

## Scottish Parliament Region: Highlands and Islands

### Case 201100845: The Highland Council

#### Summary of Investigation

##### **Category**

Local government: Health; education; examination presentations

##### **Overview**

The complainant (Mr C)'s son (Mr A) was a pupil at a school in the Highland Council (the Council)'s area. Mr A was unable to sit his Higher Physics examination due to a family bereavement. Assurances were given by his school (the School) that he would be awarded a grade based on his preliminary examination results. However, the evidence provided by the School in support of Mr A's performance did not comply with the requirements of the Scottish Qualifications Authority (SQA) and Mr A was awarded a lower grade. Mr C complained that the School did not use a prelim paper of the required standard and that they did not provide adequate evidence to the SQA in support of the subsequent appeal of Mr A's Higher Physics Result. Mr C also complained about the Council's handling of enquiries and complaints from him and his wife (Mrs C).

##### **Specific complaints and conclusions**

The complaints which have been investigated are that:

- (a) the School did not use a paper of the required standard in conducting a prelim examination for Higher Physics in early 2010 (*upheld*);
- (b) the School's submission of evidence of Mr A's performance in Higher Physics to the SQA in 2010 was not reasonable (*upheld*); and
- (c) the Council did not respond reasonably to Mr and Mrs C's enquiries and complaints (*upheld*).

##### **Redress and recommendations**

The Ombudsman recommends that the Council:

- |   | <i>Completion date</i> |
|---|------------------------|
| (i) ensure that the School develops a procedure for checking all prelim examination papers for compliance with SQA standards; | 22 February 2013       |
| (ii) work with the SQA to increase their understanding of   | 22 February 2013       |

- the SQA's standards and how SQA staff assess the suitability of prelim papers;
- (iii) conduct a review of the types of evidence that will be accepted by the SQA in support of appeals and absentee assessments; 22 February 2013
  - (iv) ensure that the SQA's comments on the marking of Mr A's prelim examination have been fed back to the Principal Teacher concerned; and 22 February 2013
  - (v) issue a formal written apology to Mr A for the failings highlighted in this report. 24 December 2012

The Council have accepted the recommendations and will act on them accordingly.

## **Main Investigation Report**

### **Introduction**

1. Mr and Mrs C's eldest son died suddenly and unexpectedly in May 2010. This news reached the family less than 48 hours before their younger son (Mr A) was due to sit his Higher Physics examination. Mr A's school (the School) advised that he should not attempt to sit the examination and that they would submit evidence to the Scottish Qualifications Authority (SQA) of his performance, upon which he would receive a grade. Based on his prelim results, Mr A was projected to achieve a B grade. However, the SQA did not consider the prelim paper used by the School and submitted as evidence of Mr A's performance to be of an acceptable standard. Mr A was awarded a D grade.

2. The School submitted an appeal against the SQA's award for Mr A. However, this remained unchanged. Mr and Mrs C complained to The Highland Council (the Council) about the use of an unsuitable prelim paper and his belief that the School did not provide adequate evidence in support of the appeal against the SQA's award. Dissatisfied with their response and their handling of his complaint, Mr C brought his concerns to the Ombudsman in July 2011.

3. The complaints from Mr C which I have investigated are that:

- (a) the School did not use a paper of the required standard in conducting a prelim examination for Higher Physics in early 2010;
- (b) the School's submission of evidence of Mr A's performance in Higher Physics to the SQA in 2010 was not reasonable; and
- (c) the Council did not respond reasonably to Mr C's enquiries and complaints.

### **Investigation**

4. In order to investigate this complaint, my complaints reviewer reviewed correspondence between Mr C, his MP, the School, the Council and the SQA. He also sought additional comments from the Council and reviewed relevant guidance from the Council and the SQA. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

**(a) The School did not use a paper of the required standard in conducting a prelim examination for Higher Physics in early 2010**

5. Mr and Mrs C's eldest son died suddenly and unexpectedly in May 2010. The family learned of his death less than 48 hours before Mr A was due to sit his Higher Physics examination. Mr C said that the School advised that, under the circumstances, Mr A should not attempt the examination. Instead, the School would submit evidence of Mr A's performance to the SQA. The School reportedly told Mr A's family that he was expected to be awarded a B grade. However, when the Higher examination results were released in August 2010, Mr A learned that he had been awarded a D grade for Physics.

6. The evidence submitted to me indicates that the School forwarded Mr A's prelim exam papers to the SQA as evidence of his academic performance. The SQA issued a feedback form to the School detailing their assessment of the evidence put forward by the School. The feedback form sets out a list of factors that may contribute to the SQA's decision on an individual's assessment. Mr A's feedback form had ticks against two of the listed criteria: 'The evidence does not sufficiently replicate the Course assessment'; and 'Evidence contains some questions not applicable to the current Arrangements document'.

7. In email correspondence with the School, the SQA commented in more detail about the two prelim papers submitted to them. They said that Paper 1 contained 29 questions with a total mark allocation of 90 marks. The SQA deemed that at least one third of the questions within Paper 1 were not sufficient to replicate the Course Assessment. Paper 2 contained 21 questions with a total mark allocation of 60 marks. The SQA deemed that one fifth of the questions did not sufficiently replicate the Course Assessment.

8. The SQA publish guidance for schools regarding the types of evidence that will be acceptable for estimating grades in cases where the student is absent or wishes to appeal their results. Section 3 of their publication: Estimates, Absentees and Assessment Appeals Guidance on Evidence Requirements (the Guidance), sets out the process and required evidence for absentee consideration. The Guidance notes that there is no right of appeal for absentees. With regard to the required evidence, it states:

**'3.3 Evidence for Absentee Consideration**

When you are making a claim for Absentee consideration, the evidence you submit should be based on demonstrated attainment against the Course Grade Descriptions, for all components of the Course.

The evidence that you used to estimate the absentee candidate's expected level of attainment in the Course assessment should be submitted, together with any additional evidence of attainment produced after the Estimate was submitted, and before the date of the examination ...'

9. Section 6.2 of the Guidance comments on the use of commercially-procured prelim papers. It states:

'6.2 Use of commercially-produced question papers

Many centres make use of commercially-produced question papers to estimate candidates' expected performance in the Course assessment and to generate evidence to support Appeals. A well-designed commercially-produced question paper can provide valid and reliable evidence for Estimates. It can also provide full or partial evidence to support an Appeal. The use of these question papers is acceptable to the SQA – provided that our guidance on validity, reliability and security is adhered to.

It should be noted that SQA does not pre-approve commercially-produced question papers, and there is no guarantee they meet all Course requirements. It is the centre's responsibility to ensure the validity and reliability of the assessment evidence submitted to support Appeals, so you should evaluate these papers in the same way as locally-produced papers ...'

10. The prelim examination papers used by the School had been purchased from a third party company (the Company) who supply commercially-produced practice examination papers. On their website, the Company state that, although the SQA do not sanction any commercially-produced examination papers, the Company's writers and editors are experts in their specific fields and the Company employs external, independent, professionals to scrutinise their papers and ensure they 'constantly and consistently replicate the standard set out by the SQA'. The Company also state: 'All of [the Company's] test papers can be used for appeals purposes as they meet all the security requirements set out by the SQA for valid appeals.'

11. Mr C raised a formal complaint with the Council via his MSP (the MSP) regarding the School's use of a commercially-produced examination paper that

did not meet the SQA's required standards. In a letter to the MSP dated 18 November 2010, the Council commented that it is normal practice for schools to buy in prelim papers. They said that it was considered unusual for a commercially-produced paper to be rejected by the SQA. However, as a result of Mr A's case, the School had decided not to use papers from the Company again. In a further letter to Mr and Mrs C, dated 14 October 2011, the Council said that this had been the first time they had purchased prelim papers from the Company, and they had done so in good faith based on the statements on the Company's website specifically advising that the papers were robust and suitable for the intended purpose.

12. My complaints reviewer asked the Council to comment on the School's approach to the assessment of commercially-produced prelim papers. He asked how, in practical terms, these were assessed for compliance with the Guidance. He also asked for copies of any internal guidance used by School staff when considering the acceptability of such papers. The Council did not provide any staff guidance. They explained that each school has an SQA Co-ordinator, normally a Depute Head Teacher, who takes responsibility for ensuring all aspects of SQA examination procedures are passed on to Principal Teachers who, in turn, ensure compliance with SQA requirements. The Council commented that compliance with the Guidance has become more of a challenge in recent years for a number of reasons. They said that currently there are a number of prelim providers and there is no longer a guarantee of compliance with SQA requirements as there was, to a much greater extent, in the past when there was only one provider. Considerable experience of SQA examinations is required to fully assess compliance in commercially-produced papers. The Council also explained that there are differences in interpretation of the rules between subjects, but standard advice to Principal Teachers has always been to never use commercially-produced papers blindly without checking for compliance with SQA requirements. The use of top-up prelims rather than a single prelim is also encouraged.

13. The Council told my complaints reviewer that they accepted that the School was responsible for checking the validity of the claims made by the Company regarding their prelim papers and that this had not been done. They noted that the School's Head Teacher had apologised unreservedly to Mr and Mrs C for this. The Council advised that, following Mr C's complaint, the School's Principal Teachers were reminded of the Guidance and the SQA's comments on commercially-produced examination papers.

(a) *Conclusion*

14. It has already been established that the School used a commercially-produced prelim paper for Mr A's Higher Physics examination that was not considered acceptable to the SQA. I note that the School and the Council have not disputed this and have apologised to Mr A's family. With this in mind, I have considered whether the School did enough to assess the paper's suitability.

15. I accept that it is normal for schools to buy in prelim papers from commercial providers. I do not consider this to be unreasonable and acknowledge that, in this case, the School purchased the Higher Physics prelim paper in good faith. I found no evidence, however, of checks being carried out within the School to assess the paper's compliance with the Guidance. If checks were carried out, these were not recorded or completed with reference to any checklists or guidance. There is a clear responsibility on the School to ensure that their prelim examination papers are fit for purpose and, as such, I consider that there should be guidance available to all Principal Teachers as to how prelim papers should be checked for suitability.

16. The School's failure to check the suitability of the Higher Physics paper was particularly concerning given the fact that this was their first purchase from the Company. Whilst I note the School have since decided not to use the Company's papers in future, this decision came too late for Mr A whose expectations had been raised by his projected B grade following completion of his prelim.

17. I consider it is very important that schools have a good understanding of how prelim examination papers will be assessed by the SQA and what will, and will not, be acceptable to them. The Council's comments to my complaints reviewer are concerning, as they suggest a lack of confidence that prelim papers will be fit for purpose, even when assessed in line with the Guidance.

18. In light of the School's failure to assess the suitability of the Higher Physics prelim paper, purchased from a new supplier, against the available SQA guidance, I uphold this complaint.

(a) *Recommendations*

19. I recommend that the Council:

*Completion date*

- (i) ensure that the School develops a procedure for checking all prelim examination papers for compliance with SQA standards; and 22 February 2013
- (ii) work with the SQA to increase their understanding of the SQA's standards and how SQA staff assess the suitability of prelim papers. 22 February 2013

**(b) The School's submission of evidence of Mr A's performance in Higher Physics to the SQA in 2010 was not reasonable**

20. Following receipt of Mr A's Higher examination results, Mr C contacted the School to discuss the low physics grade and what could be done to appeal the award. He said that, after initial problems contacting school staff, he received a number of calls from the School's SQA co-ordinator (the Co-ordinator). In her first call, the Co-ordinator reportedly advised that the School could not submit any appeal to the SQA because the School computer system had not been updated with the prelim results. Any appeal would, therefore, have to wait until the School re-opened after the summer break.

21. Mr C said that, during her second call, the Co-ordinator said that no appeal could be submitted, as the evidence already submitted on Mr A's behalf was his appeal and only one appeal was permitted.

22. The Co-ordinator subsequently told Mr C that there had been a case conference within the School and that the School had submitted a further appeal to the SQA containing a strong recommendation that Mr A be awarded a Grade B in physics.

23. The evidence presented to my complaints reviewer indicates that discussions were held between School staff and Mr and Mrs C regarding the submission of a further appeal to the SQA. It was suggested that Mr A's coursework may demonstrate that his academic performance was better than his D grade implied. However, in a letter to the MSP dated 31 May 2011, the Council explained that the evidence supporting Mr A's projected B grade was submitted to the SQA within the normal timescale for absentee candidates. Following receipt of his D grade, the School contacted the SQA to request that the original evidence be reviewed. It was following this request that the SQA informed the School that the submitted prelim paper did not meet the required standard.



24. As I mentioned under Complaint (a) of this report, the SQA emailed the School and explained that, of the two prelim papers submitted to them, one third of the questions in the first paper and one fifth of the questions in the second paper did not sufficiently replicate the course assessment. In the same email, they raised concerns about the marks that had been attributed to Mr A. He was awarded 58 percent for paper 1 and 46 percent for paper 2. Under the marking scheme submitted by the School along with Mr A's work, this should not have resulted in a B grade. Furthermore, the SQA felt that the papers had been leniently marked by the School. With all of the above in mind, they concluded that the evidence submitted to them did not match the estimated B grade proposed by the School.

25. Section 2 of the Guidance discusses the evidence required by the SQA for estimating a student's academic performance. It states:

'2.3 Evidence for Estimates: models of course assessment

Course assessment can take the form of a single component, eg externally-assessed Question Paper; or it can be a combination of more than one component, eg externally assessed Question Paper and Folio.

We have given some examples below to illustrate different models of Course assessment and how to use evidence gathered across the Course to estimate the Course award ...'

26. When commenting on a draft version of this report, the Council said that it was a source of genuine regret that there was nothing they could do to change the outcome for Mr A.

*(b) Conclusion*

27. Under Complaint (a) of this report, I found that the prelim paper submitted to the SQA in support of Mr A's projected B grade was not of an appropriate standard. When reviewing this complaint, I considered whether the type of evidence submitted was appropriate and whether the School submitted all of the evidence that they could.

28. It was appropriate for the School to submit Mr A's prelim papers to demonstrate his academic performance. It is not clear what further evidence could have been submitted in his case. However, the evidence submitted to my complaints reviewer indicates that the School considered submitting Mr A's coursework in support of an appeal against their decision.

29. As I commented under paragraph 8 of this report, the Guidance is clear that absentee students have no right of appeal. As such, I consider that all relevant information should be provided to the SQA at the earliest opportunity. The examples provided under Section 2 of the Guidance do not clearly indicate whether coursework would have been accepted by the SQA for Higher Physics. However, the School's SQA Co-ordinator should have been familiar with the Guidance and the lack of any opportunity to submit a further appeal. Although the School did not anticipate the problems that arose with the prelim papers, I consider that steps could have been taken to submit Mr A's coursework, or to establish whether his coursework would have been acceptable at the point of submitting his appeal for absentee consideration.

30. In addition to my concerns regarding the type of evidence submitted to the SQA on Mr A's behalf, it is apparent that the SQA had concerns about the quality of the evidence submitted. Not only did they find the prelim papers to be insufficient in terms of replicating the course assessment, they found that the projected grade was incorrect and the marking was lenient. It is not for me to comment on matters that ultimately fall to the professional judgement of the SQA's assessors, however, I found that, overall, the evidence compiled by the School prior to the final examinations was poor and not fit for its important purpose of demonstrating the student's normal academic performance.

31. With all of the above in mind, I uphold this complaint.

*(b) Recommendations*

- |  | <i>Completion date</i> |
|--|------------------------|
| 32. I recommend that the Council:  |                        |
| (i) conduct a review of the types of evidence that will be accepted by the SQA in support of appeals and absentee assessments; and     | 22 February 2013       |
| (ii) ensure that the SQA's comments on the marking of Mr A's prelim examination have been fed back to the Principal Teacher concerned. | 22 February 2013       |

**(c) The Council did not respond reasonably to Mr and Mrs C's enquiries and complaints**

33. Following receipt of Mr A's Higher Physics results, Mr C attempted to contact the School to discuss what action they may be able to take. Mr C complained that he was initially unable to speak to any school staff. He

considered that, although it was during the school holidays, the time when examination results are released is a critical time for students and, as such, staff should be available for support.

34. Mr C said that Mr A received his exam results between 16:00 and 17:00 and there was no reply when he telephoned the School at around 16:45. Mr C telephoned again around 09:00 the following morning and spoke to an Administrative Assistant (the Administrative Assistant) who told him that he thought there may be one member of teaching staff in the School. He agreed to look for them and arrange for Mr C to be called back. However, no teaching staff telephoned Mr C. Mr C complained that it was not until a full week later that he was contacted by the Co-ordinator. Prior to this, Mr C had spoken to the Council who had left messages with the Co-ordinator and the School's Head Teacher to contact Mr C.

35. In response to Mr C's formal complaint, the Council noted that school staff were on nationally agreed conditions and that there was no expectation that either guidance or subject teachers would be in school during the summer. That said, the Council expect at least one member of the School's Senior Management Team to be contactable throughout the holiday period. The Council said that they had contacted the School and had confirmed that one member of staff was present at the time the results were delivered, and the Head Teacher was contactable. They apologised for what they considered to have been a breakdown in communications.

36. My complaints reviewer was provided with a statement from the Administrative Assistant in which he confirmed that he had spoken to Mr C. He recalled advising Mr C that there were no staff available to speak to him but that he was able to contact a member of the Senior Management Team the following day to request that Mr C be called back.

37. In his complaint to the Ombudsman, Mr C also raised concerns about the Council's handling of his written correspondence. The documentation submitted to me contained copies of correspondence from the Council and the School to Mr and Mrs C, and to their MSP. As some of the correspondence from Mr and Mrs C was sent via the MSP and included comments about the School, the Council and the SQA, it is not clear in every case when the letters were forwarded to their intended recipients. My complaints reviewer generally found that Mr C's email correspondence was responded to promptly by the School,

however, responses from the Council were slow. The Council said in their letters that this was due to the level of investigation required.

38. The Council's complaints procedure states that written complaints should be responded to within ten working days. Mr C submitted a formal complaint to the Council on 14 September 2011. The Council responded on 14 October 2011.

*(c) Conclusion*

39. Generally, I was satisfied that the Council and the School responded to Mr C's correspondence in reasonable detail. Email correspondence was handled promptly by the School. However, I found the Council's responses to be slow even allowing for the level of investigation required. Not all correspondence progressed through the formal complaints procedure, so the stated timescales do not necessarily apply, however, overall, the delays were excessive, including the delay to Mr C's formal complaint.

40. With regard to Mr C's attempts to contact School staff upon receipt of Mr A's examination results, the evidence submitted to my complaints reviewer indicates that there was at least one member of non-teaching staff present at the School within normal school hours. The statement from that member of staff confirms that a member of the Senior Management Team was contactable.

41. I am satisfied that the Council's comments about staff availability are supported by the available evidence. However, this raises a significant concern that staff failed to contact Mr C for a full week, despite evidently being aware of Mr A's predicament. I was presented with no justifiable reason for the School's failure to contact Mr C and find this to be particularly poor given the importance of clear, informative communication at what must have been a difficult and stressful time for Mr A and his family.

42. I uphold this complaint.

*(c) Recommendation*

43. I recommend that the Council:	<i>Completion date</i>
(i) issue a formal written apology to Mr A for the failings highlighted in this report.	24 December 2012

44. The Council have accepted the recommendations and will act on them accordingly.

**Explanation of abbreviations used**

Mr C	The complainant
Mrs C	The complainant's wife
Mr A	The complainant's son
The School	A school in the Council's area
The SQA	The Scottish Qualifications Authority
The Council	The Highland Council
The Guidance	SQA publication: Estimates, Absentees and Assessment Appeals Guidance on Evidence Requirements
The Company	A supplier of commercially-produced practice examination papers
The MSP	Mr and Mrs C's MSP
The Co-ordinator	The School's SQA Co-ordinator
The Administration Assistant	An Administration Assistant at the School

**List of legislation and policies considered**

SQA publication: Estimates, Absentees and Assessment Appeals Guidance on Evidence Requirements