

13 October 2020

Ms Norma Foley, T.D.,
Minister for Education and Skills,
Marlborough Street,
Dublin 1.

2nd Letter of Opinion regarding the Calculated Grades System

Dear Minister

1. Role of the Independent Steering Committee

As you are aware, the role of the Independent Steering Committee on Calculated Grades is to oversee the process of implementation of calculated grades from the perspective of quality assurance and integrity. The Committee's remit relates only to the outcomes of the calculated grades system and it was not given a mandate to examine the design of the system itself, including the design of the appeals process.

The members of the Committee are:

- Dr Áine Lawlor (Chair)
- Dr Peter Archer
- Mr Justin Edwards
- Mr Joe Hamill
- Prof Michael O'Leary
- Ms Majella O'Shea

The Committee was specifically tasked, under its terms of reference, with seeking to provide assurance to you, as Minister, of the quality and integrity of the outcomes of the calculated grades system, including by satisfying itself as to the fairness and accuracy of the outcomes following the national standardisation process. The Committee was requested to provide this assurance in the form of two Letters of Opinion. The 1st Letter was furnished to you on 2 September, immediately prior to the issue of the results of the calculated grades, and this, the 2nd Letter, is being submitted immediately prior to the issue of appeals (stages 1 and 2) outcomes on calculated grades.

The Committee is also conscious that a further stage still remains in the appeals process: the holding of the written Leaving Certificate Examination, scheduled to commence on 16 November, subject to public health advice. However, in line with its terms of reference, the Committee has no role in relation to these examinations, which will be planned and implemented under the authority of the State Examinations Commission.

Following the discovery of errors in the way in which Junior Cycle data were extracted for use in implementing the calculated grades process, 6,100 Leaving Certificate students were issued with revised grades in 6,870 subjects on 3 October. In addition, 4 Leaving Certificate Applied students received a programme level upgrade following the correction of these errors. A corrected file of results was provided to the CAO on 3 October and 485 applicants received offers as a result of upgraded Calculated Grades on 8 October.

The Committee understands from the CGEO that, based on feedback from the student helpline dealing with the issue of revised grades, it is evident that some students were confused about

this and believed that it interacted directly with the appeals process. The Committee is clear that matters relating to the revision of grades as a result of the errors that occurred do not fall within the remit of its consideration of the outcomes of the appeals process. However, it welcomes the assurance received from the CGEO that care will be taken to ensure that, when issuing the appeal outcomes, the difference between the two processes will be made clear to students to avoid any further potential for confusion.

In considering matters relating to the appeals process, the Committee held 4 meetings and met with the relevant officials (list at Appendix 1). The Committee would again like to record its appreciation and thanks to all involved for their positive and co-operative engagement.

2. Context and Underlying Principles

As indicated in our 1st Letter of Opinion, the Committee has sought, throughout the course of its work, to keep in mind the perspective of students, their parents and guardians, and teachers, and the importance to them of every effort being made to ensure that the outcomes of the calculated grades system would deliver the fairest and most accurate results possible. It has also maintained a focus on the key principles that were prescribed for it in its terms of reference. These principles, and the broad approaches adopted by the Committee to help inform its deliberations during this phase of its work, were as follows:

- **Quality and Integrity:** *Was all reasonable effort made to ensure that the quality and integrity of the work undertaken regarding the appeals process was the best achievable given the time and resource available? Was the scope for making appeals clear and well-communicated? Were the means of access for those making appeals as open and inclusive as was reasonably possible?*
- **Fairness and Accuracy:** *Was the appeals process operated in a manner that was consistent, fair and reliable from a governance perspective? Were all reasonable steps taken to ensure continuity of decision-making throughout the operation of the appeals process?*

The Committee notes that the appeals process, which is not a legal process, is a once-off process applying to the current year only and is not to be regarded as creating precedents for future years.

3. Key Areas of Focus

The Committee adopted a number of key areas of focus to guide its deliberations. These are:

- Communications in relation to the Appeals Process
- Operation of the Appeals Process
- Data Management and Governance
- Out-of-School Learners and Subjects Studied Outside of School

The following sections deal with each of these areas in turn.

4. Communications in relation to the Appeals Process

The Committee reviewed a range of published documents in which various commitments about the access to information, and the nature of the system of appeals that will apply, were

communicated to the principal stakeholders, including students, parents and guardians, schools and the general public. Those documents include the following:

- *A Guide to Calculated Grades for Leaving Certificate Students 2020 (May 2020)*
- *Calculated Grades – A Guide for Leaving Certificate Students 2020 (May 2020)*
- *Calculated Grades – A Guide for Parents and Guardians of Leaving Certificate Students 2020 (May 2020)*
- *A Guide to Calculated Grades for Out-of-School Learners (June 2020)*
- *A Guide for Schools on Providing Estimated Percentage Marks and Class Rank Orderings (May 2020)*
- *Leaving Certificate 2020: Your Questions Answered*

The Committee noted that all of the relevant documentation was accessible in one place via the Government Leaving Certificate 2020 portal <http://gov.ie/leavingcertificate>.

In examining these matters, the Committee had regard to a range of criteria, including that the communications were: timely; accessible; understandable to the public at large; open and transparent; effective; and responsive where required.

The Committee paid particular attention to the steps taken to ensure clarity regarding the scope for appeals, so as to avoid raising expectations unfairly. It also noted the clear communications on the deadline for appeals, as well as the commitment to communicating appeal outcomes to all students at the same time, so as to guarantee fairness to all appellant students.

5. Operation of the Appeals Process

As previously noted, the Committee's remit relates only to the outcomes of the calculated grades system and it has no mandate to examine the design of the system itself, including the design of the appeals process.

Appeals arising under the calculated grades system have been categorised by the CGEO as Type 1 or Type 2.

Type 1 appeals apply to out-of-school learners and learners who studied subjects outside of school who had not been awarded a calculated grade for the subject or subjects in question. Matters arising in regard to this category of appeals are addressed separately in Paragraph 7 below.

Type 2 appeals apply to the calculated grades awarded to students and made available to them on the Student Portal. The Committee noted that, on 14 September, access was provided to students, through the Student Portal, to their school-estimated mark and their calculated marks from the CGEO. Students were able to lodge a Type 2 appeal through the portal during the period to 5.00 pm on 16 September. Access for students to their own rank orders was enabled via the Student Portal on 28 September, following a decision by the Department. Students were not required to make Data Access Requests or Freedom of Information requests to access this information.

It was made clear by the CGEO that the appeals system is restricted, by design, to looking for technical errors in the data provided on behalf of students and in the processing of that data. The process entails a technical examination by administrative staff focussed on looking for errors in the transmission of the data through the calculated grades process.

It was also made clear that it was not possible to appeal against:

- the professional judgment of the schools (including the school-estimated marks and rank orders);
- the design of the statistical model; or
- the application of the standardisation process.

Appeals could be made by individual students only; appeals from schools or other groups were not acceptable. Appeals were free of charge.

When the Student Portal closed to Type 2 appeals applications on 16 September, 12,283 students had lodged appeals against 33,637 subjects. The bulk of these were Leaving Certificate students, with just 38 appeals coming from students following the Leaving Certificate Applied Programme. Subsequently, a number of appeal applications were withdrawn and the Committee understands that the final number of appeals stands at 12,216 students and 33,301 subjects, spanning across 9,717 school/subject/level groups. By way of comparison, and accepting that the processes are quite different, in 2019 some 9,000 students appealed 17,000 individual subject results. The 2020 appeals process required the deployment of some 70 staff.

Type 2 appeals involve a three-stage appeals process as follows:

Stage 1: Checks will be undertaken to ensure that the intended information was recorded correctly by the school and that the information was transferred correctly into the data collection system.

Stage 2: There will also be a review to ensure that the data were correctly received and processed in the national standardisation process.

Stage 3: Students unhappy with the outcome of this process can seek a review by Independent Appeal Scrutineers.

While described as a three-stage process, stages 1 and 2 were undertaken on foot of the initial application by the student. Stage 3 will be a separate process which can be invoked by any student dissatisfied with the outcome of the initial appeal. The Independent Appeals Scrutineers will check to ensure the correct procedures were followed throughout the appeals process. The scrutineers will have access to the records and documentation considered at stages 1 and 2.

It is also open to students who consider that their case has not been processed correctly to make a complaint to the Ombudsman or, in the case of students under 18 years of age, the Ombudsman for Children. As already noted, students can also opt to sit the written Leaving Certificate Examination, scheduled to commence on 16 November, subject to public health advice.

The Committee has carefully considered the working papers/reports furnished to it by the CGEO regarding the operation of the Type 2 appeals process and has also had a detailed discussion with the senior CGEO official in charge of the process. It acknowledges the challenge of managing the appeals process, particularly given the constraints arising from the Covid-19 pandemic. The Committee also notes the assurance from the CGEO that experienced staff have been assigned to the process and a structured approach to managing the appeals has been adopted. We have been assured that both manual checks and IT validation routines have

been employed to effectively manage the process and to underpin the methodologies used for confirming data integrity.

With regard to stage 1 of the appeals process, the Committee has noted the procedures put in place to check and match the documentation received from schools relating to the students making appeals, as well as the transfer of the information from the schools' forms to the data collection system. The Committee notes that these checks were carried out manually by staff working in pairs, with spot checks being undertaken by the relevant managers. Any discrepancies arising were escalated to senior management for review, entailing checks against CGEO's reconciliation records and contact with the relevant school, if required. The procedures also require that in any case where the issue of an increased mark arises, a further review process at senior management level must be undertaken before confirming any mark changes and any new marks will also be subject to standardisation. The Committee has been advised that the level of data mismatch has been minuscule and that this reflects, inter alia, the great care and attention taken by schools in completing this process, and the validation and checking routines carried out by CGEO staff.

Stage 2 of the appeals process, which entails a review to ensure that the data were correctly received and processed through the systems used in the national standardisation process conducted by the Department, was facilitated by IT validation routines to confirm matches of the data between all of those systems. In addition, a random sample of 10% of all of the appeal records was physically checked to ensure that these IT validation routines were operating correctly.

The stage 2 work included:

- reviewing the student records in the internal CGEO systems;
- accessing the Student Portal (via a staging environment);
- running a rank order validation on the full results file following the update of the revised grades and again following the regrading of the appeals; and
- running a further validation routine to confirm that those on the school-estimated mark in the same subject and at the same level taken by the school have been conferred with the same calculated mark.

The stage 2 routines and checks were run against all subjects, except Leaving Certificate Home Economics which was dealt with separately as the only subject in which marked examination work was incorporated into the calculated grades.

The Committee has been advised by the CGEO that, through the appeals process, 58 individual subject results have been identified which have given rise to a mark change (not all of which are marks of appellants). The outcomes from the standardisation process have resulted in 12 cases of lower marks, 5 cases of lower grades (only one of which may result in a downgrade); 24 cases where no change occurred; 22 cases of higher marks; and 9 cases of higher grades. These data remain provisional at the time of writing.

In terms of the interface between the appeals system and the CAO, the Committee understands that the proposed date for releasing the results of the appeals will facilitate the CAO in making an appeal round of offers within the following days. The Committee has been advised that if, as a result of an upgrade, a student becomes eligible for a college place

at a higher CAO preference than the one they were already offered, they will be eligible for that course, and that, where possible, higher education institutions will attempt to facilitate students who are upgraded and receive a new offer. Where a place is available, students already attending another third level institution will be eligible to transfer to the new course they have been offered without any additional charges being applied. They will also be eligible to defer this offer until the 2021/22 academic year. Attendance for the first year on the new course would remain eligible for free fees and SUSI funding as appropriate to the individual student.

6. Data Management and Governance

During the earlier phase of its work, the Committee reviewed the Data Management and Governance regimes utilised by the CGEO in the calculated grades process. In the context of the appeals process, the Committee gave careful consideration to the information made available to it by the CGEO, both orally and in written reports, regarding the technical checks put in place to ensure integrity of the student data through the various data collection systems, and that the data were correctly received and processed at each stage with a particular focus on the data transfer points. As previously mentioned, the Committee also discussed these matters in considerable detail with the senior CGEO official in charge of the process.

Paragraph 5 sets out the Committee's consideration of various aspects and assurances regarding stage 1 and stage 2 of the appeals process, including:

- the manual procedures carried out to check and match the documentation received from schools relating to the students, as well as the transfer of the information from the schools' forms to the data collection system;
- the IT validation routines utilised to ensure that data were correctly received and processed through the systems used in the national standardisation process, and that matches of the data between all of those systems were confirmed; and
- the checks and validation routines that were carried out to ensure that the processes throughout both stages were operating correctly.

7. Out-of-School Learners and Subjects Studied Outside of School

Type 1 appeals apply to out-of-school learners and learners who studied some subjects outside of school who had not been awarded a calculated grade for the subject or subjects in question. These appeals were reviewed in August and September, on application by the student, and the outcome involved a decision about whether a calculated grade could be awarded or not.

These Type 1 appeals involved a two-stage administrative appeals process comprising:

Stage 1: A review undertaken by two appeal officers, senior staff of the CGEO/Department of Education who were not involved in the original decision, of the procedures followed in the decision-making process.

Stage 2: Recourse to an independent appeals scrutiny process undertaken by personnel independent of the CGEO. Their role is to scrutinise the process that was followed in arriving at decision.

The Committee was conscious of the challenge of providing calculated grades to these categories of learners in a way which is fair to students and does not undermine the integrity

of the overall approach. It was noted at the outset, by the CGEO, that it would not be possible to provide a calculated grade for all students in these categories.

The Committee has carefully considered the working papers/reports furnished to it by the CGEO regarding the operation of the Type 1 appeals process and has also had a detailed discussion with the senior CGEO official in charge of the process. It acknowledges the challenge of managing the appeals process, particularly given the constraints arising from the Covid-19 pandemic. The Committee also notes the assurance from the CGEO that experienced staff have been assigned to the process and a structured approach to managing the appeals has been adopted. We have been assured that both manual checks and IT validation routines have been employed to effectively manage the process and to underpin the methodologies used for confirming data integrity.

The Committee looked for evidence of the efforts that were made by the CGEO to provide an appropriate and timely appeals process for those students for whom a calculated grade could not be awarded. The Committee reviewed relevant documentation and methodologies in considering these matters, including:

- *A Guide to Calculated Grades for Leaving Certificate 2020* (June 2020);
- *A Guide to Calculated Grades for Out-of-School Learners* (June 2020) which included information on the appeals process;
- reports from the CGEO;
- letter for issue to students not receiving a Calculated Grade (outlining the appeals process and procedure for applying).

The Committee noted that there are some outstanding legal challenges to the refusal by the Department to award calculated grades on the grounds that credible, satisfactory evidence from an appropriate source was not provided.

In carrying out this phase of its work, the Committee had regard to a range of criteria, including that:

- information for learners, and for schools/teachers, where appropriate, was timely and clear;
- the appeals process was transparent and followed correctly;
- the outcomes of the appeals process were communicated clearly to students.

Stage 1

Students attending school fulltime were notified that to submit a valid appeal they had to set out grounds for the appeal which would identify why they believed the decision of the CGEO was incorrect. Students were notified that the only means of getting a calculated grade was through the provision of an estimated mark by their school. Therefore, any grounds for an appeal had to relate to the reason why it was not possible to provide them with a calculated grade, which might include information which the school failed to consider.

Out-of-school students were notified that the only means of getting a calculated grade was through the provision of an estimated mark from an appropriate source. Therefore, any grounds for an appeal had to focus on the decision of the CGEO that the source provided was not

appropriate or that there was no evidence that there was an appropriate source to provide an estimated mark on their behalf.

In the category of out-of-school learners, 39 students appealed the refusal of a calculated grade in 125 subjects. Three of these appeals were upheld. For subjects studied outside school, 169 students appealed the refusal of a calculated grade in 183 subjects and none of these appeals were upheld.

These appeals were considered by two appeal officers who reviewed the procedures followed in the decision-making process. Outcomes of the process were communicated to the students concerned.

Stage 2

A panel of Independent Appeal Scrutineers was established. The scrutineers worked in two groups of two. The role of the Independent Appeals Scrutineers was to review decisions not to award a calculated grade to students attending school fulltime but studying one or more subjects outside of the school and students not attending a recognised school or other centre of education authorised to provide the Leaving Certificate. The right to appeal to the Independent Appeals Scrutineer panel was restricted to students who had submitted an admissible appeal against a decision not to award a grade in some or all of their subjects and whose appeal has been unsuccessful.

The Committee noted that the review by the Independent Appeals Scrutineers focused on whether all procedures were followed, and all relevant information was considered in arriving at the original decision not to provide a calculated grade. In addition, it was noted that the Independent Appeals Scrutineers expressed the view that the grounds of appeal were such that it was difficult for an appeal to succeed but found that there was no procedural error.

A total of 84 students appealed at Stage 2. Of that total, 70 students appealed one subject and 14 students appealed two or more subjects. Appeals by students in schools against decisions not to award a calculated grade for subjects studied outside of school were made by 64 students involving 70 subjects. Appeals by out-of-school learners against the decision not to award a calculated grade were made by 20 students involving 55 subjects.

The Independent Appeals Scrutineers sought additional information in a number of cases from the CGEO. The Chairperson was not required to adjudicate in any contentious or difficult decisions. The panel expressed the view to the Chairperson that the grounds of appeal were such that it was difficult for an appeal to succeed but found that there was no procedural error. No appeals at Stage 2 were upheld as the panel felt that in all cases proper procedure and guidelines were followed when the initial appeals were rejected.

8. Sources of Assurance

Prior to finalising its opinion in regard to the quality and integrity of the outcomes of the appeals process, the Committee had regard to assurances contained in the following reports submitted or made available to it:

i. Reports from the CGEO:

The Committee received a number of reports, both oral and written, from the CGEO during the course of this phase of its work. These reports provided clarifications and positive assurances to the Committee regarding the matters that it raised.

ii. 2nd Statement of the External Reviewer:

An independent expert, Dr Janet Brown, former Chief Executive Officer of the Scottish Qualifications Authority, was appointed by your Department to fulfil a role as External Reviewer of the system of calculated grades and provide overall validation on the model. The 2nd Statement of the External Reviewer in relation to the appeals process has been made available by your Department to the Committee in furtherance of its governance role. The Committee notes the following statements contained in the report of the Reviewer:

- It is evident that the provision and execution of an appeals process for calculated grades for the Leaving Certificate 2020 has been approached from the perspective of fairness and a concern for the learner.
- The mechanisms outlined in the documentation indicate a well planned and executed approach. Quality assurance in the checking for technical errors has involved the use of experienced staff in the manual validation and incorporating an IT based validation. These, taken with alongside the ability to escalate any further student concerns through the Independent Appeals Scrutineers should ensure a robust outcome for learners.

iii. Report from the Chairperson of the Independent Appeals Scrutineers Panel

The Committee received a copy of the 1st Report from the Chairperson of the Independent Appeals Scrutineers Panel in regard to Type 1 appeals from out-of-school learners and learners who studied some subjects outside of school who had not been awarded a calculated grade for the subject or subjects in question. The Committee notes the conclusions of the Chairperson as referred to in paragraph 7 above.

9. Overall Opinion of the Independent Steering Committee regarding the Appeals Process

As set out in paragraph 3, the Committee adopted a number of key areas of focus to guide its deliberations and its conclusions in regard to each of those is as follows:

- In relation to *Communications*, the Committee is of the view that the communications issued by your Department met the relevant criteria and satisfied the essential requirement of communicating the necessary information to the students and other key stakeholders.

- In relation to the *Operation of the Appeals Process*, the Committee is satisfied, based on the information and assurances it received, that the process was clearly communicated; the processing of appeals was supported by the deployment of significant staff resources; a structured approach to managing the process was put in place; and appropriate and validation routines were employed to effectively underpin the methodologies used for confirming data integrity.
- In relation to *Data Management and Governance*, the Committee is satisfied, based on the information and assurances it received, every effort was made to ensure that checks were put in place to ensure the integrity of the student data through the various systems; that steps were taken to ensure that data were correctly received, matched and processed at each stage, with a particular focus on the data transfer points; and that appropriate checks and validation routines were identified, developed and implemented appropriately.
- In relation to *Out-of-School Learners and Subjects Studied Outside of School*, the Committee is satisfied, having regard to the information and assurances it received, that information for learners, and for schools/teachers where appropriate, was timely and clear, that the Type 1 appeals process was transparent and followed correctly and that the outcomes of the appeals process were communicated clearly to students.

Having considered all the information made available to it, including the reports and briefings it has received and the responses provided to its requests for additional clarity or explanation, the Committee has formed the view that the outcomes of the appeals system (Type 1 and Type 2) were the best achievable, given the time and resources available, as well as the need to respect the public commitments that were made. The Committee has also formed the view that the scope for making appeals was clear and well-communicated, and that the means of access for those making appeals were as open and inclusive as was reasonably possible in the circumstances. The Committee is satisfied, accordingly, that the outcomes of the appeals process have met the threshold of demonstrating the requisite level of quality and integrity.

In terms of fairness and accuracy, the Committee is of the view that the appeals process operated in a manner that was consistent, fair and reliable from a governance perspective, and that all reasonable steps taken to ensure continuity of decision-making throughout the operation of the appeals process. The Committee is satisfied accordingly that the requisite standards of fairness and accuracy were met in terms of the outcomes delivered following the appeals process.

10. Final Comments

The Committee wishes to again acknowledge its appreciation for the very strong support received from your Department, including the CGEO. The Committee also wishes to express its special thanks and appreciation to Ms Gráinne Cullen, Principal Officer, and Mr Pádraig Manning, Administrative Officer, who continued to provide guidance and support of the highest calibre to the Committee during this most recent phase of its work.

At a personal level, I wish to again extend sincere gratitude to my colleagues on the Independent Steering Committee. Their generosity of spirit in working collaboratively, sharing

their experience and expertise, was evidence of their dedication and commitment to the task entrusted to us.

Yours sincerely

A handwritten signature in blue ink that reads "Aine Lawlor". The signature is written in a cursive style with a prominent flourish at the end of the name.

Dr Áine Lawlor
Chair

Appendix 1

Parties met by the Independent Steering Committee in the course of its work on the Appeals Process

Andrea Feeney, Director, Calculated Grades Executive Office (CGEO)

Dalton Tattan, Assistant Secretary, DES

Paddy Quinn, Assistant Principal Officer and Head of Appeals, CGEO