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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 the City and Guilds of London Institute (City & Guilds) in the sum of **£38,000** (thirty-eight thousand pounds) for the reasons set out below (**Reasons**).

Representations

- i. **City & Guilds** may make representations in respect of Ofqual's proposal to impose on it a monetary penalty of **£38,000**. Any such representations must be sent by E-mail to EnforcementCommittee@ofqual.gov.uk and must be received before **4pm on 5th August 2016**.
- ii. **Interested parties** may make representations in respect of Ofqual's proposal to impose on City & Guilds a monetary penalty of **£38,000**. Any such representations must be sent by E-mail to EnforcementCommittee@ofqual.gov.uk and must be received before **4pm on 5th August 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. City & Guilds is an awarding organisation regulated by Ofqual. City & Guilds has admitted that it failed to comply with three Conditions in respect of an incident which occurred between 1 February 2015 and 5 June 2015.

The Incident

4. On 1 February 2015, City & Guilds identified an incident that resulted in it becoming aware, on or around 16 February 2015, that it could fail to issue results for certain qualifications (including paper-based Functional Skills) in accordance with its published timescales.
5. On approximately 13 March 2015, City & Guilds first failed to issue results in accordance with its published timescales for these qualifications. In total 22,229 late results were released between the middle of March and the end of May 2015.
6. On 17 April 2015, City & Guilds notified Ofqual that the incident had occurred. City & Guilds thereafter maintained frequent and effective communications with Ofqual about its management of the incident.
7. During the period of the incident City & Guilds put in place a series of steps with the intention of ensuring that all future results would be issued on time and that the results which were late would be issued as soon as possible.
8. From 5 June 2015, the incident was resolved and results thereafter were issued in accordance with published timescales.

Admissions

9. City & Guilds has made the following admissions, following Ofqual's investigation of the incident:
 - a. that, between approximately 16 February 2015 and its notification on 17 April 2015, City & Guilds failed to notify Ofqual that the incident had occurred and has therefore failed to comply with Condition B3.1;
 - b. that, as a result of the incident, City & Guilds 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); and

- c. that, in regards to the incident, City & Guilds failed before 17 April to take all reasonable steps to meet its published timescale for the issue of results and has failed to comply with Condition H6.1(f).

Findings

10. An Ofqual Enforcement Committee has considered the evidence, including the admissions made by City & Guilds, and has made the following findings:
 - a. that City & Guilds has failed to comply with Condition B3.1, by reason of its failure prior to 17 April 2015 to notify Ofqual that the incident had occurred;
 - b. that City & Guilds has failed to comply with Condition H6.1(e), by reason of its failure in 22,229 instances to ensure the timely issue of results; and
 - c. that City & Guilds has failed to comply with Condition H6.1(f), by reason of its failure prior to 17 April 2015 to take all reasonable steps to meet its published timescale for the issue of results.

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 City & Guilds' failure to comply with three of the Conditions, as set out above. The following specific matters indicate that a monetary penalty is an appropriate outcome:
 - a. The incident affected a significant number of Learners due to results being issued late;
 - b. The failures to comply with the Conditions occurred over a number of months, from February 2015 to June 2015;
 - c. A failure to comply with Condition B3.1 prevents Ofqual from exercising regulatory supervision of the response to an emerging incident to ensure that action is taken to mitigate potential prejudice to Learners and to minimise the detrimental impact on public confidence in regulated qualifications.

Mitigation

13. The Enforcement Committee has identified that the following mitigating factors are present in this case:
- a. City & Guilds has to date had a good history of compliance with the Conditions;
 - b. City & Guilds has co-operated fully with Ofqual's investigation of the incident;
 - c. City & Guilds has not benefited financially from the incident and has incurred £581,000 additional expenditure in relation to its response to and resolution of the incident;
 - d. City & Guilds has admitted the facts alleged in this enforcement case and has admitted that it failed to comply with the three Conditions;
 - e. City & Guilds took a series of significant steps after 17 April 2015 to resolve the incident;
 - f. City & Guilds has implemented a number of measures to prevent any recurrence of the incident and / or any similar failure to comply with the Conditions;
 - g. There is no evidence that any Centre lost or failed to secure public funding for the delivery of City & Guilds qualifications as a result of or in connection with the incident.

Proposed Monetary Penalty

14. City & Guilds 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 **£38,000**.
15. The Enforcement Committee is satisfied, in accordance with S151B of the 2009 Act, that a monetary penalty in the sum of **£38,000** would not exceed 10% of City & Guilds' 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 **£38,000**.

Next Steps

17. The Enforcement Committee will consider this case again on or after 5th August 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: 5th July 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.