

KEY STAGE
2

YEARS
3–6

National Curriculum assessments

Guidance for local authorities on investigations into allegations of maladministration

2012

**Standards and
Testing Agency**

An executive agency of the
Department for Education

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2012 Key Stage 2 *Guidance for local authorities on investigations into allegations of maladministration*

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This publication is also available for download at www.education.gov.uk/ks2.

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Introduction

This document offers guidance for local authority staff who may be asked to carry out investigation visits following allegations of maladministration.

The Standards and Testing Agency (STA) has a statutory responsibility to investigate all reported allegations of maladministration in the Key Stage 2 National Curriculum tests, including the level 6 tests, English writing sample and science sampling tests.

STA's maladministration team is responsible for investigating these allegations. To carry out these investigations, the team works in partnership with local authorities.

General principles of maladministration investigations

STA investigates cases of alleged maladministration to determine whether there is doubt over the accuracy or correctness of children's results. STA does not investigate who is responsible for any alleged incident of maladministration and does not place blame or participate in any subsequent disciplinary procedures. Local authorities or governing bodies may wish to determine responsibility, but this will be separate from any investigation made on behalf of STA. In these cases, local authorities should follow their own disciplinary procedures as a separate course of action to the STA investigation.

Investigations into allegations of maladministration will be managed by STA's maladministration team, with support from the local authorities where appropriate.

The following principles apply to investigations into reported allegations of maladministration.

- All reported allegations of suspected maladministration will be investigated rigorously, fairly and without bias.
- STA's maladministration team will endeavour to protect the identity of informants and those accused of maladministration. Local authorities should also follow this practice.
- Information specific to individual cases will remain confidential to involved parties, subject to compliance with their statutory obligations according to the Data Protection Act 1998 and the Freedom of Information Act 2000.
- All STA maladministration team staff engaged in these investigations will be trained in the required procedures.
- All local authority staff involved in carrying out investigations on behalf of STA will be fully briefed and provided with a specification for the particular investigation.
- Local authorities will provide a full report on any investigation visit they carry out. This should be completed using STA's report template and should address the issues raised in the specification.
- Local authorities should make clear recommendations to STA as part of their report.

STA specifications for investigation visits

If STA's maladministration team decides that a case requires an investigation visit, it will contact the local authority to discuss appropriate action. Depending on the circumstances, the visit may be conducted by a local authority team, a team comprising both local authority and STA staff, or a STA team.

The timing of an investigation visit and the nature of the allegation will influence the exact procedures followed. The requirements for a particular investigation visit will be defined in a specification provided by STA at the time.

The specification will include:

- what the investigation needs to determine;
- who is to be interviewed during the investigation visit; and
- queries that need to be addressed.

Preparing for and conducting investigation visits

Conflict of interest

Those responsible for managing and carrying out investigation visits should not be involved in the normal working relationship with the school. The size of the local authority and the number of investigation visits that it may have to carry out may mean that it is not always possible to have an entirely separate team for each investigation visit. Local authorities must manage any conflict of interest to ensure that the investigation visit is conducted impartially.

Local authorities should ensure that anyone carrying out an investigation visit has no other connection to the school or any person or persons that have made the allegation.

If the local authority has any concerns regarding potential conflicts of interest, they should contact STA's maladministration team for advice.

Knowledge of local authority staff or consultants

Local authorities must ensure that staff who conduct maladministration investigation visits have sufficient knowledge of legislation designed to protect the rights of organisations or individuals under investigation. This will guard against potential legal action for damages from schools or individuals who have not been fairly treated. Staff undertaking investigation visits should have appropriate training to maximise the effectiveness of the visit and to minimise the risk of subsequent legal challenges.

Any staff conducting investigation visits on behalf of a local authority must comply with the local authority's own Criminal Records Bureau checking policy. For more information, please refer to the Criminal Records Bureau website at www.crb.gov.uk.

Before the investigation visit

Two local authority staff should be identified to carry out the investigation visit, a lead investigator and a secondary investigator. The staff conducting the visit should familiarise themselves with this guidance and the investigation specification issued by STA. The specification aims to ensure the visit is effective in gathering evidence and that individuals are dealt with sensitively.

The lead investigator should contact the school to organise a date and time for the visit and inform the school who will need to be interviewed. Information regarding the investigation may be shared with the school, where appropriate. Care should be taken not to offer any information that may compromise the investigation.

Any individual interviewed as part of an investigation should be asked in advance whether they wish to be accompanied during the interview, either as union representation or for moral support. If a member of staff asks for union representation, the visit should be rescheduled if necessary to accommodate this request. The school must ensure that there

is no conflict of interest for anyone attending in a support role during an interview, and that they are not also being interviewed.

For further information, schools should be directed to the guidance on the Department for Education's website at www.education.gov.uk/ks2 including the 2012 *Maladministration investigation procedures*.

STA investigations and joint investigations with local authorities

When STA's maladministration team conducts the investigation visit, the local authority will be informed and arrangements will be agreed.

When STA and the local authority carry out a joint investigation visit, the roles of STA and local authority staff will be agreed before the visit to the school.

In both instances, a member of STA's maladministration team will contact the school to organise the investigation visit.

On arrival at the school

The investigators should meet with the headteacher, or a delegated senior member of staff, to introduce themselves and to confirm arrangements for the investigation visit.

Conducting interviews

At the start of each interview the investigators should introduce themselves, explain the context of their visit and outline their roles in the investigation. The lead investigator should ask the questions and the secondary investigator should support the lead investigator by taking notes of the discussions and asking any additional questions as they see fit.

The investigation visit specification will contain questions to be asked in the interview. It will not necessarily be appropriate to ask all interviewees every question. However, the investigators should ensure that they have a thorough understanding of each individual's role in administering the tests.

At the end of the meeting, any notes taken should be agreed and signed by the interviewee as a true and fair record of the meeting.

Interviewing children

In exceptional circumstances it may be necessary to involve children in an investigation. If a child needs to be interviewed, the lead investigator should inform the school as early as possible so the appropriate arrangements can be made. A parent's consent must be obtained before the child can be interviewed. 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.

Parents are entitled to say who they wish to be present when their child is interviewed and where the interview is to take place. It is the school's responsibility to organise these interviews.

The investigator carrying out interviews of children must follow local authority procedures for interviewing children.

Before leaving the school

When all the interviews have taken place, the investigators should meet with the headteacher, or appropriate senior member of staff, to discuss the next steps of the investigation.

Security of investigation evidence

Because of the sensitive and confidential nature of investigations into allegations of maladministration, it is important that any information or evidence relating to an investigation is securely stored in a locked cupboard. Access to evidence should be limited to members of staff involved in the investigation. This will help to ensure that the integrity of the investigation is not compromised. This may include:

- evidence shared with the local authority by STA; and
- evidence from the school (for example test timetables, seating plans and written statements).

After an investigation visit

Following an investigation visit, the lead investigator must produce a report on the findings and make recommendations to STA's maladministration team for any further action. The local authority must provide the report to STA's maladministration team within five working days of the investigation visit. The following sequence of events should then take place.

Step 1: STA's maladministration team will discuss the content of the report with the local authority. When there are no issues of confidentiality requiring amendments, STA's maladministration team will advise the local authority to send a copy of the report to the school. The school will then be given the opportunity to provide a written response to STA's maladministration team.

Step 2: The investigation visit report and the school's response will be considered at a case review meeting by STA's maladministration team and an independent advisor, along with any other evidence in order to make a decision on what action should be taken.

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 is either insufficient evidence or no evidence of maladministration and therefore 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 and the case should be closed; 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 decide whether to make a recommendation for either the amendment to or annulment of children's results.

Step 3: Following the case review meeting the school and the local authority will be informed of any decision made.

The maladministration committee

Where STA's maladministration team makes a recommendation for either the amendment or annulment of children's results that is not accepted by the school the case will be referred to the maladministration committee.

The purpose of the committee is to provide a process for independent review of the steps taken by STA's maladministration team to investigate maladministration and for making decisions relating to the accuracy or correctness of children's results. Further information can be found on the Department's website at www.education.gov.uk/ks2.

Press interest

If a local authority needs to manage press interest relating to a maladministration investigation, they should liaise with the Department's press office to exchange and agree statements.

Observing local authority investigation visits

To assist in the development of good practice and fulfil its own statutory duties to ensure the validity of test results, STA staff will occasionally ask to observe an investigation visit undertaken by a local authority. STA staff will not take an active part in the visit but will observe, report back and subsequently discuss the visit with the local authority.

Sharing good practice

Each year, STA and local authorities collaborate to review practices and procedures. This ensures good and consistent investigation methods are shared between STA and local authorities. If you have examples of good practice or important lessons learnt that could help improve this guidance, please email testadmin.sta@education.gsi.gov.uk so that these can be used to inform future practice and procedures.

Contact details

If you have any questions about investigation visits you can email the maladministration team at testadmin.sta@education.gsi.gov.uk or contact the National Curriculum assessments helpline on 0300 303 3013.

Checklists

Suggested preparation before the National Curriculum test period

- Have you identified a member of staff in your local authority to manage any requests from STA to conduct an investigation visit following allegations of maladministration?
- Have you discussed the possibility of an investigation with your local authority press office and made arrangements for liaison with the Department for Education's press office?
- Have you reviewed local authority procedures for ensuring compliance with the statutory obligations according to the Data Protection Act 1998 and the Freedom of Information Act 2000, in relation to information recorded and reports produced following an investigation into alleged maladministration?
- Have you considered holding a contingency planning session with senior colleagues, to work through how to respond to a variety of scenarios, and identify key roles and responsibilities within the local authority?

Preparing for an investigation visit into alleged maladministration

- Have you identified two people, a lead investigator and secondary investigator, to undertake the investigation visit? The investigators should be experienced local authority staff or local authority consultants who are independent of the normal working relationship with the school. The lead investigator will be responsible for the investigation visit and reporting the findings to STA.
- Have you ensured that the investigators are briefed on the legislation designed to protect the rights of the individual and to guard against legal action for damages from schools or individuals who have not been fairly treated?
- Have you ensured that the investigators are familiar with the specification provided by STA?
- Have you ensured that your local authority press office know that they should liaise with the Department's press office if there is press interest relating to the investigation?
- Has the lead investigator contacted the school to organise a date and time for the visit and informed the school who will need to be interviewed?
- Have the interviewee(s) been provided with an opportunity to arrange to have someone with them during the interview?
- Have you directed schools to guidance on maladministration that is available on the Department's website at www.education.gov.uk/ks2?

Conducting an investigation visit into alleged maladministration

- Have the investigators met with the headteacher or a delegated senior member of staff on arrival at the school to introduce themselves and to confirm the arrangements for the investigation?
- Have the investigators introduced themselves to the interviewee and any third parties, explained the context of their visit and outlined their roles in the investigation, before asking any questions?
- Have the investigators conducted the interview addressing the questions identified in STA's specification?
- Have the investigators asked questions and made an accurate record of all responses?
- Have the investigators agreed the summary of the notes taken with the interviewee(s) at the end of each interview and ensured that a copy is signed by all parties?
- Have the investigators met with the headteacher, or a delegated senior member of staff, after the interviews have taken place to discuss the next steps of the investigation? If they require further information staff members should be directed to the guidance on the Department's website at www.education.gov.uk/ks2 including the 2012 *Maladministration investigation procedures*.

After an investigation visit

- Has the lead investigator produced a report on the findings and made recommendations using STA's report template?
- Has the local authority provided the report and recommendations to STA within five working days of the investigation? Where there are no issues of confidentiality, and following advice from STA, the report should also be shared with the school and the school given an opportunity to provide a written response to the allegation to STA.
- Has the local authority ensured that any evidence collected from the school is kept securely to prevent any accusation that it has been tampered with?

About this publication

Who is it for?

Local authority staff who may be required to carry out investigations into allegations of maladministration into Key Stage 2 National Curriculum tests.

What is it for?

Helping local authority staff prepare for maladministration investigations.

Related materials

2012 *Maladministration investigation procedures*

2012 *Key Stage 2 Assessment and reporting arrangements (ARA)*

2012 *Key Stage 2 level 3-5 externally marked English and mathematics Test administrators' guide*

2012 *Key Stage 2 level 6 externally marked English and mathematics Test administrators' guide*

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*

2012 *Key Stage 2 Science sampling arrangements (SSA)*

2012 *Key Stage 2 science sampling Test administrators' guide*

2012 *Key Stage 2 level 3-5 externally marked English and mathematics Guide to handling test papers and scripts*

Further information is also available on the Department's website at www.education.gov.uk/ks2.

Statutory instruments

Key stage 2: Statutory Instrument 2003 No. 1038

For more copies

A PDF version of this document can be downloaded from the Department for Education's website at www.education.gov.uk/assessment.

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