

To:

Ms Sharon Hague
Responsible Officer
Pearson Education Limited
One90 High Holborn
WC1V 7BH

Notice of Intention to Impose a Monetary Penalty

In accordance with its powers under Section 151A(2) of the Apprenticeships, Skills, Children and Learning Act 2009, and pursuant to its obligations under Section 151A(4) and 151A(5) of that Act, Ofqual gives notice that it proposes to impose a monetary penalty on Pearson Education Limited ('Pearson') in the sum of **£85,000** (eighty-five thousand pounds) for the reasons set out below (**Reasons**).

Representations

- i. **Pearson** may make representations in respect of Ofqual's proposal to impose on it a monetary penalty of **£85,000**. Any such representations must be sent by E-mail to EnforcementCommittee@ofqual.gov.uk and must be received before **4pm on 21 October 2016**.
- ii. **Interested parties** may make representations in respect of Ofqual's proposal to impose on Pearson a monetary penalty of **£85,000**. Any such representations must be sent by E-mail to EnforcementCommittee@ofqual.gov.uk and must be received before **4pm on 21 October 2016**.

Reasons

Background

1. The Office of Qualifications and Examinations Regulation ('Ofqual') may impose a monetary penalty on a recognised body (an awarding organisation) if it appears to Ofqual that the awarding organisation has failed to comply with the General Conditions of Recognition set and published by Ofqual (the Conditions).
2. Ofqual may not impose a monetary penalty in an amount which exceeds 10% of the awarding organisation's turnover.
3. Pearson is an awarding organisation regulated by Ofqual. Pearson has admitted that it failed to comply with six Conditions in respect of an incident which occurred

between 22 April 2015 and January 2016 in connection with the migration of centre and learner data to a new online delivery platform.

The Incident

4. In May 2012 Pearson notified Ofqual that it had acquired Education Development International PLC ('EDI'). In February 2013 Pearson confirmed that it intended to cease registration of all EDI branded qualifications by January 2014 and complete certification for those qualifications by January 2017.
5. On 22 April 2015 Pearson notified Ofqual that an incident had occurred in the migration of data about active EDI centres to a new online delivery platform known as Qualification Management Application release 2 ('QMA'). The migration had taken place on 13 April 2015.
6. The transfer to QMA involved the migration of all data held on a legacy EDI application called CAMPUS, including learner results held on the legacy system. The notification stated that despite extensive validation of the data prior to the new application being deployed, issues were experienced with the data in the new application which impacted Pearson's ability to run grading and certification outputs for EDI qualifications.
7. To minimise the potential issue of incorrect results and certificates those functions were turned off in QMA while Pearson investigated and fixed the data issues. Pearson was not able to recommence the issue of results and certificates through QMA until January 2016, and even then maintained its contingency arrangements.
8. Despite the measures taken by Pearson, it confirmed in March and April 2016 that, as a result of the incident, it had:
 - a. Issued 1,566 certificates which recorded incorrect results; and
 - b. Issued 41 certificates which incorrectly recorded a learner's name; and
 - c. Issued 551 incorrect results, other than through the issue of a certificate; and
 - d. Issued 10,851 certificates outside its published timescale; and
 - e. Issued 1,648 results late, other than through the issue of a certificate.

Admissions

9. Pearson has made the following admissions in respect of the incident:

- a. that, as a result of the incident, Pearson issued results to learners which did not reflect the level of attainment demonstrated by those learners in assessments and has therefore failed to comply with Condition H5.1;
- b. that, as a result of the incident, Pearson issued results to learners which did not accurately and completely reflect the marking of assessments and has therefore failed to comply with Condition H6.1(d);
- c. that, as a result of the incident, Pearson issued certificates to learners which were not accurate and complete and which did not reflect accurate and complete results and has therefore failed to comply with Condition I4.1(d);
- d. that, as a result of the incident, Pearson failed to issue results which were timely, in that it issued results outside of its published timescale and has therefore failed to comply with Condition H6.1(e);
- e. that, as a result of the incident, Pearson failed to issue certificates which were timely, in that it issued certificates outside of its published timescale and has therefore failed to comply with Condition I4.1(b); and
- f. that Pearson's planning for the transition to QMA was not sufficient to ensure the effective introduction of that new development, because the incident occurred as a result of the transition to QMA, and Pearson has therefore failed to comply with Condition A5.3(b).

Findings

10. An Ofqual Enforcement Committee has considered the evidence, including the admissions made by Pearson, and has made the following findings:
 - a. that Pearson has failed to comply with Condition A5.3(b), because it did not ensure the effective transition of centre and learner data to QMA, and therefore did not adequately plan the introduction of that new development;
 - b. that Pearson has failed to comply with Condition H5.1, by reason of its failure in 551 instances to ensure the results of assessments taken by learners reflected the level of attainment demonstrated by those learners in those assessments;
 - c. that Pearson has failed to comply with Condition H6.1(d), by reason of its failure in 551 instances to issue results which completely reflected the marking of assessments;

- d. that Pearson has failed to comply with Condition I4.1(d), by reason of its failure in 41 instances to issue certificates which were accurate and in 1566 instances to issue certificates which reflected accurate and complete results;
- e. that Pearson has failed to comply Condition H6.1(e), by reason of its failure in 1,648 instances to ensure the timely issue of results;
- f. that Pearson has failed to comply Condition I4.1(b), by reason of its failure in 10,851 instances to ensure the timely issue of certificates.

Regulatory Action

- 11. The Enforcement Committee has had regard to Ofqual's policy, Taking Regulatory Action (2012) as well as to Ofqual's objectives and duties as set out in the Apprenticeships, Skills, Children and Learning Act 2009.
- 12. The Enforcement Committee proposes that Ofqual should impose a monetary penalty as a result of Pearson's failure to comply with six of the Conditions, as set out above. The following specific matters indicate that a monetary penalty is an appropriate outcome:
 - a. The incident involved the issue to learners of inaccurate results and certificates;
 - b. The incident affected a significant number of learners due to results and certificates being issued late;
 - c. The impact of the failures to comply with the Conditions occurred over a number of months, from April 2015 to January 2016;
 - d. Better planning by Pearson would have prevented the incident.

Mitigation

- 13. The Enforcement Committee has identified that the following mitigating factors are present in this case:
 - a. Pearson has to date had a good history of compliance with the Conditions;
 - b. Pearson promptly notified Ofqual about the incident and has co-operated with Ofqual in providing regular updates and information as requested;

- c. Pearson has taken a number of steps to rectify and mitigate the breaches and to prevent a reoccurrence. Those steps include:
- i. investing in a paper-based solution while the issues with QMA were ongoing,
 - ii. setting up a marking centre at its Hellaby site,
 - iii. generating certificates through the legacy CAMPUS system,
 - iv. recruiting 25 additional staff to its Account Services team,
 - v. providing regular updates to customers by phone and email,
 - vi. tracking call volumes, complaints, call duration, call abandonment and service levels to ensure that customer support did not suffer,
 - vii. visits to affected customers by the leadership team,
 - viii. committing £4,000,000 to be paid to affected customers in recognition of their work to mitigate the problems they encountered, £3,450,000 of which was already committed to 540 affected customers as at 14 December 2015,
 - ix. spending in excess of £1,700,000 in 2015 on extra internal costs related to a number of activities, including enhanced customer service to support customers, manual processes to work around systems faults, and programme management to help with stabilisation and future deployment,
 - x. committing to additional expenditure in 2016 as required, and
 - xi. commissioning its own investigation into the cause of the incident and taking action to implement all of the recommendations made following that investigation.
- d. Pearson has not benefited financially from the incident and has incurred additional expenditure, as set out above, in relation to its response to and resolution of the incident;
- e. Pearson has admitted the facts alleged in this enforcement case and has admitted that it failed to comply with the six Conditions.

Proposed Monetary Penalty

14. Pearson has accepted that Ofqual intends to impose a monetary penalty in this case and has agreed to pay a monetary penalty in the sum of **£85,000**.
15. The Enforcement Committee is satisfied, in accordance with S151B of the 2009 Act, that a monetary penalty in the sum of **£85,000** would not exceed 10% of Pearson's turnover.

16. In view of the admissions made and the mitigation set out above, the Enforcement Committee has decided to propose the imposition of a monetary penalty in the sum of **£85,000**.

Next Steps

17. The Enforcement Committee will consider this case again on or after 21 October 2016. The Enforcement Committee will consider any representations made as specified in this Notice (**Representations**) and will decide whether to make a final order for the payment of a monetary penalty, and if so in what amount, and / or whether any other order should be made.

Signed:



Anne Heal
Chair of the Enforcement Committee

Date: 22 September 2016

Enforcement Committee:

Anne Heal;
Neil Watts;
Barnaby Lenon.

NOTE:

- 1) If Ofqual does not receive representations it may determine this matter after the date for representations is given, alternatively it may agree a different date for the receipt of representations.
- 2) Ofqual will publish Notice of Intention to Impose a Monetary Penalty on its website.