

# Complaints Policy

How to Make a Complaint and How We'll Deal with It



October 2012

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## About Ofqual

Ofqual is a statutory body, created by the Apprenticeships, Skills, Children and Learning Act 2009. We regulate qualifications, exams and assessments in England, and vocational qualifications in Northern Ireland. Our job is to make sure that qualifications and assessments are of the right standard, and to promote confidence in them. We are here to make sure that the system works well – that the right standards are achieved, and that incentives work to raise standards.

We regulate the providers of qualifications, known as awarding organisations or exam boards. We keep under review all aspects of qualifications awarded by awarding organisations. We also keep under review the national assessments for all pupils aged 5, 6, 7, 11 and 14. And we work with the regulators in Wales and Northern Ireland to ensure that the qualifications offered in all three countries are comparable.

We have five statutory objectives which relate to:

- qualifications standards
- assessments standards
- public confidence
- awareness (of the range and benefits of regulated qualifications)
- efficiency (value for money).

## What this document is for

Here we set out:

- the types of complaint we investigate
- how we decide if your complaint is one we can investigate
- how we investigate your complaint.

We also provide information about:

- how we make sure that your complaint is investigated properly
- how we deal with your complaint in a fair and transparent way
- how people affected by the complaint can give us information to help us

- how we let you know what we decide
- when and how you can ask for a review of the way your complaint was dealt with by us
- where you can refer the result of our review if you are not satisfied with it.

## What this policy covers and how we use it

We are able to look at complaints which are about:

- how an awarding organisation delivers and awards qualifications
- a qualification we regulate.

If you want to appeal against the setting, marking or grading of an A level, GCSE or Principal Learning and Project component of the Diploma, and you have come to the end of the awarding organisation's process, then you should send your appeal to the Examination Procedures Review Service. Please see the *Useful contacts* section of this document for more information.

If your complaint is about a vocational qualification, or an appeal against the setting, marking or grading of a vocational assessment then you must complain to the relevant awarding organisation.

We set out the types of complaints we look at in the *Criteria for complaints we handle* section of this document. *Appendix A* gives examples of the types of complaint that we do and do not deal with.

This *Complaints Policy* uses the following definition of a "complaint":

An expression of dissatisfaction about an awarding organisation's compliance with requirements and/or a qualification we regulate, which is sent to us in writing and meets our criteria for review or investigation.

We will follow the process set out in this document for all complaints we receive on or after 1st October 2012.

We will review this document regularly to make sure it remains up-to-date, reflects any changes to our regulations and any other rules that awarding organisations must follow.

This *Complaints Policy* does not apply to:

- how we deal with correspondence and enquiries sent to us which are not complaints

- any complaint which is being, or has been, dealt with by formal legal proceedings or by the Examination Procedures Review Service. However, we may investigate a complaint once legal proceedings have been concluded
- any complaint which is about someone who works for us or is acting on our behalf<sup>1</sup>.

## How we handle complaints

The team dealing with your complaint will make sure that they do so in a fair and open way which is in line with this policy.

When we receive your letter or email about an awarding organisation or a qualification we regulate, we will do an initial review to decide whether it meets our definition of a “complaint”. If we are satisfied that it does meet this definition, we will investigate the matters you raise. Sometimes we may need to contact you to clarify exactly what we will be investigating.

## Who can complain to us

Anyone can send a complaint to us. If you have a right to make a complaint to your centre or awarding organisation then you should do this before contacting us.

You do not have to be directly involved or affected to complain to us.

We understand that sometimes you might feel more comfortable writing anonymously. To allow us to handle your complaint effectively, please make sure you give us enough information to identify the relevant awarding organisation and/or the regulated qualification you are complaining about.

If you are an employee or a contractor and you have concerns about your awarding organisation or centre, you can use our *Whistleblowing Policy*<sup>2</sup>.

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<sup>1</sup> If you have a complaint about Ofqual or a member of our staff, please write to our Head of Customer Service.

<sup>2</sup> [www.ofqual.gov.uk/downloads/category/142-policies?download=1363%3Aofqual-whistleblowing-policy](http://www.ofqual.gov.uk/downloads/category/142-policies?download=1363%3Aofqual-whistleblowing-policy)

## Criteria for complaints we handle

You will need to provide us with three specific pieces of information to help us decide whether the complaint is one that we can deal with:

- what you are complaining about
- where it happened
- when it happened.

We will deal with a complaint which either meets all three criteria (listed below) or which we think could affect public confidence or standards in a regulated qualification.

We may need to contact you and/or the awarding organisation or centre for more information so we can investigate further.

### Type of complaint

We deal with complaints that relate to:

- an awarding organisation's failure to comply with its conditions of recognition<sup>3</sup>, or
- the award or certification of a regulated qualification by a recognised awarding organisation, or
- issues that could undermine public confidence in regulated qualifications.

If your complaint is about alleged malpractice by a centre or a candidate, we might investigate it without you having to go through all of the stages of your awarding organisation's complaints procedure as it may affect the award of qualifications generally.

### Which UK Regulator will deal with your complaint?

If your complaint is about a qualification regulated by more than one regulator, we will notify the other regulator(s) and agree who will take the lead in handling your complaint. If your complaint relates to a qualification which is only regulated by one of the other UK qualification regulators (Northern Ireland Council for Curriculum, Examinations and Assessment and the Welsh Government), we will pass the

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<sup>3</sup> [www.ofqual.gov.uk/for-awarding-organisations/96-articles/611-the-general-conditions-of-recognition](http://www.ofqual.gov.uk/for-awarding-organisations/96-articles/611-the-general-conditions-of-recognition)

complaint to them, inform you that we have done this and tell you how you can contact them.

## Time period

We will only deal with your complaint if we receive it within six months of the date your awarding organisation told you that you had completed all stages of their complaints process.

If there is a valid reason to do so, we may investigate a complaint which has not completed all stages of an awarding organisation's complaints process.

We will not normally deal with your complaint if:

- it is about something you have already complained to us about and we have already dealt with
- it does not meet our criteria for investigation
- it relates to the quality of teaching or training by a centre which offers a qualification we regulate: you should complain, in the first instance, to the centre involved
- you have not gone through all of the stages of the awarding organisation's complaints procedure before bringing your complaint to us
- there is, or there is reasonably likely to be, legal proceedings about the matter – any involvement from us could prejudice the outcome of such cases.

## Response times

We will normally:

- acknowledge your letter or email within two working days of receiving it
- tell you the outcome of our initial review within ten working days of our acknowledgment and tell you that we either:
  - will not be investigating your complaint and why
  - have investigated your complaint and are letting you know the outcome
  - are investigating your complaint, it has not yet been completed and we are keeping you up to date with our progress.

We normally aim to complete our investigations and provide a full response within four weeks of receiving your complaint; however in some cases this may take up to



six months. We will inform you of our progress and keep you updated at least every six weeks.

If we cannot deal with your complaint we will provide advice and information that may be helpful to you including details of other organisations that may be able to help.

## How we handle complaints

We will normally deal with a complaint by:

- conducting an initial review to see if your complaint is one that we can help with and, sometimes
- carrying out a more formal investigation.

If we are responsible for writing the final investigation report, then the investigation will be conducted in accordance with this policy, even if we work with another regulator or agency during the investigation.

### Initial review

We will do an initial review of your complaint, including any response from an awarding organisation, to help us decide whether to investigate.

When we have finished our initial review we will come to one of the following conclusions:

- there is a need for an investigation
- we are unable to help with your particular issue and refer you to another agency which may be able to help you with your complaint
- we will not investigate further.

### Investigation

If we do decide to investigate we will focus on whether the awarding organisation has breached its own procedures and/or any of our requirements. An investigation will do one or more of the following:

- review the policies and procedures of the relevant awarding organisation(s)
- contact the relevant awarding organisation(s)
- ask for more information from relevant people, including you, the awarding organisation(s), and where appropriate, other awarding organisations or other bodies.

We will look at these relevant regulation documents:

- *General Conditions of Recognition*<sup>4</sup> (first published in May 2011)
- *GCSE, GCE, Principal Learning and Project Code of Practice*<sup>5</sup> (2011)
- *NVQ Code of Practice*<sup>6</sup> (2006)
- *Regulatory arrangements for the Qualifications and Credit Framework*<sup>7</sup> (2008)

These regulations change from time to time. When investigating, we will use the version that was in place when the circumstances you are complaining about happened.

As part of an investigation we may:

- contact an organisation or individual, for example an awarding organisation or centre
- visit an organisation or individual, for example an awarding organisation or centre
- interview individuals, for example awarding organisation staff, centre staff or a candidate
- provide a centre or awarding organisation with specific details of your complaint, unless we consider information to be confidential.

When we investigate we will do this fairly and give everyone involved a chance to let us know their views. Once we have finished our investigation we will write to you with the outcome.

We may publicly confirm that an investigation is taking place but we will not, unless we are obliged to by law, provide any other details about the investigation whilst the investigation is ongoing.

In some circumstances, we might stop investigating, for example, if our investigation could affect any other organisation's investigation. Other circumstances include if

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<sup>4</sup> [www.ofqual.gov.uk/files/2012-05-03-general-conditions-of-recognition.pdf](http://www.ofqual.gov.uk/files/2012-05-03-general-conditions-of-recognition.pdf)

<sup>5</sup> [www.ofqual.gov.uk/files/2011-05-27-code-of-practice-2011.pdf](http://www.ofqual.gov.uk/files/2011-05-27-code-of-practice-2011.pdf)

<sup>6</sup> [www.ofqual.gov.uk/files/qca-06-2888\\_nvq\\_code\\_of\\_practice\\_r06.pdf](http://www.ofqual.gov.uk/files/qca-06-2888_nvq_code_of_practice_r06.pdf)

<sup>7</sup> [www.ofqual.gov.uk/files/Regulatory\\_arrangements\\_QCF\\_August08.pdf](http://www.ofqual.gov.uk/files/Regulatory_arrangements_QCF_August08.pdf)

there is a possibility of legal, criminal or civil proceedings, and also if you make any public statements during the investigation that could affect the outcome or any future criminal or civil proceedings. This includes if you discuss the investigation with the awarding organisation, the centre or the candidates involved, whilst it is taking place.

## Interviews

When investigating a complaint, we may ask to interview an individual employed or engaged by an awarding organisation or a centre.

If the individual agrees to be interviewed we may record the interview (usually via tape or digital recording) and will normally:

- arrange for two of us to be there; one to interview and the other to take notes
- tell the interviewee (in advance) that they
  - may bring someone with them if they wish
  - do not have to answer the questions that we ask.

If we are interviewing anyone under the age of 18, we will:

- make sure that any of our staff undertaking interviews have a current Criminal Records Bureau check
- ensure they have someone with them that they have agreed can be there.

## Follow up actions

We may take regulatory action where our review or investigation concludes that:

- the awarding organisation has breached its own procedures and/or any of our regulations and conditions
- public confidence in regulated qualifications has been compromised
- learners' interests have been affected by the awarding organisation
- the standards of qualifications which the awarding organisation makes available or proposes to make available have been compromised.

We will highlight the regulations or procedures that have not been followed and, where appropriate, take statutory or non-statutory action as outlined in our document *Taking Regulatory Action 2*<sup>8</sup> (2012).

Our review or investigation may find that the issues you have raised are not within our regulatory remit but can be taken up by another regulatory or statutory body. In these cases we will refer the matter to the relevant organisation for it to decide whether to take up the case.

## Obtaining information and evidence

We will ask for the information and evidence we consider necessary to help us deal with your complaint effectively, appropriately and proportionately. Individuals and organisations involved in our review or investigation are expected to cooperate and help in providing evidence and information.

For some investigations it is important that you give us original paper or electronic evidence. If we cannot keep original paper and/or electronic records, we will photocopy the original records and record the copy as authentic. We will give receipts for any original documentation provided during an investigation.

We will keep any confidential material (in both electronic and/or paper formats) secure. We will return all information given to us confidentially after we have concluded the review or investigation if requested.

We will, in line with our retention schedules (which are available upon request), hold material associated with an investigation for a maximum of ten years after the complaint has been closed. If the complaint leads to an investigation which results in the invalidation of certificates or to criminal or civil prosecution, we will keep records and original documents relating to the case for ten years after the case and any appeals have been heard.

## Confidentiality

We may reveal your identity to the individual or organisation you are complaining about. We won't do this if we feel there are exceptional reasons why confidentiality should be maintained or if you explicitly ask us not to. It can, however, limit what we are able to do if you ask us to protect your identity.

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<sup>8</sup> [www.ofqual.gov.uk/files/2012-03-05-taking-regulatory-action-version-2.pdf](http://www.ofqual.gov.uk/files/2012-03-05-taking-regulatory-action-version-2.pdf)

We will investigate complaints from whistleblowers who work or used to work at awarding organisations or centres in line with applicable legislation and our *Whistleblowing Policy*<sup>9</sup>.

We will not normally allow anyone else to see information relating to a complaint if they are not involved. We may share information about complaints, reviews and investigations with other government departments or organisations where we need to fulfil our duties under the law.

We will keep information about individual cases confidential to the people involved unless we need to release information under the Data Protection Act 1998 or the Freedom of Information Act 2000 which we are obliged to comply with.

## **Frivolous or meritless complaints and abusive correspondence**

We will treat every complaint fairly. We will not engage with frivolous or meritless complaints or persistent and repeated contacts from complainants. These reduce the amount of time that can be dedicated to carrying out investigations.

If you become abusive when corresponding with us, or persistently and repeatedly contact us with no new evidence or information to bring to the investigation, we will class this as vexatious correspondence (see our *Vexatious and Persistent Correspondence Policy*<sup>10</sup>).

## **What to do if you are unhappy: requesting a review**

If we decide during our initial review that your complaint is not one that we will deal with, you may ask us to review our decision.

If our investigation has finished and you are affected by the conclusion, you can ask us to review the way we investigated it.

We will carry out a review of the outcome(s) of an investigation if:

- you make the request in writing and we receive it no later than ten working days after we told you our decision or conclusion

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<sup>9</sup> [www.ofqual.gov.uk/downloads/category/142-policies?download=1363%3Aofqual-whistleblowing-policy](http://www.ofqual.gov.uk/downloads/category/142-policies?download=1363%3Aofqual-whistleblowing-policy)

<sup>10</sup> [www.ofqual.gov.uk/files/2010-04-vexatious-and-persistent-correspondence-policy.pdf](http://www.ofqual.gov.uk/files/2010-04-vexatious-and-persistent-correspondence-policy.pdf)

- you provide clear reasons for making your request and highlight the areas of concern; your reasons must relate to **the way that we have investigated the complaint** and not to the detail of the complaint itself.

We will tell you within two working days if you have provided all the information we need to carry out our review.

Our review will:

- be carried out by a senior officer who was not involved in making the decision or conducting the investigation
- aim to be completed within 30 working days after the request was received and we will let you know if it is likely to take longer
- consider whether our investigation team made the decision, or carried out the investigation fairly, reasonably and in line with this policy
- not normally involve a re-investigation of your complaint
- conclude whether our investigation was completed in line with this policy. If not, we may recommend that a new investigation of the complaint is carried out, or that the investigation is reopened to take account of specific issues identified in the review.

If this *Complaints Policy* changes between the date the complaint was received and the date we finished the investigation, the conduct of the investigation will be reviewed against the policy that applied on the date when we received your original complaint.

If we decide that your request does not meet the criteria for a review and you are affected by this decision, or you are affected by the outcome of the review, you can contact your local MP who may refer the matter to the independent Parliamentary Commissioner for Administration (the Ombudsman).

The Ombudsman will normally only consider complaints which are brought within six months after the completion of our investigation.

## Complaints about National Assessments

Complaints about National Assessments should be sent to the Standards and Testing Agency (STA).

STA has a dedicated National Assessments helpline which is open from 8.00am to 6.00pm Monday to Friday. The helpline number is 0300 303 3013.

You should send your concerns or complaint in writing to the Service Response Manager, STA, 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH, or by emailing [assessments@education.gov.uk](mailto:assessments@education.gov.uk).

If you are not happy with the response from STA, you can refer the matter to us for review. The STA may also refer a complaint to us if they are unable to resolve it. We will review the matter in line with our legal duties our statutory functions and our regulations for National Assessments.

## Useful contacts

### Appeals against GCSE, A level or Diploma Principal Learning and Projects

Once an awarding organisation's appeals procedure against grades for GCSE, GCE or Diploma Principal Learning and Project assessments has been completed, the school or college may request a review of that procedure. Requests should be made to:

The Examination Procedures Review Service  
Spring Place  
Coventry Business Park  
Herald Avenue  
Coventry CV5 6UB

### Other UK regulators (for qualifications, exams and assessments)

#### Northern Ireland

(for all accredited qualifications except for vocational qualifications)

The Council for Curriculum, Examinations and Assessment (CCEA)  
29 Clarendon Road  
Clarendon Dock  
Belfast BT1 3BG

#### Wales

The Welsh Government  
Ty'r Afon  
Bedwas Road  
Bedwas  
Caerphilly CF83 8WT

#### Scotland

Scottish Qualifications Authority (SQA)  
Optima Building  
58 Robertson Street  
Glasgow G2 8DQ



## Appendix A

### Examples of complaints we would deal with

The type of complaints we would deal with include complaints about an awarding organisation's:

- compliance with our regulations in becoming an awarding organisation
- compliance with other relevant regulations
- potential or actual malpractice which could be carried out by someone involved with it
- standard of customer service procedures, including contact with centres and candidates
- complaints procedures and how it handles complaints
- quality assurance procedures; this could include its failure to regulate centres effectively
- procedures for inclusion, diversity and equal opportunities, including fair access to assessment for candidates with particular requirements
- registration procedures for candidates and centres
- procedures for certification of candidates.

### Examples of complaints we would not deal with

We would not normally deal with complaints about:

- a qualification we do not regulate that is being provided by an awarding organisation; unless we consider it should be regulated or it is related to a regulated qualification
- an awarding organisation's assessment decisions and candidate results, including assessment and grading decisions by the awarding organisation (this is dealt with under a different appeals process)
- a centre's assessment decisions, including the application of assessment criteria by the centre
- a centre's quality assurance procedures, including the failure by a centre to monitor the performance of its staff

- a centre's complaints procedures and the way in which a centre may have dealt with a complaint
- a centre's procedures for inclusion, diversity and equal opportunities, including making requests for access to fair assessment for candidates with particular requirements
- procedures adopted or decisions made by the Examinations Appeals Board (EAB)
- the quality of training or teaching provided to candidates by centres
- funding issues for candidates, qualifications, centres and awarding organisations
- potential malpractice by a candidate or a centre.

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This publication is also available on our website at [www.ofqual.gov.uk](http://www.ofqual.gov.uk)

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