

CONSULTATION

# Guidance on designing and developing accessible assessments

**ofqual**

# Contents

<b>At a glance</b> .....	<b>4</b>
<b>Audience</b> .....	<b>5</b>
<b>Consultation arrangements</b> .....	<b>5</b>
Duration .....	5
Respond .....	5
<b>Introduction</b> .....	<b>6</b>
Ofqual's role.....	6
Ofqual's statutory guidance .....	6
Background to this consultation.....	6
<b>Consultation details</b> .....	<b>8</b>
Proposals .....	8
<b>Proposed guidance</b> .....	<b>9</b>
Introduction.....	9
Guidance.....	10
<b>Equality Analysis</b> .....	<b>22</b>
<b>Regulatory Impact Assessment</b> .....	<b>23</b>
<b>Introduction of proposed guidance</b> .....	<b>25</b>
<b>Annex A: Information sources</b> .....	<b>26</b>
<b>Annex B: Consultation responses and your data</b> .....	<b>28</b>
Why we collect your personal data .....	28
Your data .....	28
Your rights: access, rectification and erasure .....	29

Freedom of Information Act and your response .....	29
How we will use your response .....	29
How long will we keep your personal data? .....	30
Our legal basis for processing your personal data.....	31
<b>Annex C – Ofqual’s role, objectives and duties.....</b>	<b>33</b>
The Apprenticeship, Skills, Children and Learning Act 2009 .....	33
The Equality Act 2010 .....	34

## At a glance

We regulate to ensure assessments give a reliable indication of what students know, understand and can do. We are guided by the best interests of students as we meet our [statutory objectives](#), including to secure qualification and assessment standards. Students must be able to access assessments without unnecessary obstacles.

It would not be fair if an assessment had been designed and developed in a way that prevents a student from fully demonstrating their knowledge, skills and understanding. In other words, if the assessment is not as accessible to some students as it is to others.

When we refer to ‘accessibility’, we mean making assessments user-friendly to students of all ages taking regulated qualifications, including those who share particular protected characteristics. We refer to students as Learners (a term capitalised throughout this document to indicate that it is a [defined term in our rules](#)). The term accessibility is often used in relation to disability. Our use of the term is not restricted to this, although much of the guidance is relevant to disabled Learners.

We are keen to hear your views on this draft guidance for awarding organisations on producing accessible assessments – including exams. The wide range of Learners’ needs form the heart of the proposals, including those of disabled Learners.

The new guidance, intended to help awarding organisations design and develop accessible assessments and comply with our General Conditions of Recognition, will cover:

- how to avoid unnecessary burden on Learners when measuring the assessment construct
- how to use accessible language, within an accessible layout
- how to use source material, context, images and colour in an assessment
- how to design and develop assessments in a way that facilitates Reasonable Adjustments
- practices that may help awarding organisations make their assessments as accessible as possible

The proposed new guidance, if adopted, will form separate guidance within Section D of the General Conditions of Recognition. It will complement or replace guidance on relevant specified Conditions.

We are not making any changes to the Conditions themselves, so the obligations on awarding organisations are unchanged.

We welcome views on the content and the style of the proposed new guidance.

## Audience

We want to hear from anyone who wishes to respond to this consultation. It will be of particular interest to awarding organisations. Any other organisation or individual interested in how awarding organisations comply with our rules might also wish to respond. This is likely to include bodies representing the interests of groups of Learners (for example those with particular disabilities or special educational needs) and their teachers.

## Consultation arrangements

### Duration

This consultation will be open for 12 weeks, starting on 1 November at 09:30 and ending on 24 January at 23:45.

We expect to announce the outcome of this consultation in spring 2022. If we decide to introduce the new guidance, we expect it to be effective immediately on publication. The Guidance should help awarding organisations to understand their obligations under existing Conditions; it does not introduce new obligations. Once the Guidance is published, we would expect awarding organisations to review their approach in line with the Guidance. We are seeking views on a proposed review period of 6 months and will confirm that timeframe following consultation. We recognise that awarding organisations prepare many assessments well in advance of Learners taking them.

### Respond

Please respond to this consultation by using one of the following methods:

Complete the [online response form](#) or email your response to [consultations@ofqual.gov.uk](mailto:consultations@ofqual.gov.uk). Please include the consultation title in the subject line of the email. Please make clear who you are and in what capacity you are responding.

For information on how we will use and manage your data, please see Annex B.

# Introduction

## Ofqual's role

Ofqual is the independent regulator of qualifications, examinations and assessments in England. We have 5 statutory objectives. These include:

- to secure the standards of qualifications
- to promote public confidence in regulated qualifications
- to secure that regulated qualifications are delivered efficiently

We achieve these objectives by setting [rules](#) that awarding organisations must follow, and monitoring whether they do so. We [take action](#) where appropriate if we find that our rules are not being met. There is more detail on Ofqual's role, objectives and duties in Annex C.

## Ofqual's statutory guidance

We publish guidance to help awarding organisations understand how to comply with our [General Conditions of Recognition](#). The Apprenticeships, Skills, Children and Learning Act 2009 (ACSL Act) requires that recognised awarding organisations have regard to the guidance we publish. This means they must review the guidance and consciously consider it when making decisions about their approach. Guidance is not a further set of rules. An awarding organisation does not have to follow it if it has good reason not to, as it may find different ways to meet a Condition. The term 'Condition' is capitalised in this document when indicating a legal definition.

## Background to this consultation

As a public body, we are subject to the [public sector equality duty](#). This duty requires us to have due regard to the need to, among other things, “advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it”.

Decisions made at the assessment design and development stages can result in some Learners being prevented from fully demonstrating their knowledge, skills and understanding. Learners most likely to be unfairly disadvantaged by irrelevant features that can stop them demonstrating the full extent of their knowledge, skills and understanding include:

- deaf or Deaf Learners (those whose first language is English and those whose first language is British Sign Language), whose English language skills might develop at a later age because of lack of exposure to English in their earlier years
- blind or visually impaired Learners who, for example, might have to spend disproportionate time and effort interpreting an unclear visual image, even where the image has been modified for them as a Reasonable Adjustment. This could include Learners with colour vision deficiency.
- some Learners on the autism spectrum. Their literal understanding of language could make it difficult for them to respond to a task that is unnecessarily ambiguous or unclear. They might also be distracted by a needless image used in a task
- some Learners with learning difficulties, including those with dyslexia. They might find it more difficult to access an exam paper in particular fonts, or that has uneven spaces between words, or uses unnecessarily complex sentence structures
- Learners who are not familiar with the context of a task or concepts to which a task refers. This is only where the context or concept is not part of the assessment construct, but where familiarity might make it easier for a Learner to perform well in the task. For example, tasks that assume familiarity with certain cultural, family or travel experiences or with uncommon household objects
- Learners whose first language is not English, who might be less familiar with colloquialisms, humour or customs included in a task or in stimulus materials

Accessibility is an important part of our regulatory activity. We have considered whether our rules relating to accessibility continue to be fit for purpose. We have decided that they are, since they already require awarding organisations to design and develop their qualifications and assessments without any unjustifiable barriers to Learners.

Some awarding organisations have told us they would welcome additional guidance on how to comply with our rules in this area. We therefore propose to introduce statutory guidance for awarding organisations, to support them in designing and developing assessments that are as accessible as possible.

Our proposed guidance, set out in this document, focusses on assessments, rather than qualifications.

Our proposed guidance is informed by a wide range of information. For example, the constructive contributions made by stakeholders at the [Access Consultation Forum](#) (ACF). We host this meeting at least twice a year. Representatives with a relevant interest consider issues affecting accessibility for disabled Learners.

We have established working relationships with organisations represented at the ACF and have commissioned some specific work designed to improve accessibility

for disabled Learners. For example, we commissioned some members of the British Association of Teachers of the Deaf (BATOD) to review a sample of past GCSE exam papers to advise us on the accessibility of these papers to deaf or Deaf Learners. We commissioned the Royal National Institute of Blind People (RNIB) to review the accessibility of a sample of GCSE exam papers that had been presented in braille and/or modified large print. We have also undertaken projects ourselves, such as a [qualitative research study](#) to understand the experiences of schools and colleges using assistive technology for assessment. Our proposed guidance is part of, and is informed by, this ongoing work on accessibility.

In addition to regular ACF meetings, we hosted 3 workshops in November 2019, inviting awarding organisations and ACF attendees to share their experiences of current accessibility practice, their views on current challenges, and what they would find useful in guidance.

We have drawn on [a range of publications from external sources](#) to inform our approach to our proposed guidance, including the principles of accessible design and development, and features of assessments that can prove problematic for particular groups.

We also reflected on relevant comments made in response to our consultations on alternative assessment arrangements in 2020 and 2021.

Designing and developing assessments that are accessible for the widest range of Learners is not always straightforward. This guidance should help awarding organisations to balance the various factors they need to consider. As we continue to prioritise Learners' best interests in the way we regulate, we intend this guidance to be one part of our ongoing work to support the accessibility of qualifications and assessments.

## Consultation details

### Proposals

We propose the new guidance will apply to the [General Conditions of Recognition](#) stated within it, covering awarding organisations' obligations relating to accessibility.

We propose that our new guidance will complement the guidance currently associated with Conditions D2, G1, G6 and G9. The new guidance reflects the existing guidance for Condition G3, and so will replace it.

There is currently no guidance for Conditions C1, D1 or E4.



# Proposed guidance

## Introduction

This guidance is for awarding organisations when they are designing and developing assessments – particularly, though not exclusively, exams or other written assessments. The guidance concerns the accessibility of assessments for Learners.

This guidance will help awarding organisations to comply with the following General Conditions:

- [Condition C1 – Arrangements with third parties](#)
- [Condition D1 – Fitness for purpose of qualifications](#)
- [Condition D2 – Accessibility of qualifications](#)
- [Condition E4 – Ensuring an assessment is fit for purpose and can be delivered](#)
- [Condition G1 – Setting the assessment](#)
- [Condition G3 – Use of language and Stimulus Materials](#)
- [Condition G6 – Arrangements for Reasonable Adjustments](#)
- [Condition G9 – Delivering the assessment](#)

This guidance should also help awarding organisations comply with their obligations under Equalities Law, a requirement of Condition D2.

Assessments should enable Learners to fully demonstrate the knowledge, skills, understanding or behaviours that the assessment is intended to measure (the assessment construct). An accessible assessment will not include any irrelevant features that make it more difficult for some Learners than others to demonstrate what they know, understand and can do to the required standard.

Assessments should be free from bias as far as possible on the basis of protected characteristics, stereotyping, or language which may cause offence.

This guidance should help awarding organisations to recognise and avoid the unintentional use of irrelevant features in their assessments that could unfairly disadvantage Learners and prevent them demonstrating the full extent of their knowledge, skills, understanding or behaviours.

## Guidance

### The assessment construct

Principle: An assessment task should only measure what it is intended to measure.

When creating an assessment task, an awarding organisation should:

- ensure the task directly measures the assessment construct
- include features of the task that directly measure the assessment construct, even where those features might be difficult for particular Learners. For example, using complex language in a task which is intended to assess a Learner's understanding of complex language
- omit any avoidable features of a task that do not directly measure the assessment construct. For example, a task that aims to assess basic numerical skills should not use complex language

### Assessment structure

Principle: The structure of the assessment should not create additional unnecessary barriers for particular Learners.

Awarding organisations should consider the impact of the sequencing of tasks on Learners. For example, if an assessment is designed to differentiate performance through the use of tasks of different levels of demand, placing more demanding tasks at the beginning of the assessment might demotivate some Learners. It might prevent them from fully demonstrating the required knowledge, skills, understanding or behaviours in the remainder of the assessment.

### Assessment instructions

Principle: Instructions on how to complete an assessment should be clear and unambiguous.

The instructions and achievement criteria (also referred to as 'rubrics' in this document) in an assessment should:

- enable Learners to understand how to complete the assessment without needing to read through unnecessary text
- clearly tell Learners what they need to do – for example, how many tasks they must complete, whether their answers should make a certain number of points or be within a word limit, or to turn the page to find further information relating to the task
- make it clear if Learners can respond in a range of ways – for example, if Learners can respond by either using a bar chart or a pie chart
- give instructions in the order in which Learners should follow them. Each instruction might be in a separate sentence or paragraph
- be in the active voice and give direct instructions. For example, “You have 2 hours to complete the assessment”, “Answer all the questions”
- if referring to any other elements of the assessment (for example, to an image or to source text), be clear to which element the instructions and rubrics are referring
- use commands that are literal, unambiguous and explicit, so Learners do not interpret commands in different ways
- only include information for Learners and not, for example, information for invigilators

The instructions and rubrics in an assessment should not:

- require Learners to hold large amounts of information in their working memory, unless the assessment construct requires otherwise

## Language

Principle: The language used in an assessment task should be appropriate for the assessment level and construct, and should not present unnecessary barriers to Learners.

General Condition G3 requires the language used in assessments to be “appropriate”, taking into account the age of the Learners likely to take the assessment, the level and objective of the qualification, and the knowledge, skills and understanding being assessed. An awarding organisation is likely to use more or less complex language for different qualifications, reflecting the assessment construct and/or the level of the qualification.

In some assessments, understanding complex language is one of the things being assessed and will legitimately be used in the assessment tasks. It should be avoided

in assessments where the assessment construct does not require the use of complex language.

**Unless the assessment construct requires otherwise**, an awarding organisation should aim to:

- use language that is straightforward – for example, “with” rather than “in conjunction with”
- if there is more than one option, use the word that is the most common – for example, “appropriate” rather than “apt”
- use words and phrases consistently. For example, refer to “text” or “source” but do not use both interchangeably
- use command words which are appropriate to the level, context and subject of the assessment, and use these consistently and correctly
- if referring to a person by name, be mindful that the inclusion of the name could confuse some Learners – especially if the name will be unfamiliar or if it is used at the start of a sentence
- use active verbs where appropriate. A subject-verb-object construction can help Learners understand the action the sentence describes. For example, “the teacher read the book”
- exercise caution when using phrasal verbs (where a verb is combined with an adverb and/or a preposition), as some Learners may not understand them. For example, “look up” (as in, to look something up in a dictionary), “take in” (as in, to deceive)
- give the expanded form of abbreviations the first time they are used – for example, “International Monetary Fund” for “IMF”
- consider the clarity of question words – for example, consider whether asking the question “Explain how...” or “Summarise how...”, rather than simply “How...”, might help some Learners access the question

**Unless the assessment construct requires otherwise**, an awarding organisation might **avoid**:

- uncommon words with unusual or irregular spelling
- words that are specific to a region or country that may not be familiar to some Learners taking the assessment
- words that have more than one meaning. For example, “draw”, “present”, “sound”
- ambiguous use of pronouns. For example, some Learners might not understand what “it” refers to in the following: “The global temperature is rising, which is causing concern. In 2019 it was 0.95°C above the 20th-century average.”
- abstract nouns – for example, by using “Sir Edmund Hillary was brave” rather than “Sir Edmund Hillary showed bravery”
- making a task unintentionally difficult by including a negative word (such as “not” or “don’t”) that would change the nature of the task if overlooked by a Learner

- more than one negative in a sentence. For example, “With these skills, students are more likely to succeed at college” would be better than “Without these skills, students are less likely to succeed at college”
- figurative language, including colloquialisms, idioms, metaphors and sarcasm

## Sentence structures

Principle: Assessment tasks should be expressed in clearly structured sentences.

**Unless the assessment construct requires otherwise**, an awarding organisation should:

- use just one clause or idea per sentence, with each task expressed in a separate sentence or question
- use accurate punctuation
- put any background information to the task or question in a separate sentence or paragraph
- give any relevant information about the time or setting of the task at the beginning of the sentence
- arrange sentences that describe sequential actions in the appropriate logical or chronological order
- where sentences do not describe sequential actions, consider giving the most important sentence first
- use direct quotations in speech marks rather than reported speech – for example, “The teacher said: ‘I taught three classes today’”, rather than “The teacher said she had taught three classes on that day”

**Unless the assessment construct requires otherwise**, an awarding organisation should avoid:

- participle clauses (clauses which do not explicitly indicate tense or who is doing the action of the verb). For example, the following sentence may be challenging for some Learners: “Calculate the ratio of the sides of Rectangle A to the corresponding sides of Rectangle B, giving your answer in the form of 1:n.” The task could instead be written in two sentences: “Calculate the ratio of the sides of Rectangle A to the corresponding sides of Rectangle B. You should give your answer in the form 1:n.”

## Source text or materials, context, images and colour

Principle: Source text or materials, context, images and colour should only be used in a task where they are central to the measurement of the assessment construct.

Where an awarding organisation is considering including source material, context, images or colour in an assessment task, the awarding organisation should consider whether it would be:

- (a) a central **element** that is necessary to measure the construct
- (b) a **useful element** that might help to measure the construct, but is not strictly necessary
- (c) an **incidental element** that does not help to measure the target construct – for example, an image that is purely decorative

An awarding organisation should:

- include central elements in the assessment, even where they might be challenging for some Learners. For example, if the assessment is measuring a Learner's ability to understand legal or historical text, such text must be included in the assessment
- consider whether any elements that might be useful for some Learners (for example, an image that would help some Learners understand the written task) could be distracting for others who might have difficulty seeing it or who might wrongly assume there is additional information in the image that they need to use to complete the task. Consider how to achieve an appropriate balance across the assessment
- avoid incidental elements that might look attractive but add nothing to the assessment task, as they can be distracting or confusing for Learners

## Source text or materials

Principle: Source text or materials should only be provided in an assessment where they are central to the measurement of the assessment construct.

Where an awarding organisation adds source text or materials to a task, the text or materials should:

- not contain any errors
- use language that is of appropriate complexity for the assessment construct. For example, source text should only include colloquialisms, idioms and metaphors when these features are part of the construct
- be presented in a format that is likely to be familiar to Learners (unless the interpretation of unfamiliar formats is part of the construct)
- have line numbers, paragraph numbers or section headings if appropriate to help Learners
- where the assessment construct allows, include an explanation of how the materials should be used in the task

Where an awarding organisation adds source text or materials to a task, the text or materials should **not**:

- be longer than necessary to measure the construct
- advantage or disadvantage any group of Learners. For example, if the source text relates disproportionately and in a way that is not relevant to the assessment construct to a particular socioeconomic context
- use unnecessary negative, narrow or stereotypical representations of particular groups
- be open to different interpretations by Learners where such interpretation does not form part of the construct

## Context

Principle: Where a task is set in a context that is not central to the assessment construct, the context should not make the task less accessible for particular groups of Learners.

**Unless the assessment construct requires otherwise**, an awarding organisation should:

- be sensitive to contexts that will not be equally familiar to all Learners, and try to ensure no particular group of Learners is advantaged or disadvantaged. A lack of familiarity with the context may make it more difficult for blind Learners or deaf or Deaf Learners to perform well in a task. Contexts such as those related to particular types of housing, family arrangements, or social, travel or cultural experiences may advantage or disadvantage particular groups of Learners
- be sensitive to the possibility that the context might confuse or distract some Learners. For example, Learners on the autism spectrum, or Learners whose first language is not English. Such Learners might assume that their lack of

familiarity with a context will prevent them from attempting the task, or might be distracted by the context to an extent that they do not demonstrate the full extent of their knowledge, skills, understanding or behaviours

**Unless the assessment construct requires otherwise**, an awarding organisation should **not**:

- use a context that will confuse or distract Learners from the task – for example, because it could be contentious or disturbing
- use unnecessary negative, narrow or stereotypical representations of particular groups

## Images

Principle: Images should only be used in an assessment where they are central to the measurement of the assessment construct. Where images are used, they should be clear for Learners.

Images can help some Learners to access the task – including those who have difficulty reading or those less familiar with the context in which a task is set. However, images can be a barrier to others, including some Learners on the autism spectrum who might find them distracting, and blind and visually impaired Learners. An awarding organisation should consider whether an image is central, useful or incidental to measuring the construct, and balance the interests of different Learners when deciding whether to use an image.

**Unless the assessment construct requires otherwise**, awarding organisations should:

- use the most accessible type of image available. For example, a clear diagram or line drawing might be more accessible than a photograph or a 3D-effect drawing; a data table might be more accessible than a graph
- use images with clearly defined features, labels and symbols that do not include irrelevant information. For example, a graph might only include major grid lines; a data table might only include the data needed to test the construct
- use images that are large enough to allow the key features to be easily distinguished
- use straight lines or arrows where they are needed to join labels to an image. Ideally, lines or arrows should not intersect with other label lines or arrows, and it should be clear to which part of the image each label refers
- make the relationship between an image and its associated task clear. For example, by using a heading at the top of the image to indicate clearly what it



is, to which task it relates and any other essential information (such as that the image is not drawn to scale)

- consider whether the image could be made accessible to visually impaired Learners before deciding whether to use it
- decide whether an image that is useful but not central to the task would be similarly useful in a paper modified for braille users or for those who require tactile images
- consider whether, in response to a request for a Reasonable Adjustment for a disabled Learner who finds images distracting, to provide a modified paper that omitted useful (although not central) images
- consider the potential cumulative effect of the images used across an assessment, as well as the images used on a task-by-task basis

## Colours

Principle: Assessment tasks should only require Learners to distinguish between colours where this is central to the measurement of the assessment construct.

**Unless the assessment construct requires otherwise** (for example, because a competence standard requires a Learner to differentiate between the colours of electrical wires), awarding organisations should:

- consider using patterns, shading, hatching or text labels to distinguish between sections of an image
- consider shading an area to indicate a blank space, rather than using only an outline
- where colour is used, ensure there is sufficient contrast between text and its background, in line with the colour contrast ratios specified by the Web Content Accessibility Guidelines on [Contrast \(Minimum\)](#)
- where graphics are used to convey meaning, ensure they contrast sufficiently with adjacent colours, in line with the Web Content Accessibility Guidelines on [Non-text Contrast](#)

**Unless the assessment construct requires otherwise**, awarding organisations should **not**:

- overuse hatching within an image which could make the image confusing for Learners
- use coloured backgrounds in the assessment paper (unless as a Reasonable Adjustment)
- require Learners to infer information through the use of colour alone

## Layout

Principle: The layout of an assessment should be clear and consistent and not create unnecessary work for Learners.

**Unless the assessment construct requires otherwise**, awarding organisations should:

- use white space between blocks of text and images
- ensure that the font and text size are easily readable, including when text is used within or alongside an image
- consider using shorter paragraphs, section headings, subheadings or lists to break up long sections of text
- ensure the way in which questions and sub-questions are numbered is sufficiently clear for Learners using assistive technology. For example, the use of numbers, letters and roman numerals together, such as ‘1(a).i’, can lead to translation errors in ‘text to speech’ software. It is, therefore, important to consider whether such multi-tiered question numbering is necessary
- ensure that, where possible, Learners can readily access all relevant information for a particular task. That is, on the same page or double-spread of pages, rather than having to turn between different pages
- align text with the left margin, but not with the right margin (That is, text should be “ragged right”)
- indicate to Learners where a page has been left intentionally blank – for example, with text that states “[BLANK PAGE]”

The UK Association for Accessible Formats (UKAAF) produces [standards and guidance for accessible documents](#), including minimum standards and guidance for clear print, large print and braille documents.

## Anticipating Reasonable Adjustments

An awarding organisation must make Reasonable Adjustments for disabled Learners, to meet their duties under Equalities Law. Ofqual’s General Condition E4.2(d) requires awarding organisations to ensure an assessment “permits Reasonable Adjustments to be made, while minimising the need for them”.

When designing and developing an assessment, an awarding organisation should anticipate the diversity of the Learners likely to take it, and the range of Reasonable Adjustments disabled Learners might need. For example, across the cohort, Learners might need a reader, British Sign Language interpretation, a braille version

of the assessment, or versions that are compatible with assistive software. An assessment designed to be taken in one format should be available for disabled Learners in other formats too, unless the assessment construct precludes it.

Awarding organisations should consider whether an anticipated Reasonable Adjustment might raise accessibility issues for a particular task. For example, awarding organisations should consider how images would be provided in alternative formats, or how screen-reading software would “read” a table of data.

If a task will be inaccessible when used with certain types of Reasonable Adjustment, the awarding organisation should decide how the task would be changed or replaced to make it accessible when used with those Reasonable Adjustments, or whether another form of Reasonable Adjustment should be used instead.

An awarding organisation should be cautious of wording that would not be relevant in alternative formats. For example, “See picture opposite” will not be relevant for Learners using a braille paper and might not be applicable for modifications with different layouts, such as large print or those using assistive software. If such wording is used in the standard paper, it should be removed or adjusted in modified papers as appropriate.

## Alternative formats and assistive technology

An awarding organisation should have regard to this guidance when putting assessments into an alternative format for a Reasonable Adjustment – whether the modification is undertaken in-house or by a third party.

An awarding organisation should consider how Learners who use digital and/or assistive technology as a Reasonable Adjustment will be able to access the assessment. For instance, Learners might use a digital version of the paper to alter the colour of the background or magnify the content. A Learner might use a computer/screen reader to listen to the content or their responses. A Learner might rely on text descriptors (“alt text”) to access images.

An awarding organisation should consider whether disabled Learners using digital and/or assistive technology would have to do more work than Learners using the standard format. For example, Learners who need to switch between separate files in a software program to see source material and tasks could be disadvantaged compared to Learners who can see all the material together in paper versions. Learners who do not use an answer booklet could be disadvantaged compared to Learners who can judge the expected length of response indicated by the space provided in the answer booklet.

With digital assessment materials, whether in a digital document format or dedicated platform, an awarding organisation should be aware of the [Web Content Accessibility Guidelines' accessibility principles "perceivable, operable, understandable and robust"](#). This is to ensure that Learners using digital and/or assistive technology can use digital assessment materials reliably. This can be achieved through meeting the European standard on the accessibility requirements suitable for public procurement of ICT products and services in Europe EN 301 549, which is currently aligned to the [W3C Web Content Accessibility Guidelines 2.1 Level AA](#).

## An awarding organisation's processes

An awarding organisation should ensure all staff involved in the design and development of assessments understand the importance of accessibility and inclusion, and of how to design and develop accessible assessments.

An awarding organisation should ensure staff members involved in assessment design and development consider the diversity of the Learners likely to take the assessment. It might consult groups that represent the Learner cohort – particularly groups that represent Learners who share a protected characteristic, or groups that represent disadvantaged Learners.

[Condition D2.2](#) requires an awarding organisation to monitor qualifications which it makes available for any feature which would disadvantage a group of Learners which shares a particular Characteristic. An awarding organisation should conduct reviews to identify any advantage or disadvantage for a particular Learner group for specific tasks or formats, or types of task or format.

An awarding organisation should also gather and respond to stakeholder feedback on the accessibility of its assessments. An awarding organisation should:

- seek feedback from Centres, gather and analyse information (for example about complaints received and the performance of Learners), to identify issues with its use of language or Stimulus Materials
- use feedback to inform its development of valid assessments and qualifications and to provide feedback and training for staff who develop assessment materials

**Question 1:**

To what extent do you agree or disagree that the content of the draft guidance will help awarding organisations to design and develop assessments that are as accessible as possible for Learners?

**Question 2:**

To what extent do you agree or disagree that the style of the draft guidance will help awarding organisations to design and develop assessments that are as accessible as possible for Learners?

**Question 3:**

To what extent do you agree or disagree that the draft guidance will have a beneficial impact on all Learners taking regulated assessments?

**Question 4:**

To what extent do you agree or disagree that the draft guidance will be relevant to assessments across the full range of qualifications that we regulate?

**Question 5:**

Do you have any specific comments on the draft guidance? Please refer to the relevant section in your response.

### **Question 6:**

To what extent do you agree or disagree that, once we introduce our guidance on designing and developing accessible assessments, we should remove the existing guidance to Condition G3?

### **Question 7:**

Are there any other aspects of design and development on which guidance on accessibility would be useful for awarding organisations?

## **Equality Analysis**

We are subject to the public sector equality duty. Annex C sets out how this duty interacts with our statutory objectives and other duties.

We considered the potential impact of our proposed guidance on Learners who share protected characteristics or socioeconomic status. The guidance applies equally to all awarding organisations offering regulated qualifications. Awarding organisations must have regard to the guidance – they do not have a duty to follow it directly.

We did not identify any negative impacts of our proposed guidance for people because of their protected characteristics or socioeconomic status. We have engaged with groups that represent Learners about our proposed guidance. The avoidance of irrelevant assessment features is likely to be of particular benefit to those Learners for whom such features are most likely to stop them demonstrating their knowledge, skills, understanding or behaviours. But we anticipate that this principle will improve accessibility for Learners more generally.

We know certain aspects of assessment that might benefit one group of Learners might not benefit another. For example, images in an assessment can help some Learners to access a task – including those who have difficulty reading or those less familiar with the context in which a task is set. However, images can be an obstacle to others, including some Learners on the autism spectrum, who might find them distracting, and blind and visually-impaired Learners. We expect awarding organisations to consider the diversity of the Learners likely to take an assessment and to consider any aspects that might make it more difficult for any Learners to

access the assessment. We think the approach set out in the guidance helps to mitigate the potential that a particular group of Learners would be disproportionately affected by such aspects of an assessment.

**Question 8:**

We have not identified any ways in which the proposed guidance would impact negatively on Learners who share a protected characteristic or socioeconomic status. Are there any potential impacts (positive or negative) we have not identified?

**Question 9:**

Are there any additional steps we could take to mitigate any negative impact resulting from these proposals on Learners who share a protected characteristic or socioeconomic status?

**Question 10:**

Do you have any other comments on the impacts of the proposals on Learners who share a protected characteristic or socioeconomic status?

## Regulatory Impact Assessment

The ASCL Act 2009 requires that recognised awarding organisations have regard to the guidance we publish. This means they must review the guidance and consciously consider it when making decisions about their approach. Guidance is not a further set of rules. Where an awarding organisation has good reason to depart from the guidance, it can do so.

We considered the regulatory impact of introducing this new guidance and it replacing the existing guidance to Condition G3. We do not propose any changes to

the Conditions, and our proposed guidance does not change the obligations on awarding organisations, including compliance with Equalities Law.

Introducing additional guidance will increase the overall impact of our requirements because awarding organisations will need to have regard to new information. However, the guidance should help awarding organisations to understand better how to comply with our existing requirements and to further improve their practice in this area. Since it is only 11 pages long, and in part replaces existing guidance, we anticipate the burden of familiarisation with the guidance will be minimal.

Any burden should be balanced against potential time saved by awarding organisations in determining how best to design and develop accessible assessments, and the benefits of doing so.

We consider the impact of the guidance we are putting in place to be proportionate and appropriate to help awarding organisations comply with the Conditions.

### **Question 11:**

Do you have any comments on the estimated costs of awarding organisations, large and small, complying with our proposed guidance?

### **Question 12:**

Are there any steps we could take to reduce the regulatory impact of our proposals?

### **Question 13:**

Are there any costs or benefits associated with our proposals which we have not identified?

### **Question 14:**

Do you have any comments on, including any suggestions for improving, the readability and accessibility of the guidance?



# Introduction of proposed guidance

We encourage comments and feedback on our proposals.

Following the consultation, we will consider all the responses we receive and decide whether to introduce guidance, either as now presented or amended. We aim to publish our decisions in spring 2022 and for the guidance to come into force once it is published. The Guidance should help Awarding Organisations to understand their obligations under existing Conditions; it does not introduce new obligations.

Once published, we would expect Awarding Organisations to review their approach in line with the Guidance within six months. We recognise that Awarding Organisations prepare many assessments well in advance of Learners taking them.

We will require Awarding Organisations to have regard to our guidance for assessments they design and develop from the end of the review date.

## **Question 15:**

Please provide any comments you may have on when any new guidance should be introduced.

## Annex A: Information sources

Below are the main external sources of information that we have drawn upon in developing our proposed guidance.

Almond, P., Winter, P., Cameto, R., Russell, M., Sato, E., Clarke-Midura, J., Torres, C., Haertel, G., Dolan, R., Beddow, P. and Lazarus, S. (2010). [Technology-enabled and universally designed assessment: Considering access in measuring the achievement of students with disabilities – A foundation for research](#). *The Journal of Technology, Learning and Assessment*, 10(5).

American Educational Research Association, American Psychological Association and National Council on Measurement in Education (2014). *Standards for Educational and Psychological Testing*. Washington, DC: American Educational Research Association.

Autism Education Trust (2021). [AET Guidance & Recommendations for Examination Boards: Increasing accessibility for autistic students within GCSE English & Mathematics exam papers whilst retaining subject challenge](#).

Autism Education Trust (2021). [AET Exam accommodations guidance to support autistic students at GCSE: A guide for teachers and examinations officers entering students into public examinations in England and Wales](#).

British Association of Teachers of the Deaf (2020). [Language of Examinations: 3rd Edition 2020 – updated March 2020](#).

British Dyslexia Association (2018). [Dyslexia Style Guide 2018: Creating Dyslexia Friendly Content](#).

Camilli, G. (2006). Test fairness. In R.L. Brennan (Ed.), *Educational Measurement* (4<sup>th</sup> ed. p.221). Westport, CT: Praeger Publishers.

CAST (2018). [Universal Design for Learning guidelines version 2.2](#).

Chartered Institute of Educational Assessors. [Language Modifier: Guidance Examples \(2019-20\)](#).

Chartered Institute of Educational Assessors. [Language Modifier: Handbook \(2019-20\)](#).

International Baccalaureate (2019). Universal Design of Assessment: A Guide for Assessment Design and Development. Internal training resource. Unpublished.

Jisc (2017). [Making assessments accessible](#).

Johnstone, C., Altman, J. and Thurlow, M. (2006). [A State Guide to the Development of Universally-Designed Assessments](#). Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

National Association of Language Advisers (2020). [National Association of Language Advisers \(NALA\) survey: The languages curriculum and disadvantaged students. Survey report](#). October 2020.

National Center on Educational Outcomes (2016). [Frequently-asked questions \(FAQs\): Universal Design for Assessments](#).

Qualifications Wales and CCEA Regulation (2019). [Fair Access by Design](#).

Thompson, S., Johnstone, C.J. and Thurlow, M.L. (2002). [Universal Design Applied to Large-Scale Assessments \(Synthesis Report 44\)](#). Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

UK Association for Accessible Formats (2020). [General and Vocational Examinations for Candidates with Visual Impairment: Best Practice Guidance for Modifiers and Producers](#).

W3C (2018). [Web Content Accessibility Guidelines \(WCAG\) 2.1](#).

# Annex B: Consultation responses and your data

## Why we collect your personal data

As part of our consultation process, you are not required to provide your name or any personal information that will identify you. However, we are aware that some respondents would like to provide contact information. If you or your organisation are happy to provide personal data, with regard to this consultation, please complete the details below. We would like to hear as many views as possible and ensure that we are reaching as many people as possible. In order for us to monitor this, understand views of different groups and take steps to reach specific groups, we may ask for sensitive data such as ethnicity and disability to understand the reach of this consultation and views of specific groups. You do not have to provide this information and it is entirely optional.

**If there is any part of your response that you wish to remain confidential, please indicate at the appropriate point in the survey.**

Where you have requested that your response or any part remains confidential, we will not include your details in any published list of respondents, however, we may quote from the response anonymously in order to illustrate the kind of feedback we have received.

## Your data

Your personal data:

- will not be sent outside of the UK unless there are appropriate safeguards in place to protect your personal data
- will not be used for any automated decision making
- will be kept secure

We implement appropriate technical and organisational measures in order to protect your personal data against accidental or unlawful destruction, accidental loss or alteration, unauthorised disclosure or access and any other unlawful forms of processing.

## Your rights: access, rectification and erasure

As a data subject, you have the legal right to:

- access personal data relating to you
- object to the processing of your personal data
- have all or some of your data deleted or corrected
- prevent your personal data being processed in some circumstances
- ask us to stop using your data, but keep it on record

If you would like to exercise your rights, please contact us using the details below. You can also find out [more about Ofqual's privacy information](#).

## Freedom of Information Act and your response

Please note that information in response to this consultation may be subject to release to the public or other parties in accordance with access to information law, primarily the Freedom of Information Act 2000 (FOIA). We have obligations to disclose information to particular recipients including members of the public in certain circumstances. Your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance requests for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response and assess this in accordance with applicable data protection rules.

Members of the public are entitled to ask for information we hold under the Freedom of Information Act 2000. On such occasions, we will usually anonymise responses, or ask for consent from those who have responded, but please be aware that we cannot guarantee confidentiality.

If you choose 'no' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make your personal name and private contact details publicly available.

## How we will use your response

We will use your response to help us shape our policies and regulatory activity. If you provide your personal details, we may contact you in relation to your response. We will analyse all responses and produce reports of consultation responses. In the

course of analysis, we will where possible avoid using your name and contact details. We will only process the body of your response, but we are aware that in some cases, this may contain information that could identify you.

## Sharing your response

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships & Technical Education (IFATE) where the consultation is part of work involving those organisations. We may need to share responses with them to ensure that our approach aligns with the wider process. Where possible, if we share a response, we will not include any personal data (if you have provided any). Where we have received a response to the consultation from an organisation, we will provide the DfE and IFATE with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Where we share data, we ensure that adequate safeguards are in place to ensure that your rights and freedoms are not affected.

We use Citizen Space, which is part of Delib Limited, to collect consultation responses and they act as our data processor. You can view [Citizen Space's privacy notice](#).

Your response will also be shared internally within Ofqual in order to analyse the responses and shape our policies and regulatory activity. We use third party software to produce analysis reports, which may require hosting of data outside the UK, specifically the US. Please note that limited personal information is shared. All personal contact information is removed during this process. Where we transfer any personal data outside the UK, we make sure that appropriate safeguards are in place to ensure that the personal data is protected and kept secure.

Following the end of the consultation, we will publish an analysis of responses on [our website](#). We will not include personal details in the responses that we publish.

We may also publish an annex to the analysis listing all organisations that responded but will not include personal names or other contact details.

## How long will we keep your personal data?

Unless otherwise stated, Ofqual will keep your personal data (if provided) for a period of 2 years after the consultation closing date.

## Our legal basis for processing your personal data

Where you provide personal data for this consultation, we are relying upon the public task basis as set out in Article 6(1)(e) of UK GDPR to process personal data which allows processing of personal data when this is necessary for the performance of our public tasks. We will consult where there is a statutory duty to consult or where there is a legitimate expectation that a process of consultation will take place. Where you provide special category data, we process sensitive personal data such as ethnicity and disability, we rely on Article 9(2)(g) of UK GDPR as processing is necessary for reasons of substantial public interest.

## The identity of the data controller and contact details of our Data Protection Officer

This privacy notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual). The relevant data protection regime that applies to our processing is the UK GDPR<sup>1</sup> and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this privacy notice carefully as it contains important information about our processing of consultation responses and your rights.

## How to contact us

If you have any questions about this privacy notice, how we handle your personal data, or want to exercise any of your rights, please contact our data protection officer at [dp.requests@ofqual.gov.uk](mailto:dp.requests@ofqual.gov.uk)

We will respond to any rights that you exercise within a month of receiving your request, unless the request is particularly complex, in which case we will respond within 3 months.

Please note that exceptions apply to some of these rights which we will apply in accordance with the law.

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<sup>1</sup> Please note that as of 1st January 2021, data protection laws in the UK have changed. The General Data Protection Regulation (EU) 2016/679(GDPR) no longer applies to the UK. However, the UK has incorporated GDPR into domestic law subject to minor technical changes. The Data Protection, Privacy and Electronic Communications (Amendment etc.) EU exit Regulations (DPPEC) came into force in the UK on 1st January 2021. This consolidates and amends the GDPR and UK Data Protection Act 2018 to create the new UK GDPR.

You also have the right to lodge a complaint with [the Information Commissioner](#) (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at:

ICO,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF  
Tel: 0303 123 1113



# Annex C – Ofqual’s role, objectives and duties

## The Apprenticeship, Skills, Children and Learning Act 2009

Ofqual has five statutory objectives, set out in the Apprenticeship, Skills, Children and Learning Act 2009;

1) **The qualification standards objective**, which is to secure that the qualifications we regulate:

- a) give a reliable indication of knowledge, skills and understanding; and
- b) indicate:
  - i) a consistent level of attainment (including over time) between comparable regulated qualifications; and
  - ii) a consistent level of attainment (but not over time) between qualifications we regulate and comparable qualifications (including those awarded outside of the UK) that we do not regulate

2) **The assessment standards objective**, which is to promote the development and implementation of regulated assessment arrangements which:

- a) give a reliable indication of achievement, and
- b) indicate a consistent level of attainment (including over time) between comparable assessments

3) **The public confidence objective**, which is to promote public confidence in regulated qualifications and regulated assessment arrangements

4) **The awareness objective**, which is to promote awareness and understanding of:

- a) the range of regulated qualifications available,
- b) the benefits of regulated qualifications to Learners, employers and institutions within the higher education sector, and
- c) the benefits of recognition to bodies awarding or authenticating qualifications

5) **The efficiency objective**, which is to secure that regulated qualifications are provided efficiently, and that any relevant sums payable to a body awarding or authenticating a qualification represent value for money.

We must therefore regulate so that qualifications properly differentiate between Learners who have demonstrated that they have the knowledge, skills and understanding required to attain the qualification and those who have not.

We also have a duty under the Apprenticeship, Skills, Children and Learning Act 2009 to have regard to the reasonable requirements of relevant Learners, including those with special educational needs and disabilities, of employers and of the higher education sector, and to aspects of government policy when so directed by the Secretary of State.

## The Equality Act 2010

As a public body, we are subject to the public sector equality duty. This duty requires us to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The awarding organisations that design, deliver and award qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications, except where we have specified that such adjustments should not be made.

When we decide whether such adjustments should not be made, we must have regard to:

- (a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities
- (b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred
- (c) the need to maintain public confidence in the qualification

We are subject to a number of duties and we must aim to achieve a number of objectives. These different duties and objectives can, sometimes conflict with each other. For example, if we regulate to secure that a qualification gives a reliable indication of a Learner's knowledge, skills and understanding, a Learner who has not

been able to demonstrate the required knowledge, skills and/or understanding will not be awarded the qualification.

A person may find it more difficult, or impossible, to demonstrate the required knowledge, skills and/or understanding because they have a protected characteristic. This could put them at a disadvantage relative to others who have been awarded the qualification.

It is not always possible for us to regulate so that qualifications give a reliable indication of knowledge, skills and understanding and advance equality between people who share a protected characteristic and those who do not. We must review all the available evidence and actively consider all the available options before coming to a final, justifiable decision.

Qualifications cannot mitigate inequalities or unfairness in the education system or in society more widely that might affect, for example, Learners' preparedness to take the qualification and the assessments within it. While a wide range of factors can have an impact on a Learner's ability to achieve a particular assessment, our influence is limited to the qualification design and assessment.

We require awarding bodies to design qualifications that give a reliable indication of the knowledge, skills and understanding of the Learners that take them. We also require awarding organisations to avoid, where possible, features of a qualification that could, without justification, make a qualification more difficult for a Learner to achieve because they have a particular protected characteristic. We require awarding organisations to monitor whether any features of their qualifications have this effect.

In setting our proposed requirements, we want to understand the possible impacts of the proposals on Learners who share a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage and civil partnerships
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

With respect to the public sector equality duty under section 149 of the Equality Act, we are not required to have due regard to impacts on those who are married or in a civil partnership.



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