

2010 maladministration committee procedures

National curriculum assessments

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QCDA/10/4610

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1. Introduction

This document applies to the results of pupils taking the following tests:

- statutory key stage 2 national curriculum tests
- single level tests (SLTs)
- science sampling tests (SSTs).

The purpose of this document is to outline the procedures followed by the Qualifications and Curriculum Development Agency (QCDA) maladministration committee when determining the accuracy and correctness of test results in the national curriculum tests, single level tests and science sampling tests. The information in this document should be considered alongside QCDA's *2010 maladministration investigation procedures* (QCDA/10/4854).

Under the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order of 2003 ('the Order') QCDA has a statutory duty to investigate any matter brought to its attention relating to the accuracy, correctness or validity of any results of any pupil in the national curriculum assessments, single level tests and science sampling tests. Such matters are referred to as 'maladministration'.

The term 'maladministration' refers to any act that could jeopardise the integrity, security or confidentiality of national curriculum assessments, single level tests or science sampling tests, and lead to test results that do not reflect the unaided work of pupils. This could refer to a range of actions, from test papers being incorrectly opened to school-reported instances of pupils cheating or allegations of changes made to pupils' test scripts by someone other than the pupil.

The purpose of the committee is to provide a process for independent review of the steps taken by the QCDA maladministration team to investigate maladministration and for making decisions relating to the accuracy or correctness of pupils' results. The committee meeting is not a formal hearing, trial or tribunal; it is a process to ensure fairness and parity for schools and to enable public confidence in the validity of pupils' results. QCDA's remit does not extend to investigating who is responsible for any maladministration and therefore the committee will not apportion blame for any alleged case of maladministration presented to it.

If an allegation of maladministration is referred to the committee, it means that the QCDA maladministration investigation team, following an investigation, has decided to recommend to the committee that results (either for an individual pupil or group of pupils) be annulled or amended.

Where the maladministration investigation team recommends an annulment or an amendment to the result for a pupil (or pupils) this is put before the committee, which hears evidence from both the team and the school involved in the investigation before making a final decision whether to accept or reject the recommendation of the maladministration investigation team.

The committee is not a policy-making body. National curriculum assessment policies are agreed and owned jointly by the Department for Education (DfE) and QCDA. The maladministration committee cannot choose to amend or contradict policies when making decisions relating to alleged cases of maladministration. The committee can refer a policy back to the DfE and QCDA for review following a committee meeting, but all decisions must be in accordance with existing, agreed policies.

Statutory Powers Article 7 (2) of the Order states that:

'Where [following an investigation into results] ... and before the external marking agency have provided the record of the results to the headteacher under article 5 (5), QCDA determines that the accuracy or correctness of a pupil's results in respect of the NC tests administered under article 5 is in doubt, the record of results to be provided by that agency to the headteacher shall be the record of results determined by QCDA.'

This means that where the record of results has not been returned to the school at the time the committee takes its decision, the decision of the committee (with regard to the amendment or annulment of results) will be based upon the existence of doubt about the accuracy of results. The question for the committee is whether there is doubt about the accuracy or correctness of the results.

Article 7 (3) of the statutory instrument also states that:

'Where [following an investigation into results]... the external marking agency have provided the record of the results to the headteacher under article 5 (5), QCDA determines that that record of the results is inaccurate or otherwise incorrect, QCDA shall provide to the headteacher a record of the results determined by QCDA and that record of the results shall be the record of the results for the pupil.'

This means that in cases where the record of results has already been returned to the school (either via return of test scripts or formal results) when the committee take its decision, the committee can only proceed to annul or amend the results if it is satisfied that the results are inaccurate. It cannot proceed with an annulment or amendments only on the basis that there is doubt about the accuracy or correctness of the results

2. Roles and responsibilities

Maladministration committee panel

The maladministration committee panel consists of six members. Three are QCDA senior managers with relevant experience of national curriculum test administration and procedures, and three are practising headteachers, members of the teacher associations and/or local authority assessment advisers. If, due to exceptional circumstances, the full quotient of either QCDA or independent committee members cannot be made, a quorum of five will be accepted.

The chair of the committee is a senior manager from QCDA who has previously sat on the committee. Before sitting on the committee, all members will be required to attend training.

Policy officer

A QCDA policy officer will advise the maladministration committee as required during proceedings, but will not have a vote on any proposed decision. Members of the committee may ask the policy officer for clarification on matters of policy and how any decisions they may be considering would relate to the national curriculum test policies.

Committee officer

A committee officer will support the committee during the proceedings, take notes of decisions made and be the first point of contact for schools invited to attend a committee meeting on matters relating to the committee. The committee officer is not a member of the maladministration team and will not be able to answer queries about the cases being taken to the committee – the role is an administrative one. The committee officer will make all arrangements for committee members in advance of the committee meetings and training events.

In cases where the school does not wish to be present at the committee meeting but provides written statements, the committee officer will read out this information on behalf of the school.

Committee manager

A senior manager from QCDA will act as committee manager. The committee manager will oversee all arrangements for the maladministration committee training events and committee meetings, and will brief school representatives on their arrival for a committee meeting. The committee manager is responsible for the overall management of the committee process and for ensuring that the process is run in accordance with these procedures.

Maladministration investigation team

A maximum of two members of the maladministration investigation team may be present at each committee meeting. The maladministration investigation team is responsible for the logging and investigation of all cases, for liaising with schools and local authorities during an investigation and for preparing cases to be presented to the committee.

School representatives

A maximum of three representatives from the school, including supporting representatives such as teacher associations and/or chair of governor(s), may be present at each meeting.

Local authorities

Where a local authority adviser has been involved with an investigation, they may attend the committee as an observer.

3. Conduct of maladministration committee meetings

Before the meeting

Investigations of alleged maladministration are carried out by the QCDA maladministration team in accordance with *2010 maladministration investigation procedures*. Where the team decides to refer a case for decision to the maladministration committee, the school will be notified in advance by the team or its local authority.

The committee officer will send a letter to the headteacher of the school concerned, which will be copied to the local authority and to the chair of governors. This will indicate the nature of the allegation, the time and date of the committee meeting, a brief description of the format of the committee meeting and the date by which the school can expect to receive copies of any relevant documentation. The letter will also include a web link to *2010 maladministration investigation procedures* and *2010 maladministration committee procedures* and will include further information and guidance for schools.

The school, local authority and chair of governors will receive copies of all relevant documents and evidence that will be presented to the committee at least 10 working days in advance of the committee meeting. Schools will have the option of either attending the committee meeting or submitting a written statement to be presented by the committee officer on their behalf. Schools that wish to either submit material to be reviewed, or present materials to the committee, should submit these to the committee officer at least five working days in advance of the committee date or within five working days of when all material is received, whichever date is later.

Where a school's test scripts have not yet been returned or results provided to the school prior to an investigation, the results for the relevant pupil(s) and subject(s) will be suppressed [not formally provided to the school or anyone else] and the test scripts will be held securely at QCDA offices pending investigation and presentation to the committee. Schools may have supervised access to view the pupil test scripts upon prior arrangement with the committee officer.

On the day of the committee meeting

The school representatives will be met by a senior manager from QCDA and will be briefed on the proceedings.

During the meeting

All committee meetings will be recorded for the purpose of keeping an accurate record of proceedings. Committee records will be retained securely until after the deadline for requesting appeals and, following that deadline, will be confidentially destroyed.

The committee may ask for advice or clarification on matters of policy from the QCDA policy officer and how any decisions they may be considering would relate to these policies.

If necessary, the committee members can inspect any new evidence and findings that have come to light within the 10-day period of the school receiving copies of all relevant documents and evidence.

The meeting will proceed with the following agenda:

- introductions by the chair
- presentation of findings by the maladministration investigation team
- opportunity for committee members to seek clarification from the maladministration team
- presentation of relevant information by the school (or on behalf of the school by the committee officer)
- opportunity for committee members to seek clarification from the school.

After the maladministration team and the school have presented to the committee, the maladministration team members, the school representatives and any local authority observers and non-investigating officers present will be asked to leave the room.

The maladministration committee members will discuss the evidence and findings they have heard and seen. In particular, they must consider:

- whether the accuracy or correctness of the results for any pupil or pupils is in doubt
- whether they agree with the recommendation made by the maladministration team
- whether there are any policy implications for this case.

If the committee considers it necessary to further question either the maladministration team or the school representatives before reaching a decision, then all parties will be invited back to answer these further questions or hear the questions and answers as appropriate.

Where appropriate, the completed test scripts will be provided on the day of the committee for further review and discussion by the committee panel.

If the committee feels there is insufficient information to enable it to reach a decision whether to accept or reject the recommendation of the maladministration team and that further investigation is required, it will adjourn the committee meeting to allow further investigation to take place. In these instances the committee will record in writing the scope of the further investigation it considers necessary to reach a decision and request it be carried out by QCDA or local authority staff responsible for the investigation to date.

Once further investigation has taken place to the extent reasonably possible in the circumstances, the committee officer will liaise with the school to inform it of the new committee date. The officer will also provide the school with any further information obtained at least ten working days in advance of the new committee date.

Committee decisions

Where the record of results has not been returned to the headteacher, the committee must decide whether the evidence presented to them casts doubt on whether the test results reflect pupils' own unaided work or indicates that there have been errors in the administration of the tests that place the accuracy or correctness of the pupils' results in doubt.

Where the record of results has been returned to the headteacher, the committee must decide whether the evidence presented to them shows that the record of results is inaccurate or otherwise incorrect.

When making their decision, based on the evidence presented to them, the committee must decide whether they accept or reject the recommendation(s) of the maladministration team and give an explanation for their decision(s).

Where the committee rejects a recommendation made by the maladministration team, they must specify an alternative course of action to be followed, based on the evidence presented to them.

Once the committee has reached a decision, all parties will reconvene. The chair of the committee will verbally communicate the committee's decision relating to each of the maladministration team's recommendations, explaining the reasoning that supports it, which will be noted in full by the committee officer. The policy officer will then advise the school of the process for appealing the committee decision and for reporting results.

If the committee makes a decision not to annul or amend the results for the relevant tests or subjects presented, the test results will be unsuppressed on the next working day by the maladministration investigation team and the investigation team will make arrangements with the school for the secure return of the test scripts.

The length of committee meetings varies depending on the nature of the case. The decision of the committee will be communicated verbally to all parties on the day of the committee.

After the meeting

The committee officer will confirm the decision of the committee in writing to all parties on the next working day after the committee reached its decision.

A detailed letter and notes of the meeting will be sent to all parties within 15 working days of the final committee meeting. The school will also receive details of how it may appeal the decision of the committee and the deadline for requesting an appeal.

4. Appeals process

Where a school wishes to contest the decision of the maladministration committee, it has a right to appeal. Details of how to appeal will be sent to schools with the decision of the committee. Appeals will be heard by a panel independent of QCDA and Ofqual, drawn from a pool of people who have experience in hearing appeals related to qualifications and training.