



Mr John Swinney MSP  
Deputy First Minister and Cabinet Secretary for Education  
Via email: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

7 August 2020

Dear Deputy First Minister

I am writing in relation to the ongoing and deeply concerning situation around the national examinations assessments and grades. I am calling on you to take immediate action and, if necessary to use the legal powers available to you to secure fairness for the young people disadvantaged by the grade moderation that has taken place.

In her letter to me of 31 July, Fiona Robertson set out SQA's commitment to ensure that "all learners are treated in as fair a way as possible" and that young people "get the results they deserve". I am sure that commitment is shared by the Scottish Government. Sadly it has not been delivered. I have written to Ms Robertson expressing my concerns and seeking action from SQA. I enclose it for your information.

You will be aware that our office has expressed concerns dating back to March about the risks of not involving children and young people in decision making, of the need for much greater transparency and of the requirement to take a rights-based approach to ensure potential disadvantage is mitigated. We raised these in a meeting with your officials on 24 June and have communicated them on a number of occasions to the SQA. Young people themselves have also been raising these concerns, in particular the "SQA Where's Our Say" group.

Unfortunately it appears that these risks have been realised and too many young people have not received the results they deserve. Children from more deprived areas report being downgraded, not based on an assessment of their own abilities and potential but on the historic performance of the school they attend. The unfairness of this approach is

obvious. I know you have been contacted directly by a number of these young people and I hope you will be responding to them directly to apologise for the way they have been treated.

As I note in my letter to SQA, I recognise the challenging situation in which the organisation found itself in March, following your decision to cancel the exam diet. However, I am deeply concerned at the clear evidence continuing to emerge that the process selected and undertaken to replace the exam diet has created unnecessary unfairness and disadvantage for a significant number of young people.

I understand SQA applied a statistical model that sought to bring estimated grades back into line with previous exam performance and statistical trends in order to protect the 'integrity' of the system. As I noted in my letter to SQA this appears to be based on a number of assumptions.

- That significant criticism would have been made if grades were higher this year than in previous years, and if children from more deprived backgrounds had performed better than expected
- That it is possible and desirable to directly compare grades based on teacher estimates with those based on exam performance in previous years
- That system level results – in other words the overall grade distribution and attainment gap data - were more important than achieving fairness for individuals

You will be aware that teachers were not asked to predict the performance of a child if they had taken an exam. The guidance provided to schools by SQA sought “...a holistic professional judgement based on a candidate’s attainment in all aspects of the course (ie all course components) and should reflect the candidate’s demonstrated and inferred attainment of the required skills, knowledge and understanding for the predicted grade and band estimated.” It should not be surprising perhaps that estimates were not in line with previous exam performance statistics – the method of assessment was different

this year (and may even have been fairer in terms of the opportunity it provided children from more deprived backgrounds to have their abilities recognised).

It is true that the national picture shows the moderated grade distribution following historical patterns and trends, with a small narrowing of the attainment gap. Viewing it through a data table or as a graph may give the impression that the process has been fair – even progressive. However as a method it appears to have ignored the fact that each statistical point on the graph is an individual young person whose work, effort and attainment have been moderated based on factors entirely outwith their control and which have no bearing on their individual ability. It succeeds in creating an overall perception of fairness but fails to deliver fairness for individuals.

Overall responsibility for the exam and assessment process, and for the SQA, falls within your remit as Cabinet Secretary for Education. I am therefore seeking further assurance on the following points. I would be grateful for confirmation you will ensure that:

- The appeals process is directly accessible to young people where a school has declined to submit an appeal, or where the young person disagrees with the grade estimated by the school, with appropriate timescales and supports being provided
- The appeals process is able to take account of the widest possible evidence including course work and assessment portfolios already submitted to SQA or schools
- Appeals will be determined based solely on the evidence presented and without reference to any further statistical modelling or moderation
- Scottish Government will provide all necessary resource to SQA to ensure it manages the anticipated high volume of appeals swiftly, fairly and robustly

- SQA will adopt a “no detriment” policy similar to those put in place by universities and colleges
- If this results in significantly higher pass marks compared to previous years, no further adjustment will be made to grades to seek to bring them into line with those historic statistics

I note that you have powers in terms of section 9 of the Education (Scotland) Act 1996 to direct SQA in these matters if it proves necessary to do so. I very much hope that this will not be the case, but it is imperative that the Scottish Government and SQA move swiftly to ensure that children’s rights are at the heart of the process moving forward, and act decisively to restore confidence in the Scottish examinations, assessment and qualification system administered by the SQA. I also hope this will prompt a period of serious national reflection over the way in which we assess the ability and attainment of our young people.

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**