

The Sutherland Inquiry

An independent
Inquiry into the delivery of
National Curriculum
tests in 2008

Return to an Address of the Honorable the House of Commons
dated 16 December 2008
for the

The Sutherland Inquiry

An independent Inquiry into the delivery of National Curriculum tests in 2008

A report to Ofqual and the
Secretary of State for Children,
Schools and Families

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Introduction

In July 2008, around 1.2 million pupils heard that their National Curriculum test results would be delayed. The Office of the Qualifications and Examinations Regulator (Ofqual), and the Secretary of State for Children, Schools and Families remitted me to conduct an independent Inquiry into the delivery problems that led to this delay.

Since the summer, I have sought to fulfil my terms of reference and to understand the impact that the delivery failure has had on schools and pupils. At one school I visited in November, key stage 2 English results had yet to be returned and teachers had spent countless hours attempting to gain information from redundant helplines; at another, teachers described the disappointment of not being able to analyse and discuss their pupils' key stage 3 results with them before the end of term. It is undoubtedly the case that pupils were let down.

At its heart, this summer's test delivery failure represented a failure in customer service – to these pupils, to their schools, and to the markers upon whom the National Curriculum testing regime relies. The primary responsibility must therefore rest with the American organisation, ETS Global BV (ETS), which won the public contract to deliver the tests and failed its customers. In this report, I seek to describe in detail how this organisation secured the contract in the first place, what its plans were, and why its systems and process as a whole were not properly tested. I will ultimately describe how ETS's systems failed during the test delivery process.

The events of this summer also represent a failure on the part of one of the Government's Non-Departmental Public Bodies, the Qualifications and Curriculum Authority (QCA), to deliver its remit. It was vital that QCA fulfil its role to select a first-rate delivery contractor, oversee its work, and ensure that the Department for Children, Schools and Families (DCSF) policy objectives were met. The priority that DCSF had outlined to QCA was to secure high quality and smooth delivery of the tests. This report describes the procurement process that QCA used to select its delivery supplier, ETS, how it managed the contract, and why it should have realised sooner that the test results could well be seriously delayed. In practice, the first time QCA notified Ministers that ETS would not deliver test results on time was 30 June 2008. The whole episode was punctuated by similar instances of poor communications, whether to schools, to the marking community, or between the organisations involved.

This report will present recommendations to the Secretary of State and Ofqual on how test delivery can be improved in future years. This will include the lessons that their own organisations should learn and advice on the legislation that will be brought forward

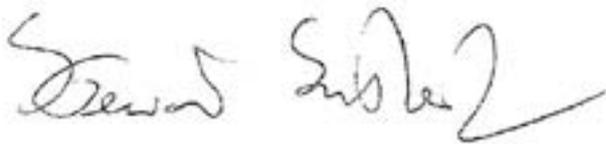
by Government to establish Ofqual on a statutory basis. As DCSF announced in October that it would be abolishing key stage 3 tests, the recommendations in this report will focus on improvements that can be implemented for key stage 2 tests and any future forms of testing that may be introduced.

My recommendations are set out on pages 5–9 of this report. I would emphasise the following priorities:

- The delivery process for National Curriculum tests should be modernised and improved, in consultation with the marking community. This should include piloting online marking, which has been used successfully for other qualifications;
- Whatever process is used, it should be thoroughly piloted and closely project managed to ensure that schools and pupils get their results and scripts back on time; and
- The customer service provided to markers and schools must be vastly improved to ensure that they are properly supported and able to access up-to-date information when required.

In conducting my Inquiry, I launched a call for written evidence and interviewed individuals from key organisations. I should say at the outset of this report that ETS declined to submit documentary evidence to the Inquiry. It has nonetheless been possible to do a thorough investigation drawing particularly on extensive materials submitted by QCA.

I am grateful to all those organisations and individuals who took the time to submit evidence to the Inquiry. This evidence has informed my recommendations to the Secretary of State and Ofqual, and I trust that they will ensure the test delivery process works better in future, so that the confidence of pupils, parents, schools and markers can be restored.



Stewart Sutherland
Lord Sutherland of Houndwood

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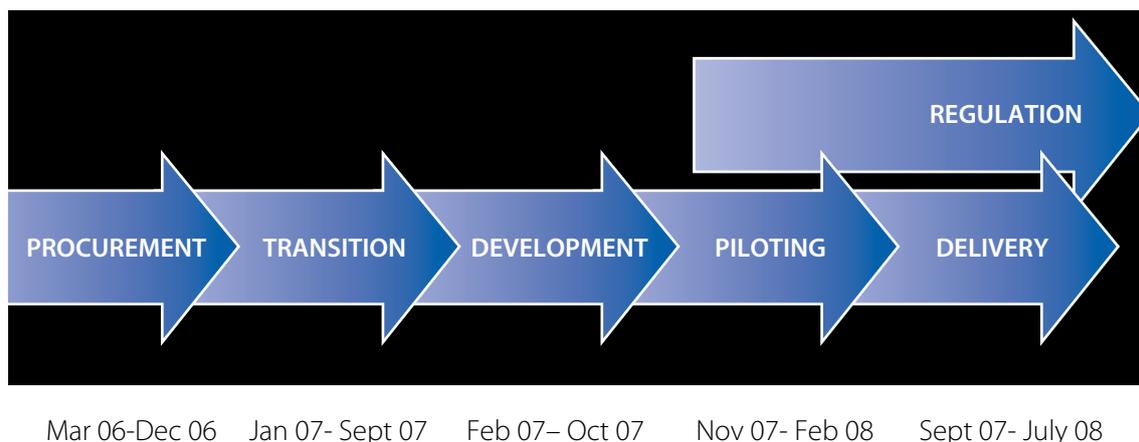
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Executive Summary

Overview of the National Curriculum test delivery process

Timeline



In January 2007, as the result of a procurement exercise run by the Qualifications and Curriculum Authority (QCA), ETS Global BV (ETS) was appointed as the new test operations supplier for the 2008 National Curriculum tests.

After awarding the contract, there was a transition period between January and September 2007. During this period, QCA worked with ETS and Edexcel, the previous supplier, to share information and try to ensure a smooth transition.

In parallel to the transition phase, ETS began to develop its systems and processes to deliver the contract. This was followed by a period of piloting, as new innovations were tested. Once piloting had finished, the delivery phase began.

The delivery phase covered all the activities required to ensure that the tests were administered and results delivered. This included: registration, distribution, administration of the tests, marking, data processing, and communicating results to schools.

Throughout the piloting and delivery phases, the Regulator requested information to assess whether the integrity and quality of National Curriculum tests was being maintained.

This report considers different aspects of the design and management of this process. The first chapter looks specifically at the procurement process run by QCA. The second looks at governance and contract management arrangements. The third chapter

analyses the project and risk management practices employed. The fourth covers the test delivery process itself, and finally, the fifth chapter considers the role of the Regulator. The following is a summary of the findings and recommendations of these chapters.

Findings and recommendations

Procurement: findings

1. The procurement procedure was sound
2. References and due diligence provided sound checks on the financial strength and liquidity of ETS, but failed to identify relevant information regarding its reputation and track record
3. The Regulator should have played a greater role in defining requirements and informing the assessment made during procurement
4. The capacity of ETS staff was insufficient and should have been analysed during procurement

Procurement: recommendations

1. In future, QCA should seek better information on the knowledge, capacity, experience, and track record of its preferred test operations supplier(s)
2. Ofqual should be consulted at an early stage in future procurement exercises to check that suppliers' proposals will meet its Code of Practice

Governance and contract management: findings

1. DCSF had comprehensive mechanisms in place to monitor QCA's overall corporate performance and delivery against specific success measures
2. The QCA Board had insufficient oversight of the management and risks associated with the delivery of its biggest contract
3. There was a lack of clarity regarding the contract governance arrangements caused in part by the ambiguous status of the National Assessment Agency (NAA) within QCA's corporate structure
4. NAA planned to co-locate its staff with ETS to ensure effective contract management. This eventually led to an increase in NAA's operational role
5. Legal aspects of the contract were robust, but the detail underpinning its schedules was in places ambiguous
6. Specifications relating to the contract were put in place but were not tested; and management information (MI) reports specified were not met to time and quality
7. The extent of induction required by ETS was underestimated
8. Areas of concern identified during procurement were not adequately addressed during delivery of the contract

Governance and contract management: recommendations

1. QCA should ensure there is greater corporate oversight of the management and delivery of its contracts
2. QCA should ensure that the respective roles and responsibilities of QCA and its suppliers are clearly defined and agreed at the outset of the test operations contract
3. The contract manager should identify the necessary skills and expertise that QCA and its supplier need to have in place for the successful delivery of the contract
4. Appropriate stakeholder management arrangements should be put in place to identify and manage the requirements and expectations of all stakeholders, including markers and schools
5. The role of DCSF observers at QCA's operational, programme, and corporate boards should be clarified on a case-by-case basis and those expectations articulated clearly
6. Management information (MI) should be agreed by all parties and the adequacy of the supplier to provide the required information should be tested

Project and risk management: findings

1. ETS's project management was not fit-for-purpose
2. ETS failed to identify and assess risks accurately and failed to report risks to NAA transparently
3. QCA had project and risk management systems in place, but did not use these effectively to support and challenge ETS and inform decision-making
4. DCSF had good project and risk management processes, but officials may not have challenged QCA sufficiently on its project and risk management

Project and risk management: recommendations

1. The contract manager should be robust in holding the supplier to account for the quality of its project and risk management
2. QCA should review its capability and approach to risk management
3. At the outset of each test cycle, all the stakeholders represented on the NCT Programme Board should agree how their project management architecture interfaces, and should adopt a common language for assessing risks
4. A comprehensive record of dependencies should be maintained and regularly reviewed by the contract manager so that different activities can be co-ordinated

Delivery of the National Curriculum tests: findings

1. The end-to-end delivery system was insufficiently tested
2. There were cumulative failures in different components and interfaces of the ETS delivery system; QCA did not make an accurate assessment of the impact of these failures
3. The 'critical path' for the project had not been identified correctly by ETS and the impact of operational decisions was not properly anticipated
4. The quality of the management information (MI) provided by ETS was ultimately inadequate to ensure the desired level of visibility of the marking process and distribution of scripts
5. Few viable contingency options were built into the delivery system by ETS and QCA and those that were available were not put into action in a timely and appropriate way
6. ETS did not invest in its relationship with schools and markers, and its level of customer service was wholly unacceptable and lacked professionalism
7. Schools and pupils have been inconvenienced by the delay in results and this has had an impact in terms of resources, their ability to support pupils' progression, and morale

Delivery of National Curriculum tests: recommendations

1. The test delivery process and timetable should be designed to allow for maximum marking time and capacity
2. Customer service must be greatly enhanced for schools and markers and a reference group should be established by the test supplier to ensure schools' and markers' views influence every stage of the process
3. The delivery process for National Curriculum tests should be modernised and improved, in consultation with the marking community. This should include piloting online marking, which has been used successfully for other qualifications.
4. Full testing and piloting of the test delivery process should be integrated into the timetable, including end-to-end and user-acceptance testing

Regulation: findings

1. There was insufficient clarity in the Regulator's reporting arrangements and its relationship with QCA, NAA and DCSF
2. The Regulator's risk monitoring and management processes were inadequate and the process for escalating concerns to QCA and DCSF was not properly defined
3. The focus of the Regulator's monitoring of the tests in 2008 was too narrow and insufficient attention was paid to the monitoring of delivery and systems issues
4. The Regulator was not always able to obtain accurate management information at the right time from NAA

Regulation: recommendations

1. Ahead of legislation, the reporting arrangements for Ofqual should be clarified
2. Ofqual should ensure that it has sufficient resources, plans and skills to enable it to monitor QCA thoroughly
3. The forthcoming legislation to establish Ofqual should ensure that it is given statutory powers to regulate the quality and delivery of National Curriculum tests, and clearly sets out reporting lines

Background

Introduction

- 1.1 This chapter provides information about the context for National Curriculum tests in 2008, the roles and responsibilities of the main organisations involved, and background information about the tests.

National Curriculum test delivery failure in 2008

- 1.2 Each year, most 11 and 14 year olds in England have taken National Curriculum tests in English, mathematics and science, since they were introduced by Government in 1995.
- 1.3 In 2008, schools and pupils were due to receive the results of their National Curriculum tests by 8 July. On 4 July, the Secretary of State for Children, Schools and Families announced that due to the need to extend the marking period and resolve technical issues, the results would be delayed.
- 1.4 The majority of key stage 2 pupils received their results a week later, and key stage 3 pupils by the end of term. However, a significant proportion of pupils did not receive their results until after the summer holidays and a very small minority were still outstanding during the autumn term.
- 1.5 ETS Europe (ETS) was the supplier responsible for test delivery in 2008. It has publicly apologised for the delay:
- “ETS Europe has apologised to schools for the delays in marking national curriculum assessments in England. As a subsidiary of a global, non-profit company, we are dedicated to assuring quality and equity for all pupils, and we are sorry that the results this summer were delayed for some schools. However, we would argue that the quality of the marking is high, due to the stringent new checks that we introduced this year.”¹*
- 1.6 This Inquiry was established by the Office of the Qualifications and Examinations Regulator (Ofqual), and the Secretary of State for Children, Schools and Families to investigate the reasons for this delay and make recommendations to improve test delivery in future years. Their respective terms of reference for the Inquiry are at Annex C and Annex D of this report.

Context

- 1.7 The Qualifications and Curriculum Authority (QCA) is responsible for maintaining and developing the National Curriculum. It tasks the secure delivery of National Curriculum tests to its division, the National Assessment Agency (NAA).

- 1.8 In order to deliver the National Curriculum tests NAA, on behalf of QCA, appoints an external contractor as the test operations supplier. The contract for the 2008 National Curriculum tests was awarded to ETS.
- 1.9 Since 2004, National Curriculum tests had been delivered successfully, although the timetable had been tight. This was described to the Inquiry by the QCA Chief Executive Dr Ken Boston:
- "...just in time delivery has been the characteristic of every year since 2004 when the last failure occurred. In 2005 with a new supplier, we were very, very close to failing... In 2006 and 2007 we succeeded only because government agreed to keep the key stage 3 English date in August, not in July."*²
- 1.10 The 2004 failure described by Dr Ken Boston was the last time there was a delivery failure, which affected key stage 3 English results. In 2004, QCA commissioned a review, led by QCA Board member Mike Beasley, which was tasked to inquire and report on reasons for:
- "The late delivery of materials to schools and to markers;
The inadequate performance of the [e-results] website; and
The additional week being inadequate for marking to be completed"³
- 1.11 The Executive Summary of the report published by the review committee stated that in 2004:
- "The whole process was characterised by poor leadership and inadequate project management.
In consequence the principal recommendation of this review is the establishment of a co-located team comprising seconded members of the key partners involved in delivering the process, led by a senior manager from NAA [National Assessment Agency]."*⁴
- 1.12 Since accepting the post of QCA Chief Executive in 2002, Dr Ken Boston has openly described the National Curriculum test process as a "cottage industry", and said that the problems faced in delivering the tests are compounded by this. In evidence to the Inquiry, Dr Boston stated:
- "I have talked for years about the "cottage industry" and it is still a cottage industry. The examinations have modernised considerably but this is still within eight weeks, nine point eight million scripts, high political stakes to produce this result and produce it on time."*⁵
- 1.13 Alongside questions about the delivery of the National Curriculum tests, the Government's assessment policy has been closely scrutinised. In May 2008, the Children, Schools and Families Select Committee published its report on testing and assessment, which considered the purpose of National Curriculum tests,

the fitness for purpose of the current assessment instruments, and the use of performance tables.⁶

- 1.14 In October 2008, the Secretary of State for Children, Schools and Families announced that National Curriculum tests for key stage 3 pupils will be abolished from 2009. A policy review led by an expert group is currently exploring future directions for testing and is due to report to the Secretary of State in spring 2009.
- 1.15 Questions have also been raised about the quality of marking in relation to the National Curriculum test results in 2008. The responsibility for regulating the quality of National Curriculum tests rests with Ofqual. Ofqual was established in April 2008 within the existing legislative arrangements to provide an independent and expert regulatory perspective and it has actively monitored the quality of tests in 2008.
- 1.16 On 31 July and 7 August 2008, Ofqual advised the Department for Children, Schools and Families (DCSF) Head of Profession for Statistics on his decisions to publish key stage 2 and 3 results at national level. Ofqual's advice stated that:
- "there was no evidence of widespread problems with the quality of the marks at key stage [2/3] that would justify withholding publication of the provisional results at national level".⁷*

Roles and responsibilities

- 1.17 The key organisations involved in the delivery of National Curriculum tests are described below. The Governance and Contract Management chapter of this report explores these roles in more detail.

Qualifications and Curriculum Authority (QCA)

- 1.18 QCA was established in 1997, with responsibility for developing the National Curriculum, accrediting qualifications, and regulating tests and qualifications. It is accountable to the Secretary of State for Children, Schools and Families for maintaining and developing the National Curriculum.
- 1.19 Each year, the Secretary of State for Children, Schools and Families defines the annual remit for QCA, including its objectives, success measures, and funding.
- 1.20 In order to meet the objectives set out in the remit letter for National Curriculum tests, QCA tasks NAA with the secure delivery of the tests.

National Assessment Agency (NAA)

- 1.21 NAA is a division of QCA, which it brands separately as a 'subsidiary'. NAA's work focuses on the delivery of exams, tests and assessment. This includes the secure delivery of National Curriculum tests and ensuring there is a pool of markers for public exams.

- 1.22 To meet these objectives, NAA leads on appointing a test development agency, which is responsible for developing the content of the tests, and a test operations supplier, which is responsible for delivery.
- 1.23 The test operations supplier should have the appropriate experience, knowledge and expertise to produce and distribute the assessment materials, mark the test papers, and collect national data for test delivery and reporting purposes.
- 1.24 The supplier for the 2008 National Curriculum tests was ETS.

ETS

- 1.25 ETS Global BV is an American not-for-profit organisation which has operated in 180 countries around the world. Its website describes it as:

“the world leader in developing industry standard assessments with an emphasis on quality, using the expertise of its distinguished statisticians and psychometricians. ETS has more than 2600 employees working at various locations all over the world.”¹⁶⁸

- 1.26 ETS Europe is a subsidiary of ETS Global BV (which is based in the United States).

Department for Children, Schools and Families (DCSF)

- 1.27 DCSF is the government department responsible for setting the remit of QCA. The department was established in June 2007. Formerly, the Department for Education and Skills set the remit for QCA.
- 1.28 The Secretary of State for Children, Schools and Families sends the QCA Chair an annual remit letter. The remit letter sets out QCA’s priorities, the success measures against which its performance will be judged, and the funding available.
- 1.29 In addition to setting the remit of QCA, which includes delivery of National Curriculum tests, DCSF specifies exactly what data it expects to receive from NAA on how the national cohort of pupils has performed in the tests.
- 1.30 The Minister of State for Schools and Learners supports the Secretary of State in discharging his ministerial responsibilities in this area.

Office of the Qualifications and Examinations Regulator (Ofqual)

- 1.31 In December 2007, the Government published ‘*Confidence in Standards*’ which set out its intention to create a new independent regulator (as a non-ministerial department), which would assume the regulatory functions of QCA. Under these plans, the remaining functions of QCA will evolve into the Qualifications and Curriculum Development Agency.
- 1.32 Ofqual was launched by DCSF in April 2008 on an interim basis. It has been created within existing legislation as a Committee of the QCA Board. Legislation will be brought forward to establish Ofqual in statute in the forthcoming parliamentary session.
- 1.33 Ofqual is the authority that assures the integrity and quality of National Curriculum tests. It is responsible for ensuring that the public has confidence in the validity, reliability, and rigour of the statutory assessments, and for maintaining test standards over time.

Background to the National Curriculum tests

- 1.34 The National Curriculum for England was introduced nationwide for primary and secondary maintained schools following the Education Reform Act 1988, and defines many of the subjects and topics that should be taught to pupils between the ages of 5 and 14 in maintained schools.
- 1.35 The National Curriculum is divided into different ‘key stages’, which are shown in the table below.

Age (yrs)	National Curriculum Year Group	Stage
5-6	1	Key Stage 1
6-7	2	
7-8	3	Key Stage 2
8-9	4	
9-10	5	
10-11	6	
11-12	7	Key Stage 3
12-13	8	
13-14	9	

1.36 At the end of each key stage – usually at ages 7, 11 and 14 – pupils are assessed in relation to the National Curriculum programmes of study and are awarded levels on the National Curriculum scale to reflect their progress.

1.37 Although key stage 1 is shown in the table above, this report will focus on key stage 2 (KS2) & key stage 3 (KS3) tests only.

Key stage 2 and key stage 3 National Curriculum tests in 2008

1.38 KS2 and KS3 tests are designed to test each pupil’s knowledge and understanding of the relevant key stage programme of study. In doing this, they provide a snapshot of pupils’ attainment at the end of the key stage.

1.39 Pupils who are ready to move to the next key stage programme of study in the subsequent school year are regarded as being in the final year of their current key stage, and must be assessed. In most cases, these pupils will be in a year group with similarly aged pupils. For example, most 11 year olds will be in year group 6 and at the end of KS2; whilst most 14 year olds will be in year group 9 and at the end of KS3.

1.40 However, it is possible for some pupils to be older or younger due to the fact that they are not being taught with their chronological year group.

1.41 The table below shows the number of pupils who have taken KS2 and KS3 tests over the last three years, compared to the number of pupils in the cohort.

Total¹ number of pupils eligible for key stage 2 compared to the number of 10 year olds²

	2004	2005	2006	2007	2008
Eligible (thousands)	613.7	610.9	595.3	587.4	592.9
10 year olds (thousands) ²	633.0	632.4	618.8	610.7	622.4

Total¹ number of pupils eligible for key stage 3 compared to the number of 13 year olds²

	2004	2005	2006	2007	2008
Eligible (thousands) ¹	619.1	624.3	620.5	599.3	617.3
13 year olds (thousands) ²	655.4	662.0	658.0	635.1	635.7

¹ Includes all pupils in England, including Independent schools

² Age at the start of the academic year.

³ Eligible pupils are those with valid results in **at least one of** English, maths **or** science

Sources:
 2004-2007 Final Achievement and Attainment Tables Data
 2008 Provisional Data Published in Statistical First Releases in August 2008
 2004-2008 School Statistics

- 1.42 Pupils take KS2 and KS3 tests in May of each year. In 2008, for KS2 tests this was the week commencing 12 May, and for KS3 the week commencing 5 May. This timetable reflects the requirements on secondary schools to hold examinations such as GCSEs for its pupils later in the summer term. The timetable therefore also allows for markers to complete marking of KS3 tests before marking examinations in related subjects at secondary level.
- 1.43 Once pupils have taken the tests, completed scripts are distributed to markers for marking. Across both KS2 and KS3 National Curriculum tests there are approximately 1.2 million pupils, 10,000 markers, and 9.8 million test papers.
- 1.44 At both KS2 and KS3, pupils take tests in three core subjects: English; mathematics; and science. Although the core subjects are the same across key stages, the content at each key stage is different. These differences are described in the sections below.

Key Stage 2

- 1.45 Pupils that take the KS2 tests are awarded overall 'levels' of 3, 4 or 5. In addition to these three test levels, pupils can also be awarded the following results:
- i Pupils who take the tests but fail to achieve a level 3 by a few marks are awarded level 2 as a compensatory award;
 - ii Pupils who are entered for the tests but fail to achieve a level are awarded 'N';
 - iii Pupils who are not entered for the tests as they are working below level 3 are awarded 'B'; and
 - iv Pupils who are working at level 3 or above, but are unable to access the tests are awarded 'T'.

The English tests

- 1.46 There are three separate English tests at KS2: a writing test, made up of a longer task and a shorter task; a spelling test; and a reading test.
- 1.47 Although three separate tests are administered, schools only report individual reading and writing test levels, and an overall English level.
- 1.48 The writing test level is calculated by aggregating the pupil's spelling and writing test marks. The total reading and writing marks (including spelling) are then aggregated to calculate an overall English level.

The mathematics tests

- 1.49 There are three mathematics tests at KS2: test A, a non-calculator paper; test B, a calculator paper; and a mental mathematics test.
- 1.50 Schools report one overall mathematics level for each pupil, which is calculated by aggregating the marks from all three tests.

The science tests

- 1.51 There are two science tests at KS2: test A and test B
- 1.52 Schools report one overall science level for each pupil, which is calculated by aggregating the marks from both tests.

Key Stage 3

- 1.53 Pupils taking KS3 tests can be awarded overall levels of 3, 4, 5, 6, 7, and 8 dependent upon the subject. This is shown in the table below.

Final Test level	English	Mathematics	Science
8		✓	
7	✓	✓	✓
6	✓	✓	✓
5	✓	✓	✓
4	✓	✓	✓
3	Compensatory level	✓	✓
2		Compensatory level	Compensatory level

- 1.54 The table also shows that pupils who take the tests but fail to achieve level 3 in maths and science, or level 4 in English by a few marks are awarded a compensatory level 2 or level 3 respectively.
- 1.55 In addition, those who are entered for the tests but fail to achieve a level are awarded 'N'; those who are not entered for the tests as they are working below level 3 in mathematics and science, or level 4 in English, are awarded 'B'; and those who are working at the level 3 or above, but are unable to access the tests are awarded 'T'.

The English tests

- 1.56 There are three English tests at KS3: a writing paper, made up of a longer task and a shorter task; a reading paper; and a Shakespeare paper.
- 1.57 Similarly to KS2, whilst there are three separate English tests administered, schools only report individual reading and writing test levels, and an overall English level.
- 1.58 The reading test level is calculated by aggregating the marks from the reading paper and Shakespeare paper. The total marks from all three papers are then aggregated to calculate the overall English level.

The mathematics tests

- 1.59 There are three mathematics tests at KS3: Paper 1, a non-calculator paper; Paper 2, a calculator paper; and a mental mathematics paper.
- 1.60 Schools report one overall mathematics level for each pupil, which is calculated by aggregating the marks from all three tests.

The science tests

- 1.61 There are two science tests at KS3; Paper 1 and Paper 2.
- 1.62 Schools report one overall science level for a pupil, which is calculated by aggregating the marks from both test papers.

Eligibility for the tests

- 1.63 Pupils take National Curriculum tests once they are eligible to do so. Eligibility is established using a number of criteria. Pupils eligible for the tests should be:
- On the register at a maintained school or academy and in their final year of KS2 or KS3 and registered for the tests;
 - Working at level 3 or above. Pupils at this level must take the tests, including pupils with special educational needs who are going to start some aspects of the next National Curriculum programme of study, without having completed all their current programme of study; and
 - In their final year of the National Curriculum programme of study who attend a pupil referral unit or hospital school on a part-time basis, but are still on a school's roll, must also take the tests.¹⁰
- 1.64 Independent schools in England are not required by law to administer the National Curriculum or carry out the KS2 and KS3 tests. However, they may choose to take part for one or more subjects at the end of the key stage.
- 1.65 Pupils who are being educated at home are not able to take the tests unless they are on the register of a maintained school or academy, or an independent school that has chosen to participate in the tests.
- 1.66 Every year there is a small number of pupils that are eligible to take the tests but do not do so. This can be for various reasons, such as absence on the day of the test or working below the level of the test.

Procurement

Introduction

- 2.1 The Qualifications and Curriculum Authority (QCA) delivers its remit from Government to carry out National Curriculum tests by selecting a supplier to administer the tests and managing that supplier's work. In order to select a supplier, a procurement process is conducted. As the previous supplier's contract was due to expire in 2007, QCA launched a re-procurement exercise in 2006 to select a supplier for the 2008 – 2012 test cycles.

Evidence

Key features of the procurement

- 2.2 Whilst QCA is responsible for maintaining and developing the National Curriculum, it tasks the secure delivery of these tests to its division, the National Assessment Agency (NAA). This relationship was defined in more detail by QCA in the procurement documentation:

"The QCA is a non departmental public body, sponsored by DfES.

QCA maintain and develop the National Curriculum and associated assessments, test and examinations; and accredits and monitors qualifications in colleges and at work.

The NAA is a subsidiary body of the QCA. QCA is the legal entity letting the contract(s) for the required services.

NAA is tasked with a number of activities amongst which are:

- *Secure delivery of general qualifications (A level & GCSE)*
- *Modernisation of the examining and testing system*
- *Delivering the Examination Office Improvement Programme*
- *Establishing the Institute of Educational Assessors*
- *Secure delivery of National Curriculum tests; and*
- *Ensuring there is a pool of examiners for public exams.*

This procurement relates to the latter 2 of these activities"¹¹

- 2.3 The re-procurement for the supply of test operations services for key stage 1, 2 and 3 began in March 2006. The procurement process decided upon by QCA was a 'Competitive Dialogue' procedure.
- 2.4 At the time of the re-procurement, Competitive Dialogue was a relatively new procurement procedure introduced into UK law from 31 January 2006. QCA's procurement for the supply of test operations services for key stage 1, 2 and 3 was one of the first government procurement exercises to use this method.
- 2.5 Competitive Dialogue is a flexible procurement procedure used when the contracting authority (QCA) has a need to discuss all aspects of the proposed contract with potential suppliers – most often in complex projects. The main features of the Competitive Dialogue procedure are:
- Dialogue is allowed with selected suppliers to identify and define solutions to meet the needs and requirements of the contracting authority;
 - The award is made only on the most economically advantageous tender criteria;
 - Dialogue may be conducted in successive stages, with the aim of reducing the number of solutions/bidders; and
 - There are explicit rules on post tender discussions.¹²
- 2.6 QCA's procurement process for the supply of test operations services for key stage 1, 2 and 3 was named 'Project Tornado'.¹ It was led by consultants from PriceWaterhouseCoopers in conjunction with key individuals from QCA.

Procurement process

Preparation for the procurement exercise

- 2.7 In advance of the procurement process and on direction from the QCA Board, NAA set out to stimulate the growth of the market of potential suppliers and understand what elements of the service and contractual arrangements would appeal to them. In order to determine the likely level of interest in the re-procurement exercise, NAA identified several potential suppliers and held discussions with each of them.
- 2.8 The categories of potential suppliers included Awarding Bodies, business process outsourcing companies, document management companies, and IT outsource providers. All of the potential suppliers contacted expressed an interest in bidding for the contract, but stated that they would need to know more about the service before developing proposals.¹³

¹ Named by the team leader who had previously worked with Tornado jets for the Royal Air Force

2.9 The NAA document 'Workstream 3: Market Stimulation' stated that before re-engaging with the market, NAA needed to determine the exact service that it required. For instance:

'What is the timetable for introducing on-screen marking?

What are the restrictions on the way it is delivered?

Must borderlining continue?

What elements of the process may be delivered off-shore?

What are the boundaries areas for marker recruitment?

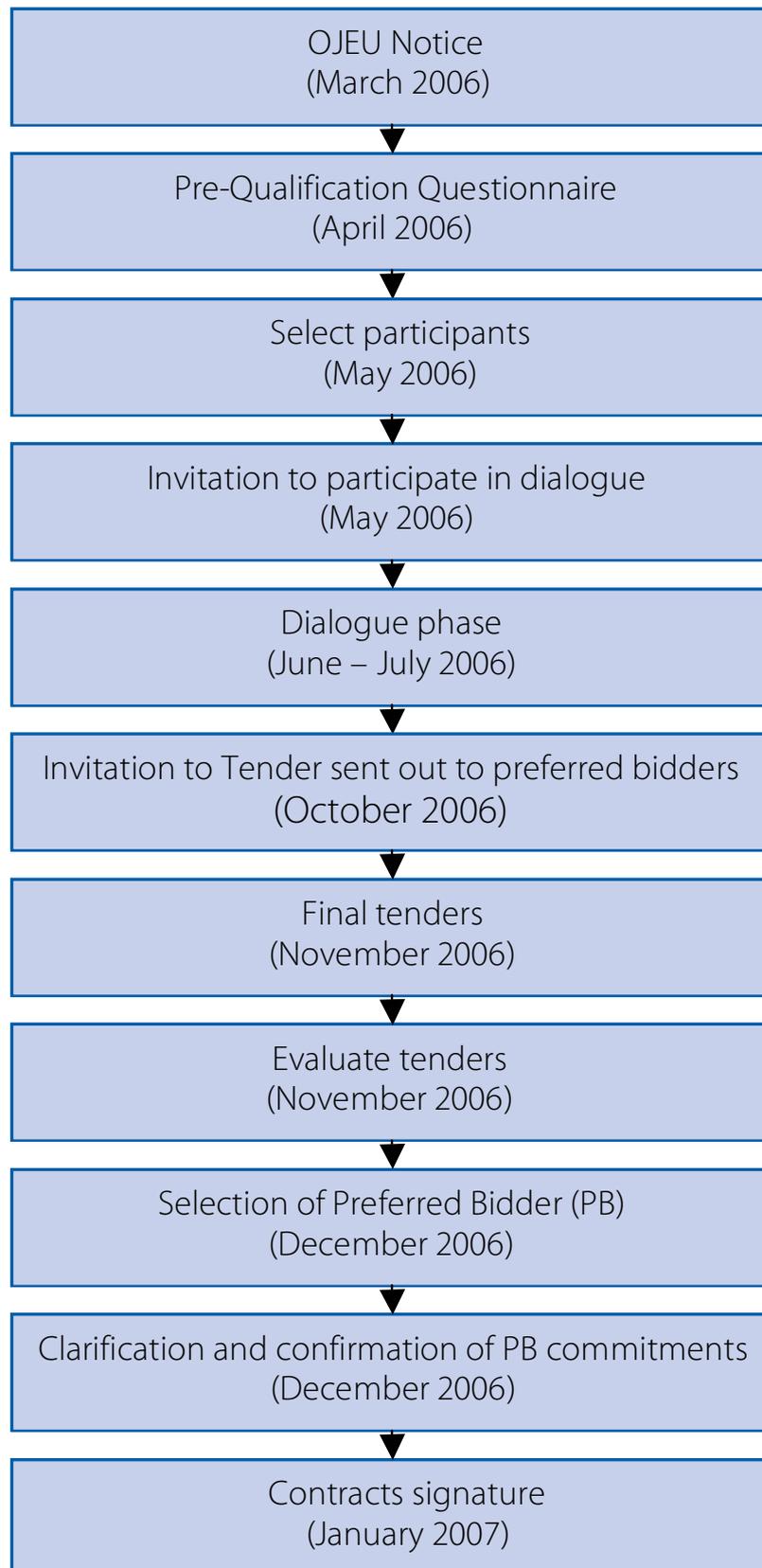
What information will be provided to the new incumbent and when?

Will whole cohort testing continue for the full term of the contract?'¹⁴

Procurement process

2.10 The procurement process was lengthy. It began in March 2006 and was completed when ETS Global BV (ETS) signed the QCA contract on 30 January 2007. The individual stages carried out during the procurement process are detailed in the following diagram.

Competitive Dialogue process



Official Journal of the European Union (OJEU) Notice

2.11 As can be seen from the above diagram, at the start of the process QCA was required to publish an OJEU Notice setting out its needs and requirements. This was done on 24 March 2006. It stated:

"The Contracting Authority wishes to appoint, on behalf of the National Assessment Agency (NAA), a supplier or suppliers to deliver National Curriculum Test Operation Services for Key Stage 2 and Key Stage 3 statutory tests and other non statutory tests. This is a complex, time critical operation requiring close interaction between elements of the Service. The NAA is a subsidiary body of the Qualifications and Curriculum Authority (QCA). It was launched in April 2004.

The Contract will cover four areas of operation each forming one lot under this notice. These are:

Lot 1. Data Collection and IT – Collection of data for registration of schools and pupils for tests. Collection of teacher assessment data. Development and maintenance of databases, provision of websites, interfaces and reporting to QCA/DfES. Processing of data and provision to DfES.

Lot 2. External marking – Carrying out the marking process of Key Stage 2 and Key Stage 3 statutory tests in English, maths and science and non statutory tests in English and maths. Provision for making review and appeals system for schools. Provision of customer services. Preparation of materials for schools and markers. This lot incorporates recruitment, training and management of approximately 10,000 markers.

Lot 3. Materials Management – Printing and distribution of school and marker packs to markers and schools and the logistics associated with distribution and collection, between schools and markers, of test scripts. Provision of customer services.

Lot 4. Test Production – Secure printing, collation and distribution of test papers to schools including modified papers for disabled pupils. Provision of customer services. Note this lot also covers the printing of Key Stage 1 statutory test papers in addition to Key Stage 2 and Key Stage 3 statutory and other non statutory tests papers."

Pre-Qualification Questionnaire (PQQ)

2.12 Potential suppliers responded to the Notice by submitting an expression of interest and were subsequently provided with a PQQ to complete and submit. This was provided to them by QCA on 6 April 2006 with a deadline for returning the completed document by 1 May 2006.

2.13 The Office of Government Commerce (OGC) website provides guidance and templates for use at each stage of the procurement process. The website states that the PQQ will typically cover the following areas:

- background corporate information
- financial history and current position
- contractual performance and renewal history
- statements of compliance
- reference customer details
- particular questions relating to the specific product/service required.

2.14 The PQQ issued by QCA for the supply of test operations services for key stage 1, 2 and 3 was split into the following sections:

Section A – General information, including details of how the bidder is organised and, where appropriate, the relationship between the relevant organisations. Information was also sought regarding court actions and/or industrial tribunals, and confirmation regarding eligibility to tender under Procurement Regulations.

Section B – Financial and economic information for each relevant organisation

Section C – Technical capacity and ability of relevant organisation used in determining whether they will meet the contracting authority's requirements

Section D – Experience of working on similar contracts

Section E – Details of the bidders' methods of working, which included capacity of key individuals proposed by the bidder, and methods of working

Section F – Quality Assurance and Standards, which provided detail of how suppliers intended to provide quality assurance of systems

Section G – Health and safety policies

Section H – Equal Opportunities policies

Section I – Environmental management policies

Section J – References

Section K – Declaration

Section L – Enclosure checklist¹⁵

2.15 Six completed PQQs were received, which ranged from single bidders to submissions from consortia led by a lead supplier.

- 2.16 The Inquiry has noted that one of the questions within Section C of the PQQ asked suppliers to provide details of any contracts similar to the one being advertised, with signatory values in excess of £20m per annum between 2003 and 2005, where:
- A contract had been prematurely terminated;
 - Its employment had been prematurely determined;
 - A contract had not been renewed or extended for failure to perform to the terms of the contract;
 - A contract had ended early by mutual agreement following allegations of default on the company's part; or
 - It had suffered contract penalties such as deduction for liquidation and ascertained damages, default notice for any reason or penalty points for any reason.
- 2.17 ETS answered negatively to all of the subsections of this question.
- 2.18 QCA told the Inquiry that "It has subsequently been found that ETS lost the contract to administer the Graduate Management Admissions Test (GMAT) – used to decide entry to US business schools – after several administrative errors".¹⁶
- 2.19 However, other evidence submitted to the Inquiry by PricewaterhouseCoopers suggested that ETS did not lose the contract to administer the GMAT due to any of the reasons listed in Section C of the PQQ. PricewaterhouseCoopers reported that the reasons cited for moving to a different supplier by the Graduate Management Admission Council, who own GMAT, were better technology and a more competitive price.¹⁷
- 2.20 The PQQ's were evaluated by the Project Tornado team and the successful suppliers were invited to participate in dialogue. Guidance from OGC states that the aim of the dialogue stage is 'to identify and define the means best suited to satisfying the contracting authority's needs'.¹⁸

Invitation to Participate in Dialogue (IPD)

- 2.21 Five suppliers were successful in qualifying for the IPD phase of the process. This began on 6 June 2006 and involved suppliers undertaking six weeks of interactive discussions with NAA staff to understand their requirements in relation to test operations, and to develop solutions that addressed those requirements.
- 2.22 The IPD documentation provided to suppliers set out the process to be followed during procurement, the background to the requirements of QCA, and the evaluation criteria which would be applied to supplier submissions. The Inquiry

has noted that the evaluation criteria were based on the following groupings, with each group carrying equal weighting:

Service Delivery

- i The bidders' ability to deliver the services on time and to quality;*
- ii The agreed level of quality and security to which the Service will be delivered (including ensuring the quality of marking); and*
- iii The bidders' capabilities and operation of a programme management, governance regime and relationship management approach.*

Efficiency, Impact and Value

- iv Assessment of the impact of burden on schools implementing the identified solution;*
- v The bidders' proposals for innovative delivery of the Service;*
- vi The bidders' proposals for delivering efficiency and ongoing cost reduction; and*
- vi Costs.*

Risk and Issue Management

- vii Ability to identify, assume and manage risk (including an outline of the steps the bidder will take to mitigate risk), attitude to risk taking, confidence in managing risk and ability to minimise the commercial impact of risk".¹⁹*

2.23 An empirical scoring system was applied to each question asked of the suppliers under the headings above.

Competitive Dialogue presentations

2.24 The Competitive Dialogue presentation by ETS set out its governance structure and identified key positions.²⁰ The Inquiry has not seen evidence to suggest that NAA challenged the structure or capacity suggested by ETS during the procurement.

2.25 In an appearance at the Children, Schools and Families Select Committee on 10 September 2008, ETS Senior Vice President, Dr Philip Tabbiner described ETS's original expectations for the contract and what happened in practice:

"From the overall contract, we expected to have about 60 staff involved in running the project, at its height we had more than 400 staff".

2.26 As a result of the evaluation of the IPD stage, the Project Tornado team recommended to the Project Board on 24 July 2006 that three of the five bidders who took part in the IPD stage should go through to the final stage of the procurement process.

Invitation to Tender (ITT)

- 2.27 The three successful bidders were invited to return for further dialogue meetings. In these meetings, they were given the opportunity for more detailed discussion to enable them to fully understand the terms and conditions defined by QCA and the more detailed requirements.
- 2.28 Once discussions had taken place, the final stage of the procurement process was issuing of the ITT pack, which was provided to the three remaining suppliers on 20 October 2006, with a deadline for return of 10 November 2006.
- 2.29 The ITT asked suppliers to submit their final proposal covering the areas listed below:
- i Statement of Requirements: An outcome based document setting out the requirements of QCA. The aim of this document was to allow suppliers scope to propose innovative responses rather than requiring them to replicate existing processes.
 - ii Commercial Requirements: This was to enable QCA to understand how the supplier would manage delivery of the National Curriculum tests.
 - iii ITT Questions: This section was to enable QCA to gain reassurance around the suppliers' understanding of its requirements.
 - iv Pricing Model: This section was to enable QCA to gain reassurance that the supplier was offering value for money.
 - v Innovation and Transformation Business Case: In this section, QCA was seeking to understand the future direction that the supplier anticipated for its National Curriculum test delivery model.
- 2.30 On 9 November 2006, after receiving the ITT, one of the suppliers declined the offer to submit a final bid, resulting in only two bids being received by QCA.
- 2.31 Responses to the ITT were evaluated by the Project Tornado team. During the first two weeks of the evaluation, the team read and scored the two submissions. Questions raised by suppliers were answered and they were given a week to respond with further clarification. The point scores were then revised in light of the clarifications received.
- 2.32 Initial scoring of the submissions was completed without knowledge of the pricing model to ensure that the solution assessment was made independent of cost.
- 2.33 On 29 and 30 November 2006, each bidder gave a final presentation on their proposed solution and as a result each assessor revised their scores. A moderation process of the individual scores was carried out between 1 – 4 December 2006 to discuss areas where there were significant differences in scores. Final scores for each bidder were then collated.

2.34 The ETS bid led the other supplier's bid in every area of the evaluation criteria. As NAA Programme Director David Barrett described:

*"So in terms of meeting the requirements of the contract, in terms of the fact that they had fewer mark ups than the other bidder, and in terms that they had a lower bid price, they won on all three counts."*²¹

2.35 However, the Inquiry has noted that there were areas in the ETS bid where the assessors did not find the assurance they were seeking. These were particularly around the following method statements in the Commercial Requirements Section of the ITT:

"Quality Assurance and Standards:

Acceptances

Risk Management and Confidentiality

Communications and Stakeholder Management

Benefits Management and Realisation."²²

2.36 There has been much said in the public domain about the ETS proposal being the lowest costing bid. As stated by QCA Chief Executive Dr Ken Boston during an appearance at the Children, Schools and Families Select Committee, "it was the lowest cost option, but it was not picked on those grounds."²³

2.37 The Inquiry was given access to confidential information contained within the pricing models and can confirm that the ETS bid was the lowest cost option.

2.38 Suppliers were asked to breakdown the pricing models into the different 'Lots' as defined within the OJEU Notice. Both models had similar profiles with the exception of Lot 1 – Data Collection and Information Technology, where the ETS bid was lower in cost; and Lot 3 – Materials Management, where the ETS costs were higher.

2.39 References were obtained from two major existing customers of ETS and were formally checked by the senior responsible officer for the procurement process. Neither reference raised any concerns about the performance of ETS.²⁴

2.40 Financial due diligence was carried out by PricewaterhouseCoopers at the same time as the references were sought and was reported without issue on 10 January 2007.²⁵ The objective of the due diligence report was to identify evidence of incidents that would have a direct bearing on ETS's financial strength and liquidity. This was done using the following tests:

- Each company's Dun & Bradstreet rating;
- Examination of the last three years published financial statements; and
- A review of press information over the past 12 months.

2.41 The report resulting from these tests showed that there were no significant events which threatened ETS's financial strength.²⁶

2.42 The Shadow Secretary of State for Children, Schools and Families, Michael Gove MP, submitted evidence to the Inquiry in the form of a list of articles from the world press regarding previous contracts held by ETS:

"Mismanagement by ETS led to over 4,000 teachers being wrongly failed. This led to a shortage of teachers. They had to pay \$11m in compensation.

See "Grading Mistakes Caused More Than 4,000 Would-Be Teachers to Fail a Licensing Exam" New York Times, 13 July 2004

ETS lost the contract to administer the Graduate Management Admission Test because of poor performance.

Liz Wands, national director of graduate programs at The Princeton Review, said "ETS has never met a deadline they've set" (Daily Northwestern, 16th June 2006)

'Business week' published a wide ranging criticism of ETS including their problems with the GRE.

John S. Katzman, CEO and founder of Princeton Review Inc, was quoted as saying "it has got to give [educators] pause when ETS's oldest and biggest clients are leaving."

Business week went on:

"It's not as though ETS's shortcomings are new. But because ETS had a stranglehold on the higher-ed testing market, nothing much happened. In the past two years, however, Pearson and others have been ramping up in the \$1.5-billion-plus testing market.

That's partly why, when the contract for the GMAT came up for review in '02, the GMAC started shopping around – and paying closer attention to ETS's performance. It wasn't hard to spot problems. In 2002, thanks to a software glitch, ETS incorrectly scored nearly 1,000 students' GMATs, potentially affecting the chances of wannabe MBAs getting into top-tier schools" (Business Week, 29 December 2003)".²⁷

2.43 These stories were not identified and considered as part of the financial due diligence.

Decision to award contract

2.44 The recommendation to award the contract to ETS went to the QCA Executive and subsequently the QCA Board on 14 December 2006, where it was approved. The minutes of the meeting record the decision:

“David Gee, Managing Director of the National Assessment Agency (NAA), described the process he and his team had undertaken to select a preferred bidder for the printing, distribution, external marking and data collection services for key stage 1, 2 and 3 tests and year 7 progress tests from 2008-2012. David asked for the Board’s approval of ETS Global BV (ETS) as the preferred bidder.

David assured the Board that the NAA had conducted a rigorous and diligent procurement exercise, in accordance with EU competitive dialogue procedure, that had been through two Office for Government Commerce (OGC) Gateway Reviews. PricewaterhouseCoopers ran the procurement process and independent legal advice was provided by Linklaters. Observers from the DfES had been fully involved in the process alongside QCA and NAA staff.

David explained to Members the main features of the ETS bid and commented that, in the evaluation process, ETS had scored consistently highest against evaluation criteria and offered QCA the best value for money.

The Board congratulated David and his team on their hard work and thorough process and endorsed the recommendation to appoint ETS the preferred bidder. Ken Boston and Ralph Tabberer [DfES] will meet to discuss the financial implications of the start-up costs of the contract. The Chairman also suggested that the process be used as a case study to share best practice amongst other divisions.”²⁸

Observation and evaluation of the procurement process

2.45 Throughout the procurement process, officials from the Department for Education and Skills (DfES), the predecessor to the Department for Children, Schools and Families (DCSF), were invited to participate as observers. QCA evidence describes the role of an observer as someone who could contribute to discussions and comment on the process, but was not someone who had a voting right in terms of evaluating the potential suppliers. As NAA Managing Director David Gee stated: “They weren’t a decider, they didn’t have voting rights, but they were there all the way through making contributions to say ‘that wouldn’t work’ or ‘you have missed this.’”²⁹

2.46 A DCSF observer has described their role as “allowed to ask questions, make comments, and point out what we thought were strengths and weaknesses, but we had no voting powers. We could attempt to influence the decision by our opinion and our thoughts but we couldn’t force a decision.”³⁰

- 2.47 NAA shared the two bids for the contract with DfES and officials offered comments on the responses to the ITT. Within this feedback a number of issues and possible areas of weakness were identified with the ETS ITT response:
- “There is an apparent over-reliance on perfect school/marker behaviour, without any discussion of contingency/fallback systems for when instructions are not followed.”*
- “How will they mitigate the separation of the attendance data from the mark capture? DfES and schools need results for test takers as well as the status/reason for non takers...It would help for the bidder to walk through their process for bringing the two sets of data together.”*
- “...no understanding of data quality issues or description of how they would build and test the database...”³¹*
- 2.48 Acting Chief Executive of Ofqual, Isabel Nisbet, has said that although the Regulator had not been formally involved in the procurement process, they were in July 2006 asked informally about how proposed changes to the National Curriculum test process might impact the Code of Practice.³²
- 2.49 Ofqual has also stated that whilst it was not involved in the procurement process, it believed that the regulatory requirements were taken into account, as copies of the Regulatory Framework and Code of Practice were supplied to all bidders by NAA.³³
- 2.50 QCA Chief Executive, Dr Ken Boston stated that he believed the Regulator had been formally involved as the recommendation to award the contract was approved by the QCA Executive of which the Director of Regulation and Standards was a member.³⁴ This recommendation went to the QCA Board with the full support of the QCA Executive.
- 2.51 The Inquiry has noted that the regulatory guidance ‘National Curriculum assessments: Code of Practice’ for 2007 had a specific section relating to procurement which states, “The QCA regulation team must be informed of any major procurement activities such as the appointment of a test development or test operations agencies. The QCA regulation team must make it known to NAA if it wishes to contribute to the procurement exercise”.

Office for Government Commerce (OGC) Reviews

- 2.52 At two points during the procurement process, Gateway Reviews were commissioned from the OGC, undertaken by both OGC and DfES officials. The intention of OGC Gateway Reviews is to examine programmes and projects at key decisions points in their lifecycle and look ahead to provide assurance that they can progress successfully to the next stage. As a result of a Gateway Review, a project is awarded a rating of green, amber or red, and given feedback.

- 2.53 The first Gateway review examined the Procurement Strategy and was carried out between 31 May and 2 June 2006. The primary purpose of this review was to confirm the outline business case and to ensure that the procurement strategy was robust and appropriate. After consideration by the review team the project was awarded an overall status of green and Project Tornado found to have been well managed.
- 2.54 The conclusion of the review team as stated in the formal documentation provided by the OGC assessor was:
- “Instances of significant good practice by the project include adequate resourcing of the procurement phase with access to external expert advice, clear senior sponsorship of the project, positive market stimulation to introduce new competition and good business/stakeholder involvement. Also, as part of a wider change programme, NAA staff are currently taking part in a programme of Supplier Management training.”³⁵*
- 2.55 The second Gateway review was to examine the investment decision of selecting the preferred supplier. This was carried out on 11 and 12 December 2006. During the Gateway process the role of the reviewers was to confirm the business case and benefits plan and to check that all necessary statutory and procedural requirements were followed throughout the procurement process.
- 2.56 On completion of the review, the project was awarded an overall status of amber. An amber rating is seen as a secure rating for a Gateway Review but does require action to be taken before the next Gateway Review commences. The reason given for the amber rating at this review was due to the uncertainty around transitional costs in Year 2 that could not be accommodated within QCA’s provisional organisational budget.
- 2.57 This issue was raised with DfES, and approval to sign the contract was given on 23 January 2007 by DfES officials, on behalf of the Secretary of State, and the funding problem resolved.

Analysis and findings

- 2.58 The Inquiry has observed the following findings in relation to procurement for the test operations supplier.

The procurement procedure was sound

- 2.59 The Inquiry believes that the procedure followed by PricewaterhouseCoopers and NAA on behalf of QCA was sound. It used the most up-to-date technique, Competitive Dialogue, which enabled QCA to refine its requirements and suppliers to develop their proposals during the procurement exercise.

- 2.60 The Inquiry has noted that two OGC reviews also endorsed the procedure used. This satisfied ministers that the process was sound as the Schools Minister, the Rt Hon Jim Knight MP, has described:

“What is important when these notes come in is to see whether or not there has been some scrutiny of the procurement process to ensure that it has been done properly. And in this case, two OGC reviews satisfied me that there had been proper oversight of the process and that the QCA Board in turn, that we appoint, had approved it and had in fact endorsed it very strongly as an example of best practice. That gave me sufficient satisfaction that the process was sound.”⁹⁶

References and due diligence provided sound checks on the financial strength and liquidity of ETS, but failed to identify relevant information regarding its reputation and track record

- 2.61 It is clear that during the procurement process, references were obtained and financial due diligence carried out. Nothing was found during these processes to identify issues which would threaten ETS’s financial strength.
- 2.62 As can be seen from the evidence provided by the Shadow Secretary of State for Children, Schools and Families, much had been said in the US press about previous contracts held by ETS.
- 2.63 However, the Inquiry recognises that it is critical that any procurement decision is properly evidence-based to ensure it is fair and rigorous, and acknowledges that using press assertions could undermine this process.
- 2.64 However, it is the belief of the Inquiry that alongside the references and due diligence checks on financial strength and liquidity, QCA should have carried out additional due diligence to assess potential suppliers’ reputation and track record. Had such checks been conducted, a more rounded understanding of the suppliers could have been formed.

The Regulator should have played a greater role in defining requirements and informing the assessment made during procurement

- 2.65 As evidence shows, the Regulator was not consulted earlier enough in the procurement process. Whilst it was asked informally about how changes to the 2008 cycle might impact the Code of Practice, its only formal involvement before the contract was awarded was the Director’s presence on the QCA Executive.
- 2.66 However, the Inquiry believes the Regulator could have been involved earlier in the process. The Code of Practice clearly shows there are no restrictions stopping the Regulator from being involved in the procurement process, only that it must make QCA aware if this is its decision.

2.67 Ofqual has subsequently stated that the ETS proposal was consistent with regulatory requirements.³⁷ However, it is the view of the Inquiry that by not formally involving the Regulator until the decision was made, there would not have been the opportunity for the Regulator to check that bidders' proposals aligned with its requirements.

The capacity of ETS staff was insufficient and should have been analysed during procurement

2.68 The Inquiry has not seen any evidence to suggest that the capacity of ETS was challenged during the procurement. Whilst ETS provided information on its proposed governance structures, it was not clear that its plans incorporated the necessary capacity to ensure that the contractual requirement to deliver National Curriculum test results could be met.

2.69 The Inquiry believes that ETS should have been challenged more thoroughly during the procurement stage on its staffing plans, particularly on the importance of clear leadership and analytical skills. Had this been done, more appropriate resources might have been assigned to the project at its outset and provided greater continuity and performance throughout the delivery of the contract.

Recommendations

In future, QCA should seek better information on the knowledge, capacity, experience, and track record of its preferred test operations supplier(s)

2.70 Alongside the standard due diligence checks on financial strength and liquidity, checks should be carried out to assess the reputation and track record of potential suppliers.

2.71 The underlying capacity of any supplier should be challenged at the procurement stage. Suppliers should be required to provide a detailed staffing profile showing what resources they believe are required for each stage and phase of the delivery. This should also inform a robust assessment of the Pricing Model proposed by the supplier.

Ofqual should be consulted at an early stage in future procurement exercises to check that suppliers' proposals will meet its Code of Practice

Governance and Contract Management

Introduction

- 3.1 This chapter looks at the implications of strategic level governance arrangements between and within the Department for Children, Schools and Families (DCSF) and the Qualifications and Curriculum Authority (QCA) for the delivery of National Curriculum tests.
- 3.2 This chapter will go on to examine the operational level contract management arrangements put in place by the National Assessment Agency (NAA), on behalf of QCA, to oversee the work of its chosen supplier, ETS Europe (ETS).

Evidence

Governance arrangements

QCA's remit from the Secretary of State for Children, Schools and Families to deliver National Curriculum tests

- 3.3 The Secretary of State for Children, Schools and Families and his department is ultimately accountable for the implementation of assessment policy. In relation to the National Curriculum tests, DCSF determines policy parameters, including which pupils are to be tested, in which subjects they are to be tested, and the purposes for which the results should be used.
- 3.4 Within these parameters, DCSF delegates responsibility for delivery of the National Curriculum tests to QCA through an annual remit letter. The remit letter sets out QCA's priorities, the success measures against which its performance will be judged, and the funding available. This arrangement has been described by DCSF as 'arm's length' delivery, with the objective of ensuring that those with delivery expertise manage the process, rather than officials or ministers. The Secretary of State the Rt Hon Ed Balls MP has described:

"...in terms of the delivery of tests, I don't think there was ever any doubt that there should be an agency function. It is not sensible for ministers to get involved in the details of the procurement process, but actually the kind of expertise that you need in order to manage a complex contract, isn't the same as the kind of expertise you need to make good policy..."³⁸

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- 3.5 Therefore, the DCSF Permanent Secretary David Bell has described the department and QCA's respective roles:
- "... what we do is delegate by remit letter essentially a large number of our delivery responsibilities. And to some extent that reflects the theology of the last twenty years or so as central government departments have increasingly passed over responsibility to other government agencies..."³⁹*
- 3.6 QCA's responsibilities have been defined in remit letters from successive Secretaries of State. In 2007, then Secretary of State, the Rt Hon Alan Johnson MP, wrote setting out the work required ahead of delivery of National Curriculum tests in 2008:
- "We rely heavily on the smooth delivery of National Curriculum tests each year... You will additionally need to trial the further improvements planned as part of the new delivery service from 2008."⁴⁰*
- 3.7 In the 2008 remit letter, the Secretary of State, the Rt Hon Ed Balls MP stated:
- "You will need to ensure delivery of the National Curriculum tests and make sure that they are valid and reliable against the policy objectives established by Ministers."⁴¹*
- 3.8 In addition, his remit letter set out the success measures against which QCA's performance would be judged. The following success measure was specified:
- "National Curriculum tests are delivered successfully in May 2008, with an improvement in key metrics over 2007, such as quality of marking, reduction in number of lost scripts, and an improved service to schools. Secure timely preparation for 2009 delivery."*
- 3.9 QCA was responsible for meeting these objectives, which it went about doing by, procuring and managing its contractor, ETS, to deliver to the terms of its specification.
- 3.10 Within QCA, NAA took the lead on this work, with its Managing Director responsible for delivery of the tests. However, accountability for delivery of QCA's remit formally rests with QCA Board and its Chief Executive.

DCSF's monitoring of QCA's remit

- 3.11 In evidence submitted to this Inquiry, DCSF described its relationship with QCA as a 'trusted delivery partner'. The Permanent Secretary David Bell explained that, in relation to monitoring QCA's remit:
- "DCSF's role was around ensuring alignment of delivery with policy, and monitoring delivery."⁴²*

- 3.12 However, QCA has submitted to the Inquiry that while responsibility for test delivery rested with QCA, DCSF was defining the requirements throughout the process and there was active participation by DCSF 'observers' in meetings at every level. The QCA Chief Executive Dr Ken Boston has stated that:
- "Government is at arm's length only from the detail of the test questions and from the marking and level-setting... Throughout the process of procuring the contract and delivering the tests according to DCSF specification, ministers and officials had access to exactly the same data and information as the NAA and the QCA; they were active participants in the process; and they provided a separate source of advice to ministers. They were properly part of the process, and in no way at 'arm's length'."*⁴³
- 3.13 QCA's performance is primarily monitored by DCSF through its Senior Management Review Group (SMRG). SMRG is responsible for: managing DCSF's relationship with QCA at a strategic level; monitoring QCA's progress against its success measures; and managing risks to QCA's delivery. It is also the escalation point for disputes and for the reprioritisation of work. The QCA Chief Executive and where appropriate, other members of the QCA Executive, attend SMRG, along with Ofqual's Acting Chief Executive.
- 3.14 DCSF's Director General for Young People, Lesley Longstone, has explained the role of SMRG:
- "What we do [in SMRG] is we monitor in their entirety the success measures... effectively what we do is we look at the health of the QCA in terms of its delivery right across the piece, and if there are particular issues that are in trouble, so they are rated as red or red/amber, then we would in that meeting have a more detailed discussion about those sorts of issues. But each of the success measures is then monitored independently by the policy teams that own them."*⁴⁴
- 3.15 Allied to the activities of SMRG, DCSF compiled a performance report on QCA quarterly, which recorded its progress against all the success measures in its remit. The report was compiled using information provided by the individual policy teams responsible for overseeing specific parts of QCA's remit.
- 3.16 The quarterly performance report indicated that in August 2007, DCSF was content that the transition to a new test operations supplier was going well, but was alert to the inherent risk given the scale and complexity of the project to deliver National Curriculum tests. It also noted a concern about QCA's ability to recruit and retain staff in the lead up to its relocation to Coventry.
- 3.17 In January 2008, the same report noted some concerns around preparation for the test delivery period and stressed the importance of contingency planning. Concerns about capacity were again reflected and it was noted that there was a high reliance on temporary and contract staff.

- 3.18 By April 2008, DCSF was awaiting further advice from NAA on risk mitigation and highlighted the impact of 'borderlining' as its main concern. DCSF's Director General for Young People, Lesley Longstone, explained why DCSF's focus at that time was on the removal of borderlining:

"In April we were very worried about borderlining because the decision to remove it was taken a long while ago, but that is the point at which we were not at all happy about the piloting work that they had done to help us understand what the impact of borderlining would be and therefore how it would be communicated... At that point, we were being told that they were confident of delivery."⁴⁵

- 3.19 In April 2008, DCSF's concern around QCA's overall capacity remained.

- 3.20 The Inquiry asked whether DCSF had sought any reassurances during 2008 about the capacity of QCA/NAA specifically to deliver its remit in relation to the National Curriculum tests. The DCSF Permanent Secretary, David Bell has explained:

"We did not have concern about NAA's capacity, and we did not consider that NAA capacity was a significant part of the problems once they came to light. In the absence of QCA managers reporting concerns, for DCSF to have been in a position to come to a view that there was a concern about a delivery partner's management unit, and then to have reviewed the capacity of that unit, would have signified a radical shift in the relationship, and a departure from viewing QCA as a trusted delivery partner."⁴⁶

- 3.21 In addition to SMRG, DCSF has in place a number of other mechanisms for monitoring QCA's performance in relation to its delivery of the National Curriculum tests.
- 3.22 DCSF has a sponsor team that is responsible for reporting on QCA's performance against its success measures and producing the quarterly update on QCA's performance to SMRG.
- 3.23 DCSF's Assessment Board, which was created in March 2008, has responsibility for ensuring coherence in the articulation of assessment policy by DCSF and its delivery by QCA/NAA. It is chaired by DCSF's Chief Adviser on School Standards and includes representatives from NAA. DCSF's Assessment policy team was responsible for monitoring NAA's delivery, on an ongoing basis.
- 3.24 As mentioned above, DCSF had observers on the QCA Board and Audit Committee, and DCSF officials attended many of NAA's Programme Board meetings and other operational meetings alongside both NAA and ETS.
- 3.25 In addition to these formal structures, there were meetings held between DCSF and QCA including:
- Ministerial meetings with QCA Chairman and Chief Executive

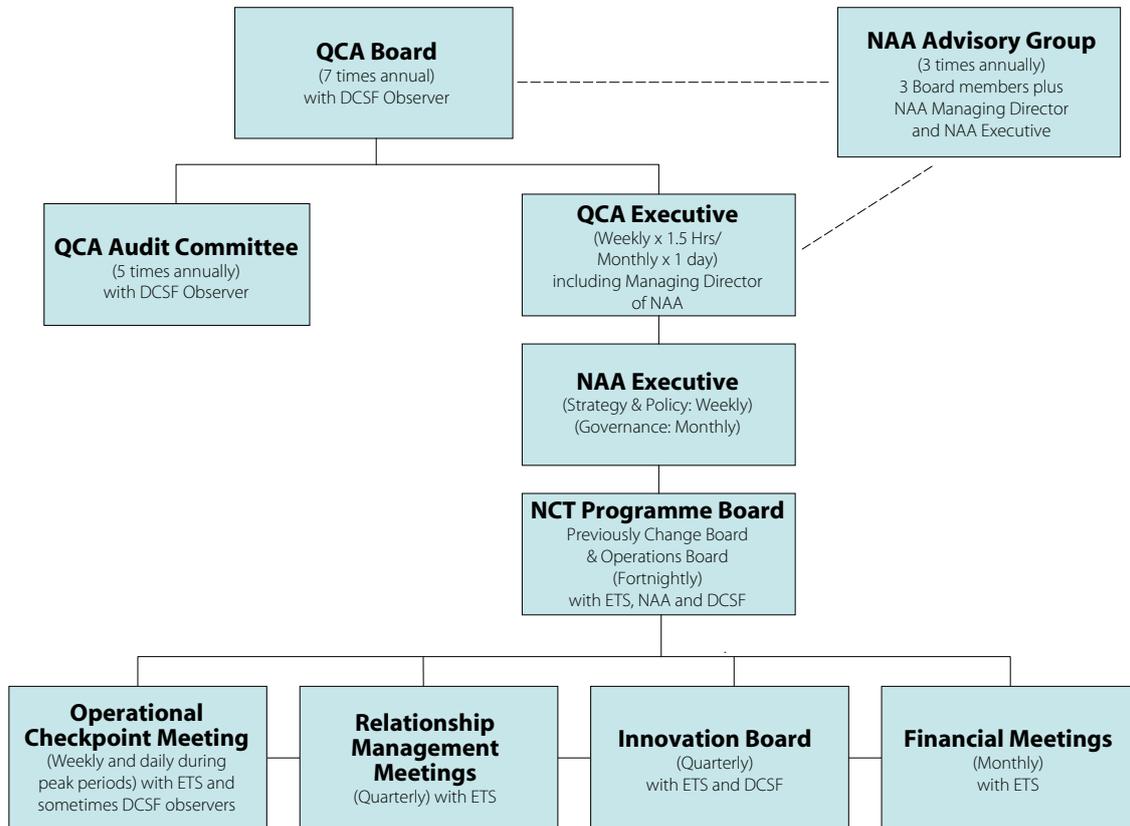
- Regular meetings between DCSF Director General for Schools and QCA Chief Executive
- Regular meetings between DCSF Chief Adviser on School Standards and NAA Managing Director
- Weekly meetings between DCSF Assessment Team leader and NAA's Programme Director for National Curriculum tests

QCA's governance arrangements

- 3.26 QCA's governance arrangements are set out in its 'Corporate Governance Framework'.⁴⁷ This document confirms that the QCA Board is ultimately responsible for supervising and directing the organisation's affairs, and ensuring that it fulfils the remit it is given by the Secretary of State.
- 3.27 The QCA Board has three standing committees covering Audit, Remuneration, and Nominations. In addition, it has established a number of advisory groups to assist the work of the QCA Executive. These include a NAA Advisory Group chaired by Mike Beasley, a QCA Board member. The role of this group was to support NAA in its work on the future of examinations and testing. However, it did not formally oversee the delivery of the tests in 2008.⁴⁸
- 3.28 NAA Managing Director David Gee, has also described his informal interactions with the chair of the advisory group:
- "Mike [Beasley] regularly pops in and has a chat with me and we will talk about how something is going on and if I need help in a way I think he can help me out, then I will pick up the phone and bend his ear..."*⁴⁹
- 3.29 QCA's management structure is led by the QCA Chief Executive who is the Accounting Officer and is accountable to the QCA board. He is responsible for the overall organisation, management, and staffing of QCA and its financial procedures.
- 3.30 The QCA Chief Executive is advised by an Executive of six directors, each of whom heads a division, which includes NAA. The QCA Corporate Governance Framework document describes NAA as "a subsidiary body of the QCA". However, while it is separately branded, it does not have separate legal status.
- 3.31 In addition to the QCA Executive, NAA has its own Executive. This comprises the NAA's senior leadership team and oversees delivery of its objective to "enable and safely deliver innovative assessments in schools and colleges, improving the learner experience and minimising administrative burden."⁵⁰ The NAA Executive meets informally every week to discuss operational issues and has a separate governance meeting once a month.

3.32 The diagram below sets out how QCA's governance structures related to the contract management arrangements put in place to monitor ETS's performance.

QCA governance and contract management arrangements



Contract management arrangements

Preparation of the QCA/ETS contract

- 3.33 Following the procurement process, the QCA Executive recommended to the QCA Board that it enter into a contract with ETS to deliver National Curriculum tests from 2008 – 2012. The QCA Board accepted the recommendation in December 2006.
- 3.34 Approval to sign the ETS contract was given to QCA by DCSF on 23 January 2007. This clearance was required because QCA's budget needed to be reprofiled slightly. The contract was signed by the QCA Chairman on 30 January 2007.
- 3.35 The contract was prepared on behalf of QCA by Linklaters, a law firm that describes itself as specialising in "advising the world's leading companies, financial institutions and government on the most challenging transactions and assignments".⁵¹

Key features of the contract

3.36 The contract itself was made up of a 'Services Agreement' and a 'List of Schedules'. The Services Agreement is the legal document which set out the expectations and requirements of both ETS and QCA. The List of Schedules provided the detailed technical and non-technical requirements which underpinned the Services Agreement.

3.37 In evidence provided to the Inquiry, QCA has stated its confidence with the legal provisions of the contract:

"Taking into account market practice, the appetite for risk expressed by various bidders throughout the procurement process, the nature and size of the outsourcing to be undertaken, QCA believed that the protections secured [in the contract] were more than appropriate. These included strong incentives for ETS to ensure that services were delivered in accordance with quality standards and on time, and robust contract management tools to give QCA a better oversight over service delivery and a stronger ability to manage the contract."⁵²

3.38 QCA has prepared the following description of the key features of its contract with ETS:

"Service delivery: ETS was obliged to deliver the test services in accordance with the specified service levels, good industry practice and relevant QCA policies and procedures.

Management Information: ETS had an obligation to notify QCA in the event it was aware (or ought reasonably to have been aware) that a dependency would not be fulfilled on time, or if any other event occurred that ETS had reasonable grounds to believe would have a detrimental effect on the services. ETS was also obliged to provide QCA with other specified types of information (including information regarding the performance of the services against the service levels) that would have enabled QCA to anticipate service issues and manage the contract (and/or any exit from the contract) generally.

Incentives to deliver: There were a number of mechanisms within the contract designed to incentivise ETS to deliver services, in accordance with milestone dates or service levels. For example, ETS was obliged to pay QCA service credits in the event that these milestone dates/service levels were missed due to ETS's default.

Liability: The liability provisions in the contract were tailored to the risk and reward profile of ETS's final bid and allowed QCA to recover a substantial sum from ETS in the event of contract failures.

Guarantee: ETS US provided a guarantee covering both the performance of the services and ETS's financial liabilities.

Remedial measures: QCA was entitled to take interim measures in the event of a default by ETS. For example, it could direct ETS to re-perform defective services in certain circumstances and require ETS to bear the reasonable costs associated with instructing a third party.

Termination: QCA had an extensive set of rights to terminate all or part of the contract, including rights to terminate: (1) for convenience; (2) where ETS had committed a material breach (for example missing a key milestone); (3) if ETS's breach resulted in QCA being wound up by, or being subject to a fine by the SoS or the DCSF; and (4) if ETS's breach resulted in material correct and reputationally damaging publicly appearing in the national newspapers, radio or television.

Termination assistance: ETS was required to provide QCA with specified types of information and assistance in order to assist QCA in the re-procurement of services and in order to ensure a smooth transition of the services from ETS to the new supplier."⁵³

Changes to the contractual requirements

- 3.39 As with any major contract, it was possible that changes would be required during the period that it covered. There was a formal process described in the QCA/ETS contract by which either party could request a change to the contractual requirements.
- 3.40 Change requests could be initiated as a result of a request from QCA, ETS or DCSF. Once a request for change was raised, ETS produced a Change Control Notice (CCN), which provided details of the reason for change, detailed requirements, the timetable for implementation, and associated cost. ETS submitted CCNs to QCA, which was responsible for approving or rejecting the change.
- 3.41 In practice, a number of CCNs were approved during 2007 and 2008.
- 3.42 One example of the change control process in action related to marker training. The contract stated that new processes must be piloted and agreed by QCA, whereas new services offered by ETS which replicated existing processes did not.⁵⁴ In early 2008, ETS had conducted a pilot to explore whether markers could be offered training online, but ultimately it was decided that all training would be face-to-face instead. Because training had been done face-to-face in previous years, QCA's assumption was that this decision simply represented a reversion to the existing process.

3.43 However, the contract did not explicitly state what the 'existing process' meant in relation to marker training. ETS has claimed to have had a different understanding. ETS, Senior Vice President Dr Philip Tabbiner, told the Children, Schools and Families Select Committee that:

"... we had significant delays in terms of the response from the NAA as to whether we could conduct online training, which is what we had originally contracted for..."⁵⁵

3.44 On 12 February 2008, ETS submitted a CCN to QCA with the following reason for change: "Removal of Online Training from 2008 NCT cycle and replacement with Face to Face Training".⁵⁶ This CCN was rejected by QCA on 14 April 2008.

3.45 It is therefore clear that ETS and QCA's views of the contract were not aligned. Nonetheless, it does illustrate how the change controls process worked effectively to expose and moderate this difference of opinion.

Step-in rights under the contract

3.46 The terms of the contract allowed QCA to 'step-in' and take over provision of the services in certain circumstances. ETS was required to fully co-operate if QCA exercised its step-in rights.

3.47 QCA has explained why it did not invoke its step-in rights in 2008 prior to the delivery failure:

"Under the contract, step-in by the NAA would have released ETS from their obligations and in any event it was too late for the NAA or another third party to achieve the deadline by stepping in."⁵⁷

3.48 However, it is not necessarily the case that the step in right could not have been used. Indeed, as QCA is proceeding with a shorter timetable for the 2009 tests than in 2008, it would imply that there would have been a point at which the contractual provision could have been deployed successfully ahead of the 2008 tests.

Specifications

3.49 In addition to the contract, a number of specification documents were produced. The aim of these documents was to finalise the specific requirements agreed upon to deliver the contract.

3.50 The first specification was the Assessment Delivery Service Requirements (ADSR) document. The purpose of the ADSR was to specify what data would be required, when it would be required, and which organisation held responsibility for its provision. Each year, the main data are pupils' marks which are aggregated to produce their results. These data were due to be passed from ETS, to NAA, to DCSF, using a process known as a 'datafeed'.

- 3.51 The ADSR document was produced by NAA with input from the both data and policy leads at DCSF and it was reviewed throughout by ETS.
- 3.52 DCSF has described the process of agreeing the ADSR:
*"We have meetings in which ETS were there, NAA were there and the formal route is that we were talking to NAA who were talking to ETS, but we were all around the same table. So there was a handful, perhaps three or four meetings, where we were all in the same room."*⁵⁸
- 3.53 The Inquiry has noted that for the 2008 test cycle, a mostly complete version of the ADSR was available in May 2007. As stated in his interview with the Inquiry, a representative from the Data Services Group at DCSF said "...beyond May 2007, the changes were minor."⁵⁸
- 3.54 The ADSR defined five formal datafeeds that are described in more detail within the Delivery chapter of this report. The first of these datafeeds was a system test designed to prove that ETS had a database that could hold all the correctly formatted data at school, pupil, subject, and mark level.⁵⁹
- 3.55 Whilst the ADSR includes this formal system test (known as 'datafeed 1'), the Inquiry has not seen any evidence to indicate that QCA tested ETS's ability to deliver its ADSR commitments ahead of presenting datafeed 1 to DCSF. In practice, all datafeeds provided to DCSF in 2008 were rejected on the grounds that they did not meet the acceptance criteria.⁶⁰
- 3.56 Other specifications which related to the contract were those that specified what management information (MI) was required. This was to ensure QCA had visibility of ETS's progress and performance in all areas of operations. For example, it was necessary to specify what MI would be required for QCA to judge whether script delivery and marking was on track.
- 3.57 The MI specifications were developed by ETS in December 2007, revised in early 2008, and then supplemented by further information requirements in May 2008.
- 3.58 The MI requirements were split into three specifications covering the following areas:
NAA NCT – Data Collection (Schools)⁶¹
- Schools Assessing Status
 - Pupil Registrations Confirmation
 - Collection of Teacher Assessment Data
 - Collection of Optional Test Results
 - Headteacher Declaration Forms
 - Maladministration and Reviews

NAA NCT – Materials Management⁶²

- Collection and Distribution of School/Marker Packs
- Collection of Test Scripts from Schools
- Distribution of Test Scripts to Markers
- Collection of Test Scripts from Markers
- Distribution of Test Scripts to Schools
- Reallocation of Test Scripts to Markers

NAA NCT – Marking⁶³

- Quality of Marking
- Marker Recruitment
- Marker Training Events
- Marking Reviews
- Marking Standardisation
- Marker Quality Assurance Checks
- Completion of Review Cases
- Completion of Process Reviews
- Marker Allocation
- Provision of Data for Level Setting
- Provision of Scripts for Script Scrutiny
- Provision of Scripts to Support Maladministration

3.59 The MI specifications defined a number of report documents that ETS and its subcontractors would provide in 2008. These broadly fit into the following categories – reports that would enable NAA (as it led on test delivery within QCA) to assess whether ETS had met its delivery obligations, and reports that would enable NAA to diagnose any issues occurring during the delivery process.⁶⁴

3.60 Two examples of the reports specified are shown below:

- ‘Number of school packs delivered by school, key stage, and by date, broken down by the number delivered within 24 hours, 48 hours, 5 days, and after 5 days.’⁶⁵
- ‘Total number of test script subject labels to be collected from schools’⁶⁶ [‘Test script subject labels’ refers to the labels that schools put on packages of scripts they sent to ETS].

- 3.61 The 2008 contract was the first time that such extensive MI had been specified by NAA, and for the first time the process should have offered the opportunity to view marking progress on a daily basis. In previous years, scripts were sent directly between schools and markers without any MI being generated.
- 3.62 However, as the Delivery chapter of this report indicates, a number of problems arose during the test delivery period which led to the information in the MI reports being inaccurate or incomplete.
- 3.63 The Inquiry has noted that the small-scale logistics pilot conducted by ETS in advance of the 2008 tests, did not enable the reports defined within the MI specifications to be tested and issues rectified.

Governance arrangements for the project

- 3.64 The contract between QCA and ETS specified the governance arrangements for the project to deliver the National Curriculum tests. The QCA governance and contract management arrangements diagram on page 40, indicates the forums created to facilitate the management of the contract and situates this within the wider context of QCA's governance arrangements.
- 3.65 The main governance forum for the National Curriculum tests was the NCT Programme Board, as the NAA Managing Director David Gee has described:
- "It is the highest point of governance for that activity. There are others above it but for the National Curriculum tests the Programme Board meets typically on a two week basis and has been doing so for a number of years now. Although the title has changed over time, its role is to oversee the preparation, the delivery and close down of each cycle in turn..."*⁶⁷
- 3.66 The contract also outlined the procedures for resolving issues regarding delivery of the contract. The contract indicated that in the first instance issues should have been resolved between the respective operational heads in QCA and ETS. Where issues remained unresolved, they would be referred to the relationship managers in QCA and ETS. If the issue remained unresolved, it would then be referred to the NAA Managing Director and his ETS counterpart, after which it would be referred to the QCA Chief Executive and the ETS Senior Vice President.
- 3.67 The Inquiry has noted that the post of NAA Managing Director is incorrectly referred to in the contract as both the 'Managing Director of QCA' and 'Chief Executive of NAA'.
- 3.68 Although the escalation procedures were set out in the contract, ETS Senior Vice-President, Dr Philip Tabbiner, told the Children, Schools and Families Select Committee that he had not had any contact with the QCA Chief Executive until after the delay to National Curriculum test results.⁶⁸

- 3.69 The QCA Chief Executive, Dr Ken Boston explained his role in terms of contract management and the contact he had with ETS:

*"My own involvement was essentially through David [Gee] and getting David [Gee] to do things directly with them. I had spoken to Kurt Landgraf the President [of ETS] during the procurement process and subsequently he had been over here on occasions and I had met with him. I had some contact with... [the former ETS Vice President] but I was not hands on in the sense of doing David Gee's job for him. I was wanting to know what he was doing, what the result was, what information he was getting and what response. But yes, it was clearly an issue that was of high concern, clearly an issue as National Curriculum tests every year are of high concern. But I honestly cannot say at any point up until mid-June, that I was more alarmed or more worried than I had been in the two previous years. It did not get that high on my radar."*⁶⁹

Transition period

- 3.70 In 2007, the ETS contract ran in parallel to the final year of the Edexcel contract, allowing for a year long transition period.

- 3.71 The transition period was built into the ETS contract to allow them to build capacity and to fully understand the requirements of delivering the operational cycle. The contract required ETS to produce a 'Detailed Transition Plan' to:

"Establish the project management and governance structures;

Describe how the Supplier will prepare for, and establish, the services to be delivered during the first full Test Cycle after the Effective Date;

Establish robust approval processes for development of the Services;

Outline processes and procedures for internal change communications management to cover the change management with the QCA and NAA;

Outline processes and procedures for external change and communications management to include all relevant stakeholders such as schools, Local Authorities, Markers and DfES;

Support the QCA requirements requested by the Department for Skills and Education; and

*Detail an operational project plan with timescales and milestones."*⁷⁰

- 3.72 During this transition period, NAA established its own internal management meetings to discuss and report on progress. On a weekly basis between April and December 2007, the group met and produced weekly status reports.

- 3.73 These status reports indicate that the transition period did not go smoothly, and both ETS and QCA have confirmed this since the Inquiry began.

- 3.74 Appearing before the Children, Schools and Families Select Committee, ETS Senior Vice-President, Dr Philip Tabbiner said:

*"In many instances when we would implement efforts to resolve an issue, it was only later that NAA would point out what had traditionally happened. We found that some useful information or data that would have helped to inform early decisions was not shared with us."*⁷¹

- 3.75 QCA has stated that the time and resource that it had originally planned for the induction of the new contractor was not sufficient and additional support was required by ETS throughout. NAA Programme Director, David Barrett said:

*"Effectively that was a knowledge-gathering phase and a development phase because actually there is not too much to deliver in the cycle until the academic year starts in September [2007], so we had several months of learning and preparing and developing but that proved insufficient in my view, with hindsight."*⁷²

- 3.76 The Inquiry has also noted ETS's concern that an insufficient number of staff were transferred to it under 'TUPE'² arrangements from the previous supplier. This featured amongst a number of risks presented to the National Curriculum tests (NCT) Programme Board held on 18 January 2007 regarding transition and ETS's preparedness. These risks were:

"Relationship with incumbent is not positive".

"TUPE process proves challenging"

"ETS's ICT systems are not fully tested and ready to roll out on time to support 2008 test cycle"

"Incumbent fails to provide all necessary knowledge and information"

- 3.77 QCA has indicated that in May 2007, NAA drew up a list of assets which were needed from the previous contractor to aid transition. A series of meetings were held between NAA's Programme Manager and the previous contractor's Transition Manager to consider the transfer of staff and assets to ETS. QCA has stated that the transfer of staff from the previous contractor to ETS proved complex, and ETS was surprised at the small number of staff 'inherited' from the previous contractor, although it had been advised of this likely outcome.⁷³

- 3.78 During this transition period, there was consideration given to a number of issues with ETS's proposals that had been identified during the procurement process. Feedback from the Project Tornado team during procurement had identified two areas of concern around the ETS bid:

"Need for evidence of ability to deliver in the UK rather than theoretical ideas"; and

² Transfer of Undertakings (Protection of Employment) Regulations 2006

*"Some good ideas but we need to see the end to end solution."*⁷⁴

- 3.79 The final ETS presentation during procurement had outlined relatively complex system architecture with different parties owning different components. The Inquiry has also noted that within the ETS presentation, the following risk around 'Systems and Logistics' was identified:

"Risk – System not integrating as necessary may cause delays and missing key dates.

*Mitigation – Proper requirements definition. Complete end-to-end testing at each critical phase."*⁷⁵

- 3.80 However, NAA has told the Inquiry that end-to-end testing of systems was not subsequently built into the timetable, as NAA Programme Director, David Barrett described:

*"The thing that I think we overlooked if I am honest, that we had assurances about but perhaps did not test and weren't necessarily able to test, was the integration of all of these systems in the background. And because the system development ran quite late, because the fact that we had these changes in the lead, and extra resource were brought in – Accenture resource was brought in to prop up ETS and get the system development done on time – we never really had the chance to end-to-end test everything in a live environment."*⁷⁶

- 3.81 This would prove to be significant, as the Delivery chapter of this report explains in detail.

Capacity and management approach

- 3.82 Within QCA, NAA led on contract management of ETS. This arrangement was in keeping with previous years and reflected NAA's delegated responsibility for delivery of the National Curriculum tests. The contract manager was a NAA Programme Director, who reported to the NAA Managing Director.
- 3.83 In evidence submitted to the Inquiry, QCA stated that as 2008 was the first year of its contract with ETS, additional provision was made by NAA to manage the contract. This decision was informed by difficulties that had been experienced in the past with new suppliers.
- 3.84 QCA has stated that the following steps were taken to enhance its contract management:
- Running parallel management teams during the period of the handover from Edexcel (2007 tests) to ETS (2008 tests), to allow dedicated support for both;
 - Ensuring that the NAA programme staff working with ETS had proven project management capability and experience of delivery in previous years; and

- Organising an induction programme for ETS employees which covered the tests, the contractual requirements, and the experiences of previous delivery.⁷⁷

3.85 The co-location of NAA and ETS staff was an integral aspect of the contract management approach. The principle of co-location was implemented as a result of an inquiry which was conducted by Mike Beasley, a QCA Board member, following the late delivery of key stage 3 results in 2004. Mike Beasley has explained the thinking behind co-location:

*"I pressured them [NAA and ETS] very strongly to co-locate where possible to remove communication problems and to try and get into the grain of the thing and understand better not just what the numbers say but what... those actually operating the project are saying."*⁷⁸

3.86 NAA Managing Director, David Gee, has also described:

*"One of the positive aspects of co-location is that you get a better insight of what is going on, but the downside is that sometimes you could be overstepping the mark between supporting and monitoring, and intervening."*⁷⁹

3.87 At the beginning of the transition period, the ETS core team set up an office in a street adjacent to QCA's offices in Piccadilly, London. NAA also established dedicated working areas for ETS staff alongside its operational team in Piccadilly.

3.88 QCA has indicated that once ETS established its office in Watford in May 2007, co-location became more difficult and resulted in the ETS senior management team committing to co-locating up to 50 per cent of their working week in London.⁸⁰

3.89 In September 2007, an OGC Gateway Review on 'Readiness for service' was conducted. The purpose of the review was to "...confirm that contractual arrangements are up to date, that necessary testing has been done to the client's satisfaction and that the client is ready to approve implementation."⁸¹

3.90 The report indicated that:

"The review team found that there had been a few problems and issues identified during the transition period. In the main these were caused by the time it took to build capacity/capability by ETS and by there being more of a reliance on systems development than previously foreseen."

3.91 With reference to NAA's management structure, the review recommended that:

"NAA makes clear both to its own staff and to the supplier how this will work in practice and above all, who will be responsible for the contract management of the Key Stage delivery."

- 3.92 In December 2007, NAA increased the number of its staff co-located with ETS in Watford by establishing a core team of up to 10 staff. NAA Programme Director David Barrett has described this decision:

*"So over that year we had gone from what I would say was open partnership working to probably us being more bullish, probably starting to use the contractual rights that we had to say, you are not delivering to time or quality so there are consequences to that, and I would say also we were moving from more of a monitoring role to increasing intervention and by Christmas 2007 certainly there was a key point at which I said to David [Gee] we need more resource and we need to be working in Watford to see what is going on."*⁸²

- 3.93 Throughout the rest of the test cycle in 2008, NAA committed additional resources to manage and support ETS. QCA's submission to the Inquiry stated:

*"The shoring up of ETS in 2008 included the provision of up to 70 NAA staff to support ETS by doing work ETS was contracted to do. This included the setting up and operation of three marking centres and one data entry centre, the provision of additional personnel for ETS marking centres, additional helpdesk capacity, and extending deadlines to give ETS more time to complete delivery."*⁸³

- 3.94 It is clear that NAA staff and temporary staff hired by NAA were performing operational roles. QCA stated:

*"The NAA provided additional capacity to supplement ETS's small communications team, including a full-time staff member, and, as the situation deteriorated, other NAA staff became involved in supporting ETS communications activities, for example the drafting of e mail communications to markers, organising e mail communications using the NAA customer relationship management system, and drafting material for use by the helpdesk."*⁸⁴

- 3.95 The QCA Chief Executive, Dr Ken Boston confirmed that this was the same approach NAA had adopted in the past when problems occurred with previous test cycles:

*"Send people in and deal with it and that is the way the NAA has worked ever since the failure in 2004. In 2005, 2006 and 2007 it has worked by doing that and at no period during this process was I alerted, or I think did David [Gee] feel, because if he had of felt it he would have alerted me, that we were in any more difficult position. I have talked for years about the "Cottage Industry" and it is still a cottage industry. The examinations have modernised considerably but this is still within eight weeks, nine point eight million scripts, high political stakes to produce this result and produce it on time. The NAA is absolutely hands on right through all of this and they felt it was going to get there."*⁸⁵

- 3.96 The Inquiry found evidence to signal ETS's dissatisfaction with NAA's management approach. In July 2007, NAA's Programme Director indicated to the NAA Managing Director that ETS had raised concerns about 'micro managing'.⁸⁶ Reflecting on the test delivery period in 2008, NAA Programme Director, David Barrett has stated that:

"It is true to say that NAA's capacity to manage ETS was stretched at the height of the delivery cycle, due to the significant and necessary scale of NAA's interventions to keep ETS' delivery of the contract on track. On many occasions, ETS complained of being 'micro-managed' which was an indication of NAA's diligence and challenge in holding them to account."⁸⁷

- 3.97 ETS also raised concerns about the impact of NAA staff turnover and availability. The minutes of the NCT Programme Board in April and December 2007 and January 2008 indicate that NAA staff turnover and availability was recorded as a red risk. ETS's documentation stated that by December this issue had reached 'critical status' and was being formally escalated for resolution.⁸⁸ ETS Senior Vice-President, Dr Philip Tabbiner, has provided the Inquiry with details of their concerns stating that five members of the NAA team that had been involved in procurement left during 2007. He has described the impact this had:

"The result was there were not enough NAA staff left with a clear and detailed understanding of the solution jointly designed and bought by the NAA. This required us to spend large amounts of time and resources educating the new NAA staff on the solution..."⁸⁹

- 3.98 This is supported by evidence provided to the Inquiry by DCSF which included a note dated 19 December 2007 which stated:

"There is also capacity issues in NAA. They have recently lost key managers with marking, data capture and logistics expertise."⁹⁰

Performance management

- 3.99 Under the terms of the contract, ETS's performance was measured against a series of Service Level Agreements which related to ETS's performance against key milestones. Payments were made to ETS once the relevant service level had been met.

- 3.100 It is apparent that, from as early as April 2007, QCA had concerns about ETS's performance. On 26 June 2007, NAA wrote to ETS to withhold payment due to failure to deliver:

"Non-functional requirements (to support systems delivery)"

"Proof-of-concept marking pilot documentation"

"Delivery of final version of productised plan for transition."⁹¹

3.101 NAA recorded the 'quality of work' from ETS as a red or amber risk from April to December 2007, when it co-located a greater number of staff and increased its own operational role.⁹²

Analysis and findings

DCSF had comprehensive mechanisms in place to monitor QCA's overall corporate performance and delivery against specific success measures

3.102 Responsibility for the policy of National Curriculum testing resides with the Secretary of State for Children, Schools and Families. However, responsibility for delivery of the National Curriculum tests was clearly delegated to QCA, as one of DCSF's Non-Departmental Public Bodies, by remit letter.

3.103 The remit letter clearly set out what QCA was expected to deliver in terms of the National Curriculum tests, the success measures by which its performance would be measured, and the funding it was given to be able to discharge its remit.

3.104 The model of central government delegating delivery responsibilities to agencies and NDPBs is not new and it is clearly evident that this arrangement has worked successfully in the past, including in relation to the delivery of National Curriculum tests. The model of delegation is predicated on the sponsor department's confidence in the NDPB's capacity and capability to deliver what is asked in the remit letter.

3.105 Although DCSF's approach was to view QCA as a trusted delivery partner which had a senior management team in place to deliver its remit, it is evident that DCSF had comprehensive arrangements in place to monitor QCA's performance. QCA's performance as a whole was being closely monitored by SMRG and by the DCSF Board. In addition, QCA's delivery of the National Curriculum tests was being closely monitored through the Assessment Board and by DCSF officials who attended the regular operational meetings that took place between NAA and ETS.

3.106 It is evident from records of the SMRG and Assessment Board meetings that risks to the delivery of the tests were being identified and that when necessary, further information and details of contingency plans were being sought from QCA/NAA.

The QCA Board had insufficient oversight of the management and risks associated with the delivery of its biggest contract

3.107 While the QCA Board paid considerable attention to the procurement process, it is the Inquiry's view that it had insufficient oversight of the management of the organisation's biggest contract, and only became aware of problems when it was too late for it to implement any mitigating actions. Insufficient attention was paid to the risks associated with there being a new supplier which had little previous experience of operating within the UK. It was also insufficiently alert to

the amount of financial and staff resources that NAA was deploying to support ETS, which the QCA Chief Executive has indicated represented around £580,000 in additional staff costs.⁹³

- 3.108 It is clear to the Inquiry that Mike Beasley (QCA Board member) over several years has supported NAA by providing his advice and trying to bring about process and project management improvement, drawing on his experience as a CEO in industry. However, it is the Inquiry's view that although the QCA Board and Chief Executive had at its disposal the NAA Advisory Committee, there was no systematic oversight at Board level of how the contract was being managed and any concerns that were being identified.

There was a lack of clarity regarding the contract governance arrangements caused in part by the ambiguous status of the National Assessment Agency (NAA) within QCA's corporate structure

- 3.109 The Inquiry believes that NAA's status is unclear. In evidence reviewed by the Inquiry, NAA is regularly referred to as a subsidiary of the QCA, rather than a division of QCA. The Inquiry understands that when NAA was originally created, it was with the intention of spinning it off from QCA, but ultimately the QCA Board decided against this.
- 3.110 Within QCA, NAA was in some ways viewed as a separate organisation, despite its formal role as a division with delegated responsibilities being well documented. It is clear that NAA was viewed by some key stakeholders, including ETS and Ofqual, as a separate entity, whose Managing Director was responsible and accountable for the delivery of the National Curriculum tests.
- 3.111 The contract clearly sets out the governance model for managing the contract between NAA and QCA and the process for escalating issues. Under the terms of the contract the ultimate escalation point is between the QCA Chief Executive and the ETS Senior Vice President. However, as the ETS Senior Vice President Dr Philip Tabbiner described to the Select Committee, his point of contact was in fact with David Gee, the NAA Managing Director.
- 3.112 The Project and Risk Management chapter of this report further details the way in which risks were not escalated by NAA to the QCA Executive or Board appropriately. The regulation chapter details the way in which NAA and Ofqual related to each other, with neither keeping QCA informed at a corporate level.

NAA planned to co-locate its staff with ETS to ensure effective contract management. This eventually led to an increase in NAA's operational role

- 3.113 The original purpose of co-locating NAA and ETS staff following Mike Beasley's inquiry into the 2004 delivery failure was to improve communication, support the new supplier to develop its knowledge and understanding of the key processes, and to facilitate effective monitoring of the contractor's performance. Throughout

the early months of the contract, when ETS was in the process of setting up its office in the UK, there was continuous contact between ETS and NAA programme directors and operational managers.

- 3.114 NAA identified concerns about ETS's performance throughout 2007, for example in relation to the start of marker recruitment. NAA's response to dealing with ongoing ETS performance issues was to increase the capacity and role of its own staff co-located within ETS. Initially a core team of ten NAA staff were co-located with ETS at their Watford office but the number of dedicated NAA staff or temporary staff employed by NAA increased to seventy by April 2008. It is clear that as the number of NAA staff co-located with ETS increased, so did the number of operational responsibilities they took on, for example by helping to clear a backlog of emails from markers. However, QCA did not formally invoke the step-in rights it held under the contract.
- 3.115 It is apparent that NAA was trying to do everything it possibly could do to help ensure ETS delivered test results on time. However, it is the Inquiry's assessment that the increasing reliance by NAA on its own staff to help resolve ETS's performance problems resulted in ETS becoming increasingly reliant on NAA to deliver the contract. This caused ambiguity regarding the respective responsibilities and may have had a detrimental affect on NAA's capacity to perform its own role of managing the contract objectively. This is evidenced further in the next chapter of this report which indicates that NAA failed to inform the QCA Executive or Board of mounting risks.

Legal aspects of the contract were robust, but the detail underpinning its schedules was in places ambiguous

- 3.116 The Inquiry has noted from the evidence submitted that the Service Agreement of the contract was a robust document. This is supported by the fact that it gave QCA the flexibility to end the contract with ETS lawfully, retrieve monies in outstanding invoices, and reach a settlement agreement where ETS was required to pay QCA £19.5 million.⁹⁴
- 3.117 In contrast to this, the evidence suggests that this was not the case for the List of Schedules. The Inquiry has noted that there appears to be a number of instances where ETS believed one thing, yet QCA something different. The example cited in this chapter related to the Change Control Notice for face-to-face marker training. The Inquiry feels that the List of Schedules was potentially ambiguous in this instance and that it was not immediately clear from any part of the contract that the existing mechanism for marker training was face-to-face marking.

Specifications relating to the contract were put in place but were not tested; and management information (MI) reports specified were not met to time and quality

- 3.118 All the evidence reviewed by the Inquiry suggests that a comprehensive version of the Assessment and Delivery Service Requirements (ADSR) had been agreed by all parties including ETS by May 2007. This document specified the contents and format of the data to be provided to DCSF by NAA, known as a 'datafeed'. This was required for results to be published.
- 3.119 Although the ADSR included a datafeed which was specifically designed to test the system, this was rejected by DCSF as not meeting the specification. The Inquiry has found that QCA did not check ETS's ability to deliver its ADSR commitments ahead of the first datafeed to DCSF. This meant there was no opportunity to address problems with the data systems before pupils took the tests.
- 3.120 Detailed MI specifications were put in place after the contract was agreed, based on success factors which were clearly defined during the procurement stage.
- 3.121 The MI specifications detailed reports that covered outputs to show how well ETS was meeting its delivery objectives, and outputs to enable ETS and NAA to remedy issues that arose. These reports should have enabled NAA to have accurately monitored the progress of ETS in meeting its objectives.
- 3.122 However, in practice, these did not provide all the information needed to support decision making because there were issues with the quality and timing of the MI available.
- 3.123 The Inquiry believes that the MI specifications were not developed with a full appreciation of how the data was to be collected or which system it would be sourced from. This is explained further in the Delivery chapter of this report.

The extent of induction required by ETS was underestimated

- 3.124 QCA had in place extensive transition plans which included an induction programme for ETS. The induction programme covered the tests, the contractual requirements, the experiences of previous delivery, and understanding the English assessment system.
- 3.125 However, it is the Inquiry's assessment that these plans that QCA put in place for the induction of ETS were not sufficient, as additional support was required by ETS. An OGC review conducted in September 2007 indicated that there were problems and issues in terms of the time taken to build capacity/capability in ETS.

- 3.126 It is also evident that ETS underestimated the amount of resource required to deliver the contract, as it has subsequently indicated that compared to the 60 staff it expected to work on the project, at its height, it had 400 staff on the operation.⁹⁵ There was an expectation that ETS was going to establish a UK based team whose capability to deliver the tests could be developed. However, it is clear that there was considerable staff turnover within ETS, and that when faced with particular issues, ETS's response was often to send staff from its US and other European operations for short periods of time to try and resolve the issues. It is the Inquiry's assessment that this hindered ETS's ability to develop its knowledge and understanding and resulted in a fragmented approach within ETS to managing its key systems and processes.
- 3.127 For its part, ETS has explained that its underestimation was in part because it had expected more staff to transfer to the project from the previous contractor.⁹⁶ The Inquiry does not think this factor satisfactorily explains the time taken to build capacity/capability in ETS.

Areas of concern identified during procurement were not adequately addressed during delivery of the contract

- 3.128 During the procurement process, assessors had identified a number of areas where the ETS bid did not provide the assurances they required, or where there was an issue of concern.
- 3.129 Many of the concerns identified in the procurement stage were issues which actually impacted on the delivery failure in 2008. This suggests that the issues identified during procurement were not satisfactorily addressed during the transition period and ultimately in the operational delivery of the contract.
- 3.130 For example, an area of concern raised by assessors was around ETS's end-to-end solution. This continued to be a concern during the delivery cycle as there was a lack of understanding about how the various components of the systems architecture fit together.
- 3.131 While the concerns raised during procurement were identified as risks, the Inquiry has not found evidence to show that these were satisfactorily addressed, and in particular has noted that measures were not put in place to ensure that NAA had a complete understanding of ETS's end-to-end solution until December 2007. The Inquiry believes the contract manager should have ensured this risk was addressed.

Recommendations

QCA should ensure there is greater corporate oversight of the management and delivery of its contracts

- 3.132 The QCA Board should make necessary arrangements to monitor the management and delivery of its contracts
- 3.133 The role and status of the National Assessment Agency (NAA) should be reviewed in the context of the forthcoming legislation to set up the Qualifications and Curriculum Development Agency (QCDA).

QCA should ensure that the respective roles and responsibilities of QCA and its suppliers are clearly defined and agreed at the outset of the test operations contract

- 3.134 QCA should ensure that its supplier retains ownership and responsibility for delivering the terms of the contract at all times.
- 3.135 QCA should use the provisions that exist within the contract to manage the performance of its supplier.
- 3.136 The roles, responsibilities, and reporting arrangements of any staff that QCA chooses to co-locate with its supplier should be agreed and appropriately documented.
- 3.137 Any proposal by QCA to commit additional staff resources to support a supplier, should require the express approval of the QCA Board.
- 3.138 QCA should satisfy itself that robust governance and management arrangements exist between the supplier and its sub-contractors, and that it is able to request all the information it needs to manage the contract effectively.
- 3.139 At the outset of the contract, QCA should ensure there is a shared understanding between all parties of the end-to-end process, dependencies and outputs expected from the contract.

The contract manager should identify the necessary skills and expertise that QCA and its supplier need to have in place for the successful delivery of the contract

- 3.140 The Contract Manager should ensure that all issues and areas of weakness identified during the procurement phase are addressed in the transition period and/or during the operational delivery of the contract.
- 3.141 QCA should satisfy itself that the supplier has a strong leadership team with the necessary skills and experience to ensure the successful delivery of the contract.

Appropriate stakeholder management arrangements should be put in place to identify and manage the requirements and expectations of all stakeholders, including markers and schools

- 3.142 At the start of any new contract, the supplier should proactively seek feedback from teachers, exams officers, and markers regarding their experience and expectation of the tests, and where they think system improvements can be made.
- 3.143 A plan detailing the requirements of different stakeholders should be developed by the supplier, and arrangements put in place to manage relationships with stakeholders.

The role of DCSF observers at QCA's operational, programme, and corporate boards should be clarified on a case-by-case basis and those expectations articulated clearly

- 3.144 DCSF and QCA should agree the role of the observer, the information which they should expect to access and the process by which they should raise any issues or concerns with DCSF and QCA.

Management information (MI) should be agreed by all parties and the adequacy of the supplier to provide the required information should be tested

- 3.145 The supplier should have a clear understanding of how MI will be used by each party to ensure that the appropriate systems are developed and relevant information provided.
- 3.146 The contract manager should ensure that they have (or engage with an expert to provide), a clear understanding of their supplier's systems enabling them to advise on whether MI requirements can be met.
- 3.147 Once understood, the contract manager should work with the supplier to test whether the MI requirements of all parties can be met, and should suggest alternatives where it cannot.

Project and Risk Management

Introduction

- 4.1 Fundamental to the delivery of National Curriculum tests each year is project and risk management. The success of project and risk management should be judged by the outcomes it helps deliver. By planning well, working together, recognising and addressing risks, the aim of project management is to deliver a timely outcome to an agreed standard.
- 4.2 Project management was the responsibility of ETS Europe (ETS) and the National Assessment Agency (NAA), risk management was also a responsibility of the Qualifications and Curriculum Authority (QCA), and Department for Children, Schools and Families (DCSF) as the bodies ultimately accountable for test delivery. The regulation of tests is a separate issue covered in the last chapter of this report.
- 4.3 This chapter will describe the project management of National Curriculum test delivery in 2008, provide an analysis of the problems that arose, and present recommendations to improve project and risk management of the tests in future years.

Evidence

Background

- 4.4 In his report into the delay of key stage 3 results in 2004, QCA Board member Mike Beasley identified project management as a weakness:
- “The overwhelming reason for the delivery failure was a lack of effective programme and project management.”⁹⁷*
- 4.5 NAA Managing Director, David Gee, also reflected that when he arrived at QCA in 2004 there was:
- ‘...in some areas [of QCA] a lack of programme rigour and project management skills and the NAA, while we are part of QCA, is a very different piece. It is full of specialists; communications specialists, project specialists, programme specialists, Information Technology specialists, contract management specialists.’⁹⁸*
- 4.6 Since 2004, it is evident that QCA has tried to improve its project management and that of its test operations supplier. When it came to procuring a supplier for the 2008 – 12 National Curriculum tests, QCA placed significant emphasis on the importance of project and risk management. There were three areas in which potential suppliers were to be assessed, one of which was risk management:

“Ability to identify, assume and manage risk (including an outline of the steps the bidder will take to mitigate risk), attitude to risk taking, confidence in managing risk and ability to minimise the commercial impact of risk.”⁹⁹

- 4.7 As it approached procurement, ETS was required to demonstrate its competence of project and risk management at each stage. In its Pre-Qualification Questionnaire it stated:

“ETS believes that the success of any major project is contingent on highly effective project management practices and adherence to well defined processes. We deliver to this standard by assigning highly educated and experienced project managers and staff to all ETS projects, following project management best practices and through the use of well defined processes and standardised tools.”¹⁰⁰

- 4.8 During the competitive dialogue stage of procurement, ETS made a presentation which stated that its underpinning assumption for risk management was the idea that ‘what can go wrong, will go wrong’. It stated that it had a dedicated Business Continuity Team which would manage risks.¹⁰¹

- 4.9 During the final stage of procurement, evaluation of ETS’s Invitation to Tender response, a number of concerns were identified by assessors. For example, two assessors rated ETS ‘amber’ with regard to project management and commented:

“This does not commit to frequent reviews of plans and strategies throughout the cycle, only at the start and end.”

“Not sure that the frequency of risk assessment is adequate to meet NAA needs.”¹⁰²

- 4.10 The contract signed by ETS on 30 January 2007 stated the requirement for ETS to provide operational project plans, including mapping milestones:

“The Supplier shall deliver to QCA a detailed plan setting out how the Supplier will deliver the Services in respect of the next Test Cycle then due to commence.”¹⁰³

- 4.11 The contract also stated that a project plan was required to cover the activities that would be undertaken during the transition phase.¹⁰⁴

Key features of project and risk management

- 4.12 Project management was essential to ensure effective delivery of the National Curriculum tests and should have underpinned the performance management of ETS.

Project management systems used by NAA and ETS

- 4.13 NAA Managing Director, David Gee, described NAA’s project and risk management systems as following a recognised methodology, known as ‘PRINCE2’:

“We used a form of PRINCE 2 methodology which is all about defining up front what you are going to do, setting out milestones which you will measure them against both in terms of timeliness and in terms of what gets delivered.”¹⁰⁵

4.14 He went on to say that NAA also used an online tool called '3PR':

"There is a management tool called 3PR which we used, which is a way of making sure that risks are reported properly through the programme, and the reporting connects with the milestones and everything else, so there is some automation there. Although you can't beat having good people at the end of the day."

4.15 It is also evident that ETS used project management systems and tools, including an online system called Project Web Access which was accessible to both ETS and NAA staff.

4.16 As it is clear that project management systems were available, the Inquiry has focussed throughout this chapter on exploring how effectively they were used to inform decision-making and actions.

Project and risk management meetings

4.17 The risk reporting mechanisms on page 63 provide an overview of the main project and risk management forums where decisions were taken by ETS and NAA staff.

4.18 The main forum for reviewing project and risk management information was the National Curriculum Tests (NCT) Programme Board, which met every fortnight and was chaired by NAA. In this meeting, ETS would describe progress with its activities and identify any new risks or issues, drawing on its operational responsibility for test delivery. Separately, there would be a programme update from the NAA Programme Director which identified risks that NAA was particularly concerned about.

4.19 ETS also held weekly 'Operational Checkpoint' meetings with NAA at which they reviewed recent and forthcoming activities. In its 'Project Initiation Document', ETS stated that it was in these Checkpoint meetings that the top issues identified would be raised with NAA.¹⁰⁶ However, the meeting papers from a meeting in March 2007, clearly reflect a decision that was taken that risks would be considered separately at the NCT Programme Board.¹⁰⁷ Therefore, it would appear that these meetings considered current activities and issues but not the longer term risks.

4.20 DCSF observed each meeting of the NCT Programme Board and, when it considered necessary, the Operational Checkpoint meetings between NAA and ETS.

4.21 In addition, from March 2008 DCSF established its own Assessment Board to 'monitor progress across a range of assessment work', including National Curriculum tests.¹⁰⁸ Ahead of each of these meetings, DCSF requested an update from NAA on National Curriculum tests in the format of a 'status report'.

Escalation routes

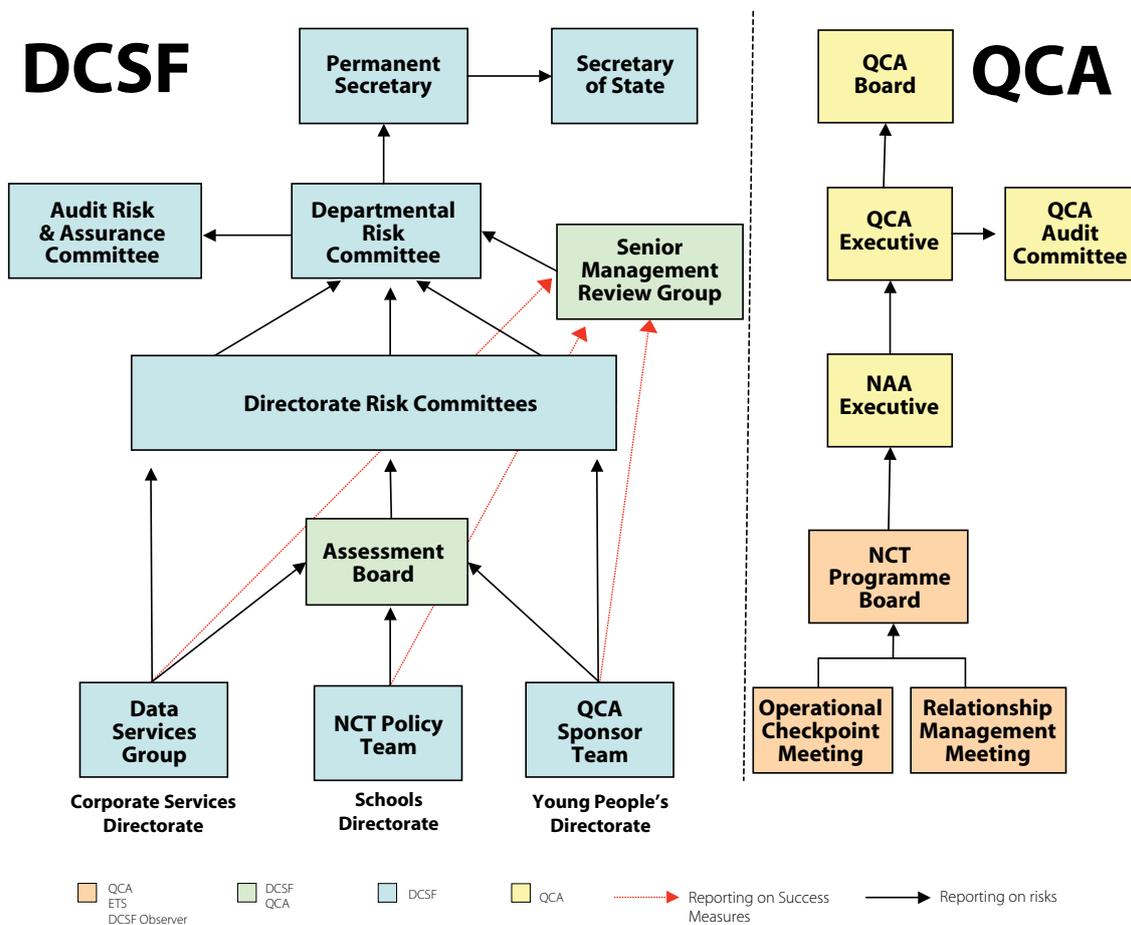
4.22 Risks could also be escalated to more senior colleagues and forums if they were considered highly likely to occur and/or would have a high impact. The aim of escalating risks and issues would be to share information and enable problem-solving and engagement at the highest levels. Escalation routes are indicated in the risk reporting mechanisms diagram below.

4.23 Within QCA, risks could be escalated to the NAA Executive, QCA Executive, and QCA Board. There was also a QCA Audit Committee which reviewed risks.

4.24 Within DCSF, risks could be escalated to the Schools Directorate Risk Committee and Departmental Risk Committee, and also to the Senior Management Review Group (SMRG), as they pertained to QCA’s performance. There was also a DCSF Audit and Risk Assurance Committee which reviewed risks.

4.25 Within ETS, risks could be escalated to the most senior manager on the project, to a Supervisory Board for ETS Europe’s UK operation, and ultimately to its Executive based in the USA.

Risk reporting mechanisms



Planning for the tests

- 4.26 Project plans are a common tool used to manage delivery projects. These are detailed diagrams setting out activities against a timeline.
- 4.27 These should have been live documents that could be used to assess progress and manage any changes necessary to the timetable.

ETS plans

- 4.28 The background section of this chapter described the operational and transition project plans that ETS was required to hold. The contract specified that ETS should deliver its activities or 'milestones' on schedule and report any slippage to QCA:

"6.1 Subject to Clauses 20 (Dependencies) and 26.1 (Force Majeure Events), the Supplier shall ensure that all of the Milestones are completed by their Milestone Dates. If at any time the Supplier is aware that any of the Milestones will not or are unlikely to be completed by their Milestone Dates, it shall:

- i inform QCA of the reasons for not meeting that Milestone Date;*
- ii inform QCA of the consequences of not meeting the Milestone Date (including any impact on the likelihood of other Milestones being completed by their Milestone Dates);*
- iii inform QCA of the steps it will take to mitigate against the consequences of not meeting the Milestone Date; and*
- iv provide all additional resources necessary to ensure the Milestone is completed as soon as reasonably practical.*

6.2 The Supplier shall monitor progress towards the Milestones against the Milestone Dates in order to identify as soon as reasonably practicable whether a Milestone is unlikely to be completed by the relevant Milestone Date."¹⁰⁹

- 4.29 In order to meet these obligations, the Inquiry expected to see detailed project plans held by ETS. As ETS chose not to submit documentary evidence to the Inquiry, there was no opportunity to review such plans.
- 4.30 However, the Inquiry has reviewed all the meeting papers of the NCT Programme Board, the Operational Checkpoint and NAA's internal management meetings. It has found the following evidence that NAA remained dissatisfied with ETS's project planning throughout that year.
- 4.31 In March and April 2007, the Operational Checkpoint meeting papers recorded two open actions to do with project planning:

"Make sure all logistics, systems and marking processes link up for the life of a script to enable decisions on results return and level setting"¹¹⁰

"Take overall view of productised plan"¹¹¹

- 4.32 The meeting papers also recorded that there was due to be a workshop in late April 2007 to look at the end-to-end process and inform planning. However, it is unclear if this session took place as the meeting note records:

*"Setup whole process workshop to review all processes and exceptions as an away day (24th-25th April) – may not be needed given session on 4 April."*¹¹²

- 4.33 NAA's internal management meetings identified issues around NAA's dissatisfaction with ETS's project planning throughout 2007:

9, 16 April 2007: *"Difficult to track ETS progress against the plan"* rated amber

23, 30 April 2007: *"It remains impossible to track ETS progress against the plan"* rated red

7, 14, 21 May 2007: *"ETS have updated the plan – remains to be seen how this will work weekly"* rated amber

28 May, 4, 11, 18 June 2007: *"Seems to be a disconnect between what is presented at checkpoint and what is in the plan"* rated amber

23, 30 July, 6 August 2007: *"[Project Initiation Document] is not what is expected and needs extensive reviewing"* rated amber

23 July 2007: *"ETS do not provide sufficient detail in their plan for NAA to manage the programme"* rated amber

10 December 2007: *"Incomplete ETS comms plan for the logistics pilot – does not align with logistics plan"* rated red.

- 4.34 From 5 July to 27 September 2007, the meeting minutes of the NCT Programme Board recorded an outstanding action point for NAA and ETS "to discuss and finalise operational milestones in the ETS project plan".

- 4.35 On 22 November 2007, a new risk was introduced at the NCT Programme Board regarding the delay in producing this operational project plan:

"Amber risk: Delay in production of 2008 operational plan"

Late delivery of ETS Transition Plan led to delayed payments from NAA. Final version of plan signed off too late and caused difficulties in monitoring ETS performance.

NAA has provided ETS with a list of 'products' by workstream which match [Project Initiation Document] and method statements/specifications. ETS have failed to deliver a coherent version of the 2008 operational plan mapped to these products, despite significant input from NAA.

Meeting to be held today to discuss. ETS to deliver final plan by next Friday 30 November."

- 4.36 In December 2007, an end-to-end operational overview was presented by ETS to the NCT Programme Board. Feedback from a DCSF observer to NAA indicated that significant details remained outstanding:

"It was useful to see the end-to-end process map ETS shared with us at the last Board. I agreed to come back with some areas where we would be interested to see the planning assumptions beneath the model. Our main interest is in the data flow from script collection to datafeeds and the return flow of scripts to schools.

Some clarity about the planning assumptions on the collection of scripts from schools would be helpful. How many scripts should be collected on each day? What will the residual task be after the 2 collections from each school? We should be able to use last year's collection data to model this. We think that Exexcel did 3 collections from each school? We would also like the modelling of estimated time between collection of scripts and receipt by marker and from marker to [ETS Central Distribution Centre].

On the return of scripts to schools what is the expected return profile. Are ETS planning on a single delivery of all scripts to a school? If we have KS3 scripts marked for 90% of each subject we'll only have complete sets of scripts for about 65% of schools. This could cause a significant backlog – we will be working at the pace of the slowest marker for each school.

In focusing on the marking pilot and other risks I don't want to lose sight of the action on ETS to model the impact of their preferred process for script/results return and potential other option(s), and to get views from KS2 and 3 schools on the implications for them."¹¹³

NAA plans

- 4.37 From October 2007, NAA developed its own high-level project plan which showed the main milestones for the project and their status. These documents were reviewed at the NCT Programme Board fortnightly and were updated monthly through until July 2008. Annex F is an example of such a project plan, dated 11 June 2008.
- 4.38 NAA's assessment of Key Milestones (October 2007 – June 2008) diagram on page 68 summarises the status NAA gave some of the key milestones as the project progressed. As the legend indicates, the status of milestones was indicated using colour coding such as red for 'at risk – priority action'.
- 4.39 This diagram indicates that at various times, particular milestones were identified by NAA as having 'some issues' or being 'at risk'. The Inquiry has noted that most milestones were rated green 'on target – likely to be achieved', up until the date they were due, and only then would the rating change to reflect a known issue.

- 4.40 The diagram suggests that dependencies had not been identified or were not given sufficient attention by NAA. It was not possible to ascertain from NAA's project plans whether it had anticipated the 'ripple' effect that one missed milestone could have on the whole project. For example, in April 2008, marker recruitment and contracting was rated 'at risk' but marker training and marking, which are clearly dependent on this, were rated as 'on target'. Similarly, on 11 June 2008, the status of three key milestones was as follows:
- marker allocation was *'not complete to criteria'*
 - marking activity was *'some issues – monitoring required'*
 - test results was *'on target – likely to be achieved'*.¹¹⁴
- 4.41 Emails from NAA to ETS indicate that NAA was aware of the potential impact that a delay in marker allocation could have on the results deadline, but this was not reflected in its project management documentation. These are discussed in more detail in the Delivery chapter of this report.
- 4.42 DCSF officials were present as observers at the NCT Programme Board meetings, where these plans were reviewed. The Inquiry has seen no evidence to indicate that DCSF officials challenged NAA on the shortcomings of its project documentation. Indeed, the fact that the same patterns were repeated in each iteration of NAA's project plans indicates that DCSF observers did not raise concerns about this or offer suggestions for improvement.

NAA’s assessment of key milestones (October 2007 – June 2008)

	Oct 07	Nov 07	Dec 07	Dec 07	Jan 08	Jan 08	Feb 08	Feb 08	Mar 08	Mar 08	Apr 08	Apr 08	May 08	May 08	Jun 08
Innovations Pilot	Yellow	Red	Black	Black	Black	Black	Black	Black							
K12 Release 2 (Data Collection ETS)	Green	Green	Black												
K12 Release 2 (Pupil Registration DCSF)	Yellow	Red	Yellow	Yellow	Yellow	Black									
Marker Recruitment/ Contracting	Green	Red	Red	Red	Red	Yellow	Yellow	Black	Black						
Preparation guidance & training materials	Green	Yellow	Yellow	Yellow	Black	Black	Black	Black							
Marker Training	Green	Yellow	Black	Black											
Marker Allocation	Green	Yellow	Blue												
Marking Period	Green	Yellow	Yellow												
Scripts to schools due 08/07	Green														

● On target – likely to be achieved
 ● At Risk – Priority Action
 ● Some issues – Monitoring required
 ● Not complete to criteria
 ● Achieved (Complete)

Risk identification and management

4.43 To support planning, it was necessary for all the organisations involved in test delivery to identify and manage risks that might impact on their progress. This would include identifying interdependencies, so that the potential impact of risks could be properly assessed. Once risks were identified, organisations could decide how best to mitigate them.

ETS

4.44 The main forum for NAA and ETS to discuss risks was the fortnightly NCT Programme Board. There is evidence that ETS played an active role in identifying risks in this forum. Examples, of operational risks identified by ETS included:

“Delivery of subsequent system releases – suboptimal functionality or delayed release dates”¹⁵

“Proof of concept pilot unsuccessful”¹⁶

“Change requests not approved in a timely manner [by NAA]”¹⁷

- 4.45 Risks identified by ETS were usually at an operational level. They sometimes referred to concerns around NAA's performance, such as the capacity issues detailed in this report and the risks relating to change requests.
- 4.46 There is little evidence to show that ETS took responsibility for identifying interdependencies or longer-term risks to the project.
- 4.47 The Inquiry has noted that ETS did not prepare a presentation for the NCT Programme Board on 1 April, 15 April, 29 April, 13 May, 3 June, and 17 June 2008 during the critical delivery period.

NAA

- 4.48 The NAA Programme Director prepared a separate presentation for the NCT Programme Board. Operational risks often echoed those set out by ETS, for example around the risk that the innovations pilot would be unsuccessful. Other examples are included throughout this report.
- 4.49 NAA's Managing Director has explained that two risk updates were intentionally presented in the same meeting to build agreement on what action should be taken:

*"The risks were presented from each team to the other and then the actions were discussed and agreed."*¹⁸

- 4.50 The Inquiry has noted that NAA did not prepare a presentation to the NCT Programme Board on 30 January, 14 February or 3 June 2008.
- 4.51 In addition, NAA held its own weekly internal management meetings, where it identified a number of risks around ETS performance. NAA's internal documentation rated the following risk around ETS's performance as amber or red from April to June 2007:

"Quality of work from ETS remains low"

From July to December 2007 the following risk was rated as red:

"Quality of work from ETS is sporadic/ETS are asking questions that they could answer themselves".

- 4.52 The Inquiry has noted that risks that had arisen during the procurement process in 2006 were also captured in NAA's internal management meeting papers during 2007. For example, the following two risks recorded:

"Some key elements of the ETS solution are still not clear" – rated red in April 2007 and then amber until July 2007; and

"System fails to integrate" – rated amber from 23 April 2007 until 10 December 2007.

- 4.53 It is evident that NAA continued to raise these risks and issues with ETS, but the outcome of the test delivery period indicates that none of these risks or issues were ever satisfactorily resolved.

QCA

- 4.54 Each month, the QCA Executive considered two risk registers. One was QCA's strategic risk register which was also submitted to the QCA Board. The other was an overview of risk registers held by each of QCA's divisions, including NAA, which showed any red or amber rated risks.

- 4.55 The strategic risk register included the risk that National Curriculum tests would not be delivered on time:

*"QCA is unable to achieve delivery of the required new and revised qualifications, and existing examinations and National Curriculum tests within the prescribed timescales, due to lack of capacity of awarding bodies or problems with stakeholder relationships."*¹¹⁹

- 4.56 The rating of this risk remained unchanged for thirteen months from May 2007 to June 2008. It was rated amber: 'probability *possible* – impact *significant*'. The associated description of mitigation activities also remained unchanged from May 2007 to June 2008, including references to the previous contractor and 2007 tests.

- 4.57 In July 2008 after the test delivery failure, the rating of this risk was updated to red: 'probability *likely* – impact *severe*'.¹²⁰

- 4.58 The overview of risk registers held by each of QCA's divisions, reviewed by the QCA Executive highlighted a number of NAA risks in relation to the tests during 2007 and 2008. These risks were consistently rated amber (probability *likely* – impact *significant*) and included:

"There is increasing demand on the pool of available markers for summer 2008. This may lead to marker shortfalls in Single Level Test pilots, National Curriculum Tests or General Qualifications, negatively affecting safe delivery." (Nov 2007 – March 2008)

"It may not be possible to recruit sufficient KS3 English markers for the 2008 NCT series. KS3 English marking is delayed whilst current markers are allocated additional scripts." (April – May 2008)

"Systems that are being developed for the NCT programme are more burdensome than acceptable. Schools and markers are burdened with additional administrative tasks and workload." (April – June 2008)

- 4.59 NAA Managing Director David Gee, described making judgements about individual divisional risk ratings in the wider context of QCA's business:

*"At every stage in risks you make an executive decision whether to believe it is really a red [risk]. But on the whole scale of the programmes, it might be red to that individual, but it actually at the next level it is probably an amber [risk]. . . I think it is fair to say in hindsight I probably should have had a bit of red amongst those [risks] because, what happened at the QCA level is it then filters on what is red."*¹²¹

- 4.60 QCA Chief Executive Dr Ken Boston, and former QCA Chairman Sir Anthony Greener have both indicated to the Inquiry that risks were assessed and prioritised in this way at different levels, taking into account the wider context of 'red' risks that QCA was managing, including the splitting up of the organisation, handling redundancies and relocating to Coventry.¹²²

DCSF

- 4.61 DCSF identified and monitored risks at a number of levels. Two of its main forums were the Assessment Board, which drew on 'status reports' submitted by NAA to assess risks to the tests, and SMRG which considered strategic risks facing QCA.

- 4.62 SMRG would review all the success measures which formed part of QCA's remit quarterly, including the delivery of National Curriculum tests. In this forum, senior officials would have the opportunity to discuss risks with QCA's Chief Executive and NAA's Managing Director.

- 4.63 Ahead of this meeting, policy officials would provide written briefing on risks. In December 2007, their update to the SMRG stated:

*"08 Test Preparation – is not as timely or robust as we could wish. The test registration function on the website has been delayed and the marking pilot got off to a false start and is delayed by three weeks. We do not yet have assurance that it is on track to deliver valid outcomes on which to base decisions about 08 delivery. The timing of its outputs is now so late that should elements of the trial prove untenable, NAA will need a robust contingency for 2008 delivery. We have yet to see a contingency plan that gives us that assurance. RAG rating Amber."*¹²³

- 4.64 Concerns increased at the February 2008 SMRG meeting, with preparation for the 2008 tests being rated as a red risk:

"08 Test Preparation – The evaluation of risk to 2008 NC tests delivery is now RED. This is because we are very close to live delivery of the 08 tests and as yet we do not have any assurance that the planned improvements/new processes are viable, nor do we have an agreed contingency plan. We have yet to see the marking pilot reports. NAA has promised us sight of the technical report on 6 Feb, but they have said that it is incomplete. They will brief officials on their initial conclusions on 7 Feb. The presentation they planned for Sue Hackman [Chief Advisor on School Standards] on 11 Feb will be delayed by a week and overall decisions by two weeks. This inevitably will increase the risk to delivery. RAG rating Red"¹²⁴

- 4.65 The concerns identified by SMRG were echoed at the first meeting of the Assessment Board held on 10 March 2008. The notes from this meeting stated:

"There are concerns about ETS' preparation for marking the '08 tests, in particular around marker recruitment and contracting. There is also a concern about achieving the volume of testing before the system goes live."

- 4.66 At the SMRG meeting held seven days later on 17 March 2008, the risk status of 2008 test preparation was changed from red to amber:

"08 Test Preparation – NAA has now decided the delivery system for 08 and is working to implement it, including the development of a plan to mitigate acknowledged risks."

- 4.67 As DCSF's Acting Director-General for Schools, Jon Coles, explained, different assessments were sometimes made within the same month depending on the latest information:

"Those will be the same people making a new judgment and... there is no problem with those judgements being different, and indeed, if they were always absolutely aligned despite the fact that the meetings are taking place a fortnight apart, that would be a problem. That would show that we weren't actually on top of this and managing it on a day-to-day basis."¹²⁵

- 4.68 The SMRG did not meet again until 16 June 2008. The Assessment Board met again on 7 April, 7 May and 9 June 2008.

- 4.69 At its meeting on 7 April, the Assessment Board rated the delivery of National Curriculum tests as amber/green, but details of slippages and remedial actions were noted. At its meeting on 7 May delivery was rated as red/amber. The note of the meeting recorded:

“There is a shortfall in KS3 Writing markers, which will be covered by increasing allocations. Small numbers of marker team leaders had been stopped following standardisation but this is unlikely to cause problems as teams can be increased from 10 to 11 if necessary.”¹²⁶

4.70 At the Assessment Board held on 9 June, test delivery was rated as red/amber. The NAA Managing Director, David Gee, reported “that there had been a difficult four weeks but things were now stable.”¹²⁷ A need for improvements to the datafeed was identified, following rejection of the datafeed in May by DCSF.

4.71 Concerns continued to be raised at the 16 June SMRG meeting although the risk rating was reduced from ‘Red’ to ‘Amber/Red’.

“Marking quality and timetable for return of results to schools at risk because of problems with online systems introduced by new delivery contractor (ETS Europe). High-profile allegations of delivery system failures are causing further reputation damage to tests following criticisms in Select Committee report and elsewhere. NAA are monitoring closely but MI is inadequate. ETS remain confident that marking will be of necessary quality and results will be sent to schools by 8 July as per schedule. RAG rating Amber/Red.”

4.72 The conclusion of the 16 June meeting was “for DCSF and NAA to work collaboratively over the next few weeks to reduce the risks around delivery of the National Curriculum tests.”¹²⁸

Risk escalation

4.73 Where risks were identified by these different groups, it was sometimes necessary to escalate these risks internally and/or across organisational boundaries. Ultimately, ministers should have been alerted of any risks that seriously threatened to derail the National Curriculum tests.

4.74 There were two main ways that risks to 2008 National Curriculum tests delivery could have been communicated:

- either by formally ‘escalating’ the risk; and/or
- through transparent access to others’ project management information.

4.75 An example of escalation would be the QCA Executive making an assessment about what risks to refer to the QCA Board. An example of sharing project management information transparently would be observation of the NAA Programme Board by a DCSF official.

4.76 The Inquiry has noted the theory and structures that were in place, but has focussed on assessing how well these were understood and used in practice.

ETS

4.77 ETS argued that it reported all its risks and information transparently to NAA. ETS' Vice-President Andrew Latham told the Children, Schools and Families Select Committee:

"They had early morning briefings and meetings throughout the day, and they received all the management information that we saw, all the data that we saw and all the results..."¹²⁹

4.78 However, QCA's view was that ETS did not report transparently and did not escalate risks appropriately. QCA's view is supported by the fact that up until 26 June 2008, ETS had not informed NAA that it was likely to miss its delivery targets. Following NAA's discovery of a large number of unmarked scripts having been returned to ETS's warehouse, NAA reminded ETS on 25 June 2008 of its contractual 'Duty to Warn'. This prompted ETS to finally admit that there was a significant risk to delivery:

"we anticipate having a minimum of 85 percent of the results available to post for [Key Stage 2 English, Key Stage 3 Writing and Reading] by 8 July."¹³⁰

4.79 The NCT Programme Board was NAA's main forum for discussing risks with ETS. This would have been the most appropriate forum for ETS to escalate risks to NAA, given its weekly checkpoint meetings did not explicitly consider risk management. The Inquiry has noted that ETS did not provide risk updates to the NCT Programme Board, from April to July 2008.

QCA

4.80 As the QCA Chief Executive and Board are accountable for ensuring delivery of QCA's remit for National Curriculum tests, it would have been appropriate for NAA to escalate any significant risks or issues for their consideration.

4.81 QCA has indicated that NAA's Managing Director reported regularly to the Monday morning QCA Executive meetings, as well as the formal monthly business meetings. Evidence submitted to the Inquiry by QCA states that:

"These reports did not identify any urgent matters which required immediate escalation to the Executive, Chief Executive or Board. On several occasions significant additional support was provided to the NAA by other divisions. This included assigning communications staff, providing helpdesk support, providing IT support, and providing additional legal advice and services."¹³¹

4.82 NAA's Managing Director also gave updates to the QCA Board regarding progress with the tests. In two emails, he advised a colleague and ETS that he was giving proper consideration to what should be escalated:

"We will need to agree what I tell the QCA Board and the Regulator"¹³²

“Over the past few weeks I have supported ETS’s programme in the UK with leadership, extensive human resources and many personal hours spent defending ETS from media, QCA Board and Parliamentary concerns.”¹³³

4.83 At the 2 April meeting of the QCA Board, the NAA Managing Director highlighted several risks including marker attrition rates but reported that overall, and with current mitigations, the delivery programme was on track.¹³⁴

4.84 NAA’s Managing Director gave a further update to the QCA Board meeting on 21 May 2008. The minutes of this meeting state:

“[David Gee] reported that the school experience had been good; that there had been no criticism on the content of the tests; and that process changes were implemented this year to reduce burden on schools. ETS in their first year responsible for marking of the tests have had some difficulties in support for the 10,000 markers. Although the marker training content was improved on previous years the logistics for the training of markers, delayed script delivery and over busy helplines has frustrated markers. National Assessment Agency staff are working closely with ETS staff to ensure smoother operations going forward.”

4.85 QCA’s former Chairman, Sir Anthony Greener reflected:

“I think it is fair to say that given the fact that these were new people, and a whole new approach to the tests, they [the QCA Executive] did not escalate the problems early enough and particularly high enough. What the Board were told in early April and particularly in May, was optimistic and if they had been a lot more direct about the potential dangers, we could possibly have done something.”¹³⁵

4.86 DCSF observers concurred with this assessment. In general they believed risk management by QCA Board and Audit Committee was effective, but the failure was a lack of escalation from NAA and the QCA Executive. DCSF Director-General for Young People, Lesley Longstone, said:

“We have actually had really challenging discussions at the Board, about the risks on the risk register and we have talked about systems and processes, as well as the content of individual risk. I would have said, if this had not happened, that I thought they managed things quite well.”¹³⁶

4.87 DCSF’s Head of QCA, Ofqual, and Exams delivery division, Jeremy Benson, had a similar view of the QCA Audit Committee:

“I sit on the QCA Audit Committee and what the Audit Committee does is to go round each of the divisions at QCA, including NAA, and looks at their risk register and their risk assessment, and challenges the relevant member of the senior management team, and satisfies itself that this is appropriate. The Audit Committee is good, and I think it does challenge quite hard... From that I have to say I think that their risk systems are good, they are quite mature.”¹³⁷

- 4.88 It was not until 26 June 2008, when ETS wrote to warn NAA that it was likely to miss its delivery targets, that QCA's Chief Executive was fully briefed by NAA and the matter escalated directly to DCSF. QCA Chief Executive Dr Ken Boston has reflected on this late notice, and commented that the contingency options would still have been few had he known sooner:

*"Had the Executive been aware of any rapid deterioration in the situation between 6 June and 25 June, when I was advised of the problem, the only available mitigation would have been for the Executive or an emergency meeting of the Board...to recommend to the Secretary of State that the results day should be put back from 8 July to later in the month."*¹³⁸

DCSF

- 4.89 DCSF officials observed the QCA Board, the QCA Audit Committee, and NCT Programme Board meetings. These officials escalated risks within DCSF, as the Permanent Secretary confirmed to the Inquiry:

*"[QCA] could have expected that any issues reported to the Department would be shared within the Department as appropriate."*¹³⁹

- 4.90 Officials updated ministers on risks throughout the test cycle and provided almost daily written briefings during June 2008. As late as 24 June 2008, these update notes continued to report the latest information from NAA, which was that marking progress was on track and marking panels had been convened to complete marking. The 24 June 2008 update also indicated that NAA was confident that the quality of data DCSF was receiving would improve, and that it would be able to obtain more management information on the number of unmarked scripts.

- 4.91 When risks were escalated to ministers in this way by officials, their response was often to seek an explanation from the QCA Chief Executive or Board. The Schools Minister, the Rt Hon Jim Knight MP, described in his interview with Lord Sutherland:

"Stewart Sutherland: In relation to a Non-Departmental Public Body, particularly in this case the QCA, how far do you see the major point of reliance being on the Chief Executive and how far on the Board of the QCA? I can understand in relation to each other, but what are their respective roles in relation to the Department?"

Jim Knight: I think that is a fascinating question about scrutiny and challenge – because in many ways if you looked at this theoretically, you would say that ministers are delegating the scrutiny and challenge function to the Board that we appoint. We have our observer on the Board, in the form of a Director General monitoring and taking part in discussions, and then we have our regular meetings with the Chair who we also appoint – and that is a major decision for us – that in many ways ought to be it. But beyond that theory, the reality clearly is that some of these tasks that they are doing are so mission-critical that we need alongside that arrangement to be satisfied for ourselves that things are going well.”¹⁴⁰

4.92 The Minister described how he actively questioned QCA in this way in June 2008:

“By mid-June, I wanted to have meetings with QCA to specifically discuss the National Curriculum tests. I was asking for more updates on how things were going, and receiving those. They were consistently saying that the 8 July deadline would be met, but they were reporting various problems such as around marker recruitment, marker satisfaction with how things were going, and the late delivery of scripts for marking in the crucial half term in May, which many markers relied on to do their work. So, I wanted a meeting to be able to ask some questions about how effectively the loss of that time and the loss of that capacity would be made up for. We had that meeting on the 17 June with Ken [Boston] and David Gee. I may well have met David Gee before that point but it was the first time I had had a substantial discussion with him about things in great detail. He basically answered all the questions; Ken [Boston] referred everything to him. We went through everything with David [Gee]. He gave me some reassurance about the measures that were being taken to mitigate the loss of time and capacity, in particular the recruitment of marker panels, which seemed a reasonable way of dealing with the problem to me.”¹⁴¹

4.93 DCSF’s notes of the meeting between Jim Knight, Dr Ken Boston, and David Gee on 17 June 2008 support the Minister’s impression that NAA was confident that results would be delivered on 8 July and that contingencies were in place, for example marker panels, to fast track marking where necessary.¹⁴²

4.94 The Secretary of State, the Rt Hon Ed Balls MP has also described his role in questioning QCA in early June:

“From my point of view, if I have a meeting on the 2 June and I say ‘are the problems being addressed’, and I am told that they have been addressed and things are on track, then I don’t think it is appropriate for me to then ask officials here to go and second-guess that judgement. That was a judgement properly being taken by the experts with responsibility for that delivery.”¹⁴³

4.95 With reference to the interaction between DCSF officials and QCA leadership, the Secretary of State indicated that the advice DCSF were receiving from QCA was also reassuring:

"The thing which strikes me is that there was in fact a very regular senior management discussion happening in this Department and with the QCA/NAA about the preparation, management and delivery of the tests... the outcome of those meetings was, at all stages, reassuring about what was happening, until a certain point when things suddenly changed."

- 4.96 On reflection, the Secretary of State questioned the information he had been received from QCA:

"In retrospect, the fact that the advice changed in terms of the delivery risks so markedly between the beginning of June and the beginning of July, suggests to me that there wasn't the degree of scrutiny going on which I thought there was."

- 4.97 Throughout the delivery period, when risks arose outside the cycle of the project management meetings, DCSF have stated that QCA was able to proactively escalate risks or issues to ministers or senior DCSF officials. DCSF's Acting Schools Director General, Jon Coles described this:

"Generally speaking, we would expect that things would come up through the official process and feed into the ministerial meeting, but also and actually importantly, QCA are able to raise things directly with ministers... We try to make sure that although there is this sort of governance structure, it's not so rigid that we have a process which means it must be discussed by SMRG before it is discussed with ministers..."¹⁴⁴

- 4.98 It was in this way that on 26 June 2008, NAA's Managing Director escalated the issue of the late delivery results promptly to the DCSF Acting Schools Director-General and indicated that a further meeting with ETS on 30 June 2008 would be used to clarify the position. Following that meeting, the QCA Chief Executive and NAA Managing Director notified ministers and DCSF officials that the key stage 2 and key stage 3 test results across all three subjects would not be available by the original deadline of 8 July 2008.

Culture and communication

- 4.99 Project management and risk assessment relies on sound judgement and open communication within and between organisations. The Inquiry has sought to understand whether a culture existed within each organisation that fostered good project and risk management.

ETS

- 4.100 ETS was new to the UK and questions have been raised by QCA and Parliament concerning ETS's understanding of the UK testing system and operational context. For example, NAA's Managing Director David Gee raised his concern with the ETS Global BV CEO, Kurt Landgraf that:

"ETS underestimated the scale, complexity and politics of this contract."¹⁴⁵

- 4.101 ETS indicated to the Children, Schools and Families Select Committee that it lacked some cultural awareness, for example, of the historical difficulty in recruiting key stage 3 English markers.¹⁴⁶
- 4.102 The evidence suggests that ETS did not have sure-footing and that its staff turnover was rapid, often with new staff arriving from outside the UK, resulting in poor knowledge transfer. This may have impacted on its ability to effectively manage and minimise risks inherent in its end-to-end process.
- 4.103 It is also unclear whether ETS acted on feedback from markers and schools that arose outside of its specific pilots. In May 2008, ETS posted a note on the TES web forum. This suggests it was familiar with the channels being used by markers. However, it is also the case that ETS did not, or was unable to, respond promptly to thousands of emails from markers. This suggests both a failure to gather soft intelligence effectively, which would have informed its risk assessment, and a failure to project plan its resources effectively, to provide a good customer service to markers.

QCA

- 4.104 The Inquiry has noted that within QCA there was a strong emphasis on NAA's responsibility for delivery of the tests. QCA's Chief Executive told the Inquiry that when NAA was originally launched in 2004, it was anticipated that it might be spun off as a subsidiary company.¹⁴⁷ Whilst this did not happen, the governance arrangements for National Curriculum test delivery indicate that NAA held a significant level of responsibility: it led the Programme Board, managed the ETS contract, communicated publicly about the tests, and took judgements about what to report to the QCA Executive and Board.
- 4.105 The Inquiry believes that the degree of oversight taken by the QCA Executive and Board reflects ambiguity around NAA's status. QCA Chief Executive has indicated that he held the NAA Managing Director accountable for deciding which risks should be escalated to QCA's Executive. QCA's Chief Executive Dr Ken Boston told the Inquiry he had challenged NAA:
- "Why wasn't this brought to the Board or to the Executive in April? The answer I get, and I believe it is an honest answer, is we were managing it and that is our job, that is what the NAA does. The risk was there but we were achieving mitigation. Huge backlog of emails: don't rush off to the Board with a red risk, fix it."*¹⁴⁸
- 4.106 To their credit, the Inquiry has seen ample evidence that NAA personnel were working tirelessly, including overnight and weekends, to attempt to resolve the operational issues that had arisen. Nonetheless, it remains the case that neither NAA senior personnel, the QCA Executive, or QCA Board appear to have assessed the mounting risks appropriately despite this level of activity.

DCSF

4.107 Within DCSF there was a well established project and risk management process, which went from the policy team level up to ministers. Senior officials were fluent with project and risk management and ministers were actively supportive and engaged in its use. The Secretary of State has described reviewing the Departmental Risk Committee's 'High Level Risk Register' personally and seeking to ensure that risks were being managed. His view was that this was commensurate with the fact that accountability ultimately rests with the Department.¹⁴⁹

4.108 The Inquiry has sought to understand the relationship between DCSF and QCA, and to understand why DCSF did not probe the reassurances it was given about the tests further. DCSF's response has been clear that while it sought information from QCA, it was not DCSF's role to triangulate or double-check the information that it received. The Permanent Secretary, David Bell, has described this:

"I do not believe it would have been appropriate for officials to change the balance of the Department's relationship with QCA as a trusted delivery partner, by frequently revisiting and challenging their judgements about the likelihood of risks to delivery. The Department has established QCA, given it resources to deliver, and sought to trust it to do so. Against that background, it would not have been appropriate to resource a function within the Department with the expertise and capacity to second-guess QCA's judgements about risks to delivery."¹⁵⁰

4.109 The Schools Minister, the Rt Hon Jim Knight MP has commented on what happened in July 2008:

"That is when the whole business of the relationship between us and QCA, NAA and then the contractor started to come sharply into focus, because clearly we were asking for things from QCA that we then were not getting. You then had to decide whether or not to forgive the QCA because it was actually the contractor's fault, or whether it was a problem with the QCA. In the end, I had to take the view that our relationship was with QCA, it wasn't with the contractor. It was up to QCA to come up with the answers and solutions to the problems. How they did it was up to them, they just had to deliver. And frankly, they weren't."¹⁵¹

Analysis and findings

4.110 The Inquiry has observed the following main findings in relation to project and risk management.

ETS's project management was not fit-for-purpose

4.111 The Inquiry has not received documentary evidence from ETS but it did receive a letter from ETS Senior Vice President Dr Philip Tabbiner in which he agreed that ETS's management of the project was not effective.¹⁵²

Planning

4.112 The Inquiry has found that while ETS used professional project management tools, it did not utilise these effectively to share information with NAA.

4.113 The Inquiry would have expected ETS to produce a 'live' operational project plan that could be reviewed regularly with NAA. The fact that an end-to-end operational plan had to be specifically commissioned and evaluated at the NCT Programme Board in December 2007, supports NAA's view that it was receiving unsatisfactory project management information from ETS.

4.114 ETS developed its test delivery model building on processes used in other countries. Its development process included the involvement of subcontractors such as Accenture. The Inquiry's assessment is that ETS took existing systems as its starting point for planning purposes. While it was an advantage that ETS could introduce systems that had already been used successfully elsewhere, these should have been properly tailored and integrated into an end-to-end solution that would meet the requirements of its customer in the UK context.

4.115 ETS systems tests focused on the phased release of different components or 'products' and it did not conduct an end-to-end test of its system. It is also evident that ETS failed to anticipate and assess risks to do with the behaviour of schools and markers, despite this being flagged during procurement as an issue to be addressed.

Interdependencies and critical path

4.116 ETS appears not to have properly identified the dependencies between each of the individual components of its overall system. Piloting did not study the interfaces between different components adequately. For example, the logistics pilot conducted in spring 2008 was too narrow in scope and small-scale to expose some of the issues that would later arise during the delivery period. This indicates that ETS would not have been able to provide meaningful evidence to NAA that its end-to-end delivery system would work ahead of 1.2 million pupils taking their National Curriculum tests in May 2008.

- 4.117 Further evidence that ETS did not understand the 'critical path' for the project became clear after the tests were taken. ETS failed to assess accurately the impact that early problems with components of its system such as the marker allocations software would have on the overall timetable.
- 4.118 In evidence to the Children, Schools and Families Select Committee in September 2008, ETS stated that it had been conscious that the accumulated problems could result in a delay of several months, but that it thought this would be mitigated by adding resources to the project.¹⁵³
- 4.119 However, the Inquiry has seen no evidence to suggest that ETS communicated an assessment of the potential of such a delay to NAA until late June 2008. Indeed, ETS President Kurt Landgraf, asserted on a number of occasions that ETS believed the project was on track, including as late as 3 July 2008 in an email to the NAA Managing Director:

"FYI so you have the data and the % numbers are higher than I told you yesterday THEY WILL be better everyday till the marking is input through the systems I think we are going to complete".¹⁵⁴

ETS failed to identify and assess risks accurately and failed to report risks to NAA transparently

- 4.120 The Inquiry has not received documentary evidence from ETS, but it is possible to infer from the meeting documents supplied to the Inquiry by QCA, that ETS's risk management and escalation was ineffective.
- 4.121 ETS did not identify or report risks early enough to NAA. Indeed, often it appeared that 'risks' presented by ETS to the NCT Programme Board actually represented live issues that they were seeking to resolve. This could be characterised as a 'fire alarm' approach to risk management – raising the alarm when things went wrong – rather than taking a preventative approach.
- 4.122 The Inquiry considered the reasons for this failure and identified two possibilities: ETS either failed to identify and assess risks accurately, or failed to notify NAA of these risks. It is the Inquiry's assessment, based on the information available, that ETS both failed to make proper risk assessments and withheld relevant information from NAA about risks.
- 4.123 During the procurement process, ETS stated that it had strengths in project management. The Inquiry has not seen evidence to support this claim. It is clear that ETS held project information but it is not clear that they used this information effectively to identify and mitigate risks. For example, once it became apparent that the marking period had started at least two weeks late, the risk that the results would be late should have been identified immediately. If it had been,

the Inquiry believes that contingency plans could have been discussed and developed with its partners and implemented sooner and more effectively.

4.124 There are also a number of pieces of evidence that suggest ETS failed to disclose risks transparently to NAA, thus limiting the opportunities to mitigate them:

- ETS only admitted on 26 June 2008 that it would not have all test results available by the 8 July deadline, following a reminder from NAA that it had a contractual 'duty to warn' if it was likely to miss a delivery milestone;
- the management information provided to NAA by ETS to support its claims on marking progress did not contain sufficient information to tell whether marking would be completed on time;
- a backlog of several thousand unanswered emails from markers to ETS was discovered by NAA personnel in May 2008¹⁵⁵; and
- despite assurances from ETS that it had audited its warehouse, when Ofqual visited in July 2008, it discovered 453 parcels containing unmarked scripts. In a letter to the Head of Profession for Statistics at DCSF, the acting Chief Executive of Ofqual Isabel Nisbet stated:

*"Our best rough estimate of the number of pupils with unmarked scripts in Dewsbury parcels is 16,000. That needs to be added to the 4,000 or so with papers still unmarked in Watford. . . The position regarding unmarked scripts seems to be changing hour by hour and does detract from confidence in the figures for marked scripts which we have both been given."*¹⁵⁶

QCA had project and risk management systems in place, but did not use these effectively to support and challenge ETS and inform decision-making

QCA's internal project and risk management

4.125 The Inquiry believes that, for the most part, QCA had the requisite processes and capacity to enable effective project and risk management of the National Curriculum tests. However, in practice the Inquiry has found that QCA did not give sufficient regard to the importance of project and risk management, demonstrated poor risk assessment and a lack of corporate oversight.

4.126 At an operational level, the Inquiry does not believe that NAA used project and risk management effectively as a tool to support and challenge ETS robustly. There is evidence that NAA reviewed project documentation and identified and assessed risks in 'operational checkpoint' meetings with ETS, intend management meetings and NCT Programme Board. However, the evidence suggests that NAA did not take a sufficiently critical stance and failed to hold ETS accountable for developing and implementing mitigation activities and contingency plans, to secure the test delivery cycle.

4.127 For example, it is indicative that NAA identified the need for end-to-end testing of ETS systems, and that this had been part of the original plan. However, NAA was “disappointed”, when the timetable slipped such that the end-to-end system test was not ultimately conducted. Since the test delivery failure, QCA’s Chief Executive Dr Ken Boston has reflected:

“In January 2008 [ETS] failure to do [conduct an end-to-end test] was reflected in an amber/red risk on the NAA risk register. The final phase of ETS system development was due to be completed in February, but was put back to May. By April there had still not been a full system test. At that point, ETS declined to conduct the test, claiming that it might jeopardise the live test environment. NAA accepted this. In retrospect it is clear that, since February at least, this should have been regarded as a red risk requiring escalation to the Executive, and to the Board.”¹⁵⁷

4.128 Similarly, there are numerous examples in the Delivery chapter of this report where problems that arose in ETS systems posed a severe threat to the timing of test results, but neither ETS or NAA identified this risk until late in June 2008.

4.129 The Inquiry has therefore concluded that NAA failed to identify and address shortcomings in the project management and management information provided by ETS.

4.130 The Inquiry also observes that QCA’s Executive did not take an active and corporate approach to the management of risk. QCA’s Executive had sight of amber/red risks escalated by NAA. However, there were few risks raised at this level, and these were consistently ‘amber’.

4.131 As the risk descriptions presented to QCA’s Executive remained unchanged for several months at a time, the Inquiry has concluded that QCA’s Chief Executive and other executive members did little to generate solutions to mitigate the amber risks identified by NAA. The Inquiry believes that NAA’s Managing Director would have been best placed to draw to the attention of QCA’s Executive and Board the ‘red’ test delivery risks but did not take the opportunity to do so.

4.132 As a result, risks were also not escalated effectively from QCA’s Executive to the Board. That Board members were not aware of the mounting risks to delivery prior to the delivery failure in July 2008, is indicative that QCA’s risk management process was not working effectively. QCA’s Chair, Sir Anthony Greener has reflected on this in relation to the information presented at QCA’s Board meetings in April and May 2008:

“I certainly feel that May 21 did not work. I think going back to our April board meeting, you could question that. I do come back to this point that the executive of QCA should collectively be saying, ‘There is something going on here, we think we had better tell the Board about it.’”¹⁵⁸

- 4.133 QCA's Chief Executive has reflected on the can-do attitude within NAA to explain this lack of communication: "don't go running to the board with a red risk, deal with it".¹⁵⁹
- 4.134 Notwithstanding this lack of escalation, QCA's Board did have sight of a strategic risk register from May 2007 to June 2008 which included the risk that National Curriculum tests would not be delivered on time. There is no evidence that they critically assessed or attempted to mitigate this risk, as its rating and description remained unchanged throughout this time. On this basis, the Inquiry does not believe that QCA's Board took a sufficiently proactive and critical stance in managing the strategic risk posed to the organisation.
- 4.135 The Inquiry has sought to understand the reasons why risks were not escalated and managed effectively, and would highlight the status given to NAA within QCA as the key factor. The QCA Board and Executive relied heavily on NAA's judgement and did not seek additional information. The broader risk management approach of the QCA was an additional factor, as it is clear that documentation was not reviewed in detail and that risk assessment was considered to be relative. The Inquiry was told that though National Curriculum tests were 'red' at NAA's level, they would nonetheless be rated 'amber' at QCA's Executive level in the context of other priorities, such as relocation of the organisation. The protocol for escalating red risks to the Board meant they were therefore unsighted on the mounting test delivery risks.

QCA's escalation of risk to DCSF

- 4.136 QCA held responsibility for escalating risks to DCSF through the various forums and reporting mechanisms available. DCSF officials also observed NAA meetings and were able to escalate any risks they identified to senior colleagues within DCSF and to ministers. DCSF Permanent Secretary David Bell described:
- "I agree with QCA's assessment that they could have expected that any issues reported to the Department would be shared within the Department as appropriate."*¹⁶⁰
- 4.137 In practice what happened in 2008 was that DCSF observers escalated their own assessment of risks to the DCSF ministers on a number of occasions. On this basis, ministers usually pressed QCA's Chief Executive for answers. At this point, because information was not being escalated within QCA effectively, ministers were given strong reassurances, by QCA that all was on track. As late as 17 June when the Schools Minister met QCA's Chief Executive and NAA's Managing Director, they provided reassurances.

4.138 It was only at the end of June that QCA alerted DCSF officials and ministers directly that there was a serious risk to the delivery date of 8 July. The Schools Minister, the Rt Hon Jim Knight MP requested an urgent meeting to discuss the matter. His recollection of the meeting was:

“the true scale of the problem became clear... I was questioning them about each one individually, for example, when is Key Stage 3 English Reading going to be ready? And it was only by asking systematically those sorts of questions that I got the answer.”¹⁶¹

4.139 The Inquiry believes that this was unacceptably late notice and that QCA had access to information that should have enabled it to make more accurate assessment of this risk, and escalate it directly to DCSF much earlier.

DCSF had good project and risk management processes, but officials may not have challenged QCA sufficiently on its project and risk management

4.140 DCSF had good project and risk management processes in place, which provided thorough coverage across the Department’s business. This meant that risks related to National Curriculum tests could have been identified at a number of levels, from its monitoring at a policy team level up to the Departmental Risk Committee.

4.141 The Inquiry’s view is that the Assessment Board was a particularly useful forum and one that clearly had sway with NAA, as the status reports presented to it were detailed and up-to-date. The Inquiry has reviewed the minutes of DCSF’s Assessment Board and taken evidence from its Chair who has described the meetings as regularly “asking the hard question, working out a very specific answer” and provided examples of actions that stemmed from this.¹⁶²

4.142 DCSF also had well-tested escalation mechanisms, such as a clear process for updating SMRG and briefing ministers on urgent issues.

4.143 However, the Inquiry has found that DCSF officials did not use all the sources of information available to interrogate the reassurances they were receiving. DCSF observers saw QCA’s internal project and risk management documentation at the NCT Programme Board, QCA Audit Committee and QCA Board.

4.144 While this should not have drawn responsibility away from QCA for its project and risk management, the Inquiry believes that there were a number of occasions when officials observing those meetings would have been in the position to identify constraints or issues that could affect test delivery. For example, DCSF observers would have had the opportunity to challenge QCA around interdependencies that had not been recognised in NAA’s project plans, the impact of certain decisions on the delivery timetable, and the lack of active consideration given to the strategic risk on the QCA Board’s risk register regarding the National Curriculum tests.

- 4.145 DCSF data analysts raised a number of questions around the provision of data and the quality of management information, but these concerns were in part relayed through policy colleagues. Ultimately, they did not have enough impact. There was no improvement in the quality of NAA's datafeeds or management information, and the risk assessments made by DCSF and NAA did not change to reflect these concerns sufficiently.
- 4.146 The Inquiry therefore believes that feedback from DCSF to QCA, particularly in the course of meetings they observed, could have been more challenging in the critical period leading up to the test delivery in the summer. By contrast, more constructive challenge and support was provided when the delivery failure became apparent from the end of June, with the full and coordinated engagement of senior officials and data analysts overseeing the recovery process.

Recommendations

The contract manager should be robust in holding the supplier to account for the quality of its project and risk management

- 4.147 A baseline plan should be agreed at the outset of each test cycle to enable the QCA to manage its supplier's performance, including its production of subsequent operational project plans.
- 4.148 The contract manager should monitor performance against this baseline plan and operational project plans, including regular reviews at the NCT Programme Board or appropriate forum.
- 4.149 The contract manager should ensure that QCA can have access to any detailed operational plans held by its supplier.
- 4.150 Expert advice should be sought to inform programme and risk management where necessary.

QCA should review its capability and approach to risk management

- 4.151 QCA's risk ratings system should be revisited to ensure that it is adequate and understood by all divisions; risk ratings should not be downgraded at a corporate level simply to reflect prioritisation of other risks.
- 4.152 Assessment of risks and decisions about mitigation and contingency plans should be actively considered at all levels of the organisation's programme management structure, including QCA's Executive and Board.
- 4.153 Escalation procedures should be reviewed to ensure there is sufficient oversight of those risks that could have a significant impact on QCA's strategic objectives.

At the outset of each test cycle, all the stakeholders represented on the NCT Programme Board should agree how their project management architecture interfaces, and should adopt a common language for assessing risks

A comprehensive record of dependencies should be maintained and regularly reviewed by the contract manager so that different activities can be co-ordinated

Delivery of the National Curriculum Tests

Introduction

- 5.1 The delivery of tests in 2008 was fraught with problems, many of which resulted from the project, risk, stakeholder, and contract management issues described in previous chapters.
- 5.2 This chapter will explain the full delivery process in detail, provide an analysis of the problems that arose, and make recommendations to improve test delivery in future years.

Evidence

Policy background to the 2008 test cycle

- 5.3 The Department for Children, Schools and Families (DCSF) and its predecessor department played a key role in setting the policy framework for the National Curriculum tests in 2008. While many of the core elements remained the same as previous years, there were additional and new requirements.
- 5.4 In setting the Qualifications and Curriculum Authority (QCA)'s remit for the 2008 National Curriculum tests, DCSF specified that quality improvements and smooth delivery were required. These priorities reflected a decision taken in 2004 by then Secretary of State for Education and Skills the Rt Hon Ruth Kelly MP to introduce better quality assurance procedures in place of the process of 'borderlining' marginal papers. This decision followed advice from the QCA Chairman, Sir Anthony Greener, in December 2004:

"In previous years, and in all Key Stage tests, marked papers have been 'borderlined'. In KS3 English, borderlining means that Reading and Writing scripts for students up to three marks below a level (or 'grade') in English as a whole are looked at again to see whether they have been penalised unfairly. The purpose is sound: to ensure that no pupil deserving of a particular level has been denied it by aberrant marking. However there are other and better ways of assuring marking quality.

*The QCA Board discussed the issue of borderlining at its meeting on 14 December 2004. It recommends that borderlining should be replaced by other measures to ensure the reliability and validity of marking."*¹⁶³

- 5.5 To deliver these quality improvements, during procurement for a new test operations supplier, QCA invited bidders to propose innovations. The aim of these innovations would be to deliver quality improvements to the current process and meet other priorities, such as reducing burdens on schools.
- 5.6 ETS Europe (ETS) proposed a number of innovative elements that could be trialled for introduction between 2008-12. These were:
- Central distribution model (warehouse and tracking system to manage movement of scripts to and from schools and markers)
 - Onscreen marking
 - Online mark capture (submitting individual question marks online)
 - Online training of markers
 - Online standardisation (a quality assessment of markers' ability to apply the mark scheme fairly)
 - Online benchmarking (as standardisation, but completed regularly during the marking process to ensure consistent quality of marking)
 - Online attendance register
 - Development of data systems to process and present results online to schools
- 5.7 When ETS won the contract, a number of these elements were due to be piloted. The main quality improvement measure was online benchmarking which, following piloting, was introduced. The aim of benchmarking was to ensure that markers were marking at a consistently high standard throughout the process.
- 5.8 Onscreen marking was one of ETS's original proposals that was not piloted or introduced. It would not have been an option for 2008 given the lead-in time, but could have been piloted for use in subsequent years of the contract. However, a presentation was made by ETS to the National Assessment Agency (NAA)'s Innovations Board on 6 December 2007, which included representatives from DCSF and the Regulator. A note following the meeting recorded the decision that was made:
- "Following the demonstration from ETS colleagues at the last innovations board, a decision has been made to put any move to live on-screen marking on hold until further clarity is gained on the future of NC tests and [Single Level Tests]."*¹⁶⁴
- 5.9 Another policy requirement that had been requested by DCSF was for question-level results data in mathematics and science, and item-level data in English. This was intended to help schools by providing more detailed information about their pupils' performance, as a DCSF official from Data Services Group has described:

*"If you imagine an exam paper with ten questions, if question 1 is split into question 1A and 1B, or 1A part 1 and 1A part 2, question 1 as a whole is a question, and each of the bits within it are an item. So an item is the lowest point you can go to within a paper and a question. Because of the way the tests are designed, items within questions have particular assessment focuses within the curriculum; so within maths, you can identify exactly which items are algebra and so if you want to work out how well you are teaching algebra you need the item-level data. For the vast majority of papers, there is hardly any difference because there aren't many sub-questions. But because of the extra value, we have to link it back to the assessment focuses. The Department's desire was to get item-level rather than question-level, but question-level was in the base contract."*¹⁶⁵

5.10 The 'online mark capture' innovation proposed by ETS was designed to meet this requirement, without needing the whole system to move to onscreen marking. It was therefore taken forward to pilot stage and subsequently introduced. This innovation required manual marking of tests by markers, who would then upload pupil results for each question individually.

5.11 QCA has said in retrospect that onscreen marking would have been a much better way to record such detailed information and would have provided other benefits:

*"[Onscreen marking] is not only more accurate and reliable than manual marking, but faster. While not all types of examination are suited to onscreen marking, it is now a proven and common approach."*¹⁶⁶

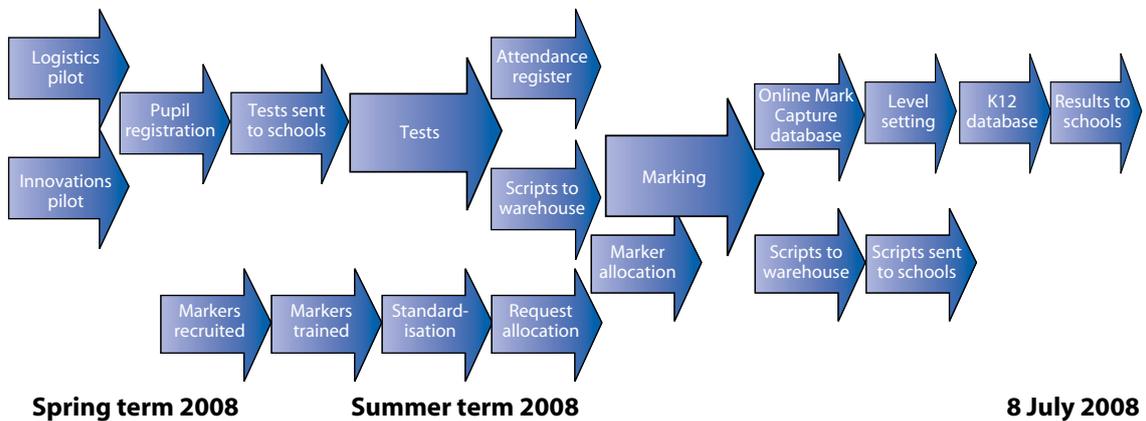
5.12 Despite this change and the introduction of a new supplier, QCA has submitted to the Inquiry that in its view, the fundamentals of test delivery remained unchanged in 2008:

*"The delivery and marking of National Curriculum tests has not changed in any significant way for more than a decade. Over nine million test papers move around the country in vans. Each marker marks the full set of scripts for each school. Marker consistency in 2008 was checked by performance against standardised scripts at up to five stages during six weeks of marking; in earlier years this was done by markers submitting self-selected scripts for scrutiny. The only development of any importance in test delivery in the past decade has been increased security: script bundles are now bar-coded and receipted, not left on doorsteps and post office counters."*¹⁶⁷

Overview of the 2008 test delivery process

5.13 This diagram sets out the test delivery stages. The following pages will describe each of those stages and the problems that arose.

Process for delivery of the National Curriculum tests in 2008



Innovations pilot

5.14 ETS was required to pilot four major innovations that it proposed to use for the 2008 test cycle:

- online mark capture;
- online training;
- online standardisation; and
- online benchmarking.

5.15 The pilot was due to run from October to December 2007 but was suspended by ETS in October. NAA informed the Regulator, which was due to observe the pilot, that this was because markers were experiencing problems accessing the online training tools.¹⁶⁸ NAA indicated that this could delay delivery of the final pilot evaluation report originally due in December 2007.

5.16 The pilot recommenced a few weeks later and ETS presented its conclusions to NAA on 1 February 2008. The NAA Managing Director was dissatisfied with the presentation made by ETS, as he explained in a letter to ETS Vice President Andrew Latham:

*"I would like to put on record my disappointment with your poor management of the pilot. ETS should have produced a concise, meaningful report that provided the information required for drawing conclusions and making recommendations. Instead I, along with my senior NAA colleagues, had to invest considerable time in evaluating the available data, drawing conclusions and developing appropriate materials for briefing the Regulator and Department."*¹⁶⁹

- 5.17 NAA made its own interim and final presentations to the Regulator on 7 and 19 February 2008, entitled 'NAA Evaluation of ETS Marking Pilot'. This presentation summarised the anticipated benefits of the innovations, the approach that had been taken during the pilot, and its outcomes.
- 5.18 NAA agreed on the basis of the pilot evidence to proceed with online mark capture, online standardisation, and online benchmarking. This decision was endorsed by the Regulator.
- 5.19 However, evidence from the pilot suggested that markers were not satisfied with the online training developed by ETS. In its initial survey of markers trained online during the pilot, 31.8% were satisfied or neutral.¹⁷⁰
- 5.20 On this basis, NAA, in agreement with the Regulator, asked ETS to offer both face-to-face and online training. ETS Vice President Andrew Latham explained to the Children, Schools and Families Select Committee that ETS found this unworkable:
- "The original plan was for the new inexperienced markers to attend face-to-face training, while the experienced markers in maths and science would be trained online. What happened was that the NAA asked us in March to make it optional and allow everyone to decide whether to do face-to-face or online training. We said that that could not be done, because it would double the cost and double the risk. We said that matters had to be decided one way or the other. The decision was to go with face-to-face training."*¹⁷¹
- 5.21 After further contractual discussions, it was decided to proceed with face-to-face training. As a result of delay to the pilot and in decision-making, there was a shorter window for ETS to implement its contingency plan to source additional training venues, and staff for face-to-face training.
- 5.22 DCSF was informed of the outcomes of the pilot formally by the QCA Chief Executive on 27 March 2008.

Marker training

- 5.23 The administration and delivery of marker training was the responsibility of ETS. Training meetings were arranged at venues around the country in May 2008. To accommodate all the markers, some of the sessions were arranged at the last minute. The Office of the Qualifications and Examinations Regulator (Ofqual)

arranged to observe a number of these sessions to check that the training was of a high standard.

- 5.24 Markers and Ofqual identified a number of problems with the administration of the training. For many markers, there was short notice of training sessions or changes to the venue/timing, which did not take account of their professional and personal lives. One Marking Programme Leader described:

*"... the basic arrangements for the meetings made by ETS were a shambles! The night before meeting 6, I had to contact 3 Team Leaders to tell them to go to Birmingham, not London for which they had made travel arrangements."*¹⁷²

- 5.25 Markers have reported that ETS staff at some training sessions were 'facilitators' who were unable to answer questions:

*"The training for Senior Markers provided by an ETS employee was less than helpful as all he did was to read his PowerPoint slides and could not even answer basic questions."*¹⁷³

*"The ETS representative was a temp who did not even know who ETS were"*¹⁷⁴

- 5.26 Sessions included little or no training in how to use the new online systems, as Ofqual recorded:

*"Marker unfamiliarity with the new script verification, standardisation, benchmarking and online mark capture (OMC) systems perhaps provide the greatest risk to the 2008 marking programme. The test operations agency has not, in most markers' opinion, provided adequate training to use these new tools. Markers may have benefited from a familiarisation exercise using a dummy site."*¹⁷⁵

- 5.27 Markers also explained that their training had less benefit because of the time that elapsed between training and marking, due to the delay in allocating scripts to markers:

*"We were trained on the 17 May, but I did not receive any scripts to mark until 12 June."*¹⁷⁶

Marker standardisation

- 5.28 Following the marker training, markers were required to complete online 'standardisation' to check their ability to apply the mark scheme fairly. In previous years, this had been completed on paper.

- 5.29 Problems arose for some markers at this stage as the parameters for passing or failing were initially set wrongly by ETS.¹⁷⁷ This issue was rectified quickly, but some markers had been incorrectly notified that they had failed.

- 5.30 ETS gave evidence to the Children, Schools and Families Select Committee that around 4% of markers failed standardisation or benchmarking.¹⁷⁸ NAA had

identified high marker attrition as a risk, but was content that marking panels convened by ETS would be sufficient to make up any shortfall.¹⁷⁹

Logistics pilot

5.31 In parallel with the innovations pilot, ETS, working with Accenture, prepared a plan for a logistics pilot. The pilot was small-scale with 25 schools participating. The plan stated that it would cover 'Internal Operations Testing' and 'External Concept Testing' as follows:

'Objective of the internal operations testing is to confirm operating parameters and functionality. The areas of focus include productivity rate confirmation, system functionality, operations process review and operations work station layout and design...

*Objective of the external concept testing is to test the solution by involving the key stakeholders in their real operating environment. Participants of the test include selected schools and ETS employees.'*¹⁸⁰

5.32 In practice, the external part of the plan focused on the distribution of materials to and from schools, including packaging of scripts by schools. It did not test the full process or the impact of problems that could arise, such as if schools packaged the scripts incorrectly. It also does not appear that any of the management information reports were tested during the logistics pilot to assess their suitability.

5.33 The conclusions of the pilot were presented by ETS on 15 February 2008. The presentation showed that delivery and collections had been broadly successful; that 24% of schools had called the helpdesk; and that 97%-98% of schools had used the packaging and labels correctly.¹⁸¹

5.34 The Inquiry has noted that ETS Senior Vice President Dr Philip Tabbiner, informed the Children, Schools and Families Select Committee that it had sought to do a larger scale logistics pilot:

*"We desired to do it and were refused the opportunity".*¹⁸²

5.35 No evidence has been seen by the Inquiry to support this assertion. QCA has indicated that ETS determined the scale of the pilot, following provision of 150 schools' contact details by NAA.¹⁸³

Pupil registration

5.36 Registration is the basis for knowing which children are eligible to take the National Curriculum tests at each school.

5.37 School census data was collected by DCSF and passed to NAA, as the basis for registration. Under the terms of its contract, ETS was responsible for developing a system that would enable these data to be amended or updated by schools.¹⁸⁴

This would be done via the Test Orders website owned by NAA but developed by ETS.

- 5.38 At the National Curriculum test (NCT) Programme Board meeting on 30 August 2007, ETS raised an issue about delay to the pupil registration process:

*"In 2008 the functionality for schools to register pupils will be available in December rather September."*¹⁸⁵

- 5.39 This was not judged to have a significant impact. However, when the registration process went live, some schools found the Test Orders website difficult to navigate. NAA Programme Director David Barrett has described this:

*"We got some feedback from schools to say that the pupil registration process was a problem to them... Schools were breaking up for Easter and saying that they were struggling to get it finished and the reason why was that the system required each pupil to be dealt with individually, which was not picked up in the testing. For a key stage 3 school, with maybe two hundred and fifty or three hundred pupils, it was just a time consuming process. It was probably unnecessarily time consuming. Our mitigation was to say you can actually get away with not doing this now, as long as you do it via your attendance register."*¹⁸⁶

- 5.40 In addition, some schools reported problems with access to the Test Orders website. One Headteacher described their experience:

*"We had trouble accessing the website to register pupils because it either refused access or crashed during use."*¹⁸⁷

Distribution of test materials to schools

- 5.41 ETS used a subcontractor, UPS, to manage the distribution process. The first major distribution activity was delivering test papers, guidelines and other stationery materials to schools ahead of the tests.

- 5.42 The number of scripts sent to schools by ETS reflected the number of pupils registered as eligible to take the tests. Packaging materials and instructions were enclosed for re-packaging of scripts following the tests.

Completion of tests

- 5.43 The guidance for administration of the tests was set out in the 'Assessment and Reporting Arrangements' document, which was specific to the 2008 process.
- 5.44 Headteachers, teachers and exams officers administered the tests as in previous years, and did so to the same high standard. This ensured that the experience of pupils sitting the tests was satisfactory.

- 5.45 Following the tests, there were two additional steps that schools needed to take: submission of an online attendance register, and returning the scripts to ETS's warehouse for distribution to markers.

Online attendance register

- 5.46 On the day of each test, schools would record which pupils attended and took the test, known as 'assessing' pupils. In previous years, a paper copy of the attendance register was included with test scripts. In 2008, schools were required to submit attendance registers online for the first time.

- 5.47 As in any normal year, in most schools some eligible pupils were 'non-assessing' for various reasons, such as being absent on the day of the test, or working below the level of the test. ETS was contractually required to provide 'a mechanism for registering pupil attendance and recording absence' so that they would know which pupils sat the tests and could return their results to them.¹⁸⁸

- 5.48 In practice, QCA has confirmed that "over 10% of schools did not complete the Online Attendance Register, and many only partially completed the register."¹⁸⁹

- 5.49 Some explanation for this was provided by NAA to DCSF on 14 May 2008:

*"There have been initial difficulties with the process, many schools mislaid their PIN numbers required to gain access. A second issue was that the web system did not clearly confirm to the user that the data submitted had been safely received. This caused anxiety with some users who called the helpdesk for reassurance. This issue has been resolved."*¹⁹⁰

- 5.50 However, it is clear that the impact of over 10% of schools not completing the attendance register was very significant. NAA Programme Director David Barrett has described the impact that this had on the marking process:

*"What we didn't realise, after the event really, is that the systems were configured in such a way that if the attendance register was not completed, the marker could not put in a mark for that pupil. That was one of the huge causes of frustration for markers, that they had their scripts, they got on with the marking, they came to put their data into the system – which we had seen demonstrated and worked perfectly well – but because the attendance register was not completed, it prevented them from putting that data in."*¹⁹¹

- 5.51 He went on to describe how NAA and ETS attempted to resolve this problem by altering the attendance records:

"ETS put a fix in place to deal with that, [by defaulting] pupils to 'present' to enable marks to be put in, with the view that they would then go back and check on the absence records, but we are still doing that to this day."

- 5.52 As a result of this 'fix', another major problem arose. The ETS system had effectively been told that all pupils were 'present' so it expected markers to be holding scripts for them, even if the pupils had actually been absent.
- 5.53 There was a process for markers to notify ETS of 'exceptional' cases where pupil records did not match the scripts. However, this required markers to call the ETS helpdesk and for ETS personnel to review the pupil files. ETS would then check whether the registration record was wrong or whether the scripts had genuinely gone missing (e.g. if they had been put in the wrong package by the school). This was a time-consuming process. ETS's helpdesk resources proved inadequate to reconcile all the exceptional cases that had been created by the alteration made to the attendance data.
- 5.54 The impact of the decision to alter the attendance data and its implementation was critical. In many cases, marking stalled. Even when markers could proceed, at every stage of the process, further problems arose as ETS had effectively lost visibility of which pupils took the tests and where their scripts were.
- 5.55 Of its own role, QCA has stated:
- "It is fair to say that at the time the NAA did not anticipate that ETS systems would be so severely impacted in later processes by incomplete and inaccurate completion of the [Online Attendance Register]."*¹⁹²

Distribution of scripts from schools to ETS

- 5.56 The process for return of scripts from schools to the ETS warehouse was set out in the stationery materials that were sent to schools. This included instructions printed on the plastic script envelopes and shipping bags provided to schools for re-packaging scripts to send them back to the ETS warehouse.
- 5.57 Feedback from schools suggests that the instructions were not as clear as they could have been:
- "There was confusing information relating to how the completed scripts were to be packed for submission to ETS."*¹⁹³
- 5.58 Markers have also reported finding scripts from different subjects in the same script packages, which confirms that some schools did not follow the instructions correctly. As there was no visual inspection of packages conducted by ETS at its warehouse, this only became apparent when the packages reached markers who contacted the helpdesk. The process was designed in this way despite concerns being raised during procurement by DCSF officials:
- "There is an over-reliance on perfect school/marker behaviour, without any discussion of contingency/fallback systems for when instructions are not followed."*¹⁹⁴

5.59 There were also delays in collecting scripts from some schools. Two weeks after the key stage 3 tests had been completed, on 21 May 2008, the NAA Programme Director David Barrett wrote to ETS stating:

*"I need to reiterate NAA's expectation articulated at this morning's operational meeting, regarding script movement in and out of the [Central Distribution Centre] in Dewsbury. All KS2 and KS3 scripts will be collected from schools by this Friday 23 May. The risk of not completing this is that most schools will be on half term next week."*¹⁹⁵

Allocation of scripts to markers

5.60 In order to start marking, it was necessary for scripts to be allocated to the appropriate marker and distributed to them from the ETS warehouse.

5.61 Two ETS IT systems had to work together successfully to enable each allocation: its warehouse distribution system and its 'K12' master system. In practice, the critical interface between these two systems did not work smoothly, as QCA has described:

*"In reality, the ETS K12 system failed to deliver sufficient orders to the warehouse, causing delays in allocating scripts to markers."*¹⁹⁶

5.62 NAA Programme Director David Barrett has indicated that this part of the process had not been tested prior to live running:

*"We had assurances, although it ran late, around February and March time... that the system had been checked by ETS. We did not test it. Arguably, I am not sure that we could have tested that but anyway we didn't."*¹⁹⁷

5.63 Following the concurrent problems with allocation software and attendance registers, the NAA Managing Director David Gee wrote to ETS on 14 May 2008 stressing his concern about the marking timetable:

*"I am very concerned about ETS's ability to keep the marking to schedule with KS3; we have lost a week nearly already with nothing marked."*¹⁹⁸

5.64 On 15 May 2008, NAA then instructed ETS to proceed with 'partial allocations' in order to get marking underway. This broke with the original contractual requirement which stated that ETS 'shall not split a physical batch of test scripts i.e. the test scripts from one cohort shall be sent to only one marker.'¹⁹⁹ This meant that many markers received only a proportion of the total number of scripts they were expecting.

5.65 By contrast, some markers received many more scripts than they were expecting to mark, due to a glitch in the allocation software. NAA Programme Director David Barrett has described this:

*"Once the marker was told contractually that they would receive for example 350 scripts, because of the way the allocation algorithm ran, and the fact that schools are different sizes, some markers got maybe 500 or 600 scripts more than they expected."*²⁰⁰

Distribution of scripts from ETS to markers

5.66 Following the allocation problems, there were logistical failures in getting scripts delivered to markers which caused additional delay.

5.67 By 19 May 2008, this problem was critical. The NAA Programme Director, David Barrett wrote to ETS regarding script movement out of the ETS warehouse in Dewsbury, stating that:

*"The NCT Programme cannot withstand failure to deliver all KS3 scripts immediately and all KS2 scripts by the Saturday of Bank Holiday weekend – start of half term for markers."*²⁰¹

5.68 Two days later, those dates were not on track to be met. The NAA Programme Director wrote again to ETS stating that: 'Failure to ship scripts to markers is now the biggest operational risk to the successful delivery of the programme' and revised NAA's requirements to include deliveries on Bank Holiday Sunday and Monday.²⁰² However, as indicated above, some schools had still not had their scripts collected by this time.

5.69 There was continued slippage in the allocation and distribution timetable. Despite this, and the lack of reliable management information, ETS and NAA did not at this stage believe a delay in the test results was inevitable.

5.70 From the markers' perspective, the delays caused frustration. As one marker described:

*"Despite several emails and telephone calls that I made, my first delivery of scripts arrived on June 18th. A further box of scripts arrived on June 23rd – initially the stated day for final return of scripts!"*²⁰³

5.71 In addition, some markers found the UPS delivery times and locations inconvenient, particularly as they would not deliver to markers' places of work during the day. This lack of flexibility compounded delay in getting scripts to some markers.

Marking

5.72 The marking community includes many experienced markers, most of whom are teachers or retired teachers. It is undoubtedly the case that the marking community did a professional job and public service to persevere with marking in the face of numerous challenges. As one marker submitted to the Inquiry:

*"The work of Marking Programme Leaders, Assistant Marking Programme Leaders, and Deputy Marking Programme Leaders was exemplary – they were supportive despite the problems with the system. Team leaders were heroically professional and made every effort to ensure that pupils work was accurately marked and that deadlines met. . . Markers who trained and were able to access the system followed procedures and made every effort to apply the mark scheme accurately and consistently."*²⁰⁴

5.73 Marking had got off to a bad start due to problems that occurred during the run-up with ETS systems. The impact of problems with the allocation system, the packaging of scripts by schools, and the online attendance register meant that many markers received script packages:

- later than expected, after the May bank holiday and half term;
- containing greater or fewer scripts than they had asked to receive;
- containing scripts for the wrong key stage or subject; and
- for which they could not verify receipt, due to inaccurate attendance registers, which delayed the start of their marking.²⁰⁵

5.74 Markers have reported to the Inquiry that ETS did not communicate sufficiently with them regarding these changes and that they were inconvenienced:

*"... we had been led to expect 450 scripts to mark, but I received only 187."*²⁰⁶

*"I received the scripts from a large junior school that were not part of my allocation but was told to mark them, and there were scripts from two small schools that never arrived, although the helpdesk told me they were on their way."*²⁰⁷

5.75 When markers did receive their scripts, the process for 2008 required that they manually mark scripts and then enter pupils' marks for each question into the 'online mark capture' (OMC) database. From this database, results would then be generated.

5.76 Markers reported finding this OMC system difficult to use and adding significant administrative burden:

"The program was very badly designed and would only respond to mouse scrolling and clicking. It was not possible to tab or use any of the other usual alternatives to speed the process."

*"Even if the pupil had scored 20/20, I still had to enter 20 clicks minimum. The more usual number of clicks per pupil was 25 as the response area was highly sensitive. Several thousand clicks later I have spent much longer than usual on the marking process."*²⁰⁸

5.77 Due to the delayed start to marking, NAA agreed that ETS should extend the marking period. NAA agreed to drop its requirement that ETS should send results letters to schools by 8 July as well as presenting their results online. NAA Managing Director David Gee set out this plan to ETS President, Kurt Landgraf, in an email on 12 June 2008:

“The original delivery plan would require the online mark capture database to be ‘closed’ by midnight 28 June at the latest. Based on performance to date and the marking progress data I receive on a daily basis, I have little confidence that ETS will deliver to these timelines or quality criteria. As such we have been proactive and worked hard to find a process change that allows ETS to be successful without disturbing significantly the delivery experience promised to schools. Following conversations with Andrew Latham, I have agreed that you can deliver electronic results and marked scripts by 8 July, with a hard copy results letter to be sent to each school as soon as possible after that date. I should make it clear that this does not constitute a contractual change. It is an operational decision which effectively extends the marking window by up to a week. . .”²⁰⁹

5.78 However, in practice, ETS stuck to its original deadlines for UPS to collect scripts back from markers at the end of June.²¹⁰ It is evident that ETS had not properly assessed the risk in doing this, despite NAA’s concerns. It is also unclear why NAA did not check that ETS was implementing the contingency plan it had devised.

5.79 There was insufficient management information (MI) available for NAA to assess the scale of the marking problems. The impact of the online attendance register and allocation problems had rendered it difficult to use the MI to distinguish between scripts that had genuinely not been marked, and those which appeared to be missing for other reasons. NAA Managing Director David Gee wrote to ETS on 23 June 2008 about this problem:

“We are finding it impossible to monitor marking progress with any confidence given the absence of any clear information about these ‘unmarked’ scripts. At this stage the status of ‘unmarked’ scripts could be:

- *Unmarked scripts at Central Distribution Centre*
- *Unmarked scripts at Central Marking Panels (CMP)*
- *Unmarked scripts with markers (who may or may not be intending to mark them)*
- *Scripts marked at CMP but marks not entered on OMC (known issue for KS3 English)*
- *Scripts marked but marks couldn’t be entered on OMC (ongoing script verification issues)*
- *Marker thinks they have submitted marks but actually has not*
- *Incorrect numbers of pupils who sat the tests (missing attendance register data)*

- Accuracy of data coming out of ETS systems
- Scripts unaccounted for in UPS system, possibly lost.”²¹¹

5.80 The impact of ETS sticking to its original deadline for script collection rather than extending the marking period became apparent at the end of June. It was around 20 June 2008 that NAA Managing Director David Gee has described that over a hundred thousand scripts came back from markers unmarked.²¹² He has commented that this was ‘unexpected’ as marking progress data had been reassuring until that point.²¹³

5.81 However, the Inquiry has received evidence from markers to suggest that there were numerous reasons why this outcome should have been anticipated. The whole verification of scripts, marking and data entry processes were blighted by problems with attendance data, and changes to markers’ allocations. Some of these problems were even documented in the ‘Times Educational Supplement’ and other media.

5.82 On top of this, many markers have commented on the insufficient advice and support from ETS. In some cases, even routine information was not made available to enable marking to progress. One specialist marker has described his experience:

“I asked about the systems for the marking of Braille in December 2007 and then again at the two meetings that I attended in February and March [2008] and no one seemed to be concerned. . . students with visual impairment do not ask for special treatment, only to be treated fairly like every other student. ETS failed when equal opportunity is considered.”²¹⁴

5.83 Other markers have reported that there were insufficient materials, resources and support available, particularly for team leaders:

“Have had to make own forms to keep track of team e.g. standardisation errors, dates scripts arrived, their comments etc. It seems the role of Team Leader is not well understood this year!”²¹⁵

5.84 Materials provided for markers to package scripts were also inadequate in some cases, which caused further delay and frustration:

“There was no packing list (we were told there would be) so, no way of checking if contents were complete. One of my boxes was unsealed. . .”²¹⁶

5.85 Some markers have indicated that payment of markers was better than in previous years, although others have reported outstanding issues over remuneration.

5.86 Nonetheless, the marking community managed to complete the majority of marking within the original timetable despite receiving their scripts late.

Marker benchmarking

5.87 During the marking process, markers were required to complete an online quality assurance test every 80 scripts known as 'benchmarking'. This test was designed to check markers were applying the mark scheme consistently.

5.88 Broadly, this aspect of the process appears to have been planned and delivered successfully. Markers who did fail were given a second test, and if they failed again, were stopped from marking, and their papers were reallocated to another marker.

5.89 However, some markers found themselves unable to start the online benchmarking exercise as a result of the allocation problem described above, as ETS Senior Vice President Dr Philip Tabbiner has explained:

*"As [markers] had to standardise and then conduct their quality assessments every 80 scripts, they would run into situations where the pupil data did not match the registry data, which would create a freeze. Then they would have to call the helpdesk."*²¹⁷

Distribution of scripts from markers to ETS

5.90 Following marking, UPS collected scripts from markers for return to the ETS warehouse.

5.91 An instruction sheet for markers for repackaging scripts was included in their stationery pack. While the instructions were clearly set out, there was no guidance on handling exceptions, such as how to package any scripts that had not been marked. The instructions stated that any problems should be directed to the ETS or UPS helplines.

5.92 Some markers also experienced problems at this stage with UPS arriving to collect scripts at the wrong or inconvenient times:

*"UPS turned up during the first two weeks of the marking process to collect my marked papers and had to be told by the markers that the collection period was not meant to begin until 20 June."*²¹⁸

Distribution of scripts from ETS to schools

5.93 Following receipt from markers, the ETS warehouse was supposed to dispatch marked scripts back to schools before 8 July 2008.

5.94 Problems arose at this stage as ETS dispatched packages of scripts back to schools without conducting a visual inspection of them. While many schools received the correct scripts, some received packages containing unmarked scripts or scripts from another school, in error.

- 5.95 In other cases, it is evident that ETS did not dispatch schools' scripts promptly, as on 10 July 2008 NAA Managing Director David Gee challenged ETS:

*"I seriously wonder if ETS is still interested in meeting the needs of children and schools in the UK. Today I find...you have been holding complete subjects worth of marked scripts on the shelves at the [Central Distribution Centre] and not releasing them to schools without good reason for two weeks."*²¹⁹

- 5.96 Some of those schools that received scripts late also experienced difficulties with delivery times proposed by ETS and UPS that fell during the school holidays.

Helplines

- 5.97 ETS had established a helpline for markers and schools to use during the test cycle in 2008. In addition, NAA had a helpline and there was a UPS helpline to deal with queries about collection and delivery of scripts.

- 5.98 During the logistics pilot, around a quarter of markers had contacted the helpdesk. It is unclear whether the ETS helpline would have had the requisite capacity to handle a proportionate volume of calls during the test period. In practice, it could not handle the increased volume of calls caused as a result of the delivery systems failures throughout the process.

- 5.99 NAA Managing Director David Gee wrote to ETS on 14 May:

*"The helpdesk does not have the capacity to deal with the volume of concerned schools and markers. 2000 emails were discovered from markers that had not been answered (NAA staff are going to Watford tomorrow to help clear the backlog)."*²²⁰

- 5.100 In evidence to the Children, Schools and Families Select Committee, the QCA Chief Executive stated that in total it had transpired that 10,000 unanswered emails were found by NAA staff.²²¹

- 5.101 Responding to this pressure, ETS established additional call centres and NAA committed additional resources of around 50 temporary members of staff to boost capacity.

- 5.102 When markers did get through to speak to the helpdesk, some found that advisors could not provide the information they needed:

*"It was impossible to get adequate service from the helpdesk – they plainly did not know their job – for one query they had to reset whether a student was present or absent, I was told that restarting my computer would sort it out – it did not, as I knew it wouldn't."*²²²

"I discovered that two schools I had received were not on my script verification. I phoned up at least once a day to report this (each phone call lasting at least 45 minutes), so I emailed every day. Each time I was told do not mark the papers the names will go on the system very soon. Eventually an ETS employee told me that the names were not on the system and there was never any intention of them being put on the system – I had been lied to and wasted nearly three weeks of marking time waiting..."²²³

- 5.103 Markers and schools were particularly frustrated that it became essential to call the helpline which was a premium rate number:

"Unless a call was made very early in the morning or late evening it was impossible to get through without a lengthy wait on a high tariff number."²²⁴

Online mark capture (OMC)

- 5.104 Following the innovations pilot, ETS introduced its system for markers to submit question-level marks online. The marks could then be converted into pupil results.

- 5.105 The Inquiry has noted that the anticipated benefits of the OMC system were that it would be faster than the paper-based system overall, and would ensure secure and accurate data. The outcomes of the innovations pilot showed that 75.8% of markers were satisfied or neutral about using OMC, and there were very few clerical errors in the pilot.²²⁵

- 5.106 However, the pilot did not study what happens once data was input to OMC to translate it into results. The Inquiry has seen evidence that this was never tested prior to the 'live' process: In an email of 14 May 2008, NAA Managing Director David Gee stated his concern to ETS that:

"the critical mark capture system remains to be proven fit for purpose in the live environment."²²⁶

- 5.107 In practice, there were a number of problems that arose with the OMC system. As described above, data entry was time consuming for markers and the database was pre-populated with pupil records, which were often inaccurate due to the attendance data or partial allocations.

- 5.108 Beyond this, there were major problems related to the 'business rules' or parameters that were set within the OMC system. These rules had been designed for quality assurance purposes. For example, to prevent marks being processed where pupils had sat different tiered papers in the same subject or where scripts had been handled by multiple markers due to reallocations.

- 5.109 Technical support was often required to address these exceptions, and in some cases it was not possible to resolve them, as 'missing' scripts could not be traced.

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- 5.110 Reflecting on the process in September 2008, NAA Managing Director David Gee said that the lack of flexibility in ETS systems such as OMC proved critical:

“Our view and my personal view is that the Achilles heel of ETS has been their application of business rules. They over-engineered the business rules such that at face value it looked very sensible, but actually then when you finally ran through all the combinations there were too many rules and it stopped things from happening. It stopped the allocations from going out. . . and the data flow from OMC to K12 (which is the website), again it is riddled with issues. To this day there are nine thousand kids’ results stuck in OMC which ETS almost admit they can never get out because [of] the business rules, and we are currently working on a contingency to get that out and move it separately. So I need to be really careful when talking about the IT systems: this is not a big IT system failure, this is an application of business rules which were probably coded up properly and were probably sitting on very reliable platforms. . . .”²²⁷

Level setting

- 5.111 To generate pupils’ results, the marks entered in the OMC database had to be converted into levels (or grades).
- 5.112 To find a pupil’s result, the OMC system was designed to automatically total question marks for each pupils’ scripts and add script totals together. A formula would then be used to find their overall result, expressed as a level.
- 5.113 Various technical problems arose at this stage and exceptions again proved time-consuming to resolve. At least once, ETS was reliant upon support from overseas to resolve technical problems.
- 5.114 As the level thresholds (or grade boundaries) are published annually, in some cases in 2008 schools in receipt of their scripts totalled the pupils’ marks manually and notified them of their results. This was time-consuming for schools, but many decided to do it in order that their pupils would have a good idea of how they had performed before leaving the school.

K12 database and Test Orders website

- 5.115 Following level setting, pupil results data were transferred to the ETS master database, which was part of its ‘K12’ system. The database was designed to interface with the Test Orders website and generate results for schools when they logged in.
- 5.116 Data transfer continued to be problematic at this final stage, and the K12 system rejected data which did not match pupil registration and attendance information contained in the database.
- 5.117 The Test Orders website was owned by NAA but developed by ETS to generate school results from the K12 database in real time. Significant problems arose at

this final stage of the process as a result of decisions that had been taken earlier by NAA and ETS.

- 5.118 Schools were expecting results for all their pupils who had taken the tests. However, because ETS had earlier defaulted the attendance records to show that all pupils had been 'present', it effectively meant that the system thought it was missing results for a lot of pupils (when in many cases, those pupils had actually been absent). As the system's business rules were designed to prevent incomplete results being displayed online, this required a further intervention from ETS.
- 5.119 Following the announcement of the delay to results, ETS had to find a solution so that all available results could be presented to schools on 15 July and 17 July 2008 for key stage 2 and key stage 3 pupils respectively. This was to ensure that schools were not kept waiting for their results on account of rogue gaps in their data.
- 5.120 ETS therefore overrode its K12 system to make it display all available results for schools, by displaying any gaps or missing results as 'absent'. This solution was applied indiscriminately, which meant that while it worked in the case of schools where pupils had been absent, it also indicated that pupils had been absent when in fact their scripts simply had not been marked yet.
- 5.121 There was an explanatory footnote on the Test Orders website, but this problem nonetheless frustrated many schools. One Headteacher described their view:
- "It would appear that [ETS] were aware of a problem with missing scripts on the 10th June but have decided to put us down as having half the school absent. What is even more annoying is that both the scripts that have been returned and the "missing" scripts were sent from here in the same shipping bag, tracking number 1Z5RF###. How did they become separated and where are they now."*²²⁸
- 5.122 The problem with incorrect attendance data continued to plague attempts to recover the 2008 test cycle.

Key to Success website

- 5.123 This website was owned by DCSF and was also able to present results online to schools and local authorities. It had additional features such as the capacity to download and manipulate the data. It was intended that results would be published on this website in parallel with the Test Orders website.
- 5.124 This also functioned as a contingency plan, as it meant that if any technical errors arose with the Test Orders website, users could be redirected to the Key to Success website.

Management information

- 5.125 As described in the Governance and Contract Management chapter of this report, the management information (MI) required by NAA was defined in three separate

specifications covering: data collection from schools; materials management; and marking. In that chapter, the Inquiry set out problems with the quality of some of the information included within the MI reports.

- 5.126 NAA had access to a large amount of MI on a daily basis. ETS has described its access to MI as ‘completely transparent’. In evidence to the Children, Schools and Families Select Committee, ETS Senior Vice President Dr Philip Tabbiner commented:

“The NAA had staff embedded in our organisation in Watford on a day-to-day basis. They had early morning briefings and meetings throughout the day, and they received all the management information that we saw, all the data that we saw and all the results day by day throughout this process, so we operated as if there were no divide between the two organisations in the context of ongoing and daily operations.”²²⁹

- 5.127 However, during the delivery period, it became apparent that the information contained within ETS’s MI reports was not providing NAA, DCSF or Ofqual with all the information they required.

- 5.128 Both DCSF and Ofqual raised concerns over the quality, accuracy and transparency of the MI they were receiving from NAA. Ofqual had first raised concerns about MI during the marker training period in May 2008, as one of its officials has described:

“The first time that we really received something that we had serious concerns about and knew there was something not quite right, was when we asked for their spreadsheet detailing how many markers had turned up at each meeting... And our doubts were because you’d been at a meeting, we would then ask for data about the same meeting and the two did not square. That was the problem.”²³⁰

- 5.129 Later Ofqual became concerned about the number of unmarked scripts being delivered to and returned by markers:

“the point at which it became of great concern was when we were trying to track how many - we couldn’t even identify scripts so we’re having to use the term ‘parcels’ - how many parcels had actually been dispatched to markers and received by them. We received on 10 June... a self-fulfilling chart, because you put a number in and the number comes out but didn’t give the context. As a result of receiving that, I took up a longstanding invitation to go to the distribution centre in Dewsbury to see for myself what was happening.”²³¹

- 5.130 Ofqual’s National Curriculum Assessment (NCA) monitoring team also fed back its concerns about this MI to NAA:

*"Thank you for the spreadsheet. The figures didn't add up at first, so we have added some formulas and corrected some others and now it does. Of course, the whole spreadsheet is dependent on itself as $G5 = (B25 + C25) = 44,764$ ie total script packs despatched is automatically equal to the number needing to be despatched."*²³²

- 5.131 Following the visit to the distribution centre in Dewsbury, Ofqual requested a copy of the master file of unmarked scripts from NAA. On 16 June 2008, NAA declined to provide the master file but sent through a different document entitled 'Marking Progress Report' which had been created by ETS. The NAA Programme Director David Barrett explained that NAA received this information on a daily basis from ETS and he was willing to share it with Ofqual:

*"I attach below the latest data on marking progress based on what ETS provided early this morning. We have shared marking progress information in this format previously with Ofqual. As you are aware [Ofqual] asked for a copy of the UPS 'master file'. I considered [this] inappropriate as there was no reason given which, as you know, is a requirement of the Regulatory Framework."*²³³

- 5.132 The ETS 'Marking Progress Report' that NAA provided Ofqual was a one-page document containing certain data.²³⁴ It referred to the latest figures available from 15 June 2008. These figures indicated that the overall percentage of marked papers was 69.3%, while for key stage 3 English it was 55.4%. It is possible to conclude from this that different subjects were being marked at different rates, given marking started around the same time for each subject. However, the report only set out the average daily rate of marking as an overall figure across all three subjects: 283,288 scripts.

- 5.133 The Inquiry believes that this information would not have enabled Ofqual to judge whether key stage 3 English marking would be completed on time as no account was given to the differing rates of marking for each subject.

- 5.134 Ofqual's Head of Standards Dennis Opposs replied to NAA's email on 19 June 2008 expressing dissatisfaction with NAA for withholding the 'master file' it had requested:

*"I am not sure about you deciding whether the spreadsheet is or is not useful for our monitoring purposes. We do have a responsibility to monitor the progress of marking and reallocated scripts are part of this."*²³⁵

- 5.135 Following a further exchange of e-mails between Ofqual and NAA, a compromise position was reached with NAA answering the following specific questions from Ofqual:

"By key stage and by subject on a daily basis using the figures from UPS from Monday 16 June –

1. *How many scripts have been returned marked?*

2. *How many scripts have been returned unmarked?*
3. *How many scripts are still to be collected from markers?*
4. *Of these, how many do you believe are unmarked?*

By key stage and by subject –

5. *How many scripts have been allocated to marker panels?*
6. *How many have been marked?*
7. *How many are still unmarked? (please give latest date of figures)*
8. *How many markers are there presently on each panel?"*²³⁶

5.136 Earlier in 2008, DCSF had similarly asked for sight of marking MI as it became available, and reported that it met with resistance from NAA, as DCSF's Head of Data Services Group Malcolm Britton described in an internal email of 29 January 2008 to his policy colleagues:

*"Just a quick note to let you know that I raised the marking data issue with David Gee. He did not see the purpose of the department having the raw data – in essence this would be tantamount to not trusting NAA/the Regulator to provide an objective assessment (including a conclusion that the roll out would not happen), and not in the spirit of collaborative working."*²³⁷

5.137 An agreement was subsequently reached and DCSF's Data Services Group expected to receive MI about marking progress from NAA, in addition to its formal data requirements, during the summer term.

5.138 However, in May 2008, an official from DCSF's Data Services Group set out his concerns about that MI had not been received from NAA:

"I find it quite worrying that we've not seen any MI for a week now & we (or at least I) still don't know:

- *How many markers were expected to attend training*
- *How many actually trained*
- *How many attempted standardisation*
- *How many passed standardisation*
- *How many were expected to fail standardisation*
- *How many are expected to fail each benchmarking stage*

*Put simply do we have enough markers? How quickly was marking expected to be completed? How are we progressing against the plan?"*²³⁸

5.139 Questions were also raised by DCSF about the quality of the MI it was receiving. For example, a Data Services Group official advised their policy colleagues on 16 July 2008 that:

*"I'd treat all of the MI with caution. Item 20 still shows between 770,000 and 990,000 scripts per subject being allocated to markers despite the fact we know that only about 600,000 pupils took each test. Item 22 shows that 27,000 markers have had a collection despite the fact here are only about 10,000 markers. Item 1 shows that target number of pupils as about 3,500,000 despite the fact that there are only 1,200,000 across both Key Stages."*²³⁹

5.140 NAA itself raised concerns on 20 June 2008 regarding the number of unmarked scripts being returned to the ETS warehouse. NAA Managing Director David Gee described this to the Inquiry:

*"We asked them to give us some data on that and then on the same day their Managing Director got two different sets of data, one lot from the computer team and one from the warehouse team, and they didn't agree. He then said 'I don't believe the data we are getting here, we will come back to you'. The next day they came back and said 'we appear to have got one hundred and forty thousand scripts back' which is a lot of scripts..."*²⁴⁰

5.141 On 23 June 2008, the NAA Managing Director explained to ETS that it was finding it impossible to monitor the situation without better MI about unmarked or 'missing' scripts.²⁴¹ It became clear to NAA after this time, that as the delivery process broke down and more unmarked scripts were being returned, ETS resorted to counting unmarked script packages to estimate the volume of unmarked scripts within the system.²⁴²

5.142 NAA requested that ETS carry out a visual inspection of the unmarked scripts. However, it is clear that visual inspections of script packages were not initiated, as ETS gave evidence to the Select Committee on 10 September 2008 that it could not say when the 2008 test cycle would be completed because the contents of script packages remained unknown. ETS Vice President Andrew Latham stated:

*"I know that we have returned to the schools all the materials that we had in the warehouse, but if, for example, a school discovers that some of the test papers are unmarked when it opens them up, the test papers would come back, so we do not know exactly when they will be finished."*²⁴³

5.143 The Inquiry has sought to understand what steps were taken by ETS to ensure the coverage and quality of the MI it was passing on.

5.144 ETS clearly attempted to trace some of the missing scripts by contacting markers. The Lancashire branch of the National Association of Head Teachers passed the Inquiry evidence from one Headteacher which described this:

*"Our Governor's wife is a marker. She has had numerous telephone calls from American ETS asking 'do you have any scripts by any chance?'"*²⁴⁴

Data

5.145 The Assessment Delivery Service Requirements (ADSR) document created in 2007 was owned by NAA, and reviewed by officials from DCSF and ETS. The purpose of the document was to:

*"outline the requirements for the purpose and use of the data captured from the national curriculum assessment system on the school year 2007/08, and specifically the data that shall be exchanged between the Department for Children Schools and Families (DCSF) and the National Assessment Agency (NAA), including information sent to the NAA to be used for test ordering processing and the information sent to the DCSF for Achievement and Attainment Tables and statistical purposes."*²⁴⁵

5.146 As described above, one of the key purposes of the ADSR document was to define the contents and format of the data which is provided to DCSF by NAA. The process by which data would be provided to NAA and DCSF was known as a 'datafeed'. In addition to defining the format of datafeeds, the ADSR document set out the dates on which they were expected, and the quality criteria agreed between the two parties. The key purpose of the quality criteria was to define the acceptable volume and quality for each datafeed.

5.147 During the 2008 delivery cycle, the DCSF requirement was for six 'formal' datafeeds which were numbered from 1 – 6. The table below shows the dates and quality criteria for each of these datafeeds. Datafeed 4 relates only to Teacher Assessment data and is not included in this table as it is out of the Inquiry's scope.²⁴⁶

Datafeed	Date	Quality Criteria
Datafeed 1	KS3: No later than 21 May 2008 KS2: No later than 28 May 2008	Minimum acceptable volume is 100% of pre-registered pupils for KS2 and KS3 tests in all maintained schools Minimum acceptable quality is zero data capture errors at either pupil or school level
Datafeed 2	Five working days after level setting has occurred. Likely to be 24 June 2008	Minimum acceptable volume is 60% of test results for both KS2 and KS3 Minimum acceptable quality is 95%
Datafeed 3	No later than 6 July 2008	Minimum acceptable volume is 99.7% of test results for both KS2 and KS3 Minimum acceptable quality is 99.7%
Datafeed 5	Five working days after the completion of the review process	Minimum acceptable volume is 99.7% of test results for both KS2 and KS3 (including review data where available) Minimum acceptable quality is 99.7%
Datafeed 6	At the end of the pre-planned process Likely to be January 2008	Minimum acceptable volume is 99.7% of test results for both KS2 and KS3 (including review data where available) Minimum acceptable quality is 99.7%

5.148 Critical success factors relating to the delivery of data to QCA and DCSF had been defined in 2006 during procurement. Requirements included:

1. There is an understanding of any discrepancies in the data (ie why a pupil did not sit a test) so that every pupil is accounted for
2. 100% accuracy in results data
3. 100% of data are returned to DCSF on time.²⁴⁷

5.149 In the first instance, datafeeds were provided to NAA by ETS. Once received and assessed, these datafeeds were then provided to DCSF analysts.

5.150 Datafeed 1 was provided to DCSF by NAA on 21 May 2008. This was assessed by officials within the Data Services Group and rejected on 23 May, on the grounds that "it did not contain the full suite of files for KS3".²⁴⁸ It is clear that NAA was already aware of the problems with the datafeed, as the NAA Managing Director David Gee had emailed ETS on 14 May 2008 stating: "The first datafeed supplied to the NAA today came with the fields jumbled up."²⁴⁹

5.151 A further datafeed, entitled datafeed 1a was provided to DCSF on 28 May 2008. This datafeed was “part accepted and part rejected because of consistency issues between the files”.²⁵⁰ Due to the issues that had arisen with datafeed 1 and 1a, officials within the Data Services Group asked NAA to provide an additional ‘dummy run’ datafeed in advance of datafeed 2, which was expected on 24 June. It was agreed that this would be provided to DCSF on 19 June. This data was actually provided to DCSF on 23 June. DCSF has reported that: “It was from this 23/06 cut of data that gave us evidence that the systems were not receiving the volume of marks or levels that were present in the OMC.”²⁵¹

5.152 Datafeed 2 was due to be delivered to the DCSF on 24 June, but was delayed and was received on 26 June. The table above states that datafeed 2 has a minimum acceptable volume of 60% of test results for both KS2 and KS3 and a minimum acceptable quality of 95%. The volume of results data was lower than expected. DCSF analysts communicated their concerns to colleagues on 26 June 2008:

*“In summary the data is poor. The volume is significantly lower than the amount of paper marked according to the NAA management information and levels have only been applied to a small number of records.”*²⁵²

5.153 Further iterations of datafeed 2 were provided on 1, 3, 5 and 6 July and daily thereafter. All of these additional datafeeds failed to meet the DCSF specification.

5.154 The discrepancy between the MI (which was usually based on the marks captured in the OMC database) and datafeeds (based on results in the K12 database) was described in a letter to the Schools Minister, the Rt Hon Jim Knight MP, from the QCA Chief Executive Dr Ken Boston on 23 July 2008:

“Online mark capture (OMC) is the percentage of paper-level marks entered; K12 is the completed pupil results, with level thresholds applied. The ‘gap’ to 100% is not due entirely to missing results. There are cases where pupils are registered for the tests but do not take them. The final number of assessing students is being recalculated by ETS and will give a more accurate view of the percentage of marking completed.

The difference between the OMC and K12 data has not been adequately explained by our contractor. Clearly, there will always be some difference: marks entered on OMC by markers are picked up as a batch by the ETS system overnight. The OMC figures include pupils entered for different tiers in science and mathematics at key stage 3; marks which markers have saved but not then submitted by computer; and marks initially awarded by aberrant markers where data from remarking has not yet been entered. The K12 data have been quality assured to take account of these factors, and any public use of the OMC data needs to be with these caveats. For that reason, we would continue to advise against wider use of OMC data.

Nevertheless, the difference between OMC and K12 seems unlikely to be due to these factors alone, particularly at key stage 3. We have continued to challenge the veracity of these data and to require a satisfactory technical explanation from ETS.”²⁵³

Delivery of results

- 5.155 Results were originally due to be posted online and by letter to schools by 8 July 2008.
- 5.156 On 30 June 2008, following a meeting between ETS and NAA, NAA’s Managing Director informed DCSF’s Acting Schools Director-General that across all subjects, results would not be complete in time to meet the 8 July deadline.
- 5.157 The Schools Minister, the Rt Hon Jim Knight MP met the QCA Chief Executive and the NAA Managing Director on 2 July 2008 to discuss the situation. On 3 July 2008, the QCA Chief Executive wrote to the Minister to confirm his advice that results should be delayed. Ministers met to consider this advice and decide the best approach. The Secretary of State has indicated that his main priority was an orderly release of results to schools before the end of term.²⁵⁴
- 5.158 In addition, Ofqual met with NAA on 3 July 2008. Following this meeting, Ofqual Chair, Kathleen Tattersall wrote to the Secretary of State to confirm the position and her intention to launch an Inquiry.
- 5.159 On 4 July 2008, DCSF announced the delay to key stage 2 and 3 National Curriculum test results. In its press release, it copied a letter sent from the Secretary of State to inform parliament of the position through the Chairman of the Children, Schools and Families Select Committee, Barry Sheerman MP. This letter stated:

“I am writing to inform you that the Qualifications and Curriculum Authority (QCA) has advised me on behalf of the National Assessment Agency (NAA) that there are some delays in the release of key stage 2 and 3 National Curriculum test results to schools.

More time is needed to complete marking and to continue to resolve technical issues. Some 90% of key stage 2 marks and levels are now in the system, but the key stage 3 position is less close to being complete.

In view of the need to release results to schools in an orderly fashion, minimising uncertainty, we would want to release results only when a complete set is available for the great majority of schools. Ken Boston wrote to Jim Knight yesterday to advise that a delay of a week to Tuesday 15 July in releasing key stage 2 results to schools will give time to complete the vast majority of marking.

For key stage 3 results, his advice is that while results will take longer to be completed, there are strong arguments for releasing the results available by the end of the week of the 15th, to ensure that as many schools as possible receive results before term ends.”²⁵⁵

5.160 On 15 and 18 July, the available results for key stage 2 and key stage 3 were respectively released.

5.161 For many schools this was the last day of term. One school has described the impact this had on its teachers and pupils:

“...receiving the exam papers so late, ours arrived 2 hours before the school finished for the summer holidays, had led to a rush in organising remarking and return of papers.”²⁵⁶

5.162 However, many schools found their results unavailable or incomplete at the end of term. This caused confusion and frustration, as one Headteacher has described:

“The only results available before the end of the school year were those for maths which we were assured were available and complete. We have recently become aware that these results were presented as complete only as a result of the candidates for whom marks were not available being reported as absent. These candidates still do not have their results and the DCSF website shows our maths results as 100% available. The majority of the results for both English and science became available during the latter part of the summer break, but there are still results outstanding.”²⁵⁷

Recovery

5.163 From 3 July 2008 onwards, the bodies responsible for the tests – ETS, QCA and DCSF – worked to manage the ‘recovery period’. The primary objective for the recovery operation was to ensure that schools got their results as soon as possible.

5.164 DCSF convened two meetings each day. One was between the Acting Schools Director-General, the QCA Chief Executive, NAA Managing Director, policy officials and data analysts to assess the latest position and review available data and MI.

5.165 The other DCSF meeting was of its ‘Gold Team’. This meeting was chaired by the Permanent Secretary, attended by the Schools Minister, Acting Schools Director-General, policy officials, data analysts, press office, legal and private office teams. DCSF has indicated that the purpose of this meeting was:

“To keep ministers and senior DCSF officials updated on the latest situation”²⁵⁸

5.166 The Schools Minister, the Rt Hon Jim Knight MP has described his view of these meetings:

*"I think the whole team found it useful to have everyone in one place and be able to systematically work through the same issues in the same order everyday, and be able to progress-chase on a daily basis. Because we needed to put that intense heat on the situation in order to try and move things on. As it turned out, we weren't able to move them on as much as we would have liked, but it did mean that the familiarity with Online Mark Capture and K12 became part of the daily routine."*²⁵⁹

5.167 QCA and NAA took the lead in managing ETS's work and planning the recovery process. It is clear that, in particular, the NAA Managing Director and his team continued to work around the clock to ensure that ETS was fulfilling its instructions. As QCA has described:

*"Over a sustained period and especially during the months of June and July, NAA staff were frustrated by ETS's inability to address the issues, particularly as many staff worked without break, through weekends and holidays spending long hours to support ETS."*²⁶⁰

5.168 NAA presented a 'recovery plan' to DCSF on 6 July 2008. This document was short, at four pages long, and had the following objective: "Following ETS disclosure that all results may not be available for 8th July, the NAA has deployed a 6-point Recovery Plan aimed at ensuring marking is completed accurately and results provided to schools as quickly as possible."²⁶¹ The high level areas which made up the 6-point Recovery Plan were:

- Driving Marker Completion
- Data Entry
- Exceptions Handling
- School Support
- Reviews Process
- Ongoing Communications to Schools.

5.169 The first of these "Driving Marker Completion" was the main focus during recovery and entailed central marking panels being set up in various different parts of the country. The marking panels provided two services: "facilities for residential marking for up to 250 markers; and controlled distribution of test papers to 80 markers who choose to conduct marking at home."

5.170 During July 2008, central marking panels processed scripts and separate data entry teams were established to ensure an efficient process. The Inquiry has noted

concerns that were raised in the media around this time about the qualifications of markers, but it has seen no evidence to substantiate these allegations.²⁶²

5.171 The Inquiry is satisfied that QCA, DCSF and Ofqual took a robust stance and kept the pressure on ETS throughout the summer to deliver the results. However, as many system failures could only be resolved by ETS and its subcontractors, the progress that could be made by others was limited.

5.172 Meanwhile, QCA exercised its contractual rights, firstly to 'step in', and then to agree termination of the contract by mutual agreement with ETS, as announced on 15 August 2008 in a joint statement:

"QCA and ETS Europe have agreed to dissolve their five-year contract for national curriculum tests operations with immediate effect. This follows the late delivery of national curriculum test results this summer.

The agreement to end the contract early has been made by both parties and there will be no payments made by QCA to ETS Europe for any future years of the contract. Financial details of the termination mean that ETS Europe will make a payment to QCA of £19.5 million, along with the cancellation of other invoices and charges of approximately £4.6 million.

Ken Boston, Chief Executive, QCA, said:

"ETS Europe was selected due to the strength of their worldwide experience in delivering large scale assessments. It is disappointing that the issues with this year's national curriculum test results have meant that the partnership between QCA and ETS Europe must end early."

Zoubir Yazid, Managing Director, ETS Global BV, said:

"ETS Europe has apologised to schools for the delays in marking national curriculum assessments in England. As a subsidiary of a global, non-profit company, we are dedicated to assuring quality and equity for all pupils, and we are sorry that the results this summer were delayed for some schools. However, we would argue that the quality of the marking is high, due to the stringent new checks that we introduced this year."

ETS Europe will continue to work to conclude this year's national curriculum test operations. They will continue to publish any outstanding results to ensure that all schools have a complete set of results and to ensure that any scripts held are returned as quickly as possible to schools.

Further information about the arrangements for 2009 national curriculum tests will be made available to schools in the autumn.

As has previously been announced, the review process for the 2008 national curriculum tests will be led by the National Assessment Agency."²⁶³

Analysis and findings

5.173 The Inquiry's view is that ETS was primarily responsible for the failures that occurred in summer 2008, particularly around customer service. In August 2008, ETS publicly apologised for the delivery failure:

*"We would like to apologise for not delivering 100% of the marks to schools by the required deadline. There is no question that we experienced some operational and technical difficulties, which hindered our ability to deliver 100% of the test results on time. We have not shied away from taking responsibility for these issues."*²⁶⁴

5.174 The Inquiry would observe the following main findings to explain why the test results were late.

The end-to-end delivery system was insufficiently tested

5.175 In order to have confidence that National Curriculum test results could be delivered on time, the Inquiry believes that end-to-end testing of the process and ETS systems should have been conducted.

5.176 During the original procurement, a gap identified in the ETS proposal was that further information would be required on its end-to-end delivery plan. In Spring 2007, NAA and ETS agreed a transition plan which detailed the phased release of individual 'products' that would each be tested, and made plans for the end-to-end testing of these systems.

5.177 The Office of Government Commerce had stressed the importance of such an end-to-end test in October 2007 during its 'Gateway 4 (Readiness for Service)' assessment:

"The review team recommends that the user acceptance testing strategy is revised to ensure that the totality of the interdependent systems is tested as well as the individual phased releases."

5.178 Despite this feedback, NAA has reported that the proposed date for this end-to-end test slipped from February 2008 to April 2008, and then into May 2008 at which point ETS informed NAA that it would not be possible to conduct the test.²⁶⁵

5.179 The innovations and logistics pilots that were conducted in Spring 2008 also did not involve thorough testing of interdependent processes. The Inquiry has found that:

- The logistics pilot was too limited in scale and scope. It did not explore a range of exceptions that might have reasonably been anticipated and how these could be addressed effectively in practice; and
- The innovations pilot tested the Online Mark Capture system but did not test the transfer of data from this system to the 'level setting' and K12 databases.

- 5.180 As a result, the pilots did not expose a number of the problems that occurred during the actual test period during summer 2008, and solutions were not developed in time to improve outcomes.
- 5.181 The Inquiry believes that ETS was responsible for ensuring its delivery model worked. In practice, it is clear that ETS failed to conduct such testing as was necessary to ensure that its process and systems were fit-for-purpose and could deliver. ETS asserted its confidence in its own systems to NAA but did not provide evidence to support these assertions.
- 5.182 The Inquiry also believes that NAA held responsibility for managing ETS and should have insisted on end-to-end testing to provide evidence that ETS systems would work.
- 5.183 In providing assurances to the QCA Executive, QCA Board, Regulator and ministers on numerous occasions, NAA expressed its confidence that ETS could provide results by 8 July 2008. Given ETS systems were unproven, the Inquiry does not believe NAA had sufficient evidence to support its assessment.

There were cumulative failures in different components and interfaces of the ETS delivery system; QCA did not make an accurate assessment of the impact of these failures

- 5.184 In practice, failures occurred at almost every stage of the test delivery process in 2008, from the registration of pupils to the presentation of results.
- 5.185 Leaving aside the anticipation of risks, which is discussed in the Project and Risk Management chapter of this report, the issues that arose during the test process should have alerted ETS, and in turn QCA, to the severity of the situation and the inevitability that test results would not be delivered on time. These issues included the delay in the marking period and the problems with its data systems.
- 5.186 The Inquiry's assessment is that the combination of the following factors was critical, as it resulted in ETS not being able to reconcile which pupils sat the tests with their marked scripts. These factors were:
- incomplete attendance registration data meant that the ETS did not know which pupils sat the tests;
 - moving to partial allocations meant that script packages from the same school ended up with different markers and ETS did not know which pupils' scripts were in which package;
 - ETS did not have in place the process, capacity or technical expertise to identify and resolve the high proportion of exceptions that resulted when pupil attendance data and scripts did not match up.

5.187 In addition, there were a number of other factors that contributed to the delay in results:

- the allocation process (when scripts are allocated and distributed to markers) was delayed and so marking started late;
- ETS systems such as the 'OMC' and 'K12' databases could not collate pupil records smoothly and were subject to a number of constraints which required manual override; and
- helplines were overwhelmed.

5.188 The Inquiry believes that these issues demonstrate the lack of flexibility and unresponsiveness of ETS's delivery systems. The Inquiry's assessment is that ETS held responsibility for ensuring its systems were fit-for-purpose, and advising NAA of any implications due to its specification or decisions. ETS is therefore primarily responsible for the delivery failures.

5.189 The Inquiry also believes that NAA did not make accurate and timely judgements as problems arose, which limited its ability to instigate contingency measures effectively. At various points the evidence shows that NAA stressed the need for urgent action to ETS, but then despite further slippage in the timetable, did not acknowledge the impact of these problems would have.

The 'critical path' for the project had not been identified correctly by ETS and the impact of operational decisions was not properly anticipated

5.190 As described in the Project and Risk Management chapter of this report, ETS did not appear to have mapped the 'critical path' for the test delivery project sufficiently. It is clear that interdependencies had not been identified. An example of this was the impact that incomplete attendance data had on the transfer of pupil results from the OMC to K12 databases.

5.191 As contract managers, NAA would have been best placed to challenge ETS and elicit further information to help them identify the 'critical path' correctly. However, NAA failed to challenge ETS robustly enough on these issues – particularly around interdependent systems - to ensure that it conducted proper end-to-end testing. In practice, NAA failed to identify the impact of problems that emerged during the delivery period.

5.192 On 7 June 2008, the NAA Managing Director submitted to ETS his assessment that: "While individual systems were built and tested, the end-to-end interdependencies were overlooked."²⁶⁶

The quality of the management information (MI) provided by ETS was ultimately inadequate to ensure the desired level of visibility of the marking process and distribution of scripts

- 5.193 Evidence within the Governance and Contract Management chapter of this report shows that there were a number of issues with MI specifications which arose once the delivery cycle had begun. By June 2008, it was impossible for the MI that was available to be used to track progress.
- 5.194 The Inquiry examined the available MI and concluded that it did not provide adequate visibility of how marking was progressing or where there were problems. For example, the Inquiry believes that the ETS Marking Progress Report, contained only partial information that would not have enabled NAA or others to determine that marking was on track for completion within the delivery timetable.
- 5.195 The Inquiry believes that NAA should have been aware that such a MI report would not provide the satisfactory information about the rate of marking or trajectory to completion. It is therefore the Inquiry's assessment that NAA did not ensure MI reports produced by ETS were of an acceptable quality. This is supported by the evidence provided by DCSF analysts in July 2008 suggesting that simple plausibility checks to assess accuracy were not carried out before data was passed on.
- 5.196 The Inquiry also found that QCA's initial reluctance to share MI with DCSF and Ofqual was inappropriate. DCSF needed access to good quality data and MI to be assured that the test results were on track, and Ofqual needed sufficient information to assess compliance.

Few viable contingency options were built into the delivery system by ETS and QCA and those that were available were not put into action in a timely and appropriate way

- 5.197 During procurement, ETS Vice-President Andrew Latham stated that the proposed organisational structure of ETS would include a 'Business Continuity' section. The focus of the 'Business Continuity' section was to think about and plan for 'what can go wrong will go wrong' scenarios; for example, missing scripts. However, upon review of the evidence submitted to the Inquiry it is not evident that these Business Continuity plans were ever created by ETS or indeed invoked when scripts started to go missing.

5.198 The Inquiry has noted that where contingency plans were implemented, these were not successful:

- The online attendance register defaulted to indicate that pupils were 'present' when schools failed to submit data. This caused problems later on as markers and ETS systems were unable to work out whether scripts were missing or whether pupils had not taken the tests;
- Partial allocations were sent to markers without sufficient communication. This further exacerbated the problems with reconciling pupil attendance data with the scripts that were due to be marked;
- Moving to face-to-face training was a contingency planned in 2007 in case the innovations pilot was unsuccessful. When ETS came to implement this contingency, it did so in a rush, and this impacted on markers' experiences of the training;
- NAA instructed ETS to extend the marking period by not sending results letters to schools but simply focusing on presenting electronic results by 8 July 2008. It does not appear that ETS extended the marking period to take advantage of this contingency.

5.199 In addition, the Inquiry believes that there should have been contingency plans in place, should any major components of the system fail. For example, it is not evident that ETS had ever considered what to do in the event of technical failures. Indeed, the NAA Managing Director had offered to support ETS to develop a contingency when such technical failures occurred in July 2008, but appears to have met with resistance from ETS:

*"The request by us is for a clean cut of your OMC data to allow us to build a contingency to support you, and convince Ministers that there is a standby plan should your site fail to be ready for the 8th. This still appears to me to be a very sensible request and one that should be easily met. I am disappointed by the blocking that has been going on about this."*²⁶⁷

5.200 NAA Managing Director David Gee has indicated that NAA did not view the need for such contingency plans earlier:

*"On the matter of data transfer between ETS systems it is true that NAA did not require ETS to build a contingency to cover data transfer from OMC to the K12 database. NAA was led to believe that ETS was a global leader in online assessment and, as such, it was never envisaged that what appeared to be a relatively simple data management process would cause such problems."*²⁶⁸

5.201 The only contingency plan that was available by early July was to delay publication of the results. The Inquiry believes that given the numerous delivery

problems, even this last resort would have delivered better outcomes had it been implemented sooner, as the period for marking could have been extended.

- 5.202 The Inquiry's view is that these and other contingency options should have been developed much earlier in the planning process, in order that they could be implemented in a more timely and effective way.

ETS did not invest in its relationship with schools and markers and its level of customer service was wholly unacceptable and lacked professionalism

Marking community

- 5.203 The Inquiry believes that markers were treated unacceptably by ETS, both in terms of the system design and the level of customer service they received. As one marker has described:

*"I have tried throughout, despite extreme adversity caused by ETS, to do a professional job. Unfortunately I don't feel I have been treated with the same level of decency."*²⁶⁹

- 5.204 The Inquiry's belief is that ETS systems and processes should have been designed to take better account of the UK context.

- 5.205 As many markers have professional and personal commitments around which they complete National Curriculum test marking, this should have been considered when ETS took operational decisions. This was manifestly not the case, as the evidence has shown that the impact of operational decisions on markers was insufficiently considered.

- 5.206 This is evident for example, when designing systems such as the online mark capture process, which added significantly to the administrative burden on markers; and when making adhoc changes to training arrangements or script allocations; and delivery times, which inconvenienced markers. A Marking Programme leader reported:

*"When a Team Leader informed ETS that they would have problems attending the whole of Meeting 7 because of an Ofsted inspection of her school, it required intervention by the [Deputy Marking Programme Leader] to explain who Ofsted were."*²⁷⁰

- 5.207 The Inquiry believes that the poor administration of the training by ETS presented a significant risk, as many markers did not have a good experience of attending the sessions and this could have limited the benefits of their training.

- 5.208 The information and support provided to Marking Programme Leaders, Senior Markers and Team Leaders by ETS was often poor. A senior marker has described basic failures in the administration:

*"Team Leaders did not know who was to be in their team until two days before the training. This meant that in most cases it was not possible for the team leader to contact markers to welcome them or to advise them as to how to prepare for the day."*²⁷¹

- 5.209 Overall, ETS showed disregard for the needs of the marking community and particularly the importance of retention of markers from year to year.

Schools

- 5.210 ETS also failed to tailor its processes and systems to schools' needs.

- 5.211 There is evidence that schools were finding ETS systems and communications hard to navigate throughout the delivery period. An Exams Officer described their concern around pupil registration:

*"It was unclear whether this needed to be done at this stage, or could have been done after the students had completed their tests."*²⁷²

- 5.212 A Headteacher described the time taken to chase outstanding missing results:

*"A great deal of my time during the first four weeks of the summer break, including my own family holiday, has been spent on the phone to the helpline chasing up missing results."*²⁷³

- 5.213 The Inquiry does not believe that ETS took sufficient action to review feedback from schools and attempt to improve its systems. The experience of many schools finding it hard to glean information shows that ETS was not consistently evaluating and addressing their concerns.

Helplines and customer support

- 5.214 In respect of customer service, there was a very serious failure on the part of ETS and its subcontractors.

- 5.215 ETS did not resource its helpdesk functions sufficiently and staff lacked the information and technical expertise necessary to provide assistance to schools and markers in many cases. While contingency measures were put in place with the introduction of additional call centres, this was too little and too late to clear the backlog of marker queries without operational support from NAA staff.

- 5.216 ETS's responsiveness was also poor: the intelligence gleaned from schools and markers did not appear to be fed back into the operational decisions; and when operational decisions were taken, the advice provided by their own helpdesk did not reflect the latest information.

- 5.217 It further frustrated schools and markers that ETS's helpdesk support service was charged at a premium rate, despite the fact that the service was poor

and customers had to call multiple times in many cases. As one Headteacher described:

*"In all my 34 years as a school teacher and 25 years as a Deputy Head/Headteacher I have never experienced such lack of concern and such an inability to help."*²⁷⁴

Schools and pupils have been inconvenienced by the delay in results and this has had an impact in terms of resources, their ability to support pupils' progression, and morale

5.218 The Inquiry believes that pupils in all maintained schools in England have been detrimentally affected by this year's National Curriculum test delivery problems.

5.219 Schools have described the drain on their resources and time. Subject teachers, Examinations Officers and administrators have been affected by the amount of time it has taken to track down results and scripts for their pupils:

*"It has taken a significant amount of valuable staff time to assess the situation... and as we are still not in receipt of all our results, I expect this to be a continuing draw on limited resources."*²⁷⁵

5.220 Pupils were disappointed not to receive their results, and in the case of many key stage 2 schools, teachers did not have time to discuss pupils' results with them before they left the school. This could will have limited the utility of the tests to support pupils learning and progression. One school's description of this disappointment was that:

*"The whole experience blighted the final weeks of my Year 6 children and staff. All their hard work went unrewarded because they left primary school without knowing how they had performed."*²⁷⁶

5.221 On a school visit to a key stage 3 school in Surrey, the Inquiry heard that their students had been similarly affected. Pupils received their mathematics results on the last day of term and teachers did not have the opportunity to analyse and discuss their pupils' performance with them. There was also a delay caused to class planning, and by the time that term had started, the school had still not received its English results.

Recommendations

The test delivery process and timetable should be designed to allow for maximum marking time and capacity

5.222 The benefits of marking National Curriculum tests should be communicated to teachers and more fully realised by extending the training available to help teachers improve their overall assessment skills.

- 5.223 Over-recruitment of markers in all subjects is required and marking panels should be established at the outset for any subject in which there is likely to be a shortfall in marker capacity.
- 5.224 The risk of delays should be actively assessed throughout the marking period and contingencies, such as marking panels, established as early as necessary.

Customer service must be greatly enhanced for schools and markers and a reference group should be established by the test supplier to ensure schools' and markers' views influence every stage of the process

- 5.225 A reference group of markers and school administrators should be established by the test operations supplier, that they can consult at the start of each test cycle when designing systems and processes for advice on the user-requirements.
- 5.226 Communications and instructions should be designed in consultation with the reference group and where possible, a wider constituency of users.
- 5.227 Marking programme leaders and others in the marking hierarchy should be given timely and detailed information to help them support markers.
- 5.228 Helpdesk and email support functions should be resourced appropriately.
- 5.229 Technical support should be available where necessary.
- 5.230 Communications should be from one source.
- 5.231 A feedback system should be introduced so that any markers or schools can advise the supplier of concerns in real time.

The delivery process for National Curriculum tests should be modernised and improved, in consultation with the marking community. This should include piloting online marking, which has been used successfully for other qualifications.

- 5.232 The potential benefits of online marking include:
- enhanced quality of marking – markers specialise in particular questions; schools' scripts marked by different markers.
 - greater security – papers returned from schools and then scanned, reducing the number of times they are transported and stored in different locations.

Full testing and piloting of the test delivery process should be integrated into the timetable, including end-to-end and user-acceptance testing

- 5.233 Testing of the delivery process should include testing any interfaces between systems and known dependencies, to ensure confidence in the end-to-end process.
- 5.234 Where possible, this should include 'dry runs' such as testing datafeeds and data transfer in advance of the live process.

- 5.235 This should include testing likely 'exceptions' and should be used to develop workable solutions to these.
- 5.236 Markers, schools and other customers such as DCSF and Ofqual should be fully engaged in such testing.
- 5.237 Contingency plans should be developed and built into the delivery system.

Regulation

Introduction

- 6.1 The National Curriculum tests are produced by the National Assessment Agency (NAA), which is an operational division of the Qualifications and Curriculum Authority (QCA). The production and delivery of these assessments are subject to regulation, albeit on a non-statutory basis.
- 6.2 During the delivery of the 2008 tests there were significant organisational changes, which had a bearing on how the tests were regulated, and how issues were reported. This chapter examines the effectiveness of the regulation of the key stage 2 and key stage 3 National Curriculum tests in 2008.

Evidence

Arrangements for the regulation of National Curriculum tests in 2008

- 6.3 Prior to the creation of Office of the Qualifications and Examinations Regulator (Ofqual) in April 2008, the regulation of the National Curriculum tests was carried out by the QCA's Regulation and Standards division (RSD). The Director of RSD was a member of the QCA Executive and reported to the QCA Chief Executive, which in turn reported to the QCA Board. Within the RSD, the National Curriculum Assessment monitoring team had responsibility for the day-to-day monitoring of the tests.
- 6.4 Ofqual's Head of Standards, Dennis Opposs has described the arrangements that had been in place to regulate National Curriculum tests at the time:
- "The original idea of there being this team [NCA Monitoring] was to be able to offer QCA's Chief Executive an independent view and advice on the work of the NAA in relation to National Curriculum tests. ... We monitor aspects of what NAA do, against the Code and the Framework. This might involve going to meetings, asking for particular bits of information and considering those. It also involves using the evidence we have got to write reports."*²⁷⁷
- 6.5 In evidence to the Inquiry, the QCA Chief Executive reflected on the effectiveness of the Regulatory arrangements, prior to the creation of Ofqual.
- "...we had between it [RSD] and the NAA, which it had a responsibility to monitor, a de facto Chinese wall, which was not totally effective, but which we tried to use as best we possibly could..."*²⁷⁸

Creation of Ofqual

6.6 Ofqual was established within the existing legal framework, as the result of decision by the Secretary of State for Children, Schools and Families in September 2007. It was to function as an independent regulator, in interim form. Legislation formally establishing Ofqual as a separate statutory organisation, reporting to Parliament, is expected to be introduced in due course.

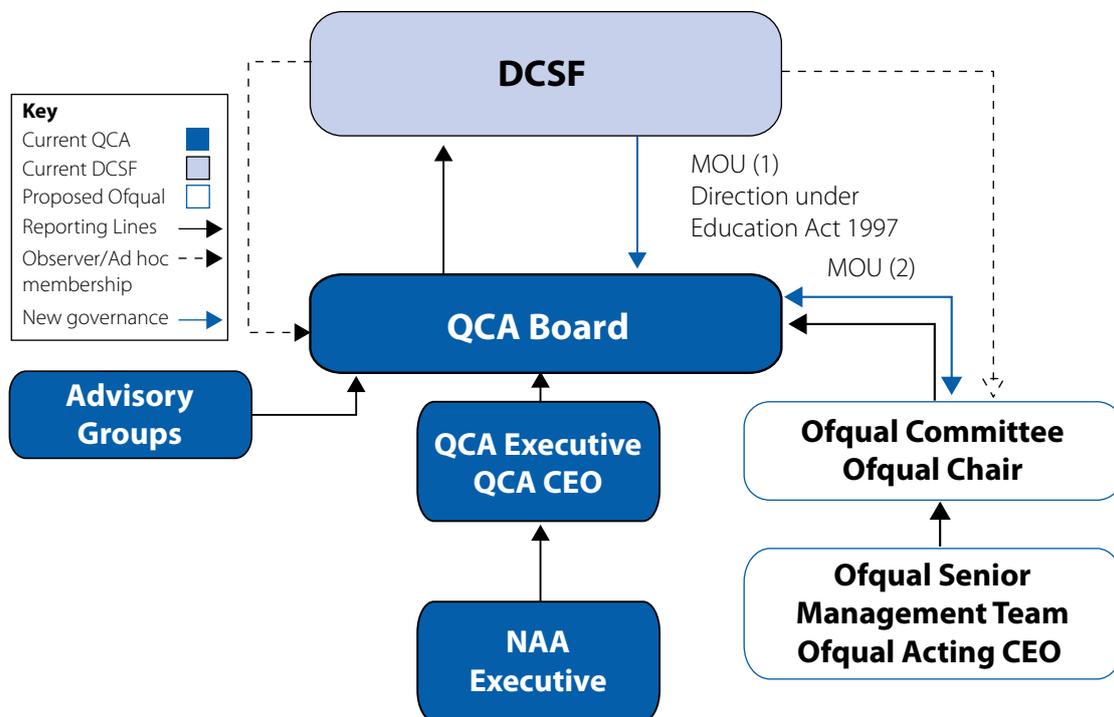
6.7 The Department for Children, Schools and Families (DCSF), Permanent Secretary David Bell explained the rationale for setting up Ofqual:

*"... when the Secretary of State arrived [at DCSF], one of the first things he asked about was the regulation of the examination system in England. And I think that actually came from his own experience both as a Special Advisor and as a minister in relation to city regulation. He was told by us that this had been thought about at different times, but perhaps as officials would say, it had been put in the 'too difficult' category. He was very clear that this was something that he thought was really important, as a matter of substance, in relation to the quality of examinations and tests. But he also thought that it was really important presentationally, as in public confidence. He asked immediately if he could create Ofqual formally, which was a good question to ask. He also got good advice from civil servants, who said that this wasn't possible as it was a matter of primary legislation. That led us to question whether we could create something that for all intents and purposes was Ofqual. We debated long and hard about the value of doing so. Our view, it wasn't just the Secretary of State's view, was that if we could get a long way towards creating not just the image of Ofqual but the substance of Ofqual, why wait? We felt that issues of exam quality, and public confidence in particular, were pressing."*²⁷⁹

6.8 Until legislation to create Ofqual formally comes into force, QCA's Board retains legal responsibility for the discharge of its regulatory functions, and the exercise of its regulatory powers. However, in advance of this legislation, there has been an attempt to achieve a degree of operational separation between Ofqual's regulatory functions, and the rest of QCA's functions.

6.9 The following diagram depicts the governance arrangements that have been put in place to enable Ofqual to operate as an interim Regulator, within the existing legislative framework.

Governance framework for the interim regulator, Ofqual



Governance of Ofqual

- 6.10 The arrangements governing Ofqual’s operation as an interim Regulator are set out in two Memoranda of Understanding (MoU). The first Memorandum of Understanding (MoU1) was made between DCSF and QCA.²⁸⁰ The second Memorandum of Understanding (MoU2) was made between Ofqual and QCA.
- 6.11 The Secretary of State used his powers under the Education Act 1997, to direct QCA to establish a committee to exercise QCA’s regulatory functions in relation to the National Curriculum tests, and other qualifications. To this end, the Ofqual Committee was established as a committee of the QCA Board, with responsibility for regulation.¹
- 6.12 This Committee is chaired by Kathleen Tattersall, who is also a member of the QCA Board. The Ofqual committee acts as the Board of the interim Regulator in shadow form and reports into the QCA Board through the Ofqual Chair. The Ofqual Chair does not take part in any business of QCA, unrelated to the exercise of its regulatory functions.
- 6.13 Under the terms of the MOU, the QCA Chief Executive was discharged of his responsibilities for QCA’s Regulatory functions. These responsibilities were transferred to Isabel Nisbet, who became the Acting Chief Executive of Ofqual, having previously been the Director for Regulation and Standards within QCA.

¹ Under paragraphs 13(1)(b) and 14(2) of Schedule 4 to the Education Act 1997, the Secretary of State directed QCA to establish a committee which would exercise on behalf of QCA its Regulatory Functions in relation to National Curriculum assessments.

Consequently, Isabel Nisbet no longer reported to the QCA Chief Executive but rather to the Ofqual Chair. Furthermore, the Acting Chief Executive of Ofqual ceased to be a member of the QCA Executive. However, under the terms of the MoU she may attend parts of the QCA Executive meetings that impact upon Ofqual, such as resource issues.

- 6.14 Although Ofqual had been launched in an interim form within the provisions of existing legislation, there was an expectation that it would act independently of QCA and bring about greater public visibility to its regulatory work. As the Acting Chief Executive of Ofqual, Isabel Nisbet described:

*"Even though Ofqual has just been set up, the way that we are perceived and the clarity of our role [has] changed significantly. In particular, it became expected and appropriate for Ofqual to communicate to the public, and to the Department, separately from the rest of QCA. When I was the director of the division of QCA, I would not go off to the Department to talk about the risk in another division of QCA. I would escalate it to Ken [Boston] and discuss it in the proper management way. This was a different role."*²⁸²

- 6.15 This expectation that Ofqual would present itself as being separate to both QCA and DCSF is reinforced in paragraph 10 of the MoU1, which required Ofqual to have its own public identity, press officer, and headquarters.²⁸³

- 6.16 It is apparent that from the very outset, Ofqual presented itself successfully as an independent Regulator. For example, it launched its own website and held a public launch event for stakeholders in May 2008. It has since established itself as an independent and critical voice by making public statements about the National Curriculum tests and other issues within its remit.

- 6.17 Although the arrangements to create Ofqual in interim form were described by the DCSF Permanent Secretary David Bell, as being 'constitutionally odd'²⁸⁴, its creation has been seen as having a positive impact on the regulation of National Curriculum tests in 2008:

*"...I actually think what we have set up, and what Ofqual has demonstrated, is that to all intents and purposes it has behaved like an independent Regulator. Just think how much more difficult this summer would have been if Ofqual hadn't existed, and the Regulator had been part of QCA. I don't think any of us set it up knowing what was going to happen, but there have been advantages in it behaving that way. It is a constitutionally odd position, but in terms of substance, I think it has already made a good start."*²⁸⁵

- 6.18 However, the difficulties of trying to establish and operate a new independent Regulator within the constraints of existing legislation, have also been recognised by the QCA Chief Executive Dr Ken Boston:

*"... we have tried, since Ofqual was set up in April, to achieve much greater separation... we actually have separate agendas, where Isabel joins us as a member of the QCA Executive when we are discussing issues of food and water, the staff levels, relocation, all of that. But she is not present when we discuss, for example, the progress of the National Curriculum tests this year, which she was separately monitoring. It is still a very difficult area, I mean it is frankly surviving on goodwill and that is working, but I am still the accounting officer for the whole thing... So we've tried to achieve separation, but it will be better when the separation is underpinned by real legislation."*²⁸⁶

Ofqual's reporting arrangements

6.19 In addition to considering Ofqual's legal governance arrangements, the Inquiry has sought to understand to whom it was expected to report any concerns it had regarding the delivery of National Curriculum tests in 2008.

6.20 Two paragraphs of the MoU1 between DCSF and QCA are pertinent. Paragraph 7 states:

*"[The Ofqual Committee] will act as the Board of the Regulator in shadow form and will report to the Board of QCA via the Interim Chair."*²⁸⁷

6.21 Paragraph 9 of the MoU1 states:

"The Interim Regulator will operate under QCA's remit letter from the DCSF. The funding of the interim Regulator will be ring-fenced from the funding of the rest of QCA."

6.22 In evidence submitted to the Inquiry, DCSF felt that the requirement in paragraph 9 implied there was a line of accountability between Ofqual and Ministers. Furthermore, DCSF believed that Ofqual should be reporting to DCSF and ministers rather than the QCA Board.

6.23 When asked to whom Ofqual should be reporting to regarding National Curriculum tests this year, DCSF's Director General for Young People, Lesley Longstone explained:

*"I think to ministers, certainly Kathleen [Tattersall] is reporting to ministers on what is happening with the National Curriculum tests..."*²⁸⁸

6.24 When asked to whom Ofqual's report on the quality of marking should be made, she said:

*"It is certainly not to the QCA Board..."*²⁸⁹

6.25 DCSF also recognised that there had not been an opportunity to confirm how Ofqual should report as an interim Regulator before it had to respond to the problems regarding the delivery of the tests. DCSF's Head of QCA, Ofqual, and Exams delivery division, Jeremy Benson added:

*"I think one of the things, and again it comes back to the point that they are a new developing organisation, one of the things that I am sure Isabel [Nisbet] would say she wanted to do is, once they have a statutory duty to regulate National Curriculum tests - which they do not at the moment, but it will be part of the legislation - is work out what that means in practice and what the reporting line [is] with QCA and ministers. And of course, if they were established, it would probably be much clearer. It might be much clearer that actually in these circumstances this would be the escalation route. But because obviously when we did the Memorandum of Understanding and we agreed all the detail of the framework, frankly we did not expect that the systems would be tested that quickly. To be perfectly honest, we were slightly, and I think Ofqual were slightly making things up as they went along."*²⁹⁰

- 6.26 Overall, reflecting on how well Ofqual had established itself during this period, DCSF Permanent Secretary, David Bell commented:

*"...I think it [Ofqual] did a good job during this whole business, not just in the run up period but through and since. It has looked like the independent Regulator doing what we would want an independent Regulator doing, and what we hope Parliament will allow it to do in due course."*²⁹¹

- 6.27 QCA's Chief Executive also acknowledged the arrangements, in respect of the QCA Board's role were working. He commented: "I think that as a rule of thumb that is working reasonably well."²⁹²

Regulatory Framework and Code of Practice

- 6.28 The 'Regulatory Framework for National Curriculum Assessments' and the 'National Curriculum assessments: Code of Practice' set out the basis on which the National Curriculum tests are regulated.²⁹³ These two documents were published in 2006 and 2007 respectively by the Regulation and Standards division of the QCA. Although these documents pre-date the creation of Ofqual in April 2008, they formed the basis of how Ofqual regulated the tests in 2008.

- 6.29 The Regulatory Framework sets out the five common criteria against which the National Curriculum tests are judged (validity, reliability, comparability, minimising bias and manageability), as well as the subject-specific requirements for the tests themselves.

- 6.30 The Code of Practice specifies the processes and procedures deemed necessary by the Regulator to ensure that high-quality, consistent, and rigorous standards are applied in National Curriculum tests.

- 6.31 Although the Code of Practice and Regulatory Framework are public documents, their purpose was in part to set out how NAA related to the former Regulatory and Standards division of QCA. This was to ensure that the public had confidence in the validity and reliability of the tests.

6.32 The Regulatory model adopted for National Curriculum tests is similar to that adopted for the regulation of GCSEs and A levels. The Acting Chief Executive of Ofqual, Isabel Nisbet, has explained to the Inquiry that a parallel has therefore been drawn between NAA and Awarding Bodies:

*"... we're trying to model our relationship with the NAA on the relationship we have with the Awarding Bodies, so that the only difference is that the NAA has got the superstructure of QCA above it. But so do some of the Awarding Bodies, some of them are parts of a bigger organisation... the idea is that we would so far as it is possible, regulate NAA in the same way as we do Edexcel or AQA."*²⁹⁴

6.33 This point of view is reflected in the Code of Practice and Regulatory Framework, which describes the NAA as a 'subsidiary body' of QCA with responsibility for delivering assessments and ensuring that they meet the standards set by the Regulator. However, the parallel between NAA and the Awarding Bodies is not perfect, as it is QCA that holds responsibility for the tests, as part of its remit from DCSF. The Regulatory Framework explains that NAA should "alert QCA to any major risks and issues that could affect the integrity or delivery of the assessments," but does not set out any procedures for the Regulator to escalate concerns beyond NAA.²⁹⁵

Plans for monitoring the delivery and marking of tests

6.34 The 'Regulatory Framework' set out the Regulator's monitoring plan for the period 2007 – 2009. In 2008, the following areas of the National Curriculum test process were due to be monitored:

- Test development
- Modified tests
- Print and distribution
- Marking
- Malpractice
- Level-setting and data collection.²⁹⁵

6.35 The areas of priority for 2008 were marking and level-setting. In written evidence submitted to the Inquiry, Ofqual has indicated that it took into account the risk associated with contracting of a supplier and re-focused its monitoring of the marking programme on the marker training.²⁹⁶

6.36 The monitoring of the National Curriculum tests was carried out by the National Curriculum Assessment (NCA) monitoring team which is part of the Monitoring and Comparability Group within Ofqual. The team comprised five members of staff. The quality of service provided by NAA is monitored against the

performance expectations which are set out in the published Code of Practice. It is clear from the regulatory documents that it was NAA that was being regulated, as in previous years, rather than its supplier ETS Europe (ETS).

Ofqual's monitoring activities in 2008

Monitoring of the innovations pilot

- 6.37 Ahead of the 2008 test cycle, ETS was required to pilot several of the online tools that it proposed to implement as part of its marking solution in 2008.
- 6.38 In August 2007, NAA sent the final plan for the innovations pilot to the Regulator's NCA monitoring team for review and comment. In an email response to NAA, the Regulator raised concerns about how the impact of online benchmarking and standardisation on marking quality would be assessed when live marking in 2008 would be paper-based.²⁹⁷
- 6.39 In September 2007, the Regulator notified NAA that it intended to observe training and marking during the innovations pilot. At the same time it also raised concerns about the impact that online benchmarking may have in terms of the number of stopped markers, and requested that contingency plans be put in place:
- "It is acknowledged by NAA/ETS that the benchmarking process is likely to result in higher rates of stopped markers that has been experienced in the past. Consequently, the Regulator would request that a contingency plan be put in place to manage provision for the extra marking load to be shared amongst the team. Since this process is new and there will only be evidence from the proof of concept pilot on which to base projections, it is recommended that the contingency plan should consider the management of provision at various levels of projected marker loss."*²⁹⁸
- 6.40 On 2 November 2007, the NCA monitoring team provided feedback to NAA on the findings of its monitoring of the marker training for the innovations pilot:
- "You asked about feedback from the pilot – overall the team thought that the standard of marker training presentations was good. Communications in the broadest sense gave rise for some concern. For example, how contacts with markers were managed; ease of access for venues. These are issues which need to be addressed to avoid alienating makers etc."*²⁹⁹
- 6.41 Later in the same month, the Regulator reiterated its request to NAA for a meeting to discuss the concerns it had about the possible impact communication issues may have on markers. The Regulator indicated that it was becoming increasingly concerned about ETS's capacity to meet the demands that were being placed on it:

*"NCA Monitoring is becoming increasingly concerned that ETS are not sufficiently geared up to cope with the demands that will be put upon the organisation in the New Year as preparations for 2008 are intensified."*³⁰⁰

6.42 Although the Regulator requested a meeting with NAA and ETS in November 2007, the meeting did not actually take place until 14 January 2008. In preparation for the meeting, NAA asked the Regulator for clarification of its concerns around ETS's capacity. However, the Inquiry has noted that NAA were also having internal discussions with ETS regarding their capability to deliver the contract.³⁰¹

6.43 The Regulator provided NAA and ETS with a list of points on which it sought clarification at the meeting. The issues raised included the organisation and resourcing of ETS, recruitment, retention and appointment of markers, and allocation of schools to markers.³⁰²

6.44 The outcomes of the innovations pilot were presented to the Regulator by NAA at meetings on 7 and 21 February 2008. Following these meetings, RSD Director, Isabel Nisbet, wrote to the NAA Managing Director, David Gee, indicating that the Regulator supported the recommendations being made by NAA for the 2008 test cycle. However, she also raised two concerns:

"First, that the volume of marker use at key points in the marking process might compromise the ability of ETS to operate efficiently. With this in mind our support for the OMC tool is dependent on load testing outlined in your presentation proving successful.

*Second, that the delays experienced in delivering the pilot and its report could indicate that the resources being assigned by ETS are insufficient to meet the required deadlines and standards of quality."*³⁰³

6.45 The NAA Managing Director, David Gee, responded providing reassurance that load testing of the online systems would take place and that NAA would provide regular updates to the Regulator:

*"I have asked for ETS to present the outcomes of all load tests to me personally and will provide you with updates as required. I can reassure you that NAA will continue to monitor progress in this area carefully."*³⁰⁴

6.46 The Regulator did not receive an update from NAA on the load testing until 21 April 2008 following a further request.

Monitoring of the delivery and marking of the 2008 tests

6.47 As described earlier in this chapter, the Regulator's monitoring plan focussed on the marker training programme. As part of this, the NCA Monitoring team observed a sample of ETS marker training events which took place in April and May 2008.

- 6.48 As a result of monitoring these meetings, Ofqual has stated that it became apparent that ETS's communications lacked clarity, and their resources were inadequate to meet the deadlines.³⁰⁵ It reported its concerns to NAA following a training meeting on 10 May 2008. However, whilst the Inquiry found evidence to indicate that Ofqual was trying to follow up its concerns through email exchanges and requests for additional information from NAA, the Regulator's concerns were not formally reported to NAA until 3 June, when the Acting Chief Executive of Ofqual wrote to NAA's Managing Director seeking reassurance that the marking of National Curriculum tests would be completed on time.
- 6.49 In her memo to the NAA Managing Director David Gee, the Acting Chief Executive of Ofqual, Isabel Nisbet, requested:
- "As a result of issues identified during the course of our monitoring, I am writing to seek reassurance from NAA that marking of the National Curriculum tests will be completed and the scripts returned to schools by the deadline of Tuesday 8 July 2008."*³⁰⁶
- 6.50 In addition, the Acting Chief Executive of Ofqual, sought specific reassurances from NAA regarding aspects of marking, communications and administration. She also provided NAA with an early draft of Ofqual's Marker Training report.
- 6.51 The report made an assessment of NAA's compliance with the requirements of the 2007 Code of Practice. The report included the following observations:
- "Regular reports from NAA on marker recruitment have not been forthcoming and it has been apparent that some of the meeting facilitators running and delivering the marker training programmes have not been particularly well trained, briefed or motivated. Not all staff running events were ETS based."*
- "Team leaders have not known the names and contact details of their teams until the very last minute, or even before the training day."*³⁰⁷
- 6.52 The draft report set out a number of success measures against which the training would finally be judged.
- 6.53 The NAA Managing Director, David Gee, responded to Ofqual's request for reassurance on 11 June 2008. In his response, he stated that:
- "...despite a number of challenges created by the inadequacies in the ETS delivery process system I have been given extensive reassurances by ETS that this will be achieved. However, in order to reduce any risks further I have dedicated significant additional NAA resource to support ETS in meeting its contractual obligations."*³⁰⁸
- 6.54 On 2 June 2008, a member of the NCA monitoring team sent an email to NAA raising concerns about ETS's capacity to manage the script scrutiny process.³⁰⁹ Script scrutiny involved senior markers reviewing scripts to inform the level setting process.

- 6.55 From the exchange of emails between Ofqual and NAA, it is evident that in late June 2008, Ofqual was having difficulty obtaining accurate and timely data from NAA regarding the number of marked and unmarked scripts that had been returned to the ETS warehouse by markers.³¹⁰ This is described in detail in the Delivery chapter of this report.
- 6.56 Ofqual was commissioned by DCSF officials to provide “a short note about the developing role of the Regulator” in relation to National Curriculum tests, to inform a meeting that was due to take place between the Schools Minister and NAA Managing Director on 17 June.³¹¹ Ofqual provided DCSF with a briefing note on 16 June 2008, which outlined Ofqual’s regulatory activity throughout the 2008 test operations process, and made the following conclusion:
- “We do not have reliable information on how many scripts are still to be marked but we have been worried by inadequacies in the script distribution and collection system. Our clear impression at present is that there is a high risk that not all schools will receive their results by 8 July as a result of marking not being completed and problems with the ETS IT and distribution systems.”³¹²*
- 6.57 The briefing note was copied to the NAA Managing Director but not to the QCA Chief Executive.
- 6.58 This was the first time that Ofqual had alerted ministers to their concerns in relation to the National Curriculum tests. During an inquiry interview, DCSF Head of QCA, Ofqual, and Exams delivery division, Jeremy Benson, commented on the nature of the briefing provided by Ofqual:
- “...I asked [the Acting Chief Executive of Ofqual] to do a note of Ofqual’s view of the position... They did so, and it’s fair to say they expressed greater concerns than we were expecting and perhaps more than QCA might have.”³¹³*
- 6.59 On 2 July 2008, the NAA Managing Director, David Gee, wrote to the acting Chief Executive of Ofqual, Isabel Nisbet, to alert her that NAA was going to breach Section 11 (paragraph 343) of the Code of Practice, because not all schools would receive results by the published date:
- “As you are already aware, we have been experiencing difficulties with our external marking agency, ETS (Europe) Ltd, initially regarding the allocation of scripts to markers. Our latest evaluation suggests that because of these difficulties, ETS are now unlikely to deliver a full suite of results to schools by the published return date, because the marking of some subjects will not be completed in time.*
- We therefore believe that we will be in breach of the National Curriculum Assessments: Code of Practice, Section 11 (Data requirements, collection and reporting) 343, in that some schools will not receive all their data by the published date.”³¹⁴*

6.60 On 3 July 2008, Ofqual led an 'accountability meeting' that NAA were required to attend. The date of the meeting had been arranged in May 2008. The Acting Chief Executive of Ofqual, Isabel Nisbet, explained the purpose of the meeting in an email to NAA's Managing Director, David Gee:

"As you know we hold formal accountability meetings with the [Unitary Awarding Bodies] before the results to make sure that the [papers] will be marked on time and quality checked, to get their assurances about validity and reliability, and to put to them any concerns that have arisen over the summer series.

*Ofqual is proposing such a meeting with NAA this year, just about end-of-key-stage tests. It would be chaired by Kathleen [Tattersall] and take place during the week before the first results go back to schools."*³¹⁵

6.61 The meeting was led by Ofqual Chair, Kathleen Tattersall. NAA's Managing Director and other NAA officials were in attendance.

6.62 From the minutes of the meeting it is evident that amongst other things, the following issues were covered:

"Completion of marking

Delivery of accurate results

Quality of marking

Compliance with the Code of Practice

Online administrative systems and communications

*Effectiveness of suppliers."*³¹⁶

6.63 Following the accountability meeting with NAA, the Ofqual Chair wrote to the Secretary of State for Children, Schools and Families on 4 July 2008 to confirm that Ofqual had been informed by NAA that full results would not be ready by the original deadline of 8 July 2008. This letter was copied to the QCA Chief Executive, as well as the NAA Managing Director. It appears that this was the first occasion that the QCA Chief Executive, the person within QCA ultimately accountable for the tests, was formally informed by the Regulator that it had concerns about the delivery of results.

The Regulator's role during the recovery period

6.64 Once it was announced that results would not be delivered to schools by 8 July 2008, Ofqual sent staff to monitor the Marking Panels, which had been set up by NAA in order to complete the marking process. In addition, Ofqual convened weekly meetings with NAA to be updated on the progress that was being made with the completion of marking, quality of marking, and the return of results to schools.

6.65 Following the first Regulatory meeting with NAA on 25 July 2008, members of Ofqual's NCA monitoring team visited the central distribution warehouse on 28 July, and found that the number of unmarked scripts was significantly larger than Ofqual had been led to believe at the meeting. In addition, Ofqual discovered approximately 4,000 unmarked scripts at ETS' Watford offices.

6.66 In light of these concerns, the Acting Chief Executive of Ofqual, Isabel Nisbet, wrote to the NAA Managing Director, David Gee, on 30 July 2008:

*"As you know, we have been checking activities at Leeds, including the regular arrival of more parcels of unmarked scripts and the work to mark them. Our reporter has reported concerns which prompt me to ask whether NAA is satisfied that ETS is providing (a) adequate resources for marking the remaining unmarked scripts; and (b) adequate quality assurance arrangements to make sure that the remaining scripts are marked as soon as possible and properly checked. Our observer today said he had particular concerns about the resources required for marking KS3 Science and the absence of signs of quality assurance other than for KS2 English. However, I realise that the position may change day to day and I am seeking a more general assurance that adequate arrangements are in place and information on what NAA is doing to make sure that that is so."*³¹⁷

6.67 In contrast to the communications that were sent by Ofqual to NAA prior to 4 July, Ofqual's 30 July letter was copied to the QCA Chief Executive and the Director General for Young People at DCSF.

6.68 The NAA Managing Director responded on 8 August confirming that the marking panel had concluded its operation and outlining the quality assurance controls that NAA had put in place.³¹⁸

Provision of management information by NAA to the Regulator

6.69 Paragraph 10(b) of the Regulatory Framework places a responsibility on the NAA to "make available relevant information requested by QCA[’s Regulatory and Standards Division] and allow QCA reasonable access to premises, dissemination events, meetings, documents, data, NAA and agency staff, where appropriate."

6.70 Ofqual made 52 requests for information (RFIs), from NAA between January and August 2008. In the majority of cases the information requested was provided by NAA. However, as described in the Delivery chapter of this report, on one occasion NAA refused to provide Ofqual with the information it requested about marking progress. There is evidence that information was not always provided in the form requested or elements of information were missing.

6.71 The approach adopted by the Regulator when it had concerns about the quality of information it was receiving from NAA, was to try and resolve them informally through email exchanges. However, there is no evidence of the Regulator

escalating concerns up the hierarchy to QCA when it was dissatisfied with the responses it received from NAA.

- 6.72 In evidence submitted to the Inquiry, QCA has confirmed that NAA sometimes encountered difficulties in providing Ofqual with the management information it requested:

“On some occasions ETS was unable to provide the source management information for NAA on time. This caused delays in responding to RFIs.

In some instances management information provided by ETS was inaccurate or had not been adequately quality assured.

In a small number of cases, particularly related to script movement, the information requested by the Regulator could not be provided by ETS.”³¹⁹

- 6.73 The Inquiry acknowledges that there were occasions where NAA struggled to get ETS to provide the data in the format requested by the Regulator.

Risk management and reporting

- 6.74 Prior to the establishment of Ofqual, RSD reported risks to the QCA Executive meeting in the same way as NAA.
- 6.75 Examination of the Regulator’s risk registers reveal there was one risk relating to National Curriculum tests, which remained on the register for eight months, and was rated as amber. The risk concerned the effect on level thresholds in 2008 following the decision to remove ‘borderlining’.
- 6.76 In evidence submitted to the Inquiry, Ofqual has maintained that the risk that test results would not be delivered on time was recognised operationally and became more pressing in April 2008. However, this was not reflected in risk registers prior to the delivery failure.³²⁰
- 6.77 Following the creation of Ofqual, a strategic risk register was developed and presented to the Ofqual Committee in July 2008. The register included the risk: “Failure in delivery of GCSEs, A levels or National Curriculum assessments in summer 2008 leads to the damage to Ofqual’s reputation.” After mitigation the likelihood of the risk was rated as “remote”, and the significance rated as “significant”.³²¹
- 6.78 Ofqual has submitted evidence to the Inquiry stating that there were no formal procedures in place for escalation of risks within the Regulator and hierarchy of the QCA.³²² This would appear to be a corollary of the wider issues to do with Ofqual’s reporting lines.
- 6.79 Appearing before the Children, Schools and Families Select Committee, Ofqual indicated that it ‘escalated’ risks to NAA for resolution.³²³ Prior to the summer, this was primarily by means of telephone or informal e mail exchanges. In June

2008, the Ofqual Acting Chief Executive wrote a more formal letter to the NAA Managing Director, which was reciprocated on 2 July 2008 when NAA notified Ofqual of the likely delay to test results.³²⁴ Ofqual also requested a formal accountability meeting with NAA in light of risks it had identified, but despite this request being made in May, the meeting was not scheduled until 3 July 2008.

- 6.80 DCSF and QCA have different expectations about to whom Ofqual should have been escalating risks. DCSF was first notified by Ofqual of the risk it had identified to the delivery of tests, on 16 June 2008, after officials had commissioned an update for the Schools Minister. This note stated that:

*“Our clear impression at present is that there is a high risk that not all schools will receive their results by 8 July as a result of marking not being completed and problems with ETS IT and distribution systems.”*³²⁵

- 6.81 However, this information was not passed to the QCA Executive or Board, who were unaware that Ofqual had raised this risk with ministers and NAA. The QCA Chief Executive, Dr Ken Boston, has described this as an unsatisfactory position:

*“I should have been so informed: both by the NAA which received a copy of the briefing, but did not escalate the issue to me; and by Ofqual, which also did not escalate the issue to me or the Board despite receiving an acknowledgement from NAA that did nothing to allay the Ofqual concerns.”*³²⁶

Analysis and findings

- 6.82 The Inquiry welcomes the creation of Ofqual as an independent regulator of National Curriculum tests as a positive development, and believes it represents a significant improvement on the previous arrangements that existed for the regulation of National Curriculum tests.
- 6.83 The Inquiry believes that the creation of Ofqual as an interim regulator ahead of legislation was inherently difficult as it was necessary for DCSF and QCA to put in place governance and reporting arrangements to enable Ofqual to operate within existing legislation. Furthermore, the timing of Ofqual’s launch in April 2008, meant that Ofqual immediately had to react and comment on test delivery issues. As a consequence, Ofqual did not have the opportunity to work with its stakeholders to clarify how the interim arrangements would operate in practice. Nevertheless, it is the Inquiry’s assessment that Ofqual made a positive contribution in terms of reporting on the problems with the delivery of National Curriculum tests this summer.
- 6.84 The Inquiry is confident that the issues identified in this report concerning Ofqual’s interim operation can be addressed in forthcoming legislation.

6.85 The following findings have been observed in relation the regulation of National Curriculum tests in 2008.

There was insufficient clarity in the Regulator's reporting arrangements and its relationship with QCA, NAA and DCSF

6.86 The QCA has held a dual responsibility since its inception in 1997. Through the remit given to it by DCSF, it has been responsible for the production and delivery of National Curriculum tests. Whilst at the same time, it was accountable to the Secretary of State for ensuring that the public had confidence in the validity, reliability and rigour of statutory assessments, and for maintaining test standards over time. Prior to the creation of Ofqual in April 2008, a degree of operational separation was established within QCA between NAA, the division responsible for the production and delivery of the tests, and RSD, the division that was responsible for checking the validity and reliability of the tests.

6.87 The purpose of regulation at this time was to provide the QCA Chief Executive with an independent view of the work of NAA in relation to the tests. Both Ofqual and QCA have acknowledged that RSD was in essence performing an internal compliance role, and the attempt to achieve a degree of separation between NAA and QCA's regulatory function was not wholly effective.

6.88 It is the Inquiry's assessment that the organisational structures and regulatory apparatus that QCA put in place to enable it to fulfil its dual role were not wholly effective. This may have militated against the timely and appropriate escalation of the concerns identified by the Regulator.

6.89 With the launch of Ofqual in April 2008 as the new independent Regulator there was an expectation that it would be more vocal and visible when it identified issues that caused concern. However, it is the Inquiry's assessment that the complexity of the governance arrangements and series of MoUs that were necessary to enable Ofqual to operate as an interim Regulator, resulted in a lack of clarity and shared understanding between QCA, Ofqual and DCSF regarding who it was accountable to, and how and when it should report its concerns.

6.90 It is also apparent that the profile of Ofqual developed more rapidly than was perhaps originally envisaged, and it was being asked to react to and comment publicly on test delivery matters more than it had expected so early in its existence.

6.91 However, after Ofqual became aware that the results would not be delivered on time, it became more visible in the public arena, as evidenced by the publication of its correspondence with the Secretary of State, the advice it gave DCSF's Head of Profession of Statistics regarding quality of marking, and public statements made by the Chair. The Inquiry believes that this augurs well for Ofqual's role in the future.

The Regulator's risk monitoring and management processes were inadequate and the process for escalating concerns to QCA and DCSF was not properly defined

- 6.92 The Inquiry has found that although Ofqual and its predecessor RSD held risk registers, the risks captured related to its own corporate risks and issues concerning its reputation, rather than reflecting issues that were emerging from its monitoring. The risk registers appear to have been static documents, as the risks captured and their ratings remained unchanged for many months. Although Ofqual maintain that risks relating to the possible late delivery of results were being recognised operationally, the Inquiry could find no evidence to indicate that the Regulator was systematically considering issues and risks identified through its monitoring activities.
- 6.93 As Ofqual has acknowledged, there were no written procedures for escalating risks between NAA, the Regulator and QCA.³²⁷ It appears that the Regulator only reported and escalated its concerns regarding the delivery of tests to NAA. When it received unsatisfactory answers from NAA, it went back to NAA to try and resolve them rather than bringing them to the attention of the QCA Chief Executive, the QCA Board or DCSF.
- 6.94 Ofqual has stated that its regulatory approach was to treat NAA as an 'arm's length delivery agency'.³²⁸ It is the Inquiry's view that the model of regulation, as set out in the Regulatory Framework and Code of Practice, contributed to the problem of issues and risks only being referred back and forth between the Regulator and NAA. The Regulatory Framework treats the NAA as a separate entity, in a similar way to how the Regulator treats an Awarding Body offering qualifications. Consequently, NAA Managing Director was seen as the person ultimately accountable for the delivery of the tests, when in fact this responsibility rests with the QCA Chief Executive and the QCA Board.
- 6.95 There is evidence that Ofqual attempted to bring about more formality to risk reporting and the accountability relationship between the Regulator and NAA following its launch in April 2008. The Acting Chief Executive of Ofqual began to send formal letters to NAA outlining issues that were of concern and seeking reassurances from NAA.
- 6.96 In May 2008, Ofqual took the decision to ask NAA to attend a formal accountability meeting. However, the meeting did not take place until 3 July, just five days before results were scheduled to be sent to schools. Although the Inquiry applauds the principle of having accountability meetings between the Regulator and NAA, it believes an important opportunity for the Regulator to formally raise its concerns with NAA earlier on in the marking process was missed.
- 6.97 The lack of clarity regarding to whom and when Ofqual should have been escalating risks is illustrated by the fact that Ofqual only alerted ministers that it

believed that there would a significant risk that results would not be delivered on time when DCSF officials requested a briefing note from Ofqual on 13 June 2008. However, neither the QCA Chief Executive or Board were informed by Ofqual of its concerns, even though QCA was responsible for ensuring the delivery of results on time.

- 6.98 The Inquiry believes that Ofqual should have proactively escalated its emerging findings to ministers and the QCA Board, given the seriousness of its concerns about the timetable. In hindsight, this has been recognised by Ofqual.

“Given the extent of the concerns within the NCA monitoring team, it might have been appropriate to have notified Government formally sooner.”³²⁹

- 6.99 The Inquiry is also encouraged to note that Ofqual has already identified risk management and escalation as an area for improvement:

“With hindsight, some of the emerging regulatory concerns could have been escalated sooner – and higher- within QCA. The documentation enclosed includes a large number of email exchanges and some formal letters at Director level, but there was not a clear understanding of what should trigger escalation and how that should be done.”³³⁰

The focus of the Regulator’s monitoring of the tests in 2008 was too narrow and insufficient attention was paid to the monitoring of delivery and systems issues

- 6.100 The basis of Ofqual’s regulation of National Curriculum tests is the Regulatory Framework and Code of Practice. It is clear from these documents that the Regulator’s remit covers issues to do with the delivery of tests as well as the quality of the tests. However, the focus of the Regulator’s monitoring activities in 2008 was on issues to do with the quality of the tests such as marking, level setting, and the removal of borderlining, rather than checking the robustness or readiness of new suppliers systems to deliver the tests on time. This contributed to the fact that the Regulator did not anticipate and escalate its concerns about the delay to results sooner.
- 6.101 It is clear that the Regulator, through its various monitoring activities, was identifying delivery issues, such as the problems with the script management process, and reflecting these back to NAA. However, this was largely reactive, in response to management information provided by ETS/NAA.
- 6.102 The lack of any systematic monitoring of delivery systems by the Regulator resulted in it having to react to issues it discovered by requesting additional information from NAA to confirm its concerns, rather than proactively identifying relevant sources of information earlier on in the test delivery process.
- 6.103 The Regulator has described its approach to monitoring the 2008 tests was to prioritise their monitoring activities based on an assessment of risk, and within

these activities to sample specific meetings such as marker training meetings. Whilst it is entirely appropriate that a Regulator does not try to do the job of the organisation it regulates, it should ensure that it has the resources to monitor effectively both quality and delivery issues.

The Regulator was not always able to obtain accurate management information at the right time from NAA

- 6.104 The Regulator made 52 requests for information from NAA between January and August 2008. On the whole these were met by NAA. On some occasions ETS was unable to provide the source management information for NAA on time. In some instances, management information data provided by NAA was inaccurate or had not been adequately quality assured, and in a small number of cases the information requested by the Regulator was not provided by NAA. It is the Inquiry's view that these problems inhibited the ability of the Regulator to discharge its functions.
- 6.105 As described, there was one instance when NAA refused to provide the information being requested by the Regulator. However, because of the non-statutory nature of National Curriculum test regulation, the Regulator was unable to require NAA to comply with its information requests, and therefore had to look at alternative ways of trying to obtain the information it needed. The Inquiry believes it will be imperative to endow Ofqual with necessary powers in forthcoming legislation to enable it to discharge its responsibilities effectively.
- 6.106 However, the Regulator did not specify before commencing its monitoring what management information it would need to be able to carry out its monitoring activities effectively, nor did it clarify up front the format in which it needed to receive information from NAA. This may have impacted on NAA's ability to provide timely and accurate management information that met the Regulator's requirements.

Recommendations

Ahead of legislation, the reporting arrangements for Ofqual should be clarified

- 6.107 The Memoranda of Understanding, governance and accountability arrangements should be reviewed.
- 6.108 There should be a protocol established for Ofqual to keep DCSF informed about its findings during monitoring.
- 6.109 Ofqual should update the Regulatory Framework and Code of Practice to ensure they accurately describe the respective roles and responsibilities of Ofqual, QCA and NAA (including its suppliers).

6.110 Ofqual should hold regular accountability meetings with NAA at key stages during the test development and delivery process.

Ofqual should ensure that it has sufficient resources, plans and skills to enable it to monitor the QCA thoroughly.

6.111 Ofqual should have sufficient resources and plans in place to monitor the contractual arrangements for the delivery of the 2009 key stage 2 tests.

6.112 Ofqual should ensure that it has the necessary resources and plans in place to effectively monitor QCA and its suppliers' delivery systems.

6.113 Ofqual should specify the nature, format and timing of any management information that it requires from QCA to discharge its regulatory functions in advance of the test delivery cycle commencing.

6.114 Ofqual should ensure it has project and risk management mechanisms in place for its monitoring of National Curriculum test.

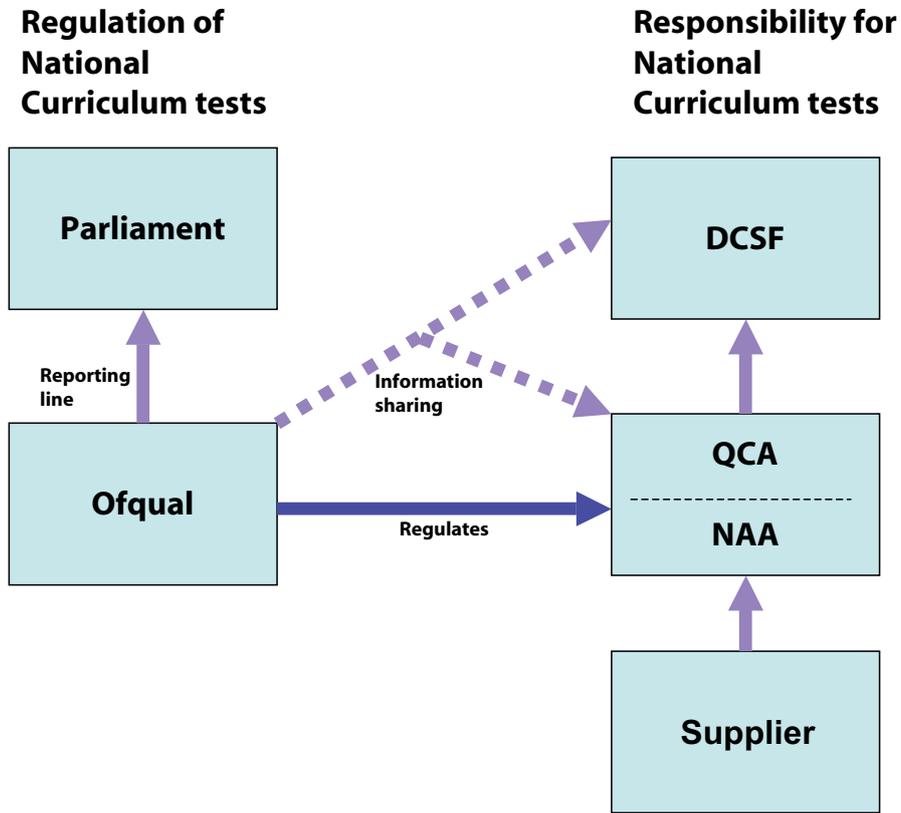
The forthcoming legislation to establish Ofqual should ensure that it is given statutory powers to regulate the quality and delivery of National Curriculum tests, and clearly sets out reporting lines

6.115 The following arrangements should be considered in relation to any powers that Ofqual is granted:

- It should be made clear that responsibility and accountability for delivery of National Curriculum tests rests with DCSF, QCA and its successor body and any supplier it uses.
- Ofqual should be given the freedom to determine the scope, focus, and priority of its monitoring activities in relation to the tests, but there should be the facility for DCSF to request Ofqual's expert advice on specific issues.
- Ofqual should be able to report its findings in relation to the National Curriculum tests to parliament and public in a timely manner, but should also have a duty to inform DCSF and QCA when it has concerns about the delivery and quality of the tests.
- Responsibility for taking action to address any concerns identified by the Ofqual in relation to the delivery and quality of the tests should rest with DCSF and QCA, and not Ofqual. However, the Ofqual should be able to monitor and report on progress against any action plans that have been put in place.

6.116 The diagram below illustrates these arrangements.

Responsibility for regulations and responsibility for tests



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- 270 P.E. Chandler, Marking Programme Leader, KS3 Science, 7 September 2008
- 271 Dr Brigitte Charles, Senior Marker, KS3 English reading, 12 September 2008
- 272 D Willmott, Exams Officer, Queen Elizabeth's School, Mansfield, 11 September 2008
- 273 E.M. Robertson, Headteacher, St Andrew's CE Primary School, 27 August 2008
- 274 Stephen Mason, Headteacher, St Augustine's Catholic Primary School, Weymouth, 12 September 2008
- 275 Debra Skeer, Headteacher, Harper Green School, 12 September 2008
- 276 Stephen Mason, Headteacher, St Augustine's Catholic Primary School, Weymouth, 12 September 2008

Regulation

- 277 Inquiry interview with Dennis Opposs and Head of NCA Monitoring Team (Ofqual), 25 September 2008
- 278 Inquiry interview with Dr Ken Boston (QCA), 18 September 2008.
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- 280 MoU 1 between DCSF and QCA, 2 April 2008
- 282 Inquiry interview with Isabel Nisbet, Dennis Opposs and Head of NCA Monitoring Team (Ofqual), 17 September 2008
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- 286 Inquiry interview with Dr Ken Boston (QCA), 18 September 2008
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- 288 Inquiry interview with Lesley Longstone and Jeremy Benson (DCSF), 24 September 2008
- 289 Ibid
- 290 Ibid
- 291 Inquiry interview with David Bell (DCSF), 16 September 2008
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- 293 National Curriculum Assessments Regulatory Framework (Revised 2006) and National Curriculum Assessments Code of Practice (2007)
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- 296 Ofqual submission to the Inquiry, 12 September 2008
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- 298 Email from NCA Monitoring Team to David Barrett (NAA), 14 September 2007
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- 302 QCA submission to the Inquiry (chronology annex) , 12 September 2008
- 303 Email from Isabel Nisbet (Regulator) to David Gee (NAA), 21 February 2008.
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- 305 Ofqual submission to the Inquiry, 12 September 2008
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- 308 Letter from David Gee (NAA) to Isabel Nisbet (Ofqual), 11 June 2008
- 309 Email from NCA Monitoring Team (Ofqual) to NAA, 2 June 2008
- 310 Ofqual submission to the Inquiry (correspondence)
- 311 Email from Jeremy Benson (DCSF) to Isabel Nisbet (Ofqual), 13 June 2008
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- 313 Inquiry interview with Lesley Longstone and Jeremy Benson (DCSF), 24 September 2008
- 314 Letter from David Gee (NAA) to Isabel Nisbet (Ofqual), 2 July 2008
- 315 Email from Isabel Nisbet (Ofqual) to David Gee (NAA), 22 May 2008
- 316 Minutes of 2008 National Curriculum test accountability meeting, 3 July 2008
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- 323 Isabel Nisbet, evidence to the Children, Schools and Families Select Committee, 10 September 2008
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- 326 Letter to the Inquiry from Dr Ken Boston, 27 November 2008
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- 328 Letter to the Inquiry from Isabel Nisbet (Ofqual), 1 December 2008
- 329 Ofqual submission to the Inquiry, 12 September 2008
- 330 Ibid

Glossary

Awarding Body – an organisation recognised by the Regulator for the purpose of awarding accredited qualifications.

Benchmarking – a quality assurance process, used in relation to marker performance during 2008 test delivery process.

Borderlining – a process carried out to ensure the correct level is awarded by checking the marking of those pupils whose marks fall just below the level threshold.

Business Continuity – activities performed to maintain service, consistency and recoverability.

Central Distribution Centre – the ETS Europe warehouse that managed distribution of test materials and scripts.

Change Controls – the mechanism by which changes to the contract are made.

Code of Practice – document which sets out the criteria and processes that the Regulator applies to the regulation of National Curriculum tests. The Code of Practice specifies the procedures and processes needed to ensure high quality, consistency, and rigorous standards in national curriculum tests.

Competitive Dialogue – this describes the procurement process used to award the ETS Global BV contract. This procurement process enabled QCA to engage in a dialogue with the potential suppliers at a number of different stages in the process.

Compliance – when an organisation or individual conforms to a specification or policy, standard or law that has been clearly defined.

Corporate performance – a term used to refer to the overall performance of the organisation.

'Cottage Industry' – an industry which includes many producers, working from their homes, typically part time. This term has been used in relation to National Curriculum tests to refer to the current model of marking.

Critical path – a term which describes the sequence of activities which determine the shortest time possible to complete a project. Any delay of an activity on the critical path directly impacts the planned project completion date.

Dashboard – a format used to display the most important and relevant management information in an easy-to-view format.

Datafeed – a term used to describe the data outputs that are provided to DCSF by QCA, used to measure pupil performance at key stage 2 and key stage 3.

DCSF – The Department for Children, Schools and Families (formerly DfES – Department for Education and Skills).

Delivery cycle – the annual cycle of test delivery from development through to completion.

Due Diligence report – an assessment made of a suppliers finance strength and liquidity conducted during the procurement phase. The outcome of this is called the 'Due Diligence report'.

Escalation – a term used to describe how a risk or an issue is passed up the hierarchy of an organisation.

ETS Europe – subsidiary of ETS Global BV, test operations supplier in 2008

Escalation – the mechanism or procedure by which risks or issues are referred to senior colleagues or other organisations.

Interdependency – a term used to describe project milestones which are dependent on each other

Interface – the point at which two things connect. When used to describe the interface between two systems, it means that point at which the two systems need to interact with each other.

K12 – the main or master database held by ETS.

Level – the National Curriculum level of attainment

Level setting – the process by which the mark needed to achieve a level is determined. Threshold marks are set for each subject in line with the National Curriculum level description, so that standards are maintained and each pupil's achievement is rewarded with the appropriate Level.

Level threshold – the boundary between two levels

Management information – a term used to describe the different types of information that are used to support decision making by managers.

Marker – markers are responsible for marking individual test scripts and consistently and accurately applying the mark scheme.

Marker allocation – the process by which individual test scripts are assigned to markers.

Marking hierarchy – amongst the community of markers, there are different ranks or positions held, such as Marking Programme Leader and Team Leader. All of these positions make up the marking hierarchy.

Materials management – an overarching term used to describe the various scripts and stationary sent to schools.

Memorandum of Understanding – a document describing an agreement between two or more parties.

Milestone – within project management a milestone is used to determine the completion of a phase of work. In addition to signaling completion of a key deliverable, a milestone can also signify an important decision, which outlines or affects the future of a project.

Mitigation – mitigation is the phase of work undertaken to stop a risk from being realised.

NAA – the National Assessment Agency, a division of the QCA

Ofqual – the Office of the Qualifications and Examinations Regulator

OJEU – the Official Journal of the European Union (formerly OJEC - Official Journal of the European Community). This is the publication in which all contracts from the public sector which are valued above a certain financial threshold according to European Union legislation, must be published.

Online Attendance Register – the Online Attendance Register was an online system developed by ETS that enabled schools to enter attendance status of each pupil on the day of the tests.

Online Mark Capture (OMC) – the Online Mark Capture system was a web based system developed by ETS that enabled markers to input the marks from individual scripts.

Partial allocations – within the marker allocation process, rather than being sent all of their scripts, some markers were sent a subset, which is referred to as 'partial allocations'.

Pricing model – when suppliers made bids during procurement, they were asked to provide details of how much different elements of their services would cost – this was referred to a 'pricing model'.

Procurement – the process by which a new supplier to administer the National Curriculum tests was selected.

Project management – the process by which all aspects of a project are planned, monitored, and controlled to enable the project objectives to be achieved on time and to the specified cost, quality and performance.

Project plan – a high-level plan showing the major milestones and deliverables for the project and the dates by which these are expected to be delivered. This is the main document by which the actual progress of the project is monitored.

Pupil registration – The process by which schools tell the supplier how many pupils will be eligible to take the National Curriculum tests.

Regulator – Ofqual, which holds responsibility for securing public confidence in the validity, reliability and rigour of statutory assessments and in the maintenance of standards over time. Prior to April 2008, the Regulatory and Standards Division (QCA), conducted this function.

Regulatory Framework – a document which sets out the criteria and identifies the process that will apply to the regulation of National Curriculum tests.

Risk – a risk can be defined as uncertainty of an outcome, whether that is a positive opportunity or a negative threat. Every project has risks associated with it.

Risk management – risk management is the process by which risks are identified and appropriate steps to avoid, reduce or react to threats are put in place.

Risk register – a risk register is where the risks and steps required to avoid or reduce the threat are documented.

Script scrutiny – a process carried out by the most senior and experienced markers. They review test papers from pupils achieving within the draft level threshold range and compare this performance against that required to achieve a level in the previous year. This enables a judgement on where this year's threshold levels should be set.

Standardisation – a quality assurance process that ensures that the mark scheme is applied consistently by markers or moderators.

Supplier for test operations – the company that QCA contracts with to supply services that support the delivery of National Curriculum tests. In 2008, this supplier was ETS.

Tender specification – the procurement document which tells potential suppliers exactly what service is to be developed and when it is to be delivered.

Test Cycle – the cycle of the National Curriculum tests from the development of the tests, to the tests being taken, and concludes with the data analysis and reporting at the end of the year.

Test Orders Website – the website that schools log onto to state how many National Curriculum tests scripts that they require.

QCA – the Qualifications and Curriculum Authority

Terms of reference for the Inquiry set by the interim regulator, Ofqual

Stewart Sutherland (Lord Sutherland of Houndwood) has agreed to report to Ofqual on problems with the delivery of National Curriculum tests in the summer of 2008 and to report separately to the Secretary of State for Children, Schools and Families on the delivery of the Department's policy by the Qualifications and Curriculum Authority (QCA).

The inquiry has been established because of problems that have arisen in the delivery of Key Stage 2 and Key Stage 3 National Curriculum tests in 2008, leading to a delay in the release of results to schools from the planned date of 8 July.

The inquiry will investigate what went wrong, the reasons for the problems experienced and what should be done to avoid a recurrence in future years.

The inquiry will report to the Secretary of State for Children, Schools and Families on matters outside Ofqual's remit and to Ofqual on the following issues as they relate to the delivery of the tests in 2008 by the National Assessment Agency (NAA) and ETS Europe (ETS):

- the nature and extent of the failures
- risk identification, management and contingency planning by ETS and NAA
- quality and use of management information provided by ETS to NAA, and NAA to Ofqual
- administration of the marking process, including the management of markers
- communication with schools by ETS and NAA
- the effectiveness of regulation of National Curriculum tests by the QCA (as regulator) and subsequently Ofqual.

The inquiry will provide a progress report for the Ofqual Committee to consider at its meeting on 16 October 2008. The timetable for the final report will be agreed at that meeting. The Ofqual Committee will report its findings to the QCA Board.

Procedures

The inquiry will be carried out in private but information about it will be publicly available. The reports of the inquiry to Ofqual will be published.

The inquiry may interview appropriate people from the following organisations: NAA, QCA, ETS, Ofqual and the Department for Children, Schools and Families. It may also seek the views of other interested parties including markers, schools and local authorities.

Annex D

Terms of reference for the Inquiry set by the Secretary of State for Children, Schools and Families

Stewart Sutherland (Lord Sutherland of Houndwood) has agreed to report to Ofqual and to the Department for Children, Schools and Families (DCSF) on problems with the delivery of National Curriculum tests in the summer of 2008.

The inquiry has been established because of problems that have arisen in the delivery of Key Stage 2 and Key Stage 3 National Curriculum tests in 2008, leading to a delay in the release of results to schools from the planned date of 8 July.

The inquiry will investigate what went wrong, the reasons for the problems experienced and what should be done to avoid a recurrence in future years.

The inquiry will report to Ofqual on matters within its remit, and to the Secretary of State for Children, Schools and Families on the following issues as they relate to the delivery of the tests in 2008 by the Qualifications and Curriculum Authority (QCA) and ETS Europe (ETS):

How the QCA has discharged its remit from the DCSF to deliver National Curriculum tests at Key Stage 2 and Key Stage 3 in 2008, and specifically:

How the QCA has delivered against its formal success measures in relation to Key Stage 2 and Key Stage 3 tests in 2008;

- the appropriateness of governance and organisational arrangements within the QCA;
- the appropriateness of the DCSF's arrangements to monitor the QCA's delivery against its remit.
- The appropriateness of arrangements put in place by the QCA to procure the contract for delivery of National Curriculum tests, and the subsequent management of that contract by the QCA, and specifically:
 - the procurement process from the development of the initial tender specification to the award of the contract;
 - the suitability of the contract to allow delivery of the QCA's remit;

- the arrangements for the contractor, ETS Europe, to report to the QCA;
- the arrangements for ETS to report risks to the QCA;
- the effectiveness of the QCA's arrangements to manage the ETS contract and the delivery of National Curriculum tests in 2008;
- the functioning of IT systems and programmes to manage and deliver the National Curriculum tests and to ensure delivery of data between the contractor, ETS Europe, QCA, DCSF, and schools.

Procedures

The inquiry will be carried out in private but information about it will be publicly available. The reports of the inquiry to the DCSF will be published.

The inquiry may interview appropriate people from the following organisations: QCA, ETS Europe, Ofqual and DCSF. It may also seek the views of other interested parties including markers, schools and local authorities.

Where the inquiry is reporting to both Ofqual and the DCSF on the same issue, it will be for Lord Sutherland as the inquiry lead to determine how he makes recommendations to each, taking into account the different roles and responsibilities of each organisation.

Annex E

Written evidence received by the Inquiry

The Inquiry is grateful to the following individuals and organisations who submitted evidence to the Inquiry.

Ms Joanne Atkinson	Marker, Key Stage 3 Maths
Ms Carole Brason	Marker, Key Stage 2 Maths
Mr Norman Brown	Specialist Braille Marker, Key Stage 3 Science
Mr R D C Barnett	Marker, Key Stage 2 Maths
Mr P.E. Chandler	Marking Programme Leader, Key Stage 3 Science
Dr Brigitte Charles	Marker, Key Stage 2 English
Ms Clea Curtis	Marker, Key Stage 2 English
Ms Elizabeth Field	Marker, Key Stage 3 English Writing
Ms Rachel Flynn	Marker Team Leader, Key Stage 3 Maths,
Ms Peter Grove	Marker Team Leader, Key Stage 2 Maths
Mr Martin Iddon	Marker, Key Stage 2 English
Ms Carole Newton	Senior Marker, KS3 English Reading
Ms Sandra Macdonald	Marker, Key Stage 3 English Reading
Mr James Miller	Marker, Key Stage 3 Maths
Ms Helen Sayers	Team Leader Marker, Key Stage 3 Science
Ms Jill Stones	Team Leader Marker, Key Stage 2 Science,
Mrs C.E. Walker	Marker, Team Leader
Ms Mary J Watson	Marker, Key Stage 3 English
Bourne Abbey CoE Primary School	
Harper Green School	
James Brindley Science College	
Leyland Methodist Junior School	
The Matthew Arnold School	
Moor End CP School	
Moss Side Primary School	
Queen Elizabeth's School	

St Andrew's CoE Primary School
St Augustine's Catholic Primary School
St Barnabas CoE Primary School
St Bartholomew's School
Association of Directors of Children's Services (ADCS)
Association of School and College Leaders
The Association for Science Education
ATL
Buckinghamshire County Council
Chartered Institute of Educational Assessors
Department for Children, Schools and Families
Education Leeds – Assessment Team
Examination Officers' Association
Implementation Review Unit
National Association of Headteachers
National Association of Headteachers (Lancashire Branch)
NASUWT
Michael Gove MP, Shadow Secretary of State for Children, Schools and Families
National Union of Teachers
National Association for the Teaching of English
NFER
Norfolk County Council, Children's Services
Office of the Qualifications and Examinations Regulator
Qualifications and Curriculum Authority
Surrey County Council

People interviewed by the Inquiry

Department for Children, Schools and Families (DCSF)

Rt Hon Ed Balls MP	Secretary of State for Children, Schools and Families
Rt Hon Jim Knight MP	Minister of State
David Bell	Permanent Secretary
Jeremy Benson	Head of QCA Sponsor Team
Malcolm Britton	Head of Data Services Group
Jon Coles	Acting Director General for Schools
Sue Hackman	Chief Adviser on School Standards
Lesley Longstone	Director General for Young People
DCSF Official	Data Services Group

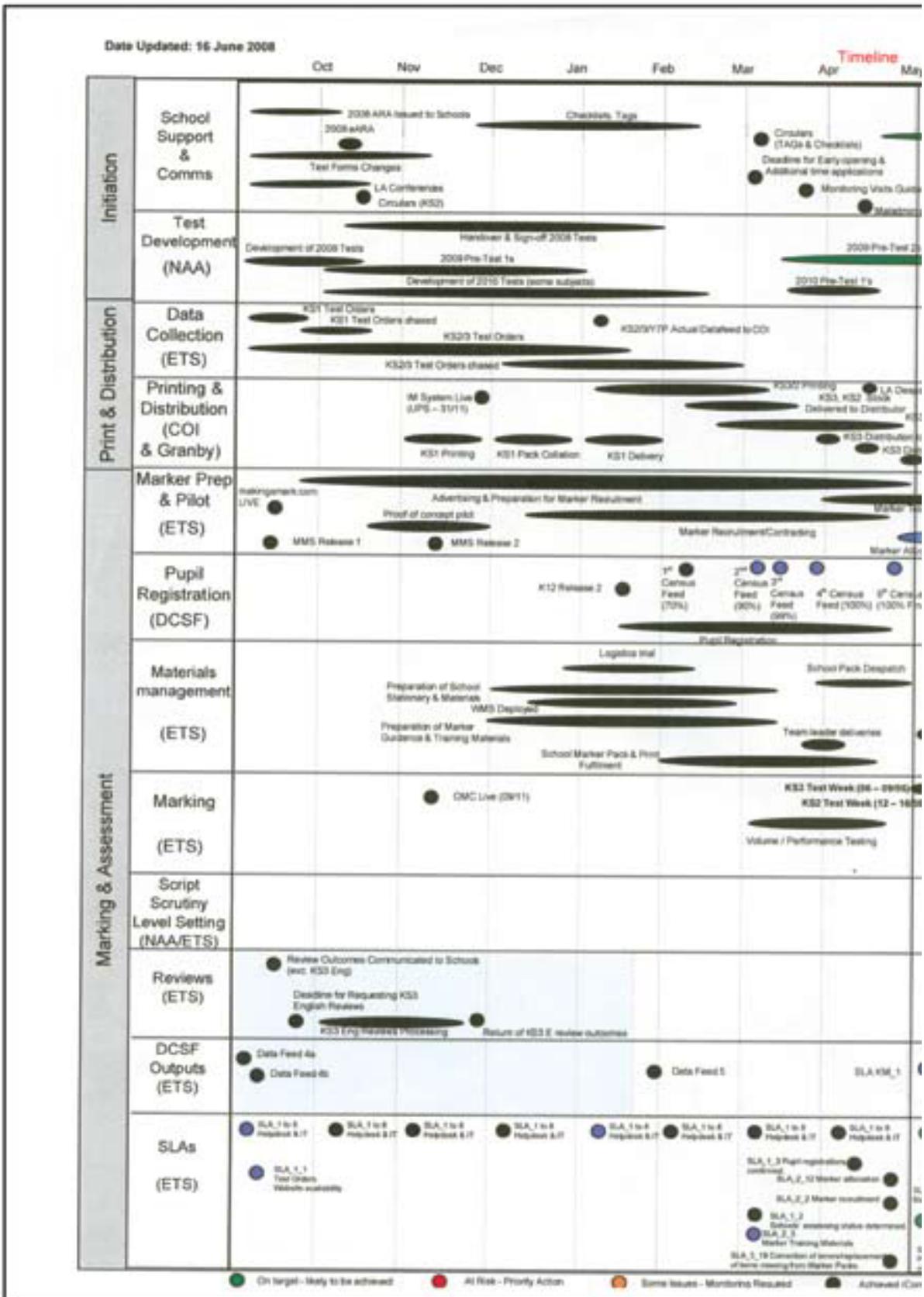
Qualifications and Curriculum Authority (QCA)

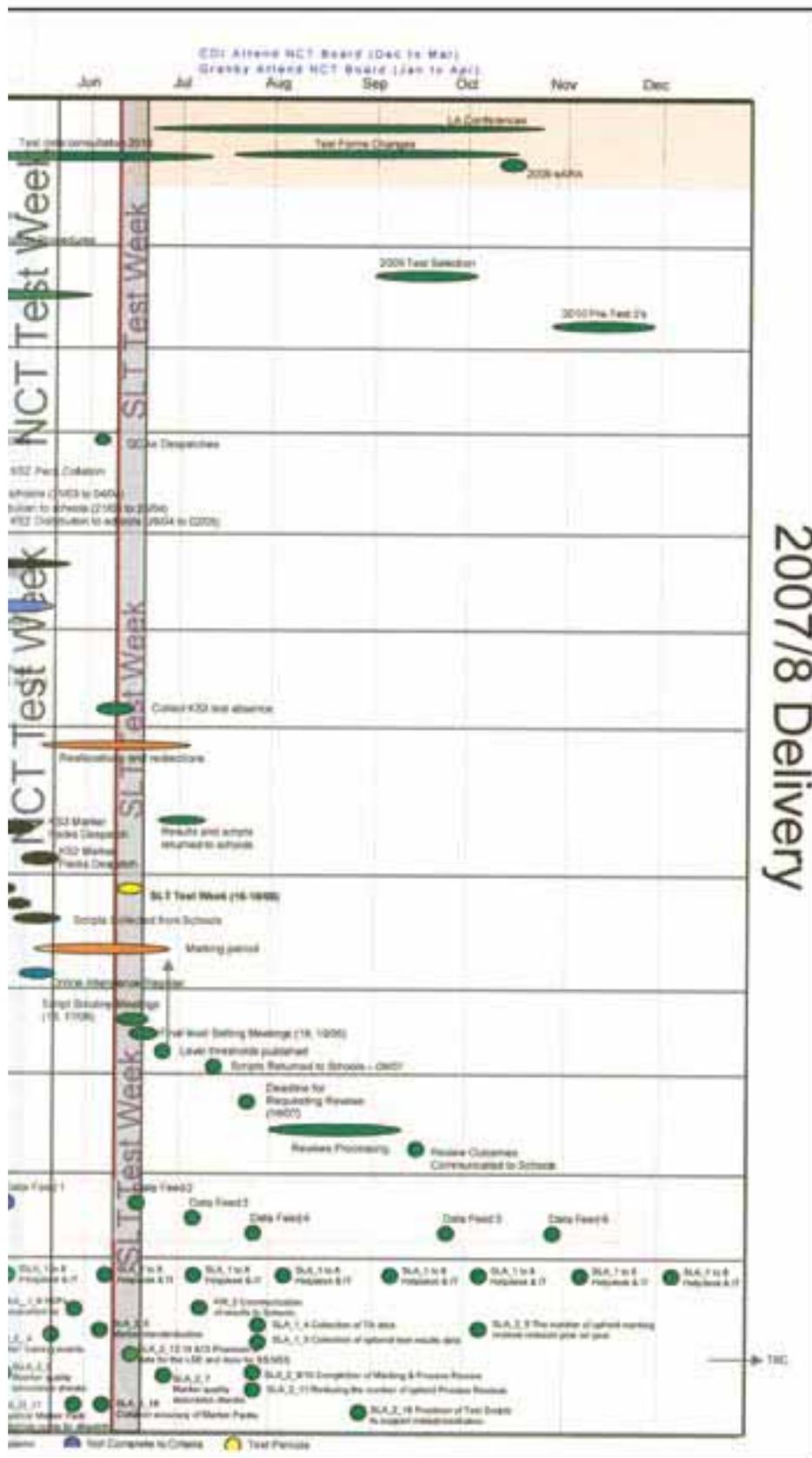
Sir Anthony Greener	Former Chairman
Dr Ken Boston	Chief Executive
Mike Beasley	Board Member
David Gee	Managing Director, National Assessment Agency
David Barrett	Programme Director, National Curriculum Tests, National Assessment Agency

Office of the Qualifications and Examinations Office (Ofqual)

Isabel Nisbet	Acting Chief Executive
Dennis Opposs	Head of Standards
Ofqual Programme leader	National Curriculum Assessments Monitoring team

Annex F: Project Plan





NAA National Curriculum Testing
2007/8 Delivery

Annex G

The Inquiry team

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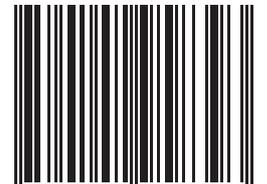
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