

Glenys Stacey  
Chief Regulator



17 April 2015

Mr Mark Dawe  
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Dear Mark

On 2 March 2015, the Associate Director for Legal Moderation and Enforcement wrote to advise you that a referral had been made to consider a recommendation that Ofqual should take regulatory action in respect of OCR. Specifically, to consider the possibility of imposing a monetary penalty.

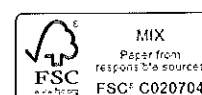
On 31 March 2015 we informed you that we would communicate our decision, as to whether this matter would proceed to an enforcement committee, on or before 14 April 2015. Subsequently, I asked you to meet with me on 17 April 2015 so that I might communicate Ofqual's decision in person.

The events last summer caused Ofqual the greatest concern. For a time there seemed to be a real possibility that OCR would fail to issue timely results. The consequences had that happened might have been catastrophic; for candidates, for schools and universities and for the wider system. The detrimental impact on public confidence in our system might have taken many years to overcome. Against that background, you will understand the need for our investigation, in addition to your own, and why we have considered whether to take punitive regulatory action.

### **Monetary penalty**

The Legal Moderation and Enforcement team has carefully considered the relevant evidence, which includes the evidence presented by OCR following your internal investigation and the evidence collected by the Ofqual investigation team. On the basis of that analysis, the Enforcement team have advised that there is compelling evidence that OCR breached its Conditions of Recognition during June, July and August 2014. Similarly, the Enforcement team have concluded that there is evidence that those potential breaches contributed significantly to the potential for OCR to fail to issue timely results.

It follows that it is very likely an Enforcement Committee would conclude that OCR was in breach of its Conditions of Recognition should we decide to prosecute this case.



If OCR had in fact failed to issue timely results last summer then we would not have hesitated to prosecute this case. It is very likely that a monetary penalty would have been imposed and in a very substantial sum, we would also have looked to recover from OCR all of our costs connected with investigating and prosecuting the case.

However, OCR did not fail to issue timely results. Moreover, you have told us about the steps you took to make sure there was no such failure and about the financial costs for OCR in taking those steps. Importantly, you have also recognised through your own investigations the failings in your management systems last summer which led to you incurring those substantial costs.

Against that background, we have decided that it would not be appropriate to prosecute a case for a monetary penalty.

### **Next Steps**

We have decided to take no further action in respect of OCR's potential breaches of Conditions during 2014 summer series. However, the fact that OCR was at risk of missing critical deadlines last summer is now in the public domain; although not as a result of any statement by Ofqual.

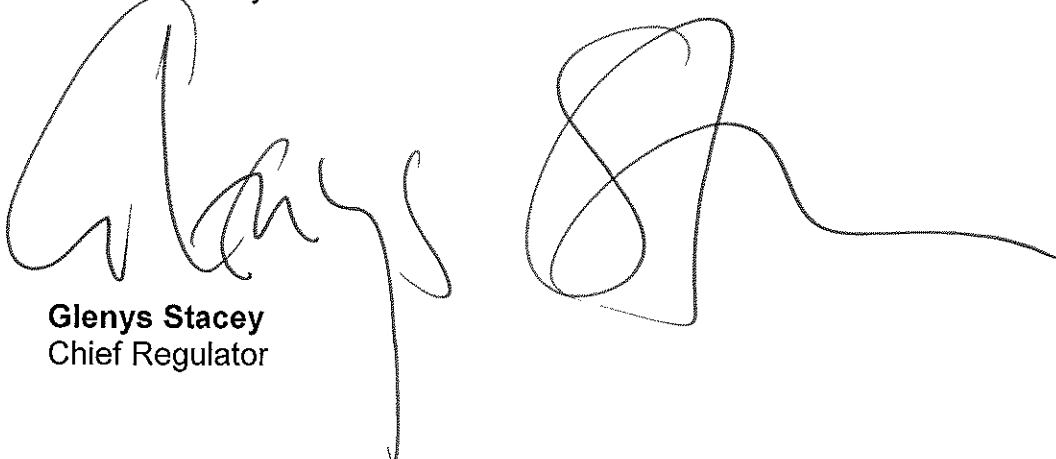
We aim to be transparent in the way we regulate and it is important to us that the public know how concerned we are about the events last summer and how seriously we have taken this matter.

Accordingly, we intend to publish a version of our final investigation report, together with comment making clear that, had OCR in fact missed critical deadlines, we would not have hesitated to take serious and punitive regulatory action.

We are still considering the timing of such a publication and the level of detail at which our publication will report our investigation. Once we have finalised our proposals, we will consult with you both on the terms of the publication and the timing and take in account any representations you choose to make. We anticipate finalising our proposals before the end of this month.

Finally, as part of evaluating the case referred to them, the Legal Moderation and Enforcement team reviewed the recent correspondence in respect of the Undertaking given by OCR in March 2014. That Undertaking will now be discharged.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Glenys Stacey', followed by a large, stylized flourish or scribble.

**Glenys Stacey**  
Chief Regulator