



John Swinney MSP
Cabinet Secretary for Education and Skills
Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

16 December 2020

Dear Mr Swinney,

Right to education and cancellation of exams

I write further to your announcement on 8 December 2020 of the cancellation of SQA exams scheduled for May next year, and with reference to my earlier correspondence with yourself and the SQA, to the evidence submitted by my office to the Education and Skills Committee, and the Priestley review.¹

Young people will have had varied reactions to the news that exams would again be cancelled. For some, this will present a relief, but for others, particularly those who were negatively affected by the cancellation of the 2019-20 exam diet, it will increase stress at an already stressful time.

Your announcement was not accompanied by any clarification or guidance on the proposed assessment model for these exams, other than that it would be based on the model for National 5s. However, the final guidance on the alternative assessment model for National 5s was only published on 8th December, some two months after the announcement of the cancellation of National 5 exams.

The CRWIA on Proposed modifications to National 5, Higher and Advanced Higher course assessments for session 2020–21, published by the SQA in October, states that children's right to an education includes access to an appropriate assessment system.² On this basis, your announcement on 8th December, in the absence of an agreed alternative assessment model for Highers and Advanced Highers, breaches children's rights to an education.

In their EQIA on Proposed modifications to National 5, Higher and Advanced Higher course assessments for session 2020–21, the SQA commit to ensuring that individual requests for reasonable adjustments are considered and to monitor those requests.³ It

¹ Available here: <https://cypcs.org.uk/coronavirus/sqa-results-2020/>

² https://www.sqa.org.uk/sqa/files_ccc/child-rights-wellbeing-impact-assessment-modifications-to-national-courses-2020-21.pdf

³ https://www.sqa.org.uk/sqa/files_ccc/equality-impact-assessment-modifications-to-national-courses-2020-21.pdf

would be useful to know whether guidance has been provided on Covid-specific reasonable adjustments, for example where a pupil's ability to communicate or understand communication is impeded by the use of face coverings.

I note that, under the Equality Act 2010, both the SQA and schools have an anticipatory duty regarding the provision of reasonable adjustments. In my letter to you dated 17th August, I highlighted that, by not allowing direct appeals from young people, the SQA appeals process was not compliant with children's rights under the UNCRC. My office reiterated our call for direct appeals to be permitted in our evidence to both the Priestley Review and the Education and Skills Committee, but the SQA have given no indication of progressing this. I therefore ask you to direct the SQA to make direct appeals available to young people, at no cost, for the 2020-21 National Qualifications results. This must include the ability to dispute a teacher or centre estimated grade and to challenge a failure to make reasonable adjustments, as required under the Equality Act 2010. I also note that there continues to be outstanding issues relating to direct appeals for a small number of young people who dispute their teacher estimated grade for this year's SQA qualifications.

Finally, I have consistently highlighted the right of children and young people to participate in decisions made about them. I am therefore concerned that there appears to have been no involvement of young people in the National Qualifications 2021 Group until after the decision to cancel exams.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bruce Adamson'. The signature is stylized, with a large, looped 'B' at the top and the name 'Adamson' written below it in a cursive script.

Bruce Adamson
Children and Young People's Commissioner Scotland

cc: Convener, Education and Skills Committee, Scottish Parliament