

# GCSE results: Key Q&As for Students and Schools

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## PART ONE: STUDENTS

1. Part 1 addresses various questions that may be being asked by students on GCSE results day (20 August 2020). This article includes various hyperlinks to websites. Please refer to our [A Level advice guide](#) if you remain concerned about those results.
2. This year is a year like no other. Students have found out how they performed in exams they did not even sit. The Department for Education (“DfE”) changed its approach in a major U-turn five days after the A Level results were released.
3. The switch to centre assessment grades (rather than the standardised/moderated grades) will apply to both AS and A levels and to GCSE results.
4. The DfE has stated in a press release that:

**“Students awaiting their GCSE grades on Thursday will receive their centre assessment grade from their school ... If students’ calculated grades were higher than the centre assessment grade, their calculated grade will stand.**

5. The DfE has also said that **“schools and colleges will receive students’ final GCSE grades on Wednesday 19 August 2020, meaning they will be available to young people on Thursday as planned.”**
6. There may, however, be some delays. Be prepared for this. The latest information from the DfE is that all GCSE results will be released on Thursday 20 August 2020, the day that students should have received results had they sat exams. Those expecting BTec

results, unfortunately, must wait a little longer. This is because the algorithm used to calculate A Level and GCSE results was not used in the majority of vocational qualifications and technical qualifications, including BTecs. Pearson, the exam body that award BTecs, will be re-grading the grades given. Nick Gibb MP has said that he is hopeful students will get their BTec results next week.

7. It is fair to say that any further delay in issuing grades will have a knock-on impact on schools and colleges who would normally start their enrolment process after results are issued. It is sensible therefore, to get in touch with your future school/college and ask them how they are handling delayed results. More tips on this are set out below.

### What GCSE grade should I receive?

8. The grade you receive on 20 August 2020 should be the **higher** of either:
  - a. Your centre assessed grade
  - b. Your standardised / moderated grade

### What do I do if my centre assessed grade or standardised grade is still not enough to get me to where I need to go next?

- *Call your college or sixth form or future employer or over the next few days via phone or email using its "contact us" page.*
- *If you cannot get through, send an email to their admissions department asking for clarity on how they will be dealing with GCSE results, leaving your phone number (and perhaps that of a parent/carer who is with you)*
- *If this applies - explain that your grades are below the grades you were expected to obtain*
- *Ask whether they will still offer you a place*
- *If they cannot give you this information yet, ask for a timeframe for a response. This may be several days.*
- *If your teachers or you think that your centre might appeal the grades received by your cohort, because of issues with how they arrived at your centre assessed grade, for instance, tell the school/college/employer this and tell them that you will keep them informed.*

- *Stay calm! Many students will be in the same boat and the government is under pressure to make this fair for all of you.*
- *Be prepared to wait and keep an eye on the Ofqual and DfE websites. You will need to be patient, but also you will need to be ready to keep seeking updates from your college/school/employer and getting in regular contact.*
- *Ask your centre to submit an appeal on your behalf*
- *Issue a subject access request (see below)*

## What is the appeal process?

### 9. Appeals guidance

The very latest Ofqual GCSE guidance (released on 20 August) is here:

<https://www.gov.uk/government/news/guide-to-gcse-results-for-england-2020>

10. Ofqual has also updated its formal appeals guidance **Extraordinary regulatory framework: General Qualifications, COVID-19 Conditions and Requirements**. It did so on 14 August and again on 19 August 2020. Please make sure that you are looking at the latest version of this guidance when considering appeals.
11. The General Qualifications “GQ” Conditions (“GQCov Conditions”) apply to all general qualifications, including GCSEs.

(Please note that these guidance documents are very likely to change again over the coming days.)

- For students in England, information about the appeals process is set out in the guidance by **Ofqual**. This was last changed on 19 August 2020. Please check for changes.
- For students in Northern Ireland, information about the appeals process will be published by **CCEA** on their website in due course
- For students in Wales, the appeals process is set out in guidance by **Qualifications Wales**
- For students in Scotland, the appeals process is set out in guidance by the **Scottish Qualifications Authority**

## Support phonelines

### Exam Results Helpline

- Telephone 0800 100 900
- [nationalcareers.service.gov.uk](https://nationalcareers.service.gov.uk)

The Exam Results Helpline can provide information on appeals, complaints, or what your next steps may be once you've received your results.

### Ofqual

- Telephone 0300 303 3344
- Contact the Ofqual student support phoneline if you want to find out more about how you were graded, the autumn exams series, how to make an appeal or raise a concern about bias or discrimination.

### The Mix (mental health support)

- If you're under 25, you can call [The Mix](#) on 0808 808 4994 (Sunday-Friday 2pm–11pm) request support by email [using this form on The Mix website](#) or [use their crisis text messenger service](#).

## On what grounds can an appeal be brought?

12. The Appeals guidance for students was updated on 19 August 2020. This explains as follows:

### **GCSE, AS, A level, extended project qualification and advanced extension award: what to do if you're unhappy with your results**

- “First of all, you should speak to your school or college. It's important that you understand on what basis you can and can't appeal your results when deciding your next steps. Only your school or college can submit an appeal on your behalf.”

### **I think there might have been a mistake when my school or college submitted my centre assessment grade**

- “You can ask your school or college to check whether it made an administrative error when submitting your centre assessment grade or rank order information. Administrative errors might include, for example, mixing up

2 students with similar names, or accidentally copying across the wrong data, but do not relate to the professional judgements of centres in giving centre assessment grades. If your school or college thinks it made a mistake, it can submit an appeal to the exam board, but it must be supported by clear evidence that an error had been made.

### **I don't agree with the centre assessment grade that I was given by my teachers**

- Your school or college submitted the grades it believes you were most likely to achieve if exams had gone ahead. We know many students wanted to be able to challenge their centre assessment grades if they were unhappy with them, but we judged this could not be done consistently and fairly. Any appeal would have to be decided by someone better placed than your teachers to judge your likely grade if exams had taken place. Because exams were cancelled, we don't think there is such a person. This means you can't appeal your grade just because you don't agree with the centre assessment grade submitted by your school or college.
- Your school or college can't appeal against the centre assessment grades that they decided were correct when they submitted it to the exam board. The head of centre made a declaration to confirm that the centre assessment grades it provided were the grades its students were most likely to have received if the exams had gone ahead.
- If you'd like an opportunity to improve your grade, you can choose to sit exams in the autumn, or in summer 2021, instead. If you have concerns about bias, discrimination or something else that suggests that your school or college did not behave with care or integrity when determining your centre assessment grade, see 'student guide to appeals, malpractice & maladministration complaints'."

**13. Deadline for appeal: 17 September 2020**

**14. More technically, appeals are covered by the Ofqual guidance: "Condition GQCov5 Appeals".**

a. **GQCov5.1** In respect of each result that it issues under Condition GQCov3.1, an awarding organisation must establish, maintain and comply with an appeals process which provides only for an appeal to the awarding organisation on the basis –

(a) that the awarding organisation did not apply procedures consistently or that procedures were not followed properly and fairly,

(b) that the awarding organisation used the wrong data in applying the process set out under Condition GQCov3.2(a)(i), and that a result generated by applying the process set out under Condition GQCov3.2(a)(i) was incorrectly issued by the awarding organisation in respect of one or more Learners

b. **GQCov5.2**

For the purposes of Condition GQCov5.1(b), 'the wrong data' –

(a) includes –

(i) incorrect data provided by a Centre under Condition GQCov3.2(a)(ii),

(ii) a data set other than that specified in the requirements published by Ofqual under Condition GQCov3.2(a)(i), including where the data sets in relation to two or more centres have been transposed, and

(iii) a data set specified in the requirements published by Ofqual under Condition GQCov3.2(a)(i) into which errors have been introduced by the awarding organisation, and

(b) does not include a data set specified in the requirements published by Ofqual under Condition GQCov3.2(a)(i) which contains errors or omissions that were not introduced by the awarding organisation.

15. Appeals on the basis of you being a high performing student (but this not being reflected in your standardised grades) therefore need to be on the basis that the use of a default data set would not be a reliable basis to calculate results for one or more of its high or low ability students in the 2020 cohort – those at the top or bottom of the rank order, for example. On that basis, if a centre/ school considers that the historical attainment data from the relevant previous cohorts is not a reliable basis for calculating a student's

results it can request an appeal with the relevant awarding organisation on that basis under *Condition GQCov5.1(b)*.

16. It will then be for each of the awarding organisations to decide whether or not any such appeal should be allowed. Under *Condition GQCov5.4(a)*, an awarding organisation may charge a fee for an appeal. This provision provides a power for awarding organisations rather than imposing an obligation.

17. As such, it will be for each awarding organisation to decide whether to charge for an appeal. We do not know yet whether all will do so, though the Education Secretary said that schools should not face a fee.

### Centres' duties to students/learners

18. Schools are also under duties to ensure that you are not left in the dark about your grades or how to appeal them:

- An awarding organisation must take all reasonable steps to ensure that a Centre has in place effective arrangements for a Learner to —
  - (a) apply to the Centre for it to request —
    - (i) information under *Condition GQCov4.1*, and (ii) an appeal on the Learner's behalf under *Condition GQCov5*, and,
    - (b) appeal any decision by the Centre that such a request should not be made, and for the Centre to determine that appeal.
- **GQCov6.2** For the purposes of this condition, an awarding organisation must take all reasonable steps to ensure that —
  - (a) the Centre makes Learners aware of the arrangements it has in place prior to the issue of results under *Condition GQCov3.1*, and
  - (b) the Centre provides Learners with a statement of the arrangements promptly when requested.

## Can I obtain information about what my teachers said about me?

19. Yes. Issue a “Subject Access Request”<sup>1</sup> to find out information to support you in pushing for an appeal about your grades. Young people can make requests themselves, though you may be asked by the school whether you want your parent/carer involved and that you understand what is involved with this request:

- a. Under the GDPR you have the right to request information about you and your performance. This may include the teacher assessment, written comments about the centre assessed grade (CAG) or rank order, records of past performance.
- b. You do not have the right to access information you have recorded yourself. This means that you cannot get copies of your answers from mock exams, assignments or assessments.
- c. As long as the results have been announced, the organisation (for example your school or college) must respond to your request within one month.

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<sup>1</sup> <https://ico.org.uk/global/data-protection-and-coronavirus-information-hub/exam-script-exemption-students/>



## PART TWO: GUIDANCE FOR SCHOOLS

20. Part 2 addresses various questions that schools and colleges might have today.

### A PUPIL'S RIGHTS TO ACCESS DATA AND TIPS ON DEALING WITH REQUESTS

#### **Centre Assessment Grades – are we obliged to provide them to students?**

21. Yes. Students can request personal information through a Subject Access Request. The Information Commissioner's Office has confirmed that such requests may include seeking:

- a. The teacher assessment;
- b. Written comments about the provisional grade and/or rank order;
- c. A record of a student's past performance.

As such, this information is liable to be disclosed.

22. Students do not have the right to access information that they have recorded themselves, for instance, copies of answers from mock exams or assessments.

23. Where a student makes a Subject Access Request, a school or college must provide the information within one month from the date of the request.

#### **Do students have the right to find out data about other students?**

24. No, students only have a right to access personal data that you as the school or college process where they are the data subject.

25. Students may consider making Freedom of Information Act requests in order to access information about pupil performance generally. Where such a request is made, you must respond to it within 20 days.

26. Schools or colleges are only obliged to provide recorded information that they hold, as opposed to any information you hold for a separate public body. There are some

circumstances in which information can be withheld however, none of these are likely to apply to a request for centre data.

### **Subject Access Requests (“SAR”) and Freedom of Information (“FOI”) requests will take up valuable time to deal with – any advice on this?**

27. Just because information can be provided by way of a SAR or FOI does not mean you must provide the information in that way. If you suspect that a large body of students are going to request the data, you could consider preparing template responses to save you time in the future.
28. Bear in mind the deadline to appeal grades (see below) is 17 September 2020 and therefore it is likely that students will not be content if institutions go over the statutory timescales for a response. This may attract a complaint to the Information Commissioner’s Office.
29. In relation to SARs, your database/ICIMS system may already allow you to narrow down results per student allowing you to easily identify the teacher assessment grade provided and a record of the student’s past performance.
30. Insofar as the rank ordering is concerned, there is nothing to stop a school or college providing a suitably redacted version of the entire rank list of the institution, leaving only the student’s name and rank number visible.
31. In relation to FOI requests, prepare an editable document containing key statistics as soon as possible. This can then be amended per request that comes in.
32. In relation to both SAR/FOI requests, prepare template covering letters.

### **Who can we speak to for further information?**

33. The key contact for information law queries is the Information Commissioner’s Office. It provides a number of invaluable guides on its website:

[www.ico.org.uk/for-organisations/](http://www.ico.org.uk/for-organisations/)

It can also be contacted by telephone – 0303 123 1113

## **B APPEALS**

**We have been asked by a student to submit an appeal on their behalf. What are the available options?**

34. Students cannot appeal their results themselves, they must go through their school or college.
35. There are three situations in which an appeal may be submitted.
- a. The institution may appeal to the exam board on behalf of a student where the school realises it made an administrative mistake in its processes;
  - b. The institution may appeal to the exam board on behalf of a student where the school believes the exam board has made a mistake when calculating, assigning or communicating grades;
  - c. The institution may appeal if it can evidence that its cohorts' grades are lower than expected because previous cohorts were not sufficiently representative of the current cohort.

**What about if we are not happy with the exam boards response to our appeal?**

36. Institutions can request that Ofqual's Exam Procedures Review Service reviews the decision.

**Can student's appeal against the centre assessment grades that we awarded?**

37. No.

**We have been asked by a student to appeal on their behalf but do not think there is merit in their appeal, must we comply with their request? What risks are there if we do not comply?**

38. Institutions are not obliged to submit an appeal simply because they are asked to do so. In light of the limited nature of the grounds of appeal, it is well within an institutions remit

and professional judgement to consider the merits of a potential appeal. Where the student's potential appeal is deemed to have insufficient merit institution an appeal can be refused.

39. Institutions should have a review process that students can utilise where their request for an appeal has been refused. This should allow an independent decision maker to consider the request for an appeal again and the way in which the initial request for an appeal was handled.
40. Regrettably, there is a risk of legal action following the review stage.
41. For those schools in the maintained sector, as public bodies, the risk of judicial review proceedings will inevitably be threatened. Where this happens, independent legal advice should be sought immediately as, due to strict timescales, it is likely that you will not have much time to respond to the threat.
42. Schools in the independent sector cannot be subject to a judicial review challenge however, may be threatened with applications for civil injunctions. Again, legal advice should be sought.

### **Where can I find out further information?**

43. Ofqual has helpfully published a table containing links to all the exam boards appeals information. A copy can be found at the following link:  
<https://www.gov.uk/government/publications/awarding-organisation-appeals-and-complaints-links>

## C COMPLAINTS / LITIGATION RISK

### Can students complain about their exam results?

44. As with all aspects of school life, students and their parents can complain. Below some potential grounds of challenge are set out as well as the potential response. It is worth bearing in mind that general complaints about the way Ofqual has determined grades were to be awarded this year, or how institutions were to make its professional judgments are a matter for challenge against Ofqual, not the institution.

*I have/my child has SEN and the institution breached the Equality Act 2010 by failing to put in place reasonable adjustments through the examination process.*

Ofqual was clear in its guidance to institutions that its centre assessment grades must have taken into account a pupil's likely achievement with their reasonable adjustment in place. Where this was done it should have been recorded by the institution when considering the provisional grade. As part of any subject access request, an institution should ensure that these notes are provided to aggrieved students. It would be for the student to demonstrate that an institution failed to record their provisional grade in line with their expected grade with reasonable adjustments. As long as there are accurate notes, schools may be able to protect themselves.

Similarly, where centre assessment grades have taken into account a disabled student's previous performance in examinations or from work where reasonable adjustments were granted, this will also help support a school's case.

*The institution was negligent, or otherwise failed to provide accurate information to the exam board in relation to my performance. It also failed to give good examples of my previous work to the exam board.*

Firstly, institutions did not have to send work to exam boards.

Secondly, as long as the school can demonstrate it provided accurate information from previous work, that should be enough. Students cannot seek to get around previous poor grades through this argument – schools should be able to demonstrate

with references to the relevant pieces of work if necessary, the reasoning behind the centre assessment grades provided.

*I and/or my family got Covid-19, had difficulty working through lockdown, or had other mitigating circumstances that need to be taken into account.*

As no physical examinations were taken mitigating circumstances do not come into consideration this academic year. Schools were obliged to consider how students would perform under normal conditions.

Similarly, Ofqual confirmed in its guidance to institutions that schools may not have a full picture of a student's capabilities, in which case judgments had to be made based on the evidence available.

### **Is there a risk of litigation?**

45. Unfortunately yes, even the most prudent institution cannot escape the risk.
46. For maintained schools, the likely challenges, alongside that set out above in respect of appeals, are claims in negligence for how centre assessment grades were awarded and claims of bias/breaches of the Equality Act 2010.
47. For independent schools the above apply plus there is the additional risk of a claim in breach of contract.

### **Is such litigation likely to be successful?**

48. This is an entirely fact dependent question and independent legal advice should be sought where litigation is threatened.
49. In relation to claims in negligence, as long as institutions have correctly followed Ofqual's advice, and kept accurate records of the same, it is questionable whether a student would be able to show a breach of your duty of care, bearing in mind that the standard of care you will have been required to comply with will likely be deemed to fall in line with Ofqual requirements for this year under the ongoing exceptional situation.

50. In relation to claims of breaches of the Equality Act 2010, students will almost certainly have to make a FOI request to try and secure evidence for such a claim. Any such requests that seek information regarding the makeup of results with reference to protected characteristics should be approached with caution and advice may need to be sought at that juncture. That said, it is unlikely that students will be able to demonstrate discrimination from such requests alone bearing in mind the limitations of what has to be provided.
51. In respect of a claim for breach of contract against an independent school, the first thing to note is that an independent school's contract, unless it has been exceptionally well drafted, is unlikely to have foreseen the present circumstances. Therefore students are likely to have to rely on the statutory implied terms of reasonable care and skill in bringing a claim. As with a maintained school defending a claim in negligence, as long as the institution has complied with the Ofqual guidance and made accurate recordings, then a student is unlikely to be able to demonstrate that the school failed to act with reasonable care and skill in determining its centre assessment grade.

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