

# **Policy for conducting enquiries into complaints about awarding organisations and qualifications**



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## 1. Introduction

Ofqual is the regulator of qualifications, examinations and assessments in England and vocational qualifications in Northern Ireland. Ofqual aims to ensure that children, young people and adult learners get the results their work deserves, that standards are maintained and that the qualifications learners receive count now and in the future. We are committed to promoting public confidence in qualifications. This policy states how Ofqual will conduct enquiries into:

- complaints about regulated qualifications from recognised awarding organisations
- complaints about national curriculum assessments (sometimes known as Key Stage Tests or SATs)
- complaints about other qualifications and issues that could compromise public confidence in regulated qualifications.

## 2. Purpose

Ofqual's policy for conducting enquiries into complaints ensures that all complaints are approached in a fair and consistent manner. Complaints will be handled by Ofqual's Customer Relations and Investigations team, hereafter referred to as Ofqual. This policy sets out the criteria that Ofqual will use to determine whether to provide information and advice, make enquiries of third parties or carry out further investigation of a particular complaint. This policy also includes information about how an investigation will be conducted. It ensures that all investigations are transparent and that we are accountable.

This policy ensures that:

- complaints that Ofqual will handle are clearly identified
- complaints are handled fairly
- complainants are informed of the outcome of Ofqual's assessment of their complaint.

Should a complaint require a more formal investigation, this policy also ensures that affected parties have an opportunity to give their point of view during an investigation and complain about the conduct of an investigation.

### 3. Scope

This policy applies to the handling of complaints by Ofqual. A complaint is defined as an expression of dissatisfaction, which is expressed by a correspondent to Ofqual and requires a formal response.

This policy will apply to all complaints handled by Ofqual received from 1 April 2010 onwards.

This policy will be reviewed regularly to ensure it remains up-to-date, to take account of any revision to current regulations.

This policy replaces the procedures for dealing with complaints from the public regarding regulated qualifications in the Arrangements For Monitoring And Reporting Publicly On External Qualifications, published in April 2002.

This policy does not cover situations that are the subject of ongoing legal proceedings.

This policy does not cover complaints about individual members of Ofqual staff.

### 4. Complaints handled by Ofqual

In addition to complaints, Ofqual deals with correspondence and enquiries about a range of awarding organisation and qualification issues. This policy does not cover the procedures for dealing with such correspondence.

Ofqual can only conduct enquiries into complaints that are within our regulatory remit and the scope of this policy. Some examples of the types of complaint that Ofqual [can](#) and [cannot](#) normally handle are provided at the end of this section of the policy.

Ofqual will consider the following criteria in order to determine whether to handle a particular complaint:

- [the nature of the complaint](#)
- [the location of the complaint](#)

- [the date of the complaint](#)

Ofqual will only handle a complaint if it meets our conditions for all three criteria.

If a complaint does not meet all three criteria, Ofqual will not normally investigate the complaint. However, Ofqual may make enquiries relating to a complaint if that complaint could lead to public confidence in regulated qualifications being compromised, even if the complaint does not comply with all three conditions.

To determine whether a complaint meets these conditions, Ofqual may need to contact the complainant, the awarding organisation or centre for further information. This may be, for example, to clarify details about the complaint or to establish the information provided by the complainant.

Ofqual will not normally handle a complaint if:

- Ofqual has already handled and closed the complaint
- Ofqual has already determined that the complaint will not be investigated.

## Condition 1 - The nature of the complaint

Ofqual will only handle a complaint if it is about:

- the delivery of a regulated qualification by a recognised awarding organisation or
- a qualification or issue that could compromise public confidence in regulated qualifications

Ofqual **will not** normally investigate complaints about **centres** that concern the quality of teaching or training received. In the first instance these complaints should be raised with the Head of the centre.

Ofqual requires awarding organisations to investigate allegations of suspected **centre or candidate malpractice** in the first instance.

Ofqual will not normally handle any complaints if the awarding organisation's established complaints procedure has not been followed to completion. For example, Ofqual will not intervene if the awarding organisation procedures for making enquiries and appeals about results have not been exhausted. In such situations Ofqual will provide information and advice regarding the established awarding organisation procedures.

Ofqual **may** investigate complaints about **awarding organisation malpractice** without requiring the awarding organisation's complaint procedures to have been completed.

## Condition 2 - The location of the complaint

Ofqual will only handle a complaint if it is about:

- a regulated qualification offered by a recognised awarding organisation that is taken at a centre based in England and a vocational qualification offered by a recognised awarding organisation that is taken by a centre in Northern Ireland or
- a qualification or issue that could compromise public confidence in regulated qualifications in England and vocational qualifications in Northern Ireland

Ofqual will only handle complaints about qualifications outside England, other than vocational qualifications in Northern Ireland, if they could compromise public confidence in regulated qualifications in England.

For this policy, England includes armed services bases overseas, but excludes Crown Dependencies (the Channel Islands and the Isle of Man) and British overseas territories (e.g. Gibraltar, the Falkland Islands etc.).

Complaints relating to qualifications taken in Wales will be carried out by DCELLS. Complaints relating to non-vocational qualification take in Northern Ireland will be carried out by CCEA. Ofqual will not normally investigate complaints about regulated qualifications that are taken in Wales and non-vocational qualifications that are taken in Northern Ireland, irrespective of where the awarding organisation is based..

If an investigation involves an awarding organisation and a centre across different parts of the UK (for example, a complaint from a centre in Wales about a regulated qualification offered by a recognised awarding organisation based in England), the

investigation will be carried out by the qualifications regulator with responsibility for the particular qualification in the country where the centre is based.

### **Condition 3 - The date of the complaint**

Ofqual will only handle a complaint if it is received:

- within six months of the incident that caused the complaint or
- within six months of the awarding organisation being informed about the incident or
- within six months of the completion of the established awarding organisation complaint procedures

Ofqual will not normally investigate any complaints outside of these time limits.

However, Ofqual may investigate complaints if it satisfies itself that there is a good reason why the complaint was not raised within these time limits.

Ofqual's ability to investigate complaints will be dependent on the availability of documentary evidence which becomes more difficult to produce and authenticate after a considerable amount of time has elapsed.

### **The source of the complaint**

Ofqual will handle complaints from any source, including learners, candidates, candidate representatives (including parent or carers), centres, employers, teacher associations and members of the public. The complainant does not have to be an individual or organisation that has been directly involved with, or affected by, the awarding organisation or qualification.

Ofqual will only conduct enquiries into complaints from anonymous sources where there is sufficient evidence to merit further investigation and detail to identify the relevant awarding organisation or qualification.



## **Confidentiality**

Ofqual will normally need to disclose information about the complainant to the individual or organisation stated in the complaint in the process of conducting enquiries into the complaint. The identity of a complainant will only be kept confidential in exceptional circumstances.

### **Ofqual will investigate complaints from whistleblowers from awarding organisations or centres in accordance with relevant whistleblowing legislation.**

Examples of complaints that Ofqual will normally investigate include complaints about:

- awarding organisation malpractice, including malpractice by awarding organisation staff
- awarding organisation customer service procedures, including interactions with centres and candidates
- awarding organisation complaints procedures, including the handling of complaints by awarding organisations
- awarding organisation quality assurance procedures, including failure by an awarding organisation to regulate centres effectively
- awarding organisation procedures for inclusion, diversity and equal opportunities, including fair access to assessment for candidates with particular requirements
- awarding organisation investigation procedures, including awarding organisation investigations into suspected centre or candidate malpractice
- awarding organisation registration procedures for candidates and centres
- awarding organisation certification procedures

## **Examples of complaints that Ofqual will not normally investigate**

If a complaint is not being investigated or is outside of Ofqual's remit, Ofqual will try to provide information and advice to help the complainant resolve the complaint, for example, by directing the complainant to follow the established centre or awarding organisation complaints procedures or directing the complainant to the appropriate other organisation. Information about some of the organisations responsible for complaints that Ofqual will not normally investigate is provided at the end of this policy.

Examples of complaints that Ofqual will not normally make further enquiries regarding include:

- qualifications that are not regulated by Ofqual
- awarding organisation assessment decisions and candidate results, including the application of assessment criteria and grading decisions by the awarding organisation
- centre assessment decisions, including the application of assessment criteria by the centre
- centre quality assurance procedures, including the failure by a centre to monitor the performance of centre staff
- centre complaints procedures, including the handling of appeals against centre decisions
- centre procedures for inclusion, diversity and equal opportunities, including making requests for access to fair assessment for candidates with particular requirements
- the outcome of Examinations Appeals Board (EAB) appeal hearings
- the quality of training or teaching provided to candidates by centres
- funding issues for candidates, qualification, centres and awarding organisations
- candidate malpractice, including allegations of malpractice by candidates
- centre malpractice, including allegations of malpractice by centre staff

Details on how we require awarding organisations to investigate incidents of candidate and centre malpractice can be downloaded from [our website](#).

## **5. Responding to complaints**

Ofqual will respond to complaints by providing information and advice, or by conducting enquiries, or by carrying out a more formal investigation in accordance with this policy.

In addition to investigations in response to complaints, Ofqual will also investigate issues identified by Ofqual monitoring activities or issues identified by other regulatory organisations in accordance with this policy.

If Ofqual works with another regulatory organisation or agency on an investigation, the investigation will be conducted in accordance with this policy if responsibility for producing a report or findings into the outcome of the investigation falls on Ofqual.

### **5.1 Providing information and advice**

Ofqual will attempt to provide information and advice, wherever possible, relating to complaints that do not fall within our regulatory remit.

Ofqual will review the nature of the complaint and conduct desk research into the relevant established centre and awarding organisation procedures. This may result in Ofqual referring the complainant to centre procedures, awarding organisation procedures or other external organisations for further assistance.

### **5.2 Making enquiries into complaints**

In addition to consulting the relevant regulatory and qualification-specific documentation, Ofqual may contact an organisation or individual involved in the complaint, for example an awarding organisation or centre, to gather further information relating to, for example, qualifications, results or certification.

### **5.3 Investigating complaints**

Where the content of a complaint raises significant concerns about the integrity of an examination or qualification Ofqual may carry out a more formal investigation. Ofqual may also carry out further investigation into complaints following initial enquiries.

An investigation by Ofqual involves:

- investigating the issues raised in the complaint
- producing the outcome of the investigation

Investigations into the complaint may involve Ofqual:

- contacting an organisation or individual, for example an awarding organisation or centre
- visiting an organisation or individual, for example an awarding organisation or centre
- interviewing staff from an organisation or an individual, for example awarding organisation staff, centre staff or a candidate

The outcome of the investigation may involve Ofqual:

- producing a response to the complainant, for example a letter or email
- producing a report on the investigation

### **Purpose of an investigation**

For investigations in response to complaints about regulated qualifications offered by recognised awarding organisations, the purpose of an investigation is to establish whether the awarding organisation has complied with the relevant regulations and the awarding organisation's own procedures. The relevant regulations include the:

- [Statutory regulation of external qualifications in England, Wales and Northern Ireland \(2004\)](#) and subsequent versions
- [GCSE, GCE, principal learning and project code of practice \(April 2010\)](#) and subsequent versions
- [NVQ code of practice \(2006\)](#) and subsequent versions

The version of the regulatory document that was in force at the time to which the complaint referred will be deemed by Ofqual to be the relevant instrument.

## **Investigation process**

At the start of any investigation, Ofqual will establish the purpose and the scope of the investigation.

When conducting an investigation, Ofqual will:

- contact the complainant for further information if necessary
- contact the individual or organisation being investigated about the complaint
- give the individual or organisation being investigated an opportunity to comment on the complaint
- obtain evidence for the investigation from organisations and individuals being investigated
- consider relevant evidence without bias
- evaluate any action already taken
- decide whether further action is required
- produce an outcome of the investigation including a report to the organisation being investigated
- inform the complainant about the outcome of the investigation

Ofqual will conclude an investigation once a report on the outcome of the investigation has been produced.

Ofqual will inform the complainant about the outcome of the investigation once the investigation has been concluded.

Ofqual may stop an investigation at any stage if the investigation could prejudice the possibility of future criminal or civil proceedings, or if the investigation finds evidence that needs to be passed onto another authority, for example the police or the General Teaching Council.

Ofqual may stop an investigation if the complainant makes any public statements during the investigation that could prejudice the outcome of the investigation or the possibility of future criminal or civil proceedings. This includes the complainant discussing the investigation with the awarding organisation, the centre or the candidates involved, during the investigation process itself.

Ofqual will not make any public statements during an investigation that could prejudice the investigation or the possibility of future criminal or civil proceedings. Ofqual will only confirm that an investigation is taking place, but will not provide any further details.

### **Action in response to an investigation**

Ofqual will take action if the investigation finds:

- that relevant regulations and the awarding organisation's procedures have not been met or
- that public confidence in regulated qualifications has been compromised or learners' interests have been prejudiced by the awarding organisation

Ofqual will identify which regulations or procedures have not been met.

If regulations or procedures have not been met, Ofqual will require an awarding organisation to take remedial action. If further action is required, Ofqual will identify and agree the action with the awarding organisation, and monitor the implementation of that required action. Ofqual can require an awarding organisation to investigate and resolve the complaint and review its procedures, where appropriate.

Responsibility for making final assessment or malpractice decisions remains with the awarding organisation, not Ofqual.

Ofqual will consult with or refer the complaint to relevant organisations to determine the appropriate action.

Ofqual will share information about investigations with government departments or organisations interested in the outcome of an investigation where this is appropriate to fulfil Ofqual's statutory responsibilities.

Ofqual will share information about investigations internally to inform our risk register and monitoring activities.

## **Investigators**

Ofqual will ensure that all investigators involved in the investigation will:

- have a clear brief and understanding of their role
- have suitable experience, knowledge and skills to conduct an investigation
- work objectively, honestly and accurately
- write fair reports based on evidence
- act responsibly and treat people with courtesy
- respect the confidentiality and source of any information handled as part of the investigation
- maintain an auditable record of every action during an investigation to demonstrate that they have acted appropriately
- log the number of attempts made to contact an individual
- declare any possible conflicts of interest

## **Interviews**

If Ofqual needs to interview awarding organisation or centre staff during an investigation, Ofqual will normally ensure that:

- interviews are carried out by two investigators, with one primarily acting as interviewer and the other as note-taker
- responses will be recorded
- those being interviewed are informed that they may have another individual of their choosing present and that they do not have to answer questions.

If Ofqual needs to visit centres or interview candidates under the age of 18, Ofqual will ensure that:

- investigators will have completed a Criminal Records Bureau check
- candidates under the age of 18 will be accompanied by an appropriate, mutually agreed adult.

## **Information and evidence**

When investigating a complaint, Ofqual expects individuals and organisations involved in the investigation to co-operate and provide evidence and information relating to the complaint when requested. For some investigations, it is important that evidence on paper is original. If Ofqual cannot retain original paper and/or electronic records, the original records will be photocopied and the copy recorded as authentic. Ofqual will give receipts for any original documentation provided during an investigation.

In accordance with Ofqual's records management policy, Ofqual will store all material associated with an investigation for ten years in case of subsequent legal challenge. If an investigation leads to invalidation of certificates, criminal or civil prosecution, all records and original documentation relating to the case will be retained for ten years once the case and any appeals have been heard.

## **Confidential information**

Information specific to individual cases will remain confidential to involved parties subject to compliance with the [Data Protection Act 1998](#) and the [Freedom of Information Act 2000](#). Ofqual will not normally disclose correspondence about the investigation from individuals and organisations involved to any individual or organisation that is not involved in the investigation whilst it is ongoing. Confidential material (in both electronic and paper formats) collected by Ofqual as part of an investigation will be kept secure. Material supplied on a confidential basis will be returned, on request, after the investigation.

## **5.4 Vexatious Correspondence**

It is understandable that complainants may be personally involved or affected by the issue they have brought to Ofqual's attention. However, in order for Ofqual to carry out investigations, complainants must allow a reasonable time for officers to carry out the necessary work.

Ofqual staff will not engage with abusive complainants or persistent and repeated contacts from complainants as these reduce the amount of time that can be dedicated to carrying out investigations.

Where a complainant becomes abusive in the manner with which he/she corresponds with Ofqual, or persistently and repeatedly contacts Ofqual with no new evidence or information to bring to the investigation, Ofqual will class this as vexatious correspondence. See the [vexatious correspondence policy](#).



## **6. Timeline for response**

Ofqual will send the complainant an acknowledgement of the complaint within five working days of the date we received the complaint.

Ofqual will aim to provide a considered response to the complaint within 30 working days from the date of acknowledgement.

Investigation of a complex complaint may mean that Ofqual is unable to complete enquiries within 30 working days from the date of acknowledgement.

If a substantive response cannot be issued within this timeframe Ofqual will issue a holding response to explain the reasons for this within 30 working days of the date of acknowledgement.

If an investigation cannot be completed within six months of the date of complaint, Ofqual will review the investigation and inform the complainant of progress. If the investigation is not completed within a further six months, Ofqual will review the investigation and inform the complainant of progress, explaining why the investigation has not been completed.

## **7. Review**

If a complainant or an individual or organisation involved in the investigation wishes to complain about how the decision not to investigate a complaint or how the investigation was conducted, they must contact Ofqual to request a review within 10 working days of being informed about the decision not to investigate or the outcome of the investigation.

The review will be carried out by a member of Ofqual staff who has had no prior involvement in the investigation.

The review will only consider whether the investigating team at Ofqual made the decision or conducted the investigation fairly and reasonably and in accordance with this policy. It will not involve a re-investigation of the complaint. However, if the review finds that the investigation was not completed in accordance with this policy, the review can recommend that the investigating team at Ofqual re-investigates the complaint.

If this policy has changed between the date the complaint was received and the date the investigation was concluded, the conduct of the investigation will be reviewed against the policy that applied on the date that Ofqual received the complaint.

In addition to a review, complainants can ask their MP to write to the Independent Parliamentary Commissioner for Administration (the Ombudsman) to request a review of how the investigation was conducted or how the decision not to investigate was reached. If the Ombudsman's review concludes that the complaint about the conduct of the investigation or the decision not to investigate is wholly or partly justified, the Ombudsman can recommend that Ofqual takes action to resolve the matter.

## **8. Relevant legislation**

### **Freedom of Information Act**

Ofqual is bound by and conforms to the requirements of the [Freedom of Information Act 2000](#). This provides for compliance with requests for information and / or confirming or denying that Ofqual possesses information unless one of the exemptions under the Act applies.

### **Data Protection Act**

Ofqual is bound by and conforms to the requirements of the [Data Protection Act 1998](#). This provides for compliance with the right of access to personal data held by Ofqual relating to living identifiable individuals.

Any queries about the Freedom of Information Act or the Data Protection Act should be referred to Ofqual's legal team at the address below.

## **9. Complaints about national curriculum assessments**

Ofqual will deal with complaints about national curriculum assessments once the Qualifications and Curriculum Development Agency (QCDA) established process for dealing with complaints has been exhausted.

QCDA has a dedicated national curriculum assessments helpline which is open from 8.00am to 6.00pm Monday to Friday. The helpline number is 0300 303 3013.

The QCDA process is for concerns and complaints to be raised in the first instance in writing to the service response manager at QCDA, 83 Piccadilly, London W1J 8QA, or by emailing [assessments@qcda.gov.uk](mailto:assessments@qcda.gov.uk).

If you need any more information about their processes please contact [info@qcda.gov.uk](mailto:info@qcda.gov.uk) and copy in [NCT.SRS@qcda.gov.uk](mailto:NCT.SRS@qcda.gov.uk)

## **10. Contacts for complaints that Ofqual will not investigate**

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

Only once an awarding organisation's appeals procedures have been exhausted, appeals against examination grades (GCSE, GCE, Diploma Principal Learning and Projects) may be directed by the school or college to the Examinations Appeals Board (EAB):

#### [EAB \(Examinations Appeals Board\)](#)

Spring Place  
Coventry Business Park  
Herald Avenue  
Coventry CV5 6UB

### **Complaints from outside England**

#### **Northern Ireland**

(For all accredited qualifications except for vocational qualifications)

#### [CCEA \(the Council for Curriculum, Examinations and Assessment\)](#)

29 Clarendon Road  
Clarendon Dock  
Belfast BT1 3BG

## **Northern Ireland**

(For vocational qualifications only)

[Ofqual](#)

2nd Floor  
Glendinning House  
6 Murray Street  
Belfast BT1 6DN

## **Wales**

DCELLS (The Department for Children, Education, Lifelong Learning and Skills)

[The Welsh Assembly Government](#)

Ty'r Afon

Bedwas Road

Bedwas  
Caerphilly CF83 8WT

## **Scotland**

SQA (Scottish Qualifications Authority)

Optima Building  
58 Robertson Street  
Glasgow G2 8DQ

# **11. Related documents and policies**

[The statutory regulation of external qualifications in England, Wales and Northern Ireland \(2004\) \(QCA/04/1293\)](#)

[GCSE, GCE and AEA code of practice \(April 2009\) \(Ofqual/09/4151\)](#)

[NVQ code of practice \(2006\) \(QCA/06/2888\)](#)

[Regulatory reporting and monitoring \(QCA/07/3024\)](#)

A [glossary of terms](#) can be found on the Ofqual website

## 12. Document history and amendments

Version number	Date implemented	Notes / amendments to previous version
1.0		
1.1		
2.0		

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