



Minutes

Emergency Board Meeting

Time and venue

20.30pm by Microsoft Teams

Date

Saturday, 15 August 2020

Attendees

Board

Susan Barratt

Delroy Beverley

Sally Collier Chief Regulator

Lesley Davies

Hywel Jones

Dame Christine Ryan

Roger Taylor Chair

Mike Thompson

Matt Tee

Frances Wadsworth (from 21.33pm)

Ofqual

Niamh Field Board Secretary

Daniel Gutteridge Director of Legal

Matthew Humphrey Director of Legal Moderation and Enforcement

Anona White Private Secretary to the Chief Regulator

93/20 Welcome and apologies for absence

Apologies were received and accepted from Mike Cresswell and Ian Bauckham.

94/20 Declarations of interest

There were no declarations of interest.

95/20 Update on 2020 Appeals guidance

The meeting had been convened following the Board's decision on 14 August 2020 to implement, in part, the Secretary of State (SoS) for Education's Direction (dated 13 August 2020) in respect of appeals. The Board had decided then to include non-exam assessment (NEA) in the appeal route and to limit the grade which could be awarded following a successful appeal to the Centre Assessment Grade (CAG) (the "CAG cap").

The Board's decision was communicated to DfE immediately after the 14 August 2020 meeting. However, the Chair and Chief Regulator had been asked by the minister and Secretary of State that the Board reconsider its position in relation to the decision that had been made. The Chief Regulator had agreed to refer the matter back to the Board for further consideration, but had also advised the Secretary of State that the guidance on the Ofqual website at the moment accurately reflected the Board's current position, and that the guidance had been agreed with the Secretary of State's senior advisers.

To redress any confusion the Chief Regulator had proposed to issue a statement of clarification explaining the rationale for the CAG cap. In the Board's view, it was consistent with Ofqual's equalities objectives and duties, with the Board seeking to ensure fairness overall.

The Board considered the request by the SoS.

The Chair and Chief Regulator noted the difficulty of the request for the Board to reconsider its decision of the previous day. The considerations that informed the decision of yesterday still stood.

Board members noted the fast-changing public confidence outlook, and that some stakeholder groups were now proposing that CAGs should be issued as final results. This was recognised by Board members as a real possibility, with government policy developing rapidly. Should it happen, such a change would make the CAG cap redundant.

The Board also reflected on the context in which the Board's decision had been reached: 60% of students had already received an outcome equivalent to their CAG; Ofqual had not been consulted fully on the mock appeals policy prior to its announcement, and there could be a significant increase in the proportion of students receiving outcomes to match their CAGs as a result.

It was noted by all that this was an extremely challenging position.

Both the Chair and the Chief Regulator advised against the Board changing its position, though they acknowledged the risks in the Board declining to change its view.

The Board requested a brief adjournment in order to view the published statement, which they had not seen prior to publication, and to clarify the legal position, including what the Board was being asked to do.

The meeting was adjourned at 21.05pm. The meeting reconvened at 21.25pm.

This section has been redacted as it contains legally privileged information.

The Board decided that it did not wish to reverse the decision it had previously made. It did decide, however, to withdraw the relevant statement on the website so as to allow time to review and reflect on all aspects, including the legal position outlined. The Chief Regulator indicated that she disagreed with the proposal.

RESOLVED:

The Board resolved to agree to remove the statement from the website, pending further advice and consideration, and to issue a holding statement saying that the Board was reviewing the appeals process.

The Board would reconvene on 16 August 2020 to consider again the options outlined in the paper presented at the Emergency Board Meeting on 14 August 2020 and to be further informed and updated on any further communications between the Chief Regulator, Chair and the SoS.

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

96/20 Any Other Business

There was no other business.

The meeting ended at 22.11pm.