

## **Children's Commissioner for Wales**

### **Key Concerns and Policy Calls on Qualifications 2020**

On 13<sup>th</sup> May 2020 CCfW submitted a response to Qualifications Wales consultation on Arrangements for the Summer 2020 Exam Series (consultation response included). This response noted there must be a concerted effort on the part of all professionals involved to make decisions as fair as possible to young people, and called for central elements of the approach to change, these included calling for:

- More robust processes around centre assessment, with the need for internal and external moderation supported by clear guidance;
- A need to secure grades for private candidates (for example home educated young people) so that these young people are not left behind;
- A transparent appeals process that enables wider grounds of appeal than proposed;
- The need to consider predicted grades as a valuable evidence source in themselves.

**CCfW again raised concerns on 20<sup>th</sup> May 2020 in a joint letter between the Children's Commissioner and Equality and Human Rights Commission to the Minister for Education** (copy included), which further highlighted the need for equity and called for a more robust process to ensure equality and non-discrimination.

These concerns were again raised in a **meeting with the Minister of Education in June 2020, and follow up meetings and correspondence (letters and e mails) with Welsh Government officials and the Chief Executive of Qualifications Wales and his team throughout June, July and August.**

During this correspondence CCfW proceeded to:

- raise ongoing concerns about the centre-level assessment process and reiterate our concern that the consultation was too late as centres had already been issued guidance;
- made an offer to Qualifications Wales to review guidance for young people – this was not taken up (time constraints were cited);
- request that more information was made publically available by Qualifications Wales about the standardisation process before results days to aid transparency of decision making;
- recommend to Qualifications Wales that to ensure public confidence they publish performance data for summer 2020 disaggregated by protected characteristics and analysed to determine any statistical patterns that indicated bias;
- seek external expertise from Cardiff University to inform our analysis of the standardisation process;
- request several changes to the appeals and complaints process including the ability for young people to appeal centre level decisions and information for Governing Bodies.

During these meetings and this correspondence, the Welsh Government and Qualifications Wales responded with the following:

- That a comprehensive information pack would be published for young people and a wider audience and this would be shared with us the w/b 10 August;
- That every effort was made to ensure grades for private candidates, using similar methods suggested in our consultation response;
- That young people would have recourse to complaint and appeal, which would include appeal of the centre-level decision and the standardized decision, and that information about how to do this would be made available in their information pack;

- That centres were issued Ofqual's guidance on ensuring non-discrimination and bias;
- That the standardization model would take account of individual achievements and progress and not just cohort level data;
- That Qualifications Wales were reviewing equalities analysis from WJEC when signing off results and were intending to publish a preliminary equalities analysis on results day;
- That significantly anomalous centre level data would be investigated to ensure the standardisation model was effective;
- That WJEC would publish technical detail on the standardisation model on results day;
- That, following our intervention, Governing Bodies would be given guidance through the ADEW Governor Support Group about their role in the complaints procedure.

Prior to the week beginning 10<sup>th</sup> August CCfW main concerns were:

- that young people did not have the recourse to appeal that would normally be in place;
- that centre level assessment had not been supported with guidance or a requirement for an internal or external moderation process.

Due to the assurances we had been given, and in the absence of published detail, we anticipated that the standardisation model would be fairly applied, and well-tested. CCfW therefore focussed on ensuring the appeals and complaints process was well thought through and that young people would be well informed about how to appeal. CCfW deliberately did not publish any criticism of the awarding process prior to the 13<sup>th</sup> August, so to avoid any implication that undermined the achievements of young people receiving results.

In response to the Minister's announcement at 5pm on 12 August, [the Commissioner welcomed](#) the Minister's direction to widen the scope of the appeals process and announcement that appeals would be free, details of which were promised by 17 August (details yet to be published as at 1330, 17 August 2020).

On results day, the high levels of public dismay and the extent of individuals' injustice became quickly apparent and it was clear that the standardisation model was failing young people. CCfW made public calls in the following statements, with one dated 16 August directed at young people:

Friday 14<sup>th</sup> Aug: <https://www.childcomwales.org.uk/2020/08/childrens-commissioner-responds-to-a-level-results/>

Sunday 16<sup>th</sup> Aug:

- <https://www.childcomwales.org.uk/2020/08/commissioners-open-letter-to-young-people/>
- <https://www.childcomwales.org.uk/2020/08/commissioners-joint-call-to-universities/>

Monday 17<sup>th</sup> Aug: <https://www.childcomwales.org.uk/2020/08/commissioner-calls-for-children-in-wales-to-be-awarded-their-centre-assessed-grades/>

Further details of correspondence and concerns relating both to summer 2020 and beyond to 2021 can be provided.



## **Ymateb i Ymgynghoriad / Consultation Response**

**Date / Dyddiad:** 13<sup>th</sup> May 2020

**Subject / Pwnc:** Arrangements for the Summer 2020 Exam Series

### **Background information about the Children's Commissioner for Wales**

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

Submitted by:



Professor Sally Holland  
Children's Commissioner for Wales

**Consultation Response**

## Summary

I recognise the challenge faced by Qualifications Wales in the awarding of graded qualifications this summer. The necessary cancellation of all summer exams in response to the current pandemic leaves no perfect solution to ensuring all children and young people fairly receive qualifications and I acknowledge the recognition in the consultation documentation that these proposals may be seen as less desirable than normal arrangements.

I welcome the direct invitation in the consultation documents for respondents to contribute suggestions for improvement and in my response I have tried as far as possible to suggest other viable arrangements or steps that can be taken to mitigate some impacts of the proposals. I have also raised some concerns to which I cannot suggest a solution, as highlighting these issues will help ensure that they are considered as arrangements progress, even when solutions cannot easily be found.

My office has received a number of contacts from young people and their families about the cancellation of exams. It is important that we realise the range of ways that this is affecting young people, and the sense of frustration and disappointment that some young people feel. In my responses to young people I have emphasised that their exams are by no means the only important outcome of their education. But exam results can and do affect young people's opportunities, confidence and choices. Qualifications can have a long term socio-economic impact on individuals and can determine whether young people stay in education, what jobs they can apply for, and how they feel about their abilities.

Therefore, whilst decisions must be taken quickly, there must be a concerted effort on the part of all professionals involved to make decisions as fair as possible to young people, and with this in mind I consider there to be three central elements of the approach that should change:

- First, I recommend strongly that there is moderation of centre assessment within centres supported by clear guidance and that there is external moderation of this process conducted by WJEC;
- Second, every effort must be taken to secure grades for private candidates so that these young people are not left behind;
- Third, an appeals process should enable young people to appeal centre judgements and decision making as without this young people may rightly feel they have been treated unfairly.

## Consultation Questions

### Statistical Standardisation Model

4. **Learners for whom a qualification-level centre assessment grade and rank order are submitted will receive a grade.**

- a. To what extent do you agree with this aim?

***Agree.***

- b. Please clearly explain the reasons for your answer in the space below.

Given the public government commitments to issuing grades this summer<sup>1</sup> it would not be fair to young people if this commitment was not upheld. This is underlined by the fact that centres are already working to submit centre assessment grades<sup>2</sup> (with a potential deadline of the 29<sup>th</sup> May for submission of these grades).

As acknowledged in the consultation document there is a particular issue for young people who do not have an existing relationship with a centre. This group includes young people who are educated at home, young people following distance learning or learning for exams independently, and young people who are in receipt of some types of EOTAS (education other than at school) provision, for example those receiving home tuition provided by the local authority.

I welcome the note in the documentation that there is continued exploration of alternative options for these learners. As indicated there are centres in Wales that would be able to work with these learners remotely. This learning work could happen now and into the rest of the summer term, and would allow the young person to develop a portfolio of their work with a professional, which should not be purely written or electronic but could include contributions through conversations and video calling. Professionals would then be able to assess this work, and use this to submit an assessment grade, and a rank order against the work of other exam candidates at the centre.

For this to work equitably, there will need to be recognition that some young people entered for exams will not have readily available digital access so steps should be taken with the local authority to ensure they have access to hardware, an internet connection; and software. Provision of IT equipment is taking place through local authorities and these learners should be included in this provision. It should also be noted that learners will not necessarily have access to Hwb and the online tools that it provides. Home

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<sup>1</sup> <https://gov.wales/written-statement-written-statement-summer-examinations-2020>

<sup>2</sup> Qualifications Wales (2020) Summer 2020 grades for GCSEs, AS and A levels and Skills Challenge Certificate (SCC): Information for centres on the submission of Centre Assessment Grades. <https://www.qualificationswales.org/english/publications/information-for-centres-on-the-submission-of-centre-assessment-grades/>

educated young people, for example, do not have a Hwb login. This could be quickly resolved by providing Hwb login for candidates, through the exam centre at which they will take their exams (in the same way that such a centre administrates Hwb login for their learners on roll).

It is also unclear from the consultation documentation what process is to be put in place for learners who do have an existent relationship with an exam centre but for whom the centre is unable to provide centre-assessment data supported by a declaration. This may apply to young people that have had sustained absences, or those for whom there is insufficient completed pieces of work. In these instances, a similar remote process could be in place to generate a portfolio over the summer term that can be assessed.

I strongly urge that such exploration with centres for these groups is conducted at pace, and arrangements put in place for all young people that don't have centre-assessment. This is essential so that they are not disadvantaged by not receiving a graded qualification in the same way as other exam candidates. A situation in which a few young people are not eligible to have grades submitted will have immediate and long-term implications for these young people; they will have an additional barrier to their continued education, which others do not have, and, as a minority group that are relatively few in number, it will be easy for their specific situation and needs to be forgotten or overlooked. Their situation may not be generally understood by the wider public (including future employers) who would expect them to have received a grade like the majority of other learners. Most of this group will also be beyond compulsory school age and their future funding or support needs may not be an immediate priority for local authorities, nor in national policy. It may also be impossible for some of these young people to take this exam in subsequent years. For example, home educated young people receive no funding, and their families may not be financially able to support them for an additional year of GCSE or A Level study.

Every effort should be taken to enable all young people to have a centre assessed grade submitted as without this there will be a disproportionate risk that young people without an existing relationship to a centre will not receive qualifications and this could impede their continued participation in education or cause them to miss out on future opportunities for employment or training.

**5. The outcomes for summer 2020 will be broadly similar to those in previous years.**

- a. To what extent do you agree with this aim?

***Agree.***

- b. Please clearly explain the reasons for your answer in the space below.

I agree, that unless 2020 outcomes are broadly similar to other years, there could be an unfairness that may affect learners from other year groups (if grades are generally higher this year), or affect this group of young people (if grades are generally lower this year). It is important that young people feel their results are credible and can stand up to public scrutiny: as proposed, a statistical standardisation model that aligns results with those of other years could help support this.

Whilst I broadly agree with this approach at a national level, there does need to be particular attention given to qualifications where there are fewer numbers of entrants, for example some A Level courses. In these examples there may be a greater degree of variation between cohorts each year due to the relatively small number of candidates – I suggest here, that a similar approach is taken to the one I outline in my answer to question 6 below.

6. **A statistical standardisation model which uses historical evidence of centre performance and the prior attainment of learners, along with the centre assessment data, is likely to be the fairest approach and produce more accurate calculated grades.**

a. To what extent do you agree with this aim?

***Partly agree and partly disagree***

b. Please clearly explain the reasons for your answer in the space below.

The consultation document shows that a range of statistical models are being considered. The preferred model determines the most likely distribution of grades for each centre based on the previous performance of the centre and the prior attainment profile of its learners, and then uses the submitted rank order to allocate grades to individual learners in line with this expected grade distribution.

I accept that this model is preferred as a fairer Wales-wide model and is informed by Baird's 1997 research<sup>3</sup> as included in Ofqual's literature review.<sup>4</sup> This research suggests that teachers' rank ordering of candidates has a degree of accuracy which is higher than that shown by teachers' predicted grades. However, the research base cited is not extensive and large centres where the cohort of pupils is taught by many teachers may have particular challenges in creating a rank order - the guidance for centres<sup>5</sup> gives no advice nor direction for how this should be approached.

I am also unsure how this preferred model will account for the assessed grades that centres will submit – the consultation indicates that predicted grades will have less 'weight' in the statistical model but it is unclear as to the degree of weight they will have, if any. It is important to clarify this as a statistical model alone will not account for variation between years within a centre.

These grades must be considered as a grade in themselves (in addition to the rank ordering) and to mitigate for subjectivity both internal moderation and external moderation could have been carried out for each exam centre, in the same way that non-examined assessment (coursework / controlled assessment) is moderated within and between centres – ensuring that grading is secure by comparing a sample of the cohort. As this has not been integrated into the current guidance<sup>6</sup> it may not now be practicable to put this in place but my preference is still that there is some form of internal moderation, where teachers within a department of a centre compare their evidence base for assessment - in fact I do not see how an entire cohort (which can be upwards of 200 pupils taught by different teachers) can be ranked without this internal moderation process.

I also would suggest an external moderation of the decision making process and the evidence used to reach assessment decisions by the WJEC, using a sample of assessment evidence, including the different forms listed on p. 4 on the guidance document for centres<sup>7</sup>. I appreciate that this is a change in practice

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<sup>3</sup> Baird, J. A. (1997). Teachers' Estimates of A level Performance. AEB Internal Report.

<sup>4</sup> Baird (1997) in Ofqual (2020) Equality Impact Assessment: literature review

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/879605/Equality\\_impact\\_assessment\\_literature\\_review\\_15\\_April\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879605/Equality_impact_assessment_literature_review_15_April_2020.pdf)

<sup>5</sup> <https://www.qualificationswales.org/english/publications/information-for-centres-on-the-submission-of-centre-assessment-grades/>

<sup>6</sup> [ibid](#)

<sup>7</sup> [ibid](#)

from the usual moderation conducted by the WJEC as they will need to be moderating a range of evidence that has been used to arrive at a grade rather than moderating the assessment of an individual piece of work. However, this should still be possible. Then, any centres that show a significant discrepancy between centre-assessed grades and historical data could have further scrutiny of grading by the awarding body. The guidance document<sup>8</sup> notes that work should be retained, so this approach would offer a practical means by which centre-assessed grades can be considered alongside the historical evidence of centre-performance. With this in mind it should be accepted that a grade distribution that takes account of centre-assessed grades may be different from historic distributions, but that there can be confidence in this due to a qualitative moderation process.

**7. As far as possible, we should ensure that the process for awarding grades in summer 2020 will not disadvantage groups of learners, including those with protected characteristics, relative to previous years.**

- a. To what extent do you agree with this aim?  
***Strongly agree***
- b. Please clearly explain the reasons for your answer in the space below.

The process for awarding grades this summer must be in line with Section 149 of the Equality Act 2010 and the the Public Sector Equality Duty (the 'PSED') and with the human right of children to equality and non-discrimination, (Article 2) which is a cross-cutting principle of the UNCRC, and an essential element of a children's rights approach.

The PSED requires all public authorities and those exercising a public function to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those who share protected characteristics and those who do not.<sup>9</sup>

I recognise that the guidance for centres includes specific guidance to centres to account for agreed access arrangements for learners but it does not include any guidance for teachers, Heads of Departments or Heads of Centres about how they can minimise the risk of conscious or unconscious bias in the assessments of their individual classes or by working together as a staff team across the cohort. In the absence of any qualitative moderation process there is a greater risk of bias affecting the submitted assessment.

The consultation document cites Ofqual's literature review into evidence of bias in teacher predicted grades which concludes that while predicted exam grades can sometimes be linked to students' protected characteristics it is not possible to quantify this effect. This adds evidence to the need for a qualitative standardisation that includes standardisation of the grades for individuals.

I also recommend urgent guidance or, even better, an online training module, which is made available to centres to explain how to conduct internal moderation of their cohort using the different forms of evidence listed on p.4 of the current guidance document<sup>10</sup>. Within this there should be included guidance as to how to predict grades and to rank pupils in order to minimise the risk of conscious or unconscious bias. I am conscious that with the guidance to centres already in operation there is a risk that the opportunity to do

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<sup>8</sup> [ibid](#)

<sup>9</sup> Section 149, Equality Act 2010

<sup>10</sup> <https://www.qualificationswales.org/english/publications/information-for-centres-on-the-submission-of-centre-assessment-grades/>



this is limited, but I strongly recommend that this issue is raised urgently with centres in advance of May 29<sup>th</sup>.

I assume from the detail provided in 2.29 that there is already a requirement for centres to provide WJEC with sufficient data on socio-economic background and the protected characteristics of assessed pupils at the same time as the submission of centre-assessed grades.

If not, this should be requested as part of the submission and guidance should encourage centres to assess their approach to grading and ranking to identify if there may be any statistical patterns of assessment related to protected characteristic at a centre-level, and to ensure that these are not the result of bias. Where there appears to be statistical patterns of assessment related to protected characteristics in a centre the centre should further moderate their centre-assessed grades to ensure confidence in the assessment and in the ranked order of candidates. This should also be integrated into the external moderation process led by WJEC, as suggested in question 6.

I am pleased to see at 2.29 that at a national level attainment gaps linked to learner characteristics will be scrutinised to assess if they have substantially changed compared to previous years, and that this evidence will inform the choice of the final statistical standardisation model. I also accept the reasons stated for not making targeted corrections at a national level, which would adjust rankings within centres on the basis of learner characteristics. But this does mean that a qualitative moderation process is essential at a centre level, both within centres and by the WJEC, and expectations of this should be made clear to centres.

**8. Processes for issuing grades in summer 2020 will use results from any qualifications and units already completed and awarded. As such, the evidence used may differ across qualification types.**

- a. To what extent do you agree with this aim?  
*Strongly agree.*
- b. Please clearly explain the reasons for your answer in the space below. *(If you have disagreed or strongly disagreed, where possible, please outline what you consider to be a suitable alternative or solution.)*

I believe this is the only approach possible given the range of requirements for different qualifications.

**Appeals Process**

**9. Learners who are dissatisfied with their results this summer will not be able to appeal against the professional judgement made by their centre, or the procedure used by their centre to arrive at this judgement.**

- a. To what extent do you agree with this proposal?  
*Strongly disagree*
- b. Please clearly explain the reasons for your answer in the space below.

Accountability is a central element of any approach based in the human rights of children, as guaranteed by the UNCR. All organisations making decisions that affect the lives of children and young people should be accountable for these decisions, and young people have a right to information about this decision making.

General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence<sup>11</sup> details how the general principles of the Convention pertain to adolescents, including the principle of the right to be heard and participation. This states that young people should be provided with, ‘safe and accessible complaint and redress mechanisms with the authority to adjudicate claims made by adolescents’ (paragraph 23). A transparent and accessible accountability mechanism also protects the right to equality and non-discrimination as it is likely that young people with parents or carers who have higher levels of education and more social confidence will be more likely to utilise a complex appeals process than those from disadvantaged backgrounds.

I note the current guidance to centres contains clear instruction that, *‘Centres must not, under any circumstances, share the centre assessment grades nor the rank order of learners with learners, or their parents or carers, or any other individuals outside the centre. This is to protect the integrity of the teachers’ judgements, and to avoid teachers, Heads of Department or Heads of Centre being put under pressure by learners and parents, to submit a grade that is not supported by the evidence. Since the final grades issued to some or all learners might be different from those submitted, it also helps to manage learners’ expectations.’*

I understand why this guidance is in place at this point and I agree it is a sensible approach. However, once qualifications have been awarded, it would seem fair and transparent if there was a way by which both organisations that have been instrumental in determining the grade (that is, the centre and the exam board) can be held accountable for the decision making process that led to this grade being awarded. If an internal moderation process is undertaken in centres as part of submitting their assessment and ranking, and if the WJEC also moderate this externally then there would be clear evidence that could be used to both assess the robustness of the process, and the quality of the professional judgement. Young people should be able to appeal to the WJEC so that both the process and judgement of the centre can be scrutinised.

Without this, there will undoubtedly be young people who feel they have been treated unfairly in a matter that can have significant and lifelong implications. Young people cannot be left with no means of requesting scrutiny of a decision that can have such a weight of impact on their lives. I can understand that there may be concerns about the numbers of young people that could appeal their grade, and that is another reason why a clearer process needs to be in place for the assessment submission, and why professional judgement should be substantiated. This does not necessitate a common set of evidence from each centre or against each qualification, which could be impossible. A more flexible approach could be taken, for example, centres could create a short narrative explaining each professional judgement (similar to a school report) and link this to relevant evidence sources where appropriate. Many centres may already be informally doing this in order to rank their learners, so this could in many cases formalise a process that is underway.

The concern outlined in the consultation document is that the emergency situation, the lack of training and lack of moderation means that a process that allows for appeals against centre judgements could be deemed to be unfair, and moreover that the possibility of appeal would inhibit teachers from openly and honestly awarding grades. There is also a concern noted about the capacity of centres and the WJEC to respond to such appeals.

However, the consultation does propose the following at 2.61, *‘Although we propose that a learner who believes they have been given the wrong grade will not be able to ask the centre to review its judgements, we do believe that a learner who thinks a centre may have made an error when submitting the data to WJEC,*

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<sup>11</sup> General Comment No 20 (2016) on the implementation of the rights of the child during adolescence [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f20&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f20&Lang=en)

*should be able to ask their centre to review the accuracy of the data it submitted. If the centre finds it made an error, or it considers that WJEC made an error in the way it processed the centre's data, the centre should submit an appeal'. It seems to me that such an informal review process could lead to the same concerns as outlined, but without the protections afforded by a more formal appeal by the learner. I would suggest that this proposal is modified so that this suggested review is integrated as part of an appeal process that has clear guidelines for both appellants and the centre to follow. I also believe that this would give greater protection to individual professionals as guidance around appeals can make clear that due to the emergency professionals have not received the usual training, guidance or support to make these decisions and are not working in usual circumstances. Guidance around the appeals process should state clearly that unless there is malpractice there must be no repercussions for individual professionals if any decision making or judgements are reconsidered and that accountability for decision making lies with the centre as a corporate body, and not with individual professionals.*

**10. Centres will be able to appeal to WJEC on the grounds that they used the wrong data when calculating a grade, the calculated grades generated by the statistical standardisation model were incorrectly allocated or communicated and/or there was some other procedural failing on the part of WJEC.**

- a. To what extent do you agree with this proposal?  
***Agree.***
- b. Please clearly explain the reasons for your answer in the space below.

This is an important mechanism but it should be accompanied by the opportunity for a learner to challenge the grade submitted by the centre as detailed in my response to question 9.

**11. For results issued this summer, we should require WJEC to only consider appeals submitted by centres, and not those submitted by individual learners.**

- a. To what extent do you agree with this proposal?  
***Strongly disagree***
- b. Please clearly explain the reasons for your answer in the space below.

As explained in my answer to question 9, WJEC should consider appeals submitted by individual learners in addition to those submitted by centres.

**12. If an appeals process identifies an error that would result in a lower grade for learners other than those cited in the appeal, then WJEC should not lower these grades.**

- a. To what extent do you agree with this proposal?  
***Strongly agree.***
- b. Please clearly explain the reasons for your answer in the space below.

In addition to the rationale provided in the consultation, I would like to add that young people who were due to take exams in summer 2020 have been faced with a number of significant challenges, all of which could be having inimical effects on their wellbeing, their confidence and their ongoing education.

Lowering grades of an entire cohort on the basis of an appeal by one individual in the cohort will first make it less likely that centres will support an appeal and therefore undermines the appeal process. Second, this could lead to social difficulties for individual young people within a community – some centres may face challenges in keeping the identity of appellants anonymous. Third the lowering of grades for a whole cohort would be an unexpected blow to a group of young people that have already over the last six months faced high levels of uncertainty and change, which they may continue to endure in the coming period.

**13. WJEC should be required to take all reasonable steps to ensure that all appeal decisions are taken by people who were not involved in the process leading to the issue of those results.**

- a. To what extent do you agree with this proposal?

***Strongly agree***

- b. Please clearly explain the reasons for your answer in the space below.

Taking reasonable steps to ensure an independent reviewer is an important part of a robust appeals process.

**14. WJEC should be permitted to run a simplified appeals process whereby the decision-maker considers a report by the member of staff conducting the administrative review and any representations made by the centre in light of that report.**

- a. To what extent do you agree with this proposal?

***Partly agree and partly disagree***

- b. Please clearly explain the reasons for your answer in the space below.

I accept the rationale for a simplified appeals process and do not object to this in principle, providing that the following elements are integrated into this process:

- Young people are able to appeal the centre process and/or the professional judgement submitted by the centre;
- Where relevant to the appeal, the report under consideration also contains information about the rationale for the professional judgement and details of the moderation process that was undertaken by the centre;
- Young people are given clear information about how to appeal and about what the process of appeal involves;
- Young people that appeal are provided with clear reasons for the final decision, presented to them in a way they can understand.

**15. The only functions of the Exam Procedures Review Service (EPRS) this summer will be to review:**

- 1. the extent to which WJEC was compliant with our requirements and with their own policies and procedures, or**
- 2. if any error was identified in the data used to generate the calculated grade(s) and/or in the grade(s) issued, whether that error was properly corrected.**

- a. To what extent do you agree with this proposal?

### ***Partly agree and partly disagree***

Please clearly explain the reasons for your answer in the space below.

I would agree with this proposal if it was part of a modified appeals process that includes the steps I have outlined in previous answers.

#### **Regulatory Impact Assessment**

1. In relation to the regulatory impacts that we have identified in this section, are there any additional steps that we could take to reduce them? If so, please outline these steps in the space below.

- Put in place a process to enable private candidates without an existent relationship with a centre to receive a centre assessed grade. My suggestion for how this could be achieved is detailed in my response to Q4.
- Paragraph 3.11 notes that there may be financial impacts on individuals but goes on to state that candidates, 'will have an opportunity to take exams in the scheduled November 2020 exam series or in summer 2021; however, this will delay their progression. This could also include some private candidates for whom a grade cannot be calculated.' In reality, not all candidates will have this opportunity as financial pressures will be such that they are unable to continue in education beyond this summer. This is important to note as it underlines the urgency of enabling private candidates without an existent relationship with a centre to receive a centre assessed grade. My suggestion for how this could be achieved is detailed in my response to Q4. In addition, another option that could be explored is to investigate funding opportunities for young people wishing to take exams in the November 2020 exam series, and these opportunities would need to cover young people that are home educated and young people that are in receipt of EOTAS provision, for example home tuition. These options would also need to be available for young people above compulsory school age.
- Similarly, if there are any young people that do not receive grades this summer as they didn't have centre assessment, then in addition to the effort to inform tertiary and higher education institutions to explore options, there must also be a concerted effort made to raise awareness among employers that not all young people expecting qualifications were able to obtain them – and that this was due to circumstances entirely beyond their control.
- I'm pleased to see the acknowledgement of the impact of this on learner wellbeing at 3.13. All organisations working with or on behalf of children and young people in Wales must take steps to support their wellbeing at this time. Transparency and ongoing accessible communication is an important part of this, therefore I strongly recommend the proposals around the appeals process are reviewed so that young people can appeal centre judgements and decision making. This is important in order for young people to feel they have an opportunity to be heard and to be treated fairly.

2 a. Are there any **other** positive or negative regulatory impacts (intended or unintended) that we have not already identified? *(If you have identified both positive and negative impacts, please select both options in the list below)*

#### **Yes, there are other negative impacts**

2b. Please explain your answer in the space below, clearly outlining what other impacts you have identified and any steps we could take to reduce this impact.

- Consideration must also be undertaken now for what might be the fairest process to undertake in November 2020 if that exam series is also cancelled.
- Consideration must be undertaken now for how private candidates who may wish to take exams in November 2020 can ensure a relationship with a centre from an early date in case this exam series is cancelled.
- Consideration should be given to how professionals in centres are supported to make judgements about rank order of candidates particularly in large centres where cohorts of entrants for one qualification are taught by several teachers. Guidance and online training is needed.
- Consideration should be given to how professionals are protected in centres during appeals processes. Guidance around the appeals process should state clearly that unless there is malpractice there must be no repercussions for individual professionals if any decision making or judgements are reconsidered and that accountability for decision making lies with the centre as a corporate body, and not with individual professionals.
- Consideration should be undertaken as to how children and young people can meaningfully participate in ongoing decisions that could significantly affect their lives, in line with the cross-cutting children's rights principle of participation. I welcome the inclusion of a young person's consultation document and survey as part of this consultation. Responses to this will be invaluable in ensuring that solutions are ones supported by the people they will most greatly affect. However, my office has been contacted through social media with the concern that the survey is inaccessible for young people due to the technicality of the language used. I appreciate that there are challenges in presenting complex information in an accessible way and also the difficulty of doing this at pace in the dynamic context of this work. I would however recommend that future consultations with young people on any subsequent decisions provide options for young people so that they can engage with the central concepts and principles in different ways: some young people will have been able to engage with the consultation without help; but many others would have benefitted from a simpler and a more accessible way to contribute views.

### **Equalities Impact Assessment**

1. In relation to the impacts that we have identified in this section, are there any additional steps that we could take to reduce them? If so, please outline these steps in the space below.

- I recommend urgent guidance supplemented with an online training module, which is made available to all centres to explain how to conduct internal moderation of their cohort using the different forms of evidence listed on p.4 of the current guidance document<sup>12</sup>. Within this, there should be included guidance as to how to predict grades and to rank pupils in order to minimise the risk of conscious or unconscious bias.
- Guidance should encourage centres to assess their approach to grading and ranking to identify if there may be any statistical patterns of assessment related to protected characteristic at a centre-level, and to ensure that these are not the result of bias. Where there appears to be statistical patterns of assessment related to protected characteristics in a centre the centre should further moderate their centre-assessed grades to ensure confidence in the assessment and in the ranked order of candidates.
- This internal moderation process should be supplemented by an external moderation of centres conducted by the awarding body and this should integrate an analysis of equalities

<sup>12</sup> <https://www.qualificationswales.org/english/publications/information-for-centres-on-the-submission-of-centre-assessment-grades/>

data to ensure that there are not statistical patterns that are the result of bias. In order to achieve this, centres should provide WJEC with sufficient data on socio-economic background and the protected characteristics of assessed pupils at the same time as the submission of centre-assessed grades.

- Please see my response to the Regulatory Impact Assessment with regards to additional steps that can be taken to protect private candidates from potential discrimination. I note that this group will include home educated young people, which is a population with a higher incidence of additional learning needs than the general population. It will also include young people in receipt of Education Other than At School, which is also a population with a higher incidence of ALN, and with a higher number of young people entitled to free-school meals.<sup>13</sup> Again, in reality many of these young people may not be able to access exams in the November 2020 series, sometimes due to economic constraints.

2a. Are there any **other** positive or negative impacts (intended or unintended) for individuals or groups who share protected characteristics that we have not identified? *(If you have identified both positive and negative impacts, please select both options in the list below).*

**Yes, there are other negative impacts**

2b. Please explain your answer in the space below, clearly outlining what other impacts you have identified and any steps we could take to reduce this impact.

- An open and accessible accountability mechanism protects the right to equality and non-discrimination as it is likely that young people with parents or carers who have higher levels of education and more social confidence will be more likely to utilise a complex appeals process than those from disadvantaged backgrounds. Limiting the right to appeal so that young people cannot appeal the judgements or decision making of centres will disproportionately affect young people already disadvantaged.
- Please also note my response to the Regulatory Impact Assessment about how the young person's consultation documents could have provided additional accessible option(s) to contribute views. This could have enabled participation in the consultation from a wider range of young people, including more children and young people with Additional Learning Needs. There has not been a specific route for some young people with Additional Learning Needs, nor those who are less confident readers to inform decision making in this consultation. Including an additional simplified or accessible version of the consultation could have enabled participation that would be more representative of the cohort as a whole.

### Welsh Language Impact Assessment

1a. Are there any positive or negative impacts (intended or unintended) on **opportunities for people to use the Welsh language** that we have not identified? *(If you have identified both positive and negative impacts, please select both options in the list below)*

**No, there are no other impacts**

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<sup>13</sup> <https://gov.wales/sites/default/files/statistics-and-research/2019-07/pupils-educated-other-school-september-2018-august-2019-644.pdf>

1b. Please explain your answer in the space below, clearly outlining what other impacts you have identified and any steps we could take to reduce this impact.

2a. Are there any positive or negative impacts (intended or unintended) in relation **to treating the Welsh language no less favourably than the English language** that we have not identified? *(If you have identified both positive and negative impacts, please select both options in the list below)*

**No, there are no other impacts**

21b. Please explain your answer in the space below, clearly outlining what other impacts you have identified and any steps we could take to reduce this impact.



Kirsty Williams AS  
Gweinidog Addysg

Dydd Mercher 20 Mai 2020

Annwyl Weinidog,

### **Pwnc: Camau sydd eu hangen i sicrhau cydraddoldeb a pheidio â gwahaniaethu wrth ddyfarnu cymwysterau'r haf hwn**

Diolch am eich ymroddiad a gwaith caled i sicrhau bod y system addysg yng Nghymru yn parhau'n ganolog bwysig yn ystod y pandemig coronafeirws. Cefnogwn yn fawr y gwaith a wneir gan Lywodraeth Cymru a Chymwysterau Cymru i sicrhau y gwneir yr asesiadau TGAU, Safon UG a Safon Uwch cyn teced â phosib yr haf hwn.

Croesawn ymroddiad Cymwysterau Cymru i sicrhau bod y broses gyffredinol ar gyfer darparu graddau arholiad i fyfyrwyr yn deg ac yn gallu nodi a lliniaru tuedd wrth i ganolfannau arholiad rhagfynegi graddau. Ond yn ein barn ni nid yw'r cynigion a amlinellir yn ymgynghoriad diweddar Cymwysterau Cymru yn darparu mecanweithiau digonol i sicrhau hynny.

Mae ein sefydliadau ill dau wedi ymateb i'r ymgynghoriad ac wedi codi gofidion am degwch y broses ac yn arbennig effaith tuedd ymwybodol ac anymwybodol wrth ragfynegi graddau arholiad, a allai rhoi rhai grwpiau myfyrwyr o dan anfantais.

I gryfhau'r ymagwedd a gwybodaeth ar gyfer canolfannau arholi a gyhoeddwyd gan Gymwysterau Cymru, argymhellwn fod Llywodraeth Cymru yn gweithio ar y cyd â Chymwysterau Cymru a CBAC i gyhoeddi canllaw ar frys i gefnogi ysgolion ac athrawon ar yr ymagwedd y dylent ei chymryd wrth ragfynegi graddau a rhestru disgyblion, er mwyn lleihau'r risg o duedd ymwybodol ac anymwybodol gymaint â phosib.

Rhaid i'r ymagwedd hon gynnwys proses cymedroli mewnol ac allanol sydd yn galluogi craffu sail y dystiolaeth ar gyfer asesu. Hebdi nid yw'n bosibl gweld sut y gall cohort cyfan, y gall gynnwys i fyny hyd at 200 o ddisgyblion a ddysgir



gan athrawon gwahanol mewn un sefydliad eu rhestru'n deg yn gymharol i'w gilydd.

Argymhellwn hefyd fel rhan o gyflwyno data asesu, bod canolfannau'n cynnwys data digonol ar gefndir cymdeithasol-economaidd a nodweddion gwarchoddedig disgyblion sydd wedi'u hasesu, i gefnogi dadansoddiad i wirio am fantais neu anfantais systemig.

Rydym yn gweithio i sicrhau bod effaith y pandemig coronafeirws ar gydraddoldeb a hawliau dynol wedi'i ddeall ac y caiff ei ystyried wrth wneud penderfyniadau. Gall graddau cymhwyso effeithio'n barhaus ar fywydau pobl ifanc. Mae plant a phobl ifanc o rai cefndiroedd lleiafrifol ethnig, disgyblion anabl a'r sawl sydd ag anghenion dysgu ychwanegol eisoes o dan anfantais anghymesur, gyda thystiolaeth yn amlygu bylchau cyrhaeddiad sylweddol ar gyfer y grwpiau hyn.

Atodwn ein hymatebion i ymgynghoriad Cymwysterau Cymru; sydd yn cynnwys y cyhoeddiad hwn a rhai pwyntiau ychwanegol ar gyfer eu hystyried wrth lunio canllaw. Byddai'r ddau sefydliad yn hapus i gynnig ein cefnogaeth, gwybodaeth ac arbenigedd wrth lunio'r canllaw hwn.

Byddem yn croesawu'n fawr iawn y cyfle i drafod yr argymhelliad hwn yn bellach â chi a'ch uwch swyddogion, yn ogystal â thrafodaeth gyda Cymwysterau Cymru. Gwerthfawrogwn y galwadau enfawr ar eich amser ond byddai cyfarfod byr yn werthfawr o ystyried pwysigrwydd a blaenoriaeth y mater hwn.

Yr eiddoch yn ddiffuant,

Parch. Ruth Coombs  
Pennaeth Cymru  
Wales | Cymru

Sally Holland  
Comisiynydd Plant Cymru  
Children's Commissioner for Wales

Kirsty Williams AS  
Minister for Education

Wednesday 20 May 2020

Dear Minister,

**Subject: Actions needed to ensure equality and non-discrimination in awarding qualifications this summer**

Thank you for your commitment and hard work to ensure the education system in Wales remains of central importance during the coronavirus pandemic. We strongly support the work being done by Welsh Government and Qualifications Wales to ensure the GCSE, AS Level and A Level assessments can be made as fair as possible this summer.

We welcome Qualifications Wales' commitment to ensure that the overall process for providing exam grades for students is fair and can identify and mitigate bias in predicted grades provided by exam centres. But we do not feel that the proposals outlined in Qualifications Wales' recent consultation provide sufficient mechanisms to ensure this.

Both our organisations have responded to the consultation and raised concerns about the equity of the process and in particular the impact of conscious or unconscious bias in predicting exam grades, which could disadvantage some groups of students.

To strengthen the approach and information for exam centres published by Qualifications Wales, we recommend that Welsh Government works with Qualifications Wales and the WJEC to issue urgent guidance to support schools and teachers on the approach they should take when predicting grades and ranking pupils, in order to minimise the risk of conscious or unconscious bias.

This approach must include a process of internal and external moderation that enables scrutiny of the evidence base for assessment. Without this it is not possible to see how an entire cohort, which can be upwards of 200 pupils taught by different teachers in one institution, can be fairly put into a ranked order relative to each other.

We also recommend that as part of the submission of assessment data, centres include sufficient data on socio-economic background and the protected characteristics of assessed pupils, to support analysis to check for systematic advantage or disadvantage.

We are working to ensure the impact of the coronavirus pandemic on equality and human rights is understood and is considered within decision making. Qualification grades can have a lasting effect on young people's lives. Children and young people from certain ethnic minority backgrounds, disabled pupils and those with additional learning needs are already disproportionately disadvantaged, with evidence highlighting significant attainment gaps for these groups.

We attach our responses to the Qualifications Wales consultation; which includes this issue and some additional points for consideration in preparing guidance. Both organisations would be happy to offer our support, knowledge and expertise in developing this guidance.

We would very much welcome the opportunity to discuss this recommendation further with you and your senior officials, as well as discussing with Qualifications Wales. We appreciate the enormous demands on your time but a short meeting would be valuable given the importance and priority of this issue.

Yours sincerely,



Rev Ruth Coombs  
Head of Wales  
Wales | Cymru



Sally Holland  
Comisiynydd Plant Cymru  
Children's Commissioner for Wales