

***Winning the progression lottery
owes more to luck than
academic judgement.***

**Consequences for students of
regulatory variation in the UKHE
sector.**



Acknowledgement

The authors would like to thank those colleagues in nine universities (all anonymous) whose generous contribution of data, expertise and time was instrumental in facilitating this research. The NUCCAT Board and SACWG have provided consistent support for, also critical engagement with, this initiative over two years. Particular thanks are due to David Lewis whose detailed comments on the first draft of this report helped us over the line.

Winning the progression lottery owes more to luck than academic judgement: consequences for students of regulatory variation in the UKHE sector.

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Introduction

*'Institutions have idiosyncratic rules for retention...'*¹

Although Tafreschi and Thiemann were writing about the Swiss experience, their words could refer to the regulations that govern students' progression between levels or from year to year in UK universities. Consideration of the consequences for students of the variations that follow from these idiosyncrasies forms the core of this report.

The Northern Universities Consortium² (NUCCAT), in collaboration with the Student Assessment and Classification Working Group³ (SACWG), has sponsored a research project on the re-assessment outcomes of students in nine universities. The first phase of that research culminated in the publication of the report, *To what extent do re-assessment, compensation and trailing support student success?*⁴. The present report, by the same authors, concludes the second phase of the project and in doing so:

- Explores the different ways in which institutions manage students who fail at least one Level 4 module.
- Establishes a new typology of academic regulations.
- Illustrates the impact on students of the different retrieval mechanisms and the various regulatory regimes.
- Questions the extent to which the variations in assessment regulations can be considered to be just and fair to some and/or all students.

This research is rooted in the principle that assessment regulations should promote and embed fairness and equity. Is it acceptable that serendipitous choices by students over what and where to study will enhance or impede their chances to progress following initial failure? Is academic progression, therefore, little more than a lottery in which the rules may be obscured from the players? Or should we create frame

¹ Tafreschi, Darjusch and Petra Thiemann. 2016. "Doing It Twice, Getting It Right? The Effects of Grade Retention and Course Repetition in Higher Education." *Economics of Education Review* 55: 198-219. doi: 10.1016/j.econedurev.2016.10.003.

² The Northern Universities Consortium (NUCCAT) 'provides a forum for higher education practitioners with an interest in the design, implementation and regulation of credit-based curriculum and its implications for the student experience and progression, reflecting the changing dynamics of the sector' (<http://www.nuc.ac.uk/>).

³ The Student and Assessment Classification Working Group (SACWG), formed in 1994, is composed of academics and administrators who have a professional and personal interest in assessment.

⁴ Turnbull, Wayne and Harvey Woolf. 2016. *To what extent do re-assessment, compensation and trailing support student success? The first report of the NUCCAT-SACWG Project on the honours degree outcomes of students progressing after initial failure at Level 4.*

works that promote both fair and equitable assessment outcomes by recasting regulations to remove ambiguity, inconsistency and (often unfettered) discretion?

Regulations do not, of course, exist in a vacuum, nor do they have any agency. As we have argued elsewhere⁵, assessment regulations are socially constructed artefacts that are derived from, and reflect, institutional cultures. Beyond that, the way regulations are applied will be influenced by a myriad of factors. These include the structure of the institution's decision-making processes, the membership of the Examination Board, the precise mechanisms and practices adopted by Boards, the training of Board chairs and officers, and the protocols for and quality of Board minutes. When considering students' performances, Boards will also be operating in the context of the institution's learning, teaching and assessment strategy, its student support systems, and, a sometimes overlooked factor, the advice given to students about their programme of study.

In earlier work⁶ we introduced the notion of apparently harsh assessment rules being offset by more liberal ones in institutions' regulations. Because of the focus of this study (a cross-institutional comparison of the impact of individual rules) we have not explored the intra-institutional relationship of the specific regulations we have analysed. We do, though, recognise the importance of offsetting for students in their institution.

Whereas institutional academic regulations may once have been regarded as the preserve of secluded regulatory priesthoods, the recent work of the Competition and Markets Authority⁷ and Universities UK's interest in Honours Degree algorithms (prompted by the Higher Education Funding Council for England's review of quality assessment in HE⁸) have brought the whole question of academic regulations into a new and sharper focus of debate. This report, our recommendations and the research from which these have been drawn are intended as a contribution to that debate.

⁵ Stowell, Marie, Marie Falahee and Harvey Woolf. 2016. "Academic Standards and Regulatory Frameworks: Necessary Compromises?." *Assessment & Evaluation in Higher Education* 41(4): 515-31.

⁶ Ibid.

⁷ *UK higher education providers – advice on consumer protection law*. 2015. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/428549/HE_providers_-_advice_on_consumer_protection_law.pdf

⁸ Bourke, Tish. 2016. *Degree standards: doing what it says on the tin*. HEFCE 13 April.

Grounding phase 2 research in phase 1 findings

Phase 1 of the research project compared the award outcomes of students on 3 year honours courses who were initially unsuccessful but who recovered from failure at Level 4 with those who passed first time. Four progression categories were developed:

- a) *First timers*: Students who passed all Level 4 modules at the first attempt
- b) *Re-assessed*: Students who passed all Level 4 modules at a subsequent attempt following initial failure at Level 4
- c) *Compensated*: Students whose progression from Level 4 to Level 5 was not contingent on re-assessment following initial failure at Level 4⁹
- d) *Trailing*: Students whose progression from Level 4 to Level 5 comprises a further attempt at assessment during study at Level 5 or 6 following initial failure at Level 4

A call for data sought the honours outcomes (First, Upper Second, Lower Second, Third, No Award) for students who progressed from Level 4 in the four progression categories (Census Point A) and completed their honours degree 18 months later (Census Point B). In addition to the quantitative information, institutions were requested to submit the relevant sections of their academic regulations to help illuminate the progression and degree outcomes.

Nine universities submitted a total of results for nearly 20,000¹⁰ students. The headline findings from the statistical analysis were:

- First timers do better than any other category (higher 'good honours', lower 'no honours') and are significantly more likely to complete 'in time'.
- There is little difference in outcome between re-assessed and compensated students. Re-assessed students are slightly more likely to graduate with a 'good degree' than compensated students, but are also slightly more likely not to graduate 'in time' with honours.
- Over half of the students trailing credit into Level 5 fail to complete with honours 'in time'. Only 1 in 5 'trailing' students complete 'in time' with 'good honours'.

The phase 1 report also considered the institutional regulations of contributing universities in relation to their rules on passing a module, re-assessment, compensation/condonement and trailing modules. Extensive variation was noted and this complex tapestry of disparity was further discussed at the NUCCAT & SACWG Seminar on 13th October 2016. The Phase 1 project report¹¹ stated:

⁹ Some students who progressed by compensation may also have been re-assessed.

¹⁰ n=19,828.

¹¹ Turnbull and Woolf, op. cit, p24.

“We hope that our work offers an insight into the diversity of regulatory frameworks within the UK university sector. However, the missing variable in any such analysis is the extent to which the policy definition or institutional framework permits local discretion (in the name of academic judgement) from the stated Institutional policy norm. Without such an understanding, it is unlikely that the extent of variation can be fully understood. Expanding upon this point, McNay¹² reveals that:

...in many of the universities I have studied, there is a gap between the leaders and the led so that the practices of professionals making judgements informed locally are at variance with the corporate policy statements, which imply a standard model universally implemented.

Herein is encapsulated the missing variable, the white noise in the system which potentially obscures the direct relationship between a student’s performance and the eventual degree classification outcome. This represents for analysts of UK University outputs a major impediment in understanding how decisions are reached and upon what basis such decisions are made. Turnbull, Burton and Mullins¹³ have highlighted the tensions that exist within an increasingly modularised higher education system which has demanded greater transparency to be mapped onto a culture grounded in flexibility and academic autonomy, and how this requires a repositioning of institutional regulatory frameworks”.

Having identified the impediment - the absence of understanding the extent to which regulatory decisions can be made locally - NUCCAT and SACWG addressed this lacuna as part of the second phase of the project. A short survey of regulation and practice was developed (Appendix 1) and sent to the nine universities that contributed to the phase 1 research. This survey sought to codify in detail, with the guidance of regulatory gurus in each institution, the specific criteria governing the award of credit, re-assessment, compensation and/or condonement and trailing credit. In addition, the survey sought to scope the extent of variation permitted within universities, either in relation to ‘discipline-specific’ regulation or to the extent to which Boards can exercise discretion in these areas.

All Phase 1 participants submitted responses to the second research phase. It has proved to be a rich dataset¹⁴.

¹² McNay, Ian, ed. 2006. *Beyond Mass Higher Education: Building on Experience*. Maidenhead: Society for Research into Higher Education & Open University Press, p.42.

¹³ Turnbull W, D.M. Burton & P. Mullins 2008. “Strategic Re-positioning of Institutional Frameworks: balancing competing demands within the modular UK higher education environment.” *Quality in Higher Education* 14 (1): 15-28.

¹⁴ The researchers note that in all the responding universities specific regulatory adjustment is permitted in relation to the accreditation requirements of professional bodies. This is taken as a given and those specific variations are not included in the analysis in this report. Further research into the extent and validity of professional-body related regulatory variation is required.

Phase 2 research findings

Research findings are published below against the following areas:

- Criteria for passing a module
- Re-assessment
- Compensation/condonement
- Trailing credit between levels

Criteria for passing a module

Criterion		Universities
<i>Institution-wide</i>	<i>Devolved</i>	
Achieve overall module pass mark		5
Achieve overall module pass mark and attempt each summative assessment within the module		1
Achieve overall module pass mark and obtain a mark for each summative assessment in the module that is equal to or greater than a given threshold		1
Achieve at least 40% on all summative assessments in a module		1
	General criteria (aggregated pass and attempt each summative assessment) at the programme-level may be supplemented by a local criterion that each assessment must be passed.	1

5 universities operate institution-wide regulations for the award of credit when the module pass mark¹⁵ has been attained and without any further requirements.

2 universities use an institution-wide criterion based on the above principle, but each has additional criterion:

- ...and where an attempt has been made at each summative assessment within the module
- ... and where a mark for each summative assessment within the module is equal to or greater than a given threshold (which may be below the module pass mark)

1 university has an institution-wide criterion which discounts the module mark altogether and awards credit when a mark of at least 40% has been attained for each summative assessment within the module¹⁶.

1 university does not operate institution-wide criteria, but permits variation at the 'programme-level' where 'general criteria' (an aggregated pass and an attempt at each summative assessment within the module) may be supplemented by a further 'local criterion' (passing each assessment).

¹⁵ The term 'mark' covers both numeric and non-numeric scales.

¹⁶ In practice, this would have the same outcome for students as the university that awards credit where a module pass has been attained and where a mark for each summative assessment within the module is equal to or greater than a given threshold, provided that the given threshold is 40%

Re-assessment

The findings of this research relate to the number of permitted re-assessment attempts and to the rules regarding eligibility for re-assessment.

Number of re-assessment attempts

Number of re-assessment attempts in the same academic year	Universities
One	6
Two	1
A second opportunity subject to performance in earlier attempts	1
Board discretion determines how many re-assessment attempts are allowed	1

- 6 universities permit a single re-assessment attempt only,
- 1 provides two opportunities,
- 1 provides a second opportunity provided performance criteria are met and
- in 1 it is left to the discretion of the Board to decide how many re-assessment opportunities a student is allowed.

Eligibility for re-assessment

Eligibility for re-assessment	Universities
Automatic eligibility	3
All students automatically eligible and certain students eligible for supplementary re-assessment based on performance against criteria	1
Volume of credit attained at that level: <ul style="list-style-type: none">• 40c passed• 60c passed	2 (1) (1)
Performance at that level: <ul style="list-style-type: none">• Attempt made at initial assessment• All initial assessments attempted and any attendance requirements met	2 (1) (1)
Board discretion determines whether re-assessment opportunities are allowed	1

- 3 universities regard students as automatically eligible for re-assessment,
- 2 universities judge eligibility on the basis of the extent of initial failure (1 sets the limit at 60c per level, 1 sets the limit at 40c per level),
- 2 universities judge eligibility on the basis of prior performance (1 requires that the initial failed assessment was attempted, 1 requires that all initial assessments were attempted and that any attendance requirements were met),
- 1 university regards all students as automatically eligible for re-assessment and judges certain students as eligible for a supplementary re-assessment based upon their performance against criteria and
- 1 university does not regard re-assessment as a right, but an opportunity offered at the discretion of a Board.

Compensation/condonement

Like snowflakes, no two of our universities are the same in their regulations governing 'facilitated progression'. The following table summarises this variation.

University	Maximum credit		% mark		Criteria		Notes
	Level	Overall	Module	Level	Credit passed	Other	
A Compensation	20	60	35-39	40		All assessments attempted	
B							Neither compensates nor condones
C Compensation	24	72	30-39	45	96c		Validation of 'non-compensatable' modules allowed
D Compensation	30	90	30-39		90c		
E Condonement	20	60	30-39		100c		
F Compensation Condonement	20 45	45 45	35-39 35-39	50	96	1 st attempt only Mit circs	Validation of 'non-compensatable' modules allowed
G Condonement	30 (L4) & 30 (L5&6)	60	25-39				
H Compensation	20	60		40			
I Compensation	20	40	30-39		100c	Applied after re-assessment	Validation of 'non-compensatable' modules allowed

Where to begin...?

- 5 universities compensate but do not condone failure, 2 universities condone failure but do not compensate, 1 university does both, 1 university does neither.
- The total volume of credit that may be compensated / condoned within an honours degree ranges from 0c (0%) to 90c (25%).
- The lowest compensatable mark ranges from 0 to 35%.
- 5 universities set a 'credit attained trigger', ranging from 75% of credits passed to 83%.
- 4 universities set a qualifying 'level-average mark threshold', ranging from 40% - 50%.
- 3 universities set bespoke additional criteria, ('all assessment must have been attempted', 'compensation applies to initial assessment only' and 'compensation applies to referral assessment only').
- 3 universities designate specific modules as 'non-compensatable'.

Trailing credit between levels

Again, such is the variation between universities that a summary of the individual idiosyncrasies is provided below:

University	Right?		Mitigation required?		Min no of credit passed per level	Other criteria	Max no of credit		Notes
	Automatic	Qualified	Yes	No			Level	Overall	
A	X			X			40	80	
B		X		X	90c	Contingent on re-attendance / meeting threshold criteria.	30	60	Board determines all re-assessment requirements.
C		X	X		96c	Trail narrow failure (30-39%) only, also that the Board "has reason to be confident" in the student's progression.	24	48	Criteria act as prompt to Boards. Boards have discretion to decide whether students who meet the criteria are allowed to trail.
D		X		X	75c		45	90	
E		X	X						
F		X	X		100c		20	40	
G		X		X	90c		30	60	Higher thresholds apply in 'certain subjects'.
H		X		X	100c	Level-average mark must be at least 40% and the failed module(s) is/are ineligible for compensation.	20		
I		X		X	100c		20		Only permitted from L4 to L5.

Every university in the reporting group presents a different set of regulations governing trailing credit between levels:

- In only 1 university is trailing regarded as an 'automatic right' of the student compared with 3 universities that regard students as automatically eligible for initial re-assessment.
- 3 universities permit students to trail on the basis of mitigation only.
- The number of credits that must be passed at each level before a student can trail ranges from 75c to 100c.
- Board discretion and / or subject variation has a role to play in determining eligibility to trail in 3 universities.

Such is the range of variables at play within regulations governing trailing credit between levels that it is very difficult to summarise or categorise these into a meaningful schema.

A typology of assessment regulations

Our previous and recent work on assessment regulations has led us to suggest that the rules governing all aspects of student progression can be articulated as either:

- **Enshrined entitlements** (i.e. “you will be granted...”),
- **Earned rights** (i.e. “you can be granted, if you satisfy the criteria...”) or
- **Discretionary advantages** (i.e. “you could be granted, if the Examination Board decides in your favour...”).

The typology reflects a continuum of clarity and complexity for students: there is greatest clarity and simplicity where regulations comprise enshrined entitlements and almost total obscurity where regulations are grounded in academic discretion and decisions are (entirely) in the gift of individuals or Boards. Enshrined entitlements may be readily codified in administrative systems to facilitate the smooth and consistent processing of student progression; earned rights can be codified provided they are not too complex, whereas discretionary advantages cannot be systematised.

Enshrined entitlements, unless they are obscurely communicated, may be easily understood outside the university, whereas the opacity of regulations grounded in discretionary advantage may be understood only by the individual or Board in which the power is vested. With earned rights, the extent to which these may be easily comprehended will depend upon the complexity of the criteria that the student must satisfy. Some aspects of an institution’s academic regulations may be unavoidably complex (for example, where phased change results in multiple versions of regulations). In such cases care must be taken to ensure clarity of exposition to students so that they understand the rules that govern their programme.

By their very nature, enshrined entitlements are equally available to all students within a given setting. Provided that earned rights are consistently applied within a university, they are also grounded in equality of treatment and access for all students. Where decisions require an exercise of ‘discretion’ over and above the performance of students, they then become veiled in obscurity and embedded in the secrecy afforded by the largely unchallengeable indemnity of academic judgement¹⁷. It may be argued (and further work here would be welcomed) that awareness of context influences the behaviour of all parties

¹⁷ The landscape may be changing: ‘More recent cases suggest the sands are shifting and that, in an era when the student-university relationship is coming increasingly to resemble that of purchaser-service provider, courts are becoming more careful in their consideration of claims which are on the borders of ...“academic judgment...”. Of course, neither universities nor the OIA will find it easy to make fine distinctions about the borderline of academic judgement...But there is no getting away from the fact that a claim of academic judgement’ immunity is no longer quite the trump card it once might have been.’ Lawson, David and Leon Glenister. 2015. “A weaker hand.” *THE* 12 March.

engaged in assessment, so enshrined entitlements and earned rights may inform outcomes in a way that post-hoc discretionary gifts may not.

Our survey illustrates all three categories in the typology and provides yet further evidence¹⁸ that there is at best only limited consensus in the sector on assessment regulations.

¹⁸ Atlay, Mark et al. 2012. *A Survey of Higher Education Credit Practice in the United Kingdom 2012*. United Kingdom Credit Forum: University of Derby;
Woolf, Harvey, and David Turner. 1997. "Honours Classifications: The Need for Transparency." *The New Academic* 6 (3): 10-12;
Falahee, Marie, Marie Stowell, and Harvey Woolf. 2013. *Crafting Assessment Regulations for First Year Students: Stringency, Academic Alignment and Equity* (unpublished project report available at <https://eprints.worc.ac.uk/2990/>);
Stowell, Marie, Marie Falahee and Harvey Woolf. 2016. "Academic Standards and Regulatory Frameworks: Necessary Compromises?." *Assessment & Evaluation in Higher Education* 41(4):515-31;
Yorke, Mantz et al. 2004. "Some Effects of the Award Algorithm on Honours Degree Classifications in UK Higher Education." *Assessment & Evaluation in Higher Education* 29 (4): 401-13. doi: 10.1080/02602930310001689000;
Yorke, Mantz, Harvey Woolf, Marie Stowell et al. 2008. "Enigmatic Variations: Honours Degree Assessment Regulations in the UK." *Higher Education Quarterly* 62 (3): 157-80.

Regulatory approaches to facilitating student progression after failure

Passing a module

In terms of our typology, all universities in our sample consider passing a module as an 'earned right'. However, that is where the commonality ends. What a student must do to pass a module would seem to be straightforward: to those unfamiliar with the byzantine nature of university regulations asking such a question might seem to be otiose. For those on the inside, however, it is a question that is likely to have been debated for many a long hour in academic development committees.

The five survey universities that simply require a student to score an overall pass mark for the module would seem to be adopting an unambiguous approach to determining whether students have demonstrated competence in the modules they have just studied. Students at these universities know that so long as they achieve an overall pass mark (usually 40% or a non-numerical equivalent) they will have passed the module. However, one issue arising from this model is the relationship between the achievement of a module's learning outcomes and the mark(s) awarded. In the overall approach in multiple assessment modules, a student who scores well on one (or more) assessment can compensate for a poorer performance in other assignments. Thus, unless every learning outcome is assessed in every assignment, a student could pass a module having failed to meet at least one of its learning outcomes. This is also a model that advantages students taking multi-assessment modules as in these modules students have several opportunities to achieve the pass mark.

A counter to this, what might be called, purist learning outcome position is that internal module compensation allows curriculum designers to develop flexible and developmental assessments *for* learning by combining formative and summative assignments. Intra-module compensation, therefore, ensures that a weak performance in a relatively small piece of summative work undertaken early in a module does not demotivate students for the remainder of the module. Specifying that each assignment must be passed with a mark of at least 40% satisfies concerns about learning outcomes being missed, provided 40% signifies achievement of all the intended outcomes. There is, though, a danger that such an approach stifles experimentation and risk taking as everything has to count, no matter how minor the assignment. Non-summative *formative* tasks can, of course, be set, but the effectiveness of such assessments is very much open to debate.¹⁹

The requirement that not only must students obtain an overall pass module mark but must also score a given threshold mark on each assessment that is

¹⁹ See, for example, Bennett, Randy Elliot. 2011. "Formative Assessment: A Critical Review." *Assessment in Education: Principles, Policy & Practice* 18 (1):5-25.

For the contra view see, for example Gibbs, Graham and Claire Simpson. 2005 "Conditions Under Which Assessment Supports Students Learning." *Learning and Teaching in Higher Education*, no 1: 3-31 and Longcroft, Adam. 2017. *Consider the balance between formative and summative assessment* (available at <http://tinyurl.com/nyopedb>).

below the pass mark again raises the question of whether all a module's learning outcomes have been achieved. It is an approach that places the same value on all assessments irrespective of their weighting and makes it explicit that students are expected to make a substantive attempt at a module to pass. In contrast, the rule that in addition to achieving an overall module pass mark students should attempt each summative assessment in the module leaves what constitutes an attempt open to interpretation. Does turning up to an exam, for example, and writing one's name correctly count as an attempt? Unless an attempt is clearly defined, students will be confused about what they must do to qualify for a pass and it will be left to the judgement of Examination Boards to decide whether an attempt has been made.

Re-assessment

The universities in the survey reflect all three typology categories. While four institutions have opted for an earned right approach to eligibility, there is only the loosest agreement on what students should do to qualify for the right. The two that have chosen volume of credit passed as the criterion differ in requiring 30 and 50% of the level to be passed. Two institutions have variants of the seemingly elastic notion of attempting assessments. One university has made re-assessment a discretionary advantage with Examination Boards responsible for the decision about eligibility, which inevitably raises questions about consistency of practice. Of the four institutions that have enshrined the entitlement to be re-assessed by permitting failure of any kind to be re-assessed, one has given its Examination Boards the power to grant some students the gift of a second re-sit. In accordance with the typology this conflates aspects of discretionary advantage and enshrined entitlement.

Inherent in the whole re-assessment process is the unspoken assumption that everyone deserves a second chance, subject to the rules discussed above. The six universities that limit the number of re-sits to one have taken that maxim literally. Two other institutions have taken a more liberal stance and recognise that there may be good reasons why a third chance should be granted, though in one of the two students must satisfy stringent criteria. Only one university operates on the principle that the number of re-assessments is a discretionary advantage bestowed on students by the Examination Board.

Compensation/condonement

All the rules relating to compensation and condonement are predicated on students meeting certain criteria, that is students should earn the right to be compensated or condoned. Interestingly, although there is enormous variation in the criteria to be satisfied, no university has decided that compensation should be a discretionary advantage conferred by Examination Boards. Given the extent to which other regulatory decisions are delegated to Boards, it is somewhat surprising that here all the institutions have opted for criteria driven models.

The reason for this is unclear. Is compensation, or condonement, too precise an intervention to be delegated to the vagaries of academic judgement? Perhaps,

in a triumph of the technicians, it is only those experienced in crafting regulations who can determine which students should be compensated or condoned. Or is there an inherent tension between academic judgement (that the student has failed a module) and the algorithmic determination that such a student may progress notwithstanding that failure (via compensation or condonement)? The report of the first phase of research discussed (and challenged) the perception that re-assessment carries notions of 'worth' whilst compensation/condonement does not. Perhaps these research findings reveal that mechanistic interventions to facilitate progression are not to the Board's taste.

Trailing credit between levels

Just one survey institution enshrines the entitlement to trail credits from one level to another, up to a specified credit limit. All the other universities impose a variety of criteria and two of these give their Examination Boards the authority to make the final decision about trailing. In that way, an earned right is transmuted into a discretionary advantage. It could be argued that whether a student can cope with the demands of the additional workload of trailing modules can be best established by an Examination Board, whose members are likely to have some knowledge of the students.

This has particular relevance when considered alongside the findings of phase 1 of the research project. The 'top 3' universities, in terms of the proportion of trailing students that complete 'in time', all regard trailing as a discretionary advantage. Students in universities where trailing is an earned right fare poorly by comparison with those in which trailing is the gift of the Board. Is it a coincidence that in the only university where trailing is an enshrined entitlement none of the level 4 trailers completed 'in time' and in the university where 'the board must have reason to be confident in the student's competence to progress', their 'in-time completion' rate for trailers is 71%?

The phase 1 project report considered the risks associated with trailing as a means of facilitating progression. This subsequent phase of the project suggests that the management of trailing as a discretionary advantage may be weeding-out students who would not be equipped to recover from failure in previous levels whilst attempting new modules. Thus, discretionary advantage may be seen in this context as a judicious mitigation of risk.

Impact on students of the different retrieval mechanisms

By way of illustrating the impact upon students of the variation in academic regulation, we offer for consideration the following 'case studies' using fictional student profiles in the context of real regulatory variety.

Case 1: Donald & Hillary

Donald and Hillary studied the module History101. It was assessed by an exam and an essay, weighted 50:50. Donald and Hillary were both awarded a mark of 90% for the essay. They hit the town in celebration. That was not a good idea, as they had an exam the next day. Hillary was too ill to attend the exam. Donald managed to write his name on the exam script before sliding to the floor. He was given a mark for his exam attempt of 0%. Both Donald and Hillary, therefore, have a module mark of 45%.

Can they pass the module?

- In universities A, C, D, G & H they both pass the module (as they have met the pass mark) and are awarded credit
- In university E Donald passes the module and is awarded credit, whereas Hillary fails (for not attempting the second component)
- In universities F & I neither Donald nor Hillary pass (as a pass threshold is required in all components)
- In university B Hillary fails and Donald must pray that History is not one of the subjects where local rules require that all components are passed...

Are they eligible for re-assessment?

- Hillary failed in university E. She may be eligible for re-assessment in History101, depending on Board discretion. She missed the exam, but has passed the essay, so has she 'demonstrated engagement'...?
- Both Donald and Hillary failed in F & I. In I they are both automatically eligible for re-assessment in History101, but in F they may or may not be, depending upon whether they have failed more than 40 credits at the level.
- Hillary failed in university B and won't be eligible for re-assessment (having failed to attempt the exam). If Donald was unlucky in failing in B (... 'some programmes require students to pass each element'...), then he may also be subject to Board discretion to determine whether he is eligible for re-assessment ('some modules also set attendance requirements which, if not met, can over-ride'). His ability to progress may therefore be contingent on a) the number of lectures he attended and b) luck!

Case 2: Amy, Bob & Chloe

Amy, Bob & Chloe have just completed their first year studying Psychology. They attempt six modules, as follows (yellow highlighting indicating failed modules):

	Module A (20c)		Module B (20c)		Module C (20c)		Module D (20c)		Module E (20c)		Module F (20c)	
	Exam (50)	Essay (50)	Exam (50)	Essay (50)	Exam (50)	Essay (50)	Exam (50)	Essay (50)	Exam (50)	Essay (50)	Exam (50)	Essay (50)
Amy	45	55	40	60	55	45	40	60	60	40	50	
Bob	45	55	40	60	20	10	30	30	20	10	30	30
Chloe												

Are they eligible for re-assessment?

- In universities C, G, H & I Amy, Bob & Chloe are all eligible for re-assessment.
- In universities A & B neither Amy nor Chloe would qualify for re-assessment, but Bob would. Bob is eligible because he has attempted all assessments.
- In universities D & F Amy would qualify for re-assessment, but Bob and Chloe would not. Amy is eligible because she has attained more than 60 credits.
- In university E Amy & Bob would qualify for re-assessment as they have 'demonstrated engagement', but not Chloe.

Case 3: Zebedee, Yootha & Xavier

Zebedee, Yootha and Xavier all fail a module.

Is their failure compensated/condoned?

- Scenario 1:
Zebedee's *module* fail mark is 35% and he is compensated in 7 universities, Yootha's *module* fail mark is 30% and she is compensated in 6 universities whereas Xavier's *module* fail mark (25%) is only compensated in one university.
- Scenario 2:
Zebedee's *level* mark is 50% and he is compensated in 7 universities, Yootha's *level* mark is 45% and she is compensated in 6 universities whereas Xavier's *level* mark is 40% and he is compensated in 5 universities.
- Scenario 3:
Zebedee passes 83% of credit so he can be compensated in 7 universities, Yootha passes 80% of credit and she can be compensated in 5 universities whereas Xavier passes 75% of credit and can only be compensated in 3 universities.

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- Scenario 4:
In university A Zebedee attempts all credit, but Yootha doesn't (he is compensated, she is not), in university B neither is compensated whilst in university C both are compensated.
 - Scenario 5:
In university F Zebedee is compensated (having met the requirements at the initial attempt) but Yootha is not (having met the requirements at the referral attempt) whereas in I Yootha (having met the requirements at the referral attempt) is compensated whereas Zebedee (having met the requirements at the initial attempt) is not.
 - Scenario 6:
Zebedee studies History in university C, which can be compensated whereas Yootha studies Management which cannot. However, in university F Management can be compensated whilst History cannot, so Yootha is compensated whereas Zebedee is not.

Figure 1: A dog's breakfast



To what extent can the variations in academic regulations be justified?

Throughout the debates on the Higher Education and Research Bill²⁰ the institutional autonomy of universities was loudly championed. Nowhere can the consequences of that autonomy be as clearly seen as in the variety of assessment regulations to which students are subjected. The re-assessment regulations described above are themselves a microcosm of the complexities of institutions' full blown assessment regulations. It is often argued²¹ that assessment regulations reflect an institution's educational and curriculum choices and, as no two institutions are the same, regulations will necessarily be different. However, how far does such an argument justify the diversity of regulations extant in UK Higher Education? While the 'intra-module compensation versus pass everything' rules for passing a module can be interpreted, for example, as a difference in encouraging experimentation in summative assessment practice, it is difficult to explain the other module pass requirements in purely curriculum terms. We would argue that they are different ways of managing students' engagement with their study and as such could be regarded as Sadler's 'transactional and bestowed...credits and debits'²², rather than a measure of a student's achievement.

The variations in the regulations governing eligibility for re-assessment, the number of re-assessments permitted, compensation and/or condonement, and trailing between levels, as well as for passing a module, are undoubtedly the product of individual institutional histories and cultures. However, the relationship between those histories and their underpinning pedagogic principles have frequently got lost over time as regulations have often been modified to satisfy conjunctural needs. In terms of natural justice, it cannot be right that some students because they serendipitously study at one institution should automatically be able to retake a failed module and others at another university must wait on the decision of an Examination Board.

Harmonising assessment regulations across the sector would reduce some of chance elements that surround assessment in the universities, without doing damage to institutional autonomy. The process of harmonisation would encourage institutions to compare their regulations systematically with other universities and help institutions to identify the obscurities, complexities, inequities and inequalities in their regulations. The process might stimulate institutional regulations makers:

- to consider introducing more enshrined entitlements so that their rules are essentially binary statements or

²⁰ Royal Assent was given on 27 April 2017

²¹ See, for example, Quality Assurance Agency for Higher Education. 2013. *UK Quality Code for Higher Education – Part A: Setting and Maintaining Academic Standards*. Gloucester: QAA.

²² Sadler, D.R. 2010. "Fidelity as a precondition for integrity in grading academic achievement." *Assessment and Evaluation in Higher Education* 35 (6):727–743, p.732.

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- to reduce the complexity of the criteria that students must satisfy to earn a right or
 - to eliminate capricious advantage giving to increase consistency of decision-making.

The diversity of higher education providers, as well as the UK Government's commitment to institutional autonomy, precludes the likelihood of achieving a single set of assessment regulations for higher education courses. However, that should not prevent the reduction of the variations that are present in the regulations institutions currently adopt. Among the principles for the harmonisation of the regulations discussed in this report are:

- Assessment should be designed to maximise opportunities for students to demonstrate their attainment of learning outcomes. It follows that the volume and timing of summative assessment within a course should be designed to facilitate and not to impede progression.
- The assessment of academic performance should not be conflated with local concerns over student behaviours, such as attendance.
- The award of credit by compensation, where based on clear criteria that include a marginal fail and good overall performance within the level²³, has been shown to provide the most effective method of allowing students unsuccessful in modules at Level 4 to complete 'in-time'. In contrast, the practice of condoning failure challenges the principle of consistency in defining awards by a volume of total credits.
- Any student who fails a module should be allowed an opportunity for re-assessment, whereas any subsequent re-assessment attempt should be permitted only on the grounds of mitigation. 'Trailing' credit should be a managed intervention, based upon a judgement of the student's ability to cope with the additional workload and should be limited to one module per level.

We do not pretend that making regulations more transparent and equitable is either conceptually²⁴ or practically simple. Giving discretion to designated individuals and Examination Boards is one way of ensuring deserving *individual* students can get their just rewards, that is, decisions can be fair. However, being fair to some individuals may well entail the inequitable treatment of all the other students in the cohort. Exercising discretion can be likened to consuming alcohol. In small measures it can have positive outcomes for the user, as in the case of the institution that made limited use of discretion to determine whether

²³ Thereby ensuring that Level Learning Outcomes have been met.

²⁴ See, for example, Grace, Christine Cooper. 2017. "Exploring the Potential for and Promise of Incorporating Distributive and Procedural Justices into Post-Secondary Assessment of Student Learning." *Teaching in Higher Education* 22 (3): 304-17. doi: 10.1080/13562517.2016.1248388 and McArthur, Jan. 2016. "Assessment for Social Justice: The Role of Assessment in Achieving Social Justice." *Assessment & Evaluation in Higher Education* 41 (7): 967-81. doi: 10.1080/02602938.2015.1053429.

students should be allowed to trail credits. Taken in large, uncontrolled quantities, the effects may be deleterious. In 'crafting [harmonised] assessment regulations'²⁵ determining where on the continuum between enshrined entitlement and individual/Board discretion regulations should be pitched will be more of an art than a science. Difficult though this will be, we believe that bringing greater consistency in regulatory practices within and across institutions is an enterprise worth undertaking.

Amending assessment regulations will not by itself produce a socially just assessment system in higher education. It will not resolve any of the differences revealed in the Teaching Excellence Framework's split metrics. Nor will it change the different marking cultures across the disciplines. However (and this is important), it can provide a context in which assessment processes are fairer and more equitable. It was Dr Martin Luther King, Jr. who declared that "injustice anywhere is a threat to justice everywhere". We do not disagree.

²⁵ Falahee et al, op. cit.

Appendix 1

A short survey of regulation and practice

For regulations governing FT UG degree study. For 'mark', where appropriate, read 'grade'.

Criteria for passing a module

Please tick as many boxes as are relevant.

- overall mark for the module equal to or greater than the module pass mark
- mark for each summative assessment within the module equal to or greater than the module pass mark
- overall mark for the module equal to or greater than the module pass mark and a mark for each summative assessment within the module equal to or greater than a given threshold
- overall mark for the module equal to or greater than the module pass mark and an attempt at each summative assessment within the module
- other (please explain)

Are all students governed by the same rule or are different rules in operation at local levels?
If no, please explain.

Can Boards exercise discretion to vary from the rules (if yes, how)?

Eligibility for re-assessment

Please tick as many boxes as are relevant.

- students are automatically eligible for reassessment following failure in a module (yes or no)
- if no, students earn re-assessment opportunities
 - by attempting initial assessment (all or some, please explain)
 - by performing to a threshold standard at initial assessment (please explain)
 - by attaining a threshold of credit at a level (please explain)
 - other (please specify)
- number of opportunities for re-assessment after initial failure in a module
 - one opportunity
 - two opportunities
 - more (please explain)

Are all students governed by the same rule or are different rules in operation at local levels?
If no, please explain.

Can Boards exercise discretion to vary from the rules (if yes, how)?

Facilitated progression

Please tick as many boxes as are relevant.

- credit is awarded by compensation²⁶ (please state maximum volume)
- eligibility for compensation is based on:
 - a module mark in a given range (please explain)
 - a level mark at a given threshold (please explain)
 - the proportion of credit successfully attained (e.g. 100 / 120) at that level (please explain)
 - other (please explain)
- failure is condoned²⁷ (please state maximum volume)
- eligibility for condonement of failure is based on:
 - a module mark in a given range (please explain)
 - a level mark at a given threshold (please explain)
 - the proportion of credit successfully attained (e.g. 100 / 120) at that level (please explain)
 - other (please explain)

Are all students governed by the same rule or are different rules in operation at local levels?
If no, please explain.

Can Boards exercise discretion to vary from the rules (if yes, how)?

Trailing credit between levels

Please tick as many boxes as are relevant.

- students have the automatic right to trail credit between levels (please specify maximum volume)
- students qualify to trail credit between levels, contingent upon:
 - attaining a specified credit threshold / specifying the number of modules that have to be passed (please explain)
 - by performing to a threshold standard at initial assessment (please explain)
 - in light of mitigating circumstances
 - other (please explain)

Are all students governed by the same rule or are different rules in operation at local levels?
If no, please explain.

Can Boards exercise discretion to vary from the rules (if yes, how)?

²⁶ 'compensation' is a *deliberative balancing process*, determining whether elements of performance elsewhere can offset elements of failure within fixed award credit requirements

²⁷ 'condonement' is *forgiveness of failure*, requiring latitude in interpreting credit requirements for awards

Appendix 2

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