

# The regulatory authorities' sanctions policy

31 January 2005

## Introduction

1. The regulatory authorities in England (QCA), Wales (ACCAC) and Northern Ireland (CCEA) have a responsibility to ensure that qualifications admitted to the National Qualifications Framework are developed, accredited and delivered to published statutory criteria. Details of the accreditation criteria can be found in *The statutory regulation of external qualifications in England, Wales and Northern Ireland 2004* [www.qca.org.uk/products/6944.html](http://www.qca.org.uk/products/6944.html)
2. The regulatory authorities have developed a range of sanctions that can be imposed on awarding bodies if they fail to comply with the requirements of the statutory criteria. The sanctions fall into two categories:
  - Category 1: suspension of accreditation (see paragraphs 13–14 for details)
  - Category 2: removal of accreditation (see paragraphs 15–16 for details).
3. The regulatory authorities believe that the use of sanctions will be limited as the regulatory process provides ample opportunity for an awarding body to meet the statutory criteria.

## Direction of an awarding body

4. The Education Act 2002 gives the regulatory authorities the power to direct an awarding body to take action. Directions can be enforced by a court of law and will be applied where:
  - there has been a failure, or there is likely to be a failure, by the awarding body to comply with conditions of accreditation that impacts, or is likely to impact, on the proper award and authentication of a qualification
  - the non-compliance is likely to prejudice the interests of the learner.
5. The regulatory authorities believe that the process outlined in this paper should ensure that an awarding body meets the statutory criteria without the need for direction. However, the regulatory authorities reserve the right to 'direct' an awarding body if required. For example, if a significant non-compliance is identified, which has an immediate and significant impact on the learners.

## Process for applying sanctions

6. If an awarding body is identified as having not met the statutory criteria, the regulatory authorities may allocate a 'condition of accreditation'. These conditions require action by an awarding body within an agreed time period (see Annex 1 for details of conditions of accreditation).
7. If the awarding body fails to comply with the condition of accreditation within the agreed deadline date, the regulatory authorities will begin applying sanctions. The regulatory authorities will inform the awarding body, within five working days of an expired deadline, that it must comply within 15 working days otherwise sanctions will be applied. This correspondence will provide details of, and a brief rationale for, any proposed sanction.
8. The regulatory authorities reserve the right to apply a sanction immediately, rather than a condition of accreditation, if a serious issue is identified that places at risk the interests of users of the qualifications.
9. The flowchart in Annex 2 sets out the process and proposed timescales for the application of, and response to, sanctions. It is anticipated that the sanctions will be applied sequentially until the awarding body complies; the longer the non-compliance continues, the more the regulatory authorities would lose confidence in an awarding body's ability to guarantee the effective development and delivery of high-quality qualifications. As part of the regulatory authorities' commitment to provide the public with key information about regulated qualifications the regulatory authorities will make public, via their websites, the application of all sanctions.
10. At any stage in the process the awarding body will be able to formally discuss the matter further with the regulatory authorities; and will have the option of seeking an independent review of the decision prior to the specified time periods, in Annex 2, expiring. The sequential process may be suspended, and no public statements issued, whilst a review is ongoing.
11. Communication about regulatory sanctions will be sent in writing to the awarding body, addressed to the chief executive or other designated officer, and a copy emailed to the awarding body's central accreditation email address. The correspondence will provide:
  - a rationale for, and details of, the sanction
  - the name of an officer within the regulatory authorities to contact if the awarding body wishes to formally discuss the matter further
  - details of the process for seeking an independent review of the decision to impose a sanction (details of the independent review arrangements are contained in Appendix 7 of *The regulatory authorities' accreditation handbook 2003* [www.gca.org.uk/products/3558.html](http://www.gca.org.uk/products/3558.html))
  - details of how it can seek the voluntary withdrawal of the accreditation, should it decide it no longer wishes to continue offering the qualification.

## Details of sanctions

### *Factors informing the application of sanctions*

12. The regulatory authorities recognise that non-compliances by awarding bodies do not have the same impact or risks. Therefore, the type of sanction applied will depend primarily on the impact of the non-compliance. Factors that will inform which sanction is applied include:
- whether the non-compliance relates to a specific or numerous sector/subject area(s) and/or qualification type(s)
  - whether the awarding body has a history of not complying with conditions of accreditation
  - the type of conditions of accreditation currently attached to the awarding body's provision whether related or unrelated
  - the effect of the non-compliance on learners and confidence in the integrity of the qualifications.

### *Category 1 sanctions: suspension of accreditation*

13. The regulatory authorities have four ways with which to suspend accreditation. As indicated earlier, it is anticipated that in most instances these sanctions will be applied in the sequence below.

<b>Four ways with which to suspend accreditation</b>	<b>Additional guidance on why such a sanction may be imposed</b>
<p><b>1.a</b> Suspension of all future accreditations within the relevant second-tier sector/subject area<sup>1</sup></p>	<p>Only in exceptional circumstances could an awarding body argue that the non-compliance is of a minor nature and therefore does not warrant this sanction being applied. As there should be few, if any, reasons why an awarding body has not been able to address such a minor non-compliance within the original deadline period and the additional days indicated in Annex 2.</p>
<p><b>1.b</b> Suspension of all future accreditations within the relevant first-tier sector/subject area</p>	<p>Due to an awarding body's continued failure to comply after the application of the first public sanction, doubts would arise about its quality assurance arrangements and ability to ensure the effective development and delivery of qualifications within the related wider sector/subject area. Therefore, increasing the risk to the quality of other qualifications, and the interests of learners, within the related sector/subject area.</p>

<sup>1</sup> See Annex 3 for details of the sector/subject areas.

<b>1.c</b>	Suspension of all future accreditations within the relevant qualification type	Continued failure to comply after the application of two previous public sanctions, and additional working days, would now cast significant doubts about an awarding body's quality assurance arrangements and ability to ensure the effective development and delivery of qualifications within the related qualification type as well as the sector/subject area.
<b>1.d</b>	Suspension of all future accreditations within all sector/subject areas and qualification types	Continued failure to comply after the application of three previous public sanctions and additional working days would now cast serious doubts about the awarding body's quality assurance and management arrangements and therefore its ability to develop and offer high-quality qualifications.

14. If any of these four sanctions are actioned, they will be applied with immediate effect to all new qualification proposals and to extension and amendment requests, including those already submitted and currently going through the accreditation process. However, the regulatory authorities reserve the right, where exceptional circumstances apply, to allow a particular accreditation.

*Category 2 sanctions: removal of accreditation*

15. If after the application of the last sanction (above) the awarding body has still not complied, then one of the following sanctions will be applied.

<b>Five ways with which to remove accreditation</b>	<b>Additional guidance on why such a sanction may be imposed</b>
<b>2.a</b> Removal of accreditation of the qualification(s) to which the original non-compliance related	Applied if the non-compliance was specific to the qualification(s).
<b>2.b</b> Removal of accreditation of the qualifications within the relevant second-tier sector/subject area	Applied if the non-compliance was specific to, and has an impact on, the second-tier sector/subject area (if the awarding body's range of provision is within a single sector/subject area, this may result in the removal of its entire range of provision).
<b>2.c</b> Removal of accreditation of the qualifications within the relevant first-tier sector/subject area	Applied if the non-compliance was specific to, and has an impact on, the first-tier sector/subject area (if the awarding body's range of provision is within a single sector/subject area, this may result in the removal of its entire range of provision).
<b>2.d</b> Removal of accreditation of the qualifications within the related qualification type	Applied if the non-compliance was specific to, and has an impact on, the qualification type. For example, the non-payment of the NVQ levy or failure in an awarding body's NVQ quality assurance arrangements. (If the awarding body's range of provision is within a single qualification type, this may result in the removal of its entire range of provision).

<b>2.e</b>	Removal of accreditation of all qualifications offered by an awarding body	Applied if the non-compliance was very serious. For example, the awarding body's entire quality assurance capabilities are in doubt, or the awarding body has deliberately misled the regulatory authorities.
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16. If the regulatory authorities remove the accreditation of a qualification that has candidates registered, alternative arrangements will be made. For example if:

- another awarding body offered the qualification(s), arrangements would be made to transfer the candidates to that awarding body
- no other awarding body offered the qualification(s), the regulatory authorities would 'direct' the awarding body to take action (if not done so previously) and continue to refuse all future accreditations (re-accreditations and new accreditations) until either the awarding body complies and the sanction can be lifted, or another awarding body gains accreditation to offer the qualifications(s) and the candidates can be transferred.

# Annex 1

## Conditions of accreditation

1. Normally when a non-compliance by an awarding body is identified the regulatory authorities will impose a condition of accreditation that the awarding body rectifies the non-compliance within a specified period of time. Conditions of accreditation are usually applied as a result of one of the following activities:
  - the reviews of an awarding body's 'recognition' and/or qualification proposals – during these reviews any identified non-compliance with the relevant criteria that does not pose an immediate risk to the interests of users will become a condition of accreditation attached to the final recognition or accreditation decision.
  - a monitoring activity – if during a monitoring activity, such as an audit of an awarding body, the regulatory authorities identify a non-compliance, the final 'monitoring' report will highlight this and make it a condition of accreditation (previously known to awarding bodies as an 'action point' or 'action plan') that the awarding body complies.

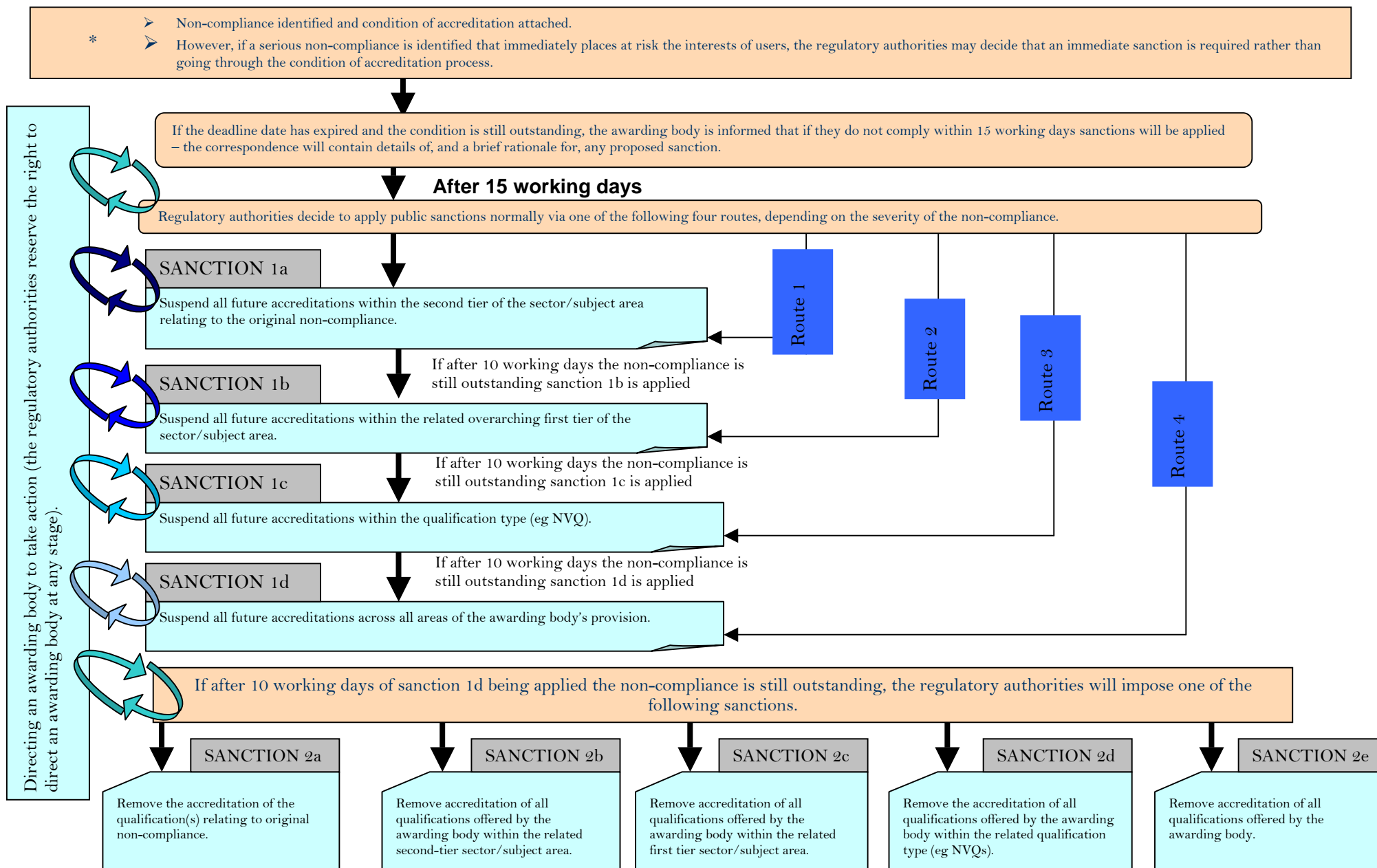
The payment of the NVQ levy is an automatic condition of accreditation for all NVQ accreditations.

2. Conditions of accreditation can also be allocated if non-compliances in relation to the statutory criteria by an awarding body are brought to the attention of the regulatory authorities by other means. For example, via a complaint from a learner or parent or from the findings of other government bodies such as inspection agencies.
3. The Education Act 2002 allows the regulatory authorities to impose conditions of accreditation after the initial recognition or accreditation decision, and without first undertaking a monitoring activity, if the application of conditions becomes necessary. For example, to protect the interests of the learner; to ensure the integrity of the qualification; to introduce changes to the way a qualification is developed or delivered; and/or to reflect any changes to the statutory criteria.
4. Each condition of accreditation will have a deadline date that provides sufficient opportunity for an awarding body to comply. If an awarding body identifies significant issues that may impact on its ability to comply, it should immediately bring this to the attention of the regulatory authorities by emailing [conditions@qca.org.uk](mailto:conditions@qca.org.uk). The regulatory authorities will review the request and either amend the deadline date or inform the awarding body that the original deadline date applies. All conditions of accreditation will have deadline dates that are either acceptable to both parties or, if not, they are necessary to protect the interests of users.
5. To assist awarding bodies, the regulatory authorities email monthly reports to each awarding body's 'central accreditation email address' informing them of the status of all their conditions of accreditations. These reports currently cover conditions of accreditation attached to both 'recognition' and 'accreditation' decisions. From May 2005 arrangements will be in place to ensure that these reports also cover conditions of accreditation resulting from monitoring activities. The reports highlight which conditions:
  - are active but the deadline date for compliance has not passed
  - have expired deadline dates and have yet to be met.

6. The monthly reports are intended to ensure an awarding body is aware of approaching deadline dates, and subsequently reducing the need for sanctions to be imposed.
7. If on receipt of such a report an awarding body is aware that it is no longer able to meet a previously agreed deadline date due to exceptional circumstances, it should immediately email the regulatory authorities at [conditions@qca.org.uk](mailto:conditions@qca.org.uk), providing a clear and concise rationale as to why it is no longer able to comply within the agreed period of time. The regulatory authorities will review the request and either amend the deadline date or inform the awarding body that the original deadlines date applies.
8. Once an awarding body has submitted the relevant information in relation to a condition of accreditation, and the regulatory authorities are satisfied that it meets the appropriate criterion, the condition of accreditation will be signed off. The awarding body will be notified of this via email to their 'central accreditation email address'.

## Annex 2

# Illustration of the key points in the application of sanctions



\* At any time in the process the awarding body may decide to withdraw from offering the qualification(s) if it feels it can no longer ensure compliance.

## Annex 3

### Sector/subject areas

Area	First tier	Area	Second tier
1.	<a href="#">Health, Public Services and Care</a>	1.1	Medicine and Dentistry
		1.2	Nursing and Subjects and Vocations Allied to Medicine
		1.3	Health and Social Care
		1.4	Public Services
		1.5	Child Development and Well Being
2.	<a href="#">Science and Mathematics</a>	2.1	Science
		2.2	Mathematics and Statistics
3.	<a href="#">Agriculture, Horticulture and Animal Care</a>	3.1	Agriculture
		3.2	Horticulture and Forestry
		3.3	Animal Care and Veterinary Science
		3.4	Environmental Conservation
4.	<a href="#">Engineering and Manufacturing Technologies</a>	4.1	Engineering
		4.2	Manufacturing Technologies
		4.3	Transportation Operations and Maintenance
5.	<a href="#">Construction, Planning and the Built Environment</a>	5.1	Architecture
		5.2	Building and Construction
		5.3	Urban, Rural and Regional Planning
6.	<a href="#">Information and Communication Technology</a>	6.1	ICT Practitioners
		6.2	ICT for Users
7.	<a href="#">Retail and Commercial Enterprise</a>	7.1	Retailing and Wholesaling
		7.2	Warehousing and Distribution
		7.3	Service Enterprises
		7.4	Hospitality and Catering
8.	<a href="#">Leisure, Travel and Tourism</a>	8.1	Sport, Leisure and Recreation
		8.2	Travel and Tourism
9.	<a href="#">Arts, Media and Publishing</a>	9.1	Performing Arts
		9.2	Crafts, Creative Arts and Design
		9.3	Media and Communication
		9.4	Publishing and Information Services
10.	<a href="#">History, Philosophy and Theology</a>	10.1	History
		10.2	Archaeology and Archaeological Sciences
		10.3	Philosophy
		10.4	Theology and Religious Studies
11.	<a href="#">Social Sciences</a>	11.1	Geography
		11.2	Sociology and Social Policy
		11.3	Politics
		11.4	Economics
		11.5	Anthropology
12.	<a href="#">Languages, Literature and Culture</a>	12.1	Languages, Literature and Culture of the British Isles
		12.2	Other Languages, Literature and Culture
		12.3	Linguistics
13.	<a href="#">Education and Training</a>	13.1	Teaching and Lecturing
		13.2	Direct Learning Support

14.	<a href="#">Preparation for Life and Work</a>	14.1	Foundations for Learning and Life
		14.2	Preparation for Work
15.	<a href="#">Business, Administration and Law</a>	15.1	Accounting and Finance
		15.2	Administration
		15.3	Business Management
		15.4	Marketing and Sales
		15.5	Law and Legal Services