



5 November 2019

Myles McGinley  
Responsible Officer  
The Triangle Building  
Shaftesbury Road  
Cambridge  
CB2 8EU

**By email only to:** Responsible.Officer@ocr.org.uk

Dear Myles,

### **Reviews of Marking and Moderation 2017/2018**

On 12 July 2019, OCR provided Ofqual with an Undertaking in which it admitted that it had failed to ensure that its reviews of marking, in relation to GCSE and GCE qualifications in 2017 and 2018, were conducted only by persons with no prior involvement in marking the assessment under review.

This failure affected a total of 286 reviews of marking (126 reviews in June 2017 and 160 reviews in June 2018). In each case, the initial marking and review was conducted on a 'whole-script' basis. That is, the examiner marked or reviewed the entirety of each Learner's script, rather than marking or reviewing at a question or 'item-level'.

As a result, OCR has admitted that it failed to comply with the following Conditions of Recognition<sup>1</sup>:

- a) GCE/ GCSE 17.5 (a), which provides that reviews of marking are conducted only by persons with no personal interest in the outcome of the review; and
- b) GCE / GCSE 17.5 (b), which requires that reviews of marking are conducted only by persons with no prior involvement in marking the Learner work subject to review.

In each instance, these failures were caused by an unanticipated shortfall in examiner capacity, such that affected panels of examiners comprised only one or two remaining individuals.

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<sup>1</sup> These are Qualification Level Conditions and Requirements that were in force in 2018 for GCE and GCSE (9-1) qualifications. There were a variety of Conditions in force during 2017, depending on whether the affected qualifications were legacy or reformed qualifications. For this purpose, there is no material difference between the relevant Conditions.

The Undertaking provided to Ofqual in July 2019, committed OCR to securing compliance with the above Conditions for the 2019 summer series and to mitigating the possibility of Adverse Effects should it be unable to comply. A copy of that Undertaking will be published with this letter.

Ofqual is satisfied that OCR has complied with the terms of that Undertaking to date. The final reporting date is 4 December 2019 and Ofqual has no reason to believe that OCR will fail to comply with this.

On 7 June 2019, the Director of Legal Moderation and Enforcement wrote to OCR to advise that OCR's admitted non-compliance in respect of these Conditions would be considered by Ofqual's Enforcement Committee.

The Enforcement Committee took the view that these were serious instances of non-compliance, over a two year period, the consequence of which was that 286 Learners were left with the false impression that a review of marking had been undertaken by a fresh examiner and that they could, as a consequence, have greater confidence in their results. In fact, the original marker had simply considered the accuracy of their own work.

Moreover, the Committee noted that OCR had charged a fee in each case for a service, which unknown to the Centre and Learner, lacked a fundamental element of scrutiny. In total, the fees associated with the affected reviews totalled £14,674.25.

Ordinarily, this is a matter in which Ofqual would consider it appropriate to take regulatory action against OCR, in the form of a Monetary Penalty.

However, OCR has indicated its willingness to issue credit notes to all affected Centres (including Centres that would not have paid fees for reviews that resulted in a grade change) in acknowledgement of the fact that OCR did not meet their reasonable expectations.

OCR has provided an Undertaking to this effect, which will also be published with this letter.

The Enforcement Committee also took into account what it considered to be significant mitigation, namely that:

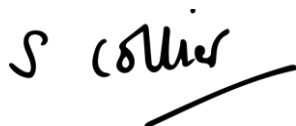
- This affected a relatively small number of Learners;
- Each of the affected reviews concerned a subject in which OCR had been able to recruit only a very small number of markers. Had the reviews in question not been conducted by the original marker, it would not have been able to be conducted at all;
- OCR made significant efforts in both 2017 and 2018 to recruit and retain sufficient markers to secure compliance but was unable to do so;
- Given OCR's efforts to recruit and retain examiners, it is unlikely it avoided costs in any notable sum and in any event, it was prepared to, and attempted to incur all necessary costs;
- OCR submitted an Event Notification to Ofqual in September 2018 notifying us that it had been necessary for original markers to conduct reviews of their own marking, having identified during pre-summer meetings that this was a risk that might occur for some subjects.

Taking all of these circumstances into account, the Enforcement Committee has decided that this is not a case which demands the imposition of a Monetary Penalty and has decided to resolve this matter by accepting an Undertaking from OCR in terms that it will recompense affected Centres by way of credit notes to the value of £14,674.25. Ofqual also intends to publicly mark OCR's non-compliance, in the interests of promoting public confidence and deterring OCR and other awarding organisations from future breaches of this nature.

We therefore intend to publish this letter, along with the two Undertakings dated 12 July 2019 and 5 November 2019.

Ofqual intends to take no further regulatory action against OCR in respect of this matter, as long as the terms of those Undertakings are complied with.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S Collier', with a long horizontal stroke underneath.

**Sally Collier**  
Chief Regulator