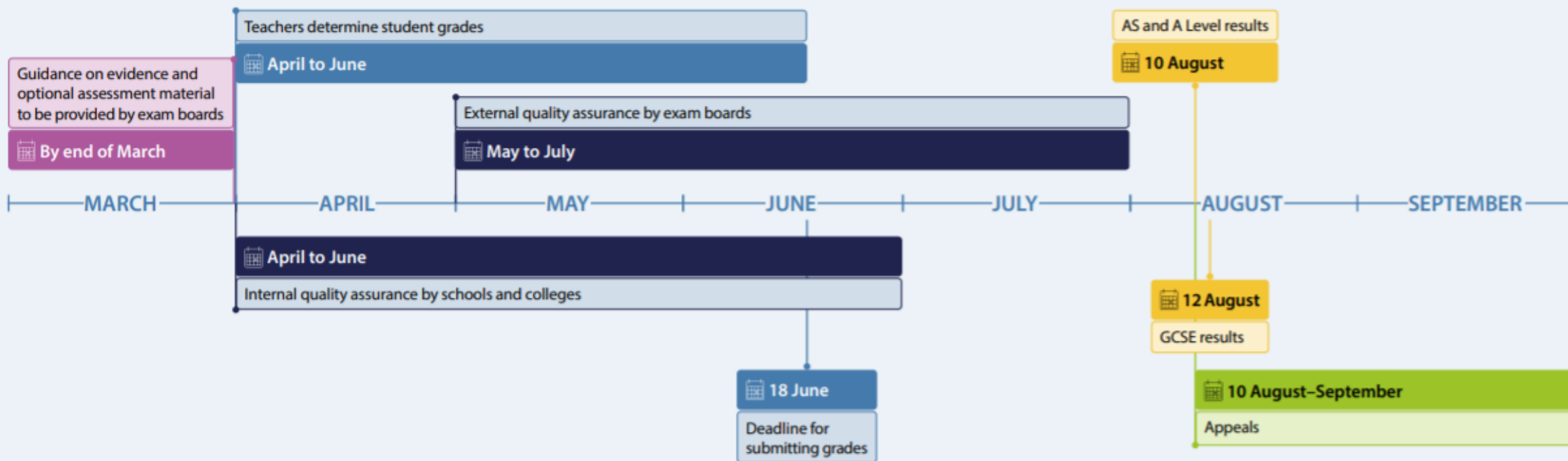


Exams 2021: Equality Issues



Alex Shattock

SUMMER 2021 TIMELINE – GCSE, AS and A Levels



Legal framework

- Public authorities bound by Human Rights Act 1998, incorporating the European Convention on Human Rights:
 - Article 2: right to education
 - Article 14: protection from discrimination
- Equality Act 2010: protects individuals from unfair treatment:
 - Section 19 prohibits indirect discrimination
 - Section 20 sets out the duty to make reasonable adjustments
 - Section 149 sets out the public sector equality duty (PSED)



Exams 2021 Equality Impact Assessment

- Appended to the consultation (EIA v1) and an amended version appended to the final “Decisions on how GCSE, AS and A level grades will be determined in summer 2021” (“the Decision”) (EIA v2)
- EIA v1:
“Cancelling exams and replacing them with teacher assessment that will draw on a range of evidence of a student’s performance is likely to have relative advantages and disadvantages for different groups of those who share particular protected characteristics”

Exams 2021 Equality Impact Assessment

- Disabled students (EIA v1):
 - *“Disabled students would have to be given reasonable adjustments when taking any assessments that provide evidence of the standards to which they are performing. We do not consider this would be problematic, at least not if the assessments were undertaken within the school or college. The student’s school or college would know how the student normally works and make any such adjustments as were necessary to reflect the student’s normal way of working”*
- Note the level of confidence

Exams 2021 Equality Impact Assessment

- Disabled students (EIA v1):

“If the assessments had to be taken in another venue, including at the student’s home, some types of reasonable adjustment could be readily made, for example the provision of extra time, or putting the assessment into a larger font. Other types of adjustment could be more difficult to make, for example if the student would normally dictate their work to a scribe or required specialist equipment or software to complete remote assessments.”

Exams 2021 Equality Impact Assessment

Other issues raised in EIA v1

- Private candidates: many due to SEND or illness
- Teacher assessments where student has poor attendance due to illness

Exams 2021 Equality Impact Assessment

EIA v2

“We have considered the impact of the arrangements on disabled students. The approach will be sufficiently flexible to allow students to be assessed in a range of environments, and at different times if their circumstances require this. We will require that heads of centre make sure SENCos and specialist teachers have input to the grading decisions being made within their centres. Centres have a responsibility to put in place reasonable adjustments for disabled students and we expect that reasonable adjustments should be made for disabled students when taking assessments. If, for some reason, evidence is produced without a reasonable adjustment being in place, centres will be asked to take that into account in their judgement.”

- So no real change from v1 in terms of general approach to reasonable adjustments (wide discretion to centres), although useful to mandate SENCo input



Key Problems

Key problems: summary

- Reasonable adjustments
- Risk of bias/unfair treatment
- Socio-economic disadvantage

Problem 1: reasonable adjustments

- Current approach gives a lot of discretion to schools, including reliance on exam board exam papers/ assessments
- The Decision states centres can take into account the following:
 - student work
 - Coursework
 - student work produced in centre-devised tasks e.g. substantial class or homework (including those that took place during remote learning)
 - internal tests taken by pupils
 - mock exams taken over the course of study

Problem 1: reasonable adjustments

- Last year:
 - “Where a disabled student would have had a reasonable adjustment for their exams, centres were asked to take account of the student’s likely achievement with this adjustment in place.
 - Student guide to appeals, malpractice & maladministration complaints 2020
- 2021 Decision:
 - “When assessing different students in their cohort for a subject, schools and colleges should make formal reasonable adjustments for disabled students. If evidence is produced from assessments taken earlier in the course where formal reasonable adjustments were not in place, centres will be asked to take that into account in their judgement.” **Not quite the same...**

Problem 1: reasonable adjustments

- Query: is evidence gathered under accessible conditions? Marked papers, coursework etc? How will accessibility failures be taken into account by centres in reaching final grades?
- Guidance basically leaves that to centres- though we may get more prescription from the Exam Boards

Problem 1: reasonable adjustments

- Appeal based on accessibility failure? – last summer it could be framed as an administrative error (appeal submitted by centre) or more likely a complaint directly to the exam board for maladministration etc (submitted directly by student)
- Now the EIA v2 says *“We have decided to make provision for students to appeal their grade on the grounds of either a procedural failing or an unreasonable exercise of academic judgement. This will allow students who believe they have been given the wrong grade (including for reasons of bias or discrimination) to have their grade reviewed.”*
- Query whether this could run in parallel with a complaint to the Exam Board

Problem 2: bias/unfair treatment

- Wide discretion to schools= possibility of unfair treatment
- 2021 Decision: *“Exam boards will publish guidance in March, so teachers have a clear understanding of how to make fair and consistent judgements.”*
- Any time now! (see timeline at p1)
- How to ensure consistency?
- As above with reasonable adjustments- looks like the route of address will be a direct academic appeal
- *As with last year.* issues with students who have missed a lot of time off/ missed coursework deadlines etc due to illness or disability

Problem 3: socio-economic disadvantage

- Disproportionate loss of learning experienced by many learners with Equality Act protected characteristics, often for socio-economic reasons
- State school students more likely to have had a more disrupted education early on in the pandemic e.g. no pre-existing online learning platforms
- Remote learning continues to be a major problem, particularly for socio-economically disadvantaged groups
- Gaps in knowledge: how will these be dealt with?
- Debacle last year where privately educated students received a massive algorithm boost based on past school performance
- All this in addition to the well-known issue of private school teachers overselling their students on predicted grades and state school teachers underselling

Problem 3: socio-economic disadvantage

- EIA v2: *“We will not know until results are issued the extent to which the different impacts of the pandemic on students’ education will affect their results”*
- We can probably hazard a guess though: substantial impact for the socio-economically disadvantaged
- EIA v 2: *“Some students will have a poorer knowledge and understanding of the topics they have been taught because of the impact on them of the disruption to their education, for example limited access to resources. If qualifications are to continue to link higher grades with higher standards of performance, none of the options available can fully remove the way the disruption to a student’s education might have an impact on the grade they will receive.” (!!)*

Conclusion

- Difficult situation and the government has attempted to meaningfully engage with the equality problems in its EIA v1 and v2
- However these problems remain and there are likely to be many appeals where equality issues arise, given the broad discretion to centres and lingering pandemic-related problems

Thank you for listening

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