

## THE APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING BILL

### MEMORANDUM TO THE PUBLIC BILL COMMITTEE

#### INTRODUCTION

AQA is an educational charity and the largest General Qualifications awarding body, responsible for half of all the GCSE and A-level examinations taken each year. This memorandum sets out our major concerns relating to the establishment and functioning of Ofqual and QCDA, as defined in Parts 7 and 8 of the Apprenticeships, Skills, Children and Learning Bill. Attached are specific suggestions for amendments which we believe would address the points set out here.

#### OFQUAL

AQA is concerned that Ofqual will be too weak to meet its objective of securing standards in regulated qualifications. We believe that, to do this, Ofqual requires a more explicit power to direct awarding bodies on this matter and should be legally required to establish specific success criteria in terms of which it can measure its success and be accountable to Parliament.

#### The need for Specific Success Criteria

In summer 2008, interim Ofqual was faced with a situation in which the three GCSE awarding bodies brought a problem of standards to its attention. Specifically, there was disagreement between the awarding bodies as to the standard which should be set in the new GCSE Science examination. Each of the awarding bodies had faithfully followed the Code of Practice which sets out the process for setting GCSE standards but, while remaining fully within the Code, each awarding body had used different data and analysis to support its process and was reporting on its standards to Ofqual in relation to different information.

To resolve the immediate issue, Ofqual asked AQA to lower the standard it was setting for a Grade C to come into line with the other two awarding bodies. AQA complied because it is clearly essential for there to be no difference in standard between the GCSE awarding bodies for a particular examination on a particular occasion. However, AQA continues to believe that its original standard was more consistent with previous standards in GCSE Science, although this is contested by the other awarding bodies and Ofqual.

But whoever is right about GCSE Science standards in 2008, the essence of the problem is that there is a long history of technical debate about some of the key issues relating to standards and how to interpret the evidence about them. This technical uncertainty is one of the reasons why the annual summer arguments about standards occur – a tradition which is clearly not in the best interests of young people since it serves only to cast doubt upon their achievements but is never resolved and damages public confidence in the qualifications system. Previous regulators – including interim Ofqual – have not had clear positions on some of the key technical questions about standards<sup>1</sup>.

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<sup>1</sup>For example: 1. If the curriculum changes, should the first learners through the course be judged more leniently than later ones because their teachers will, inevitably, be less adept at teaching the course in the first year or two?  
2. Are standards comparable if learners with the same attainments at the start of their courses get different results at the end, depending upon the awarding body concerned or the year in which they take their examination?

AQA believes that it is essential, if Ofqual is to be a success and meet its objectives about qualifications standards, assessments standards and public confidence, for it to adopt and publish clear views on these key technical issues. Once these views have been formulated, it will be critical for Ofqual to use them as the basis for developing specific quality measures which it will use to evaluate the standards set by the awarding bodies and which will enable Ofqual to be precise when reporting to Parliament on its success in meeting its objectives.

### **An explicit power to direct on standards**

Clause 145(2) of the bill gives Ofqual the power to direct recognised awarding bodies subject to the condition in Clause 146(1)(a) that the body has failed or is likely to fail to comply with any recognition condition. In circumstances such as those last summer in GCSE Science, this power is unlikely to be sufficient to resolve matters unless recognition conditions include highly specific quality measures of the type which we advocate above. In our judgement, and on the basis of the type of criteria normally used to date in qualifications regulation, this is unlikely. As we saw last summer, broadly specified recognition conditions such as a requirement to “set comparable standards” are insufficiently precise and will invite debate about conflicting interpretations in circumstances when rapid action is required.

We therefore believe that Ofqual needs the explicit power, when it judges it necessary, to direct a recognised awarding body to set a specified standard in a particular qualification on a particular occasion, regardless of whether the body may be failing or likely to fail a recognition condition. Otherwise, there is a significant risk that practical reality will put Ofqual in the position of having to negotiate with, rather than direct, an awarding body whose standards are discrepant. As a result, its capacity to deliver its qualifications standards objective will be seriously compromised.

To exercise such a power consistently and effectively, Ofqual will need to have established the specific quality measures in relation to standards for which we argue above.

### **Consultation with recognised awarding bodies**

AQA and the other awarding bodies have substantial expertise and practical knowledge and we very much welcome the collaborative approach that interim Ofqual has already brought to bear. However, we believe that this approach should be part of the legislative framework within which Ofqual will work and that Ofqual should therefore be required to have regard to information from, and consult with, recognised awarding bodies in its work generally and in setting and revising criteria for recognition and accreditation.

### **QCDA**

AQA believes that QCDA will also be more effective if it has regard to information from recognised awarding bodies in carrying out its work.

1 March 2009

## **Specific suggestions for amendments to Part 7 of the Apprenticeships, Skills, Children and Learning Bill**

### **Clause 125 (4)**

After ‘.....regulated assessment arrangements’ add the phrase: ‘(including over time)’.

*This would be consistent with the statements under clause 125 (2) and (3) and is of particular importance to Ofqual’s public confidence objective.*

### **Clause 126 (2)**

After subsection (f) insert a new subsection: “information provided by recognised awarding bodies;”.

*It is important for Ofqual to take cognisance of the expertise and practical knowledge of the awarding bodies.*

### **Clause 126 (7)**

At the end of the present statement, ‘Ofqual must perform its functions efficiently and effectively’, add the following: ‘and establish specific and measurable success criteria for each of its objectives’.

*See text. As currently couched, the obligations on Ofqual to meet its objectives are insufficiently robust and this specific requirement would help in that regard as well as giving greater public confidence in Ofqual’s work. (See also comment on clause 164 (2) below.)*

### **Clause 129 (7)**

After ‘If Ofqual refuses an application for recognition it must provide the awarding body with a statement setting out the reasons for its decision’ add the following: ‘and must establish, at the request of the applicant, arrangements for the review (the “review arrangements” as set out in clause 133 (4)) of that decision’.

*It seems appropriate, in the interests of natural justice, that there should be such a provision for review when such a significant decision is being taken with potentially very serious consequences for the awarding body.*

*Such additions would ensure consistency with the review arrangements, for example over the imposition of fee capping conditions, and would ensure that the views of the awarding body were properly considered before the decision was finalised. (See also comments on clause 136 (5) below.)*

### **Clause 130 (5)**

After ‘Before setting or revising the criteria Ofqual must consult’ insert the phrase: ‘recognised awarding bodies and’.

*It is important for Ofqual to take cognisance of the expertise and practical knowledge of the awarding bodies.*

### **Clause 131 (5)**

After 'Before setting or revising the general conditions Ofqual must consult' insert the phrase: 'recognised awarding bodies and'.

*It is important for Ofqual to take cognisance of the expertise and practical knowledge of the awarding bodies.*

### **Clause 136 (5)**

After 'If Ofqual refuses an application for accreditation it must provide the recognised body with a statement setting out the reasons for its decision' add the following: 'and must establish, at the request of the applicant, arrangements for the review (the "review arrangements" as set out in clause 133 (4)) of that decision'.

*It seems appropriate, in the interests of natural justice, that there should be such a provision for review when such a significant decision is being taken with potentially very serious consequences for the awarding body.*

*Such additions would ensure consistency with the review arrangements, for example over the imposition of fee capping conditions, and would ensure that the views of the awarding body were properly considered before the decision was finalised. (See also comments on clause 129 (7) above.)*

### **Clause 137 (5)**

After 'Before setting or revising the criteria Ofqual must consult' insert the phrase: 'relevant recognised awarding bodies and'.

*It is important for Ofqual to take cognisance of the expertise and practical knowledge of the awarding bodies offering the qualifications concerned.*

### **Clause 140 (5)**

After 'Before setting or revising the criteria Ofqual must consult' insert the phrase: 'relevant recognised awarding bodies and'.

*It is important for Ofqual to take cognisance of the expertise and practical knowledge of the awarding bodies offering the qualifications concerned.*

### **Section 145**

After Clause 145 (2) insert a new clause as follows: "Regardless of subsection (1), Ofqual may direct a recognised body to set a specified standard in a particular qualification on a particular occasion if this appears necessary to Ofqual in order to meet the qualifications standards objective specified in section 125(2)(b)."

*See text. This specific additional power is needed if Ofqual is to be able to intervene in rare cases where this is necessary because an awarding body is setting, or is intending to set, inconsistent standards. Rapid*

*intervention may be necessary in such cases if Ofqual is to deliver its qualifications standards and public confidence objectives.*

**Clause 164 (2)**

After ‘...in the reporting period’ add the phrase: ‘and the extent to which it has met its objectives’.

*This reflects the proposal we are making in respect of clause 126 (7) above to strengthen the obligation on Ofqual to be more publicly accountable about how it has met its objectives. See also the comment on that clause, above.*

**Specific suggestion for amendment to Part 8 of the Apprenticeships, Skills, Children and Learning Bill**

**Clause 170 (2)**

After subsection (e) insert a new subsection: “information provided by recognised awarding bodies;”.

*It is important for QCDA to take cognisance of the expertise and practical knowledge of the awarding bodies.*

1 March 2009