

Sutherland Inquiry: Ofqual Action Plan



1. The Sutherland Inquiry into the delivery of National Curriculum Tests in 2008 was published on 16 December. This plan sets out the actions being taken by Ofqual to meet the recommendations in the report that concern regulation.
2. Chapter 6 of the report deals with regulation. In the 'Analysis and findings' section there are positive comments about Ofqual:
 - The Inquiry welcomes the creation of Ofqual as an independent regulator of National Curriculum tests as a positive development, and believes it represents a significant improvement on the previous arrangements that existed for the regulation of National Curriculum tests.
 - The Inquiry believes that the creation of Ofqual as an interim regulator ahead of legislation was inherently difficult as it was necessary for DCSF and QCA to put in place governance and reporting arrangements to enable Ofqual to operate within existing legislation. Furthermore, the timing of Ofqual's launch in April 2008, meant that Ofqual immediately had to react and comment on test delivery issues. As a consequence, Ofqual did not have the opportunity to work with its stakeholders to clarify how the interim arrangements would operate in practice. Nevertheless, it is the Inquiry's assessment that Ofqual made a positive contribution in terms of reporting on the problems with the delivery of National Curriculum tests this summer.
 - The Inquiry is confident that the issues identified in this report concerning Ofqual's interim operation can be addressed in forthcoming legislation.
3. This analysis was followed by four findings concerning regulation:
 - There was insufficient clarity in the Regulator's reporting arrangements and its relationship with QCA, NAA and DCSF
 - The Regulator's risk monitoring and management processes were inadequate and the process for escalating concerns to QCA and DCSF was not properly defined
 - The focus of the Regulator's monitoring of the tests in 2008 was too narrow and insufficient attention was paid to the monitoring of delivery and systems issues
 - The Regulator was not always able to obtain accurate management information at the right time from NAA

4. These lead to three broad recommendations, the first two of which each cover four more specific recommendations
 - Ahead of legislation, the reporting arrangements for Ofqual should be clarified
 - Ofqual should ensure that it has sufficient resources, plans and skills to enable it to monitor the QCA thoroughly
 - The forthcoming legislation to establish Ofqual should ensure that it is given statutory powers to regulate the quality and delivery of National Curriculum tests, and clearly sets out reporting lines

5. In relation to the third of these recommendations, Ofqual has been working with DCSF officials to try to ensure that the intention is reflected in the drafting of the legislation.

6. The actions being taken in connection with the first two recommendations and a recommendation from the procurement chapter of the report are described in the table. These actions are in the context of QCA's announcement on 31 December that Edexcel had been awarded a one-year contract to supply national curriculum test operation services for the 2009 tests. The contract, worth £25 million over the contract period, covers the supply of national curriculum test operations services for key stage 2 statutory tests and other non-statutory tests for the 2009 test cycle. Edexcel previously held the contract for test operation services from 2005 to 2007.

Report recommendation	Action being taken
The Memoranda of Understanding, governance and accountability arrangements should be reviewed.	Ofqual and QCA are committed to keep the Memoranda of Understanding under review. In addition, Ofqual, QCA and DCSF have agreed a joint statement of intent that clearly enables the interim Ofqual to exercise its regulatory functions independently while remaining accountable to the QCA Board.
There should be a protocol established for Ofqual to keep DCSF informed about its findings during monitoring.	The draft protocol is being developed to recognise the changes within QCA, particularly the dissolution of NAA, and to clarify reporting lines and escalation processes with QCA and DCSF.

<p>Ofqual should update the Regulatory Framework and Code of Practice to ensure they accurately describe the respective roles and responsibilities of Ofqual, QCA and NAA (including its suppliers).</p>	<p>A revised code of practice and Regulatory Framework for 2009 has been produced. Ofqual will consult on further revisions to the Framework and Code of Practice before procurement for the 2010 tests is advanced. A working draft will be available by April 2009.</p>
<p>Ofqual should hold regular accountability meetings with NAA at key stages during the test development and delivery process.</p>	<p>Kathleen Tattersall chaired the first of the quarterly regulatory review meetings described in the draft protocol on 2 December 2008. The next meeting is scheduled for February.</p>
<p>Ofqual should have sufficient resources and plans in place to monitor the contractual arrangements for the delivery of the 2009 key stage 2 tests.</p> <p>Ofqual should ensure that it has the necessary resources and plans in place to effectively monitor QCA and its suppliers' delivery systems.</p>	<p>Ofqual will increase its focus on the monitoring of the systems that QCA has in place for delivering the National Curriculum tests to time and to a high quality. Ofqual is presently working on the management information aspect of monitoring. Once Edexcel's product descriptions have been assimilated it will be possible to produce a clear picture of how to monitor delivery of the tests most effectively.</p>
<p>Ofqual should specify the nature, format and timing of any management information that it requires from QCA to discharge its regulatory functions in advance of the test delivery cycle commencing.</p>	<p>Clearly Edexcel's appointment is far later than it would be in normal circumstances. Ofqual is presently determining its management information and data requirements against Edexcel's contract deliverables and is informing QCA of its specific requirements as a matter of urgency.</p>

<p>Ofqual should ensure it has project and risk management mechanisms in place for its monitoring of National Curriculum test.</p>	<p>Once developed further the monitoring plan for the 2009 tests will be reviewed regularly with risks being identified, managed and escalated as appropriate.</p> <p>Ofqual's corporate risk management system has been revised, with reports made to the Ofqual Committee. The Committee is establishing a risk sub committee to oversee risk management in more detail. This will provide a clear route for the reporting and management of risks, including those related to the tests.</p>
<p>Ofqual should be consulted at an early stage in future procurement that suppliers' proposals will meet its Code of Practice</p>	<p>For the 2009 procurement process in the autumn Ofqual provided advice to QCA on the test delivery specification. Ofqual shared with QCA its regulatory perspective on the bidders' proposals for test delivery in 2009. Ofqual considered the extent to which it could have confidence that the choice of particular suppliers would result in the delivery of results on time, the provision of accurate results to schools and learners, and a transparent process which would provide adequate information and accessibility to Ofqual as regulator.</p> <p>As regulator we did not consider contractual matters or the propriety of the contractual process. We are planning to build on this experience to ensure we play a proper role in QCA's procurement of test operation services for 2010.</p>