



House of Commons

Children, Schools and Families
Committee

**Policy and delivery: the
National Curriculum
tests delivery failure in
2008: Government
Response to the
Committee's Sixth
Report of
Session 2008–09**

**Sixth Special Report of
Session 2008–09**

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The Children, Schools and Families Committee

The Children, Schools and Families Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Children, Schools and Families and its associated public bodies.

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Contacts

All correspondence should be addressed to the Clerk of the Children, Schools and Families Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6181; the Committee's e-mail address is csfcom@parliament.uk.

Sixth Special Report

On 23 July 2009 we published our Sixth Report of this Session, *Policy and Delivery: the National Curriculum tests delivery failure in 2008*.¹ The Government's response was received on 8 October 2009 and is published as Appendix 1 to this Report.

Appendix 1

CHILDREN, SCHOOLS AND FAMILIES SELECT COMMITTEE REPORT (POLICY AND DELIVERY: THE NATIONAL CURRICULUM TESTS DELIVERY FAILURE IN 2008)

The Select Committee's recommendations are in bold text.

The Government's response is in plain text.

Some of the recommendations and responses have been grouped.

The inquiries into the 2008 test delivery failure

1. **We endorse the work carried out by Lord Sutherland in exposing the detail of the many factors contributing to the failures in the delivery of the 2008 National Curriculum tests**
2. **This inquiry provides a good illustration of how a select committee can use its authority and powers in a timely manner to investigate problematic incidents as soon as they arise. Our swift action in this matter has enabled us to put on the public record both written and oral evidence from a party to the incident, ETS, which was not available by the time the official inquiry was fully operational. The Sutherland Inquiry was then able to rely on the evidence we had secured when it became clear that ETS would not engage with the process**
3. **It is not clear to us that the DCSF having issued parallel terms of reference prevented Ofqual asking Lord Sutherland to inquire into the DCSF's role, had Ofqual considered that appropriate. Lord Sutherland chose not to consider the Department's role beyond its oversight of the particular circumstances of the delivery of the National Curriculum tests in 2008. However, this Committee is able to go further than he did and comment in more general terms on the line between policy and execution.**

The Government welcomes the Select Committee's endorsement of Lord Sutherland's independent inquiry into the failures in delivery of the 2008 tests, which found that the test contractor, ETS, was primarily responsible and that the QCA also failed to deliver its remit. We also recognise the important role played by the Select Committee in considering these issues and, in particular, through its questioning of ETS.

¹ Sixth Report from the Children, Schools and Families Committee, Session 2008–09, Policy and delivery: the National Curriculum tests delivery failure in 2008, HC 205

The Government is committed to ensuring that all of Lord Sutherland's recommendations are implemented, and published an action plan on 2 February setting out how we will do this. A significant number of the recommendations have already been implemented. These include setting out the role of observers at the QCA Board and its committees, the further strengthening of DCSF and QCA National Curriculum Test governance arrangements and continued trialling of technological advances through the single level test pilot.

QCA and DCSF implementation of Lord Sutherland's recommendations contributed to the highly successful delivery of the National Curriculum tests in 2009, when 99.91% of results were returned to schools on time.

The Government believes that Lord Sutherland's inquiry covered all aspects of 2008 National Curriculum test delivery. The problems that arose in 2008 were the result of a delivery failure and so it is not surprising that Lord Sutherland's report, and his recommendations, were focused on delivery. Lord Sutherland himself has said that: "I believe that the terms of reference for my inquiry were drawn up in a way which gave me ample scope and every opportunity to examine the processes, roles and responsibilities of all of the key players: not only QCA and ETS, but also Ministers and officials at the DCSF".

Delegation of responsibility from DCSF to QCA

4. We maintain the view of our predecessor Committee, that the difficulty of establishing the correct dividing line between policy and execution should not be underestimated. However, we are concerned that DCSF appears to be specifying in considerable detail the ways in which it wishes to see its policies executed. The DCSF achieves this both formally, through the QCA's remit letter, and informally, through regular contact with its agency and through the mechanism of observers.

5. We agree with the Secretary of State that he is accountable for ensuring that the QCA fulfils its responsibilities for the overall operation of the testing regime. However, he is also accountable for the policies and other decisions of his Department, including the terms of the QCA's remit letter; and he is responsible for ensuring that the directions issued by DCSF are capable of being carried out by the organisations tasked with their execution.

6. If significant areas of Government policy are to continue to be delivered by non departmental public bodies and other agencies, the leadership of those bodies should be prepared to demonstrate their professionalism by challenging the Government if they consider that the impossible is being asked of them. Appropriate mechanisms should be put in place to allow them to make such a challenge. We recognise that this should never be used as a means to hold the Government to ransom or to impede the execution of legitimate public policy. Nevertheless, there needs to be a formal and transparent dialogue between the Department and its agencies.

7. In the light of the repeated problems we have identified, we consider that DCSF should, in an updated Memorandum of Understanding or equivalent with each public body, set out more clearly how it will conduct its relationships with those bodies. We urge the Government to adopt a far less prescriptive approach when issuing instructions to the new Qualifications and Curriculum Development Agency. If it is

considered appropriate that policy should be executed by an agency rather than by the Department itself, the potential benefits of such an arrangement are significantly diluted if the Government fails to trust the expertise and experience of the professionals chosen to run such agencies. It is clear that micro-management from the Department would introduce a degree of confusion into the lines of responsibility and accountability, as previously happened in the case of Individual Learning Accounts, investigated by our predecessor Committee, and the mistake has been repeated with arrangements for the delivery of National Curriculum tests.

The Select Committee's report raises a number of issues about the Department's relationship with the QCA, and more generally about the relationship between the Government and the various Arm's Length Bodies (ALBs) and agencies that are responsible for the delivery of Government policy.

The DCSF has agreed with its non departmental public bodies, including QCA, a clear and broad Framework Document. This consists of a management statement and financial memorandum (MSFM) and other documents that are intended to provide for a model relationship document.

The Framework Documents cover all the main areas of governance, accountability, resourcing, roles, responsibilities and control. They provide our non departmental public bodies with the maximum operational flexibility consistent with accountability to Parliament. They are kept under review to ensure that they continue to provide a convenient vehicle for practical working relationships between the Department and its non departmental public bodies.

The requirement for all Departments to have such agreements in place is set out in the HM Treasury publication *Managing Public Money*.

As we prepare for the launch of QCDA in statutory form, subject to the ASCL Bill currently before Parliament being passed, we will take the opportunity to set out the QCDA's relationship with Government by working with QCDA to put in place a new Framework Document.

We disagree with the implication in the report that the testing requirements in 2008 were undeliverable and at no point did QCA advise Ministers that this was the case; had QCA ever advised that requirements for testing were not deliverable, Ministers would—of course—have taken that advice very seriously. But no such advice was given: indeed, as Lord Sutherland's report shows, the Department was being reassured about the prospects of successful delivery until very shortly before the problems emerged in summer 2008. The report states that: "In practice the first time QCA notified Ministers that ETS would not deliver test results on time was 30 June 2008".

Lord Sutherland did not find that that there was anything inappropriate about the specification of the testing requirements, or that this represented micro-management. QCA was delivering tests in the context of the wider education system, and it is the Department's responsibility to make sure that the testing system is consistent with and meets the needs of the wider system. This is not micro-management, but sensible and rigorous oversight of an important and high profile programme, which failed in 2008

because of failure on the part of the appointed contractor and a lack of oversight of that contract by QCA.

Whilst the delivery of externally validated national test results is a significant exercise, given the number of tests and the limited time available to mark them, the problems in 2008—as Lord Sutherland’s inquiry found—lay primarily with the contractor, ETS. He did not find that the system itself was unsustainable or that the fault lay with the requirements placed on QCA by DCSF. DCSF and QCA agreed governance systems which provide strong oversight of National Curriculum Test delivery in 2009. These systems allowed QCA and other stakeholders to provide appropriate challenge at different points and at different levels. In 2009, the QCA successfully delivered test results to schools and pupils in accordance with the published deadline—we welcome this and thank QCA and its partners for that successful delivery.

QCA and DCSF observers

8. We have some serious concerns in relation to the role of observers and question whether, in many cases, they are necessary. In appropriate cases, departmental observers may perform a useful function in helping ministers remain accountable for policy delivery in a meaningful manner. However, formal advice to ministers from a public body should not be negotiated through departmental observers; nor should observers exert undue influence over the decision-making of a public body.

9. We concur with Lord Sutherland’s recommendation, accepted by Government, that the role of departmental observers should be clarified. We believe that the Memorandum of Understanding or equivalent between DCSF and its non-departmental public bodies should, in each case, set out clearly the appropriate role for departmental observers so that the public can be reassured that observers are not acting inappropriately to influence the work and decisions of public bodies.

DCSF observers play an important role in the relationship between DCSF and QCA, providing QCA with advice on the policy context for their decisions, advice to Ministers, and an additional check that value for money is being provided to the public. Similarly, the presence of observers helps to ensure that the development of policy by the Department is informed by delivery considerations.

Lord Sutherland carefully considered the role of DCSF observers during the delivery of the 2008 NC tests. He recommended that the role of DCSF observers on QCA boards should be clarified. The Government immediately accepted this recommendation and the DCSF and QCA have now agreed a detailed protocol on the role of observers on the QCA Board and its committees in line with this recommendation.

Ofqual and DCSF observers

10. We expressed our concerns in relation to the potential for departmental observers to exert undue influence on the advice from and decision-making of public bodies. Whilst we are content that such observers should continue to have a role within bodies such as QCA with appropriate safeguards, we are opposed to the presence of departmental observers in the context of an independent regulator. The independence

of Ofqual should be put beyond question and that requires contact between DCSF and Ofqual to be put on a much more formal footing than is suggested by the presence of observers on Ofqual's Board.

We do not agree with the suggestion that having an observer on its Board would compromise the independence of Ofqual, or that an observer could or would prevent Ofqual from telling Ministers what they need to hear. As the report itself acknowledges, there is a Treasury observer on the Monetary Policy Committee, which is widely considered to be independent.

In a way that is analogous to the Monetary Policy Committee, Ofqual is regulating within a policy context set by Government, in relation to National Curriculum assessments, public qualifications such as GCSEs, A-levels and Diplomas, and the vocational qualifications reform programme. In making regulatory decisions, Ofqual needs to understand the Government's perspective, and the Departments in turn need to understand Ofqual's position and any issues or concerns it has from a regulatory perspective. The Government's view is that a good way of achieving that is for Departmental observers to attend and to contribute to meetings of the Board, the minutes of which will be published.

Of course, the role of a Government observer on the Board of an independent regulator is different from that on a body accountable to Ministers, and that is why the ASCL Bill establishing Ofqual makes no provision for observers: assuming the Bill is passed, it will be for Ofqual itself, once established, to consider whether and if so on what terms it will invite observers. The presence of observers on the Board would not prevent Ofqual from making independent regulatory judgements; it would simply ensure that they make decisions informed, amongst other things, by the views of the Government. We believe that this would create an appropriately transparent, formal and efficient process which is fully consistent with the independence of the regulator.

National Curriculum test delivery post-ETS

11. In line with our recommendations in our Report on Testing and Assessment of May 2008, we welcomed the abolition of mandatory national testing at Key Stage 3 when it was announced in October 2008 and we remain convinced that the decision to reduce the burden of national testing was a good one.

The Government welcomes the Select Committee's endorsement of the decision to discontinue the Key Stage 3 national tests. Alongside the removal of the end of Key Stage 3 tests, and in line with the recommendations of the Expert Group on Assessment, we will support the further strengthening of teacher assessment during Key Stage 3 and ensure that there is a greater focus on providing 'catch up' support to those pupils who need it. We will introduce an entitlement to one-to-one or small group tuition in Year 7 for those pupils who have achieved below national expectations at the end of Key Stage 2, and a 'progress check' assessment for children who receive that additional support.

The Government has also accepted the Expert Group on Assessment's recommendation that a national sample testing system should be introduced for pupils at the end of Year 9, in order to monitor national standards over time. We will pilot a sample testing scheme in 2011.

12. We repeat our warning, set out in our Report on Testing and Assessment, that new tests should not be introduced nationally with undue haste. We are concerned that, if single-level tests are rolled out as a replacement for end of Key Stage testing, there is potential for significant complexity in the logistical arrangements for sending out, marking and returning a large number of single-level test scripts twice each year. Evidence from the pilot studies so far is not encouraging and demonstrates that there remain serious problems to be overcome. We remind the Government that we are opposed to an increase in the burden of national testing generally; and we warn that the Government must be quite sure that the logistical arrangements for single-level tests are robust before they are rolled out nationally.

The Government agrees that single level tests should not be rolled out hastily. In line with the Expert Group on Assessment's recommendations, we are extending the single level test pilot to include their use in an accountability context and rigorous evaluation will continue. This will include consideration of any logistical implications, alongside evaluation of any impact on teaching and learning.

QCA's technical report of the first three single level test rounds shows the programme of work undertaken to address the challenges inherent in developing a new form of testing. The report is clear that the pilot has provided a firm evidence base for the confirmed test model. Rigorous evaluation will continue throughout the extended pilot, with QCA involving Ofqual at each stage.

The feedback we have received from teachers and pupils involved in the pilot to date, shows a great deal of support for this method of testing.

13. We remain concerned about the consequences attached to high-stakes testing. We consider that, if children are to sit national tests, they should derive the maximum benefit from that experience. We noted in our Report on Testing and Assessment the benefit of receiving question-level data for diagnostic purposes and consider this to be a valuable step forwards. However, it seems to us that separating the marking process from data capture risks a repeat of the delivery problems experienced in 2008 and must surely lead to an increase in opportunity for human error. We believe that any significant future reform of National Curriculum testing must include an evaluation of on-screen marking from which question-level data can automatically be derived.

The Expert Group on Assessment determined that current National Curriculum tests are educationally beneficial; vital for public accountability and a key part of giving parents objective information on their children's levels of attainment and progress. We agree with the Expert Group, and also with the Select Committee's view that we should ensure pupils derive the maximum benefit from the tests.

Lord Sutherland recommended that the delivery process for National Curriculum Tests should be modernised, including through the piloting of online marking and the Government accepted his recommendation.

Onscreen marking is currently being trialled as part of the single level test pilot. The pilot includes the capture of question-level data. We will await the results of the evaluation of the initiative before making any decisions about its implementation on a national basis.