



Standards
& Testing
Agency

2012 Maladministration Investigation Procedures

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1. Introduction

This document applies to the results of children taking the following assessments:

- Key Stage 2 level 3-5 National Curriculum tests;
- Key Stage 2 level 6 National Curriculum tests;
- Key Stage 2 English writing sample tests; and
- Key Stage 2 science sampling tests.

Under The Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003¹ ("the Order"), the Secretary of State has a statutory duty to investigate any matter brought to its attention relating to the accuracy, correctness or validity of results of any child's National Curriculum, English writing sample and science sampling tests. Such matters are referred to in this document as 'allegations of maladministration'.

The term 'maladministration' refers to any act that could jeopardise the integrity, security or confidentiality of the Key Stage 2 level 3-5 National Curriculum tests, the Key Stage 2 level 6 National Curriculum tests, the Key Stage 2 English writing sample tests or the Key Stage 2 science sampling tests, and could lead to test results that do not reflect the unaided abilities of children. This could refer to a range of actions, including test papers being incorrectly opened, children cheating, over-aiding of children by test administrators or changes being made to children's test scripts by someone other than the child.

The purpose of this document is to outline procedures followed by STA when investigating allegations of maladministration and to provide information on:

- what constitutes maladministration;
- how allegations of maladministration are reported to STA;
- how a case of alleged maladministration will be investigated; and

¹ Full content of the Order can be found on <http://www.legislation.gov.uk/ukxi/2003/1038/introduction>

- possible outcomes of an investigation into alleged maladministration.

The guidance in this document refers to investigations to be carried out during the 2012 assessment cycle. For further detail of the procedures and guidance available to schools, please refer to the following documents that are available on the Department for Education's website at www.education.gov.uk/ks2.

- 2012 Key Stage 2 *Assessment and reporting arrangements* (ARA)
- 2012 Key Stage 2 level 3-5 externally marked English and mathematics tests *Test administrators' guide* (TAG)
- 2012 Key Stage 2 level 6 externally marked English reading and mathematics tests *Test administrators' guide* (TAG)
- 2012 Key Stage 2 *Science sampling arrangements* (SSA)
- 2012 Key Stage 2 science sampling *Test administrators' guide* (SSTAG)
- 2012 Key Stage 2 Guide to handling test papers and scripts
- 2012 Maladministration committee procedures.
- 2012 Key Stage 2 Modified test administrators' guide: Braille tests for children with a visual impairment
- 2012 Key Stage 2 Modified test administrators' guide: Tests for children with a hearing impairment and children who use sign language
- 2012 Key Stage 2 Modified test administrators' guide: Modified large print (MLP) for children with a visual impairment

2. Roles and responsibilities

2.1 The Standards and Testing Agency (STA)

The Secretary of State established the Standards and Testing Agency (STA) (an executive agency of the Department for Education) to take responsibility for all statutory assessments from early years to the end of Key Stage 3.

STA has taken over responsibility for National Curriculum assessments from the Qualifications and Curriculum Development Agency (QCDA). STA has a statutory duty to investigate any matter brought to its attention which relates to the accuracy or correctness of any child's results in the Key Stage 2 levels 3-5 externally marked English and mathematics National Curriculum tests, including the Key Stage 2 English writing sample tests, the Key Stage 2 level 6 externally marked English Reading and mathematics National Curriculum tests, and the Key Stage 2 science sampling tests. The aim is to safeguard the integrity of the tests and the interests of children. The role of STA is to ensure that:

- tests are administered in accordance with published procedures and guidance;
- procedures are in place to monitor the administration of the tests;
- tests are accurately marked and results are reported correctly and on time; and
- children's test results accurately reflect their own unaided work on the day of the test.

STA's maladministration team conducts investigations into allegations of maladministration. As set out in article 7(2) of the Order, where the record of results has not yet been provided to the headteacher, the purpose of STA's investigation is to determine whether the accuracy or correctness of a child's (or children's) test results is in doubt.

STA's sole interest in investigating cases of alleged maladministration is to determine whether there is doubt over the accuracy or correctness of children's test results. STA does not have a remit to apportion blame for maladministration or take part in any subsequent disciplinary procedures relating to any alleged cases of maladministration.

Local authorities or governing bodies may wish to determine responsibility as an employer, but this should be a separate process from any investigation made by the local authority on behalf of STA.

The delivery of the Key Stage 2 National Curriculum tests, including level 6 tests, English writing sample tests and the Key Stage 2 science sampling tests is regulated by Ofqual using the *Regulatory Framework for National Assessments: National Curriculum and Early Years Foundation Stage*, which is available on Ofqual's website at www.ofqual.gov.uk.

2.2 Local authorities

STA works closely with local authorities to ensure the tests are administered correctly and any allegations of maladministration are investigated. STA ensures that local authorities receive annual guidance on maladministration through publications available on the Department's website. It also identifies and shares good practice with local authorities in monitoring the administration of the tests.

It is the local authorities' responsibility to:

- train test administrators;
- monitor test administration in a minimum of 10 per cent of schools participating in the Key Stage 2 level 3-5 and level 6 externally marked National Curriculum tests, including the English writing sample tests and schools participating in the science sampling tests. These visits should take place before, during and after the relevant test period, and focus on the secure handling of test papers and adherence to the published test administration arrangements as detailed in the published guidance;
- report any irregularities in test administration to STA; and
- investigate, where appropriate and on behalf of STA, any allegations of maladministration in Key Stage 2 National Curriculum and science sampling tests.

2.3 Headteachers

Headteachers at maintained schools and academies, and independent schools participating in National Curriculum assessments, have a responsibility to ensure

National Curriculum tests, including the level 6 tests, English writing sampling and science sampling tests are administered according to the published procedures, and that all test administrators receive appropriate training.

After the Key Stage 2 tests the headteacher must complete a Headteacher's declaration form to confirm the school has:

- administered the tests correctly;
- followed the security arrangements, according to the published procedures; and
- sent all completed test scripts for external marking.

If for any reason the headteacher cannot complete a Headteacher's declaration form by the deadline they must notify the National Curriculum assessments helpline on 0300 303 3013.

3. Investigations into allegations of maladministration

STA's maladministration team carries out investigations into allegations of maladministration in accordance with the procedures detailed in this document.

All allegations of maladministration will be investigated. All investigations will be rigorous, fair and conducted without bias.

STA's maladministration team will endeavour to protect the identity of whistle-blowers.

Information specific to individual cases will remain confidential to involved parties subject to compliance with their statutory obligations pursuant to the Data Protection Act 1998 and the Freedom of Information Act 2000.

Where an allegation of maladministration is received and an investigation visit is required, schools will be informed prior to the visit either by the local authority or STA's maladministration team.

STA staff engaged in maladministration investigations will be fully trained in the required procedures.

Local authority colleagues involved in carrying out investigation visits on behalf of STA will be fully briefed and provided with a specification for the investigation visit. Following the investigation visit, local authority colleagues will make a recommendation to STA on how the case should proceed.

Following an investigation visit (either by the local authority or STA's maladministration team) schools will receive copies of documents relating to the investigation that STA's maladministration team deems appropriate. They will be invited to respond by providing their own reports or evidence in rebuttal.

Any recommendations made by STA's maladministration team for amendment to or annulment of results will be communicated to the school. The school will be given the opportunity to either accept or reject the recommendations of the maladministration team.

Where the school rejects the maladministration team's recommendations the case will be referred to STA's maladministration committee, which will make the final decision.

Where the school accepts the recommendations of the maladministration team and consents to an amendment to or annulment of a child's or children's results, STA's maladministration team can make these amendments at the school's request without referring the case to STA's maladministration committee.

Schools have the right to appeal against decisions made by STA's maladministration committee.

Each year STA's maladministration team provides a report to Ofqual and to the Department on its investigations into cases of alleged maladministration. This report will be published on the 'Maladministration' section of the Department's website at www.education.gov.uk/ks2.

4. Reporting allegations of maladministration

Any person concerned about the way in which a statutory Key Stage 2 National Curriculum test, including the level 6 tests, English writing sampling and science sampling tests, has been administered in a school should contact the National Curriculum assessments helpline on 0300 303 3013.

Information on how the tests should be administered can be found in the guidance documents listed in Section 1.

STA's maladministration team will ask for the following details when informed of an allegation of maladministration:

- the name of the person making the allegation (it is more difficult for the team to fully investigate anonymous allegations);
- contact details for the person making the allegation (address, telephone number and email address);
- the school name and address where the alleged maladministration took place;
- the type of assessment the allegation refers to (levels 3-5 or level 6 Key Stage 2 National Curriculum tests, English writing sample science sampling tests);
- the subject(s) and test(s) affected by the alleged maladministration;
- the year the allegation refers to; and
- the nature of the alleged maladministration.

These details will be confidentially logged on the maladministration database and progressed to the next stage of the process. STA will endeavour to ensure the name of the person making the allegation remains confidential.

4.1 Whistle-blower allegation

If any member of the public believes a Key Stage 2 National Curriculum test, including the level 6 tests, English writing sampling and science sampling tests, has not been administered correctly or there has been a possible security breach of the test materials,

they should contact the National Curriculum assessments helpline immediately on 0300 303 3013 or email testadmin.sta@education.gsi.gov.uk.

STA's maladministration team will log the incident and determine, in accordance with this procedure, whether further investigation and action is required. In these cases, it is important to provide as much information as possible so that a full investigation can take place (see the list of details required above).

STA's maladministration team will not keep whistle-blowers informed of the progress or outcome of an investigation.

4.2 School self-reporting

If a school believes a Key Stage 2 National Curriculum test, including the level 6 tests, English writing sampling and science sampling tests, has not been administered correctly, or there has been a possible security breach of the Key Stage 2 test materials, they should contact the National Curriculum assessments helpline immediately on 0300 303 3013 or email testadmin.sta@education.gsi.gov.uk.

STA's maladministration team will log the incident, inform the school of the appropriate action to take and determine, in accordance with these procedures, whether further investigation or action is required.

If a school believes a child has cheated in a test and the accuracy or correctness of their results has been affected, the headteacher or another senior member of staff should complete and submit the online Notification of a child cheating form available on the NCA tools website at www.education.gov.uk/nca_tools. By completing and submitting this form, the headteacher agrees to either an amendment to or annulment of the result for the child concerned, as detailed on the form.

4.3 Monitoring visits

Local authorities have a statutory duty to make unannounced monitoring visits to a minimum of 10 per cent of maintained schools in their authority, and any academies and/or Free Schools that have opted to be monitored by the local authority, that will be administering the statutory Key Stage 2 National Curriculum tests, including the level 6

tests, for that year. Local authorities should include schools participating in the science sampling tests in this 10 per cent. These monitoring visits will take place before, during and after the test period.

STA is responsible for making monitoring visits to independent schools, non-maintained schools and any academies and/or Free schools that have opted to be monitored by STA instead of their local authority, participating in the statutory Key Stage 2 National Curriculum tests. At least 10 per cent of participating independent schools are monitored by STA's appointed agency.

In addition, STA may conduct monitoring visits throughout the country to maintained, independent and non-maintained schools to observe the administration of Key Stage 2 National Curriculum tests, including the level 6 tests, English writing sampling and science samplings tests, in accordance with the requirements set out in the published procedures.

If a monitoring visitor finds that test administration procedures have not been followed correctly, they will notify STA's maladministration team, who will then log the concern and determine whether further investigation and action is required.

A Monitoring visit form is completed for every visit. Schools will be given a copy of the completed Monitoring visit form regardless of whether or not any concerns were raised.

Further information about monitoring visits can be found on the Monitoring and moderation section of the Department's website at www.education.gov.uk/schools/teachingandlearning/assessment/monitoring.

4.4 Marker concerns

Markers are asked to look out for characteristics of maladministration that could appear on completed test scripts. If a marker has concerns with any completed test script(s), they should raise their concern by the appropriate avenue, depending on the test, and the relevant information will be passed to STA's maladministration team. The team will log the information and determine what further investigation and action is required. STA's

maladministration team does not inform markers of the progress or outcome of an investigation.

5. Processing allegations of maladministration

5.1 Logging and initial processing

When an allegation of maladministration is made to STA's maladministration team, the details are logged on the maladministration database. The team will then decide which one of three possible courses of action should be taken:

- there has been no maladministration and the case should be closed (see Section 5.1.1);
- there has been maladministration, but there is no doubt over the accuracy or correctness of children's results, and therefore no action to amend or annul results is necessary (see Section 5.1.2); or
- further investigation is required to determine whether maladministration has taken place and whether there is doubt over the accuracy or correctness of children's results (see Section 5.1.3).

If it is not immediately clear which of these three courses of action should be taken, the case will be referred to a case review meeting attended by members of STA's maladministration team and an independent adviser. The case will be discussed and a decision reached as to which of the three actions is appropriate.

5.1.1 No maladministration

If the team decides that no maladministration has taken place, it will close the case and take no further action. If a school is aware an allegation has been made or has self-reported STA's maladministration team will send a letter confirming no action is to be taken, which will also be copied to the local authority. If a school is unaware of the allegation (for example, an allegation arising from a marker's concerns) the case will be closed with no further action and the school will not be informed.

5.1.2 Maladministration which does not place doubt over the accuracy or correctness of children's results

If STA's maladministration team has evidence that maladministration has occurred, but that it has not affected the accuracy or correctness of children's results and it is therefore not necessary to change or annul the results, it will write to the school informing it of this

decision. This letter will be copied to the local authority and will suggest appropriate actions for the school to take to ensure the maladministration does not occur again. Schools may be asked to confirm their actions to STA's maladministration team and their local authority in writing.

5.1.3 Further investigation required

If the team considers that the initial information does not support either of the decisions referred to in 5.1.1 or 5.1.2 above, or is insufficient to determine whether maladministration has occurred, the team will conduct further investigation. An investigation will be carried out by the school, local authority or STA's maladministration team and may involve seeking further information from the school where the incident has been self-reported, examining children's test scripts and/or visiting the school. After this investigation is complete, the school will receive formal written notification of the final decision made, which is also copied to the local authority and where appropriate, the chair of governors.

5.2 Types of investigations

5.2.1 Investigation by the school

Some allegations requiring further investigation may be resolved through discussion with the school. In these cases, STA's maladministration team will contact the school to discuss the allegation in order to resolve the case. For audit purposes, a summary of all discussions is recorded on the maladministration database. Where appropriate, cases will be discussed at a case review meeting before a final decision is made about whether to close or continue the investigation. Schools will receive formal written notification of the final decision, which is also copied to the local authority and where appropriate, the chair of governors.

5.2.2 Local authority and STA investigation visits

If STA's maladministration team decides an investigation visit to the school is required, a specification for the investigation visit will be produced. This will detail:

- what the investigation needs to determine;
- who is to lead the investigation;

- who is to be interviewed as part of the investigation; and
- a list of questions to be asked to inform the investigation.

Investigations into allegations of maladministration will be carried out by staff from the relevant local authority and/or members of STA's maladministration team.

Where an investigation visit is required by the local authority and/or STA, the general nature of the allegation will normally be made known to a school, at a time that does not prejudice the investigation. This disclosure will not include any details that could prejudice the examination of the key facts needed to prove or refute the allegation, or that indicate the source of the allegation.

Following an investigation visit, the lead investigator will produce an investigation visit report on the findings and make recommendations, which will be shared with the school. The school will then have the opportunity to provide a written response to the report. The report and the school's response will be considered with any other evidence at a case review meeting, where STA's maladministration team will make recommendations for any further action. A case may be discussed a number of times at case review meetings to ensure all available facts have been considered. STA's maladministration team will inform the local authority and school of any developments during this time. At the end of an investigation, a school will receive formal written notification of the final decision made, which is also sent to the local authority and where appropriate, the chair of governors.

For further guidance relating to the investigation process, please refer to guidance in the Maladministration section of the Department's website at www.education.gov.uk/ks2, including *Guidance for local authorities on investigations into allegations of maladministration*.

5.2.3 Investigation of test scripts

In cases where it is possible to gain evidence of maladministration from the test scripts themselves, STA's maladministration team will request access to the test scripts for further investigation. Test scripts may be requested for a variety of purposes, not just investigations of maladministration, and where scripts have been sent to STA by markers they will not be informed why the test scripts are required.

An appropriately trained team will examine the test scripts to determine whether there is any evidence of maladministration. This may include:

- common answers or phrasing across a number of children' test scripts;
- excessive changes to answers across a number of test scripts; and/or
- changes to answers in different pens or different handwriting.

The evidence from test script investigations is considered at a case review meeting along with other evidence in order to make recommendations for action. If necessary, test scripts may be sent for forensic examination.

Where test scripts are held by STA's maladministration team as a result of an ongoing investigation, the relevant children's results will not be provided to the school while the case remains open. If a final decision on the investigation is not made before schools' results and test scripts are due to be returned, STA's maladministration team will contact the headteacher directly to notify them that there will be a delay in the return of the test scripts and the school's results. Only once a final decision has been made will the test scripts be returned to schools and the results released.

Where a school's test scripts are being held by STA pending investigation and/or presentation to the maladministration committee, schools may have supervised access to view the children's test scripts upon prior arrangement with either the maladministration team or the committee officer.

5.3 Case review meeting

Case review meetings are the mechanism by which STA's maladministration team considers findings from investigations. A case may be discussed a number of times at case review meetings to ensure all available facts have been considered. Once all available facts have been collected and considered, STA's maladministration team will decide whether any further action is required.

Case review meetings involve members of STA's maladministration team and an independent adviser. The adviser is selected from nominations by teacher associations

and local authorities, and works on the project for a maximum of three years. The adviser provides the investigations with an independent voice at an early stage of the process by attending all case review meetings. This ensures consistency and fairness throughout the process and ensures that decisions are informed using knowledge of current practice in schools.

All information collected on a case is presented at the meeting. This could include reports from the school, local authority, test operations agency or STA, and outcomes from test script investigations – including any forensic examination reports. All recommendations from case review meetings will be documented.

A case review meeting will have one of four possible outcomes:

- there is insufficient evidence to make a decision with regards to the accuracy or correctness of the children's results and further investigation is required;
- there has been no evidence of maladministration and the case should be closed;
- there is evidence that maladministration has occurred, but this has not affected the accuracy or correctness of the children's results, therefore no action to amend or annul the results is necessary; or
- there is evidence that maladministration has occurred, placing doubt over the accuracy or correctness of a child's (or children's) results. In these circumstances STA's maladministration team will apply the appropriate test under article 7(2) or 7(3) of the Order to determine whether to make a recommendation for the amendment to or annulment of results.

Where the record of results has not been returned to the headteacher at the time of the case review decision meeting, STA's maladministration team will make a recommendation that children's results be annulled or amended if there is doubt that they do not reflect children's own unaided work.

Where the record of results has already been provided to the headteacher at the time of the case review meeting, STA's maladministration team will make a recommendation that the results be annulled or amended only if the record of the results for the child(ren) is inaccurate or otherwise incorrect.

In cases where the advantage gained by a child can be quantified, STA's maladministration team may recommend that the marks gained in those elements are amended so the result is an accurate reflection of the child's own unaided work.

In cases where the advantage cannot be quantified, or adjustment of marks would not lead to test results that reflect the unaided work of the child, STA's maladministration team may recommend a child's result be annulled.

Where the record of results has not been returned to the headteacher, STA's maladministration team will make one or a combination of the following recommendations, that:

- results for the whole cohort in a subject or test paper should be annulled as there is evidence which creates sufficient doubt as to the accuracy or correctness of all children's results;
- results for individual children in a subject or test paper should be annulled as there is evidence which creates sufficient doubt as to the accuracy or correctness of those children's results; or
- results for individual children in a subject or test paper should be amended by deducting or adding marks to the affected questions to arrive at corrected mark totals for those children, as there is evidence which creates sufficient doubt as to the accuracy or correctness of the child's (or children's) results, and there is sufficient information to indicate which marks are affected by the maladministration and which are not.

Where the record of results has been returned to the headteacher, STA's maladministration team will make one or a combination of the following recommendations, that:

- results for the whole cohort in a subject or test paper should be annulled as there is evidence of maladministration and it has been determined that the record of results for the whole cohort is inaccurate;

- results for individual children in a subject or test paper should be annulled as there is evidence of maladministration and it has been determined that the record of results for those children is inaccurate;
- results for individual children in a subject or test paper should be amended by deducting or adding marks to the affected questions to arrive at corrected mark totals for those children, as there is evidence of maladministration, or that it has been determined that the record or results for those children is inaccurate and there is sufficient information to indicate which marks are affected by the maladministration and which are not.

5.4 After the case review meeting

After the case review meeting the recommendations made by STA's maladministration team will be communicated to the school.

Where the maladministration team have made recommendations for either the amendment to or annulment of a child's or children's results, the school will be given the opportunity to either accept or reject those recommendations.

Where the school accepts the recommendations of the maladministration team and consents to an amendment to or annulment of a child's or children's results, STA's maladministration team can make these amendments at the school's request without referring the case to STA's maladministration committee.

The school must confirm, in writing, their acceptance of the recommendations of STA's maladministration team. STA's maladministration team will then make the amendments to or annulments of the children's results. The school will receive formal written notification confirming the actions taken, which will also be copied to the local authority and, where appropriate, the chair of governors. It is the school's responsibility to report any amendments or annulments to parents. The term 'parent' is used in this document as defined in section 576 of the Education Act 1996 as:

- parents of a child;
- any person who is not a parent of a child but who has parental responsibility for the child; and

- any person who has care of the child.

Where the school rejects STA's maladministration team's recommendations the case will be referred to STA's maladministration committee, which will make the final decision.

Further queries

If you have any questions about the information in these procedures, please email STA's maladministration team at testadmin.sta@education.gsi.gov.uk or contact the National Curriculum assessments helpline on 0300 303 3013.



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