



## NCFE undertaking

Undertaking given by NCFE to the Office of Qualifications and Examinations Regulations ('Ofqual'), in accordance with B8 of the General Conditions of Recognition ('the Conditions')

### Background

1. NCFE is an awarding organisation recognised by Ofqual to deliver a range of Vocational and Technical Qualifications.
2. On 25 June 2024 NCFE made a settlement proposal by which it admitted that it had failed to comply with its Conditions of Recognition in several respects during 2022 and 2023 and agreed to the imposition by Ofqual of a requirement for it to pay a Monetary Penalty and costs.
3. As part of the settlement process, Ofqual required NCFE to provide information about the measures it had taken, and those it intended to take, to minimise the risk that issues similar to those which occurred in 2022 and 2023 might occur in future years. NCFE has provided information about, and agreed to give an undertaking in respect of, the transformation programme which it began in summer 2022 and which it will deliver over a period of years. That information included an explanation of the multi-million-pound investment in its operations which NCFE will make to complete the transformation programme.
4. On 9 July 2024 Ofqual published its Notice of Intention to accept the settlement proposal. The Notice of Intention sets out the factual background which provides the context for this undertaking. The two documents should be read together.
5. NCFE has agreed to provide this undertaking to give assurance to Ofqual as to the measures it is taking to secure the safe and effective delivery of its qualifications in the future. The undertaking reflects two programmes of activity:
  - a) the transformation programme NCFE has put in place in response to issues which arose in summer 2022, and
  - b) the independent review NCFE has commissioned to consider the difficulties NCFE encountered in summer 2023.
6. This undertaking is accepted by Ofqual on the basis that:

- a) some of the actions which it will be necessary for NCFE to take in order to meet the objectives of the undertaking will be delivered over a period of years, and
  - b) although the actions NCFE will take in the immediate and short term have been specified in an Action Plan, the actions NCFE will take in the medium and long term will be identified at a later stage, informed in part by the impact of earlier actions.
7. Accordingly, the Action Plan which underpins this undertaking will be reviewed and updated over time.

## Undertaking

### The Objectives of the Undertaking

8. NCFE expects completion of the undertaking will:
- a) Allow it to identify, manage and mitigate any aspect of its current processes and procedures which creates or contributes to avoidable risks to the safe and valid delivery of its qualifications,
  - b) Inform the development and implementation of revised processes and procedures which minimise the incidence of avoidable risks and promote a right-first-time delivery model,
  - c) Inform its approach to the identification and management of emerging risks, allowing it proactively to resolve any risks which could affect the safe and valid delivery of its qualifications,
  - d) Support it to build, train and retain its in-house expertise in relation to the development, delivery and award of its qualifications, which will reinforce a right-first-time model and increase its ability to react to emerging issues.
9. NCFE anticipates that completion of the Undertaking will secure that Ofqual can have greater confidence in NCFE's performance. In particular, in the short-term NCFE expects the Undertaking to mean:
- a) It will deliver and award its qualifications in summer 2024 without significant incident and without the need for any repeat of the very close regulatory scrutiny Ofqual had to provide in summer 2023,
  - b) For summer 2025, Ofqual will have sufficient confidence to plan for only routine monitoring of NCFE's delivery and awarding processes.

## Action Plans and Reviewing Performance

10. NCFE will before 31 July 2024 give to Ofqual an Action Plan which sets out the steps it intends to take before 1 June 2025.
11. On or before 16 May 2025, NCFE will:
  - a) Review its performance against the Action Plan,
  - b) Review its performance against the objectives of this undertaking,
  - c) Prepare an Action Plan for the following 12-month period,
  - d) Submit a written report to Ofqual
12. NCFE will repeat the review and re-planning process at the end of each Action Plan period, or earlier should it consider that appropriate, and each time submit a written report to Ofqual.
13. In each such report to Ofqual, NCFE shall:
  - a) Detail the review it has conducted,
  - b) Explain its conclusions as to the effectiveness of its performance against the Action Plan and the objectives of this undertaking,
  - c) Set out the arrangements it has in place to bring the review to the attention of its Governing Body, and,
  - d) Set out its Action Plan for the following period (save for the final such report).
14. NCFE recognises that:
  - a) Ofqual will evaluate each report submitted by NCFE,
  - b) To the extent that NCFE has failed to deliver any of the milestones in the Action Plan which is the subject of the report, Ofqual will consider whether NCFE has presented a reasonable excuse of that failure,
  - c) In the absence of a reasonable excuse, Ofqual may determine any such failure constitutes a failure to comply with this undertaking, and a breach of Condition B8.
15. NCFE will inform Ofqual when it considers the Action Plan it is presenting (i.e at the beginning of the performance period for that Action Plan) is the last necessary to ensure the objectives of this undertaking have been delivered. When it delivers its report in relation to its performance of that proposed final Action Plan, NCFE will in addition set out why it considers the objectives of the undertaking have been achieved.

16. As well as evaluating NCFE's performance against the Action Plan, Ofqual will as part of this proposed final review consider whether it agrees the undertaking can be discharged. Where Ofqual does not consider the undertaking can be discharged, it will explain which of the objectives it considers NCFE has not sufficiently achieved, and NCFE will present a further Action Plan accordingly. The review and re-planning cycle set out above will continue for so long as Ofqual considers necessary.
17. NCFE will maintain appropriate records and evidence to demonstrate how it has reached the conclusions set out in every report submitted to Ofqual. Such records and evidence will be retained until a date 3 years after the final report is presented to Ofqual, or for such further period as Ofqual might later specify.

## Declaration

18. In giving this undertaking, I acknowledge on behalf of NCFE that:
- a) The rules of interpretation and definitions outlined in General Condition J1 and TQ23 shall apply to this undertaking;
  - b) Ofqual will publish this undertaking on a date to be confirmed following consultation with NCFE;
  - c) Ofqual may provide information to the Department for Education (DfE) and the Institute for Apprenticeships and Technical Education (IfATE) about NCFE's undertaking and Action Plan, including NCFE's performance under the undertaking and the sharing of any updates provided by NCFE and Ofqual's analysis of it<sup>1</sup>;
  - d) Ofqual may take regulatory action in respect of any failure to comply with the terms of this undertaking which may include the issue of a Direction, the imposition of a Monetary Penalty, Withdrawal of Recognition, Costs Recovery, and/or any other such action as it deems appropriate, acting in accordance with Ofqual's 'Taking Regulatory Action' policy (2012<sup>2</sup>);
  - e) Nothing within this undertaking restricts Ofqual's ability to conduct its own review, audit, investigation and/or other monitoring activity of NCFE at any time.

**Signed:**

**Stewart Foster**

**Responsible Officer, NCFE**

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<sup>1</sup> In accordance with sections 156 and 157 of the Apprenticeships, Skills, Children and Learning Act 2009.

<sup>2</sup> And as amended from time to time.