

Ofqual Board

Paper 81/17

Date:

28 March 2018

Title:

Chief Regulator's report

Report by:

Sally Collier, Chief Regulator

Open Paper with closed Annexes



Recommendations

1. The Board is asked to note the matters reported.

Summary

2. Since the last meeting of the Board, the Chair and I had our first meeting with the new Secretary of State. We will be requesting a further meeting ahead of Results Days. In mid-March we also met with the Minister of State for School Standards.
3. On 1 March, an Ofqual Enforcement Committee gave Notice of Intention to fine OCR £125,000 as a result of a series of breaches in relation to GCSE Computing, which had been identified by an investigation. The Notice of Intention was published on 2 March to allow interested parties to make representations. A final decision is expected in early April. This is Ofqual's largest fine and the first time we have issued a Notice of Intention to fine one of the four main exam boards relating to general qualifications, and so naturally there is a degree of public interest. *The Times* covered the story.
4. At the end of February we held our 2018 Ofqual Conference for awarding organisations, which included speeches from Sir Gerry Berragan, CEO of the Institute for Apprenticeships, and Professor Gordon Stobart (Oxford, UCL). Despite the snowy conditions attendance was very good, and

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feedback showed that the majority of respondents were satisfied or very satisfied with the content. The success was the result of a great deal of work by the Communications and VTQ Strategic Relationships teams.

5. On 14 March we launched our consultation into strengthening teacher-examiner safeguards, following our announcement in September that we would review the risks and benefits of teachers writing or contributing to exam papers which they then teach, and the current safeguards to reduce risks of malpractice where this is the case. Our consultation reflects the detailed analysis of existing processes and extensive discussions with awarding organisations, examiners, teachers, students and parents, and it will run until late April.
6. In late February I met with Jennifer Coupland, Director for Professional & Technical Education at the Department for Education, and Sir Gerry Berragan to discuss our collaboration for the delivery of T levels. Excellent progress has been made on establishing exactly how separate statutory processes can run in parallel.
7. On behalf of my Executive team and myself, I would like to thank the four departing Board members for their service and contributions during their time with Ofqual. We have found that their knowledge and insight has provided helpful steers on countless occasions, sometimes in difficult circumstances. We wish them all the best in their future roles. I would also like to welcome the five new Board members, who will be starting in either March or May, and look forward to working closely with them in the future.

General Qualifications update

GCSE computer science

8. At the last meeting, we confirmed to the Board that we had announced, following consultation, that students taking their GCSE Computer Science exams in 2018 and 2019 would have their grade based on their performance in the exams alone. While students should still complete a task set by their exam board, and schools and colleges should set aside 20 hours in the timetable for the task to be completed, the task would not be formally marked nor, therefore, contribute to the grade. We explained to the Board, and in our announcement, that we would extend the interim arrangement to students taking their exams in 2020 too if appropriate.
9. We have now turned our attention to longer term arrangements for the qualification. We have reviewed in detail the proposals made by respondents to our consultation, which focused primarily on our proposals for short-term, interim changes to the qualification's design but invited ideas on longer term arrangements.

Malpractice

10. We have received the external advice we commissioned on how we can most effectively target our messages on why and how to avoid malpractice. Following the advice, we will be looking at a communications campaign to reach examinations officers, and ways we might communicate a distilled version of JCQ's guidance.
11. We published our consultation on 14 March 2018 on how we propose to regulate to reduce the risk that a teacher who has been involved with developing or has otherwise seen confidential information about assessment misuses that information. The consultation will close on 25 April. The exam boards that offer GCSEs, A levels, the IBO and Pre-U qualifications, together with ASCL, the AoC, HMC and NAHT published a statement at the same time that set out their commitment to addressing this risk too.
12. We began our review of our expectations with regard to teachers writing assessment material following two well-publicised incidents last summer when two teachers who were involved in writing examinations for Pre-U qualifications were found to have inappropriately disclosed or used information about the contents of forthcoming exams. The consultation proposes changes to our regulations that it will apply to the all awarding organisations we regulate. It reflects our detailed analysis of existing processes and extensive discussions with awarding organisations, examiners, teachers, students and parents.
13. Our current rules are already extensive and demanding, but we plan to strengthen them further. The consultation sets out our proposals to:
 - a. explicitly set out in our rules additional steps awarding organisations must take to help protect the integrity of the assessments to which teachers have contributed, and
 - b. publish further statutory guidance to help awarding organisations understand the factors and approaches they should consider when deciding how to comply with the rules
14. This means teachers will continue to be able to write assessments and have access to confidential materials. However, awarding organisations must manage the risks and review safeguards in this area such that they are appropriate and proportionate to:
 - a. effectively mitigate the risks of using teachers in the development of assessment materials, for example by making sure no teacher knows whether or when any assessments they have developed will be used
 - b. support teachers to do the right thing, through appropriate training and contractual obligations
 - c. detect malpractice, for example by sampling the work of teachers who have written exam papers to look for any unusual patterns of response

15. The consultation gives examples of how these expectations relate to qualifications with different purposes and makes clear that the way in which awarding organisations have regard to our guidance will be taken into account when deciding on the nature and scale of any regulatory action should a breach of confidentiality occur.

Readiness for summer 2018

16. We have completed our reviews of the exam boards' readiness for the summer ahead. We reviewed the extent to which exam boards have identified and are managing the risks to the safe delivery of GCSEs, AS and A levels and particularly reformed Tech levels and Applied General qualifications. We checked to ensure that each has learned from issues that arose in 2017. We have highlighted to each board a number of particular risks we expect them to manage this year, but we found no indications that they are not currently appropriately managing these or the other risks.

Vocational and Technical Qualifications update

Reform

17. **Functional Skills.** Ministers have now signed off the subject content for Functional Skills and it has been published by the Department. The Reform Committee met on 13 March to consider Ofqual's full set of policies for this qualification type. We are intending to launch them on 28 March with a Technical Consultation, including Conditions and Guidance, together with the analysis and decisions from our initial policy consultation last year. Our intention is to evaluate the new qualifications against this framework, once developed, between October and December this year.
18. **Apprenticeships.** We launched our consultation on Conditions and Guidance for Apprenticeship End Point Assessments on the 26 February; the culmination of extensive work with the Department, Institute for Apprenticeships (the Institute), ESFA, and engagement with AOs. These additions and amendments to our framework will underpin our revised regulatory approach.
19. **T levels.** Negotiations with the Institute and Department continue based on the parameters set by the Board in October.
20. **Qualifications Review.** The Department has announced a review of Level 2 and 3 vocational qualifications in parallel with the development of T levels. A new Deputy Director role in the Department has been established to lead this work and we intend to make proactive recommendations to inform their approach. The work aligns with the

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review of Level 4/5 qualifications which we are already engaged with, which are being looked at as routes out of T levels. These reviews have the potential to have a significant impact on the market we regulate and what is eligible for public funding, and we are running extensive analysis to inform our position.

21. **Digital Skills.** The Government has announced that funding will be available for a 'Digital Skills Entitlement' for adult learners from 2020. They are seeking to make a specific set of digital skills qualifications eligible for this funding by this date. As part of this programme of work, the Department are also proposing to reform ICT Functional Skills to create a new digital suite. We are working with them to develop a timeline to first teaching in 2021. We see this as an extension to the existing Functional Skills reform programme.

Regulation

22. In preparation for summer awarding, we have completed the first readiness review of a VTQ AO (City & Guilds) to deliver assessments in its performance table qualifications. Although we did not identify significant issues in C&G's delivery model, we highlighted areas of risks that it should consider further in the lead up to its June series.
23. **Centre controls.** We have written to AOs to set out our concerns about wider aspects of centre controls, to inform them of our associated audit programme, and to signal our intention to review our current regulations on moderation in a VTQ context. The letter was generally well-received, and many of the AOs that attended our workshops on centre controls at our conference on 27 February supported our approach. The first suite of the audit programme has begun, with findings due in May. We gathered feedback at our AO conference workshops which we are using to inform the first part of our Call for Evidence on moderation, due to go out by early April. Delegates recognised the potential need for our regulatory framework to be amended to reflect the specific needs of the VTQ market. Unsurprisingly, there were no immediate solutions identified in the Conference feedback session, but we expect good engagement with the Call for Evidence.
24. **Malpractice audits.** We have conducted malpractice audits in two phases. The first phase concluded in December 2017 on the wide-ranging controls related to malpractice, from preventing malpractice to notifying other parties about malpractice. We audited 10 AOs, and we have identified 4 AOs with limited or no assurance. Issues included weakness in these AOs' arrangements with centres to report and investigation malpractice, their maintenance of appropriate investigation records, and lack of a detailed sanctions policy. We have referred these AOs to Legal, Moderation and Enforcement for evaluation potentially leading to formal enforcement action. Based on the thematic findings from the first phase, the second audit phase focused on a narrower range of controls (identifying, investigating and dealing with malpractice) that

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we identified as key to an AO's management of malpractice. Another 10 AOs are included in this phase. The findings are due in late March, after which we will consider how best to share examples of good and bad practice more widely with the sector.

Strategic Relationships

25. We held our annual Awarding Organisation conference on 27 February. Despite the bad weather, the majority of AOs attended, some turning out in force. Speeches from myself and the Chair, Mark Thurston (HS2), Sir Gerry Berragan (IfA), and Professor Gordon Stobart (Oxford & UCL) were well received and there was excellent engagement with the panel discussion and workshops on a range of topics. We have received a considerable amount of very positive qualitative feedback from delegates, further detail of which is given in the Communications update.
26. Since the last Board meeting, approval was sought and given from the Board via email for a Memorandum of Understanding with the Joint Council for Cosmetic Practitioners (JCCP), which we were able to sign in time for the JCCP's high-profile House of Lords launch. Our willingness to work in association with JCCP as it seeks to improve skills and standards in this sector has been very well received. It has led to new contacts and approaches and has enabled us to demonstrate our regulation of wider VTQs beyond the current reform programmes.

National Assessments

27. **Regulatory Framework for National Assessments.** Following consultation last autumn, and the Board's agreement in January, we published our updated Regulatory Framework for National Assessments on 6 March. This is an important milestone in ensuring effective and transparent regulation of National Assessments and has been well received.
28. **Teacher assessment frameworks – risk to standards.** Last summer, the Standards and Testing Agency (STA) revised the Interim Teacher Assessment Frameworks used at key stages 1 and 2. New writing frameworks have been published for use in the current academic year and for other subjects from summer 2019.
29. Following discussions between Ofqual and STA and the provision of advice from both STA and Ofqual to Ministers, STA have now published a statement clarifying that:
'changes made to the teacher assessment frameworks will mean that judgements made using these revised versions will not be directly comparable to those made using the previous interim versions.'

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30. We have also received assurance from STA that the Department will interpret assessment outcomes appropriately as part of the statistical release of results in July.

National Reference Test

31. The National Reference Test (NRT) was held in schools between 19 February and 2 March. The adverse weather caused tests to be postponed at 64 of the 340 schools that had agreed to take part. NFER, who administer the Test, was able to reschedule the test to take place during the following week at 38 schools, so we achieved a school sample for 314 schools.
32. NFER's training of the English markers on 3 March was switched from a face-to-face event to an audio conference. Training of maths markers was postponed to 10 March. We are pleased that no incidents have been reported that threatened the security of the tests, and that there was minimal comment on social media from teachers or students.

Corporate Plan and Regulatory Burden

33. Following the feedback and steer of the Board at the Strategy Away Day in February, we have worked to finalise the Corporate Plan for 2018-2021. We are seeking agreement from the Board to publish the Corporate Plan in early April as detailed in the Corporate Plan paper.
34. Alongside the Corporate Plan, we intend to publish our Regulatory Burden Statement. We have a statutory duty to publish an annual Statement, which sets out how we have reviewed our regulatory functions to ensure that we do not impose or maintain any unnecessary burdens. It includes reference to what we have done in the last year from April 2017 to March 2018, what we propose to do in the next 12 months and our support for innovation. Further detail is given in the Regulatory Burden paper.

Enforcement

35. On 1 March, an Enforcement Committee gave Notice of Intention to fine OCR £125,000 as a result of a series of breaches in relation to GCSE Computing, which had been identified by an investigation. The Notice of Intention was published on 2 March to allow interested parties to make representations. A final decision is expected in early April.

Regulatory and Corporate Services update

Recognition

36. The total number of recognised AOs is now 151, following two surrenders in February 2018. Two further surrenders are expected over the next three months; we are seeking explanations from these AOs as to why they have surrendered recognition. 17 AOs are now recognised to offer EPAs in one or more Apprenticeship Standards. We have now recognised at least one AO for 21 of the 44 Standards for which we are the EQA Provider.

IM Ops/IM Transformation

37. Digital enablers for the regulatory strategy refresh for recognition and AO Communications are on-track and a new portal module 'My Communications' went live week beginning 12 March.
38. The Associate Director for Digital has given presentations on Ofqual's Information Management journey to the cloud and use of data to the Public Sector Enterprise ICT and Microsoft government Azure conferences. Both were very well received by audiences resulting in follow-ups to discuss lessons learnt with other public sector bodies

Human Resources

39. Our Chief Operating Officer, Marc Baker, will be leaving at the end of April after a number of years as part of the senior management of Ofqual. Recruitment is underway for a new COO and the Chair and I, along with a Civil Service Commissioner, will be interviewing candidates in early April with the intention that the successful candidate will start as soon as possible once the position is vacant. In the interim period before the new COO comes into the role, I will be taking on the day-to-day management of RCS.
40. Recruitment has also finished for our new Director of Communications role.
41. Staffing levels remain constant at 180 permanent staff plus 29 agency/contractors/fixed term staff making a total of 209 people. As indicated in the January Board report, the level of recruitment and induction activity for managers and HR is higher than usual. We have appointed 11 new recruits in VTQ, of which 4 are external recruits and are due to start over the next couple of months. Across the organisation we now have 25 posts that are being actively recruited. The draft People Strategy has been developed with SMG and was shared with the Finance Committee at its March meeting.

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HR/Finance System

42. The new Oracle HR/Finance system will go live in early April. Staff training has been rolled out during March, with 'super users' having been given detailed training on the new system.

Accommodation Update

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

Communications

44. The Ofqual AO conference on 27 February attracted 219 delegates despite the challenging weather conditions, compared with 265 in 2017. Overall feedback was strong, and similar to previous years. We achieved significantly greater social media engagement on this occasion than in previous years, including for our innovative use of technology at the event.
45. Our communications campaign ahead of the summer has been gaining momentum. We have published 8 blogs to date this year. All have generated good to excellent levels of reach (c5-20k views) and engagement (up to 5k interactions).

Looking Forward

46. We now look ahead to summer, and the delivery of the reformed 9-1 GCSEs in a greater range of subjects. Exams will begin in mid-May, from which time we will be holding daily risk meetings and monitoring social media to identify any issues at the earliest opportunity. We will be working closely with the Department both at strategic and operational levels to ensure a joined up approach to communications and information sharing.
47. We will also be rebooting both our 9-1 GCSE communications and our malpractice campaigns with a fresh focus ahead of the summer. We are launching two new videos which set out the grading system for double award GCSE science, and are updating our 9-1 resources including posters and postcards which schools can use and share.
48. Over the next two months our consultations on both Functional Skills qualifications and teacher involvement in setting exams will be open, both of which have the potential to pique public interest.
49. Subject to approval by the Board, the publication of the Corporate Plan in April will be the first articulation of our refreshed regulatory strategy. With its focus on our five defined regulatory goals, the Corporate Plan sets out our strategy for the new areas of qualification reform and how we will address any emerging risks as we see them. This evolution of our

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regulatory strategy will lay the foundation for our work over the next three years in a qualifications landscape which is ever changing.

Paper to be published	Open
Publication date (if relevant)	[With meeting minutes/later date]
If it is proposed not to publish the paper or to not publish in full please outline the reasons why with reference to the exemptions available under the Freedom of Information Act (FOIA), please include references to specific paragraphs	<i>S.36, publication would, or would be likely to, inhibit the free and frank provision of advice, or the free and frank exchange of views for the purposes of deliberation, or would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.</i>

ANNEXES:

A. Confidential items - Closed

B. Corporate Plan Tracker 2017/18 - Closed