

12 September 2020

Dear Mark

1. Two points if I may following this morning's Bar Council:
  - (1) Release of results
  - (2) Position of those who cannot take advantage of the October resits

**(1) Release of results**

2. As I said I would this morning at the Bar Council meeting, I wanted to have another chance to ask that results of the August sittings be released as soon as they are available, in the hope they can be available before students take October resits, and perhaps even before they have to decide whether to take October resits (which they must do by 21 September).
3. The advantages of doing so seem to be obvious:
  - 3.1. some students will be uncertain of the extent to which the well-publicised technical difficulties have adversely affected their results. It is only fair that, if the information can be made available, they know whether and to what extent the technical difficulties have compromised them;
  - 3.2. making the information available is likely to reduce the extent to which people wish to resit – saving money, sparing resources and relieving anxiety in what is, for some, an acutely stressful situation.
4. You suggested that making results available before the resits take place is contrary to normal policy and practice.

5. As to that:
  - 5.1. this is not a normal case: here we have a large number of students who, through no fault of their own, have been unfairly compromised in demonstrating their competence by way of the assessments;
  - 5.2. as a result they have to decide whether to reorganise their schedules and take time out to take the October resits;
  - 5.3. in this case there is therefore no proper justification for concealing from them results which are in fact already available.
6. I cannot see anything in the BPTC Handbook which would preclude releasing marks as soon as they are available. The Handbook does say (on page 41) that students may not retake assessments for the sole purpose of improving a mark which is already at or above the pass level, unless there is a substantiated case of extenuating circumstances; but you have already, quite rightly, decided that all students resitting in October will not be subject to that constraint; and so you have already acknowledged that these are atypical circumstances. In any event this wording does not on its face prohibit release of results; and there clearly are extenuating circumstances
7. Finally on this point, I understand that last year, following a problem with the April 2019 BPP ethics exam, a special resit was provided by BPP and the BSB approved BPP's decision to release the results before students had to choose whether to resit in August 2019 as a first sit. Precedent would therefore seem to support prompt release of the results.

**(2) Position of those who cannot take advantage of the October resits**

8. We raised this point before you made your announcement, but I would like to revert to it now we know exactly what is intended.
9. There may be some students who for perfectly valid reasons both (a) were unfairly compromised in August and (2) *cannot* for good reason take advantage of the (perforce) hastily scheduled October resits.
10. The reasons for (2) might for instance include (a) that people have unavoidable work or caring commitments (which may disproportionately affect female students) (b) religious grounds.

11. The Public Sector Equality Duty applies to all protected characteristics under the Equality Act 2010, including sex and religion or belief. The BSB therefore has a duty to promote equality which goes further than avoiding discrimination. An assessment should be carried out to discern the impact of your proposed measures. The suggestions made here will undoubtedly go some way towards ameliorating any discrimination.
12. I continue to believe that people who for good reasons cannot take advantage of the October retakes should, if they were unfairly compromised in August, be treated, when they retake in December, in the same way as those who can take advantage of the October resits.
13. This may or may not turn out to be a small group of students in terms of numbers, but it seems to me that they deserve, and indeed are entitled to, fair and equitable treatment.

I very much hope you and the Board can revisit these two specific issues as soon as possible. I will be in chambers next week if it would be helpful to speak.

Best wishes,

Nick Vineall

Chair of the Bar Council E&T Committee