

Reasonable Accommodations *for* Certificate Examinations (RACE):

Complaints to the Ombudsman for Children

June 2016



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**Review of Complaints to the Ombudsman for Children's Office about the Reasonable
Accommodations at Certificate Examinations (RACE) administered by the State
Examination Committee**

Dr Niall Muldoon

Ombudsman for Children



Acknowledgements

The Office of the Ombudsman for Children would like to acknowledge the co-operation and openness of members of the State Examinations Commission, the Department of Education and Skills and the National Education Psychological Service, who worked with us in preparing this report.

The Office also met colleagues from the Office of the Ombudsman who have received complaints from students over the age of 18 about the RACE scheme. They confirmed that they had found similar administrative issues and are engaging with the SEC about them.

The Office is particularly grateful to the parents and young people who shared their stories. They are referred to throughout this report but their names have been changed to protect their privacy.

About the Ombudsman for Children’s Office

The Ombudsman for Children’s Office (OCO) aims to promote and safeguard the rights and welfare of children and young people up to 18 years of age. The Office provides an independent and impartial complaints service. Under the Ombudsman for Children Act 2002, the Office can examine and investigate complaints made by children and young people or by adults on their behalf about schools and hospitals along with government departments and public bodies.

List of abbreviations

Department of Education and Skills	DES
National Educational Psychology Service	NEPS
Specific Learning Difficulty	SLD
State Examinations Commission	SEC
Ombudsman for Children’s Office	OCO
Reasonable Accommodations for Certificate Examinations	RACE

Foreword by Dr Niall Muldoon, Ombudsman for Children



On 14 January 2016, the UN Committee on the Rights of the Child met in Geneva to review Ireland's record on human rights. I was delighted to attend in my capacity as Ombudsman for Children.

It has been ten years since Ireland appeared before this Committee. A lot has changed in that decade and I believe that my Office has contributed in a positive way to how children and young people are treated by the State.

While the last ten years has seen a lot of positive changes and developments for children and young people in Ireland, there is always room for improvement. We still have a long way to go in terms of ensuring that legislation and policy reflect children's rights as set out in the UN Convention on the Rights of the Child. One of the ways that my Office contributes to this is by identifying areas, through its complaints and investigation function, where public bodies can make improvements. This report is based on a review of complaints that my Office received about the reasonable accommodations scheme in 2014 and 2015.

As the Ombudsman for Children, I have a duty to promote the rights and welfare of children. As part of their concluding observations in January, the UN Committee set out a broad range of recommendations for children with a disability. The Committee called on the State to adopt a rights-based approach and to establish a comprehensive strategy for the inclusion of children with disabilities. It specifically referenced educational supports by calling on state parties to *'establish a clear and objective framework for ensuring that children with disabilities are provided with reasonable accommodation for their education needs including in the context of state examinations.'*

I am therefore publishing this report under Section 7(1)(b) of the Act which outlines my responsibility to *encourage public bodies, schools, and voluntary hospitals to develop policies, practices and procedures and co-ordination of policy relating to children*".

I sincerely hope that the contents of the report will assist the State Examinations Commission to further improve the way they deal with applicants for reasonable accommodations and in doing so, meet their commitments under the Convention of the Rights of the Child.

A handwritten signature in black ink that reads "Niall Muldoon". The signature is written in a cursive, slightly slanted style.

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Executive Summary

This report provides an overview of common themes in complaints made to the Office of the Ombudsman for Children (OCO) about the Reasonable Accommodations for Certificate Examinations (RACE) scheme administered by the State Examinations Commission (SEC).

The RACE scheme provides supports to young people with special educational needs so that they can access state examinations such as the Junior and Leaving Certificate. Examples of reasonable accommodations include exam papers with large print or in Braille for young people who are visually impaired or provision of a reader or a scribe for young people who have specific difficulties with reading and or writing.

Schools apply to the SEC for reasonable accommodations on behalf of their students. This includes an application form setting out the young person's eligibility and background documentation supporting the application. When a young person has a specific learning difficulty (SLD), this background documentation includes evidence of test results, which demonstrate that the young person meets the eligibility criteria. If a psychologist has assessed the young person, the most recent report must be included. However, these are not necessary as school staff members can use tests to determine a young person's general ability. These tests focus on a young person's potential to learn. Applications also include results of attainment tests, which demonstrate what the young person has learned (e.g. reading level). The guidance documentation issued to schools by the SEC includes a list of suggested tests that schools can use and what should be included with applications. The documentation included reflects the type of accommodation required. For example, the application must include examples of the young person's written work if the application is for a scribe.

In 2014 and 2015, the OCO received 132 complaints about the State Examinations Commission's administration of this scheme. The OCO provided support and advice in 92 cases and examined 40 cases in accordance with section 8 of the Ombudsman for Children's Act 2002 (as amended). The majority of complaints reviewed (38 of 40) related to the SEC's refusal to approve reasonable accommodations for young people sitting their Leaving Certificate on the basis of having a specific learning difficulty (SLD), primarily dyslexia. Therefore, this report focuses on applications for RACE when young people have an SLD.

SLD is an umbrella term, which covers a range of sometimes co-occurring difficulties. It means that someone has a significant difficulty in one area such as reading and spelling while coping or excelling in other academic areas. One of the most common SLDs is with reading and/or spelling (dyslexia). SLDs can occur in other areas too such as language (specific language impairment), written language (dysgraphia), maths (dyscalculia) and gross and fine motor co-ordination (dyspraxia).

Following intervention from this Office, eight of the 40 young people received some level of redress from the SEC. However, most decisions remained unchanged, as some of the applicants did not meet the criteria for RACE. Despite this, it became clear that there were common themes in the majority of complaints that suggested elements of poor administrative practice.

In Ireland, the Lisbon Treaty became law on 1 December 2009 and made the *EU Charter of Human Rights* legally binding.¹ Article 41 of the Charter refers to the right to good administration. This means that there is an onus on member state agencies, such as the SEC, to promote good administrative practice.

While this report focuses on applications for RACE on grounds of SLD, the Office found three areas of administrative practice, which could be improved. These are likely to be relevant to other elements of the SEC's administration of the RACE scheme (i.e. applications for RACE under visual, hearing or physical disability). The Office has summarised these as:

- Fairness
- Communication
- Oversight of the scheme

Fairness - Difference between decision making at Junior Certificate and at Leaving Certificate level

Complainants told the Office that their children had received reasonable accommodations when they did their Junior Certificate exams. The young people concerned had also attended learning support for their SLDs in their schools. Their parents told us that they assumed that their children would get the same supports for their Leaving Certificate.

The school completes the application on behalf of their students for both sets of exams. The SEC told us that the majority of applications for the Junior Certificate made by schools are approved but that a more rigorous process is in place for the Leaving Certificate reflects the fact that it is a 'higher stakes' exam. Therefore, psychologists in the National Educational Psychological Service (NEPS) review all applications for reasonable accommodations for young people with SLDs for the Leaving Certificate.

In terms of fairness, the Office found that the scheme states that the eligibility criteria for students for both examinations are the same. However, the process for determining whether a student meets the criteria is different between the two examinations. Therefore, the experience for children and families that contacted this Office is that they met the criteria for accommodations at Junior Certificate Examination but at the Leaving Certificate, they were told they did not meet those same criteria and were refused accommodations.

We also found the guidance document that the SEC issues to schools about the application process for students with SLDs was confusing. Our review of complaints suggests that young people and their parents also found the process unclear. One parent told us that he thought the application and appeals process 'lacks both transparency and humanity'.

The application process is open for up to 12 months prior to the Leaving Certificate but some young people do not receive a final decision about whether they will receive accommodations or not until very close to their exams. The SEC advised this is because they

¹ http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm

are willing to accept late applications and / or applicants appeal their decision close to examination time.

Communication

A fundamental concern was that the SEC did not provide applicants with reasons for their decisions when they refused applications. This meant that complainants were put in a position where they had to appeal decisions when they didn't have any rationale for the decision. The Office advised parents to contact the SEC and request information regarding the reasons for the SEC's decision. However, they subsequently advised that they sometimes did not understand the feedback that SEC staff gave them about their children's assessment and test results. The SEC began providing written feedback regarding refusals for applications for the RACE scheme 2016. However, parents continued to tell the Office that they sometimes did not understand it. Under the European Charter of Fundamental Rights, a key principle of good administration is that bodies have a duty to give reasons for decisions that affect rights. The reasons should be sufficiently meaningful and easily understood.

Oversight of the scheme

This Office believes that part of overseeing the scheme is ensuring that school staff tasked with doing tests of ability and attainment with young people to support their applications for RACE are comfortable explaining the tests and providing feedback in a way that young people and their parents understand. The information reviewed by this Office suggests that some young people thought that they had an SLD whereas the information in their applications pointed towards their learning difficulties being more generalised. The OCO does not think it is fair that young people get to the age of 16 or 17 without understanding the nature of their learning difficulties.

Parents also told us that they believed that the tests done by school staff carried more weight than psychology assessment reports that they had sourced privately - often at considerable expense.

The SEC advised that psychology reports are not necessary because of the comprehensive information supplied by schools in their applications. The SEC also noted that this provides for greater equity among schools and students who may not be able to access assessments with a psychologist. The SEC clarified that attainment tests must be done by school staff.

It appears that some parents were not aware of this as they arranged for their children to attend a private psychologist in order to see if they could access the scheme.

The OCO's review of complaints suggests that this may be because parents did not understand the difference between the various types of tests used to determine whether young people with SLD met the criteria for reasonable accommodations. Some of the young people whose parents made complaints had been diagnosed with SLDs for many

years and had attended years of learning support but were refused reasonable accommodations based on the results of their attainment tests.

The Office believes that standardised testing and assessment is an area that requires increased oversight and support by NEPS with schools. School staff carrying out tests must be competent at scoring, analysing and interpreting the tests and able to communicate the results to a young person and their parents in a manner that they can understand. The SEC stated that the majority of secondary schools had attended training with the National Educational Psychological Service (NEPS) but it was not clear if school staff received on-going training and other supports to assist them when administering these standardised tests.

The SEC also reported that they have no centralised electronic data to support their quality assurance of the scheme. The SEC has gathered data on the scheme and is currently auditing applications at Junior Certificate level. However, the OCO understands that data gathering and analysis are manual as there is no centralised database or IT system to facilitate this.

Next steps

The Office has highlighted these issues to the SEC both through individual cases and through this report.

The Office hopes that by addressing these issues, the SEC can facilitate better management of young people and families' expectations about the type and nature of support at examination time.

The SEC advised that their Board is currently reviewing the scheme and the RACE scheme is subject to a series of reforms. Some of these are discussed in the report.

Section 1: Background and context

Introduction

On 1st May 2013, amendments to the Act brought a number of public bodies previously excluded within the Ombudsman for Children Office's (OCO's) remit - including the State Examinations Commission (SEC).

The SEC administers the Reasonable Accommodations at Certificate Examinations (RACE) scheme. This scheme provides students with physical or learning difficulties with 'reasonable accommodations' so that they can demonstrate their ability in state examinations.

Throughout 2014 and 2015, the OCO received 132 complaints about the RACE scheme at Leaving Certificate level. Complainants reported that the SEC had refused their children's applications for reasonable accommodations without telling them why.

The OCO provided advice for complainants about contacting the SEC and asking for more information prior to making an appeal. The Office redirected some complainants to the Office of the Ombudsman as they related to young people over the age of 18. The OCO carried out a preliminary examination of 40 cases as provided by Section 8 of the Ombudsman for Children Act. Thirty-eight of the cases related to applications for reasonable accommodations for young people with specific learning difficulty (SLD).

This report provides an overview of the OCO's examination of these complaints focusing on applications regarding SLD. By outlining key findings, the Office wants to facilitate good administrative practice, articulated as a fundamental human right in the EU Charter.

- Section 1 of the report provides some of the background and context by describing the SEC, the RACE scheme and its administration.
- Section 2 provides our findings based on our review of 40 complaints.
- Section 3 presents our recommendations.

The OCO hopes that the SEC's commitment to implementing our recommendations means that quasi-judicial bodies like the OCO do not have to investigate the same problems repeatedly.

Ultimately, the Office wants the findings and recommendations to have a positive impact on the people that engage with the RACE scheme – particularly the students doing state examinations but also their parents and the schools who apply to the SEC for reasonable accommodations on their behalf.

The Office thinks that this is important because exam times can be a stressful and emotional time for all concerned.

What is the State Examinations Commission?

The State Examinations Commission (SEC) is a statutory body established on 6th March 2003 under Section 54 of the Education Act 1998. It is responsible for operating state certificate examinations. This is a complex logistical operation with 115,399 candidates for Junior and Leaving Certificate in 2013.²

The SEC's key functions include operational oversight of state exams including preparing papers, designating where exams can be held, determining procedures for exam conduct and supervision and marking exam scripts.

The SEC also administers the Reasonable Accommodation for Certificate Examinations (RACE) scheme.

Reasonable Accommodations for Certificate Examinations (RACE)

According to the SEC, the purpose of reasonable accommodations is to reduce the impact of a physical or learning difficulty on a candidate's performance as much as possible so that they can demonstrate their level of attainment in state exams.³

The SEC's policy on reasonable accommodations is based on the findings of an expert advisory group, chaired by Dr Tom Kelleghan, which reported in January 2000.⁴

² State Examinations Commission (2013:23) *Annual Report*

³ Reasonable Accommodations at <https://www.examinations.ie/?l=en&mc=ca&sc=ra> (accessed 29/09/2015).

⁴ Expert Advisory Group on Certificate Examinations (2000) *Arrangements for the Assessment of Candidates with Special Needs in Certificate Examinations: A Report to the Minister for Education and Science* at https://www.examinations.ie/candidates/ExpertAdvisoryGroupReport_2000.pdf (accessed 28/09/2015).

The report sets out 13 principles, which underpin the RACE scheme.

Principles on which the provision of arrangements for candidates with special needs are based (Expert Advisory Group on Examinations, 2000)

1. Reasonable accommodations should be made for candidates who because of a temporary, permanent or long term disability have special assessment needs in examinations.
2. Provision should be made for both physical and learning difficulties.
3. Reasonable accommodations should not put the integrity, status or reputation of the examination at risk.
4. Reasonable accommodations should be designed to remove as far as possible the impact of a disability on a candidate's performance, so that he or she can demonstrate in the examination his or her level of achievement.
5. Reasonable accommodations are designed to assist a candidate in demonstrating his or her achievements in an examination setting. They are not designed to compensate for a lack of achievement arising from a disability.
6. Since a core principle of the certificate examinations is to ensure equitable treatment for all candidates, arrangements should not give the candidate for whom they are made an advantage over other candidates.
7. Independent evidence of a disability and support needs should be required before giving reasonable accommodations.
8. The precise arrangements to be made should be determined on the basis of the disability or impairment established in each individual case and of the particular needs of the candidate in each individual subject area. Different subjects and different methods of assessment may make different demands on candidates.
9. A candidate's disability may be such that it is not possible for him or her to participate in a particular mode of assessment (an aural examination for a candidate with severe hearing impairment), in which case it should be open to the candidate to apply for an exemption from part of the assessment procedure.
10. Where it is not possible for a candidate to participate in a particular mode of assessment, an alternative assessment procedure may be specified.
11. An alternative procedure is not acceptable where the purpose of the examination would be compromised by its use (e.g. providing a scribe to draw for a candidate in an Art examination).
12. When an element or elements of an examination have been waived so that the purpose of the examination regarding that element or elements has not been met or the method of examining has been significantly altered this should be indicated by the presence of an explanatory note on the candidate's certificate of results.
13. Circumstances that may affect a candidate's performance (e.g. illness, trauma, bereavement) should insofar as is possible be addressed in the examination period.

A further expert group, chaired by Professor Áine Hyland, completed a report in November 2008. The SEC advised that the Hyland Report had not been published and was with the Minister for Education and Skills. The Department of Education and Skills (DES) provided a copy of the report on request on the understanding that its historic nature was noted.

The Office was asked to consider the ‘many contextual changes particularly in the area of curriculum and assessment reform since the report was submitted in 2008.’ The DES advised that there was a need to locate the report and its recommendations in the current educational context regarding special educational needs, curriculum provision, and assessment reform. The Department asked that particular note be taken of the *Framework for Junior Cycle*, which sets out the reforms currently being phased in for students in the junior cycle.

The *Framework for the Junior Cycle 2015* states:⁵

The existing SEC provision for reasonable accommodation in the Junior Certificate examination will continue to be provided for candidates sitting the state certified examination in the Junior Cycle subjects.

The Hyland Report endorses many of the existing practices of the RACE while making a number of further recommendations. For example, the report recommends that the language in guidance for the RACE scheme should be updated to reflect relevant legislative and policy developments since 2000 and suggests that the term ‘special educational needs’ should be used in place of ‘disability’. The report also noted that some exam candidates and their parents were either not aware of the RACE scheme or they did not understand it. The advisory group advised that the application system should be more transparent and that documentation about the scheme should be user friendly.

The report states:⁶

The advisory group recommends that a revised framework of principles, which takes account of legislative, educational and environment changes should replace the current framework of principles set out in the 2000 report. This framework reiterates the fundamental principle that reasonable accommodations must be made for candidates with special educational needs to enable them to access the test instrument and to demonstrate their attainment in the examination. This framework also stipulates that eligibility for reasonable accommodations will be based on appropriate evidence of need and emphasises the importance of continuity between learning and assessment. The advisory group expects that the revised framework of principles will assist in the improved delivery of and understanding of the RACE scheme.

The OCO is concerned that the SEC still operates the RACE scheme based on the 13 principles set out over 16 years ago in the Kelleghan Report. The Office believes that the

⁵ Department of Education and Skills (2015) *Framework for the Junior Certificate Cycle 2015* at www.education.ie/en/Publications/Policy-Reports/Framework-for-Junior-Cycle-2015.pdf (accessed 18/01/2016).

⁶ Advisory Group on Reasonable Accommodations (2008) *Accommodating Students with Special Educational Needs in the State Examinations: Final Report and Recommendations* (unpublished report).

recommendations in the Hyland Report remain relevant today. The SEC advised that the Board of SEC is considering the findings and conclusions of the 2008 Hyland Report and that it will be published alongside the outcome of its review of the scheme.

Applications for RACE

The application process and guidance are set out in a document called *Reasonable Accommodation for Junior and Leaving Certificate Examinations* which the SEC revises every year and issues to schools.⁷ Schools apply to the SEC for reasonable accommodations on their students' behalf.

Applications for reasonable accommodations can be made on the grounds of

- a specific learning difficulty (SLD)
- a hearing difficulty
- a visual difficulty and/or
- a physical difficulty

When applying on grounds of a visual or hearing impairment, schools are advised to first make contact with the visiting teacher service. This is a service for children who are deaf/hard of hearing or blind/visually impaired. Teachers with particular expertise in these areas provide support for children, their families and schools throughout their school life.

Type of accommodations for candidates

The SEC provides a range of measures to support candidates with particular needs including:

- Modified exam papers such as enlarged print or Braille
- Provision of a reader or scribe
- Use of technical aids such as personal stereo, tape recorder or personal computer
- Exemptions or waivers for particular components such as for spelling, grammar and punctuation

The SEC also provides accommodations for students who experience traumatic events at exam times such as accidents, illnesses or bereavements.

⁷ See Appendix 1 of *Reasonable Accommodations for Junior and Leaving Certificate Examinations 2015* at https://www.examinations.ie/schools/2015_JC_&_LC_Guidelines_for_RACE.pdf (accessed 21/09/2015).

Number of reasonable accommodations granted by SEC since 2010

The Hyland Report (2008) indicates that the national average of candidates granted reasonable accommodations was around 6.4%.

Figure 1 indicates the number of reasonable accommodations granted for Junior and Leaving Certificate exams for the years 2010 to 2015. It illustrates that the highest applications were for spelling, punctuation and grammar waivers, which are granted 'where it can be established that the candidate has significant difficulties with spelling that are attributable to an SLD as distinct from his/her general intellectual functioning.'⁸

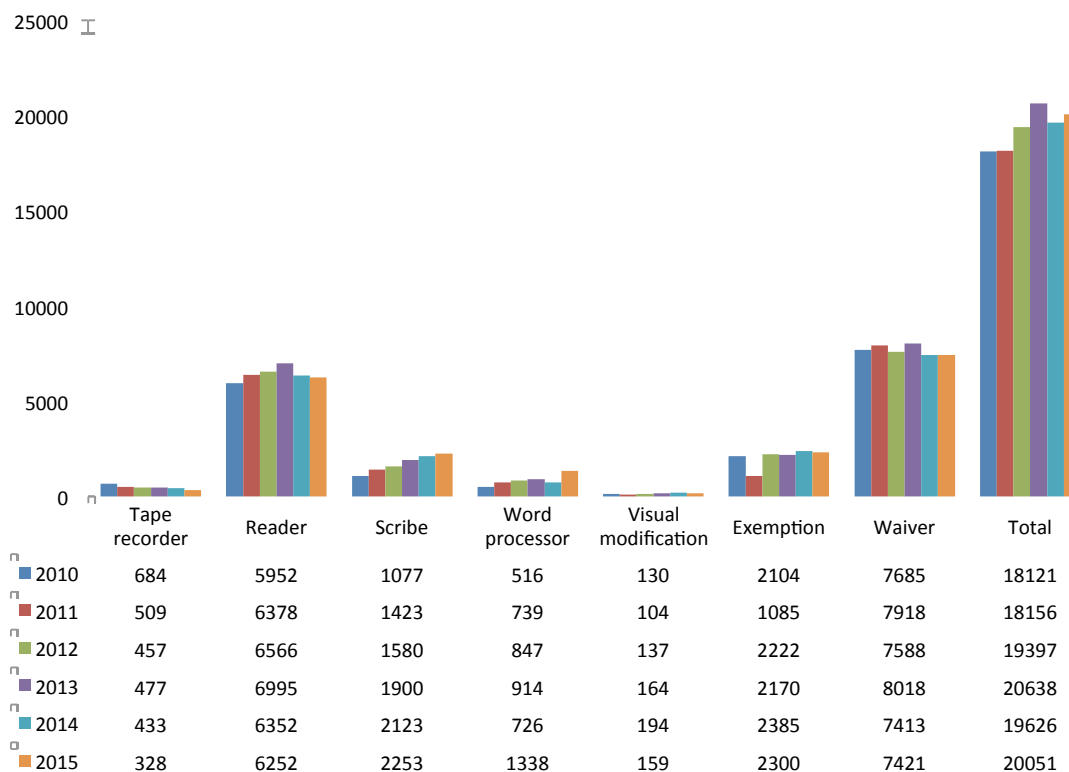


Figure 1: Reasonable accommodations granted at Junior and Leaving Certificate 2010 - 2015

The SEC also provided information on the total number of applications made for reasonable accommodations at Leaving Certificate for 2013 and 2014 (see Table 1). This shows that the total number of reasonable accommodations granted in 2013 and 2014 were similar as 68% (5024 of 7366) were granted in 2013 and 67.5% (5131 of 7594) in 2014.

⁸ Reasonable Accommodations for Junior Certificate and Leaving Certificate Examinations 2015 (page 4).

Table 1: Leaving Certificate RACE statistics

	2013		2014	
	<i>granted</i>	<i>refused</i>	<i>granted</i>	<i>refused</i>
Reader	1678	894	1696	913
Scribe	593	95	679	120
Spelling, punctuation and grammar waiver	2421	1326	2345	1424
Word processor	350	9	411	6
Total	5042	2324	5131	2463

The SEC advised that it provided over 21,000 individual accommodations to more than 16,000 students for state examinations in 2015. Of these, 2260 accommodations were refused for the Leaving Certificate in 2015 leading to 658 appeals. Just over 20% of decisions were either totally or partially changed (137).

It is not clear how many applications related to SLD but the majority of applications for reasonable accommodations for Leaving Certificate in 2013 and 2014 were for the spelling, punctuation and grammar waiver. Of note is that that this waiver was refused in over a third of the applications in 2013 (35%) and in 38% of cases in 2014.

There are currently no precise prevalence rates for children with SLD in Ireland. Recent research suggests that approximately 25% of children have a special educational need such as that defined in the Education for Persons with Special Educational Needs Act 2004. The Act broadly defines a special educational need as a restriction of a person’s capacity to participate and benefit from education on account of an enduring physical, sensory, mental health or learning disability or any other condition which results in a person learning differently from a person without that condition.⁹ It is likely that there are thousands of young people with dyslexia in Irish secondary schools given that its prevalence is estimated at between five to 15% of the population.¹⁰ Also, the Association for Higher Education Access and Disability (AHEAD) reports that students with SLDs such as dyslexia make up over half (54%) the population of students with disabilities in higher education.¹¹ Therefore, it is not surprising that the spelling and grammar waiver is the reasonable accommodation most commonly requested.

⁹ Banks J and McCoy S (2011) *A Study on the Prevalence of Special Educational Need: A report commissioned by the National Council for Special Education: NCSE Research Reports No 9* Meath, NCSE.

¹⁰ <http://www.schoolguidancehandbook.ncge.ie/docs/000023/Dyslexia%20How%20the%20Guidance%20Counsellor%20can%20support%20the%20student%20with%20dyslexia%20for%20Charleen%282%29.pdf> (accessed 04/02/2016).

¹¹ AHEAD (2014) *Submission to the SEC on the Reasonable Accommodations policy for state examinations* at <http://www.ahead.ie/sec-submission> (accessed 14/04/2016).

Reasonable accommodation on grounds of a specific learning difficulty (SLD)

According to the SEC's guidance document for schools:¹²

The existence of an SLD does not automatically entitle a candidate to special arrangements in examinations. Even though candidates may have a specific difficulty with reading, writing or spelling, they may not require the provision of any special facilities providing they can read the question papers of the required level and write legibly. Each case is considered on its merits.

The guidance states that all candidates applying for RACE under this category must meet criteria A **or** B:

- A. Evidence of a psychological report that clearly states that the student presents with a specific learning difficulty (other acceptable terminology includes 'dyslexia' or 'specific learning disability/disorder').
- OR**
- B. A specific learning difficulty may be indicated where there is:
 - Marked failure to achieve expected levels of attainment in basic skills such as reading and/or writing.
 - Attainments which are inconsistent with the candidate's ability.

The guidance also contains a list of suggested tests that schools can use when considering whether to make an application for a student.

These are tests that provide estimates of ability (e.g. Cognitive Abilities Test 3 / 4)¹³ and tests of literacy attainment (e.g. Wide Range Achievement Test 4 or the Wechsler Individual Achievement Test 2). Guidance is also provided regarding testing students' reading and writing speed. Teachers use these tests with their students to establish if they meet the criteria for RACE.

If the results of these tests confirm that the young person is eligible for RACE, the school sends the completed application form and supporting documentation to the SEC (usually 12 months prior to the exams).

Psychological assessment reports are not an essential requirement. The SEC advised that they review any psychological reports that are included with applications to determine whether a young person has an SLD. However, they are not required because of the comprehensive information supplied by schools in their applications. The SEC also noted that this provides for greater equity among schools and students who may not be able to access a psychological assessment.

¹² State Examinations Commission (2014:4) *Reasonable Accommodations for Junior and Leaving Certificate Examinations 2015* at https://www.examinations.ie/schools/2015_JC_&_LC_Guidelines_for_RACE.pdf (accessed 21/09/2015).

¹³ Tests of general ability might be used when the student does not have a psychological report, which is not a core requirement.

Application of RACE at Junior Certificate Level and at Leaving Certificate Level

According to the guidance issued in 2015:¹⁴

The SEC operates a simplified devolved application model for the Reasonable Accommodation scheme at the Junior Certificate examinations. Essentially, the SEC accepts the school's confirmation on the application form as sufficient evidence to confirm an accommodation.

This means in practice that decisions about reasonable accommodations are proposed by school principals at Junior Certificate level and endorsed by the SEC. According to SEC, the majority of applications by schools are approved.

However, the process is different for the Leaving Certificate. Psychologists from the National Educational Psychological Service (NEPS) review all applications made by schools on SLD grounds for the SEC. It is psychologists from NEPS rather than schools who advise the SEC whether the young person meets the criteria for reasonable accommodations. Therefore, while applications are assessed against the same criteria for both examinations, the recommendation to the SEC about granting reasonable accommodations is made by the NEPS rather than by schools. The SEC explained that this is because the Leaving Cert is a 'higher stakes' exam than the Junior Certificate Level and the application process reflects this.¹⁵

The guidance issued for the 2015 Leaving Certificate states that approval at Junior Certificate level does not automatically guarantee that approval will be given for the Leaving Certificate.

The OCO found this distinction to be a critical factor in the review of complaints about the scheme. This is explored further in Section 2.

National Educational Psychological Service (NEPS) role in RACE

The NEPS provides psychological services in primary and secondary schools. It is a service provided by the DES, which aims to support the personal, social and educational development of all children but particularly those with special educational needs.

The background to the role of NEPS in RACE is set out in a submission to the Expert Advisory Group which reported in 2000.¹⁶ This indicates that the NEPS psychologist's role is to ascertain whether or not applications for RACE provide independent evidence that a

¹⁵ SEC (2014:6) *Statement of Strategy 2014* at https://www.examinations.ie/about/Statement_of_Strategy_Final.pdf (accessed 17/12/2015).

¹⁶ *NEPS Submission to the Advisory Group on Reasonable Accommodations at Certificate Examinations (RACE)* at www.google.ie/search?q=waiver+for+spelling+grammar+and+punctuation+for+students+with+specific+learning+difficulty&ie=utf-8&oe=utf-8&rls=org.mozilla:en-US:official&client=firefox-a&channel=fflb&gws_rd=cr&ei=JHlnVrGqK4jjU52xp5AP (accessed 21/10/2015).

candidate has an SLD which puts him/her at a disadvantage in exams and which meets the criteria of the scheme. The document states:¹⁷

NEPS can be seen as the guarantor of the integrity of the examination system at Leaving Certificate level. The DES decision that NEPS should focus on RACE applications from Leaving Certificate candidates arose from its status as a high-stakes examination, the results of which have implications for the candidate's future prospects. NEPS psychologists are effectively fulfilling a quasi-inspectorial role or function in the exercise of these duties. They are charged with the task of ensuring equity and fairness for all candidates while guaranteeing the integrity of the examination as an objective measure of achievement. ... In processing a RACE application the psychologist has three areas of responsibility:

- *Responsibility to the candidate to distinguish between his/her achievements and his/her ability to display these achievements under certain elements of the standard examination and thus to ensure he/she is not disadvantaged (i.e. equity for the individual)*
- *Responsibility to the cohort of candidates to ensure that any specific candidate is not advantaged (i.e. equity for all)*
- *Responsibility to the system to ensure that the requirements of the examination are changed if and only if a need exists arising from a clear difficulty or disability*

¹⁷ As above (page 5).

Section 2: Common themes from the OCO’s review of 40 complaints

Management of complaints

The OCO received 132 complaints about the RACE scheme for the Leaving Certificate exams in 2014 and 2015.

The OCO managed these complaints by:

- Providing advice and support (52.2%)
- Redirecting to the Ombudsman Office when complaints related to young people over the age of 18 (17.5%)
- Carrying out a preliminary examination (30.3%)

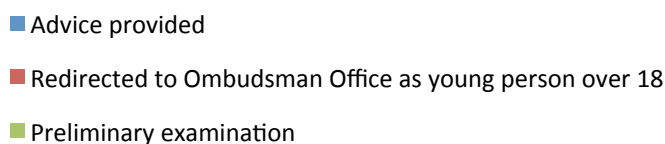


Figure 2: Complaint management

Advice and support

Complainants advised that their children had been granted reasonable accommodations at the Junior Certificate but refused at Leaving Certificate. Therefore, for some children and parents there was a significant emotional impact upon hearing of the refusal of similar accommodations for their Leaving Certificate.

We received a letter from the school by post informing us that a reader had not been granted to our daughter. We submitted our appeal on 29 November. We then received a letter dated 12 January stating that our appeal was not granted. This was a terrible blow to our daughter’s confidence (Orla’s mother).

When my daughter found out she was extremely upset and rang me straight away. I tried to reassure her that it will be ok. She stopped eating and was very unhappy so we brought her to counselling and they advised us to take her to the doctor so we did. It has affected all my family as they see how hard she works and how much she has put into her studying. I am finding it hard to work as all I can think about is the hard work she has put into her education and for it to come to this, it's so wrong on all accounts. This is not the way for my daughter to finish secondary school (Roisin's mother).

The OCO published information on its website in March 2014 advising members of the public on how to appeal a decision by SEC.¹⁸ In keeping with one of the Office's key principles of promoting local resolution, the OCO advised complainants to contact the SEC in the first instance to ask why their applications had been refused and then to start the appeals process if required.

Outside our remit

A small number of complaints were outside the OCO's remit as they concerned young people over the age of 18 (17.5%). In this case, the Office advised complainants to contact the Office of the Ombudsman.

Preliminary examination

Forty of the complaints proceeded to preliminary examination (30.3%). This involved gathering further information from the complainants and contacting the SEC for their response. It was the OCO's analysis of these complaints, which informed the findings of this report.

Sixteen related to complaints made in 2014 while 24 were made in 2015.

Most applications for reasonable accommodations had been made based on the young person having an SLD (38 of 40). Two had applied for accommodations based on other disorders; one had applied to use a laptop because of a severe speech disorder and one had applied for a scribe based on a diagnosis of dyspraxia.

Eight of the 40 young people received some level of redress from the SEC following the OCO's intervention.

- The SEC reversed their decision in six cases:
 - The SEC reversed their decision following a review of the information submitted in the applications in three cases.

¹⁸ <http://www.oco.ie/complaints/if-you-have-concerns-about-a-decision-by-the-state-examination-commission/>

- The SEC requested that two young people have further assessments and granted the accommodations based on the results confirming that they met the criteria.
- The SEC agreed to provide a scribe for a student with dyspraxia. However, the decision came during the exams. This meant that student had already sat some exams without the accommodation. The student has opted to repeat the year so that accommodations will be available for all exams.
- The SEC reversed part of their decision in two cases. For these students, the SEC approved the use of a special centre (where exams are held in an alternative location to the school) but did not grant other accommodations.

Common themes

Because the majority of the complaints examined related to young people who had been diagnosed as having an SLD primarily dyslexia (38 of 40), this report focuses on the application process for accommodations for SLD.

The Office found three areas of administrative practice that could be improved. These are likely to be relevant to other elements of the SEC's administration of the RACE scheme (i.e. applications for RACE under visual, hearing or physical disability). The Office has summarised these as:

- Fairness
- Communication
- Oversight of the scheme

Fairness

Difference between decision making at Junior Certificate and at Leaving Certificate level

Complainants told the OCO that their children had been diagnosed with SLDs and had received years of learning support throughout their school years because of this. Some had attended special schools that cater for children with dyslexia.¹⁹ Others had received exemptions from studying Irish because of their learning difficulties.²⁰

Despite receiving reasonable accommodations for their Junior Certificate examinations, their applications for the Leaving Certificate had been refused. The RACE scheme operates differently for Junior and Leaving Certificate exams. While this is set out clearly in the guidance and application form which issues to schools, the OCO's view is that it is not unreasonable for students who receive reasonable accommodations at Junior Certificate

¹⁹ There are four schools in Ireland that cater for children with specific reading disorders (dyslexia). Many schools also have special classes.

²⁰ Circular letter M10/94 states that pupils who have a specific learning disability or a general learning disability may receive an exemption from Irish; 'the evidence of such a disability should be furnished by a qualified psychologist' at https://www.education.ie/en/Circulars-and-Forms/Active-Circulars/ppc10_94.pdf (accessed 02/10/2015).

level to assume that they might receive the same accommodations for their Leaving Certificate.

The SEC advised that schools are responsible for telling parents that having reasonable accommodations for the Junior Certificate does not mean they will be granted for the Leaving Certificate. They stated that schools 'are overtly informed' of this in the letter of approval for accommodations for Junior Certificate. However, parents reported that school staff had advised them that their children would be granted the same accommodations as they received for their Junior Certificate examinations.

My son is so disappointed and disillusioned. He cannot believe after having a reader for his Junior Cert, that it is now removed for the most important exam of his life (Ross's mother).

Emma told the OCO that she had a waiver for spelling and grammar for the Junior Certificate:²¹

But then just as I was a few months away from sitting the Leaving Cert, I was informed that the waiver had been denied. That I'd have to face the exams with no supports at all. All I felt was panic and fear. Disbelief.

This young person's account typified the reactions of young people, parents and schools in their contact with the OCO. Complainants reported that they had assumed that accommodations would be granted for the Leaving Certificate and were therefore not prepared for the refusal by SEC especially so close to the examination date. As Emma reported, it was as though she had been cured of having dyslexia.

I honestly couldn't understand it. I knew better than anyone that I needed help. My mam and dad knew it. The school couldn't understand it. It was the first time a child in the school had been refused. My dad was fuming. He said they were basically telling us that I had been cured overnight – a miracle cure.

The OCO's view is that this inconsistency adversely affects young people. The OCO thinks that it is reasonable for young people to expect to get similar accommodations for their Leaving Certificate as they had at Junior Certificate level as the criteria are the same for both examinations. Also, all of the complainants reported that the students concerned had long histories of learning support. Sean told the OCO:

²¹See Emma's story in OCO (2015) *A Word from the Wise: Children, young people and parents whose complaints the OCO has dealt with share their stories* Dublin: OCO.

My dyslexia has affected my learning throughout my life. When reading I could not read at the same pace as others in my class. In exams I struggle with reading big words. For example, in my English mock exam there was a word that I could not even sound out in my head so I had to skip questions on that whole piece of text because it was based on that particular word. For words I can't spell I use a series of ordinary words which costs me marks because it suggests that my range of vocabulary is limited.

Complainants reported that refusals for accommodations resulted in significant stress for children. This is understandable as Leaving Certificate results can influence what a young person will do when they leave school in terms of third level or occupational opportunities.

In exams, I have to read the questions many times as it is difficult to understand the questions. When reading I think words are other words so I end up misplacing words in the sentence. I then become over anxious and afraid before I start reading the questions. When I hear the questions being read to me I understand better from listening to what is asked in the question instead of reading the question (Orla).

Added to the pressure of this being my final year, my dyslexia has contributed to making this one of the hardest years on me so far ... I am concerned that my learning disability will impact my prospects for the future and without the proper aids and assistance I feel that I will not have the same opportunities as other individuals to prosper with my educational and academic prospects (Sean).

Emma advised that she had to do her Leaving Certificate without reasonable accommodations. However, her learning difficulties were recognised when she went to college and she got supports back.

I'm in third level now and I have the supports back, along with other help they believe I need. And I'm doing great because of that.

The OCO's view is that young people's expectations should be managed through provision of good information and transparency of administration (i.e. good administrative practice). This is particularly relevant to the SEC's stated mission as outlined in the 2013 Annual Report, which is to 'provide a high quality state examinations and assessment system incorporating the highest standards of openness, fairness and accountability.'

The SEC advised that it is considering changing the time of the NEPS review of applications for accommodations to the Junior Certificate instead of the Leaving Certificate.

As the same criteria are used for accommodations at Junior and Leaving Certificate, the OCO believes that decision making should be consistent at both levels. If NEPS cannot review applications for both examinations, it makes sense that they review applications earlier rather than later. The OCO's hope is that accommodations granted at Junior Certificate will

also be provided for the Leaving Certificate. The Office is aware that school retention rates have improved and that over 90% of children who start secondary school complete the Leaving Certificate (rates of retention are lower in DEIS schools at approximately 83%).²²

Criteria as explained in guidance document

The guidance document was confusing. The guidance states that all candidates applying for RACE under the category of SLD must meet criteria A **or** B:

A specific learning difficulty may be indicated where there is:

A. Evidence of a psychological report that clearly states that the student presents with a specific learning difficulty (other acceptable terminology includes ‘dyslexia’ or ‘specific learning disability/disorder’.

OR

B. A specific learning difficulty may be indicated where there is:

- Marked failure to achieve expected levels of attainment in basic skills such as reading and/or writing.
- Attainments which are inconsistent with the candidate’s ability.

(Page 4 of *Reasonable Accommodations for Junior and Leaving Certificate Examinations 2015*).

The Office understood this to mean that applications might be accepted if they include a psychological report which stated that a young person had dyslexia or another SLD **OR** evidence provided by the schools through the tests with young people.

However, based on the information reviewed by the Office in the complaints received, it appears that NEPS make their recommendations based on the need for children to show evidence of an SLD (e.g. with a psychological report) **AND** other criteria.

²² Department of Education and Skills (2015) *Retention Rates of Pupils in Second Level Schools: 2008 Entry Cohort* at <https://www.education.ie/en/Publications/Statistics/Statistical-Reports/Retention-Rates-of-Pupils-in-Second-Level-Schools-2008-Cohort.pdf> (accessed 17/12/2015).

For example, the guidance indicates that to be eligible for a reader, the candidate must meet criteria A and B and C.

Access to a reader:

Access to a reader is appropriate where it can be established that the candidate's inability to read a question paper *is attributable to a specific learning difficulty as distinct from his/her general intellectual ability*.

A reader should only be granted where a candidate is unable to read the paper. This means that the candidate must have a reading difficulty and that in the absence of access to a reader, the candidate would be unable to take the examination.

- A. Evidence of an SLD.
- B. A standard score of 85 or less on a recommended test of word reading (i.e. reading accuracy not comprehension).
- C. A reading (accuracy) error rate of 7% or more on sample papers.

Alternatively:

If rate of reading is an issue: less than 90 words a minute on sample paper(s) then the criteria below is used:

- A. Evidence of an SLD
- B. A standard score of 85 or less on a recommended test of word reading.
- C. A reading speed of less than 90 words a minute on sample paper(s).

(Page 7 of *Reasonable Accommodations for Junior and Leaving Certificate Examinations 2015*).

Similarly, applications for other accommodations required evidence of meeting three criteria. For example, applications for the waiver from the assessment of spelling, grammar and punctuation had to satisfy three criteria:

- A. Evidence of an SLD.
- B. A standard score of 85 or less on a recommended spelling test.
- C. Spelling/grammar/punctuation error rate of 8% or more in written samples.

The Office asked the SEC to clarify this and they advised that the guidance document first alerts schools how to identify children with an SLD. This means meeting criterion A (evidence of a psychological report that states the student has an SLD) OR B (evidence of marked failure to achieve expected levels of attainment in reading and/or writing). Once the school is satisfied that a student has an SLD, they then look to the criteria for each of the accommodations, which are outlined later in the document. The three criteria are labelled

A, B and C. The first (A) is that there is evidence of an SLD – this refers to the earlier ‘either or’ criteria (A or B). Along with A, two further criteria must be met (A and B and C).

This clarification was helpful but the fact that the Office needed to ask the SEC to explain the information in guidance documentation suggests that other people might also find it confusing. While training is provided on the RACE scheme for schools, the Office believes that the guidance should be easily understood as a stand-alone document.

The lack of clarity was evident when we spoke to complainants. Some parents reported that they had provided psychological reports as evidence that their children had SLDs. These had been submitted both with original applications and when appealing the SEC’s initial decision. Some went to considerable expense to organise private psychological assessments after they were notified by schools of the SEC’s decision. Some of the reports, including Emma’s, stated that young people met the RACE criteria. Ross’s parent reported that:

An educational psychologist performed a comprehensive two hour assessment and stated that my son qualified for a reader.

Parents said that they did not feel that these reports were considered in the process suggesting that they thought that providing evidence of an SLD was sufficient (criteria A or B). The SEC clarified that the attainment tests must be done by school staff. This means that even if a private psychological assessment shows that a young person has not met expected levels of attainment in reading and/or writing based on attainment tests carried out by the psychologist, the SEC will not accept this.

The information reviewed as part of our preliminary examinations did show that some of the students whose parents made complaints to our Office did not meet all of the later criteria (A and B and C). For example, Sean had been diagnosed as having an SLD by a psychologist working for the Dyslexia Association of Ireland. A copy of the report was submitted with his application but the SEC reported that the recommendation of NEPS was that ‘while the most recent score on the Wechsler Individual Achievement Test meets the criteria; the error rate is outside the criteria.’ This type of feedback appeared to be confusing for students, parents and school staff because as far as they were concerned, these children had been diagnosed as having SLDs and were entitled to reasonable accommodations.

The OCO’s review suggests that there was little flexibility in the NEPS’s review of applicants for RACE on SLD grounds. This is despite the fact that the psychologists’ guide states that it is underpinned by the need to maintain ‘previous practice which allows the element of flexibility that may be necessary in making a professional decision’.²³ The Office is of the view that NEPS psychologists should use professional judgement to review the applications as well as checking standard scores. The feedback sheets that the Office reviewed suggested that their focus was on standard scores. For example, the feedback sheet from

²³ *Guide for psychologists in processing applications for RACE (page 7).*

NEPS to the SEC in Anne's case said 'reader not granted, <7% reading errors'. Similarly, Breda's said simply 'reader error rate not met' while Aaron's just stated 'SS > 85'.

The Office is also of the view that the information provided by the NEPS to the SEC and subsequently shared with schools and parents should be provided in a manner that is easily understandable. The OCO acknowledges that telling parents and young people that they are not eligible for reasonable accommodations is difficult due to the emotional impact this may have. However, feedback that focuses solely on standard scores and error rates without a plain English explanation of what they mean is not helpful. The SEC advised that the feedback has to focus on standard scores and error rates as these are the eligibility criteria.

Communication

Failure to provide rationale for refusing reasonable accommodations

All of the complainants reported that the SEC did not provide any reasons for refusing applications for RACE.

Our daughter was diagnosed with dyslexia when she was seven years of age and has been refused a reader for her Leaving Certificate with no explanation. As a mother, I would like to know what qualifies a student with a learning difficulty to get a reader considering my daughter's reading ability drops to age eight to 11 when her actual age is 17. It would seem to me to be very unjust when someone can read the information to her and she can have the information in her head. She struggles with reading but when it is read to her she has no problem with it. She will not be able to perform to her ability without a reader and it is so unfair as she has the information in her head but finds it difficult to get out. But, with the help of a reader she will do her best (Roisin's mother).

The process, which is of huge importance to the children involved including my daughter, lacks both transparency and humanity. Even experts such as the school resource coordinator and the head of psychological and educational services at Dyslexia Ireland are at a loss as to how the system operates (Mary's father).

This generated a lot of frustration for young people, their parents and schools particularly given the fact that some were notified that their applications had been refused in the months leading up to the Leaving Certificate. This relates to an administrative action and one that the OCO considers to have adversely affected the young people concerned.²⁴ The OCO's view and as reflected in Article 41 of the European Charter of Fundamental Rights is that the SEC is obliged to give reasons for its decisions and this should be in a format that is easily understood. This is a fundamental principle of good administration. It is not good administrative practice to expect applicants to appeal decisions when they are not provided with the necessary information.²⁵ The SEC began providing feedback for applicants for RACE

²⁴ Ombudsman for Children Act 2002, section 8 (a).

²⁵ Ombudsman for Children Act 2002, section 8(b)(vii).

for the 2016 state examinations. However, the Appeals Committee does not provide reasons for its decisions.

Appeals process

Parents reported that they sought further reports to support the appeal but very few of the SEC’s decisions were overturned at appeal. The SEC provided the OCO with statistics relating to the number of appeals made in 2013, 2014 and 2015. Table 2 confirms that the majority of decisions made by the SEC were upheld at appeal. In 2013 and 2014, less than 10% of the SEC’s decisions changed while in 2015, just over 20% changed on appeal.²⁶

Table 2: Independent Appeals Committee statistics

	2013	2014	2015
Number of appeals considered	667	691	658
Original decision upheld	615 (92%)	644 (93%)	521 (79%)
Change in decision	43 (6.5%)	38 (6%)	105 (16%)
Partial change	9 (1.5%)	9 (1%)	32 (5%)

The OCO’s view is that providing applicants with reasons that applications are refused might reduce the number of appeals made.

Complainants also referred to the short timeframe provided to make an appeal. One parent reported that the SEC had written to the school but by the time she was made aware that the application had been refused there was not much time to make the appeal.

Complainants reported that they ended up trying to arrange private psychology assessments for their children with some also providing letters from GPs and other services to say that accommodations were required.

However, the SEC’s decision remained unchanged in most cases despite the fact that most of the cases reviewed for this report indicated that the young people had been diagnosed with SLDs for many years and had long histories of receiving learning support in schools. For example, Emma was diagnosed with dyslexia and mild dysgraphia at the age of nine. She subsequently attended a special school for children with specific reading disorders and had an exemption from learning Irish. Like the other cases reviewed by the OCO, Emma had reasonable accommodations for her Junior Certificate based on her diagnosis of SLD.

Complainants described poor information from both the SEC and the schools in relation to the decision to refuse the accommodations. Moreover, the review of complaints indicates that in many cases, the schools advised parents that they also believed that the SEC had made the wrong decision, which must exacerbate the situation for some parents.

²⁶ Percentages have been rounded.

The SEC acknowledged that not providing any rationale for its decisions was unsatisfactory but cited resource deficits as the reason. It advised that this information is available for schools and/or parents on request.²⁷ However, this was not stated in guidance documents and the OCO had to advise a number of complainants to request feedback.

The SEC also said that it was aware of the need to communicate reasons for refusing applications but that it did not want to overwhelm an already burdened system. The SEC advised that they have developed an automated system for providing feedback to applicants and is using it for applications for the 2016 state examinations. While this is a welcome development, the Office is concerned that the feedback remains hard to understand as the SEC confirmed it was based on the feedback sheet used by NEPS psychologists. This feedback refers to standard scores and error rates and so may not be readily understood by people who are not familiar with standardised testing.

Feedback of test results

Parents advised that the majority of feedback about the SEC's decisions related to the results of the school tests and it did not appear that private assessments were considered.

Some parents were told that their child's standard score or error rate 'is not high enough'.

- Aaron's parent reported 'the SEC said the cut off was 85 and he got 88.
- Anne's feedback was that a reader was not granted because 'reading error rate was less than 7% and rate of words per minute is more than 90'.

Therefore, some parents said that they felt that the tests administered in school received more weight than other evidence.

The appeals committee have chosen to ignore these scores [psychological assessment scores] and instead place higher importance on a short writing and spelling test done in school (Ross's mother).

Parents told the OCO that the way they were given information about their children's test results was unhelpful. One told the OCO that when she telephoned the SEC for feedback, she was given standard scores and percentile ranks that she did not understand.

- David's parent reported being told that he 'was in the highly intelligent bracket and so doesn't meet the criteria'.
- Eoin's parent was told by the SEC that he had mild intellectual difficulties and not an SLD.

The OCO's review indicated that there were five other cases where parents thought their children had an SLD when the applications to the SEC indicated that the young people's

²⁷ Letter from SEC to OCO dated 06/10/2014.

learning difficulties were more generalised rather than specific to reading or spelling.²⁸ By virtue of applying for reasonable accommodations on SLD grounds, the schools appeared to be reinforcing this view.

For example, Fiona's parent advised that the school had said she would meet the criteria for reasonable accommodations based on low scores on the WRAT and the CAT and that these scores along with a high error rate would be sufficient to meet the criteria for a waiver. However, the results of the CAT assessment suggested that her difficulties were not specific but more generalised. Therefore, the SEC advised the parent that 'there was no evidence of an SLD'. The complainant reported to the OCO that her understanding was that the SEC accepted the diagnosis of SLD and was surprised to be told that this was not the case.

The Office does not think it is fair that parents are told about the nature of their children's learning difficulties in this way. Neither is it fair that young people can get to the age of 17 or 18 without understanding their own particular learning needs. It suggests that some schools may need more support and training about the difference between specific and general learning difficulties. Gavin had a long history of learning support and had been diagnosed with mild general learning difficulties by NEPS at the age of seven. However, his school applied for RACE on the grounds of SLD and appealed the SEC's decision when his application was rejected. This suggests that Gavin, his parents and the school were operating on the assumption that Gavin had an SLD. The fact that he had received reasonable accommodations for his Junior Certificate and that his school applied for accommodations for his Leaving Certificate indicates that Gavin's school may have treated his learning difficulties as specific rather than more generalised.

Oversight of RACE

Support and training for schools

As the body responsible for supporting 'the personal, social and educational development through the application of psychological theory and practice in education having particular regard for children with special educational needs,'²⁹ the NEPS has a clear role in supporting schools.

In relation to the RACE scheme, the NEPS advised that their psychologists are available to support schools and have provided training for the majority of secondary schools. Because the Office was not clear about the extent of the training provided for schools, the OCO asked the SEC to provide more information. The Office specifically asked about the level of support and oversight provided by the NEPS for school staff who are administering tests as part of the application process.

²⁸ Gavin, Helen, Kate, Laura and Fiona.

²⁹ NEPS mission at <http://www.sess.ie/dyslexia-section/s3g-national-educational-psychological-service-neps> (accessed 05/10/2015).

The SEC advised that:

- The NEPS ran a training campaign for all secondary schools in Ireland between 2013 and 2015. All of the 732 secondary schools in the country have been offered training with the exception of three new schools. These three schools have not yet had students doing state exams. To date, 65 schools have not attended training.
- The training campaign was expected to take two years but NEPS continue to offer it annually to cater for staff turnover in schools.
- NEPS psychologists are available to schools on a consultative basis to answer any queries related to their role in the RACE scheme.

The SEC also provided a copy of the PowerPoint presentation that the NEPS use in the training. However, the SEC also confirmed that the NEPS does not have any mechanism for ensuring that tests are administered or interpreted correctly by school staff. This remains a concern because a teacher advised that she did not feel comfortable communicating test results to parents and that teachers came under unfair pressure from parents. She gave an example of a parent challenging her for scoring his child too high. The parent had told her that the SEC would have granted the accommodation if she had changed the young person's score to 85. The teacher reported that she did not feel supported by the SEC or the NEPS in carrying out these tests.

Providing feedback is a central part of any assessment process. It must be done in a way that is supportive for students and their parents but it is important that tests are administered and interpreted correctly. Best practice dictates that young people and parents know the purpose of any tests used as part of an assessment process. Parents also told us that the tests done by school staff were given more weight than psychological assessment reports. Most of the tests done by school staff are attainment tests that determine whether young people meet the eligibility criteria for RACE. It seemed that parents did not understand the difference between tests of ability and tests of attainment. This may be because the assessment process is not explained in a way that parents can understand. This is in contrast to guidance provided by the DES, which states that 'schools should ensure that appropriate, accurate and consistent feedback is provided' to students and parents.³⁰ Similarly, a publication by the National Centre for Guidance in Education (NCGE) emphasises that it is the responsibility of those using the tests to communicate the results clearly and accurately to young people and their parents in a supportive and constructive manner.³¹ It also stresses the need to provide feedback 'in a non-technical way'.

Parents also said that they felt the testing done in schools was unfair because it did not consider how reading comprehension can be affected by an SLD such as dyslexia nor how the pressure of an exam situation might exacerbate the characteristics of dyslexia.

³⁰ Circular Letter 0034/2015 *Assessment instruments (including tests and web-based resources) approved for use for guidance and/or learning support in post-primary schools from May 2015 until further notice.*

³¹ *Best practice, ethical and legal considerations in psychometric testing for guidance counsellors* – published by the National Centre for Guidance in Education as an article for the School Guidance Handbook.

I want fairness and equality for my son. I want him to be given the same opportunity that every other child is given in Ireland, the opportunity to answer and complete his examination papers in the time provided. This is not possible if he has to read a question four to seven times to interpret it. He is being discriminated against because of his disability rather than being aided and helped. I am deeply concerned at the lack of empathy and fairness afforded to my son. It appears that the health and wellbeing of a young boy is not important. I do not want my son getting into bad health, suffering depression or being a tragic statistic (Ross's mother).

The SEC and NEPS advised that schools are informed that reading comprehension scores are not required as reading is considered to be integral to the exam process. However, this does not account for the information processing difficulties typical of this SLD. According to the Task Force on Dyslexia:³²

Dyslexia is manifested in a continuum of specific learning difficulties related to the acquisition of basic skills in reading, spelling and/or writing; such difficulties being unexplained in relation to an individual's other abilities and educational experiences. It is typically characterised by inefficient information processing including difficulties in phonological processing, working memory, rapid naming and automaticity of basic skills. Difficulties in organisation, sequencing and motor skills may also be present.

Audit and review

The Office sought specific data from the SEC to establish if there is a discrepancy between accommodations provided at Junior Certificate Level and at Leaving Certificate level for individual students. The OCO asked the SEC for information about:

- The number of pupils granted reasonable accommodations at Junior Certificate and refused for Leaving Certificate
- Whether any audits or reviews had been done to ensure consistency of the scheme at Junior and Leaving Certificate level.

The SEC advised that it could not provide information on the number of accommodations granted at Junior Certificate and not at Leaving Certificate and that this would require analysis of individual application forms.

The Office is concerned that after almost 13 years in existence, the SEC does not have a centralised electronic data source to facilitate their monitoring and oversight of the RACE scheme. In addition, the Hyland report notes that special arrangements (precursor to reasonable accommodations) have been in place since 1994. The SEC needs centralised data to understand and improve the scheme and determine trends. For example, it would

³² Special Education Support Service (2001) *Report of the Task Force on Dyslexia* at http://www.sess.ie/sites/default/files/Dyslexia_Task_Force_Report_0.pdf (accessed 28/09/2015).

be interesting to know more about the 65 schools that have not attended training. Students attending these schools may be adversely affected if their schools do not have the relevant information. The SEC advised that the NEPS share their 'view that these schools are clearly satisfied that they have the knowledge and skill set for the proper administration of the scheme.'

The Hyland Report also raised this issue by noting that the proportion of young people who are granted reasonable accommodations varies considerably from school to school but there is no discernible pattern to explain this. The report stated that the national average of candidates granted reasonable accommodations was 6.4% but the proportion varied between schools where no student was granted accommodations to schools where up to 35% of students were granted them.

The SEC acknowledged that it does not have all the information it needs to oversee the RACE scheme but is currently auditing applications for the Junior Cert 2015.³³ The SEC advised that the purpose of the audit is to provide greater transparency and accountability in relation to the scheme and to support schools in their decision making process. The SEC further stated that it is fully satisfied that the data stored on its electronic examinations database systems allows it to carry out full oversight of the system, including generating the data analytics underpinning the current audit of the Junior Certificate 2015 applications.

³³ SEC circular S88/14.

Section 3: Encouragements to drive improvements

1. Review RACE criteria

- 1.1 The SEC should consider reviewing the criteria for the RACE scheme to ensure that all children who require accommodations receive them. The RACE scheme allows applications for candidates whose general intellectual ability is below average but who also have an SLD. However, the scheme does not provide accommodations for young people who have generalised learning difficulties. These students may be adversely affected by the criteria because they cannot access accommodations.
- 1.2 The SEC should ensure that consideration of reasonable accommodations for children with SLD is based on clear criteria while allowing flexibility for professional judgement to inform decision making. The criteria should be explained in the guidance in a format that is easily understandable by anyone reading it.

2. Communicate RACE decisions clearly

- 2.1 The SEC should provide outcomes of decisions in a format that is easily understood by schools, parents and young people. In particular, reasons for refusal should be clearly explained so that applicants can make informed decisions.

3. Ensure sufficient oversight of the RACE scheme

- 3.1 The SEC should ensure that schools are adequately supported and trained about the RACE scheme including test administration.
- 3.2 The SEC should ensure that the RACE scheme is administered consistently at both Junior and Leaving Certificate.

Section 4: Response from the State Examinations Commission

The OCO engaged with the SEC on the findings of the report and provided an opportunity for them to offer written feedback on any factual inaccuracies and a response to the encouragements. The OCO considered the response by SEC and welcomed the commitments to make improvements to the scheme.

Summary of SEC response

SEC stated that the purpose of RACE is:

- (a) To remove, as far as possible, the impact of a disability or specific learning difficulty on a candidate's performance and thus enable the candidate to demonstrate his/her level of attainment and
- (b) To ensure that, while giving candidates every opportunity to demonstrate their level of attainment, the special arrangements will not give the candidate an unfair advantage over other candidates in the same examination.

A total of 2260 accommodations were refused leading to 658 individual applicant appeals to the Independent Appeals Committee (IAC). Of these appeals 137 were either wholly or partially overturned by the IAC. A total of 40 RACE complaints brought by students unhappy with the SEC's decision were investigated by the OCO, leading to eight decisions of the SEC being overturned in part or in full.

Extensions of OCO remit to include SEC

The SEC stated that they very much welcomed the extension of the remit of the OCO to include SEC in May 2013. It also stated that SEC considers it vitally important that citizens availing of the services provided by the SEC have the widest extent of appeal and review mechanisms in the interests of fairness, inter-candidate equity and maintaining public confidence in the state examinations.

Apart from the facility for citizens to contact the OCO if unhappy with SEC decisions, the subsequent broad feedback and suggestions from the Office have very much fed into important enhancements to the RACE scheme, specifically the introduction for the 2016 examinations of providing to candidates the rationale for refusal for accommodations sought under the scheme. In addition, the OCO views regarding the timing of decision making on RACE applications centrally by SEC is a core issue in the current review of the scheme being undertaken by the SEC Board, which it set as a priority strategic action on its appointment last year.

Response to encouragements

The SEC advised that their Board is currently reviewing the scheme as it is one of their priority strategic actions.

The SEC stated that they are satisfied that its decision-making at Leaving Certificate is not inconsistent or unfair in the administration of the scheme or the application of the criteria, as evidenced by the low rate of turnover of decisions at both the Independent Appeals Committee and OCO stages.

The DES and its support agencies have invested heavily in the whole area of testing, identification of special education need and provision of targeted support to schools in recent years. Schools now have experienced staff e.g. qualified guidance counsellors and learning support teachers who are familiar with the administration and interpretation of standardised tests, so again they are in an ideal position to answer any initial questions about scores or technical details. NEPS has made targeted training on the testing for the RACE scheme available to all schools and continues to provide on-going support to school staff. If a school is unsure about a technical point, they are in a position to consult with their assigned psychologist from the NEPS.

SEC highlighted the need for equity and fairness and that the development of the RACE scheme in recent years has seen a move towards school based assessment of need with no need for students to obtain professional reports to support their application. Secondly, the SEC noted that some of the tests involved in applying for RACE can only be undertaken and provided by schools, relating to reading and writing skills evidenced in an examination setting and based on examination materials.

The SEC notifies schools of the criteria to be applied by them in making decisions on applications for RACE at Junior Certificate. These exact same criteria are applied by the SEC at Leaving Certificate.

However, it is evident that a number of candidates are not receiving accommodations at Leaving Certificate who have received them at Junior Certificate. The SEC believes that the criteria have been developed to err on the side of the student. The SEC stated that it is satisfied that those students that need reasonable accommodations access them within the scheme.

The SEC agreed with a number of the OCO's findings, particularly the expectation of students granted RACE supports at Junior Certificate and who are subsequently refused them at the Leaving Certificate. The SEC advises that schools and parents are informed, at each stage of the process, that the Leaving Certificate process is undertaken afresh by the SEC and approval by schools at Junior Certificate confers no rights for the subsequent state examinations.

Nevertheless the SEC and the DES are presently examining how best to address the different outcomes evident between school based decision making at Junior Certificate and SEC-

based decision making at Leaving Certificate. An approach receiving close attention is to frontload the SEC decision making on RACE at Junior Certificate, which would clearly involve the decisions made at Junior Certificate then also applying at Leaving Certificate, based on continuing eligibility and need.

Applications for RACE are processed through the candidate's school rather than directly with candidates or their parents precisely because schools are best placed to advise and support candidates with special needs, and their parents, in their applications for reasonable accommodations.

Schools are in the ideal position to address any questions that the student or parent(s) may have in relation to the RACE scheme. The school have a relationship with the family over the course of the student's education; the application form for RACE will have been completed by the school and the accommodation sought were explained to the candidate with parental involvement and approval prior to it being sent in.

For the 2016 examinations, the SEC has introduced a policy and practice of notifying unsuccessful applicants of the specific reasons why their application was unsuccessful. This followed feedback on the operation of the scheme from interested stakeholders including the Ombudsman for Children.

The rationale for refusal provided by the SEC is overtly based on the laid-down criteria for the award of accommodations, which is explained in the guidance material furnished to schools by the SEC, and gives a clear rationale for why an application has been refused, thereby transparently facilitating the appeals process. While these criteria are technical in nature, the SEC is satisfied that the relevant school staff have been empowered and enabled through training and support from NEPS to explain these criteria to candidates and their parents and to assist in the preparation of an appeal of the SEC decision to the Independent Appeals Committee or the Ombudsman / OCO.

As a further measure, the SEC is currently finalising an information leaflet for students and parents who will be engaging in the 2017 RACE application process to specifically help with their understanding of the RACE scheme.

In relation to its oversight of the RACE scheme, the SEC has embarked on an audit of Junior Certificate applications for the 2015 examination in selected schools in response to concerns about variations in the administration of the scheme between Junior Certificate and Leaving Certificate.

The purpose of the audit is to provide greater transparency and accountability in relation to the scheme of Reasonable Accommodations and to support schools in their decision making process. As well as enhancing the accountability and probity of the scheme the SEC hopes that this approach will assist principals, special needs coordinators and others involved in the administration of the scheme as the SEC will now have better oversight of the decision making process.

The audit process addresses schools where there were both a very high and very low number of applications for RACE and the outcome will be used as a feedback to schools in terms of their engagement with the scheme. The SEC stated it is using the centralised data it

has about the incidence of RACE accommodations to support this audit in order to target schools appropriately.