



Scottish Parliament - Education Debate 3rd June 2021 Joint briefing from the Scottish Youth Parliament (SYP) and the Children and Young People's Commissioner Scotland (CYPCS)

Education is both a human right in itself and an indispensable means of realising other human rights. As an empowerment right, education is the primary vehicle by which children and young people can achieve their potential. Children and young people have the right to have their views taken into account and actively participate when decisions are made about their education. Such decisions engage a range of human rights.

Over the last year, both the Scottish Youth Parliament and the Children and Young People's Commissioner Scotland have highlighted the importance of ensuring children's human rights are at the forefront of decision making, and we have raised awareness of the consequences where it has not been, including in the Alternative Certification Models (ACM) put in place in 2020 and again in 2021.

This briefing draws on what we have heard from young people about their experiences of national qualifications over the past year. It demonstrates a disconnect between reassurances from officials and politicians and the experience of young people across Scotland.

Key concerns

- Young people have repeatedly raised concerns around their ability to have their views heard on the ACM and the appeals process.
- Young people have been telling those in power, for more than a year, that they are experiencing chronic uncertainty as to how their qualifications will be assessed, and that uncertainty is impacting their mental health.
- Due to the ACM, mental health concerns have been exacerbated and support is not always readily available to all young people.
- Despite being entitled to, young people have not been meaningfully engaged in the process to design the ACM or the appeals.
- It is not clear how the ACM will take into account what has happened in a young person's life that would affect their ability to demonstrate attainment – in a fair or consistent way.

Priorities for decision-making and action

- Young people and their teachers urgently need clarity, reassurance and support.
- Young people need to know clearly that the ACM is flexible enough to take into account the exceptional circumstances which have affected them this year. If it cannot take these circumstances into account, there must be a human rights-compliant appeals system which will.
- The appeals system must create no delay, should create no detriment for those who use it and should take account of exceptional circumstances experienced by young people.

- Decision-makers must ensure they are satisfied that children’s human rights have been fulfilled, including the right to education. Recognising young people’s achievements is an important part of the right to education.

Outline of issues and views of young people

Human Rights Framework

Since schools first closed in March 2020, young people’s rights to education have been severely affected. The right to education¹ is a broad one, its purpose is to ensure the development of an individual’s personalities, talents and mental and physical abilities to their fullest potential. It is intrinsically linked to young people’s other human rights.

In making decisions about young people, their best interests must be a primary consideration.²

Any system for recognising achievement must take account of any disadvantage due to disability, care experience, poverty, digital exclusion or other factors.³

Young people have the right to have their views taken into account in all matters affecting them.⁴ This is an active obligation on all decision-makers to facilitate the gathering of their views and to give them due weight.

Academic accreditation affects a young person’s right to protection of their reputation as it involves the public recognition of the individual’s qualities and merits.⁵ The failure to protect this right through the provision of a fair reflection of academic progress directly impacts future prospects.

The state has a positive obligation to protect young people’s mental health and ensure that they have the highest attainable standard of health.⁶ The impact of the uncertainty and of the pressure in providing evidence over recent weeks is not consistent with the obligation to support young people’s mental health.

Academic accreditation impacts a young person’s right to continue their education, and their ability to access further and higher education.⁷

When the state fails to respect, protect and fulfil rights there must be an effective remedy.⁸

Participation in decision-making

MSYPs and CYPCS Young Advisers we spoke to were concerned that the SQA’s consultation in March 2021 was the main opportunity for young people to share their views and felt that it may not accurately reflect the views of young people across Scotland.

¹ Article 28 and 29 United Nations Convention on the Rights of the Child (UNCRC) and Article 2, first optional protocol European Convention on Human Rights (ECHR)

² Article 3 UNCRC

³ Articles 2, 23 and 27 UNCRC and Article 14 ECHR

⁴ Article 12 UNCRC

⁵ Article 16 UNCRC, Article 8 ECHR, Article 17 International Covenant on Civil and Political Rights

⁶ Article 24 UNCRC

⁷ Article 28

⁸ Article 13 ECHR

The main reasons given for this were:

- it had an exceptionally long preface
- the questions were quite broad/vague, and used inaccessible language
- the timeline was short and did not allow them time to process the information and consult others

An example of what this meant in practice (especially because of the two-week turnaround time) is that as organisations, we were only able to directly consult a limited number of young people on some of the questions. Given our experience in consulting young people in this way, we believe this raises serious questions about the ability of young people being able to respond independently.

This consultation was a wholly inadequate channel to meaningfully engage young people's views on such an important topic. This means that SQA does not have a fully formed understanding of what young people think about some of the questions within it.

Young people's human rights have not been realised in decision-making on the appeals system up to this point. In our opinion, they have not been meaningfully engaged in this process, in a way that is consistent with Article 12 of the UNCRC.

As a result, we are concerned that the appeals process for 2021 will fail to uphold their rights.

The points raised in this briefing have been raised by an MSYP who sits on the SQA's National Qualifications (NQ) Group, and in various meetings and emails with the SQA team.

Alternative Certification Model

Young people have told us that they do not have a good understanding of how the ACM will work in practice – and sometimes receive conflicting information, for example from the SQA and from their school. In particular, it is not often clear which tests and assessments will be used for evidence and which will not. Some reported frustration at returning to school after Easter and realising that very little of the online work they had completed would be taken into account in assessing their grades.

Despite the announcement that exams were cancelled and assurances from Ministers that a formal exam diet did not need to be replicated by schools, many young people report that their experience is of an exam diet without any of the advantages (in terms of study leave particularly) of a normal exam diet. It does not seem unusual for young people to have 12 or more formal assessments under exam conditions across 2 weeks. Young people are reporting high levels of stress, anxiety, and exhaustion.

We have heard from professionals that they are seeing a change in the way young people are engaging with their wellbeing support services as a direct result of in-school assessment pressures.

- *“They are so overwhelmed and stressed by the amount tests/assessments/exams that are being asked of them that in some cases they have stopped accessing support as a way of prioritising their time.” (professional)*

- *“They are hardly able to focus on the support work around the impact of sexual violence.” (professional)*

Despite an emphasis on the flexibility of the ACM, young people have reported that they have been told by teachers that individual circumstances (for example being unable to engage in online learning or ill health) could not be taken into account.

Young people told us at the start of the pandemic that ensuring all of the impacts of Covid-19 were taken into account when considering how to recognise their achievements was a top priority. But in failing to provide a rights-compliant alternative certification model, which takes into account all that has happened, we are failing them.

Teachers have been doing extraordinary jobs in the face of huge challenges. They have been asked to assess young people in an unprecedented way, at great pace and at short notice. To support young people, we need to support teachers too.

Appeals

Exceptional circumstances

Young people felt the grounds for appeals, as set out in appeals consultation, were far too limited and restrictive.

They felt administration errors (one of the grounds) would be rare and did not give sufficient scope to request a review of the decision on grades.

Concerns were highlighted by young people to the SQA in June 2020 that decisions needed to be made on a case-by-case basis, as there will be such varied and specific circumstance impacting young people’s grades in the pandemic:

- *“SQA should make a deliberate effort to ask for any information from schools that might have affected a student's grades. Schools should have a clear way to make circumstances known to SQA.” (young person)*
- *“Focus more on the individual learner. Awards should be assessed on a case by case basis.” (young person)*
- *“Look at individual circumstances e.g. health issues – how will the SQA mitigate these circumstances.” (young person)*

Young people felt there must be grounds for appeals based on exceptional circumstances. They said this should not simply be because of Covid-19 and disruption that all learners have faced, but if there were additional impacts on top of this, for example:

- Experiencing a family bereavement
- Being a young carer; meaning they have had to take on more caring responsibilities due to being at home more and not having access to usual support
- Mental health issues and/or challenging home circumstances; meaning significant challenges in engaging with online learning

Young people have shared the pressure they are under with current timelines, to get back to school and be completing tests and gathering evidence of learning. They felt if a young person is affected by an exceptional circumstance now the chances of them being able to gather the necessary evidence is unlikely and this is not fair.

Therefore, to avoid exacerbating inequalities and the attainment gap, all exceptional circumstances must be taken into account.

All young people have rights to an effective remedy and to be able to challenge decision-makers when they consider their rights have been breached.

Downgrading appeals

No young person should be penalised because of their decision to exercise their rights to an effective remedy. Young people should be supported to apply for an appeal or review of a decision which doesn't truly reflect their progress, especially in a year of such uncertainty. No result should be downgraded because of an appeal. There should be no detriment to a young person making an appeal.

In June 2020, young people told the SQA that the risk of being downgraded might be off putting for young people who might avoid the process altogether. This could be a barrier to young people who may otherwise have appealed with success. Participants said:

- *“Appeal process should not allow for grades to go down.” (young person)*
- *“If your grade can go down, you might be put off from appealing at all.” (young person)*

Young people recognised the need for consistency but have serious concerns about the possibility of being downgraded. They felt that appeals would only be made due to the challenging circumstances young people have gone through and a downgrade could really be an additional knock-back and challenge for young people who are already struggling with their mental health and disruption.

Young people we spoke to also thought that it had already been confirmed that downgrading was not an option this year, so were confused to see it being proposed in the SQA consultation. This confusion risks causing additional anxiety to a group of young people whose mental wellbeing has already been adversely affected.

We therefore feel it is vital that any appeal does not lead to a grade being downgraded and think that young people need to receive assurance that this will be the case. Failing to do this will risk causing young people additional uncertainty and anxiety.

No further delay

Last year's approach to assessments failed, and while mistakes were rectified for many, a number of young people are still waiting for a fair result. Any extended period of uncertainty before young people can begin the process of appealing should be avoided. One young person negatively affected by the process in 2020 shared their view.

“My hopes for the 2021 processes is that the SQA will implement an appeals process that is compliant with children's human rights to education and fair process and so will allow individuals to appeal directly, both 2020 and 2021 grades, where they feel necessary. It is not enough to learn from the mistakes made in 2020, they have to be fixed as it is individual's futures on the line.” (young person)

Access to education

There are some children and young people for whom the impact of the past two years has been greater and who may not be able to evidence their learning and attainment, through no fault of their own. They must not be penalised.

Young people who need extra help in school, who have already been affected more than others by the pandemic, continue to be severely disadvantaged. We have heard from the families of young people with additional support needs being 'side-lined', their usual support suspended, struggling with online learning designed without taking into account their individual needs, nor the needs of those who cannot use online learning at all due to their disability or lack of access. We heard from a parent about how their child, who normally did well in their chosen subjects, had been affected by the lack of support for their hearing impairment, but had no way to prove this.

We have received pleas from young people and their parents to be allowed to appeal grades due to exceptional circumstances - for example a young carer whose parent had a stroke; another whose parent was taken seriously ill and one whose parent had died. Even where the young person themselves was ill, or shielding, or where teachers were absent for lengthy periods, all believed none of this could be taken into account.

Emergency home learning and disruption across education has exacerbated existing inequalities. Some young people have been unable to access the necessary technology or their usual support services, some struggled to find a safe and appropriate place to learn due to substandard housing, or faced additional barriers as a result of poverty, disability, being a young carer, or other circumstances. Young people's mental health has also been severely affected as they and their families were cut off from community, family and friendship supports that are so vital.

We know that young people who will be undertaking National Qualifications in 2022 will already have experienced interruption to their learning. It is also possible that a third wave of the pandemic could result in further restrictions, and even school closures, during the 2021-2022 school year. We need to start planning how to support young people to recover from their experiences, continue their learning and achieve their potential. Young people need to be part of the planning.