(b)]

**Enclosure 13 – Email: FW: Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills**

**From:** [Redacted s38(1)(b)]@gov.scot>–**On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills

**Sent:** 13 August 2020 17:40

**To:** Director of Learning <DirectorofLearning@gov.scot>; Drought A (Andrew) <Andrew.Drought@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)] ; Morrison E (Elizabeth)

(Education Scotland) <Elizabeth.Morrison2@gov.scot>; Gorman G (Gayle) <Gayle.Gorman@educationscotland.gov.scot>

**Cc:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; [Redacted s38(1)(b)]

**Subject:** FW: Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

**Importance:** High

All

Please see the attached just received from SQA. DFM would be grateful for advice and a draft reply as soon as possible tomorrow.

Thanks

[Redacted s38(1)(b)]

07[Redacted s38(1)(b)]

**From:** Fiona Robertson <fiona.robertson@sqa.org.uk>

**Sent:** 13 August 2020 17:35

**To:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

**Cc:** Director of Learning <DirectorofLearning@gov.scot>

**Subject:** Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

**Importance:** High

[Redacted s38(1)(b)]

I am responding to your letter of direction of Tuesday 11 August and in relation to paragraph 6 of the Ministerial Direction.

Please see attached.

Please accept our apologies for the slight delay beyond 5pm – there were some formatting issues to finalise.

Fiona

Fiona Robertson  
Chief Executive  
Scottish Qualifications Authority

t: 0345 213 5000 | w: <http://www.sqa.org.uk>

**Enclosure 13.1 – Attachment: PDF**



13 August 2020

John Swinney  
Deputy First Minister  
The Scottish Parliament  
Edinburgh  
EH99 1SP

By email: [dfmsc@gov.scot](mailto:dfmsc@gov.scot)

Contact: Fiona Robertson  
[Fiona.Robertson@sqa.org.uk](mailto:Fiona.Robertson@sqa.org.uk)

Dear Deputy First Minister

**SQA Appeals Proposal – Context**

I write to you to set out SQA's proposals for appeals as required in the terms of the binding Ministerial Direction relating to SQA's certification model for 2020, received on 11 August 2020.

Under the terms of the Direction we are required to put proposals for appeals to the Scottish Government by 5pm on 13 August 2020.

I am aware that following receipt of that proposal, the Scottish Government will require to consider whether they will accept those proposals or not. I expect SQA to be notified of the decision in the form of a request or a further direction to either proceed or reconsider.

The extent to which any such further request/ direction from Scottish Government relating to the appeals process is broadly or narrowly defined is yet to be determined. With a very limited period of time available to implement and communicate such an appeals process effectively to centres, candidates and wider stakeholders, an express agreement or a clear and specific instruction would be helpful.

If the proposals put forward by SQA are not accepted then further time would be required to consider the reasons for rejection of that proposal and the formulation of an alternative unless the nature of this is specified in any further direction. Set against tight deadlines for priority reviews and a requirement for notification of revised results information to UCAS by 4<sup>th</sup> September, that would be extremely challenging.

The Optima Building, 58 Robertson Street, Glasgow, G2 8DQ  
Registered Office: 58 Robertson Street, Glasgow, G2 8DQ

T: 0345 278 1000 F: 0345 213 5000  
E: [customer@sqa.org.uk](mailto:customer@sqa.org.uk) W: [www.sqa.org.uk](http://www.sqa.org.uk)

Lowden, 24 Wester Shawfair, Dalkeith, EH22 1FD  
Registered Office: 24 Wester Shawfair, Dalkeith, EH22 1FD

Chair: David Middleton CBE  
Chief Executive: Fiona Robertson

13 August 2020

### **Principle of Primacy of Estimates**

The Ministerial Direction of 11<sup>th</sup> August directs SQA to adopt centre estimates as the basis for awarding National Qualifications in 2020, except where an estimated grade originally submitted by a centre has been moderated upwards by SQA. The requirement to certificate on that basis is expressly contained within paragraphs 4 and 5 of the Ministerial Direction. The Direction being clear, there will be no external quality assurance, involving review of candidate evidence by SQA subject specialists, of the internally devised estimates provided by centres to SQA.

Given that estimates provided by centres are to be accepted and not to be subject to revision we are extending the principle of primacy of estimates to our recommendation for an appeals process.

### **Grounds for appeal**

The Post Certification Review policy and service that had been devised for the alternative certification model prepared by SQA over the last several months, whereby centres could request a review of assessment evidence against the national standard for those candidates who received an award at a grade below the estimate submitted by their centre, will not now be required. Following the Ministerial Direction, certification for candidates in this position will be revised to accept the estimate originally submitted by their centre.

Our revised proposal for an appeals service would permit centres to request a change to the originally submitted to SQA in three sets of circumstances:

- 1 The Head of Centre believes that there has been an error within SQA's internal processes for reinstating the original centre estimate,
- 2 The Head of Centre believes that there has been an administrative error within the centre leading to provision of estimate information to SQA which did not accurately reflect the centre's intention at the time of submission, and/ or
- 3 The Head of Centre believes that there has been discrimination or other conduct contrary to the Equality Act 2010 identified within the centre relating to protected characteristics, leading to the provision of estimate information to SQA which does not accurately reflect the centre's view following investigation of the circumstances.

### **Appeals Process**

I have set out information in an Appendix describing the intended process to be applied to manage appeals received which conform to the eligibility criteria described above. The process is consistent with the principle of primacy of estimate information provided by centres to SQA.

13 August 2020

### **Public Sector Equality Duties**

In the limited intervening period since the statement by the Deputy First Minister on 11<sup>th</sup> August and the issuing of the Ministerial Direction, it has not been possible to conduct a separate Equality Impact Assessment into this revised appeals process. However, as with the intended Post Certification Review process, there is an opportunity for a candidate's grade to be reviewed by the centre in cases of discrimination in relation to the characteristics protected within the Equality Act 2010.

### **More general appeals process**

SQA's recommendation is that the eligibility criteria described above are adopted to define the scope of the revised appeals process. I would anticipate that these eligibility criteria will be met rarely. This recommendation has been adopted following evaluation of the risks of an appeals process with a broader scope, in these unique circumstances. These risks include scale and manageability, and very significantly for SQA and for Scottish Government, they also include risks relating to the integrity and credibility of the qualifications on which our learners rely.

The following summary explains why SQA and the wider education system cannot support a more general review of centre estimates via an appeals process.

#### Operational challenges and risks

- SQA would face an unknown volume of appeals up to 300,000. This far exceeds any number previously reviewed under an appeals process at a time when the education sector is dependent on the availability of subject experts (classroom teachers and lecturers) to support the return of learners to schools and colleges. This would constrain our ability to deliver an appeals service in a reasonable timeframe and would present significant risk to our preparations for Diet 2021.
- There remains the need to ensure priority candidates will be processed in time for UCAS deadline – if there were many candidates in this category, we would need to divert resource to ensure completion.
- The original Post Certification Review system was designed on the basis we would be accepting teacher estimates, moderating only what needed to be moderated. The system listed eligible candidates who received an award lower than estimate. This means there is no system to support any new general appeals system and insufficient time to develop/test/implement any such system. There is a risk of error in relying on manual tracking where the numbers may possibly be high.
- If we were to ask centres for evidence to "verify" new centre estimates, this would present significant operational challenges to planning, resource, and appointee availability. This would not be consistent with the principle of primacy of estimates information provided by centres.

2

13 August 2020

- Further paper certification runs would be required adding to time, cost and supplier dependency.

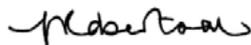
Risks related to credibility

- Teacher estimates were based on candidate evidence available in centres. SQA asked that these estimates were also moderated locally in centres, and by local authorities.
- The principle of primacy of estimates adopted in the Ministerial Direction indicates that teacher estimates are to be accepted for certification, unless moderated upwards, without quality assurance by SQA in terms of the national standard.
- SQA has complied with the Direction to revert to teachers' estimates for downgrades and to ensure that any upgrades are retained. This means that certification has proceeded on the basis of centres' estimates. Any change in that position presents a risk to consistency and integrity and therefore there should be no further need to accept revisions to estimate information except for the reasons set out in this proposal.
- At a macro-level, this could place further pressure on the credibility of the Scottish qualifications system, undermine the effectiveness of future quality assurance activity in relation to the national standard and could also divert scarce management time in centres and SQA at a time when the sector requires to work in partnership to focus on learning and teaching for the academic session 2020-21.

**Summary**

For the reasons I have explained, SQA's recommendation in terms of an appeals process is necessarily narrow and has a focus on three sets of circumstances that I would anticipate will arise only exceptionally. I have included a description of the proposed process in an Appendix; my colleagues and I remain happy and available to discuss this very important matter when you have had an opportunity to consider our recommendation.

Yours sincerely



Fiona Robertson  
Chief Executive and Chief Examining Officer for Scotland

## Enclosure 13.2 – Attachment: PDF

### APPEALS PROCESS

A centre may discover that an administrative error was made when they submitted their estimate or entry information for a candidate. Alternatively, a centre's internal review process may disclose that a candidate's estimate was affected by discrimination or other conduct by the centre that is unacceptable under the Equality Act 2010. SQA anticipates that these circumstances will arise only exceptionally.

In such cases a centre can request a change to an estimate or entry, using a dedicated helpdesk email address. All requests approved by SQA will be processed in due course, but we will give priority to cases where the candidate needs to confirm a university or college place.

Details about the helpdesk service:

- The request must be submitted using SQA's "request for consideration by exception" form
- The request must come from the head of centre and include justification for the request.
- Candidate's consent must be obtained by the centre before submitting a request.
- Correction of an administrative error made by the centre may result in a change of grade – up or down.
- The centre must confirm that the new estimate or entry now sought can be supported by evidence held by the centre if requested
- Priority requests for university or college admission must be submitted by 20 August. Outcomes will be advised to UCAS by 4 September.
- All other requests must be submitted by 31 August.

### Escalated appeal

If the head of centre believes that a procedural irregularity has taken place during SQA's application of this consideration by exception process, and that the procedural irregularity has affected the outcome, they can use SQA's escalated appeals process. We will publish full information on this process on SQA Connect by 31 August 2020.

In summary:

- The escalated appeal service will open on 4 September 2020. A head of centre can request an escalated appeal if they believe there has been a procedural irregularity on the part of SQA in the conduct of the process of consideration by exception which has led to the award or confirmation of a grade that they believe is wrong. A request must be accompanied by a detailed explanation of why they believe this to be the case.
- SQA will not accept escalated appeals directly from candidates or their representatives (this is in line with other SQA appeals processes, except in cases of candidate malpractice, where a candidate or representative can appeal).
- The appeal process applies to procedural irregularities by SQA ; it does not apply to processes within an SQA centre.
- The appeal will not consider matters of academic judgement, and no additional academic evidence on behalf of the candidate can be considered as part of the escalated appeal.

- It will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System or Higher Education Institution deadlines for admission to courses for 2020–21 and centres will be advised of this.

Conduct of the escalated appeal process:

- Information gathered will be reviewed by a panel of senior SQA staff who were not involved in the first decision made when the centre submitted a request for consideration by exception.
- The request for an escalated appeal may be rejected if the panel considers that the request does not amount to a claim that there has been a procedural irregularity by SQA in the application of the consideration by exception process.
- If an escalated appeal request is granted, procedural records relating to the consideration by exception process for an individual candidate's award will be scrutinised. This will establish whether there is evidence to support the procedural irregularity that the centre believes has occurred.
- If it is confirmed that procedures have been applied correctly in the consideration by exception process for the candidate, the centre will be informed that no further action will be taken in respect of the candidate's award. At this point, the centre can elect to escalate their appeal to the Appeals Sub-Committee
- If an appeal is escalated to the Appeals Sub-Committee, this will decide whether or not a procedural irregularity has occurred. If it decides that there has been irregularity, then SQA will process the centre's request for amendment arising from their centre's error.
- Decisions by the SQA Appeals Sub-Committee represent the final stage in SQA's appeals process, and as such are binding and final.

**Enclosure 14 – Email: RE: Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills**

**From:** [Redacted s38(1)(b)]

**Sent:** 13 August 2020 18:27

**To:** Deputy First Minister and Cabinet Secretary for Education and Skills  
<DFMCSE@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Drought A (Andrew) <Andrew.Drought@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison2@gov.scot>; Gorman G (Gayle) <Gayle.Gorman@educationscotland.gov.scot>

**Cc:** McAllister C (Colin) <Colin.McAllister@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; [Redacted s38(1)(b)]

**Subject:** RE: Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

Hi [Redacted s38(1)(b)]

We're working with SQA on this. Broadly we think this is something that can be agreed with, we're just working on a final few details. We'll then provide advice and a reply.

Thanks

[Redacted  
s38(1)(b)]

[See Enclosure 15 from email on 13 August 2020 at 18:47 for remainder of email chain]

**Enclosure 15 – Email: RE: IMMEDIATE - Submission on an SQA appeals process**

**From:** [Redacted s38(1)(b)]@gov.scot> **On Behalf Of** Lord Advocate  
**Sent:** 14 August 2020 09:51  
**To:** [Redacted s38(1)(b)]@gov.scot>; Lord Advocate <LordAdvocate@gov.scot>; Legal Secretariat to the Lord Advocate <DLPCEALSLA@gov.scot>; [Redacted s38(1)(b)] [Redacted s38(1)(b)] ; Solicitor General <SolicitorGeneral@gov.scot>  
**Cc:** DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison@educationscotland.gov.scot>; [Redacted s38(1)(b)]@educationscotland.gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>  
**Subject:** RE: IMMEDIATE - Submission on an SQA appeals process

Morning [Redacted s38(1)(b)],

Thanks for the below – the Lord Advocate has passed on his thanks to you for providing this update.

Kind regards,

[Redacted s38(1)(b)]

[Redacted s38(1)(b)] Lord Advocate

**From:** [Redacted s38(1)(b)]@gov.scot  
**Sent:** 13 August 2020 18:47  
**To:** Lord Advocate ; Legal Secretariat to the Lord Advocate ; Sewell J (Jonathan) (ECON) ; Solicitor General  
**Cc:** DG Education, Communities & Justice ; Director of Learning ; Pentland MK (Malcolm) ; Morrison E (Elizabeth) (Education Scotland) ; [Redacted s38(1)(b)]@educationscotland.gov.scot ; [Redacted s38(1)(b)]@gov.scot ; [Redacted s38(1)(b)]@gov.scot ; Solicitor to the Scottish Government ; McKay D (Denise) ; McAllister C (Colin)  
**Subject:** RE: IMMEDIATE - Submission on an SQA appeals process

Dear Lord Advocate – We note your request to be kept further informed of developments. I attach the response from SQA which my client has shared with me this evening following our own request for an update on this matter. I note also that the DFM's response from this afternoon (14:15) was not copied to you – that is attached below.

Hi [Redacted s38(1)(b)]

Please see a response from the DFM below:

*I am content to agree the recommendations. I favour a narrow appeal basis and do not support any of the suggested areas of extension. I would want reassurance that there is sufficient scope in the provisions to ensure that a young person who believes they are a victim of discrimination or bias to be able to appeal and not be thwarted by their school.*

*I am happy for COSLA etc to see that Annex. I am keen to get to an agreed position with the SQA. I do not want to make a further Direction.*

Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

☎ 07[Redacted s38(1)(b)]”

SQA has - as anticipated - proposed a narrow set of grounds for appeal as follows and we trust that agreement will be possible.

“Our revised proposal for an appeals service would permit centres to request a change to the originally submitted to SQA in three sets of circumstances:

- 1 The Head of Centre believes that there has been an error within SQA’s internal processes for reinstating the original centre estimate,
- 2 The Head of Centre believes that there has been an administrative error within the centre leading to provision of estimate information to SQA which did not accurately reflect the centre’s intention at the time of submission, and/ or
- 3 The Head of Centre believes that there has been discrimination or other conduct contrary to the Equality Act 2010 identified within the centre relating to protected characteristics, leading to the provision of estimate information to SQA which does”

We will keep you updated of any developments.

[Redacted s38(1)(b)]

My blackberry number is 07[Redacted s38(1)(b)]

Our branch inbox is SGLDSE@gov.scot

Scottish Government Legal Directorate *Buidheann-stiùiridh Laghail Riaghaltas na h-Alba*

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]@gov.scot **On Behalf Of** Lord Advocate

**Sent:** 13 August 2020 17:54

**To:** [Redacted s38(1)(b)]@gov.scot ; Lord Advocate ; Legal Secretariat to the Lord Advocate ; [Redacted s38(1)(b)] ; Solicitor General

**Cc:** DG Education, Communities & Justice ; Director of Learning ; Pentland MK (Malcolm) ; Morrison E (Elizabeth) (Education Scotland) ; [Redacted s38(1)(b)]@education.scotland.gov.scot ; [Redacted s38(1)(b)]@gov.scot ; [Redacted s38(1)(b)]@gov.scot ; Solicitor to the Scottish Government ; McKay D (Denise) ; McAllister C (Colin)

**Subject:** RE: IMMEDIATE - Submission on an SQA appeals process

Good Afternoon [Redacted s38(1)(b)],

The Lord Advocate thanks you for your email and for ensuring that the submission was copied to the Law Officers and LSLA. He would be grateful if he could be kept informed of future developments.

Many Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

Law Officers Private Office  
25 Chambers Street  
Edinburgh  
EH1 1LA  
0300 [Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]@gov.scot>

**Sent:** 13 August 2020 11:45

**To:** Lord Advocate <LordAdvocate@gov.scot>; Legal Secretariat to the Lord Advocate <DLPCEALSLA@gov.scot>; Sewell J (Jonathan) (ECON) <Jonathan.Sewell@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>

**Cc:** DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland)

<Elizabeth.Morrison@educationscotland.gov.scot>; [Redacted s38(1)(b)]@educationscotland.gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>

**Subject:** IMMEDIATE - Submission on an SQA appeals process

Resending to include the Lord Advocate, Solicitor General and Legal Secretariat to the Lord Advocate.

Please can this wider distribution list be used for response purposes.

Thank you [Redacted s38(1)(b)]

[Redacted s38(1)(b)]

My blackberry number is 07[Redacted s38(1)(b)]

Our branch inbox is SGLDSE@gov.scot

Scottish Government Legal Directorate *Buidheann-stiùiridh Laghail Riaghaltas na h-Alba*

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]

**Sent:** 13 August 2020 09:57

**To:** Deputy First Minister and Cabinet Secretary for Education and Skills  
<DFMCSE@gov.scot>  
**Cc:** DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning  
<DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>;  
Morrison E (Elizabeth) (Education Scotland)  
<Elizabeth.Morrison@educationscotland.gov.scot>; [Redacted  
s38(1)(b)]@educationscotland.gov.scot>; [Redacted s38(1)(b)]t@gov.scot>; [Redacted  
s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Solicitor to the Scottish  
Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>;  
McAllister C (Colin) <Colin.McAllister@gov.scot>  
**Subject:** IMMEDIATE - Submission on an SQA appeals process

PS/DFM

To see an urgent submission considering an SQA appeals process following Tuesday's statement and the commitment to provide further advice to the system by close tomorrow. This has been informed by discussions with DFM yesterday, as well as work with legal colleagues, SQA, and Local Authority officials.

SQA are due to offer you advice by 5pm today and it would be very useful to be able to align that with current thinking. If this can't be done then a direction may be required.

It may also be useful to share annex A with Local Authority colleagues for quick comment.

A response from the DFM as soon as possible would be very useful.

Officials would be happy to discuss any of this with the DFM this morning.

Thanks

[Redacted  
s38(1)(b)]

[Redacted s38(1)(b)]

Curriculum, Qualifications and Gaelic - Learning Directorate  
Scottish Government  
[Redacted s38(1)(b)]

email: [Redacted s38(1)(b)] -

**Enclosure 15.1 – Attachment: Word document**

[Duplicate of Enclosure 11.1]

**Enclosure 16 – Email: RE: Draft SQA appeals process**

**From:** [Redacted s38(1)(b)]  
**Sent:** 14 August 2020 13:22  
**To:** [Redacted s38(1)(b)]@sqa.org.uk  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk; 'Michael Baxter' <Michael.Baxter@sqa.org.uk>; Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; 'Jean Blair' <Jean.Blair@sqa.org.uk>; 'Fiona Robertson' <fiona.robertson@sqa.org.uk>  
**Subject:** RE: Draft SQA appeals process

Hi [Redacted s38(1)(b)]

Thanks for talking me through a few points just now.

I can confirm that we're happy with the responses to the comments we made. Specifically, we welcome the additional wording highlighted below, we are happy that this explains the circumstance under which a grade may be lowered.

"Correction of an administrative error made by the centre may result in a change of grade – up or down. **Any downward grade change will be as requested by the centre**".

We are also content that there will be additional guidance provided as to this process, and that there will be a helpdesk in operation.

We also understand why there cannot be a commitment that the result of an escalated appeal can be concluded by the UCAS deadline, as the escalated appeal is the right of appeal to the original "request for consideration by exception". We welcome the confirmation that where a "request for consideration by exception" is made by a priority candidate then this will be concluded by the UCAS deadline.

In terms of next steps, it would be much appreciated if you could update annex A for the changed wording above and resend to the DFM's mailbox. In the meantime we'll send urgent advice to the DFM recommending that the approach can be accepted and will provide a reply for the DFM to send to you today with the intention that SQA can publish the appeals process today.

I'm happy to discuss any of this.

Thanks

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]@sqa.org.uk  
**Sent:** 14 August 2020 12:44  
**To:** [Redacted s38(1)(b)]  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk ; Michael Baxter ; Director of Learning ; Pentland MK (Malcolm) ; Jean Blair  
**Subject:** RE: Draft SQA appeals process

Hi [Redacted s38(1)(b)]

Thanks for confirmation.

Regards,

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]  
**Sent:** 14 August 2020 12:42  
**To:** [Redacted s38(1)(b)]@sqa.org.uk  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk ; Michael Baxter-; DirectorofLearning@gov.scot; Malcolm.Pentland@gov.scot; Jean Blair  
**Subject:** RE: Draft SQA appeals process

Thanks very much Margot, I can confirm receipt and will make my way through the comments now.

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]@sqa.org.uk>  
**Sent:** 14 August 2020 12:34  
**To:** [Redacted s38(1)(b)]  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>; Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Jean Blair <Jean.Blair@sqa.org.uk>  
**Subject:** RE: Draft SQA appeals process

Hello [Redacted s38(1)(b)] ,

Please find attached responses to the questions you sent over to us yesterday. I understand that you are having some technical issues today, so as Jean has said, I will give you a call to check that you have received them too,

Regards,

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]  
**Sent:** 14 August 2020 12:27  
**To:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>; DirectorofLearning@gov.scot; Malcolm.Pentland@gov.scot  
**Subject:** RE: Draft SQA appeals process

Thanks Jean

We'll keep an eye out for that, and thanks for the call too, I'm pretty sure at least the phones are working.

[Redacted s38(1)(b)]  
(07[Redacted s38(1)(b)])

**From:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Sent:** 14 August 2020 12:22  
**To:** [Redacted s38(1)(b)]

**Cc:** [Redacted s38(1)(b)]@sqa.org.uk; [Redacted s38(1)(b)]@sqa.org.uk; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Subject:** RE: Draft SQA appeals process

Hi [Redacted s38(1)(b)] ,

Thanks for getting in touch.

You'll receive our response from Margot. She will follow up with call to check that you have received it.

Thanks

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] **e:** jean.blair@sqa.org.uk | **w:** <http://www.sqa.org.uk>  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

**From:** [Redacted s38(1)(b)]  
**Sent:** 14 August 2020 12:05  
**To:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Subject:** RE: Draft SQA appeals process

Hi Jean

Just to say we've been having some IT issues across the SG this morning.

Happy to have a chat if there were any issues with the comments I sent over.

Thanks

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]  
**Sent:** 13 August 2020 18:28  
**To:** 'Jean Blair' <Jean.Blair@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk; Fiona Robertson <fiona.robertson@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Cc:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>  
**Subject:** RE: Draft SQA appeals process

Thanks Jean, that's much appreciated.

[Redacted s38(1)(b)]

**From:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Sent:** 13 August 2020 18:26

**To:** [Redacted s38(1)(b)] [Redacted s38(1)(b)]@sqa.org.uk>; Fiona Robertson <fiona.robertson@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Cc:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>  
**Subject:** RE: Draft SQA appeals process

Thanks [Redacted s38(1)(b)]

We will come back to you in writing in the first instance and set up a call in the morning if required.

Regards

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] | **e:** jean.blair@sqa.org.uk + **w:** <http://www.sqa.org.uk>  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

**From:** [Redacted s38(1)(b)]  
**Sent:** 13 August 2020 18:22  
**To:** Jean Blair <Jean.Blair@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>; Fiona Robertson <fiona.robertson@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Cc:** DirectorofLearning@gov.scot; Malcolm.Pentland@gov.scot  
**Subject:** RE: Draft SQA appeals process

Thanks for this Jean

Yes, I subsequently saw there was a crossover of emails.

The comments I sent on would be part of the advice to the DFM from officials, so it would be good if you could look at them and see if they could be addressed please. We don't think they change the nature of annex A, but if there was a way to update it for those comments then I think his will be able to be agreed by the DFM. If you have any questions about them then certainly as you suggest we would be happy to discuss.

Thanks

[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]  
**Sent:** 13 August 2020 18:22  
**To:** 'Jean Blair' <Jean.Blair@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>; 'Fiona Robertson' <fiona.robertson@sqa.org.uk>; 'Michael Baxter' <Michael.Baxter@sqa.org.uk>  
**Cc:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>  
**Subject:** RE: Draft SQA appeals process

Thanks for this Jean

Yes, I subsequently saw there was a crossover of emails.

The comments I sent on would be part of the advice to the DFM from officials, so it would be good if you could look at them and see if they could be addressed please. We don't think they change the nature of annex A, but if there was a way to update it for those comments then I think his will be able to be agreed by the DFM. If you have any questions about them then certainly as you suggest we would be happy to discuss.

Thanks

[Redacted  
s38(1)(b)]

**From:** Jean Blair  
**Sent:** 13 August 2020 18:14  
**To:** [Redacted s38(1)(b)] ; [Redacted s38(1)(b)]@sqa.org.uk ; Fiona Robertson ; Michael Baxter  
**Cc:** Director of Learning ; Pentland MK (Malcolm)  
**Subject:** RE: Draft SQA appeals process

Evening [Redacted  
s38(1)(b)] ,

Thanks for your email with comments on the appeals process.

As per the Ministerial Direction of 11 August, Fiona has written to the Deputy First Minister this evening, copied to SQA's Chair. This means that your response has not been considered in time for our proposal.

Could you please advise if these comments and queries are from the DFM?

We can address your feedback in the morning by email or a meeting if that would be preferred.

Regards

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] | **e:** jean.blair@sqa.org.uk | **w:** <http://www.sqa.org.uk>  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

**From:** [Redacted s38(1)(b)]  
**Sent:** 13 August 2020 17:37  
**To:** [Redacted s38(1)(b)]@sqa.org.uk; Fiona Robertson <fiona.robertson@sqa.org.uk>; Jean Blair <Jean.Blair@sqa.org.uk>  
**Cc:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm)

<Malcolm.Pentland@gov.scot>

**Subject:** RE: Draft SQA appeals process

Hi [Redacted s38(1)(b)]

Thanks for this. I appreciate that it is pretty late in the day, but we've had some questions and comments about the approach and it would be good if you could provide any comment on the following:-

- When the draft refers to "Correction of an administrative error made by the centre may result in a change of grade – up or down." Is this just a reflection that errors can be in either direction, or could an appeal to change a grade one way result in a change the other way? Given the sensitivity of the issue could the reference to "up or down" simply be removed?
- Would this guidance be supported by additional user guidance – any kind of simpler step by step document, or a FAQ, or would it just be the finalised version of this document? What support would be available for centres in considering and/or lodging an appeal, and would this be able to be set out?
- Can I just check if an escalated appeal could also be met in the same timeframe as a priority appeal if the appeal was needed for a university or college course acceptance, but then it would still be available as a non-priority option too? There is a concern that otherwise some forms of appeal may not be able to be concluded before the UCAS deadline.

Hopefully these aren't substantive points overall because other than the above we're in agreement with the document shared. If these points can be accommodated then we can update DFM and work towards it being released tomorrow afternoon, although happy to have a meeting tomorrow morning about any of the points above.

Thanks

[Redacted  
s38(1)(b)]

**From:** [Redacted s38(1)(b)]@sqa.org.uk>

**Date:** Wednesday, 12 Aug 2020, 6:32 pm

**To:** Director of Learning <DirectorofLearning@gov.scot>

**Cc:** Fiona Robertson <fiona.robertson@sqa.org.uk>, Jean Blair <Jean.Blair@sqa.org.uk>

**Subject:** Draft SQA appeals process

Hello Graeme,

This is the draft document that we have outlining the proposed appeals process. If you have any queries, please do not hesitate to get back in touch,

With kindest regards,

[Redacted s38(1)(b)]

t: 0345 213 [Redacted s38(1)(b)] | m: 07[Redacted s38(1)(b)] | e: [Redacted s38(1)(b)]@sqa.org.uk | w:

<http://www.sqa.org.uk>

Scottish Qualifications Authority

24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

## Responses to questions submitted by SG 13/08/20

- When the draft refers to "Correction of an administrative error made by the centre may result in a change of grade – up or down." Is this just a reflection that errors can be in either direction, or could an appeal to change a grade one way result in a change the other way? Given the sensitivity of the issue could the reference to "up or down" simply be removed?

### Response:

The reference to "a change of grade - up or down" reflects that an administrative error can be in either direction, for example in correcting a transposition error involving 2 candidates could result in one candidate being upgraded with the other being downgraded. Any such change would be at the request of the centre. We are aware of the sensitivity of this, however if centres identify such an error, and inform us of it, then it would be incumbent in us to act on the information supplied.

We can amend the statement, as shown below, to make this clear

"Correction of an administrative error made by the centre may result in a change of grade – up or down. Any downward grade change will be as requested by the centre".

Please note that the centre must confirm that candidate consent has been obtained prior to submitting an appeal request.

It is improbable that an appeal to change a grade one way would result in a change the other way.

- Would this guidance be supported by additional user guidance – any kind of simpler step by step document, or a FAQ, or would it just be the finalised version of this document? What support would be available for centres in considering and/or lodging an appeal, and would this be able to be set out?

### Response:

Centre communications will be developed based on this guidance to ensure that centres understand the scope of the appeals, the appeals process and the timelines involved. There will be a dedicated email address for centres to request and submit an appeal. Furthermore, the SQA customer facing liaison team will be available to support centre queries.

- Can I just check if an escalated appeal could also be met in the same timeframe as a priority appeal if the appeal was needed for a university or college course acceptance, but then it would still be available as a non-priority option too? There is a concern that otherwise some forms of appeal may not be able to be concluded before the UCAS deadline.

### Response

An escalated appeal will not be concluded before UCAS deadline of 4 September. This is no different to that for the Post Certification Review (appeal) process. Centres will be advised of this when communications are released.

At the outcome of a priority appeal, a centre can pursue an escalated appeal, but do so in the knowledge that it would be considered non priority and would not be concluded before 4 September.

The new process will allow more time for centres to submit requests as there is now no longer a requirement to submit alternative assessment evidence for candidates. Closing date for priority requests will be 20th August.



## **Enclosure 16.1 – Attachment: Word document**

### **Centre requests to amend centre estimates or entry information by exception**

A centre may discover that an administrative error was made when they submitted their estimate or entry information for a candidate. Alternatively, a centre's internal review process may disclose that a candidate's estimate was affected by discrimination or other conduct by the centre that is unacceptable under the Equality Act 2010. SQA anticipates that these circumstances will arise only exceptionally.

In such cases a centre can request a change to an estimate or entry, using a dedicated helpdesk email address. All requests approved by SQA will be processed in due course, but we will give priority to cases where the candidate needs to confirm a university or college place.

Details about the helpdesk service:

- The request must be submitted using SQA's "request for consideration by exception" form
- The request must come from the head of centre and include justification for the request.
- Candidate's consent must be obtained by the centre before submitting a request.
- Correction of an administrative error made by the centre may result in a change of grade – up or down.
- The centre must confirm that the new estimate or entry now sought can be supported by evidence held by the centre if requested
- Priority requests for university or college admission must be submitted by 20 August. Outcomes will be advised to UCAS by 4 September.
- All other requests must be submitted by 31 August.

### **Escalated appeal**

If the head of centre believes that a procedural irregularity has taken place during SQA's application of this consideration by exception process, and that the procedural irregularity has affected the outcome, they can use SQA's escalated appeals process. We will publish full information on this process on SQA Connect by 31 August 2020.

In summary:

- The escalated appeal service will open on 4 September 2020. A head of centre can request an escalated appeal if they believe there has been a procedural irregularity on the part of SQA in the conduct of the process of consideration by exception which has led to the award or confirmation of a grade that they believe is wrong. A request must be accompanied by a detailed explanation of why they believe this to be the case.
- SQA will not accept escalated appeals directly from candidates or their representatives (this is in line with other SQA appeals processes, except in cases of candidate malpractice, where a candidate or representative can appeal).
- The appeal process applies to procedural irregularities by SQA; it does not apply to processes within an SQA centre.
- The appeal will not consider matters of academic judgement, and no additional academic evidence on behalf of the candidate can be considered as part of the escalated appeal.
- It will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System or Higher Education Institution deadlines for admission to courses for 2020–21 and centres will be advised of this.

Conduct of the escalated appeal process:

- Information gathered will be reviewed by a panel of senior SQA staff who were not involved in the first decision made when the centre submitted a request for consideration by exception.

- The request for an escalated appeal may be rejected if the panel considers that the request does not amount to a claim that there has been a procedural irregularity by SQA in the application of the consideration by exception process.
- If an escalated appeal request is granted, procedural records relating to the consideration by exception process for an individual candidate's award will be scrutinised. This will establish whether there is evidence to support the procedural irregularity that the centre believes has occurred.
- If it is confirmed that procedures have been applied correctly in the consideration by exception process for the candidate, the centre will be informed that no further action will be taken in respect of the candidate's award. At this point, the centre can elect to escalate their appeal to the Appeals Sub-Committee.
- If an appeal is escalated to the Appeals Sub-Committee, this will decide whether or not a procedural irregularity has occurred. If it decides that there has been irregularity, then SQA will process the centre's request for amendment arising from their centre's error.
- Decisions by the SQA Appeals Sub-Committee represent the final stage in SQA's appeals process, and as such are binding and final.

## **Enclosure 16.2 – Attachment: Word document**

Responses to questions submitted by SG 13/08/20

- When the draft refers to “Correction of an administrative error made by the centre may result in a change of grade – up or down.” Is this just a reflection that errors can be in either direction, or could an appeal to change a grade one way result in a change the other way? Given the sensitivity of the issue could the reference to “up or down” simply be removed?

Response:

The reference to “a change of grade - up or down” reflects that an administrative error can be in either direction, for example in correcting a transposition error involving 2 candidates could result in one candidate being upgraded with the other being downgraded. Any such change would be at the request of the centre. We are aware of the sensitivity of this, however if centres identify such an error, and inform us of it, then it would be incumbent in us to act on the information supplied.

We can amend the statement, as shown below, to make this clear

“Correction of an administrative error made by the centre may result in a change of grade – up or down. Any downward grade change will be as requested by the centre”.

Please note that the centre must confirm that candidate consent has been obtained prior to submitting an appeal request.

It is improbable that an appeal to change a grade one way would result in a change the other way.

- Would this guidance be supported by additional user guidance – any kind of simpler step by step document, or a FAQ, or would it just be the finalised version of this document? What support would be available for centres in considering and/or lodging an appeal, and would this be able to be set out?

Response:

Centre communications will be developed based on this guidance to ensure that centres understand the scope of the appeals, the appeals process and the timelines involved. There will be a dedicated email address for centres to request and submit an appeal. Furthermore, the SQA customer facing liaison team will be available to support centre queries.

- Can I just check if an escalated appeal could also be met in the same timeframe as a priority appeal if the appeal was needed for a university or college course acceptance, but then it would still be available as a non-priority option too? There is a concern that otherwise some forms of appeal may not be able to be concluded before the UCAS deadline.

Response

An escalated appeal will not be concluded before UCAS deadline of 4 September. This is no different to that for the Post Certification Review (appeal) process. Centres will be advised of this when communications are released.

At the outcome of a priority appeal, a centre can pursue an escalated appeal, but do so in the knowledge that it would be considered non priority and would not be concluded before 4 September.

The new process will allow more time for centres to submit requests as there is now no longer a requirement to submit alternative assessment evidence for candidates. Closing date for priority requests will be 20th August.

**Enclosure 17 – Email: RE: IMMEDIATE Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills**

**From:** [Redacted s38(1)(b)]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills

**Sent:** 14 August 2020 15:26

**To:** [Redacted s38(1)(b)]

Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Drought A (Andrew) <Andrew.Drought@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Morrison E (Elizabeth) (Education Scotland) <Elizabeth.Morrison@educationscotland.gov.scot>; Gorman G (Gayle) <Gayle.Gorman@educationscotland.gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; Lord Advocate <LordAdvocate@gov.scot>; Legal Secretariat to the Lord Advocate <DLPCEALS@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; McKay D (Denise) <Denise.McKay@gov.scot>; Communications DFM & Education <CommunicationsDFM&Education@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>

**Cc:** McAllister C (Colin) <Colin.McAllister@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; [Redacted s38(1)(b)]

**Subject:** RE: IMMEDIATE Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

Hi [Redacted s38(1)(b)]

DFM's response has now issued – attached for your records. I also attach an update received from Fiona.

Please let me know if there is anything else I can do.

Many thanks

[Redacted s38(1)(b)]

07[Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]

**Sent:** 14 August 2020 14:42

**To:** Deputy First Minister and Cabinet Secretary for Education and Skills ; Director of Learning ; Drought A (Andrew) ; Pentland MK (Malcolm) ; Morrison E (Elizabeth) (Education Scotland) ; Gorman G (Gayle) ; [Redacted s38(1)(b)]@gov.scot ; [Redacted s38(1)(b)]@gov.scot ; Lord Advocate ; Legal Secretariat to the Lord Advocate ; Solicitor General ; Solicitor to the Scottish Government ; McKay D (Denise) ; Communications DFM & Education <CommunicationsDFM&Education@gov.scot>; [Redacted s38(1)(b)]@gov.scot ; [Redacted s38(1)(b)]@gov.scot

**Cc:** McAllister C (Colin) ; DG Education, Communities & Justice ; [Redacted s38(1)(b)]

**Subject:** IMMEDIATE Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

Hi [Redacted s38(1)(b)]

Officials have discussed this issue with the SQA and a small update to annex A will be provided – the change will be the addition of the highlighted words below to allay any concern that an appeal could lead to a downgrade without that being what the centre was

requesting (i.e. in the case where two students' results were transposed and this was being corrected, although the student who would under that scenario receive a downgrade could withhold consent for that to happen without affecting the upgrade of the other student).

"Correction of an administrative error made by the centre may result in a change of grade – up or down. **Any downward grade change will be as requested by the centre**".

The SQA have also provided assurance that there will be additional guidance developed for centres to support this process, and a helpdesk will be in operation. Additionally, the SQA have been able to provide assurance that priority candidates will have initial appeals heard before the UCAS deadline, but have confirmed that escalated appeals (effectively an appeal on the result of the appeal) would be very unlikely to be heard before the UCAS deadline given the use of individuals external to SQA to take part in the escalated appeals process. It is anticipated that the numbers of candidates likely to require an escalated appeal will be extremely small.

Officials are hopeful that these this change and additional information will allay the majority of the concerns of Local Authority colleagues, and that the remaining concerns are more general in nature, notwithstanding that they agree with the principle of a narrow focus to an appeals process.

The DFM specifically asked for reassurance that there is sufficient scope in the provisions to ensure that a young person who believes they are a victim of discrimination or bias to be able to appeal and not be thwarted by their school. This element of the proposed process is no different from that of previous years and SQA have provided reassurances that they are content that it is fit for purpose on the basis of experience of previous operation.

On the basis of the points above officials are content that the SQA's appeals proposal meets the DFM's wish for a process on a narrow appeal basis, as such there is no requirement for a direction, and the SQA are in agreement with this.

If the DFM is content with the above advice officials have provided a draft reply for the Chief Examiner, and the SQA are ready to publish the appeals process today.

Thanks

[Redacted  
s38(1)(b)]

[Redacted s38(1)(b)]

Curriculum, Qualifications and Gaelic - Learning Directorate  
Scottish Government  
[Redacted s38(1)(b)]

email: [Redacted s38(1)(b)]

**From:** [Redacted s38(1)(b)]@gov.scot>–**On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills

**Sent:** 13 August 2020 17:40

**To:** Director of Learning <DirectorofLearning@gov.scot>; Drought A (Andrew) <Andrew.Drought@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)] Morrison E (Elizabeth)

(Education Scotland) <Elizabeth.Morrison2@gov.scot>; Gorman G (Gayle) <Gayle.Gorman@educationscotland.gov.scot>

**Cc:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; [Redacted s38(1)(b)]

**Subject:** FW: Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

**Importance:** High

All

Please see the attached just received from SQA. DFM would be grateful for advice and a draft reply as soon as possible tomorrow.

Thanks

[Redacted s38(1)(b)]

07[Redacted s38(1)(b)]

**From:** Fiona Robertson <fiona.robertson@sqa.org.uk>

**Sent:** 13 August 2020 17:35

**To:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>

**Cc:** Director of Learning <DirectorofLearning@gov.scot>

**Subject:** Letter of Direction from the Deputy First Minister and Cabinet Secretary for Education and Skills

**Importance:** High

[Redacted s38(1)(b)]

I am responding to your letter of direction of Tuesday 11 August and in relation to paragraph 6 of the Ministerial Direction.

Please see attached.

Please accept our apologies for the slight delay beyond 5pm – there were some formatting issues to finalise.

Fiona

Fiona Robertson  
Chief Executive  
Scottish Qualifications Authority  
t: 0345 213 5000 | w: <http://www.sqa.org.uk>

**Enclosure 17.1 – Attachment: Email: Letter from the Deputy First Minister**

**From:** [Redacted s38(1)(b)]@gov.scot> **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills  
**Sent:** 14 August 2020 15:22  
**To:** Fiona Robertson <fiona.robertson@sqa.org.uk>  
**Cc:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; David Middleton <David.Middleton@sqa.org.uk>  
**Subject:** Letter from the Deputy First Minister

Dear Fiona

Please find attached a letter from the Deputy First Minister and Cabinet Secretary for Education and Skills.

Kind regards

[Redacted s38(1)(b)]

[Redacted s38(1)(b)] John Swinney MSP | Deputy First Minister of Scotland and Cabinet Secretary for Education & Skills | Scottish Government | St Andrew's House | Edinburgh | EH1 3DG | Tel: 0131 244 [Redacted s38(1)(b)]/07[Redacted s38(1)(b)] | E: DFMCSE@gov.scot

*All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.*

*Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)*

**Enclosure 17.1.1 – Attachment: PDF**

Leas Phrìomh Mhinistear agus Rùnaire a' Craibneir  
airson Foghlam agus Sgilean  
Deputy First Minister and Cabinet Secretary for  
Education and Skills



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

John Swinney BPA/MSP  
F/T: 0300 244 4000  
E: [dfmcse@gov.scot](mailto:dfmcse@gov.scot)

Fiona Robertson  
Chief Executive and Chief Examining Officer for  
Scotland  
By email [fiona.robertson@sqa.org.uk](mailto:fiona.robertson@sqa.org.uk)

14 August 2020

Dear Fiona

Thank you for your letter of 13 August setting out the SQA's proposals for appeals which I requested of you in the Ministerial Direction relating to SQA's certification model for 2020. I appreciate your having provided this advice quickly in order that clarity can be provided to the system as soon as possible.

I agree with the case you set out for a narrow and focussed appeals process. Your proposal retains the important aspects of the previous appeals process of centres being able to appeal on the basis of any administrative error by a centre; possible discrimination in the process; and any administrative error by the SQA. By adopting such an approach candidates this year will have the same right of appeal that was open to candidates in previous years.

I welcome the reassurances you have provided to my officials that no grade will be downgraded unless that is what the centre is requesting. I also welcome that there will be appropriate guidance and support provided for centres making an appeal. I also note that the outcomes of appeals for priority candidates needed for university or college admission will be advised to UCAS by 4 September and so support learners as they take the next step on their learner journey.

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire  
Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh [www.lobbying.scot](http://www.lobbying.scot)

Scottish Ministers, special advisers and the Permanent Secretary are covered  
by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

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3DG  
St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



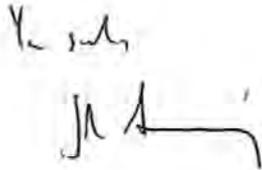
INVESTORS  
IN PEOPLE

Accredited  
2017/18

disability  
confident



On your receipt of this letter I hope that information on the appeals process for this year's results can be communicated to the system as quickly as possible, and ideally before the end of the day.



**JOHN SWINNEY**

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire  
Maireannach fo chumhachan Achlaid Coiteachaidh (Alba) 2016. Faicibh [www.lobbying.scot](http://www.lobbying.scot)

Scottish Ministers, special advisers and the Permanent Secretary are covered  
by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

Taigh Naomh Anndrais, Rathad Regent, Dùn Eideann EH1  
3DG  
St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



**Enclosure 17.2 – Attachment: Email: FW: Draft SQA appeals process**

**From:** Fiona Robertson <fiona.robertson@sqa.org.uk>  
**Sent:** 14 August 2020 14:55  
**To:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>  
**Cc:** Director of Learning <DirectorofLearning@gov.scot>; David Middleton <David.Middleton@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Subject:** FW: Draft SQA appeals process

Dear Deputy First Minister

Further to my letter to you of 13 August, sent in accordance with your Ministerial Direction of 11 August, I attach an updated appeals proposal which addresses a request by your officials after the deadline and on which I agree. The change to the proposal is in providing clarity that any downward grade change will only be in a circumstance where that is requested by a Centre.

I hope that this is helpful and as soon as we receive confirmation of your approval, we can work with your officials to communicate this to stakeholders.

With best wishes

Fiona

Fiona Robertson  
Chief Executive  
Scottish Qualifications Authority

t: 0345 213 5000 | w: <http://www.sqa.org.uk>  
The Optima Building, 58 Robertson Street, GLASGOW G2 8DQ | 24 Wester Shawfair, Lowden, Da keith,  
Midlothian EH22 1FD

### **Enclosure 17.2.1 – Attachment: PDF**

#### **Centre requests to amend centre estimates or entry information by exception**

A centre may discover that an administrative error was made when they submitted their estimate or entry information for a candidate. Alternatively, a centre's internal review process may disclose that a candidate's estimate was affected by discrimination or other conduct by the centre that is unacceptable under the Equality Act 2010. SQA anticipates that these circumstances will arise only exceptionally.

In such cases a centre can request a change to an estimate or entry, using a dedicated helpdesk email address. All requests approved by SQA will be processed in due course, but we will give priority to cases where the candidate needs to confirm a university or college place.

Details about the helpdesk service:

- The request must be submitted using SQA's "request for consideration by exception" form
- The request must come from the head of centre and include justification for the request.
- Candidate's consent must be obtained by the centre before submitting a request.

Correction of an administrative error made by the centre may result in a change of grade – up or down. Any downward grade change will be as requested by the centre.

- The centre must confirm that the new estimate or entry now sought can be supported by evidence held by the centre if requested
- Priority requests for university or college admission must be submitted by 20 August.

Outcomes will be advised to UCAS by 4 September.

- All other requests must be submitted by 31 August.

#### **Escalated appeal**

If the head of centre believes that a procedural irregularity has taken place during SQA's application of this consideration by exception process, and that the procedural irregularity has affected the outcome, they can use SQA's escalated appeals process. We will publish full information on this process on SQA Connect by 31 August 2020.

In summary:

- The escalated appeal service will open on 4 September 2020. A head of centre can request an escalated appeal if they believe there has been a procedural irregularity on the part of SQA in the conduct of the process of consideration by exception which has led to the award or confirmation of a grade that they believe is wrong. A request must be accompanied by a detailed explanation of why they believe this to be the case.

- SQA will not accept escalated appeals directly from candidates or their representatives (this is in line with other SQA appeals processes, except in cases of candidate malpractice, where a candidate or representative can appeal).

- The appeal process applies to procedural irregularities by SQA; it does not apply to processes within an SQA centre.

- The appeal will not consider matters of academic judgement, and no additional academic evidence on behalf of the candidate can be considered as part of the escalated appeal.

- It will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System or Higher Education Institution deadlines for admission to courses for 2020–21 and centres will be advised of this.

Conduct of the escalated appeal process:

- Information gathered will be reviewed by a panel of senior SQA staff who were not involved in the first decision made when the centre submitted a request for consideration by exception.

- The request for an escalated appeal may be rejected if the panel considers that the request does not amount to a claim that there has been a procedural irregularity by SQA in the application of the consideration by exception process.

- If an escalated appeal request is granted, procedural records relating to the consideration by exception process for an individual candidate's award will be scrutinised. This will establish whether there is evidence to support the procedural irregularity that the centre believes has occurred.
- If it is confirmed that procedures have been applied correctly in the consideration by exception process for the candidate, the centre will be informed that no further action will be taken in respect of the candidate's award. At this point, the centre can elect to escalate their appeal to the Appeals Sub-Committee
- If an appeal is escalated to the Appeals Sub-Committee, this will decide whether or not a procedural irregularity has occurred. If it decides that there has been irregularity, then SQA will process the centre's request for amendment arising from their centre's error.
- Decisions by the SQA Appeals Sub-Committee represent the final stage in SQA's appeals process, and as such are binding and final.

**Enclosure 18 – SQA results FM Q brief, 17 August 2020**

**SQA RESULTS**

**KEY ANNOUNCEMENTS**

[Redacted – not in scope]

SQA on Friday (14 August) set out the principles of an appeals process.

- appeals will be able to be lodged by a centre on the basis of an administrative error by the centre; possible discrimination in the process; or an error by SQA.
- priority appeals will have the outcomes shared with UCAS by 4 September.

[Redacted – not in scope]

**As a result of the change in approach to awarding qualifications, there will no longer be the need for the appeals process that was planned for where grades had been adjusted.**

- SQA have set out an updated process which will consider incidences of centre administrative error; possible discrimination; and SQA error in the process.
- Priority appeals will still be concluded by the UCAS 4 September deadline.

[Redacted – not in scope]

**ANNEX B - SQA PUBLIC STATEMENTS**

The following public statements have been issued:

[Redacted – not in scope]

Fri 14 Aug	Update from SQA	Update on appeals process for 2020 following Ministerial Direction to SQA to provide an appeals process to centres.
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[Redacted – not in scope]

[Redacted – not in scope]

**Enclosure 19 – Email: RE: SQA's new appeals services**

**From:** Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>  
**Sent:** 17 August 2020 17:08  
**To:** Jean Blair <Jean.Blair@sqa.org.uk>; Director of Learning <DirectorofLearning@gov.scot>; Fiona Robertson <fiona.robertson@sqa.org.uk>; [Redacted s38(1)(b)]  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk; Michael Baxter <Michael.Baxter@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk  
**Subject:** RE: SQA's new appeals services

Jean  
Many thanks for this update. Jonathan is on leave this week. Your sharing the communication in advance of publication is much appreciated.  
Best wishes  
Malcolm

**Malcolm Pentland** | Deputy Director  
Curriculum, Qualifications and Gaelic Division | email: malcolm.pentland@gov.scot | tel: +44(0) 131 244 0047 | 07 [Redacted s38(1)(b)]

Learning Directorate | Area 2B North | Victoria Quay | Edinburgh | EH6 6QQ  
Buidheann-Stiùiridh an Ionnsachaidh | Raon 2B Tuath | Cidhe Bhictòria | Dùn Èideann | EH6 6QQ

**From:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Sent:** 17 August 2020 16:56  
**To:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Fiona Robertson <fiona.robertson@sqa.org.uk>; [Redacted s38(1)(b)]  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk; Michael Baxter <Michael.Baxter@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk  
**Subject:** RE: SQA's new appeals services

[Redacted s38(1)(b)]

Just to advise that we have been working on further communications to support the revised appeals process.

We are working to issue this information tomorrow and will share ahead of its publication.

Regards

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] | **e:** jean.blair@sqa.org.uk | **w:** <http://www.sqa.org.uk>  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

**From:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Sent:** 14 August 2020 18:35  
**To:** DirectorofLearning@gov.scot; Malcolm.Pentland@gov.scot; Fiona Robertson <fiona.robertson@sqa.org.uk>; [Redacted s38(1)(b)]  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk; Michael Baxter <Michael.Baxter@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk  
**Subject:** Re: SQA's new appeals services

Thanks [Redacted s38(1)(b)]

I think we all need a good weekend!

Jean

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**From:** [Redacted s38(1)(b)]  
**Sent:** Friday, August 14, 2020 6:18:20 PM  
**To:** Jean Blair <Jean.Blair@sqa.org.uk>; DirectorofLearning@gov.scot <DirectorofLearning@gov.scot>; Malcolm.Pentland@gov.scot <Malcolm.Pentland@gov.scot>; Fiona Robertson <fiona.robertson@sqa.org.uk>  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk; Michael Baxter <Michael.Baxter@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk  
**Subject:** RE: SQA's new appeals services

Thanks for this Jean

I hope you can all get a good weekend after what has been another very challenging week.

[Redacted s38(1)(b)]

Sent with BlackBerry Work (www.blackberry.com)

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**From:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Sent:** 14 Aug 2020 18:03  
**To:** Director of Learning <DirectorofLearning@gov.scot>; [Redacted s38(1)(b)]; "Pentland MK (Malcolm)" <Malcolm.Pentland@gov.scot>; Fiona Robertson <fiona.robertson@sqa.org.uk>  
**Cc:** [Redacted s38(1)(b)]@sqa.org.uk; Michael Baxter <Michael.Baxter@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk  
**Subject:** RE: SQA's new appeals services

My apologies – you should only have been sent this email below not the full trail.

It's Friday, it's been a hard week – please forgive!

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] | **e:** jean.blair@sqa.org.uk | **w:** http://www.sqa.org.uk  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

**From:** Jean Blair

**Sent:** 14 August 2020 17:59

**To:** DirectorofLearning@gov.scot; [Redacted s38(1)(b)] ; Malcolm.Pentland@gov.scot; Fiona Robertson <fiona.robertson@sqa.org.uk>

**Cc:** [Redacted s38(1)(b)]@sqa.org.uk>; Michael Baxter <michael.baxter@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>

**Subject:** SQA's new appeals services

Just to confirm that in accordance with the Ministerial Direction of Tuesday 11 August 2020, SQA has developed and communicated a revised Appeals Process to centres.

The message is also on the website – link below:

<https://www.sqa.org.uk/sqa/94840.html>

More detailed information on the process will follow on Monday.

Regards

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] | **e:** jean.blair@sqa.org.uk | **w:** http://www.sqa.org.uk  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

**Enclosure 20 – Email: RE: Appeals Process - communication to centres**

**From:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Sent:** 18 August 2020 15:59  
**To:** Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; [Redacted s38(1)(b)]  
**Cc:** Fiona Robertson <fiona.robertson@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Subject:** RE: Appeals Process - communication to centres

Malcolm,

Thanks for your email confirming that the Scottish Government has no concerns with content and that our additional commentary explaining the exclusion of errors of academic judgement has been noted.

We will proceed to issue our communications on appeals to centres.

Regards

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] | **e:** jean.blair@sqa.org.uk | **w:** <http://www.sqa.org.uk>  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

**From:** Malcolm.Pentland@gov.scot <Malcolm.Pentland@gov.scot>  
**Sent:** 18 August 2020 15:46  
**To:** Jean Blair <Jean.Blair@sqa.org.uk>; DirectorofLearning@gov.scot; [Redacted s38(1)(b)]  
**Cc:** Fiona Robertson <fiona.robertson@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Subject:** RE: Appeals Process - communication to centres

Jean  
Thank you for sharing. No concerns with content and the added text is noted.

Best wishes  
Malcolm

**Malcolm Pentland** | Deputy Director  
Curriculum, Qualifications and Gaelic Division | email: malcolm.pentland@gov.scot | tel:+44(0)131 244 0047 | 07 [Redacted s38(1)(b)]

Learning Directorate | Area 2B North | Victoria Quay | Edinburgh | EH6 6QQ  
Buidheann-Stiùiridh an Ionnsachaidh | Raon 2B Tuath | Cidhe Bhictòria | Dùn Èideann | EH6 6QQ

**From:** Jean Blair <Jean.Blair@sqa.org.uk>  
**Sent:** 18 August 2020 14:38  
**To:** Director of Learning <DirectorofLearning@gov.scot>; Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>; [Redacted s38(1)(b)]  
**Cc:** Fiona Robertson <fiona.robertson@sqa.org.uk>; [Redacted s38(1)(b)]@sqa.org.uk>; Michael Baxter <Michael.Baxter@sqa.org.uk>  
**Subject:** Appeals Process - communication to centres  
**Importance:** High

As intimated last Friday, and in line with the Ministerial Direction of 11 August, SQA will shortly publish more information on the appeals process as agreed with the Scottish Government to centres and stakeholders. This is attached for your information. If you have any concerns about this information please let us know as soon as possible and **by 4pm today** as we wish to issue this communication to centres today.

Please note the inclusion of a paragraph below in the appeals process which excludes errors of academic judgement from appeal on the grounds that to exclude such errors provides clarity to centres on what constitutes an error and will help centres to manage the associated workload of considering such appeals at a time when schools and colleges are trying to focus their efforts on teaching and learning following the start of session 2020/21.

**Ground 2 above does not permit an appeal where the centre seeks to revise the original estimate on the basis that it considers that its judgement as to the estimate in May was wrong.**

The appeals process policy has specified the three grounds upon which a centre can submit an appeal:

- 1 The Head of Centre believes that there has been an error within SQA's internal processes for reinstating the original centre estimate
- 2 The Head of Centre believes that there has been an administrative error within the centre leading to provision of estimate information to SQA which did not accurately reflect the centre's intention at the time of submission, and/or
- 3 The Head of Centre believes that there has been discrimination or other conduct contrary to the Equality Act 2010 identified within the centre relating to protected characteristics, leading to the provision of estimate information to SQA which does not accurately reflect the centre's view following investigation of the circumstances carried out by the centre.

We anticipate that these circumstances will arise only exceptionally. It is only the Head of Centre, or their nominated representative, using their professional judgement and discretion, who is able to submit an appeal.

Inevitably the act of constraining the appeals process to exclude errors of academic judgement presents a risk of legal challenge by aggrieved candidates, parents or centres likely directed against both SQA and the Scottish Government, but in line with any process defined by policy, should SQA receive an appeal which merits truly exceptional consideration – including errors of academic judgement – SQA would consider such a case on its individual merits.

Further, should SQA accept a broader definition of appeals to include errors of academic judgement, there would be an additional increase in the 2020 attainment statistics undermining the credibility and integrity of qualifications and the anticipated drop in attainment in 2021.

In summary, allowing errors in academic judgement to be considered under the appeals process would result in workload issues for centres at a time when teaching and learning needs the full attention of teaching staff.

I look forward to hearing from you.

Regards

Jean

**Jean Blair**  
Director of Operations

**t:** [Redacted s38(1)(b)] | **e:** [jean.blair@sqa.org.uk](mailto:jean.blair@sqa.org.uk) | **w:** <http://www.sqa.org.uk>  
Scottish Qualifications Authority  
24 Wester Shawfair, Lowden, Dalkeith, Midlothian EH22 1FD

## **Enclosure 20.1 – Attachment: Appeals 2020 – How to Submit an Appeal Request**

### **Appeals 2020 – How to Submit an Appeal Request**

Further to the Deputy First Minister's direction to SQA on Tuesday 11 August and our email to centres of Friday 14 August confirming the new centre appeals process for 2020, we are now able to provide further details.

In line with this direction, SQA will award candidate results based on the estimates submitted by centres with the exception that upgrades awarded during SQA's moderation will remain.

As a result of this change in approach to awarding qualifications, and as advised by the Deputy First Minister in his statement to Parliament on 11 August, there is no longer the need for exactly the same appeals process that was planned to consider cases where awarded grades were lower than teacher estimates.

This means that SQA's plan to operate a Post Certification Review Process (appeals) as part of the Alternative Certification Model for 2020 has been replaced by a revised appeals process.

As stated on Friday, there are now three grounds upon which a centre can submit an appeal:

- 1 The Head of Centre believes that there has been an error within SQA's internal processes for reinstating the original centre estimate
- 2 The Head of Centre believes that there has been an administrative error within the centre leading to provision of estimate information to SQA which did not accurately reflect the centre's intention at the time of submission, and/or
- 3 The Head of Centre believes that there has been discrimination or other conduct contrary to the Equality Act 2010 identified within the centre relating to protected characteristics, leading to the provision of estimate information to SQA which does not accurately reflect the centre's view following investigation of the circumstances carried out by the centre.

We anticipate that these grounds will arise only exceptionally. It is only the Head of Centre, or their nominated representative, using their professional judgement and discretion, who can submit an appeal.

Ground 2 above does not permit an appeal where the centre seeks to revise the original estimate on the basis that it considers that its judgement as to the estimate in May was wrong.

Centres are asked to ensure the following in progressing an appeal:

- The request must be submitted using SQA's "request for consideration by exception" form.
- This form can be requested from, and submitted to, [appeals2020@sqa.org.uk](mailto:appeals2020@sqa.org.uk)
- The request must come from the head of centre, or their nominated representative, and include justification for the request.
- Candidate consent must be obtained by the centre before submitting a request.
- Correction of an administrative error made by the centre may result in a change of grade – up or down. Any downward grade change will be as requested by the centre.
- The centre must confirm that the new estimate or entry now sought can be supported by evidence held by the centre and can be provided if requested
- Centres are asked to submit priority requests for university or college admission as soon as possible and no later than **25 August**. Details of the conditional offer must be provided when making the request. Outcomes will be advised to UCAS by 4 September.
- All other requests must be submitted by **7 September**

## **The appeal process**

Following receipt of a completed *“request for consideration by exception” form*, the request will be considered by a panel of senior SQA officers, with the final outcome signed off by an SQA Director and centres will be notified of the outcome in writing. The outcome will be either that the appeal is unsuccessful for which SQA will provide reasoning or the appeal is successful and the estimate provided by the centre will be awarded.

In line with other appeals services operated by SQA, a centre can use the escalated appeals process if the centre believes that there has been a procedural irregularity when SQA has carried out this appeals process which has affected the outcome of the appeal. However, due to the tight timelines involved, it will not be possible to conclude escalated appeals ahead of the deadline for Universities and College Admissions System or Higher Education Institution deadlines for admission to courses for 2020–21.

Further information on the escalated appeal process will be published on SQA Connect in due course.

**Enclosure 21 – Email: SQA Appeals Process - communication to centres**

**From:** Pentland MK (Malcolm) <Malcolm.Pentland@gov.scot>  
**Sent:** 18 August 2020 16:03  
**To:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>  
**Cc:** Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; [Redacted s38(1)(b)] [Redacted s38(1)(b)]; [Redacted s38(1)(b)]@educationscotland.gov.scot>; [Redacted s38(1)(b)]@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Communications DFM & Education <CommunicationsDFM&Education@gov.scot>; [Redacted s38(1)(b)]@gov.scot>  
**Subject:** SQA Appeals Process - communication to centres  
**Importance:** High

PS/DFM

Copy: as above

To note, please find attached a communication that SQA is sharing exam centres and key stakeholders today. This covers the details of the process as already agreed. It sets out the three grounds upon which a centre can submit an appeal:

- 1 The Head of Centre believes that there has been an error within SQA's internal processes for reinstating the original centre estimate
- 2 The Head of Centre believes that there has been an administrative error within the centre leading to provision of estimate information to SQA which did not accurately reflect the centre's intention at the time of submission, and/or
- 3 The Head of Centre believes that there has been discrimination or other conduct contrary to the Equality Act 2010 identified within the centre relating to protected characteristics, leading to the provision of estimate information to SQA which does not accurately reflect the centre's view following investigation of the circumstances carried out by the centre.

It is also clear that ground 2 above does not permit an appeal where the centre seeks to revise the original estimate on the basis that it considers that its judgement as to the estimate in May was wrong.

Thanks  
Malcolm

**Malcolm Pentland** | Deputy Director  
Curriculum, Qualifications and Gaelic Division | email: malcolm.pentland@gov.scot | tel: +44(0) 131 244 0047 | 07 [Redacted s38(1)(b)]

Learning Directorate | Area 2B North | Victoria Quay | Edinburgh | EH6 6QQ  
Buidheann-Stiùiridh an Ionnsachaidh | Raon 2B Tuath | Cidhe Bhictòria | Dùn Èideann | EH6 6QQ