

FOI REVIEW 202100241427: INDEX OF ENCLOSURES

No.	Description	Date	Explanation of redactions	Clause
10.1	Attachment: Appeals model paper		Free and frank exchange of views	s30(b)(ii)

NQ 2021 Appeals Model

Introduction

1. The aim of this paper is to outline the various considerations and perspectives that SQA has attempted to balance when developing the appeals model for National Qualifications in 2021.

2. This paper sets the proposal for appeals in the context of SQA's role and the 2021 Alternative Certification Model (ACM). It describes regulatory factors, outlines details of the consultation and feedback received before looking in detail at the key issues and decisions required.

Context

About SQA — our functions and responsibilities

3. Under the Education (Scotland) Act 1996 SQA has statutory functions for National Qualifications other than degrees in Scotland, as outlined in the Education (Scotland) Act 1996. Qualifications offer a standard and consistent way of demonstrating that someone has a level of competence in a particular subject or skill set.

4. SQA sets, maintains, and monitors standards as part of our role as Scotland's National Qualifications body. This includes defining the level of knowledge and skills needed to achieve a qualification and how those standards are to be demonstrated, then applying these standards to each learner's assessment to determine whether they have reached the national standards for that qualification. Our approach to this is explained in our Code of Practice.

5. This is important as it means that employers and universities, for example, can have confidence that the people they employ or enrol have the knowledge, skills and understanding they need them to have. This is also good for individuals — it means they too can have confidence that the qualifications they have earned have been earned by everyone else in the same way. Consistent standards over time provide flexibility for learners to access immediate opportunities today, and different opportunities later in their career. They also support geographic mobility, both within Scotland and beyond.

6. When assessment is carried out by a mixture of coursework and exams, National Qualifications are awarded based on the professional academic judgement of a subject specialist teacher or lecturer who is engaged by SQA as a marker. They consider the knowledge, skills and understanding demonstrated by a learner in relation to the national standards for that qualification. The judgements of the teachers and lecturers are also subject to quality assurance checks.

7. SQA also takes steps to ensure that all learners can show that they have reached the national standards for their qualification, and that no one is unfairly disadvantaged. For example, SQA oversees arrangements for reasonable adjustments to be made for learners with additional support needs. These adjustments that aim to mirror support for learning are based on the individual assessment needs of the learner and can include such things as providing additional time or a scribe in an exam. In making decisions about reasonable adjustments in the assessment of its qualifications, SQA takes account of:

- the need to give disabled learners as full an opportunity as possible to show they have the knowledge, skills and understanding required for the qualification they are sitting
- the need to ensure that the qualification is a reliable indicator of the knowledge, skills and understanding of a successful learner
- the need to maintain public confidence in the qualification

8. In years where there has been less disruption and we have had exams, SQA has an appeals process, called Post Results Services (PRS). This is a service that allows centres to ask for a clerical check of the marks and/or for a subject specialist teacher or lecturer working for SQA to review the marks awarded to both coursework and exams and consider if the result should move up, down or stay the same.

9. In previous years, SQA also had a process called 'exceptional circumstances'. This is open to National Qualifications learners who have been unable to sit an exam or whose performance in an exam has been affected by something serious that happened on or close to the day of the exam, such as a close family bereavement or a sudden, serious illness. In such cases, there is scope for a review of alternative assessment evidence to determine whether the learner achieved the national standards.

10. At all times, a learner's grade is awarded based on the knowledge, skills and understanding they have demonstrated, otherwise known as demonstrated attainment, relative to the national standard for the qualification.

11. In 2020, SQA outlined a service called Post Certification Review, whereby any grades that had been moderated by SQA could be reconsidered. Centres would send SQA evidence that demonstrated learners' attainment and, again, a subject specialist teacher or lecturer working for SQA would review that evidence and consider if the result should move up, down or stay the same.

12. This process was not put into practice as, following the Ministerial direction on 11 August 2020, SQA was asked to create an appeal process consistent with the direction that learners (whose grade had not already been moderated upwards by SQA) should be certificated as per the centre estimates supplied to SQA in May 2020.

2021 approach to awarding

13. This has been a challenging year for learners and their schools, colleges, and training providers. The COVID-19 pandemic has meant that exams have been cancelled for a second year and teaching and learning have been disrupted. An ACM has been developed by the National Qualifications 2021 Group (NQ 2021 Group). On 16 February 2021, the NQ 2021 Group published information about the revised ACM for delivering National 5, Higher and Advanced Higher results in 2021. The approach has professional judgement of teachers and lecturers at its heart, supported by local and national quality assurance.

14. While the awarding of grades for National Qualifications will be different this year in the absence of an exam diet, grades will nevertheless be based on evidence of knowledge, skills and understanding of individual learners. Teachers and lecturers will determine results

based on the evidence generated by individual learners and the level of attainment they demonstrate when compared against national standards — demonstrated attainment.

15. Having anticipated significant disruption to learning this session, actions have been taken across the Scottish education system to ensure learner evidence that demonstrates attainment can be gathered:

- SQA has reduced the evidence requirements for each National Course to a minimum to preserve the validity and public confidence in the qualifications.
- SQA has also published 116 subject-specific guidance documents across National 5, Higher and Advanced Higher courses.

— These documents summarise the key pieces of evidence required as the basis for provisional results.

— They also highlight the option of separating and adapting assessments which have been made available so that teachers and lecturers have the flexibility to assess learners at times and in ways that are appropriate to their needs.

— In many subjects, assessment components have been removed and content and contexts have been reduced to enable a narrower focus for this session.

— Planned National Qualification verification activity has also been reduced to allow more time to support learning and teaching.

16. When provisional results are communicated to SQA by schools and colleges at the end of June, they will have already been subject to sample-based quality assurance and approval processes within the school or college. There will also have been other activities to support quality assurance, for example, by local authorities.

17. Teachers and lecturers will provide ongoing feedback to learners regarding their progress and assessments, including, at the conclusion of the course, provisional grades based on evidence of demonstrated attainment.

18. Steps being taken to assure quality by both centres and local authorities are further supported by national quality assurance and Understanding Standards materials.

19. A key element of the ACM is that it requires centres to discuss how they arrived at a learner's provisional result with them. Outlined in the agreed roles and responsibilities document, there is a specific responsibility for centres to ensure learners have an opportunity to discuss the rationale behind their provisional results with their teachers or lecturers, the evidence that was used to make the awarding judgement, and also to ensure the learner understands all the layers of quality assurance that have been applied. Combined, these steps are a key element of ensuring that results are fair and in line with national standards.

Appeals — the final stage of the ACM

20. All stakeholders are committed to ensuring learners receive accurate and fair results. The ACM has been carefully designed to ensure this is the case, with SQA and centres both playing a part in making this happen.

21. However, in any process there can be errors or other manifestations of unfairness. It is in these circumstances that it is important — for learners, their parents and all others involved to have confidence in the qualifications awarded — that there is a well-functioning appeals process.

22. In developing the appeals model, SQA has aimed to balance three key aspects:

- That the principles of awarding qualifications that underpin the ACM also underpin the appeals process.
- That the appeals process is compliant with the law and that it respects the rights contained in the United Nations Convention on the Rights of the Child.
- That the appeals process can be delivered; that it is operationally viable for SQA and all stakeholders that play a part in its delivery.

23. Throughout the development of the appeals model, SQA has tried to ensure that the needs and considerations of learners have been kept central to our thinking.

Carrying forward principles from the ACM

24. The appeals process is the final stage of the ACM. As such, it is important that it is consistent and that the principles underpinning the ACM are carried through into the appeals model.

25. A key consideration here is the principle of demonstrated attainment and, as it manifests in the appeals stage, the related principle of appeals which can see a grade go up, down or stay the same. This is discussed in more detail in the Key Issues section.

Regulatory and legal considerations

SQA's equality duties

26. SQA has a responsibility to assess the impact of new or modified policies and practices against our need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not

27. The equality duty covers the nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

28. Accordingly, an Equality Impact Assessment (EIA) of the appeals model for graded National Courses in session 2020–21 will be published alongside the model and has been considered while making decisions about the appeals model itself.

29. This EIA considers the potential impact of the 2021 Appeals Model on candidates who share protected characteristics and how any potential negative impacts that are identified could be mitigated. Other groups of candidates, such as those who are socio-economically disadvantaged, or who experience other circumstances that present barriers to accessing qualifications, have also been considered wherever possible. Although such groups are not covered specifically by the Equality Act 2010, the NQ 2021 Group recognises that a wide range of factors can have an impact on a candidate's ability to achieve qualifications.

30. Furthermore, SQA has a specific Corporate Parenting commitment to ensure its EIA process considers the needs of care experienced young people, by treating care experience as if it were a protected characteristic covered by the Equality Act.

31. SQA has met with and been in correspondence with the Equality and Human Rights Commission (EHRC). The EHRC has outlined several views. Firstly, they believe that creating a route for appeal on grounds of discrimination falls within the scope of SQA's legislative powers.

[Redacted s30(b)(ii)]

33. SQA cannot make a judgement on the fact of discrimination; it is beyond SQA's powers to adjudicate on such an issue.

34. In communication with SQA, the EHRC relies on the public sector equality duty, which is a duty to have regard for certain needs, but it does not prescribe any particular actions that a public body must take, or outcomes that must be achieved. How SQA 'has regard' to needs is a matter for itself, acting reasonably. Indeed, the public sector equality duty itself does not require SQA to have any kind of appeal mechanism.

[Redacted s30(b)(ii)]

SQA and children's rights

36. SQA has developed a Children's Rights and Wellbeing Impact Assessment that summarises the evidence reviewed by SQA to inform development of the appeals model for graded National Courses in 2021 in relation to impacts on children's rights and wellbeing.

37. While SQA supports lifelong learning and awards qualifications to learners across the age spectrum, it is clear that many learners taking SQA graded National Courses are aged 16 or 17 and would identify as children or young people.

38. In developing this appeals model, SQA extended the principles of the ACM and drew on the Children's Rights and Wellbeing Impact Assessment of the ACM published on behalf of the NQ 2021 Group in February 2021. As with its EIA, SQA reviewed the range of available evidence to inform its decisions in the context of its duties as the statutory national awarding body in Scotland for qualifications other than degrees. These duties are set out in the Education (Scotland) Act 1996, as amended.

United Nations Convention of the Rights of the Child

39. Scotland is set to directly incorporate the United Nations Convention on the Rights of the Child (UNCRC) into domestic law. The UNCRC (Incorporation) (Scotland) Bill was introduced to the Scottish Parliament on 1 September 2020. Once enacted, it will be unlawful for public authorities to act in any way that is incompatible with the incorporated UNCRC requirements. This will give children, young people, and their representatives the power to go to court to enforce their rights.

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

41. SQA has carried out a research exercise to look for international practice in implementing the UNCRC in relation to qualifications.

42. We have found that there is a variety of approaches taken by different countries, both in terms of UNCRC implementation and regarding appeals against academic judgements.

43. SQA believes the appeals process that has been developed advances the realisation of children's rights as it places the decision on whether to appeal (or not) in the hands of the learner, while ensuring that learners are appropriately supported with the information they need to make decisions that are in their best interests.

Operational deliverability

44. When delivering a public service, it is important that the service operates effectively. It is of no benefit to Scotland's young people nor any other stakeholder to outline an appeals process that cannot be operationalised.

45. As such, throughout the engagement process, both SQA and stakeholders have considered the complex issues through a delivery lens, including the dependencies SQA has on all schools and colleges and their staff (both in-centre and also as the population from where SQA appointees are drawn), local authorities and other, national stakeholders. In addition, SQA's own capacity and resources are both key enablers and there are some manageable risks associated with this.

46. Furthermore, SQA also has to consider its own staff and resources when considering operational delivery, being mindful of the layering of processes and activity in crucial periods; ensuring — as a good employer — that it is fully aware of the strains any decisions made place on staff and their wellbeing.

47. Taken together, there is an interplay between all parts of the education system that makes decisions on the operational viability of any solution complex, requiring not only SQA's confidence in its own ability to deliver, but in the ability and support of all parts of the system to do likewise.

48. Unlike previous years when the diet of examinations has meant that SQA has had immediate access to the examination scripts and externally assessed coursework to review during the PRS, there will be a need for SQA and centres to work together to ensure that learner assessment evidence can be secured from centres for this year's appeals process.

49. Overall, it would be operationally feasible for SQA to deliver an earlier priority appeals service, but this would be on the assumption that appointees and evidence would be available, and this would need the support of the wider system.

50. It would also be operationally feasible for SQA to provide a service which would enable learners and centres to signal an intent to appeal from 25 June on the understanding that the full end to end appeals service would be available from 10 August.

Gathering views

51. SQA has used several approaches to gather a wide range of views on the appeals model.

Public consultation

52. Feedback on SQA's draft proposals was gathered via a consultation questionnaire with nine substantive questions, which focused on:

- How learners can be supported in deciding whether or not to make an appeal

- How the appeals process should best be managed between centres and SQA
- The parameters of the appeals process and the grounds for appeal
- SQA's public sector equality duty

53. The consultation was published on SQA's website and most responses were directly submitted this way, with a small number submitted via email. It was open for responses from 12 March 2021 and closed on 26 March 2021. The full analysis is available in Appendix 1.

Stakeholder engagement

NQ Working and Steering Groups

54. SQA established a National Qualifications Steering Group supported by a working group, to enable co-creation and development of the ACM. It naturally followed that these groups were used to discuss and help shape the development of the appeals model.

Insights from these groups are described in the sections below.

SQA Learner Panel

55. Similarly, SQA established a Learner Panel to help develop the ACM. Again, the panel was used to discuss and help shape the appeals model.

56. The SQA Learner Panel gives young people the opportunity to share their views on key SQA activities which will help with decision making. SQA also looks to the Learner Panel to advise on specific methods of engagement and style of communication.

Insights from the panel are described in the sections below.

Equality and Inclusion Key Partners Group

57. The Equality and Inclusion Key Partners Group was established to bring together representatives from SQA's Inclusion Group and from a range of equality groups. The Group focuses on the potential impact of SQA's policies and practices on candidates from different equality groups. The remit of the Group is to explore, discuss and identify solutions and strategies designed to tackle identified barriers to inclusion and equality for candidates.

SQA Groups

58. SQA worked with its own committee and council structure throughout the development of the appeals model.

59. SQA's Board provides leadership, direction, support and guidance to ensure the SQA delivers and is committed to delivering its functions effectively and efficiently.

60. The Advisory Council's role, as set out in the Scottish Qualifications Authority Act 2002, is to consider and provide advice to SQA and/or Ministers on matters relating to qualifications devised or awarded by SQA, and the functions and procedure of SQA.

61. SQA's Qualifications Committee provides strategic, policy and technical advice to the SQA Board and senior officers on SQA's qualifications and their assessment, quality assurance and awarding systems. It also oversees the work of SQA in developing qualifications that meet the needs of learners, centres and employers, now and into the future.

62. All three groups were involved in discussions through the process of developing the appeals model. This enabled SQA to access a wide range of experience and perspectives that added to the depth of understanding of the range of issues the appeals model is required to balance.

Key issues in detail

Fundamental aspects of the appeal process

What is an appeal?

63. An appeal is a request for a reconsideration of a learner's provisional result. The provisional result is the result schools and colleges will communicate to learners and submit to SQA by 25 June.

64. Although these provisional results are subject to checks to ensure SQA has received all the results, they will not be changed by SQA. The only way a result will be changed at this point is if the school or college informs SQA it has made an error.

What can an appeal outcome be?

65. An appeal may lead to a change of grade (A-D or No Award).

66. The only other circumstance that will be considered are the rare occasions when a learner requires a particular band result — usually band 1 — to get onto a particular university course. In this instance, where an immediate progression opportunity rests on the band result, SQA will accept that as an appeal.

Who can appeal?

67. All learners can appeal.

68. The decision to appeal is for the learner to take. Centres will not act as gatekeepers to the process — if a learner decides to appeal, they will be able to do so.

69. However, learners have a right to be supported to make good decisions. This is an aspect that the Children's Commissioner is very clear about; seeing it as a matter of children's rights that they are properly advised.

70. This applies to all learners, including private/home educated learners.

What will it cost to appeal?

71. SQA will not levy any charges to learners or their centres for an appeal in 2021.

Conclusion

- An appeal is a review of the provisional result submitted to SQA in 2021.
- SQA will amend learner results if advised of an administrative error by the centre.
- SQA will make no other amends to the provisional results received from centres.
- Only grades can be appealed, except in the specific circumstance where a band result is required for immediate progression purposes.
- All learners can appeal and are able to make the decision to appeal themselves.
- All learners are entitled to support and guidance to make this decision which will be provided by centres.
- There will be no charges for appeals in 2021.

Grounds for appeal

72. A key facet of the appeals model is the basis on which appeals can be submitted and will be considered. There were a range of views on how to frame the grounds for appeal. In essence, the appeals process exists to ensure the fair awarding of qualifications — however, the notion of fairness can be contested so needs to be carefully defined.

73. SQA considered an approach to fairness that was rooted in the application and adherence to SQA's processes, meaning the grounds for appeal would be fairness and it would be evidenced as fair if SQA was able to satisfy itself that its process and policies had been adhered to.

74. This approach would have enabled a comprehensive approach to appeals but would have also required a significant amount of SQA resource to deliver — both to carry out a screening review in order to evaluate whether the appeal met the criteria, then to consider if the centre had adhered to SQA policies. Thereafter, further resources would be required to collate the evidence and oversee the appointee review of material.

75. This approach would also have placed a resource requirement on centres as the level of engagement with SQA required was high. Stakeholders were also concerned about having sufficient clarity about the processes they were being required to follow, and how difficult it would be for learners to understand what would and would not be a successful appeal.

76. Given these reservations, SQA moved away from this approach to a much broader ground of allowing appeals on the academic judgement made by centres in deriving the provisional result. This is straightforward to communicate and understand and was widely accepted by stakeholders.

77. Learners will be able to request that SQA reviews their evidence. There are no further qualifying grounds for appeals of this type.

78. SQA appointees will review the evidence used to determine the provisional result, making a new assessment of the evidence.

79. SQA decided not to introduce a requirement for the learner to provide a lengthy explanation of why they believed their evidence should be checked again for this type of appeal, in response to concerns expressed by stakeholders that such a hurdle could lead to inequity in access to the appeals system.

80. There will also be two further types of appeal:

Appeals against an administrative error by the centre or by SQA

81. There is already a process for when centres realise they have made a mistake in providing SQA with provisional results. However, there may be instances where the learner believes an administrative error needs to be corrected and the centre (or SQA) disagrees. In these instances, SQA will require the learner to provide a short, written explanation of what they believe has occurred.

82. Genuine errors are most often identified by centres and quickly put right. So, we anticipate that these appeals would be very rare.

Appeals on grounds of discrimination contrary to the Equality Act 2010

83. SQA has certain duties under equality law to make sure learners do not face discrimination when being assessed for our qualifications. Centres also have a series of legal obligations to make sure discrimination does not happen — but if this were to happen it may have an impact on learners in relation to their qualifications.

84. So, there are two grounds for an appeal of this type:

- i. There has been discrimination or other unlawful conduct contrary to the Equality Act 2010, acknowledged in writing by the centre or established through court proceedings or by a ruling of the SPSO, or
- ii. The centre failed to comply with SQA requirements in relation to providing assessment arrangements, contributing to a disabled candidate's provisional result.

85. In these instances, SQA will require learners to provide a short, written explanation of what they believe has occurred.

86. Type (i) is for instances where learners have already concluded a formal process where an appropriate organisation with relevant powers and obligations has reached a conclusion that discrimination or other unlawful conduct has taken place. This might include the learner having approached their centre and raised the issue of discrimination with them. For an appeal to be submitted, this process would have to have concluded, and a decision would have to have been made about whether discrimination had occurred or not.

87. SQA will agree to consider any type (i) of appeals beyond the limited opening period for other types of appeal, in recognition of the extended timelines that can apply for the related formal processes.

88. In this instance, SQA will review the information available, including the written record of the outcome of that formal process. SQA will then decide if the appeal is upheld or not.

89. If it is upheld, SQA will work with the centre to determine the best way of making sure the learner is awarded their qualifications in a fair and non-discriminatory way. The best way to do so will depend on the circumstances of the appeal.

90. Type (ii) is where a learner has an assessment arrangement — for example, extra time to complete exam-type tests, or enlarged materials that are easier to read — which was **already agreed** with their centre and was not put in place.

91. This type of appeal will only apply when these arrangements have already been in place; it isn't possible for the learner to approach a centre or SQA after the assessments have concluded to claim an arrangement should have been agreed.

Were such appeals to be widespread, they would make the operation of the appeals process difficult as each appeal of this type would be complex and long running.

92. SQA does not take the view that there are likely to be large numbers of unwarranted appeals but wants to ensure that there is a route for equality related appeals that fit with SQA's statutory functions and the limits of those functions in terms of its ability to investigate and adjudicate on equality breach claims.

Conclusion

93. There are three types of appeal:

- An appeal against the academic judgement made.
- An appeal against a contested administrative error.
- An appeal on grounds of discrimination contrary to the Equality Act 2010, in certain circumstances and also in regard to agreed assessment arrangements breaches.

94. Centres can also advise SQA of any administrative errors they identify.

Demonstrated attainment and symmetric appeals

95. There were a range of views about the role of demonstrated attainment in the ACM itself and, consequently, the appropriateness of appeals that can see a grade move up, down or stay the same on appeal ('symmetric appeals') versus an approach that can only see grades move up or stay the same ('no detriment appeals').

96. On one hand, learners — notably SQA's Learner Panel and the Scottish Youth Parliament — parents, including parent representative groups at both SQA's Advisory Council and at the NQ Steering Group, and the Children's Commissioner all hold the opinion that no detriment appeals are the only appropriate approach to take in 2021.

97. They argue that, as 2021 has been so challenging for so many people, especially young people, for them to appeal and the outcome to be a lower grade than their original grade would be unfair; that young people would feel doubly let down by such an outcome and that — given the stresses of the year — is something that they should not face.

98. Alternatively, education stakeholders tend to see symmetric appeals as necessary as they are consistent with a key principle of both the ACM and of awarding qualifications in general.

99. In addition, SQA's commissioned research with the higher and further education sectors and with employers stressed the importance of demonstrated attainment as something of value to them. Those stakeholders did not want to discount the possibility of having an appeals process that could adjust awards based on learners' individual experiences, but they could not offer suggested methods of doing so in a way that preserved the importance of demonstrated attainment.

100. Qualifications are awarded based on the competence an individual has shown. They are awarded on a consideration of evidence that shows the individual's knowledge, skills and understanding. So, the award of a qualification is a direct consequence of the attainment demonstrated through evidence. This principle underpins the ACM.

101. In an appeals context, the same principle would apply — and indeed has applied in our PRS to date. This means that the appeal outcome would also be a direct consequence of demonstrated attainment. For that to be the case, it must follow the assessment of the evidence carried out as part of the appeal — whether that judgement is the same, higher or lower than the original awarding decision.

102. These positions are irreconcilable. On balance, SQA considers the right approach is to implement a symmetric appeals process. All qualifications are based on a direct link to the holder's competence. Weakening or removing that link runs the risk of devaluing qualifications for all holders of that qualification — past, present and future.

103. The operational impact of a system of no detriment appeals also must be considered. Higher appeal volumes would require more resources to handle them, leading to a greater demand on the whole education system. This is because SQA would need more appointees to spend more time reviewing appeals. This would place a high level of demand on teachers' and lecturers' time being made available to SQA. This in turn would be highly disruptive to the crucial first few weeks of the 2021/22 academic year.

104. Higher volumes of appeals would also increase the demand on schools and colleges as the steps required in centres — not least the collation of evidence to pass to SQA — would risk becoming problematic, noting this would be at the beginning of the 2021/22 academic year where centres' priority will undoubtedly be on making a good positive start to the new academic year for everyone's benefit.

105. So, no detriment appeals risk a very high volume of appeals, meaning longer fulfilment times for appeals in 2021, a strain on the education system at the start of the new academic year.

106. As such, despite the strength of views on this issue held by many learners and parents, the best approach is to ensure appeals in 2021 can move grades up, move grades down or keep them the same. SQA recognises that this will likely be unpopular and may make wide public acceptance of the appeal model harder to achieve.

Conclusion

□ Demonstrated attainment is a key principle of the ACM and awarding of qualifications in any year.

□ As such, demonstrated attainment must carry through into the appeals process and it does so through symmetric appeal decisions that remain consistent with the standard of the evidence reviewed.

□ SQA holds this position in full knowledge of the strength of feeling, particularly from learners and their representatives, that this is something they do not agree with and will not accept.

□ SQA further notes that the position held by the Children's Commissioner mirrors and informs the views expressed by most learners and parents, and the Commissioner's Office has indicated a lack of support for both symmetric appeals and the principle of demonstrated attainment.

Supporting learners over the seven weeks between provisional results and certification day

107. The window between learners being advised of their provisional results and formal certification is a matter of concern for many stakeholders, especially SQA's Advisory Council. This period — of around seven weeks, though longer for some learners — is an unintended consequence of one of the lessons learned from 2020, where disquiet was due to learners not being aware of their provisional results until they were formalised at certification. This led to a mismatch in expectations and a widespread belief that a disappointing result must have been caused by SQA's moderation process, fuelling public unease.

108. During the development of the ACM, the decision was made to ensure a 'no surprises' approach in 2021 to avoid any gap between learners' expectations and the provisional result. We anticipate that many learners will understand and accept their result at this point, and that many will be pleased with the outcome. There will of course be a number of learners who find themselves disappointed with the provisional result communicated to them by their centre at the conclusion of the course.

109. SQA investigated steps that could be taken to support these disappointed learners. However, a key constraint on activity during July and early August is the standard academic year. As described in contractual terms and conditions for staff in many centres delivering SQA National Qualifications, centres are effectively closed. Indeed, stakeholders have consistently explained that it is not reasonable for SQA to require centres to be open and able to carry out any actions over the summer break as staff availability and access to required information will be limited.

110. This leaves a period where centres are closed and little awarding or appeal related activity can take place; evidence will be physically located in (closed) centres and centre staff will, largely, be unavailable to handle queries. To many stakeholders and to SQA, this seemed to introduce a further risk to learners' health and wellbeing. If learners are already concerned about their results, and the opportunities available to them in light of those

results, having a ~seven-week window in which they are unable to act seemed like an unacceptable pressure to place on young people.

111. Although SQA is now opening the appeals service to enable learners to signal their appeal from June, this only goes so far in mitigating this issue. In recognition, stakeholders have expressed support for the system coming together to create a package of support for learners over the summer.

112. SQA can play its part but it will be dependent on others doing likewise. Skills Development Scotland have already signalled an intent to review what they can do and local authorities' non-school resources have also been suggested, as have some third sector bodies.

113. The Scottish Youth Parliament were supportive of such measures but would like to see detailed information before formally supporting them; an intention to do so will not be enough to elicit support unless supported by detail.

114. Active consideration of what SQA can do, and what partners — including the Scottish Government — can provide is necessary.

Conclusion

- SQA recognises the challenge some learners will face over the summer break.
- SQA has approached the Scottish Government and will work with stakeholders and others to develop a package of supportive measures that can be implemented over the summer.

Defining priority appeals

115. In normal appeals procedures, centres can highlight learners who can access a priority appeals service where there is an immediate progression opportunity within further or higher education that is dependent on the appeal outcome. Following suggestions made in response to the appeals consultation, SQA explored expanding the definition of priority appeals to include those from learners with immediate workplace progression needs, known mental health conditions and those facing the kind of personal circumstances that in other years would make them eligible for the exceptional circumstance consideration service.

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

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

118. As such, SQA has proposed to expand the definition of priority candidates to bring in those with a workplace progression need, but not to include those with mental health issues or what might otherwise be considered exceptional circumstances.

Conclusion

- Priority appeals should be available for those candidates with an immediate progression opportunity to HE, FE or employment dependent on a grade (or in some specific instances, a band).
- Including employment in this definition is an extension of SQA's previous position.

Running the process for priority appeals from June

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

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

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

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

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

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

123. Delivery would also be at risk if SQA were unable secure senior appointees and evidence from centres in the tight window in which to consider priority appeals. Given the time constraints, the SQA processes to support such appeals would also be manual, meaning there is a higher risk to safe and secure delivery.

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

Conclusion

- The priority appeals process should not open in June.
- The priority appeals process will open in August.

Opening the appeals service for all learners in June

125. To help mitigate the risk to learners' wellbeing over the seven weeks between receipt of a provisional result and certification day, it was suggested that SQA open the appeals service in June, allowing all learners to signal their intent to appeal.

126. This would be for initiating an appeal. The process for retrieving evidence, passing to appointees, etc would still begin in August.

127. A June start would allow SQA to alert centres of appellants and prompt them to have the required appeal conversation on return to school in August. The benefits of this are three-fold:

- There is a benefit to learners by allowing them to act.
- By identifying themselves as appellants over the summer, this would allow supportive communications and engagement directly with the appellant from SQA/partners.
- It would begin to give SQA a sense of the baseline volume of appeals — though it is inevitable some appeals will be received after 10 August certification.

128. On balance, SQA takes the view that opening the appeals service to enable the appeals process to start is a positive contribution to learners' wellbeing and will improve SQA's ability to plan delivery of the appeals service. It will allow SQA to identify those learners for whom an appeal is a key next step, enabling both supportive communications and intelligence about likely demand for the service.

Conclusion

- A learner interface will be provided from late June for learners to signal their intent to appeal.
- Despite the limited activity that can take place to begin actioning the appeal, there are a number of benefits to learners that can be realised.

Appeals on grounds of the evidence used to determine the provisional result

129. There are issues to consider about the extent to which learners can challenge an academic judgement, and whether that should extend beyond the assessment of the evidence to include an appeal that challenges the selection of evidence selected for assessment.

130. In the ACM, centres are asked to apply their judgement in two ways. Firstly, SQA asks them to select appropriate evidence on which to make an assessment decision. SQA has provided subject-specific guidelines as to what evidence is appropriate, but within that guidance there is flexibility for centres to vary the assessment approach to consider the circumstances of their learners and ensure as many as possible were able to generate sufficient evidence to demonstrate attainment.

131. Secondly, centres are asked to assess the evidence, decide the level of attainment it demonstrated and produce a band result that SQA can convert to a grade.

132. The appeals model includes the opportunity for candidates to challenge this second judgement, given as appeals type (A) in the section below. SQA considered whether it was appropriate, as part of the appeals service, for candidates to be able to challenge the other academic judgement, ie the evidence used.

133. When this topic has been raised with education stakeholders, the response has been firmly and determinedly that this should not be permitted. It has been argued that this would be an unworkable second-guessing of a judgement the ACM has asked centres to make, and so should trust them to make. It is different in nature from the final academic judgement because the latter involves the application of the national standard for each qualification (and so can be revisited on an objective basis) whereas the selection and generation of evidence has, in 2021, moved away from a national standard approach and involves centres and teachers making more personalised or centre specific judgements about the evidence that should be used.

134. Furthermore, there are considerable practical considerations. From a delivery perspective it is highly likely to be unworkable for SQA to consider what alternative evidence ought to be considered instead or as well as the evidence originally considered. Another potential difficulty is that the evidence thought by a learner to demonstrate a higher performance than they had been awarded may, on review, turn out not to support that higher standard because the assessment task itself did not assess at a high enough level.

135. On balance we believe the best course of action is not to allow appeals against the evidence selected by a centre. To do so would likely introduce such complex considerations about the nature of the evidence that it would add a burden to centres and teacher/lecturer workload and require significant appointee time, making the appeals process too unwieldy to operate effectively.

136. The key mitigating action here will be to ensure that all learners should discuss the evidence used by their centre as part of the conversations with learners, as outlined and agreed with stakeholders in the ACM roles and responsibilities document. SQA will support these conversations with an optional proforma that will allow centre staff to ensure they cover and capture all the aspects required in their conversations with learners.

Conclusion

- SQA can determine the scope of an appeal process, so long as that scope is itself lawful.
- SQA considers it impractical to allow learners to appeal against the evidence used to determine their results as each appeal would become overly complex and would undermine SQA's ability to deliver an appeal service for all learners.
- Given SQA can determine the scope of the appeals service and there is nothing unlawful about excluding appeals against the evidence used to determine the provisional result, SQA is excluding this from the appeals process.
- SQA notes that this is an area where some learners and their parents will attempt to lodge appeals and will feel determined to have them considered. As such, there is high probability that this position will be contested and subject to challenge, possibly legal challenge.

Colleges and schools: different levels of experience with internal appeal processes

137. Colleges and schools have different levels of experience with managing appeals as an internal process, with colleges tended to have significant experience of managing internal

appeals processes. SQA has responded to consultation — and stakeholder feedback — by developing an SQA-led appeals process, where centres' role is limited to:

- discussing the appeal with any potential appellant to make sure they understand the process, that grades can go up, go down or stay the same and provide their professional judgement as to the best interests of the learner to inform their decision to proceed with any appeal.
- submitting appeals on behalf of any learner who asks them to do so.
- collating and supplying assessment evidence to SQA.
- providing teachers/lecturers as appointees.

138. Nonetheless, it would seem to be unwise to ask colleges that are comfortable and confident with their longstanding processes to set these aside in relation to National 5, Higher and Advanced Highers in 2021.

139. In discussion with college management representatives, they are content that individual colleges should have discretion as to whether to offer additional levels of assurance to learners who query their intended provisional result before it is submitted to SQA. Individual colleges might elect to offer learners taking National Qualifications in their college parity with students taking other qualifications, in discussing the intended provisional result with the learner, and offering a further pre-submission review of the academic judgement. This way colleges retain the discretion to offer processes they are used to without inhibiting any college candidate from accessing the SQA appeals process thereafter.

140. It should be noted that staff associations indicated that parity between school and college candidates is important, and this is consistent with college candidates having the same post-result ability to initiate an SQA appeal. SQA is aware of some local authority schools and independent schools who have also indicated that they would wish to retain the discretion to offer these additional steps to learners before submission of the provisional result to SQA.

141. On balance, SQA considers that colleges carrying out their own internal appeal process is a choice they can make in delivering their part of the ACM **prior to the submission of provisional results to SQA on 25 June**. College candidates will have all the same opportunities to access the SQA appeals process and so will not lose out. Equally, schools will also be carrying out their own processes ahead of submitting provisional results — and these will differ by school and local authority. This is a function of the appropriate flexibility in the ACM so, in the absence of a single model for how individual centres operate ahead of submitting provisional results, such divergence is tolerable.

Conclusion

- College representatives were clear they did not wish to depart from a model that had worked for them over time.
- SQA also acknowledges that, in having an internal appeals process, colleges are implementing an SQA requirement.
- As such, the position that colleges will carry out any internal appeals-like processes ahead of the 25 June provisional results submission means they are effectively incorporating that into their ACM quality assurance processes.
- It should also be noted that SQA's liaison managers have reported that a number of schools are also planning to take a very similar approach.
- An internal appeal process that is part of the ACM stage can be anticipated to help reduce the number of appeals received by SQA from centres that operate them. However, the existence of an internal appeals process in a centre does not fetter any learner's ability to access the SQA appeals process in the same way as all other learners.

Conclusion and key elements of the appeal process

142. The above highlights the contested and complex nature of many of the aspects considered when developing the appeals model, noting that some stakeholder positions were irreconcilable and therefore difficult choices have to be made.

143. SQA has tried to do so while balancing regulatory requirements, the need for consistent principles between appeals and the other stages of the ACM and the fundamental deliverability of the model — as no one is served by a system that cannot be put into operation.

144. On balance, SQA believes a balanced appeals model works as follows:

- An appeal will be a request to reconsider the provisional result provided to SQA by centres on the 25 June. This will consider changes to grade only, except in one specific exceptional context (para 63 to 66).
- All learners will be able to appeal. It is their decisions whether to do so or not, and the service will be free of charge (para 67 to 71).
- Some centres, in particular colleges, may choose to implement an internal appeal process ahead of the submission of provisional results to SQA. This will in no way limit any learner's ability to access SQA's appeals process (para 143).
- There are three grounds for appeal:
 - Academic judgement (para 76 to 79)
 - Contested administrative error (para 81 to 82)
 - Discrimination, including assessment arrangements (para 83 to 92)
- Except in appeals relating to discrimination, learners will not be able to appeal against the evidence on which the provisional result was based that was selected by their centre (para 135).
- Appeal decisions will be symmetric, meaning grades can move up, move down, or stay the same (para 106).
- The appeals service will open to allow learners to signal their intent to appeal from late June (para 128).
- SQA will open the priority appeal service from 10 August (para 124). Priority appeals will be concluded in time to meet UCAS requirements.
- Appeals eligible for the priority appeal service will continue to be for those candidates with an immediate progression opportunity dependent on the outcome, with the definition widened slightly to explicitly include learners where the progression opportunity is into the workplace (para 118).
- SQA and stakeholders recognise the unique pressures that may be felt by learners who are advised of their provisional result in June but will not be certificated until August. Stakeholders will work together to ensure support is available over the summer period to support and signpost learners (para 107 to 114).