



Minutes

Board Meeting

Date

Thursday, 30 January 2020

Attendees

Board

Delroy Beverley

Sally Collier

Mike Cresswell

Hywel Jones

Christine Ryan

Jo Saxton

Roger Taylor

Chair

Matt Tee

Mike Thompson

Frances Wadsworth

David Wakefield

Susan Barratt

Ofqual

Varinder Bassan

Acting Board Secretary

Phil Beach

Executive Director, Vocational and Technical Qualifications

Daniel Gutteridge

Director of Legal

Michael Hanton

Director of Strategy and Markets

Katy Harding

Associate Director, Finance and Commercial (Item 76/19)

Adrian Higginbotham

National Reference Test Senior Manager (Item 75/19)

Cath Jadhav

Director of Standards (Item 75/19)

Kate Keating

Director of Communications

Michelle Meadows

Executive Director, Strategy, Risk and Research

Naomi Nicholson

Director for Regulation of National Assessments (Item 73/19)

Sean Pearce

Chief Operating Officer

Julie Swan

Executive Director, General Qualifications

Anona White

Private Secretary to the Chief Regulator



69/19 Welcome and apologies

Apologies were noted from Ian Bauckham and Lesley Davies.

70/19 Declarations of interest

The Board noted the declarations of interest.

71/19 Minutes and Matters arising

The Board agreed the minutes of the meeting held on 27 November 2019.

Matters Arising

The Board asked for the new NAO Ofqual representative, Colin Wilcox, to be added to the ARAC section of the report.

The Board noted and agreed the recommendation from ARAC that all future Board meetings would only receive a summary of the risk register and that a detailed update would only be provided where there was either a relevant item on the agenda, or where a risk was escalated to the Board from ARAC.

The matters arising report was agreed subject to the above amendment.

The Board had no comments on the Audit and Risk Assurance Committee held on 18 September 2019 and the minutes of the Finance Committee held on 04 November 2019.

72/19 Chair's update

The Chair provided the Board with an update on the Board recruitment process for an assessment expert. Seven candidates had now been shortlisted and would be interviewed in mid-February with a decision to follow in March 2020.

The Chair spoke to the Members about a meeting with the Chairs of the Department for Education's (the Department's) arm's length bodies, at which Lord Agnew was present. Lord Agnew had referenced the excessive number of vocational qualifications available, and noted that the Department was considering the use of websites and systems to help learners navigate the different qualifications.

The Chair updated the Board on the successful launch of the Diversity and Inclusion Strategy which was reiterated by several Board members who had attended the event.

73/19 Chief Regulator's report

The Board considered and noted a paper by the Chief Regulator that provided an overview of those areas of significant activity within the organisation since the last meeting.

The Chief Regulator advised the Board that she had attended the National Leadership Forum 2020. At the event, the Cabinet Secretary Sir Mark Sedwill spoke about key priorities including the UK's relationships with China and the USA; the Fourth Industrial Revolution; the ageing population; and climate change. He also spoke about resources flowing out from the centre to regions. The Board noted that that the organisation had already started work on highly valued competencies, which was linked to the Fourth Industrial Revolution.

GCSE Photography

Following concerns raised by the Board that GCSE art and design (photography) was being promoted by a membership group as a quick and easy way for a school to boost its GCSE results, the Executive carried out data analysis to look for evidence that the qualification was being graded unduly leniently. The findings of this investigation were reported in the paper.

The Board discussed the fact that any statistical differences in the data could be explained by increased interest in photography due to the ubiquitous nature of phones with cameras and other technology developments. This could have increased the uptake of the qualification.

The Board was concerned with the potential for 'gaming' and asked if there was a method by which the number of teaching hours could be more tightly regulated. The Board was advised that this was monitored by Ofsted.

The Board acknowledged that this may be more of an issue for Ofsted but that Ofqual should nonetheless raise the concern. The Board was assured that the issue was firmly on Ofsted's radar.

National Assessment

The Board noted that the Department was currently consulting on revisions to the Early Years Foundation Stage (EYFS) Profile with the intention to align it with the national curriculum and reduce workload burden. The Executive welcomed the clear purpose statement set out in the consultation, and asked the Board's agreement to submit and publish a response. The Board asked if there was an intention to look at this again once it had become operational. It was advised that as the EYFS was relatively low risk it probably would not be the subject of systematic research and evaluation unless the Board specifically asked it to be.

The Board discussed the potential for the assessment to be used as an accountability measure even where this was not its explicit purpose. The Board asked for the response to be strengthened in this regard to make clear that the assessment should not be used as a formal accountability measure.

The Board discussed the change in delivery provider for national assessments. Whilst Ofqual was concentrating on the validity of the assessments and not monitoring deliver plans, we had been provided with assurance that no major risks to deliver had crystallised at this point.

Decision

The Board agreed for the Chief Regulator, in consultation with the Chair, to sign off on the EYFS consultation taking into consideration the discussion at the meeting.

The future of three-country predictions to maintain standards at A level

The Board was reminded that as GCSEs had become structurally different across the three countries, it was now technically complex and potentially unfair to calculate a mean GCSE grade and so the decision had been taken to move to an England only set of prediction matrices. Further technical work had been carried out by JCQ exam boards leading to the production of a policy paper by JCQ. The Board noted Ofqual's continued position that there would be an England-only matrix from summer 2020, but that it had been recognised at Chief Regulator level that Ofqual would support the other regulators in Wales and Northern Ireland as required.

New and Reformed GCSE

The Board was reminded of the decision-making process during the reform of GCSEs and A levels and agreed that a similar process be put into place should other GCSE or A level subjects be developed in the future

Decision

The Board agreed the following recommendations:

- a. decisions on whether the Department's draft GCSE, AS, A level subject content could be effectively regulated are taken by the Technical Committee through electronic business;
- b. the Board delegates to the Chief Regulator authority to consult on proposed assessment arrangements for each subject, where those proposals are in line with the established principles for the qualification;
- c. the Technical Committee decides, following consultation, on the assessment arrangements for each subject and on our ability effectively to regulate the Department's final subject content;
- d. the Board delegates to the Chief Regulator authority to sign off the final regulatory documents (following consultation where appropriate) for each subject.

Analysis of the potential impact of unconditional offers at A level

The Board was informed of a project analysing data from UCAS along with that held by Ofqual which looked at whether unconditional offers had any impact on the maintenance of standards at A level. The analysis found a statistically significant negative effect on the A level grades of those students receiving an unconditional offer, with this negative effect increasing slightly if an unconditional offer was accepted as a firm or

insurance offer, and increasing further if the unconditional offer was accepted as a student's firm university offer. The effect equated to approximately two-thirds of a grade across three A levels for those students with a firm unconditional offer. The Board noted that the maintenance of standards was unlikely to be significantly impacted by this, but that this would be looked at on a subject-by-subject basis and in particular grade boundaries within certain subjects.

The Board noted the media and political interest in the issue of unconditional university offers. It expressed its support for publishing the findings to inform the wider debate, noting Ofqual's interest in terms of both maintenance of standards and also of the long-term interests of learners who might achieve lower A level grades as a result of receiving an unconditional offer. It noted that the research would be considered by the Standards Advisory Group prior to publication.

Apprenticeships

This section has been redacted, as its publication would be prejudicial to the effective conduct of public affairs.

Digital Functional Skills

The Board was advised the Department was now completing the process of internal and ministerial sign-off so that subject content could be published in late February.

Decision

The Board agreed for the publication of the outcomes from our policy consultation last year and approval of this consultation be delegated to the Chief Regulator in consultation with the Chair and the Technical Committee.

Accountability for Awarding

The Board was informed that the proposals made in the consultation were widely supported. The Board noted that the new conditions would impact a broad range of qualifications, providing more ways to tackle issues like qualification fraud.

Decision

The Board agreed

- a. To implement our Conditions, requirements and guidance as consulted on, subject to any comments from the Board, and the changes outlined in the Chief Regulator's update.
- b. Responsibility for the sign-off of the technical consultation outcomes, and the final wording of the Conditions, requirements and guidance, would be delegated to the Chief Regulator in consultation with the Chair.

Strengthening Performance Table Qualifications

The Board noted that there had been broad agreement with many of the proposals set out in the policy consultation on the regulation of performance table qualifications (PTQs). It discussed the tension between the desire to strengthen these qualifications while acknowledging that in some cases they are used primarily for student engagement purposes. The Board noted the intended new process, that the Minister would approve PTQs from a list of those which had met our new requirements. The Board noted that, should additional requirements be introduced by the Department beyond those which we had implemented, this would be brought back to the Board to discuss the potential implications.

Decision

The Board agreed to delegate to the Technical Committee to review and agree the final approach, with final decisions on the specific detail of the regulations to be made by the Chief Regulator in consultation with the Chair.

Strategic Risk Register

The Board noted the revised Strategic Risk Register, which had been reviewed by the Audit and Risk Committee. The Board will now receive the summary of the Strategic Risk Register, after review of the full register by Audit and Risk Committee. Extracts of the full register will be appended to individual papers as applicable.

74/19 Regulating on behalf of Learners

The Board noted the preliminary work ahead of the item, that individual discussions had been held with a number of Board members about Ofqual's approach to regulating in the interest of learners.

The Board thought that it was not necessary that learners knew about Ofqual or its role in the qualifications market, but that it was necessary that Ofqual made clear how it acted in their interests. It suggested that learners should feature more prominently on the Ofqual website and that appropriate language should be used to communicate with them. Similarly, the Board invited consideration of the messages we give to parents.

The Board noted that learners was a broad term encompassing school students and adult learners alike. The Board noted that the ASCL Act 2009, under which Ofqual was established, does not give learners any special status in the law above other specified stakeholders that we must also have regard to the interests of.

The Board noted the value of understanding the interests of different groups of learners, for example those in the 'forgotten third' of students who do not achieve a grade 4 in English and maths GCSE, or learners in different educational contexts. The Board discussed that learners with SEND, learners in prison, learners in care and those who had been removed from mainstream schooling may have different interests that we should consider.

It was discussed that the primary interest for employers and learners is to understand which qualifications are good quality for the specific purpose

that they want to use them for. This is particularly important where there may be many qualifications available in a particular part of the market. Officials noted that regulation is designed to ensure a threshold of quality and that other stakeholders are also involved in signalling the qualifications that are most relevant to employer needs. This may be the Institute for Apprenticeships, other government departments or professional bodies.

The Board discussed the importance of increasing awareness of the Register of regulated qualifications, available on the website, to help learners find out what qualifications were available. It did note that the key determinant of the range of regulated qualifications available to a learner will be the offering of their local centres.

Internal communications were also discussed in this context. Learners are at the centre of our purpose and it is important motivationally for Ofqual staff to see the connection of their work to the impact on learners. One way to promote this is encouraging our staff to be school / college governors.

The Board noted the difficulty of a 'learner commitment'. It is important not to promise outcomes that can't be secured. However, the Board were very supportive of the position that we 'regulate on behalf of learners'.

The Board was informed that a further discussion will take place regarding the range and benefits statutory objective. This will be followed by a further discussion with the Board at the July Strategy Day to agree next steps in relation both to learners and the range and benefits of regulated qualifications.

75/19 Continuation of the National Reference Test beyond 2022

The Board was advised that 2022 would be the last cycle of the National Reference Test in Ofqual's current contract. It had been anticipated that a new contractor would be procured in early 2020 to ensure a provider was in place for a handover year and then sole delivery in 2023. Following unexpected results in 2019, it was thought prudent not to make any decision about future test requirements until a further two more years of NRT and GCSE results have been obtained. The paper set out options for deferring that decision and the associated risks of each.

The Board noted that if the unexpected variation in results continued over the next two years, then at that point further discussion would be brought back to the Board as to the way forward.

Decision

The Board agreed to:

- a. defer the re-procurement until autumn 2021 in order to gather more evidence on student motivation in the 2020 and 2021 NRT and GCSEs, and
- b. Commence negotiations with NFER with a view to agreeing an extension to our current agreement to procure the administration of the NRT for 2023 and 2024 within the parameters outlined in Annex 2 (financial impact assessment).

76/19 Finance Update

The Board noted the Financial update report, and that spend was being managed in order to deliver a forecast underspend between £200,000 to £300,000 by year-end. It noted that the position presented in the report had been reviewed by the Finance and HR Committee on 24 January 2020.

**77/19 Update to Board and Committee Memberships
Decision**

The Board agreed the core membership of the Technical Committee to be Ian Bauckham, Mike Cresswell, Mike Thompson, Lesley Davies and Jo Saxton.

78/19 Publication of papers

The Board agreed for all open items to be published.

79/19 Other Business

The Board was advised that contingency plans were in place should the Coronavirus have an impact on exams. The issue would also be discussed with exam boards at the next General Qualifications Oversight Board.

80/19 Date of the next meeting

Wednesday 25 March 2020