



To: Alex Scharaschkin, Responsible Officer, AQA Education

Notice of 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, the Office of Qualifications and Examinations Regulation ("Ofqual") gives notice that it has imposed a Monetary Penalty in the sum of **£350,000** on AQA Education ("AQA") for the reasons set out below.

1. On 15 October 2019, a Notice of Intention to impose a Monetary Penalty was issued to AQA.
2. The Notice stated that the amount of the Monetary Penalty shall be **£350,000**.
3. The Notice also stated that Ofqual intended to accept a Settlement Proposal from AQA in terms that AQA:
 - a) admits all of the breaches set out in the Notice of Intention;
 - b) compensates affected Centres (in the form of credit notes) in the sum of £735,570;
 - c) agrees to pay the Monetary Penalty of £350,000;
 - d) agrees to pay Ofqual's reasonable costs in respect of this matter.
4. Interested parties were given the opportunity to make representations about Ofqual's proposals. Two interested parties made representations.
5. On 29 October 2019, AQA informed Ofqual that it had compensated affected Centres (in the form of credit notes) in the sum of £735,570.

Further breach in 2019

6. In autumn 2019, AQA delivered 350,000 reviews of marking and moderation.
7. On 8 November 2019, AQA informed Ofqual that it was aware of two cases in 2019 in which the person conducting the review of marking had previously been involved in marking some of the items in the original scripts.
8. On 11 December 2019, AQA accepted that this amounted to two breaches of GCE / GCSE Qualification Level Condition 17.6(b)¹, which requires that the arrangements for the review of marking must provide that:

¹ Last updated 23 April 2019

“an Assessor who was previously involved in the marking of a task in an assessment in respect of a Learner must not be involved in a review of marking in respect of that task”.

9. AQA has explained that as soon as the issue was identified (which was after the reviews of marking results had been released to Centres), it arranged for the scripts to be reviewed again by an independent reviewer in each case. This did not result in any grade changes and there were no Adverse Effects on Learners.
10. AQA has assured Ofqual that it has complied with the terms of the Undertaking provided to Ofqual on 31 July 2019 and, having invested significant time and resource, is satisfied that its revised operational processes and monitoring controls are operating effectively, in compliance with the Conditions of Recognition.
11. AQA submitted that these two cases were exceptional because it had been necessary to operate a manual exceptions process to mark additional materials that had not been marked through one of AQA’s on-screen marking solutions. The two breaches occurred as a result of human error because the individuals undertaking the manual allocations failed to undertake the prescribed checks to ensure independent reviewing. In all other cases, the reviews were carried out by an independent person, in compliance with the Conditions of Recognition.

Enforcement Committee

12. In January 2020, the Enforcement Committee considered the representations made by the two interested parties and decided that there should not be any variation to the amount of the Monetary Penalty as a result of those representations.
13. The Enforcement Committee noted that AQA had paid compensation to affected Centres in accordance with the Settlement Proposal.
14. The Enforcement Committee considered the two further breaches in 2019 which AQA has admitted. The Enforcement Committee accepted AQA’s submission that these two cases were exceptional, and occurred as a result of human error rather than systemic process failures. The Enforcement Committee noted that there was no evidence that the breaches had any Adverse Effect on Learners.
15. The Enforcement Committee noted that AQA has agreed to pay the additional costs incurred by Ofqual in consideration of the two further breaches.
16. For these reasons, the Enforcement Committee has decided not to vary or impose a further Monetary Penalty for the two further breaches in 2019.

Final Decision

17. For the reasons set out in the Notice of Intention to impose a Monetary Penalty dated 15 October 2019, the Enforcement Committee has decided that AQA will be required to pay a Monetary Penalty in the sum of **£350,000** in relation to its reviews of marking and moderation in 2016, 2017 and 2018.

Payment

18. AQA must pay the Monetary Penalty within 28 days of the date of this Notice, in accordance with the Payment Instructions provided with this Notice.

19. In the event of non-payment, interest may be charged and the outstanding amount may be recovered as a debt, in accordance with section 151D of the 2009 Act.

Appeals

20. AQA may appeal to the First Tier Tribunal in respect of Ofqual's decision to impose the Monetary Penalty and / or in respect of the amount of that penalty, in accordance with section 151C of the 2009 Act.

21. An appeal may be made on the grounds:

- a) That the decision was based on an error of fact;
- b) That the decision was wrong in law;
- c) That the decision was unreasonable.

22. Any appeal must be made within 28 days of the date of this Notice. Further information is available from HM Courts and Tribunals Service at:
<https://www.gov.uk/guidance/exam-boards-appeal-to-a-tribunal-against-a-monetary-penalty>.

Signed: F Wadsworth

Name: Frances Wadsworth
Chair of the Enforcement Committee
Date: 29 January 2020

Enforcement Committee:
Frances Wadsworth
Christine Ryan
David Wakefield

NOTE: Ofqual will publish this Notice on its website.