



Ms Fiona Robertson
Chief Executive
Scottish Qualifications Authority
Via email: Fiona.robertson@sqa.org.uk

23 July 2020

Dear Fiona,

I am writing following Kerry McMillan and Steve Borley's meeting with our Young Advisors Group (YAG) last week, and following the publication of our independent Children's Rights Impact Assessment conducted by the Observatory of Children's Human Rights Scotland. We have written to Kerry and Steve to thank them for their time and to reflect in more detail on the meeting, which was a welcome step towards more consideration of children and young people's views in SQA's decision making.

You will be aware that we raised concerns in our letter to you of the 14th April, and in our evidence to the Scottish Parliament's Education Committee in June 2020, about the extent to which SQA and the Scottish Government had involved children and considered children's human rights in decisions around the cancellation of the exam diet. Similar concerns were also expressed to the Committee in the 29th May letter from the *#iwillAmbassadors* in which they called for meaningful engagement with young people and a clear plan to help ensure that existing inequalities are not compounded by decisions being made by the SQA. We note that they wrote again to SQA last week.

You will have seen that the independent CRIA identifies clearly the need to ensure children and young people can take a full and active part in decisions that affect them in line with their UNCRC rights. While we understand the pressures created by the pandemic, and notwithstanding the progress reported by Kerry and Steve, we fully support calls for more direct engagement to take place with children and young people. Indeed our YAG strongly encouraged SQA to widen its engagement to ensure children

and young people from marginalised communities were consulted and involved directly in SQA's ongoing decisions about assessment models and procedures.

We also support the call from the *#iwillAmbassadors* for a CRIA to be conducted by SQA and the Scottish Government. The purpose of a CRIA is to support good and lawful decision making by identifying the rights impacts of decisions, in particular where, as in this case, those impacts might be negative. This is important, as it allows both for a full assessment of available options and for mitigations to be put in place where necessary, reasonable and proportionate. Use of impact assessments also supports public confidence in decision makers by improving transparency and accountability.

You will understand why we are disappointed therefore that SQA has yet to publish any of the Equality Impact Assessments that have informed its decision making up to this point, and so far as we are aware has conducted no Children's Rights Impact Assessment. Publication of these documents is necessary to fully understand not just SQA's decision making on the alternative assessment model but also the decision taken by the Deputy First Minister to cancel the exam diet, which we understand was based on advice from SQA.

That decision had an impact on every learner in Scotland who was due to take an exam, with many children reporting significant levels of anxiety, compounded by the limited communication they received in the immediate aftermath. The potential for the decision on an alternative assessment method to negatively impact a significant number of those children and young people has been well rehearsed. In our own engagement with children, and through the independent CRIA, we have identified a number of groups at particular or disproportionate risk; including children who are home schooled, children living in poverty and children with disabilities and other additional support needs.

It is unfortunate that SQA has yet to explain or evidence how it has taken these risks into account in its decision making and what mitigations it intends to put in place to

ensure fairness and equality for these groups and others like them. We note particularly that SQA is subject to duties in terms of Part 9 of the Children and Young People (Scotland) Act 2014 in relation to care experienced children and we would expect their rights and best interests to have been assessed and considered in line with those duties.

This lack of transparency continues to create anxiety amongst young people. For example there remains uncertainty around the appeals process, and particularly through what process learners can appeal a grade if they disagree with the school's assessment but SQA awards a grade in line with that assessment. It is within SQA's power to relieve much of this concern by making its decisions more transparent and accessible to its primary stakeholder group.

We are therefore calling on SQA to:

- Immediately publish the Equality Impact Assessments that informed its advice to the Deputy First Minister (DFM) on cancellation of the exam diet, and those that informed subsequent decision making on the choice of alternative assessment models. The advice provided to the DFM should also be published in order that children and young people can understand how their rights and best interests were identified and taken into account when this unprecedented decision was made
- Explain how it has complied with its statutory corporate parenting duties as set out in section 58 of the Children and Young People (Scotland) Act 2014 in relation to the decisions on exams and assessment
- Conduct a Children's Rights Impact Assessment to identify any groups (such as home educated children, those digitally excluded as a result of living in poverty, those with disabilities or additional support needs), who have been particularly disadvantaged as a result of that decision and the decision to put in place the alternative method of assessment

- Taking into account the CRIA, the EQIAs, and SQA's statutory duties, take reasonable and proportionate steps to mitigate the negative impacts experienced by identified groups of children and young people, including if necessary making specific alternative provision available for assessment, grading and routes of appeal
- Build on the work undertaken by SQA staff including Kerry and Steve by moving further and more quickly to directly involve children and young people in decision making, particularly those representing groups identified by the CRIA/EQIA/2014 Act processes as being at particular risk of disadvantage and negative impact.

In light of the ongoing interest in this matter expressed by the Scottish Parliament's Education and Skills Committee I will also send a copy of this letter to the Committee Convenor to inform their consideration.

I look forward to hearing from you.

Your sincerely



Nick Hobbs
Head of Advice and Investigations
Children and Young People's Commissioner Scotland