

# Non-Examinable Content: Student access to exam scripts

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## Foreword

Within higher education, there is much discourse around assessment. Central tenants to this conversation are those of assessment of learning, assessment for learning, and assessment as learning. Assessment of learning is clear, we utilise assessments to determine the students have mastered the content being assessed. Assessment for learning is about creating feedback to improve students' performance. Assessment as learning focusses on encouraging students to have agency and take control of their learning by evaluating their own progress. Enabling students to benefit from assessment as learning, and assessment for learning, needs careful consideration. Arguably, allowing students to access their examination scripts for revision, consolidation, and reflection may be one way in which this could be enacted. There are of course pros and cons to such, but for assessment to be seen as developmental and not as a hurdle or punitive measure, clear policy and a unified direction of travel in the sector is required. This report starts what is a hugely important conversation within the sector.

Professor Gabrielle Finn, Associate Vice President Teaching, Learning and Students, University of Manchester

## Executive summary

We gathered data on the approaches adopted by all 140 full members of Universities UK (UUK) regarding student access to marked exam scripts and interviewed five senior members of university staff about their institutions' policies. Our central findings are:

- **Restrictive access policies harm individual students and their institutions** by reducing students' opportunities to learn from past work and undermining confidence in the exam system. Without access to their scripts, students have no way to reflect on their performance in timed, closed-book assessments, or to understand how grade descriptors or rubrics were applied to their work. Increasing access would help address these problems, even in cases where examiners do not leave detailed comments for candidates.
- **GCSE and A Level exam boards are further ahead of universities in offering access to scripts** and offer a good example of how transparency can be increased at an institutional level alongside other assessment modernisation efforts. Senior leaders at exam boards are emphatic that increasing their openness has been positive for learners, teachers and their organisations.

- **Barely over half of universities (52%) have a published policy on students' access to exam scripts.\*** This figure is much higher among Russell Group universities, with just over three-quarters (79%) having a public policy. Even among universities with a published policy, the level of centralisation differs substantially, with universities evenly split between those which set a single institution-wide policy (53%) and those that leave the decision about whether or how to facilitate access up to exam schools and faculties (47%).
- **Policies vary significantly between universities.** The most common approach from universities with a published policy is to give all students the right to view their script under controlled conditions but to prohibit them from making any copies. However, this arrangement is in place at only one-in-six institutions (17%), demonstrating substantial heterogeneity.
- **Concerns around the additional administrative burden, benefit for students and impacts on maintaining academic integrity** are the main reasons that universities are reluctant to allow students to view or take copies of their exam scripts.
- **These concerns about increasing access can be mitigated by the use of technology.** The move towards online exams and continuous formative assessments is prompting universities to re-evaluate their policies, as well as making it both easier and more important to facilitate student access to scripts. Modern assessment technologies can be used to make scripts automatically available to students, and also to reduce friction for examiners leaving constructive comments on student work.

Based on these findings and drawing on best practice from across the wider education sector, we recommend:

1. **All universities should publish a policy outlining their approach to student access to exam scripts,** with input from individual exam schools and faculties. While the policy need not be prescriptive and may leave discretion to schools as appropriate, it should set out clear principles around feedback and exam access that department-level policies are implemented in line with.
2. **The default position should be that students are able to view, make copies of and share their scripts,** with the minimal restrictions necessary imposed in exceptional cases where permitting full access would incur excessive costs (whether administrative or through risks to academic integrity). Students should be able to exercise these rights for a period of at least six months after each assessment period, though the process of providing access should be done automatically where possible (see next recommendation).
3. **As part of any assessment modernisation projects, universities should consider adopting technologies that help automate giving candidates access to scripts.** In particular, many providers of online examination software offer a feature where students can automatically view their script with or without feedback after marking, which would eliminate the administrative burden of providing exam script access.
4. **The Information Commissioner's Office and the Office for Students should make clear that there are no data protection or records retention regulations which prevent universities from giving students full access to their marked exam scripts.** While universities do not have an obligation to provide this access, the current guidance can be confusing and give the false impression that they are prohibited from doing so. Clarifying this guidance will help encourage universities to follow best practices of transparency and openness without undue concerns about other regulatory duties.

## Introduction and methodology

Assessment practice in higher education has undergone significant changes in recent years, with COVID-19 forcing universities to adopt a digital-first approach during the temporary disruption and

\* From this and all subsequent analyses, we exclude the 10 members of UUK who confirmed that they either do not run written examinations or run them in only one single subject area: Falmouth University; Glasgow School of Art; Guildhall School of Music and Drama; Norwich University of the Arts; Royal College of Art; Royal College of Music; Royal Central School of Speech & Drama; Trinity Laban Conservatoire of Music and Dance; University for the Creative Arts; and University of the Arts London.

prompting wider reflection on the merits of traditional closed-book examinations as opposed to more modern formats.<sup>1</sup> Students and the public expect a lot from assessment: the outcry and subsequent u-turn over Ofqual's GCSE and A Level results algorithm in 2021 underlined the importance of transparency for confidence in any exam system; in the higher education sector, respondents to the annual *Student Academic Experience Survey* produced by HEPI and Advance HE consistently report they want more detailed and constructive feedback on their marked work.<sup>2</sup>

End-of-course assessments are, alongside teaching and research, a core part of what universities do. Their administration consumes a huge amount of effort and resources and, for students, these final exams are the culmination of several years of learning and feedback. Yet despite the centrality of exam scripts to the whole process of assessment, there has so far been no comprehensive study of the approaches taken by different universities towards student access to scripts.

This report explains the historical and regulatory context surrounding access to scripts, analyses newly gathered data on universities' current approaches, explores the reasons why the status quo is as it is and makes recommendations based on best practices from across the education sector.

We collated the data presented below by searching the internet for published policies from each of the 140 Universities UK member institutions and then making Freedom of Information (FOI) requests to cross-check all our findings, with 130 institutions (93%) responding. We also conducted semi-structured interviews with five senior members of staff at a range of UK universities, as well as with senior leaders at two major Ofqual-regulated UK awarding bodies.

## Historical and regulatory context

In general, UK data protection laws mean that individuals have the right to get a copy of personal information held about them through a Subject Access Request (SAR).<sup>\*\*</sup> Universities are subject to these regulations, so one might think that students could simply make a SAR to access their exam scripts. However, examinations are one of a few areas with a partial exemption for disclosure under the SAR regime. The UK's first piece of legislation on this subject, the Data Protection Act (1984), made provisions to prevent candidates from accessing exam marks before they had been publicly announced, but it was only in the Data Protection Act (1998) that a further exemption was introduced for 'information recorded by candidates during an ... examination.'<sup>3</sup> These two exemptions were both replicated in the Data Protection Act (2018), the most recent piece of data protection legislation.<sup>4</sup> As a result, universities have no obligation to provide copies of students' exam scripts on request.

It is not entirely clear why the second exemption was introduced: the Explanatory Notes for the 2018 Act mention only the exemption for exam marks and there are no entries in the Parliamentary record about access to scripts for either the 1998 or 2018 bills.<sup>5</sup> The measures may have been prompted by responses to a Home Office consultation held in 1996, but unfortunately the relevant archives were recently destroyed.<sup>6</sup>

The only official explanation for these provisions can be found in a 2020 document prepared by the Government as part of negotiations with the EU about continuing free flows of data post-Brexit, which suggests the justification is more to do with professional examinations than ones done in an educational institution:

*[T]he provision aims to protect the integrity of exams by ensuring that exam scripts cannot be accessed outside established processes. This is necessary to protect the confidentiality of the questions so that awarding organisations can re-use questions ... and conduct multiple assessments in the year, which is crucial for many professions.<sup>7</sup>*

Counterintuitively, examiners' comments are not exempted from the SAR regime and must be disclosed – it is only information recorded by the candidate themselves which is exempt. This situation is at odds with a 2017 ruling in the European Court of Justice which concluded that since the content of a candidate's

<sup>\*\*</sup> With thanks to Dennis Farrington, co-author of *The Law of Higher Education*, and Edward Hicks, Second Clerk in the House of Commons, for their expert assistance informing this section.

answers in an assessment 'reflects the extent of [their] knowledge and competence in a given field', both an examiner's comments and the script itself qualify as personal information.<sup>8</sup>

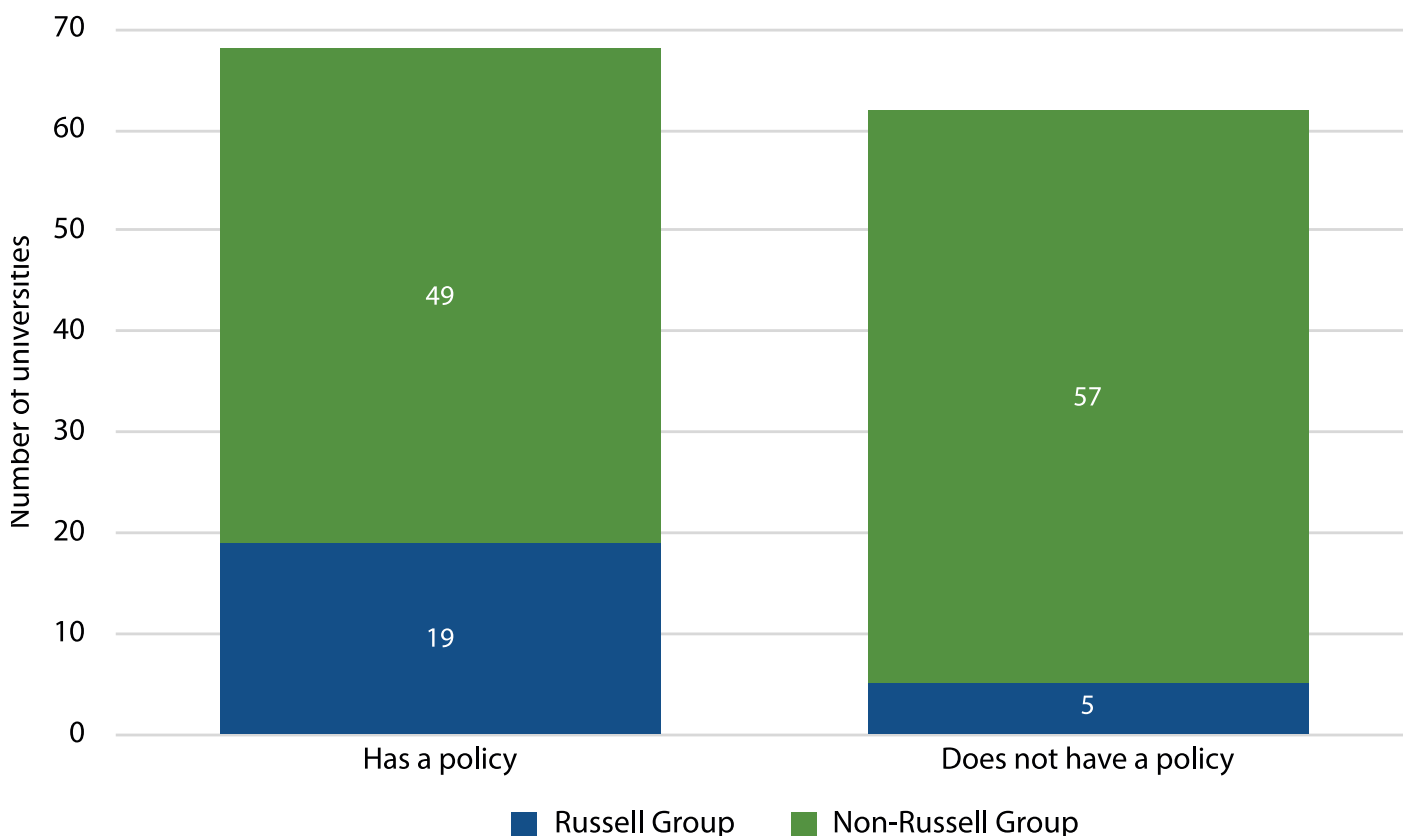
In England, the regulation of GCSE and A Level exam boards provides an interesting point of comparison for higher education. As part of their accreditation by Ofqual, these awarding organisations must provide access to marked scripts and accept requests for a review of marking.<sup>9</sup> The regulatory regime for universities is very different: students have no recourse to challenge the academic judgement of examiners.<sup>10</sup> This is useful background in understanding why university policies can be substantially more restrictive than those of other awarding bodies. Indeed, universities that do allow students access to their scripts often emphasise heavily that the purpose of the activity is to enable students to gain feedback, and 'not ... to challenge the marks awarded'.<sup>11</sup>

The changes to legislation and assessment practice over time has led to a potentially confusing patchwork of regulations for universities. Some institutions' responses to our FOI requests indicated they believed there were regulations expressly prohibiting them from providing access to scripts, even though this is not the case. In particular, mention was made of Office for Students rules requiring the retention of exam records for five years and student-facing guidance from the Information Commissioner's Office stating that 'you can't get copies of your answers from mock exams, written assignments or assessments'.<sup>12</sup>

### The current picture in UK universities

Only a narrow majority of universities (52%) have a published policy on students' access to exam scripts. This figure is much higher among Russell Group universities, with nearly four-fifths (79%) having a public policy.

Figure 1: Only a narrow majority of universities have a policy on student access to exam scripts



Even among universities with a published policy, the level of centralisation differs substantially, with universities evenly split between those which set a single institution-wide policy (53%) and those which leave the decision about whether or how to facilitate access up to exam schools and faculties (47%). Most institutions were unable to provide information on what policies were in place at a school level, but from those that did, internal practice varied significantly.

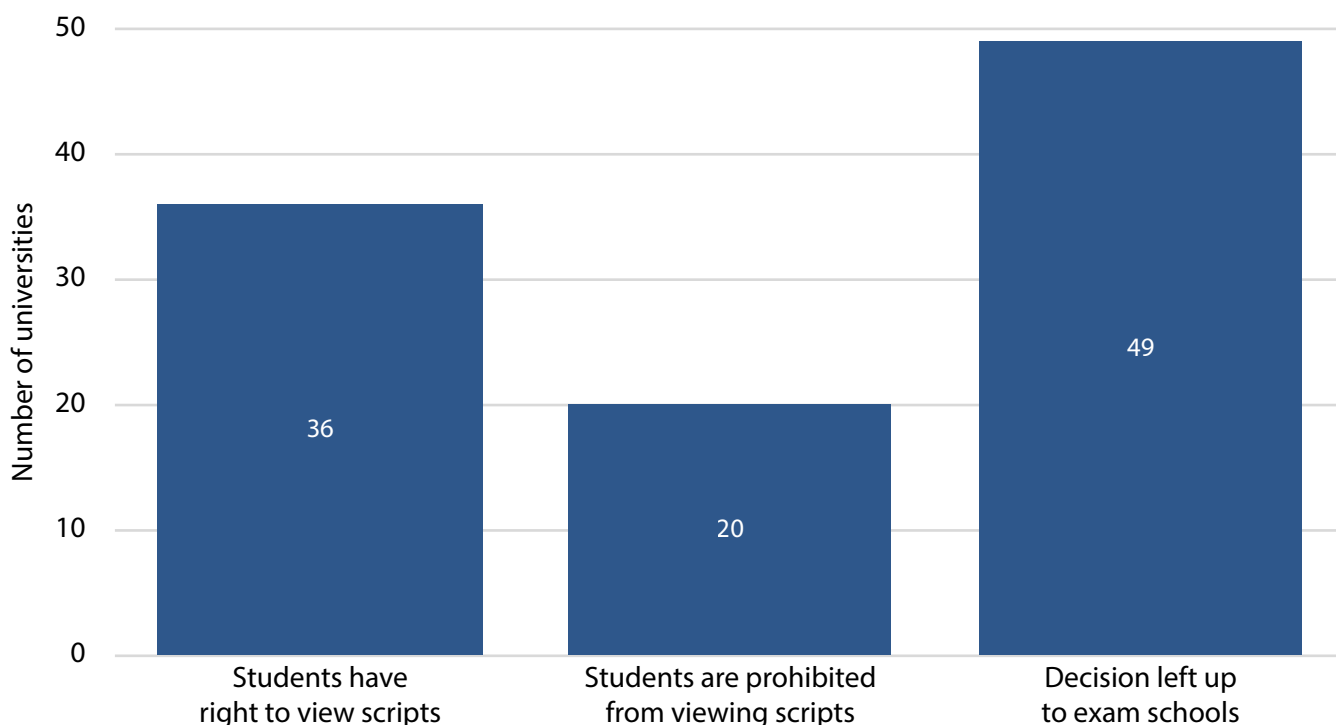
For example, at the University of Buckingham:

- students in the Faculty of Computing, Law and Psychology have full access to download their marked scripts from Moodle;
- students in the Faculty of Business, Humanities and Social Sciences can view their handwritten marked papers under staff supervision; and
- students in the Faculty of Medicine and Health Sciences are not permitted to access their scripts at all.

There is also substantial fragmentation in how universities with institution-wide policies deal with the issue. While the most common approach is to give all students the right to view their script under controlled conditions only, some institutions allow students to make copies of their scripts for personal use or to share with others.

Of the 105 institutions whose practice on exam script access we were able to establish (either through a published policy or from a response to our FOI request), only 36 (34%) give students the right to view their marked scripts, with 20 (19%) expressly prohibiting students from viewing scripts. The remainder 49 (47%) leave the decision up to exam schools and faculties, sometimes with an overall policy encouraging or discouraging the provision of access.

*Figure 2: Practice varies widely between universities even in terms of students' ability to view their marked scripts*



There are just eight universities (8%) that give students the right to make copies of these scripts for their own private use, of which four permit students to share their scripts with others (information was not available for the other four).

### **Why do universities not provide access to scripts?**

In our interviews with senior university staff, four explanations emerged for why many institutions do not permit students to access their scripts:

- i) the belief that students would not benefit from viewing scripts, given that resource constraints prevent examiners from leaving detailed comments;
- ii) a lack of infrastructure to facilitate students' access to scripts without incurring large administrative costs;

- iii) concerns about maintaining the security of the exam process; and
- iv) a tendency for university policies to be anchored to historic practice.

*i) Perceived non-usefulness of access to scripts for students*

Comments on marked exam scripts are often brief and written with the moderation process in mind, rather than as something for students to read. Coupled with the fact that exams traditionally happen at the end of a student's course, this led to the view that providing access to scripts would not always be an educationally valuable exercise:

*It was never seen that the students would be looking at the exam script and so [annotation on it] was to justify the mark to the external examiners ... As such, the thinking was that 'well, that's not going to be useful to an individual [student] looking at it'. Richard Sandford, Head of Quality Assurance and Policy at University of Reading*

*Quite often exams are end-piece and so giving feedback on them can be quite tricky ... [As a student] you just want to put the last full stop down and never see your exam script again. Harriet Dunbar-Morris, Professor of Higher Education, Pro Vice-Chancellor Academic and Provost at University of Buckingham*

Although exam markers could be asked to provide more detailed comments, this would increase the costs associated with assessment:

*If staff are giving the level of feedback that we'd expect them to provide on an essay or other piece of coursework across a set of exam scripts, that becomes a labour-intensive activity. Richard Sandford, University of Reading*

Others suggested that, with the appropriate support in place, exam markers could provide helpful comments for students without spending appreciably more time on each script:

*Staff indicated they sometimes feel intimidated by a blank box of 'Please give feedback' ... We need to do more as higher education providers in terms of how we provide them with a supportive scaffold that allows them to give really high-quality feedback. Jennifer Hallam, Professor of Assessment and Educational Advancement & Vice Dean for Teaching, Learning and Student Experience at the University of Manchester*

*We do work closely with our Quality Enhancement Directorate to make sure that the sort of stuff that is put on the exam scripts, you would stand by it, there's nothing you wouldn't say to a student's face when you're marking it. Registrar at a post-1992 university*

*What's very handy when you use the online software [like Moodle] is that you can set up your bank of comments of the sorts of things that you're looking for, as we do with other feedback, and then you can be really consistent. Harriet Dunbar-Morris, University of Buckingham*

There was also a concern that having access to scripts could be actively detrimental to students if it reinforced their disappointment about results at a time when they were outside the university and thus without access to wellbeing support services:

*Perhaps it would lead to further anxiety and confusion rather than the clarity that they're seeking and the ability to focus on improving their work. Richard Sandford, University of Reading*

*ii) Administrative costs*

Apart from the resources required for examiners to leave detailed comments on scripts, there were also concerns about the administrative burden that providing access might involve. When exams are handwritten, retrieving paper scripts and making copies of them to share must be done manually for each student. Even if exams have already been scanned for on-screen marking (or were sat online), there may not be an automated process in place to allow for scripts to be returned to students on request:

*If you have a module with 500 students on it who all request their exam script like that, that is an administrative burden. Registrar at a post-1992 university*

However, the transition to typed exams or other online assessment software offers an opportunity to provide access automatically:

*We're just in the process of organising [on-campus online exams] and being able to pilot it come the autumn ... as I understand it, we'll be able to download any script from the software.* Harriet Dunbar-Morris, University of Buckingham

*Utilising that digital technology allows us to have more openness and transparency with the process ... it's a higher volume of requests in a simpler fashion. If we can do it in a more streamlined way then that's a win for everybody.* Jennifer Hallam, University of Manchester

In addition, because the Subject Access Request (SAR) exam exemption does not extend to markers' comments, universities already dedicate administrative resources to sharing personal information from assessments with students. The University of Oxford, for example, has received over 1,000 SARs relating to exams annually since 2021. When responding to these requests, staff in the Information Compliance team transcribe any comments on the script and provide these to the student in tabulated form without any of their work on which the examiner was commenting. Not only does removing all context from these comments make it near-impossible for students to learn from them, it also almost certainly takes longer than simply scanning the script and sending it to the student would.

While the University of Oxford's approach may be an unusually time-consuming one, every university already must have the capacity to process exam-related SARs if they receive them, meaning that any additional costs of allowing students full access to their scripts are likely to be small. Moreover, the move towards computer-based exams already underway at many institutions will help to further minimise these administrative costs by removing the need for manual retrieval of paper scripts.

### *iii) Security of the exam process*

As noted earlier, several universities allow students to view but not make copies of their scripts, or to make copies only for their private use. One explanation for this approach was that it helps maintain the security of the exam process:

*You don't want to give people an opportunity to by mistake start off with a little bit of potential academic misconduct [by plagiarising other students' exam scripts].* Harriet Dunbar-Morris, University of Buckingham

While these are important considerations, an appropriate balance must be struck between academic integrity and transparency about exams. Many of the universities which restrict the sharing of exam scripts make past papers available to students and write new sets of questions each year, mitigating the risk that the sharing of exam scripts would create new vehicles for academic misconduct. Moreover, in an era where generative artificial intelligence can produce high-quality answers to many undergraduate-level essay questions, assessments are increasingly moving to formats which are resistant to plagiarism, be it of work written by other students or large language models.<sup>13</sup> This weakens the case for restricting student access to their own scripts from an academic integrity perspective.

### *iv) Institutional inertia*

Every interviewee identified institutional inertia as a major factor in why many universities do not allow students to access their scripts. Specifically, there was a common feeling that attitudes to and practices around assessment have been anchored heavily in the past, with universities instinctively nervous about increasing the openness of the process:

*I think it comes from a very historical view and traditional view of what assessment is and what it's for.* Jennifer Hallam, University of Manchester

*We've all been on a journey and what's happened is both staff and students have become more literate in terms of assessment for learning and giving feedback. And so then people have said, 'Well, we give feedback to everything else, so we ought to give feedback for exams.'* Harriet Dunbar-Morris, University of Buckingham

*You've got universities who still perhaps need to move on a little bit from 'This is what we do and this is the way we've always done it; we're not changing'. Registrar at a post-1992 university*

Interviewees also highlighted that policies were now being reviewed and modernised, or had been recently:

*That change of culture where we perhaps do provide more feedback on exam scripts might be easier to effect now rather than almost 10 years ago when we first considered the issue. So I think this research is probably very timely for us and may well prompt some important discussions in the institution. Richard Sandford, University of Reading*

*I think it's particularly since around 2020 [that] there's been more of a push for increased transparency in this area ... I think it came around from a student-request perspective in terms of wanting more transparency and the university was incredibly responsive to that. Jennifer Hallam, University of Manchester*

## **What are the problems caused by a lack of access to scripts?**

Restrictive exam-access policies have negative impacts for individuals and institutions: they reduce students' ability to gain feedback and learn, and they undermine confidence in the assessment system.

### *Reducing opportunities for learning and feedback*

As it becomes more common for students to have assessments throughout their course rather than as a single set of terminal exams, access to previous scripts for feedback and development is increasingly important:

*Assessments need to be progressive in terms of supporting your learning, it can't be a single point where it's unknown with no transparency. From my perspective it's about using assessment to prepare for learning, to move into employment ... seeing it more as a core part of learning rather than something that comes after learning. Jennifer Hallam, University of Manchester*

In some cases – and especially on courses which only have a single set of exams – the costs of providing personalised feedback on scripts will still outweigh the benefits. Even then though, students would still benefit from being able to view their own work alongside generic examiners' reports or cohort-wide comments. For exams taken under closed-book conditions, sharing scripts with peers in other years can also aid students' understanding of how mark schemes are applied in practice:

*If people are reading those [past] essays, those scripts, and it's enhancing their understanding so they're able to critically evaluate the work that somebody else has done, then that can serve a purpose. Richard Sandford, University of Reading*

### *Undermining confidence in the assessment system*

For students and the wider public to have faith in universities' grading, the process must be fair and be seen to be fair. A culture of secrecy and low transparency around exams undermines all students' confidence in the system – although only some candidates will have questions or doubts about why they received the grades they did, this is enough to create a wider perception of marking as an unreliable black box:

*If students don't trust us that we are doing things openly, transparently ... that impacts their confidence, it impacts their ability to advocate for their own learning. So we as universities have a real responsibility to make sure students feel able to understand what is happening within their learning. Jennifer Hallam, University of Manchester*

*You recognise that students – if they're concerned – will want to know whether they've been treated unfairly and check how things have been marked. Richard Sandford, University of Reading*

Interviewees emphasised how allowing students easy access to their scripts helps provide them with valuable reassurance that the process is working as expected:

*Ensuring transparency is key and that seems to me to be the main argument for providing access on a standard basis. Richard Sandford, University of Reading*



*Students have shared previously that they are sometimes reluctant to request [their scripts] because they're required to navigate several different processes to be able to get to where they need to be – it sometimes involves defending why they want to have this information, which really should not be part of the process. It should be completely open and transparent. Jennifer Hallam, University of Manchester*

The lack of established policies about access to scripts also creates issues around student confidence. Students may be permitted to access their scripts for modules taken within one department but not another, or able to download their submissions for typed exams but prohibited from viewing handwritten scripts. Agreeing on principles of openness and transparency at the university level would go some way to addressing this, as well as avoiding a situation where students become aware that their department does not permit access only at the point when they are requesting to see their scripts.

### **Case study: GCSE and A Level exam boards**

UK students in particular may enter higher education with the expectation that they are allowed to access their scripts as a matter of course, because of their experiences in secondary education. Although students have had the ability to request scripts since the turn of the millennium, free online access to scripts is a relatively recent development which started with Pearson in 2017 and is now in place at all four exam boards for GCSE and A Levels in England.<sup>14</sup> We spoke to senior staff at AQA and Pearson to understand how awarding organisations can manage the challenges associated with offering greater access to scripts, and maximise the benefits of such a move.

One sentiment that came through clearly from the interviews was that there is a huge amount of demand for the access-to-scripts service. AQA has received over one million requests for the 2024 exam series, with the service's popularity growing year-on-year as awareness has risen. Claire Thomson, AQA Executive Director of Regulation and Compliance, said that the uptake from exam centres has been so high that she 'can't imagine a world where we would ever want to discontinue the service'.

Both interviewees highlighted how the ability to review marked scripts created learning and development opportunities for teachers and students:

*I think it's a really important service because of the transparency helping students and teachers understand how they're doing, what progression might look like, where there are areas to work on. An exam is one point in time, but if you've got useful information to move on with then of course you should have it. Hayley White, Vice President of Assessments, Standards and Services at Pearson (the parent company of Edexcel)*

*The value we see in the service is about that visibility and transparency of marking, and enabling students and teachers to understand where marks have been awarded or lost, where there are opportunities to have done better ... If they're going on to study further, they can see their strengths and areas for development. Claire Thomson, AQA*

They also pointed to the importance of transparency for public confidence and as a way to encourage continuous improvement in their marking procedures and reliability:

*Historically, when we first introduced the service and in those early years, people were nervous about the level of transparency and worried about what errors might be found or anything else lurking in there ... but we've got a lot better at the whole marking system that we're now confident in making that transparent to people. Claire Thomson, AQA*

*Ultimately, I think that we all benefit from great transparency and understanding – demystifying what's being asked, the standard of responses, and how that translates to outcomes. Again, that being a tightly guarded secret doesn't benefit anybody. Hayley White, Pearson*

It was also emphasised how investment in technology enabled script access to be provided for free in an economically viable way:

*Having digital images, having the ability to make them available via the platform, and our commitment to transparency, that's what made this possible. Hayley White, Pearson*

*I think it would be good if universities have the confidence to open up their black box of marking and show people what goes on there ... but I wouldn't underestimate, it takes a lot of infrastructure to make that happen.* Claire Thomson, AQA

The example of GCSE and A Level exam boards demonstrates that when implemented hand-in-hand with other assessment modernisation projects, increasing student access to scripts can be done without significant additional cost and brings benefits to both learners and awarding institutions.

## Conclusions and recommendations

Five key conclusions emerge from our quantitative and qualitative research:

- 1) There is an uneven approach taken towards student access to scripts, with substantial variation both between and within universities. Many universities do not have policies on the matter. Even at those which do, practice often differs between exam boards and formats.
- 2) Historic inertia is one contributor to why certain universities do not offer access to scripts, alongside concerns about resource demands and balancing the usefulness of access for students with exam security.
- 3) Technological developments are creating opportunities to reduce the administrative costs of facilitating access to scripts, and the shift towards more continuous assessment increases the importance of students getting effective feedback from their previous exams.
- 4) Some universities already ensure that students are able to view and make copies of their scripts, with systems in place to streamline this process. These institutions see benefits for students' ability to learn from past performance, and better awareness of what to aim for in exams. Even in cases where scripts are not heavily annotated with feedback, providing access helps increase transparency and confidence in the exam system.
- 5) GCSE and A Level awarding bodies offer a good example of how access to scripts can be introduced at an institutional level alongside other assessment modernisation efforts. They also show there is substantial demand for access to scripts, albeit in a slightly different regulatory context where students are able to request reviews of marking.

Based on these findings, we recommend:

- 1. All universities should publish a policy outlining their approach to student access to exam scripts**, with input from individual exam schools and faculties. While the policy need not be prescriptive and may leave discretion to schools as appropriate, it should set out clear principles around feedback and exam access that department-level policies are implemented in line with.
- 2. The default position should be that students are able to view, make copies of and share their scripts**, with the minimal restrictions necessary imposed only in exceptional cases, where permitting full access would incur excessive costs (whether administrative or through risks to academic integrity). Students should be able to exercise these rights for a period of at least six months after each assessment period, though the process of providing access should be done automatically where possible (see next recommendation).
- 3. As part of any assessment modernisation projects, universities should consider adopting technologies that help automate giving candidates access to scripts.** In particular, many providers of online examination software offer a feature where students can automatically view their script with or without feedback after marking, which would eliminate the administrative burden of providing exam script access.
- 4. The Information Commissioner's Office and the Office for Students should make clear that there are no data protection or records retention regulations which prevent universities from giving students full access to their marked exam scripts.** While universities do not have an obligation to provide this access, the current guidance can be confusing and give the false impression that they are prohibited from doing so. Clarifying this guidance will help encourage universities to follow best practices of transparency and openness without undue concerns about other regulatory duties.

Implementing these recommendations would help universities to make the most of exams as a learning opportunity for students, improve transparency and student confidence in the exam system and also help universities move away from administratively time-consuming manual processing of exam-related Subject Access Requests (SARs).

## Endnotes

- 1 Patrick Baughan (ed.), *Assessment and Feedback in a Post-Pandemic Era: A Time for Learning and Inclusion*, Advance HE, July 2021 <https://www.advance-he.ac.uk/news-and-views/assessment-and-feedback-post-pandemic-era-time-learning-and-inclusion>; Debbie McVitty and Mark Andrews, *Changing assessment*, Wonkhe / Adobe, January 2022 <https://wonkhe.com/wp-content/wonkhe-uploads/2022/01/Changing-assessment-Wonkhe-Adobe-Jan-2022.pdf>
- 2 Jonathan Neves et al, HEPI / *Advance HE Student Academic Experience Survey 2024*, June 2024, pp.30-31 <https://www.hepi.ac.uk/2024/06/13/student-academic-experience-survey-2024/>; Anthony Kelly, 'A tale of two algorithms: The appeal and repeal of calculated grades systems in England and Ireland in 2020', *British Educational Research Journal*, Volume 47, Issue 3, February 2021, pp.725-741 <https://bera-journals.onlinelibrary.wiley.com/doi/10.1002/berj.3705>
- 3 Data Protection Act 1984, Part IV, Section 35 <https://www.legislation.gov.uk/ukpga/1984/35/enacted>; Data Protection Act 1998, Schedule 7, Paragraphs 8-9 <https://www.legislation.gov.uk/ukpga/1998/29/schedule/7/enacted>
- 4 Data Protection Act 2018, Schedule 2, Part 4, Paragraph 25 <https://www.legislation.gov.uk/ukpga/2018/12/schedule/2/part/4>
- 5 Explanatory Notes — Data Protection Act 2018, Paragraph 609
- 6 'Consultation Paper on the EC Data Protection Directive', Home Office, March 1996. (cited in House of Commons Library Research Paper 98/48, 'The Data Protection Bill [HL]: Bill 158 of 1997-98', 17 April 1998). See also Command Paper Cm 3725 outlining the Government's initial proposals, which included an exemption for scripts. FOI requests to the Home Office and Ministry of Justice established that the consultation responses were destroyed in 2019.
- 7 Department for Science, Innovation and Technology and Department for Digital, Culture, Media & Sport, 'Explanatory Framework for Adequacy Discussions', Section E3: Schedule 2, p.28. There are also two blog posts written during the 2020 Ofqual algorithm controversy which explore these legal issues in more depth: Jon Baines, 'Why does the UK stop students accessing their mock exam and assignments data?' Information Rights and Wrongs, 15 August 2020; Chris Pounder, 'Exam results: no automated decision, no transparency, no right of access and perhaps no adequacy', Hawkstalk, 18 August 2020.
- 8 Judgment of the Court (Second Chamber) of 20 December 2017, *Peter Nowak v Data Protection Commissioner*, Case C-434/16, ECLI:EU:C:2017:994.
- 9 Ofqual, 'Ofqual delivery report 2023', 14 December 2023 <https://www.gov.uk/government/publications/ofqual-delivery-report-2023/ofqual-delivery-report-2023>
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