



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

Sent by email: Minister@education.gov.ie

Joe McHugh T.D.
Minister for Education and Skills
Department of Education and Skills
Marlborough Street
Dublin 1
D01 RC96

27 May 2020

Dear Minister McHugh,

I am writing to you on behalf of the Irish Human Rights and Equality Commission in relation to the planned system of school-based calculated grades, which will replace the Leaving Certificate this year.

The move from an exam-based, anonymised Leaving Certificate to a system of school-based calculated grades represents a very significant shift for both students and teachers. While this is new territory for Ireland, you may be aware that research has been carried out in the United Kingdom on the accuracy of predicted grades, in particular as they relate to high-attaining, disadvantaged students. This research has indicated that such students are significantly more likely to receive more pessimistic grade predictions than high-attaining students from more advantaged backgrounds.

The Commission welcomes the clear statement from the Department of Education and Skills that “[a]t the core of both the school-based and national standardisation phases of the system of calculated grades is a commitment to objectivity, equality and fairness” (*Calculated Grades for Leaving Certificate 2020: Guide for Schools on Providing Estimated Percentage Marks and Class Rank Orderings*, 21 May 2020).

As a public body which is subject to the Public Sector Equality and Human Rights Duty, a statutory obligation contained in Section 42 of the Irish Human Rights and Equality Commission Act 2014, the Department of Education and Skills has a positive duty to eliminate discrimination, promote equality of opportunity and protect the human rights of those who use its services. As the Department

prepares to draft a new statement of strategy, in accordance with the Public Service Management Act 1997, the Public Sector Duty requires the Department to undertake an assessment of the human rights and equality issues relevant to its purpose and its functions and to publish this assessment and corresponding action plan in its statement of strategy. The Commission would strongly urge the Department to proactively consider its policy and guidance to schools on calculated grades, and the national standardisation process, in this context.

While we welcome that the published guidance of the 21st of May draws attention to the risk of unconscious bias (Section 8.4), we would strongly recommend that the Department gives further effect to this warning by issuing specific guidance to teachers and schools on mitigating the risk of inadvertent discrimination. Notwithstanding the short timeframe in which this process must be completed, the Commission is of the view that all teachers involved should, as best practice, complete online training on unconscious bias to support them in carrying out the alternative grading of students.

As a Commission, we recognise that the rapid transition to this new system for 2020 represents a considerable challenge both for policy makers, and schools and teachers. However, the potential long-term consequences for individual students are such that it is critical that every effort is made to give effect to the Department's stated commitment to equality and fairness, and indeed to its Public Sector Equality and Human Rights Duty.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Frank Conaty', enclosed within a large, loopy oval flourish.

Dr Frank Conaty
Acting Chief Commissioner

CC Seán O'Foghlú, Secretary General of the Department of Education and Skills
secgen@education.gov.ie