



Standards  
& Testing  
Agency

# **Key stage 1 and 2: maladministration investigation procedures**

**May 2019**

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## Introduction

This publication is for local authorities (LAs), school leaders, school staff and governing bodies in all maintained schools, academies, free schools and independent schools. It outlines the procedures for investigating allegations of maladministration of national curriculum assessments, which are designed to safeguard the integrity of the assessments.

The national curriculum assessments are:

- the phonics screening check
- the key stage 1 (KS1) tests and teacher assessment (TA)
- the key stage 2 (KS2) tests and TA

STA has a statutory duty, on behalf of the Secretary of State for Education, to investigate matters which relate to the accuracy of pupils' results and/or outcomes in the national curriculum assessments.

STA's remit is to determine whether there is doubt over the accuracy of pupils' results and/or assessments. The legal basis for this is set out in:

[The Education \(National Curriculum\) \(Key Stage 2 Assessment Arrangements\) \(England\) Order 2003 \(as amended\)](#)<sup>1</sup>

[The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) Order 2004 \(as amended\)](#)<sup>2</sup>

Matters reported to STA about the accuracy of pupils' results in the national curriculum assessments are referred to as 'allegations of maladministration' within these procedures.

Maladministration refers to any act that:

- affects the integrity, security or confidentiality of the national curriculum assessments
- could lead to results and/or outcomes that do not reflect pupils' unaided work or actual abilities

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<sup>1</sup> [www.legislation.gov.uk/uksi/2003/1038/contents/made](http://www.legislation.gov.uk/uksi/2003/1038/contents/made)

<sup>2</sup> [www.legislation.gov.uk/uksi/2004/2783/contents/made](http://www.legislation.gov.uk/uksi/2004/2783/contents/made)

All references to 'schools' apply to different types of schools as set out in the introductions to the [2019 key stage 1 assessment and reporting arrangements](#)<sup>3</sup> (ARA) and the [2019 key stage 2 assessment and reporting arrangements](#)<sup>4</sup>.

## Examples of maladministration

Maladministration of the phonics screening check, KS1 or KS2 tests can include:

- early opening of test papers or phonics screening check materials without permission
- pupils being over-aided by test administrators
- pupils cheating
- schools allowing pupils to resit a test or to retake the phonics screening check
- changes being made to pupils' test scripts outside of test conditions
- schools reporting pupils' phonics screening check scores incorrectly

Maladministration of TA can include:

- inflating or deflating TA judgements of pupils' work to influence school assessment
- submitting different data from that agreed as a result of LA moderation (specific subjects only)
- submitting evidence that is used to justify TA standards as independent work which has been heavily supported by an adult (scaffolding evidence)
- over-aiding in tests and using the results as evidence for TA standards

## Sources of maladministration allegations

We receive allegations of maladministration from various sources including:

- members of the public, including parents
- school staff and governors
- secondary schools
- LA staff
- academy sponsor staff
- KS2 or phonics screening check monitoring visitors
- markers of the KS2 tests
- external organisations (for example, Ofsted)

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<sup>3</sup> [www.gov.uk/government/publications/2019-key-stage-1-assessment-and-reporting-arrangements-ara](http://www.gov.uk/government/publications/2019-key-stage-1-assessment-and-reporting-arrangements-ara)

<sup>4</sup> [www.gov.uk/government/publications/2019-key-stage-2-assessment-and-reporting-arrangements-ara](http://www.gov.uk/government/publications/2019-key-stage-2-assessment-and-reporting-arrangements-ara)

## Roles and responsibilities

STA's role is to safeguard the integrity of the assessments. We do not apportion blame for any alleged maladministration. Any subsequent disciplinary proceedings are the responsibility of the school's governing body, which may make a referral to the Teaching Regulation Agency, if appropriate.

We allocate a trained STA investigator to each case of alleged maladministration. This is to ensure all investigations are conducted rigorously, fairly and without bias.

The investigator is responsible for:

- overseeing the investigation
- commissioning school visits, which are usually carried out by the LA
- completing a detailed script analysis of the relevant test papers
- providing written communications to schools regarding the investigation and the outcome of the investigation (these will also be sent to the LA and the school's governing body or academy trust where appropriate)

## Local authorities

We work closely with LAs during maladministration investigations. When required, we ask them to visit schools to gather information as part of an investigation. LA staff conducting these visits must be familiar with the [maladministration investigation visits guidance](#)<sup>5</sup> and details of the particular allegation of maladministration before they carry out school visits. They are also responsible for producing a report detailing the information and evidence gathered during the visit and providing this to STA.

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<sup>5</sup> [www.gov.uk/government/publications/key-stages-1-and-2-investigating-allegations-of-maladministration](http://www.gov.uk/government/publications/key-stages-1-and-2-investigating-allegations-of-maladministration)

# How we process allegations of maladministration

## Logging and initial processing

STA logs all allegations of maladministration. Anyone reporting an allegation is asked for as much detail as possible so cases can be fully investigated.

The name of the person making an allegation is kept confidential. Information specific to individual cases will remain confidential to involved parties. All information collected will be processed and retained in accordance with the Data Protection Act 2018, General Data Protection Regulation (GDPR), and the Freedom of Information Act 2000.

It is not STA's policy to keep the person making the allegation informed of the progress of an investigation, or notify them of the outcome.

After receiving an allegation, STA considers the details of the allegation and decides on one of the following 3 courses of action.

### **Maladministration has not occurred**

We will close the case and no further action will be taken.

If a school is aware that an allegation has been made, STA will provide written confirmation that no action will be taken. This will be copied to the LA and the school's governing body or academy trust, where applicable.

If a school is unaware of the allegation, for example if the allegation arose from a marker's or parent's concern, the case will be closed and the school will not be informed.

### **Maladministration has occurred but there is no doubt over the accuracy of pupils' assessments**

We may decide that maladministration has occurred, but it has not affected the accuracy of pupils' results. Where this is the case, we will not change or annul the school's assessment outcomes.

We will write to the school informing them of this decision and, where applicable, suggest actions for the school to take to ensure similar maladministration does not occur again. We may inform the LA and governing body or academy trust where applicable and recommend follow-on actions, if required.

## **Further investigation required**

We may decide to conduct further investigation. The activities we may undertake as part of an investigation are described in the 'investigating allegations' section. A school's results may be withheld pending the outcome of the investigation.

# Investigating allegations

## Discussion with a school

We may be able to resolve an allegation through discussion with the school. STA will contact the headteacher of the school if this is appropriate. We keep records of all discussions.

The ARAs for key stages 1 and 2 each state that the headteacher is responsible for ensuring that the test administration requirements are implemented in their school. Therefore it is normal practice for STA to liaise directly with the headteacher during the investigation (and not, for example, with a governing board or an academy trust).

## School visits

LA or STA staff may visit a school as part of an investigation. The headteacher should inform the school's chair of governors or academy trust (where applicable), if they are notified of a school visit. We use visits to gather information about:

- the procedures in place to keep test and check materials secure
- how the tests or checks were administered
- the actions the school put in place to ensure their TA data was accurate

If the school does not already know the nature of the allegation, they will be informed at the end of the visit. This protects the source of the allegation and ensures that interviewees provide unbiased accounts.

After the visit, the lead interviewer will write a report of their findings for STA. This report becomes STA property. We provide the school with a copy of the report, but any personal or identifying information will be redacted. The school will then be given the opportunity to provide a written response to the report.

LAs carrying out visits on STA's behalf must refer to the maladministration investigation visits guidance.

## Analysis of key stage 2 test scripts

Where appropriate, STA staff review the scripts from the tests administered at the school. Information from this review will be used to inform the investigation.

## How we make decisions

It may take several months to reach a final decision on an investigation. The length of an investigation depends on:

- the nature of the allegation
- the complexity of the case
- the availability of information relevant to a case
- the timing of when the allegation was reported

## Representations provided by schools under investigation

During the investigation, if the investigator considers that there is doubt over the accuracy or correctness of results, the headteacher will be notified of this. An explanation will be given by the investigator to the headteacher about the investigator's findings and evidence will be shared.

The headteacher will be given the opportunity to make written representations on behalf of the school (ordinarily a deadline of 10 working days will be given for receipt of these representations by the investigator). If the investigator requires further information from the school, they will contact the headteacher. Any representations that are received by the deadline set by the investigator will be considered by the STA manager (see below) who makes the final decision. The STA manager will also consider any supplementary information that has been sought by the investigator and provided within the deadline set by the investigator for receipt of this.

We use decision meetings as part of the process for making the final decisions on what actions are to be taken. Schools and LAs are not routinely invited to attend these.

At such meetings, the investigator will present all information gathered during the investigation to the decision maker (an STA manager, who is independent to the investigation and is senior to the investigator). This information may include:

- the school visit report and the school's response to this report
- information from KS1, KS2 or phonics screening check monitoring visits
- outcomes from test script analysis

In any event, the information will include any representations made or information provided on behalf of the school and received within the applicable deadline set by the investigator.

A recommendation by the investigator will be made to the decision maker at a decision meeting, which could include changes to be made to a school's results for a whole cohort, groups of pupils or individual pupils.

The decision maker may decide to provide the school with a further opportunity to make representations, for example, should new information come to light after the headteacher of the school was first given an opportunity to make representations. Any representations received by the deadline set by the decision maker will also be taken into account.

The decision maker will make the final decision. Any decision to amend, annul or discount pupils' results or assessments will be made by the decision maker and not by the investigator.

## Investigation outcomes

STA can make the following decisions for individual pupils, groups of pupils or the whole cohort when there is doubt about the accuracy of pupils' results.

Assessment	Potential decisions
Phonics screening check	Discount results. If pupils are in year 1, they will have the opportunity to take the phonics screening check again the following year. Pupils in year 2 will not be able to retake the check in future years.
KS1 tests	Amend or annul KS1 test results. These will not be used to support TA.
KS2 tests	Amend or annul KS2 test results.
TA	Undertake external moderation to reach accurate TA judgements or annul TA judgements.

Any decision to amend, annul or discount pupils' results is final and there is no right of appeal.

The annulment of results for a component (or subject) of a KS2 test means the pupil will not receive an overall test result for the subjects. Pupils' KS2 TA results should be reported and used instead to support pupils' transition into secondary school.

Pupils' education and their transfer from KS2 to secondary school should not be adversely affected by maladministration investigations. The removal of KS2 test results or TA data will not disadvantage pupils during their secondary education.

Once a decision has been made, we verbally notify the school of the decision and follow that up with a letter explaining the decision and what steps (if any) are to be taken by the school. We also send the letter to the governing body or academy trust and the relevant LA.

It is the school's responsibility to report any amendments or annulments of pupils' results to parents. The term 'parent' is used in this document as defined in section 576 of the Education Act 1996 as:

- parents of a child
- any person who is not a parent of a child but who has parental responsibility for the child
- any person who has care of the child

The governing body or academy trust is responsible for carrying out any further investigation and to consider referring to the Teaching Regulation Agency as appropriate.

## Contact Details

### Maladministration team

Email: [sta.maladministration@education.gov.uk](mailto:sta.maladministration@education.gov.uk)

### Standards and Testing Agency

Email: [assessments@education.gov.uk](mailto:assessments@education.gov.uk)

National curriculum assessments helpline: 0300 303 3013



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