



FIRST ANNUAL REPORT

1999-2000

January 2001

1. THE EXAMINATIONS APPEALS BOARD

The Examinations Appeals Board (the EAB) was established by Ministers in 1999, following a review in 1998 by the regulatory authorities for England, Northern Ireland and Wales¹ of the entire enquiry and appeals process for qualifications. The EAB succeeded the Independent Appeals Authority for School Examinations (IAASE) which was set up in 1990.

The EAB is an independent panel with no statutory powers. Its remit, which covers England, Northern Ireland and Wales, is to hear final appeals against grades awarded in Entry level, GCSE, foundation and intermediate GNVQ, GCE and VCE AS and A level examinations.

The members of the Board were appointed, according to the guidance of the Office of the Commissioner for Public Appointments, in April 1999. We are very grateful to the Chairman of IAASE, Dame Elizabeth Anson, and Deputy Chairman, Mr Michael Edwards, for their invaluable support and the benefit of their experience when we were beginning our work and setting up the new body to hear appeals on the summer 1999 examinations. They were very helpful indeed.

The regulatory authorities will evaluate the operation of the EAB after its second year of hearings, reporting their findings and making recommendations to Ministers.

This is the first annual report of the EAB. It covers the period from the setting up of the Board in 1999 to the end of its first round of appeals in December 2000. The Board would welcome comments on this report and any issues arising from it.

1.1 The Panel

The EAB, like IAASE, is supported by a pool of panellists who assist with hearings. Two panellists sit with a member of the EAB Board to hear each appeal.

In autumn 1999 the Board appointed 15 panellists from over 300 applicants. The process of appointment involved public advertisement and interview. This differed from the IAASE system where panel members had been nominated by the awarding bodies and the teachers' associations. The EAB panellists come from England, Northern Ireland and Wales. Their expertise is extensive: most have experience of teaching in secondary schools or in further or higher education; some have been or are involved in the examining process, as examiners with awarding bodies; some have legal knowledge, from work as magistrates, lecturers in law or members of tribunals.

We wished the panellists to have the opportunity to meet together to achieve some common understanding and to help us develop our part of the appeals process so that it is as open and

¹ The regulatory authorities are the Qualifications and Curriculum Authority (QCA); the Northern Ireland Council for the Curriculum, Examinations and Assessment (CCEA); Awdurdod Cymwysterau, Cwricwlwm ac Aseu Cymru/ the Qualifications, Curriculum and Assessment Authority for Wales (ACCAC).

fair as possible. In December 1999 we held an initial training day. Speakers from the Joint Council for General Qualifications (JCGQ) and QCA introduced the awarding bodies' role in the appeals process and the work of the regulatory authorities. The Chairman shared his thinking on the way the EAB might operate and its contribution to greater openness in the examinations system. Groups of panellists, together with the Chairman and Deputy Chairmen, worked through mock appeals based on past IAASE cases. Each group arrived independently at the same decision reached by the original IAASE panel. Everyone involved found the day a very valuable learning experience.

The panellists have served in rotation. No one is involved in hearing an appeal where they have any connection with the centre, awarding body or any individual concerned. All but one have heard at least one appeal; several have heard two. Each member of the Board has chaired four panels.

In October 2000 the Board held a review day with the panellists to discuss the first year of the EAB's operation. Panellists presented feedback on the cases they had heard; the awarding bodies gave their views; comments from centres which had appealed were considered; and there was input, from QCA, on the changes to the curriculum and the examinations within the EAB's remit. Some very useful discussion took place with the Board on issues that had arisen over the year and on how the EAB's procedures were working.

The first year of our operation has been a learning experience for the Board and panellists as we have grappled with unfamiliar roles and procedures. Our main concern throughout has been to give both parties to each appeal a full opportunity to present their side of the case, then to consider the arguments presented with careful objectivity, within the limits of our remit, so as to arrive at a fair conclusion.

1.2 **Administrative support**

When the EAB was set up, Ministers decided to retain the support system that had been in place for IAASE. The EAB therefore receives administrative support from QCA, funded by the DfEE. The staff who work with the Board are the Principal Officer responsible for Appeals and the Appeals Officer.

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A list of Board members, panellists, the office staff and contact details is provided in Appendix 1.

1.3 **Finance**

Board members and panellists are paid a fee for each day they work. To the end of December 2000, the cost of this was £38,450. The total budget for the financial year 1999-2000 was £50,547 and for 2000-2001 was £49,000.

2. HOW THE EAB GOES ABOUT ITS WORK

2.1 Board meetings

The Chairman and the two Deputy Chairmen meet regularly to discuss issues arising from appeals and feedback and to review the work of the Board. This has led to some amendments to procedures in order to make them more responsive to the needs of those involved in appeals and to ensure as much openness as possible (see 2.7 below).

2.2 Advice to enquirers

Comments from centres, candidates and parents show that they have appreciated advice received from the office in the early stages of a possible appeal and the opportunity to talk through problems and procedures. The process can be confusing for anyone who is not familiar with it so discussion with the office staff can be useful for those considering an appeal.

Although the EAB's remit does not allow it to accept appeals from parents or candidates, other than private candidates, the office advises all callers on the enquiries and appeals process and on the courses of action open to them.

2.3 The website

The Board's staff have created a website which is updated as hearings are concluded. It contains the EAB's remit; explanations of the enquiry and appeals process and how to appeal; guidance on appeal hearings; dates of forthcoming appeals; summaries of cases heard and the annual report. This information will be sent, in printed form on request, to anyone who cannot access the website.

2.4 Other meetings

The EAB holds meetings each year with the Joint Council for General Qualifications (JCGQ), through which the awarding bodies coordinate their work, and with the teachers' associations, to share ideas on the appeals process and current issues. We have met with the Chairman and Chief Executive of QCA to discuss issues arising from appeals and the EAB's work. We have sought advice, periodically, from QCA staff. All cases heard by the EAB to date have been from centres in England against decisions of English awarding bodies. Issues arising from them have been referred to QCA, as the appropriate regulatory authority.

2.5 Appeals

In order to get a balanced view of the EAB's work it should be seen in the context of the entire examination process, which runs smoothly every year for most centres and candidates. The majority of enquiries about results and appeals are resolved by the awarding bodies. For the 1999 GCSE and GCE examinations there were 33,326 enquiries about results to awarding bodies from centres, involving approximately 0.5% of GCSE and 3.3% of GCE candidates. Of these, 372 progressed to first stage appeals (internal review) with the awarding bodies and

23 went to the second stage (formal hearing of the cases by the awarding bodies' appeals committees).

The EAB heard 12 appeals, 6 on A level and 6 on GCSE. It allowed 3 of them. The Chairman declined to accept 2 applications: one was made before the centre had completed the awarding body's appeals process; the other did not fall within the EAB's remit.

A list of cases is provided in Appendix 2. Summaries of the cases are available on our website.

2.6 Appeal Hearings

Appeals have, to date, been heard at QCA's offices in London though we should be happy to consider alternative venues if centres and awarding bodies would prefer this. The procedures followed at hearings are set out in *Appeal Hearings: Information and Guidance*, available on the website or from the office. The Board appreciates that these occasions can be daunting for the parties to an appeal and tries to strike the right balance between formality and informality. Feedback from centres has been very positive on this aspect of our procedure.

Both the centre and the awarding body are invited to send in advance any documentation in support of their case that they wish the panel to consider. This is copied and sent to all who will attend: the EAB panel, the representatives of the centre and awarding body and official observers from the appropriate regulatory authority and government education department which, in cases heard to date, have been QCA and DfEE respectively. Appeal hearings are open to members of the public and, on occasion, some have been present. While anyone may attend to observe, only members of the centre's and awarding body's teams may contribute to the proceedings.

We and our colleagues from the panels have generally been very pleased with the way in which both centres and awarding bodies have presented their evidence in hearings. Centres, in particular, have benefited from the advice of the Board's staff. However, some small problems, which we hope can be addressed for the future, have arisen from time to time. The first concerns paperwork. Whilst the documentation submitted in advance from both sides is usually helpful, information which is tabled at the hearing itself can create problems, since everyone present needs to have had time to consider the material. It is therefore best to plan very carefully and avoid this kind of situation. The second problem concerns representation at hearings. Both centres and awarding bodies need to ensure that their teams of representatives consist of the people who can give specific detail of issues relevant to the case.

We have welcomed the very positive approach by centres and awarding bodies to resolving issues. However, there have been instances when attempts to be helpful, for example, by subject officers of the awarding bodies, led to difficulties because they were not coordinated with the work of their colleagues dealing with appeals. In this context, prolonged correspondence between centre and awarding body, while conducted with the best of intentions, has in some cases considerably delayed the process.

We are also encouraged that all parties in appeals have complied with the Board's request to maintain confidentiality of the details of the hearing until the detailed, final decision letter has been published.

It is important for centres considering an appeal to be familiar with the EAB's remit and powers. Several centres have focused their cases on subject-specific issues which are not within the scope of an appeal hearing. Appeals must be made on procedural grounds, as set out in the EAB's *Remit and Procedures* document. Appeals panels cannot re-mark scripts, get involved in arguments about the content and merit of answers or raise grades. The Board cannot hear appeals against national procedures, for example tiered examinations, subject criteria or uniform mark scales. Complaints about such matters should be referred to the appropriate regulatory authority.

Both parties are notified of the outcome of an appeal by letter, usually one day after the hearing. They receive a draft of the further detailed decision letter, within 15 working days, and are asked to comment, within five working days, on any factual inaccuracies in it. Once the Chairman of the panel has considered these responses, the final decision letter is issued.

2.7 Revisions to guidance on appeal hearings

In September 2000, in the light of appeals heard, the Board made some revisions to its advice to centres and awarding bodies, *Appeal Hearings: Information and Guidance*. The most significant additions are in the section 'Documentation for the hearing':

"5. Letters from third parties will not normally be admissible since opinions or support from colleagues or others do not constitute evidence. In addition, the evidence presented to the EAB should be substantially what was presented at the awarding body appeal hearing since an appeal to the EAB is an appeal against a decision of an awarding body. Anything new to be submitted has to be in the nature of evidence which came to light only at or after the awarding body's appeal hearing.

The EAB's officers will sift any inadmissible evidence from the papers sent in and refer back to the centre or awarding body. If they disagree with the decision to remove the papers, the matter will be referred to the Chair of the panel for the hearing."

and a new section, 'Protocol to be observed by the parties to an appeal':

"11. Once an appeal has been lodged with the EAB there should be no further correspondence between the awarding body and the centre. All communications should be directed to the EAB.

12. The EAB asks that, as a matter of professional courtesy, neither party to an appeal should issue statements to the media about the appeal between the appeal hearing and receipt of the final decision letter."

The Board believes that these changes are in the best interests of all involved in appeals.

2.8 Feedback from centres

The EAB invited all the centres which appealed to the Board to comment on their experience of the EAB and the appeal hearing. Nine of the twelve responded.

All had positive reactions to the information and guidance they had received, the time taken to respond to enquiries and set up the hearing and the administration of their case. They agreed that the EAB had conducted hearings in accordance with its published remit and procedures and had provided a detailed response.

The main cause for dissatisfaction was that the outcome of the appeal had not given them the raised grades they had hoped to achieve for their candidates.

Some individuals commented on matters which surprised them, such as the presence at the hearing of official observers or a member of the public. Whilst we have, when chairing panels, attempted to make sure that everyone understood what was happening, obviously we have not always succeeded and we have noted the need for the Chairman of the panel at each hearing to ensure that those present understand fully the role of everyone in the room.

3. ISSUES

As well as reaching a decision on particular appeals, the EAB has sometimes asked the awarding bodies, centres or the regulatory authorities to consider some issues which might have wider implications. These and other points which the Board found of particular interest are set out below.

3.1 Disparity in outcome between components

This issue presented itself in two slightly different ways: disparity between outcomes in terminal assessment and coursework in one subject and between written and practical components in another.

There was concern from three separate panels which heard three cases on the same syllabus, over the significant disparity in outcome for cohorts of apparently similar ability, depending on whether they took the coursework or terminal tasks components in an examination. This raised questions about the comparability of these two different methods of assessment, which offered alternative routes to the same GCSE qualification, and whether candidates who took the terminal tasks option had been disadvantaged.

In another case the panel was concerned about the low mean mark for the subject, whether this was a consequence of poor examining rather than the candidates' abilities, and by the very considerable differences in the grades for the practical and written components of the examination, with candidates who obtained A* in other subjects failing to achieve 50% in the written paper.

3.2 The nature of re-marks in enquiries and appeals

We realised that several centres appealing to the EAB did not fully understand the nature of re-marking and those which did had little confidence in the process, believing examiners' judgements were influenced by the marks and comments of earlier markers, still visible on the scripts being re-marked. We are aware that this is not a new problem and that the issue of whether re-marks should be conducted on 'clean' scripts has been discussed several times in recent years. One awarding body conducted research in autumn 2000, whereby results from re-marks on clean scripts were compared with those from the original re-marks. The findings of that exercise are not available yet but the EAB will be interested in the outcome. In the meantime, we hope that the awarding bodies will find ways of drawing to the attention of centres the fact that a re-mark is an assessment of each externally assessed component against the approved mark scheme for the component by a senior examiner, who will confirm or amend the original marks. The service does not involve the re-marking of scripts from which original marks and comments have been removed.

3.3 Mark schemes

Some cases showed centres' dissatisfaction with the application of the mark scheme to their candidates' scripts as the marks were bunched and the examiners did not appear to have used the full range of marks available. Another appeal focused on whether a mark scheme was sufficiently discriminating to allow the full range of marks to be awarded and to differentiate between candidates of differing ability. Both raised issues about the mark schemes being fit for purpose.

3.4 Awarding body support for centres

The EAB has been impressed by the efforts the awarding bodies make to support centres through the provision of exemplar material, advice, feedback and INSET meetings. In one case, however, there was an issue about the nature and purpose of the exemplar materials. This focused on teachers' awareness of the status of exemplar material, how to relate it to the mark schemes and mark bands and on whether it accurately reflected the standard of the examination.

In another case, the EAB recommended that all centres of one awarding body take advantage of its offer to advise on the suitability of centre-set tasks and performance indicators.

3.5 Responsibilities of centres

The EAB would like all centres to note the recommendations it has made to centres in appeals this year. While a specific problem in a case relates only to the centre in the appeal, the issues may affect many others and centres, as well as awarding bodies, have responsibilities in relation to the enquiry and appeals process.

The Board recommends that all centres familiarise themselves with the procedures for enquiries and appeals, the tightening up of the deadlines and the need to comply with them. In addition, centres should recognise their responsibilities to candidates and parents over enquiries and appeals and should have in place procedures to ensure that all parties are properly advised and informed with regard to deadlines.

Centres should recognise the importance of understanding the examining process, including the role in it of forecast grades and the need for them to be accurate. Where centres are concerned about the marking of their scripts, they should take the opportunity to see the scripts and so be better informed about the actual performance of the candidates on the day of the examination.

3.6 **Timing**

(a) **Target: that appeals be heard within one academic year**

The Board had hoped to hear all appeals within the academic year following the examination. It has not been able to do so. One appeal was not heard until November 2000. The EAB is very concerned that the awarding bodies should streamline their procedures so that enquiries and appeals do not get delayed in this way. For anyone, but perhaps for school leavers in particular, to miss the start of a second academic year before their appeal is resolved is of major significance.

(b) **Target: that the EAB's hearings take place within two months of an application**

In five of its twelve cases, the EAB was unable to achieve this. A combination of school holidays at Easter and centres' prior engagements before and after the holiday made it impossible to meet the deadline. The EAB may ask the regulatory authorities to consider either leaving holidays out of the target time or agreeing that half terms should be included but longer holidays should not.

(c) **Target: that the EAB publish its conclusions within 15 working days of a hearing**

The EAB informs the parties to an appeal by letter, normally on the day following the appeal hearing, whether or not the appeal has been allowed. It is required to issue a letter, from the Chairman of the panel, detailing its conclusions and the underlying reasoning for them, within fifteen working days of the hearing. Once this has been drafted and the panellists consulted, the draft text is then sent to the centre and awarding body for them to comment on any matters of fact which they consider to be inaccurate. They are asked to respond within five working days. This means that the schedule is extremely tight and so far, while all but one of the draft texts have been issued in time, only four of the twelve final letters have been. Delays have been caused partly by the time centres take to respond to the draft. We recognise that centres and others are under great pressures of which responding to our drafts is but one. However, it is important that everyone involved recognises that it is important to the candidates that appeals are completely resolved as quickly as possible and we have, reluctantly, come to the decision that in future the EAB will have to proceed without the benefit of the responses from centres and awarding bodies if they do not arrive in time.

3.7 **The role of the EAB observer at a re-mark**

The EAB's remit states that the Board "will be able to appoint a non-participating observer to monitor the awarding body's reconsideration of a case". So far we have used such an observer, a panellist for the hearing in question, only once. There may, however, be cases in the coming year when the Board will direct an awarding body to conduct a re-mark. It is

usually the expectation of centres which pursue their case to the final independent stage with the EAB that, if their appeal is upheld, any subsequent re-mark will be independent of the awarding body. We understand that IAASE on occasion required awarding bodies to carry out re-marks “with the involvement of an independent senior examiner from another awarding body”. While the EAB is content with the current arrangement for a “non-participating observer”, we will monitor it and ask the regulatory authorities to include this aspect of our remit in the review to be undertaken next year. The EAB believes it is in the interest of public confidence in the examination and appeals system that the whole process is perceived by centres, candidates and parents to be completely fair. At present, we are not confident that this perception is shared by all.

4. CONCLUSION

We need an examination system in which all users and the public at large can have complete confidence and which is characterised by openness. The government, the regulatory authorities and the awarding bodies themselves have introduced major improvements in recent years to achieve these objectives. We recognise that we are but a small part of that overall process though we hope that, in providing a point of appeal beyond the awarding bodies themselves, we do help to increase the confidence users have in the system. Also, because we are quite outside the system, being responsible for neither the administration nor the regulation of it, we are able to view the procedures in a more detached way than the main participants. In this role we have sought to comment on wider issues so that the main players can consider and take any appropriate action which might further strengthen the examining process. Obviously, we have restricted our observations to those parts of the process which relate to our remit, that of hearing appeals, though we have not interpreted our role so narrowly that we could not comment on matters such as the nature of re-marks and the return of scripts to centres or candidates. All three of us are deeply committed to openness and our comments reflect this position.

Many centres have complained that re-marks are, in reality, simply a review of the first marker’s efforts. The awarding bodies and their principal and chief examiners protest this is not so and that re-marks are what they say they are: experienced chief examiners bring all their professional expertise and experience to bear and centres and candidates can have confidence in the outcome of the re-mark. We have no reason to doubt the sincerity of those who argue thus but can sympathise with the doubts expressed by centres, parents and candidates. We are pleased that trials are under way to test the feasibility of a system where scripts are cleaned so that the second marking can be done without the re-marker knowing how the first marker assessed the script. We await the outcome of this research with interest.

We would expect in cases that come before us that centres would have availed themselves of the opportunity to see their candidates’ scripts. In appeals where a centre is disputing the marking it is crucial that staff have seen how their candidates actually performed in the examination. In general, the feedback from examination scripts will be invaluable to good teaching and good learning in schools and colleges and we welcome the new arrangements for centres to have access to their marked scripts.

We have also urged the importance of the appeals process being resolved expeditiously. We set ourselves a target that all appeals within our remit would be resolved no later than the end

of the academic year following the examination. For everyone, but most importantly for those for whom the examination is to provide access to higher education, this is a crucial deadline to meet. It is a matter of very considerable disappointment to us that we have not been able to achieve this goal. No one party was responsible for this failure but a failure it was. We shall review our processes to endeavour to avoid a recurrence. We look to others to play their part in this.

It has been a very interesting first year. We have, we believe, established good relationships with those colleagues in the regulatory authorities and awarding bodies that will enable us to continue to play our small role in the hugely important work for which they are responsible. We would wish to end by saying that, whilst we have the task of considering issues which remain unresolved by those involved at earlier stages, no one who becomes acquainted with the work of these bodies, together with the regulatory authorities, could be other than impressed with the vast efforts that they make to ensure that our examinations system is a fine one in which the public can have great confidence. We hope to be able to help them make it even better.

David Mallen
Chairman

Gerry Kelly
Deputy Chairman

Jeff Thompson
Deputy Chairman

Appendix 1**THE EXAMINATIONS APPEALS BOARD****The Board:**

David Mallen	Chairman
Gerry Kelly	Deputy Chairman
Jeff Thompson	Deputy Chairman

The Panel:

Brian Boyden
 Jim Caves
 Peter Clare
 Simon Cooper
 Bob Cummings
 Philip Davies
 Hope Kerr
 Paul Madge
 Anthea Millett
 Jill Platt
 Philip Roberts
 Robin Trebilcock
 Gordon Whittleston
 Ann Williamson
 Dylan Wyn

The Office:

Philomena Waldron	Principal Officer, Appeals
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Appendix 2**APPEALS HEARD ON 1999 EXAMINATIONS**

1.	Acland Burghley School/Edexcel A Level Economics 9120	Allowed
2.	Dane Court Grammar School/Edexcel A Level History 9266	Not allowed
3.	Ponteland County High School/Edexcel GCSE Mathematics 1386	Not allowed
4.	Queen Anne's School/AQA/SEG GCSE Drama and Theatre Arts 3390	Not allowed
5.	Highsted Grammar School/Edexcel A Level History 9266	Not allowed
6.	Hurstpierpoint College/Edexcel GCSE Mathematics 1386	Not allowed
7.	Lancing College/OCR A level History 9625	Allowed
8.	Gordano School/Edexcel GCSE Mathematics 1386	Not allowed
9.	Cynffig Comprehensive School/OCR GCSE History 1607	Not allowed
10.	Prior's Field School/Edexcel A level History 9266	Not allowed
11.	Rochester Independent College/Edexcel GCSE Mathematics 1385	Not allowed
12.	Hinchingbrooke School/OCR A level English Literature 9000	Allowed

Summaries of the cases are available on our website.