

# Investigation Report

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## Investigation of a complaint against the Council for Curricular Examinations and Assessment

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**NIPSO Reference: 201912617/18857**

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## **The Role of the Ombudsman**

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

## **Reporting in the Public Interest**

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

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**Case Reference:** 18857/201912617

**Listed Authority:** The Council for Curriculum Examinations and Assessment (CCEA)

## **SUMMARY**

The complainant raised concerns with this office about the Council for the Curriculum, Examination and Assessments (CCEAs) failure to accept an examination grade appeal and the handling of her subsequent complaint.

My investigation examined information obtained from the complainant and from the CCEA. It also examined relevant CCEA records and written procedures and guidelines made available. My investigation established maladministration in the early stages of dealing with her grade appeal which caused some delay. I did not conclude there was maladministration in the actual grade appeal decision.

My investigation found that CCEA omitted important information in their complaint responses on three occasions to the complainant. I concluded there was maladministration in the handling of her complaint.

I recommended that CCEA issue an apology to the complainant in line with my findings. I also recommended process changes to prevent any recurrence of these matters.

## THE COMPLAINT

1. This investigation relates to the actions of the Council for the Curriculum, Examination and Assessment (the CCEA) and its involvement following the complainant's appeal of an A level examination grade made through her school in 2017. A subsequent complaint was made on behalf of the complainant by the school to CCEA. The complainant expressed dissatisfaction to my office concerning the final outcome of both the grade appeal and the complaint. She was also concerned by the delay in handling her appeal and her perception of a lack of independence in reviewing CCEA's actions.

### Background

2. CCEA, established by the Department of Education (Department) in 1994, is a non-departmental public body. In addition to roles of providing research and advice to the Department, it supports teachers delivering the curriculum; delivers assessment arrangements for school; provides examination qualification courses to schools and colleges; and acts a qualifications regulator on behalf of the Department for examination qualification use in Northern Ireland. In that last role CCEA Regulation "works independently of the [examination] awarding organisation side of CCEA and is responsible for the quality assurance of qualifications offered in Northern Ireland"<sup>1</sup>. CCEA is also a member of the Joint Council for Qualifications (JCQ) which assists examination awarding bodies across the United Kingdom in areas of administration and education policy. While the language of awarding qualifications is orientated around a business transaction, suggestive that the individual pupil (complainant) is not the service user and that the examination centre (school) is the party that CCEA deals with, I am clear that the 2016 Act that established the Public Services Ombudsman provides my jurisdiction in Schedule 3 that the CCEA is a "listed authority" and further:

***Power to investigate complaints made by a person aggrieved***

***5.—(1) The Ombudsman may investigate a complaint, made by a member of the public who claims to have sustained an injustice (in this Act referred to as "a person aggrieved"), if the requirements of this section are met.***

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<sup>1</sup> <https://ccea.org.uk/regulation/about>

*(2) The complaint must relate to action taken by a listed authority*

3. The complainant sat French A level examinations in 2017 at a large Belfast school. At the same time as sitting the final A2 elements of the subject examination, she re-sat part of the AS element from the first year of the course. When results became available the complainant consulted with her teachers and requested an Enquiry about Result (EAR) which checked the marking of her AS examination paper. The EAR request was made on 11 September 2017, electronically via the CCEA portal. The outcome of the EAR was available from CCEA on 18 September 2017. An appeal was sent to CCEA by the school via email on 25 September 2017. When no outcome from the appeal had been provided the school sought an explanation and re sent the appeal on 28 November 2017. The request for an appeal was rejected by CCEA on 1 December 2017. Thereafter the school made a complaint about the handling and rejection of the appeal. The complainant said that she felt she had not been treated fairly, had not received the “right” grade and had suffered anxiety around her university admission grade requirements.

### **Issue of complaint**

4. The issues of complaint accepted for investigation were:

**Issue 1: Whether CCEA handled the appeal arising from the complainant’s exam result appropriately, reasonably and in line with relevant policies, guidance and procedures?**

**Issue 2: Whether CCEA handled the complaint from the complainant appropriately, reasonably and in line with relevant policies, guidance and procedures?**

### **INVESTIGATION METHODOLOGY**

5. In order to investigate this complaint, the Investigating Officer obtained from the CCEA all relevant documentation together with its comments on the issues the

complainant raised. The Investigating Officer also conducted interviews with the complainant and relevant CCEA staff.

### **Relevant Standards and Guidance**

6. In order to investigate complaints, I must establish a clear understanding of the standards, both of general application and those which are specific to the circumstances of the case. I also make reference to relevant regulatory, professional and statutory guidance.

The general standards are the Ombudsman's Principles<sup>2</sup>:

- The Principles of Good Administration
- The Principles of Good Complaints Handling
- The Public Services Ombudsmen Principles for Remedy

7. The specific standards and guidance referred to are those which applied at the time the events occurred. These governed the exercise of the administrative functions of those individuals whose actions are the subject of this complaint.

The specific standards and guidance relevant to this complaint are:

- The Education (Northern Ireland) Order 1998, (the 1998 Order);
- The Joint Council for Qualifications (JCQ) Guide to Awarding bodies' appeal processes; August 2017, (the JCQ Guide);
- CCEA Team Procedure of Processing Qualification Appeals; and
- CCEA How to Make a Complaint – July 2018, (CCEA Complaints Policy 2018).

8. In investigating a complaint of maladministration, my role is concerned primarily with an examination of the administrative actions of the CCEA. It is not my role to question the merits of a discretionary decision taken unless that decision was attended by maladministration.

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<sup>2</sup> These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

9. I did not include all of the information obtained in the course of the investigation in this report but I am satisfied that everything that I consider to be relevant and important was taken into account in reaching my findings.
10. A draft copy of this report was shared with the complainant and the CCEA for comment on factual accuracy and the reasonableness of the findings and recommendations.

## THE INVESTIGATION

**Issue 1: Whether CCEA handled the appeal arising from the complainant's exam result appropriately, reasonably and in line with relevant policies, guidance and procedures?**

### Detail of Complaint

11. The complainant provided information around her dealings with CCEA through the school and copies of the documentation between her school and CCEA regarding her examination result and appeal. The genesis of the appeal was that the complainant's AS level grade was one mark away from the boundary for a higher grade.
12. In summary the following dates are relevant and undisputed:

Date	Event	Comment
18 August 2017	School submitted online request for access to script	
11 September 2017	School submitted online Enquiry about Result (EAR) request	
18 September 2017	CCEA sent school online result of EAR	
25 September 2017	School submitted appeal via email	No acknowledgement or action by CCEA



28 November 2017	School resubmitted appeal via email	
1 December 2017	Appeal considered and rejected by CCEA	Two errors in record but overwritten
1 December 2017	CCEA forwarded rejection via portal to school	Letter erroneously dated 18 December 2017

## Evidence Considered

### Legislation/Policies/Guidance

13. I considered the following legislation and guidance:
- The Joint Council for Qualifications (JCQ) Guide to Awarding bodies' appeal processes; August 2017, (the JCQ Guide); and
  - CCEA Team Procedure of Processing Qualification Appeals.
14. Relevant extracts of the guidance referred to are enclosed at Appendix two to this report.
15. In particular, the following extracts are relevant:

#### JCQ Guide

*17. When an application for an appeal is received, the awarding body will decide whether it will be accepted or not.*

*18. The decision whether to accept the application for an appeal is based on: • the validity of the grounds for the appeal as put forward by the appellant; • whether a clerical re-check, a review of marking or a review of moderation has been completed; • the timescale of the application. If an application for an appeal is not accepted, the reason(s) for this will be given'.*

### Relevant CCEA records

16. The CCEA records document that the complainant appeal was lodged on the relevant form (iCCEA/FO/2117/03). The form can be submitted online through

the electronic CCEA portal where the school as an examination centre has access. In this case the form was completed in typescript and printed. Under the heading "state the grounds for the appeal" the school have provided an explanation for the appeal based on their contention that the mark scheme was not properly applied. The explanation follows the format of the wording found in the JCQ guide. The printed form was sent via email to a staff member at CCEA on 25 September 2017. A copy of the email as received was not available. No receipt or acknowledgement email was generated.

17. The records available document no action by CCEA in accordance with their own team procedure for appeals. No activity took place until the school pursued an update on the appeal around 28 November 2017 when the school was asked to resubmit the appeal document. It appears from the records available that that CCEA then prepared a "Request for Stage 1 Examinations Appeal" document to record a decision on the appeal. The prepared document contained two errors (wrong month/reason for delay) which were corrected and overwritten in manuscript by the decision maker, the Director of Finance and Corporate Services (DFCS).
18. The DFCS recorded the decision taken, dated 1 December 2017, not to accept the appeal. In other words that the appeal does not progress in accordance with the JCQ guide. The DFCS recorded "the appeal does not indicate in precise detail where the mark scheme has not been properly applied (per JCQ Guideline)".
19. A letter to the school, erroneously dated 18 December 2017 which should have been dated 1 December 2017, was generated by CCEA confirming the refusal to accept the appeal on the basis of JCQ guidance set out as:
  9. *Appeals should focus on whether an awarding body:*
    - a) *has used procedures that were consistent with regulatory requirements;*
    - b) *has applied its procedures properly and fairly in arriving at judgements;*
    - c) ***for AS, A level and Project qualifications only***, *has not properly applied the mark scheme. For the avoidance of doubt, the head of centre **must** indicate precisely where this has been the case.*

***for AS. A level and Project qualifications only.** the mark could not have been given by a trained and standardised marker who has had appropriate subject knowledge and who had exercised his/her academic judgement in a reasonable way.*

20. In effect that decision ended any consideration of the complainant's appeal.

### **The CCEA's response to investigation enquiries**

21. The CCEA Chief Executive explained by letter of 6 November 2018 that in his view CCEA had not received a direct complaint from the complainant, rather it was received from the school. He further stated the centre had complained about a delay in processing the appeal that had been addressed. The Chief Executive indicated CCEA's view was that there remained a process for the school to pursue a "request for a review to CCEA Regulation to consider the matter through the Examination Procedure Review Service (EPRS). CCEA Regulation will look at whether any awarding body [CCEA] has followed rules and procedures, and, if not, whether the result is appropriate." The Chief Executive indicated that actions had been taken to mitigate further occurrences.
22. By letter of 10 December 2018 the Chief Executive also outlined that an internal review had taken steps to mitigate the errors identified in handling the appeal including not actioning the email, errors in the dating of the outcome letter and erroneous emailing of the school asking for technical advice when it was the school who had raised queries. The letter also stated that "there was no process in place to check the individual staff members' inbox". This is referred to further under the complaint handling issue.
23. By letter of 13 February 2019 the Chief Executive provided further information and again referred to the EPRS review available through CCEA Regulation.

### **Interviews**

*Interview with the complainant and school*

24. In her interview, the complainant said that following the examination result she had spoken to her teachers and pursued an appeal on their advice. This was more pertinent because her grade placed her one mark away from the boundary that would raise her grade obtained. She stated she made the appeal request on the advice of her teachers as they know more about the marking system. The Head of Languages also spoke to the Investigating Officer and confirmed his subject teaching experience of some 15 years and his time as a CCEA Examiner familiar with the system and processes. He confirmed he formulated the words used in the grounds of appeal document based on the JCQ guidance. He stated that he went further and pointed out that as this was a language examination, he was pointing to the “overall language used” in the section of the paper rather than pointing to specific words. He stated that he understood this was in line with the marking scheme

*Interview with CCEA staff*

25. The Investigating Officer interviewed the relevant CCEA staff member:
- Director of Finance and Corporate Services (DFCS)
26. The DFCS explained at interview:
- was three months in post at December 2017 with no prior CCEA background
  - received handover training from the previous post holder
  - was clear her role was as decision maker in line with JCQ procedures
  - had some assistance from the Business Assurance Team but had not gone outside on this occasion for assistance from the Education Team (on questions of professional academic judgement)
  - had made decision not to progress the appeal based on the grounds of appeal which were not precise enough in detail
  - stated that the “process is designed where there is a clear misapplication of the marking scheme. So if you get four marks per points a, b and c, and you clearly demonstrated on your script that you got a, b and c and you hadn’t got the 4 marks that’s grounds for an appeal. But to simply

say that this marker couldn't be suitably qualified because, and not give any further information, that isn't justification for an appeal"

27. The Investigating Officer also met with members of the Business Assurance Team, the Team Manager, the Education Manager CCEA Regulation and the Head of CCEA Regulation. CCEA confirmed that there were four appeals lodged to a specific CCEA staff member email address in 2017. The same staff member was at work for almost all of the period of October – November 2017. In a letter to the school of 22 December 2017 CCEA explained the time taken with the appeal as within CCEA aim "to complete appeals within 50 working days", without acknowledgement of the error in not auctioning the appeal upon receipt. CCEA also helpfully provided a number of statistics that can be summarised as:

**2017 Appeals against the Outcomes of Enquiries about Results(all centres)**

Appeal Applications Received	Appeals Approved by DoFCS	% Appeals Approved	Appeals Leading to Grade Change	Appeals Proceeding to Appeal Hearing
99	43	43.43%	6 – all completed at Preliminary Appeal Stage (previously known as Stage 1)	7 – no grade changes at this stage

**2017 Appeals against the Outcomes of Enquiries about Results(Complainants School)**

Appeal Applications Received	Appeals Approved by DoFCS	% Appeals Approved	Appeals Leading to Grade Change	Appeals Proceeding to Hearing
9	2	22.22%	0	0 – all completed at Preliminary Appeal Stage (previously known as Stage 1)

**2017 Appeals Received by CCEA Regulation – Nil**

## Analysis and Findings

28. The complainant raised concerns with this office about the CCEA's process of handling her appeal including an initial delay and the outcome decision. CCEA accepted there had been a delay in acknowledging and actioning her appeal. I note that there were additional minor errors in the handling of the appeal including: failure in the Team process guide including logging in appeals log, give an appeal case reference number, opening an electronic subfolder and errors on the prepared paperwork. These process actions did not take place as there is no account of the handling of the incoming appeal email on 25 September 2017. This only came to light when the school pursued the matter some two months later.
29. I also note that CCEA pointed out that the school did not pursue the matter at an earlier stage, emailed the appeal to an individual staff member email and did not use the portal to submit the appeal. The records available and indeed the statistics provided by CCEA show that a number of appeals from the school were directed to individual CCEA staff email addresses and were progressed. I also note the advice CCEA provided to schools did not mandate, in 2017, that only the portal or appeals email address were acceptable. Having reviewed all the information, I consider that in this instance, there is sufficient evidence of a lack of a robust process with checks and controls in operation. The operation of the system should not fail on the basis of the action of one staff member's monitoring of their individual email account. While relatively minor errors in the dating of documents/letters and the misaddressing of an email can occur in isolation, the accumulation of such errors in one case dealing with an appeal and continuing after the matter had been flagged up at a senior level is of concern. I note that the school was not directed to raise the matter with CCEA Regulation through the EPRS mechanism. I accept that the existence of the EPRS mechanism is outlined in CCEA information supplied generically to all schools and on the CCEA website.
30. The First Principle of Good Administration (getting it right') requires bodies to act *'in accordance with the public body's policy and guidance (published or internal); to take proper account of established good practice; and provide*

*effective services, using appropriately trained and competent staff.* The Third ('being open and accountable'), Fifth ('putting things right') and Sixth ('seeking continuous improvement') Principles of Good Administration, set out in appendix one, also suggest relevant considerations where the standard of service offered by CCEA fell below what is expected. In terms of 'getting it right': the failure of CCEA to have in place an effective system for receiving appeals is evidence of a less than effective service by design not just an instance of individual staff member oversight. I would have expected CCEA to have designed and corrected the appeals process to prevent such an occurrence or recurrence. In terms of 'being open and accountable': I do not consider that CCEA openly acknowledged their error in failing to action the appeal request due to oversight. I would have expected such an acknowledgement to the school from the outset. In terms of 'putting it right': I do not consider that CCEA acknowledged, apologised and explained their error at the earliest opportunity. I would have expected such an acknowledgement at the earliest stage and a commitment to review working practices. I note that the Chief Executive of CCEA recorded there was no written record of action taken to correct systems. 'Putting it right' includes indicating clear and timely information about other avenues for redress. I cannot find any example of CCEA drawing the school's attention to the EPRS route for a review. The issues raised under 'putting it right' apply equally to the Sixth principle: 'seeking continuous improvement. I am satisfied that the CCEA did not act in accordance with these principles as outlined. I am satisfied that this constitutes maladministration and I uphold this element of the issue of complaint.

31. I am satisfied that as a result of the maladministration identified, the complainant experienced the injustice of frustration and uncertainty when awaiting finalisation of her results for university entry, and the loss of opportunity for her concerns to be dealt with at the earliest opportunity. It is for the CCEA to implement procedures for staff and provide clear and precise public information to enable it to carry out its functions. I will deal with a remedy for the injustice later in this report.
32. I have considered the relevant material regarding the decision making on 1

December 2017 and the request for an appeal. Whilst I have identified maladministration in relation to this issue of complaint, I have not identified any grounds on which I could question the merits of the discretionary decision on whether to accept the appeal. The decision was within the ambit of the decision making criteria provided by CCEA and JCQ guidance that the DFCS could make. The decision is recorded and a fuller reason is also recorded on the form. It is arguable that the grounds of appeal provided the basis for an exercise of professional academic judgement argument against the marker of the paper. The DFCS was advised by Business Assurance Team staff who are not directly involved with awarding of grades but who nevertheless have ample experience of how the appeal process works. The absence of greater specificity in the grounds of appeal is more challenging when dealing with a marking scheme that employs the exercise of professional judgement. I remind myself that my role, set out in paragraph 8 is not to challenge discretionary decisions unattended by maladministration. I cannot conclude with any reasonable certainty that a different decision on the appeal would have resulted. I consider that the decision itself was not attended by maladministration in this instance and followed a valid interpretation of the CCEA and JCQ guidance. I consider that this view is borne out by material subsequently provided in the complaint by the school. I will deal with the complaint under that issue. I do not uphold this element of the issue of complaint.

**Issue 2: Whether CCEA handled the complaint from the complainant appropriately, reasonably and in line with relevant policies, guidance and procedures?**

**Detail of Complaint**

33. The complainant provided information around her dealings with CCEA through the school and copies of the documentation between her school and CCEA regarding her complaint at the handling of her appeal. The school on behalf of the complainant raised issues of the CCEA delay in actioning the appeal; the non-actioning of the appeal until it was followed up by the school in November 2017; and the CCEA refusal of the appeal for lack of specific grounds being provided. The complainant was concerned at the lack of independent scrutiny or



oversight of CCEA's actions.

34. In summary the following dates are relevant to the complaint and undisputed:

Date	Event	Comment
4 December 2017	School email asking questions about handling of appeal	
13 December 2017	Acknowledgement of questions email	
22 December 2017	CCEA response to school	Sent without benefit of "technical advice"
4 January 2017	CCEA email sent to school asking for technical advice to answer questions	Sent in error – therefore internal "technical advice" not sought up to this point.

8 January 2018	CCEA email acknowledging the complaint	
25 January 2018	DFCS decision maker responds to complaint	Sent without benefit of "technical advice"
26 January 2018	School submit Stage 2 complaint	
29 January 2018	CCEA acknowledge receipt of Stage 2 complaint	
13 February 2018	CCEA response from Head of Education	Response uses "technical advice"
1 March 2018	School submit Stage 3 complaint	
7 March 2018	CCEA acknowledge Stage 3 complaint	
22 March 2018	CCEA arrange for other than DFCS to consider Stage 3 complaint	
13 April 2018	CCEA issue Stage 3 complaint outcome	

## **Evidence Considered**

### **Legislation/Policies/Guidance**

35. I considered the following legislation and guidance:
  - CCEA Complaints Policy
36. Relevant extracts of the guidance referred to are enclosed at Appendix two to this report.

### **Relevant CCEA records**

37. The CCEA records document the complaint chronology set out above. The school on behalf of the complainant raised issues of the delay in actioning the appeal; the non-actioning of the appeal until it was followed up by the school in November 2017; and the refusal of the appeal for lack of specific grounds
38. The records available document action by CCEA in accordance with their own policy for complaints. CCEA initially failed to acknowledge the delay in actioning the appeal request from 25 September 2017 to 28 November 2017. The stage 1 letter dated 22 December 2017 states “CCEA aims to complete the appeals process within 50 working days”. There is no reference to the actual circumstances that the appeal email had not been actioned nor any reference that it possibly would not have been actioned if the school had not followed up the matter. The letter acknowledges the date error in the appeal outcome letter (dated 18 December when should have been 1 December). No apology was offered for either matter. The letter then addresses the substantive appeal refusal and reiterates the failure to comply with JCQ guidance. No reference is made to the EPRS review availability with CCEA Regulation.
39. The Stage 2 complaint outcome letter dated 13 February 2018 from the Head of Education indicates that an apology for the delay issue had been given by DFCS to the school (although up to this point not in writing). The remainder of the letter deals with detailed “technical” issues of the application, of marking schemes/professional judgement generally and in the actual marking of the complainant’s papers. This considerable detail was confirmed by DFCS at

interview as the likely material generated if an appeal had been passed forward for consideration in the complainant's case. CCEA's technical view does not accept or agree with that which had been put forward by the school in the complainant's appeal. In this context of the complaint CCEA is able to demonstrate the technical arguments that it considered were not undermined by the points made by the school. CCEA is therefore able to justify the position it took in the appeal as a response to the complaint. This is entirely appropriate within the complaint handling process and I accept this is separate from the decision making on the appeal that I addressed under the first issue of complaint. No reference is made to the EPRS review availability with CCEA Regulation.

40. The stage 3 complaint response form CCEA dated 13 April 2018 confirmed the previous outcome in not upholding the complaint. The Business Service Manager confirmed that the refusal of the appeal was in accordance with JCQ guidelines; refers to an apology for a delay in responding to "your enquiries"; and also states that "CCEA has reviewed and made improvements to the internal processes". . No reference is made to the EPRS review availability with CCEA Regulation.

### **The CCEA's response to investigation enquiries**

41. The CCEA Chief Executive explained by letter of 6 November 2018 that in his view CCEA had not received a direct complaint from the complainant rather from the school. He further stated the centre had complained about a delay in processing the appeal that had been addressed. The Chief Executive indicated that the CCEA view was that there remained a process for the school to pursue a "request for a review to CCEA Regulation to consider the matter through the Examination Procedure Review Service (EPRS). CCEA Regulation will look at whether any awarding body [CCEA] has followed rules and procedures, and, if not, whether the result is appropriate." The Chief Executive indicated that actions had been taken to mitigate further occurrences.
42. By letter of 10 December 2018 the Chief Executive also outlined that an internal review had taken steps to mitigate the errors identified in handling the appeal

including not actioning the email, errors in the dating of the outcome letter and erroneous emailing of the school asking for technical advice when it was the school who had raised queries.

43. By letter of 13 February 2019 the Chief Executive provided further information and again referred to the EPRS review available through CCEA Regulation.

### **Analysis and Findings**

44. The complainant raised concerns with this office about the CCEA's process of handling of the complaint made on her behalf by her school. CCEA did not accept there had been a delay in acknowledging and actioning her appeal in the Stage 1 complaint response. No apology was offered. The only acknowledgement of any delay referenced in writing is in the DFCS letter of 25 January 2018. It is not clear if this refers to the delay in processing the appeal. I note that the DFCS letter is neither the Stage 2 nor Stage 3 complaint response outcome. Contrary to what is said in the Stage 3 outcome letter, there is no specific "apology" in the DFCS letter for the delay and failure to action the initial appeal dated 25 September 2017. Moreover it appears no apology has been made in writing to the complainant through the school for that matter during the complaints process. I note that the DFCS was the original decision maker at the centre of the complaint subject matter and was not taking part in the complaint handling.
45. I also note that CCEA did not refer at any point in the three stages of the complaint procedure to the EPRS review mechanism with CCEA Regulation. I consider this to be a significant omission. This matter was only raised by the CCEA Chief Executive in correspondence with my office for the first time. I accept that the EPRS mechanism is set out in the CCEA information supplied to school and from detailed searching on the CCEA website. It is a matter for CCEA and CCEA Regulation to be assured that there is adequate signposting and knowledge of the available route to redress concerns about CCEA. This matter was raised by CCEA in their comments on the draft report. Self-evidently the steps taken to date have not ensured that the EPRS route is well known to Schools. CCEA figures reflect there were no EPRS referrals in 2017.

46. The First Principle of Good Administration, 'getting it right', requires bodies to act *'in accordance with the public body's policy and guidance (published or internal); to take proper account of established good practice; and provide effective services'*. I note that CCEA did not acknowledge their failure to action the initial appeal email. I consider this is required by the First Principle of Good Complaint Handling which would require early acknowledgement of errors and decisive resolution including signposting the EPRS review route, which did not take place. The Third Principle of Good Complaint Handling would suggest that CCEA should have provided an honest evidence based explanation and reason for the failure to acknowledge the initial appeal. The Fifth Principle of Good Complaint Handling would suggest that CCEA could have more promptly acknowledged their mistake and directed the school, and thereby, the complainant to the EPRS review at a much earlier stage in time. The Sixth Principle also set out in appendix one requires public bodies to ensure lessons are learned from complaints to improve service design and delivery. This would include a record/analysis/report on the learning from complaints. The correspondence from the CCEA Chief Executive confirmed there was not written record of the learning from this complaint and I consider that this failing would detract from ensuring and demonstrating that all appropriate lessons had been learned or service design improvements made. Taking account of all considerations outlined I believe the standard of service including complaint handling by CCEA has fallen below what is expected. I am satisfied that the CCEA did not act in accordance with these principles as outlined. I am satisfied that this constitutes maladministration and I uphold this element of the issue of complaint.
47. I am satisfied that as a result of the maladministration identified, the complainant experienced the injustice of frustration and uncertainty due to the delay when awaiting responses to her complaints, and the loss of opportunity for her concerns to be dealt with at the earliest opportunity. It is for the CCEA to implement complaint procedures that readily address failures and apologise appropriately taking remedial action. I will deal with a remedy for the injustice later in this report.

## CONCLUSION

48. The complainant raised concerns with this office about the outcome of both her examination grade appeal and subsequent complaint. She was also concerned by the delay in handling her appeal and her perception of a lack of independence in reviewing CCEA's actions.
49. The investigation found a series of errors by CCEA in the administration of the appeal. These errors ranged from the serious failure to accept and action the appeal after receipt on 25 September 2017 to more minor errors in dates, misaddressed emails and classifications on forms which is nevertheless maladministration.
50. The investigation did not question the decision on the appeal made on the 1 December 2017 as it was made in accordance with CCEA and JCQ guidance and properly recorded. It was a discretionary decision.
51. The investigation did conclude that the complaint handling failed to properly acknowledge and account for the errors made by CCEA in administration of the appeal in an open and transparent way. The failure to direct the school and thereby the complainant to the EPRS review avenue with CCEA Regulation was a significant omission.
52. I am satisfied that the maladministration identified caused the complainant to experience the injustice of frustration, uncertainty and the loss of opportunity for her concerns to be dealt with at the earliest opportunity.

## Recommendations

53. I recommend that the Chief Executive CCEA provides the complainant with a written apology in accordance with NIPSO 'Guidance on issuing an apology' (June 2016), for the injustice caused as a result of the maladministration/failures specifically identified (within **one month** of the date of this report).
  - i. I further recommend that the CCEA implements an action plan

to incorporate the following recommendations and should provide me with an update within **three months** of the date of my final report. That action plan is to be supported by evidence to confirm that appropriate action has been taken (including, where appropriate, records of any relevant meetings) to: undertake a review of its policies, processes and procedures for accepting appeals; and ensure by design that the system cannot repeat the failures identified in this matter.

- ii. Provide reassurance to satisfy CCEA Council that the information available to schools, candidates, parents and the public is clear and specific regarding the mechanism for having an appeal accepted.
- iii. Provide reassurance to satisfy CCEA Council that an effective complaints policy acknowledging failures, recording learning and remedial actions is in place in writing and regularly reviewed
- iv. Provide training to relevant staff upon implementation of the above.

A handwritten signature in black ink that reads "Margaret Kelly". The signature is written in a cursive style with a large initial 'M' and a long horizontal stroke at the end.

**MARGARET KELLY**  
**OMBUDSMAN**

**5 July 2021**

# PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

## 1. Getting it right

- Acting in accordance with the law and with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

## 2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

## 3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

## 4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.



- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

## **5. Putting things right**

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

## **6. Seeking continuous improvement**

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

## PRINCIPLES OF GOOD COMPLAINT HANDLING

**Good complaint handling by public bodies means:**

### **Getting it right**

- Acting in accordance with the law and relevant guidance, and with regard for the rights of those concerned.
- Ensuring that those at the top of the public body provide leadership to support good complaint management and develop an organisational culture that values complaints.
- Having clear governance arrangements, which set out roles and responsibilities, and ensure lessons are learnt from complaints.
- Including complaint management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the complainant and the public body.
- Signposting to the next stage of the complaints procedure, in the right way and at the right time.

### **Being Customer focused**

- Having clear and simple procedures.
- Ensuring that complainants can easily access the service dealing with complaints, and informing them about advice and advocacy services where appropriate.
- Dealing with complainants promptly and sensitively, bearing in mind their individual circumstances.
- Listening to complainants to understand the complaint and the outcome they are seeking.
- Responding flexibly, including co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

### **Being open and accountable**

- Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Publishing service standards for handling complaints.
- Providing honest, evidence-based explanations and giving reasons for decisions.
- Keeping full and accurate records.

### **Acting fairly and proportionately**

- Treating the complainant impartially, and without unlawful discrimination or prejudice.
- Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case.
- Ensuring that decisions are proportionate, appropriate and fair.
- Ensuring that complaints are reviewed by someone not involved in the events leading to the complaint.
- Acting fairly towards staff complained about as well as towards complainants.

### **Putting things right**

- Acknowledging mistakes and apologising where appropriate.
- Providing prompt, appropriate and proportionate remedies.
- Considering all the relevant factors of the case when offering remedies.
- Taking account of any injustice or hardship that results from pursuing the complaint as well as from the original dispute.

### **Seeking continuous improvement**

- Using all feedback and the lessons learnt from complaints to improve service design and delivery.
- Having systems in place to record, analyse and report on the learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and changes made to services, guidance or policy.