

CORPORATE REPORT

Exam Procedures Review Service: 2017 Report

Report on the work of EPRS following the 2017
exam series

ofqual

Contents

Overview	3
The Context	3
Themes from the cases which were not considered by a panel.....	4
<i>Special Consideration</i>	<i>4</i>
<i>Marking Errors and Moderation Errors</i>	<i>4</i>
Cases considered by an EPRS Panel	5
<i>Competence of the awarding organisation's appeal panel</i>	<i>5</i>
<i>Adequacy of reasons</i>	<i>7</i>
The Impact of EPRS.....	8
The Future of EPRS	9

Overview

Schools and colleges that are unhappy with the result of an awarding organisation's appeal process can ask Ofqual to review the case through the Exam Procedures Review Service (EPRS).

We currently look at cases about GCSE, A level, AS, and Project qualifications awarded to learners in England, and applications can be made in relation to decisions about reasonable adjustments and special consideration, as well as about results.

We cannot change a candidate's grade or marks. We look at whether the awarding organisation has followed its published processes and whether it has complied with our regulations. We will uphold the application if we identify a failure which might have had an adverse impact on candidates or on the fairness of the process. Awarding organisations must have due regard to any decision we make to uphold an application.

We will only look at cases after the final stage of the awarding organisation's appeals process and this means applications to EPRS are often submitted several months after the end of the exam series. This report considers applications made in relation to exams in the summer and November series in 2017. The eligible applications were submitted between December 2017 and July 2018 and we closed the final case in November 2018¹.

The Context

Over 6.5 million GCSE, A level, AS and Project qualifications were awarded in 2017 across the United Kingdom. In total, we received 102 EPRS applications from the 2017 series.

91 of the cases we received were closed immediately because the application was ineligible. This was because the applicant had not completed the awarding organisation's appeals process or because the affected qualification was not a GCSE, A Level, AS or Project qualification.

There were 11 eligible cases, each of which was thoroughly considered at our review stage, where we get the file from the awarding organisation and examine the process it followed. Eight cases were closed at this stage, because we thought the awarding organisation had already addressed all of the concerns raised and there was nothing to indicate a failure to follow proper process, we have explained some themes from these cases below.

Where an eligible case is rejected, a senior member of our staff explains the decision in a letter to the applicant, and we allow an opportunity for comments which we take into account before making a final decision.

In 3 cases we thought there was a real possibility that the awarding organisation might have failed to follow its process or failed to comply with the regulations we

¹ We recently [consulted on changes to the way we run EPRS](#) and said as part of that consultation that we would in future publish annual reports about the work we do through EPRS. This is the first such report following that consultation. In future years, we would expect to publish the report earlier.

have set. These cases were considered by a senior member of our staff together with 2 external panellists, which we call an EPRS Panel.

The EPRS Panel process is a formal hearing about the case. The school or college and the awarding organisation make presentations to the panel setting out their case and they have chance to question each other, as well as to answer questions from the panel.

The EPRS decision is made by the staff member, with input from the external panellists, and is communicated to the parties in a formal decision document.

Themes from the cases which were not considered by a panel

Special Consideration

Two cases were about the award of Special Consideration. Special Consideration is given where a learner's performance in an assessment is likely to have been affected by a temporary illness or injury, or some other event outside their control.

For the qualifications EPRS considers, awarding organisations used a common approach for determining Special Consideration, which is set out in documents published by the Joint Council for Qualifications (JCQ).

Special Consideration is most often applied for after an assessment. In general, where Special Consideration is given in such circumstances, the candidate's marks will be adjusted by between 1% and 5%.

Sometimes, Special Consideration is given through the JCQ Access Arrangements process, because a candidate suffers an injury before or during the exam period which means they need a different arrangement to take the assessment, for example to dictate their answers because of a broken arm.

The two cases we considered were about increases to marks and each application argued that a greater percentage increase should have been made. This was particularly so where, even with the increase, the outcome for the candidate was lower than their school had predicted.

In each case, our review demonstrated that the awarding organisation had considered all of the relevant evidence and had applied the criteria in the JCQ policy reasonably. Neither case was considered by an EPRS panel, because there was no real possibility the application would be upheld.

Marking Errors and Moderation Errors

In 2016, we changed our regulations for appeals relating to GCSE and GCE qualifications, and we made the same changes for Project qualifications in 2017.

The main change was to require awarding organisations to consider appeals arguing that a marking error or moderation error² had occurred; under the previous regulations these errors were considered only at the review stage, with appeals focussing only on arguments that there had been a failure to follow procedure.

We phased-in the introduction of these new regulations. In 2017, the new regulations applied to all AS and A level, and all Project qualifications.

Seven EPRS cases argued that the awarding organisation's appeal panel had not properly considered, or had wrongly dismissed, an argument that there had been a marking or moderation error. Two of these cases were considered by an EPRS panel and are discussed below.

In the other 5 cases, it was clear from the paperwork that the school's argument about a marking or moderation error had been carefully considered during the awarding organisation's appeal process and the final appeal panel had explained why it decided the awarding organisation's counter-argument was more compelling.

We recognise that schools, candidates and their parents may continue to disagree with decisions about the marking of assessments after the appeal process. However, if the awarding organisation shows it has taken into account all of the necessary information and it has properly explained its decisions, we will not interfere with the individual academic judgments it makes.

Cases considered by an EPRS Panel

Three 2017 cases were considered by an EPRS Panel. There were two main themes from the cases:

- Competence of the awarding organisation's appeal panel in light of the marking error / moderation error test.
- Adequacy of reasons.

Competence of the awarding organisation's appeal panel

In 2 of the 3 cases the school argued that the awarding organisation's appeal panel had not been competent to consider whether a marking or moderation error had occurred. The schools argued that to make that decision the appeal panel should have included a subject expert.

In each case the school thought that the way marks had been attributed to learner work was unreasonably harsh and that this indicated the marker had exercised their academic judgment unreasonably. The schools argued that to decide whether the marking was or was not reasonable, the appeal panel needed to decide whether the

² We have defined the terms Marking Error and Moderation Error in our regulations, so they have a specific meaning. The definitions are included at Annex A.

learners' work deserved more marks. Subject expertise was needed to help the panel make that decision.

The EPRS Panel dismissed the argument in each case. In summary, the EPRS Panel did not agree that the awarding organisation's appeal panel should be asked to decide whether learners' work deserved more marks. This was not the purpose of the appeal. Instead, the appeal panel had to consider the school's explanation about why (and where) it thought marking or moderation errors had occurred and then consider the awarding organisation's counter-arguments in order to decide which it found most likely to explain the difference of view.

In its decision on the case concerning an alleged moderation error, the EPRS Panel explained this as follows:

27. It is important to recognise that the Stage 2 panel is not tasked with identifying moderation errors in isolation. Rather, the Stage 2 panel considers that question in the context of the earlier review of moderation, carried out with the express purpose of identifying, and securing the correction of, any moderation error. The task of the Stage 2 panel, in this context, is to evaluate the school's contention that moderation errors remained following the review of moderation.

28. In making that determination, the Stage 2 panel will be assisted by: the evidence produced as part of the review, documenting the reasons for any determination at that stage that there was, or was not, a moderation error; the school's identification of where it considers moderation errors occurred; and the awarding organisation's explanation of why it considers the particular decisions identified by the school do not reflect moderation errors.

29. The role of the Stage 2 panel is to weigh the evidence and argument and decide on the basis of that evidence and argument, whether the school has established that a moderation error occurred and persisted after (or was caused by) the review of moderation. Expertise in the subject area of the qualification subject to the appeal is not necessary to make this determination because the determination is made on the basis of the marking and moderation evidence, not on the assessment evidence.

The EPRS Panel did, however, think that the awarding organisation's appeal panel gave the impression that it had misunderstood the role in the appeal proceedings of the awarding organisation's Lead Moderator:

34. However, while it does not identify a procedural or compliance failure, the EPRS panel was concerned by some of the language used by the Stage 2 panel, particularly its reference to [the] Lead Moderator as "our expert." This is unsatisfactory and the EPRS panel considers that it is perhaps unsurprising that the Appellant was left with the impression that the Stage 2 panel was overly partisan. However, the EPRS panel does not consider it likely that this had a material impact on the decision in the circumstances of this case.

In the case about an alleged marking error, the EPRS Panel similarly rejected an argument that the appeal panel should have had subject expertise. In that case too, the EPRS panel thought the awarding organisation's appeal panel could have done

more to interrogate the opinion given by the lead examiner, to make clear the panel, not the examiner, would decide whether a marking error had occurred.

Adequacy of reasons

In 2 of the 3 cases considered by an EPRS Panel, the applicant was concerned that, although it was clear that their appeal had been dismissed, it was not clear from the outcome why each of the grounds raised had been dismissed by the awarding organisation's appeal panel.

In one of these cases the applicant was particularly concerned because they did not attend the appeal hearing, in another the lack of reasons reinforced the applicant's concern that the appeal panel had just agreed unquestioningly with the awarding organisation's lead examiner, rather than addressing their specific arguments.

Our Conditions explain that the awarding organisation must make sure its appeals process provides for "the awarding organisation to report the outcome of an appeal to the Learner (or as the case may be the Relevant Centre), detailing the reasons for that outcome."

In all 3 cases considered by an EPRS Panel, the panel thought that the reasons given by the awarding organisation's appeal panel were inadequate. Two EPRS applications were partially upheld for this reason.

In the first case the EPRS Panel noted:

The EPRS panel was very concerned about the brevity of the reasons provided by the Stage 2 panel which was not, in its view, an adequate report of the reasons for the final decision. In particular, there is nothing in the outcome letter which demonstrates how the Stage 2 panel applied its mind to each of the grounds raised by the school and nothing to demonstrate how it balanced the evidence and argument at the hearing.

And in the second case:

... The Panel was not satisfied by the letter given to the Appellants about the outcome of the appeal. The Panel is of the view that the letter gave insufficient reasons for its decisions. The Panel felt that the letter sent to the Appellant was wholly lacking as it failed to address the Appellant's concerns or provide explanation as to how it had considered them.

In the third case, the panel expressed similar concerns:

While this was not argued as a ground of appeal, the panel was concerned about the brevity of the reasons provided. Neither the letter nor the transcript provides sufficient detail relating to the reasons for the outcome of proceedings. The decision is confined to a short paragraph which, while setting out the essential features of the decision, is light on rationale and short on detail.

The Impact of EPRS

In December 2018 we consulted on changes to our guidance for awarding organisations about reviews and appeals. The new guidance was published in April 2019.

We took the EPRS cases explained in this report into account when we developed the new guidance and it includes the following explanation to make sure awarding organisations understand the need to provide fuller reasons for their decisions:

The provision of reasons is important in a number of respects. The discipline of providing reasons may serve to improve the quality of decisions by focusing the mind of the decision-maker. Robust reasons will also promote public confidence in the standards set in regulated qualifications, and may assist a Centre or Learner to more readily accept the awarding organisation's determination. Importantly, by allowing the Centre or Learner to make an informed decision as to whether it has good grounds to disagree with a determination, the provision of reasons supports any opportunity to request a further review or appeal.

The reasons provided by an awarding organisation should be adequate to fulfil these functions. What is adequate will depend on the context, including the type of issues raised in the request, the nature of the assessment and the type of review or appeal. However, we will expect any reasons provided by an awarding organisation to display the following basic attributes –

- (a) Reasons must be proper, adequate and intelligible.
- (b) Reasons must engage with the issues raised in the request for the review or appeal and allow the Centre or Learner to understand why a particular concern has not been accepted.
- (c) Reasons do not need to be lengthy but should allow the Centre or Learner to understand what conclusions have been reached on the principal important issues raised in the request.
- (d) Reasons should refer to the mark scheme, where appropriate. It will be insufficient to simply state that a Learner has not included certain material in his or her response to a task without showing how the inclusion of that material is required by the mark scheme.
- (e) Where an expert report is relied on, the reasons must outline what weight has been accorded to that report, and why.
- (f) There is no requirement for reasons to be recorded in a particular form. For example, for certain reviews, annotations on a script could be compliant with the requirement to provide reasons. However, in whatever form they are presented there must be sufficient detail to make the reasons clear.

The Future of EPRS

In February 2019, we consulted on proposals to make changes to the way EPRS operates. We [published our final decisions on those proposals](#) on 28 June 2019.

For exams taken in summer 2019 onwards, applications which would previously have been considered at a hearing of the EPRS Panel will instead be considered less formally, at a meeting chaired by a senior member of our staff and to which the applicant and the awarding organisation will be invited.

We hope in this way to be able to shorten the overall time from application to decision for EPRS cases, as well as reducing the administrative burden, particularly for applicants, which the formal panel process often involved.

There will be no change to the importance of EPRS, or to the requirement for awarding organisations to give due regard to decisions we make through EPRS.

We have also confirmed our decision to make the EPRS available for Technical Qualifications as they become available.



© Crown Copyright 2019

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated.

To view this licence, visit

www.nationalarchives.gov.uk/doc/open-government-licence/

or write to

Information Policy Team, The National Archives, Kew, London TW9 4DU

Published by:



Earlsdon Park
53-55 Butts Road
Coventry
CV1 3BH

0300 303 3344
public.enquiries@ofqual.gov.uk
www.gov.uk/ofqual