

## First meeting of the Ofqual Committee

Minutes of the meeting held on Tuesday 6<sup>th</sup> May 2008  
At 83 Piccadilly, London W1

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### Present:

#### Members

Kathleen Tattersall	Chair
Tim Balcon	
David Butler	
Phillip Fletcher	

#### Observers

Jeremy Benson	Department for Children, Schools and Families (DCSF)
Paul Cohen	Department for Innovation, Universities and Skills (DIUS)
Ann Evans	Welsh Assembly Government, Department for Children, Education, Lifelong Learning and Skills (DCELLS)

#### Ofqual

Isabel Nisbet	Acting Chief Executive Officer
Alan Greig	Head of Regulations & Policy
Helen Knee	Acting Head of Communications
Dennis Opposs	Head of Monitoring & Comparability
Pauline Sparkes	Head of Awarding Body Performance
Jacky Burnett	
Liz Cunningham (for item 8)	

#### QCA

Darryl Nunn	Head of Finance
Natalie Prosser	Solicitor, Legal and Corporate Affairs

### Apologies for absence:

Dame Sandra Burslem (member)  
Linda Badham (DCELLS)

## **1. Introductions**

1.1 The Chair welcomed members, observers, Ofqual and QCA staff to the first meeting of the Ofqual Committee. She invited observers to participate freely in discussions, although they would not be entitled to vote if a vote were ever required. Ofsted had also been invited to nominate an observer.

1.2 The Chair confirmed that Maggie Galliers, a member of the QCA Board and the principal of Leicester College, had agreed to serve on the Ofqual Committee. The QCA Board would be asked at their next meeting to appoint her to the Committee. A headteacher was also being sought for the Committee, and advertisements had recently appeared in the press.

## **2. Chair's report**

2.1 The Chair reported that her recent meetings and engagements with stakeholders had been very welcoming and positive. She had received particularly positive feedback on the Ofqual website and congratulated those responsible for creating it. She had had introductory meetings with NUT representatives and with the Joint Council on Qualifications.

2.2 Her recent meeting at DSCF with Ed Balls (Secretary of State) and Jim Knight had also been welcoming and positive. Ministers gave a commitment to legislation to give Ofqual independence and effective powers, and emphasised that they expected Ofqual to show its independent viewpoint from the outset. The Chair had indicated that Ofqual wished to undertake work on reliability of testing, covering all qualifications and tests. This was welcomed by the Secretary of State, who also said that it was important that this and other work by Ofqual was adequately funded. The Chair gave a commitment to manage efficiently within existing funding but said that at mid-year she would need to review the adequacy of the funding allocated to Ofqual.

2.3 The Chair had also met senior officials at DIUS and had requested a meeting with John Denham, Secretary of State for Innovation, Universities and Skills. DIUS officials had encouraged Ofqual to engage with employers and with other organisations concerned with post-19 skills issues.

2.4 The Chair had attended the all-staff briefing on 7 April 2008, prior to the launch of Ofqual's new identity on 8 April. There was to be a public launch event on 16 May, at which Jim Knight would represent the Secretary of State.

## **3. Acting CEO's Report**

3.1 Isabel Nisbet reported that the Ofqual 2008/9 Business Plan had been sent to Ofqual Committee members and circulated to all staff on 7<sup>th</sup> April. The Plan provided an initial structure and programmes of work around the strategic priorities approved by the QCA Board.

3.2 Rather than restructure in the tight timeframe, the initial management task had been to regroup existing staff and establish a workable structure with a clear

direction. The management challenge was to transform Ofqual into an autonomous organisation with sufficient credibility and weight. Two key Director posts, one for Standards and one for Regulation, were currently being advertised and a new Head of Business Management, Stephen Harrison, would take up his post shortly. Helen Knee was Acting Head of Communications.

3.3 A set-up project was in place to oversee all the preparations required before the legislation setting up the new organisation could be implemented. Isabel Nisbet was grateful for the continuing support of finance and legal colleagues in QCA for this process.

3.4 Isabel Nisbet reported that DCSF had agreed initial funding for Ofqual. Ofqual would review its requirements after the summer in view of continuing recruitment and business requirements. Some recruitment had had to be postponed due to funding constraints.

3.5 She confirmed that QCA and Ofqual would each be relocating to Coventry but to separate buildings. Government agreement had been secured to the location of Ofqual in Spring place, Coventry. Relocation would mean losing a lot of London-based staff and, while some were willing to work flexibly or commute to cover the transitional period, this would mean that in 2-3 years' time most of Ofqual's staff would be recent recruits. During April, staff were logging their intentions regarding relocation and a significant proportion said that they wanted to remain with Ofqual for the next 2-3 years. This group could make a particularly important contribution to the knowledge transfer process during transition

3.6 It was essential to remain focused on the current work programmes, while managing the set-up work and changing the organisation efficiently. The DCSF Select Committee was expected to publish a report on assessment shortly which would raise policy questions. In addition, Ofqual would have a distinct public presence during and beyond the summer period culminating in the publication of results of examinations and tests.

3.7 Members voiced some concerns that the high profile and high expectations of Ofqual could place an unrealistic burden on the still small senior management team. Members were concerned that financial pressures had required some recruitment to be postponed. Isabel Nisbet said that arrangements were in place to recruit high calibre senior management. She agreed that the current small team was under pressure. The Chair thanked members for their concerns, and said that the Committee would have the opportunity to review the resource requirements of Ofqual in the Autumn.

3.8 Phillip Fletcher suggested that it might be helpful to arrange for Ofwat staff who had relocated to Birmingham to meet Ofqual staff who were considering relocation. The Chair thanked him for his offer.

#### 4. Governance papers

4.1 QCA Solicitor, Nicola Prosser, summarised the legal framework for Ofqual to operate on an interim basis within QCA and invited members to contact QCA legal team if they had any queries. She explained the Governance diagram of Ofqual in its interim form, the articulation between the Memorandum of Understanding (MoU) between DCSF and QCA, the MoU between QCA and Ofqual and the Direction under paragraphs 13 and 14 of Schedule 4 to the Education Act. She summarised the Ofqual Committee terms of reference and how the Committee would operate and report

4.2 Until the establishment of Ofqual as a separate statutory organisation, QCA would retain legal responsibility for the activities of Ofqual and QCA's CEO would remain the Accountable Officer. To enable the interim body to work, the Secretary of State had issued a Direction under paragraphs 13 and 14 of Schedule 4 to the Education Act 1997. This directed the QCA Board to set up a committee to oversee its regulatory functions and set its remit. The MoU between DCSF and the QCA set out the relationship between DCSF and QCA insofar as the work of the interim regulator was concerned. Paragraphs 20 and 21 of the MoU between QCA and Ofqual set out the remit of the ofqual Committee and described its responsibilities. The Ofqual Committee would report to the QCA Board through Ofqual's Chair, Kathleen Tattersall. The governance structure had been created to provide Ofqual, during the interim period, with a significant degree of independence and autonomy for decision making, while ensuring that the QCA Board retained appropriate controlling functions.

4.3 Referring to the Committee's Terms of reference, members suggested additional flexibility in the use of electronic means, such as conferences by phone or E-mail, for operating its business. They also asked for a protocol to be circulated guiding members on communication with the media.

4.4 The Committee also voiced concerns about liabilities, both personal and corporate, during the interim period and asked whether an indemnity should be sought from Government to cover these. Isabel Nisbet said that members of staff, who were employees of QCA, were covered when conducting legitimate Ofqual (ie QCA) business. She undertook to take legal advice about the position regarding any liability of individual members of the Committee and to report back to members.

4.5 Reference was made to potential boundary issues between Ofqual /QCA /NAA and how they would be managed, particularly if there were disputes. Isabel Nisbet said that any matters of strategic significance would be brought to the Ofqual Committee. She informed members that QCA was setting up project to identify and resolve Ofqual/QCA boundary issues and that she and the Director of NAA were trialling inter-organisation procedures.

4.6 On the timescale for the interim arrangements, Jeremy Benson advised that they could extend into early 2010, depending on whether the Bill was passed by Parliament before or after the 2009 summer recess.

## 5. Corporate Business

### Strategic objectives and risk register

5.1 Isabel Nisbet reported that Key Performance Indicators (KPIs) and their outcomes were being developed against each of the strategic priorities set for Ofqual by the QCA Board. The strategic priorities were described in Annex 1. A template for assessing Ofqual's overall effectiveness was also being produced. The KPIs, including outcomes, and the self assessment template would be produced at the next Ofqual Committee Meeting.

5.2 She referred to Annex 2, containing an initial strategic risk register and a key explaining the system used, with the risks being described pre-mitigation action taken. The largest risk was the loss of knowledge through relocation. This would be addressed by maximising the use of those staff staying with Ofqual over the transition period.

5.3 The Committee welcomed the risk register and **agreed** that the first two risks should be escalated to the QCA Board:

- a. The quality of Ofqual's work is significantly diminished due to the loss of knowledge and expertise caused by relocation (red, before mitigation)
- b. Ofqual's ability is undermined by the lack of an appropriate mix of leadership, management experience and skills in its senior management structure (amber/red before mitigation).

The Committee agreed that the register should set out the position before mitigation, but also requested further detail on planned management action and accountabilities for each risk. It was agreed that this should be reflected in the report to the next Committee meeting.

### Finance

5.4 Darryl Nunn introduced the finance report which described the financial management and reporting structures that will support Ofqual and, in particular, progress towards the establishment of the set-up and operating budget for the 2008/9 financial year. He reported that during the interim period QCA's financial management would cover Ofqual's needs. The overall budget set out in the paper was derived from QCA Regulation and Standards Division budget, plus additional funds from Government, earmarked for specific remits and for the additional costs to QCA resulting from the establishment of Ofqual. .

5.5 The Committee asked to receive for its next meeting:

- i) a report on financial performance against budget for the first period
- ii) comparable Regulation and Standards Division figures for 2005/6 and 2006/7.

## 6. Policy Issues for legislation

6.1 The Committee received a paper considering four of the issues raised by the Government's consultation paper which have implications for future legislation. DCSF officials were preparing instructions for legislation to set up Ofqual as an independent regulator, and would be putting proposals to Ministers shortly. The Committee was invited provide a view on these recommendations, which would steer Ofqual's advice to DCSF.

### Externality

6.2 It was noted that, currently, the scope of Ofqual's regulatory remit was limited to external qualifications. Members discussed the implications of allowing regulation to cover qualifications awarded by organisations providing the training leading to the qualification. On balance, members welcomed the greater inclusivity and recognition of wider range of achievements that the removal of the restriction to external qualifications would bring. Members commented:

- a. that once an organisation had been recognised to award qualifications, it should not then opt out without a suitable alternative and a clear transitional process being in place;
- b. that the process for recognising employers to award qualifications should make sure that they have adequate quality assurance systems in place;
- c. that careful consideration should be given to danger that the recognition of skills training by employers could led to a plethora of skills qualifications in the national system.

6.3 Subject to those points, the Committee agreed that Ofqual should recommend to Government the removal of the restriction of regulation to "external qualifications, on the understanding that regulatory requirements for recognition of awarding organisations will include safeguards to ensure objectivity of assessment and adequate quality assurance.

### Sanctions and associated powers

6.4 The Committee **agreed** that Ofqual should ask Government for more targeted powers of direction than QCA has under current legislation and the ability to impose sanctions which match the nature of the fault found

### Appeals

6.5 It was noted that the current Examinations and Appeals Board (EAB) was a non-statutory arrangement by Government, independent of QCA and confined to appeals about GCSEs, A levels and entry level qualifications. This arrangement was intended to continue until 2009. The Committee **agreed** that Ofqual should ask for legislation requiring Ofqual to establish an independent appeals facility covering all regulated qualifications in England, Wales and Northern Ireland. The

Committee also supported the establishment of a similar independent appeals facility for National Curriculum Assessments in England.

### Power to raise income

6.6 There was some discussion of the proposal that Ofqual should have powers to raise income from sources other than Government funding. While agreeing that independence from Government funding would strengthen the independence of Ofqual, some members felt that the consequences of being able to charge awarding organisations for recognition as well as for accreditation of qualifications could be charges being passed on by the awarding organisations. On balance, the Committee **agreed** that Ofqual should have recourse to some source(s) of income other than Government funding.

6.7 Jacky Burnett undertook to reflect the Committee's views in Ofqual's input to the preparation of instructions by DCSF for the drafting of legislation.

## **7. Ofqual publication scheme**

7.1 Helen Knee introduced the paper containing Ofqual's draft publications scheme with its key principle of open and transparent information sharing. The paper outlined the types of information that Ofqual should publish and how it should be made available.

7.2 The Committee welcomed the principles of openness and transparency, subject to proper protection of confidentiality and respect for the sensitivities of named bodies where papers and minutes were to be published on the Ofqual website. The Committee also said that members would need access to Ofqual's intranet in order to access those papers that would be published on it.

7.3 It was suggested that it might be appropriate to develop a fast track process for responses to some consultations. Helen Knee said she would take this recommendation forward, and would ensure that stakeholders' comments were able to be published. There was also scope to carry out electronic surveys would be conducted.

7.4 The Committee commented it needed to be able to preserve some space for private discussions and the Acting CEO said that Committee papers should not be published without a note of the conclusions of the Committee when the papers were considered. The Committee supported the direction of travel reflected in the paper, and it was agreed that a revised scheme would be produced in due course, taking account of the points made.

## **8. Studies into the efficiency of the qualifications system and the reasonableness of fees for widely used qualifications other than A levels and GCSEs**

8.1 Alan Greig introduced a paper and draft specifications for two market studies to be conducted by Ofqual during 2008/9, under remit from Government. The first was a new high level study on the efficiency of the qualifications system,

building on a short scoping exercise which was carried out last year. The second study followed a review of A level and GCSE fees carried out during 2006. The model from that study was to be applied to a group of other widely used qualifications.

8.2 The Committee suggested that Sector Skills Councils (SSCs) should be involved in the efficiency study and that more than one costing model might be appropriate for the fees study. Subject to those points, they **approved** both specifications.

## **9. National Curriculum Assessments**

9.1 Dennis Opposs introduced the paper, which set out some of the issues concerning National Curriculum Assessments which affected Ofqual's role. These included the need to monitor the fitness of tests for the many purposes for which they were used; the forthcoming request for Ofqual to endorse the new Single Level Tests, which were being piloted; and the Government's intention that Ofqual should have statutory powers to regulate the process for moderation of assessments made at the end of the Early Years Foundation Stage (for ages three to five). The Committee noted the paper.

## **10. Any other Business**

10.1 There was no other business

## **11. Dates of future Ofqual Committee meetings:**

Wednesday 9 July, 2008 at Coventry starting at 2pm

Thursday 16 October 2008, at Coventry, starting at 10.30am

Wednesday 12 November, 2008 at Coventry starting at 10.30

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### Action points

1.1 To pursue the invitation to Ofsted to nominate an observer to the Committee (Isabel Nisbet)

4.3 To pursue with QCA amending the terms of reference to allow more flexibility in the use of technology for communication within the Committee (Isabel Nisbet/Natalie Prosser)

4.4 To obtain/ provide legal advice on any indemnity of individual members of the Ofqual Committee (Isabel Nisbet/Natalie Prosser).

5.1 To prepare draft Key Performance Indicators and a self-assessment framework for the next Committee meeting (Isabel Nisbet/Iain Greenwood)

5.3 To escalate the two highest risk to the QCA Board (Isabel Nisbet)

To amend the risk register to indicate proposed mitigation action and accountabilities (Isabel Nisbet/Iain Greenwood)

- 5.4 To provide, in the finance report for the next meeting of the Committee:
- i) a report on financial performance against budget for the first period
  - ii) comparable Regulation and Standards Division figures for 2005/6 and 2006/7. (Darryl Nunn)
- 6.7 To reflect, in Ofqual's input to the preparation of instructions by DCSF for the drafting of legislation, the Committee's views on the policy issues discussed in the paper for Item 6 (Jacky Burnett).
- 7.4 To produce a revised draft publications scheme, taking account of the committee's views (Helen Knee)
- 8.2 To reflect the Committee's comments when carrying forward the studies of efficiency and fees (Alan Greig)