

ANALYSIS OF CONSULTATION RESPONSES

Analysis of responses to our consultation on changes to our rules for reviews of marking, moderation and appeals

ofqual

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1. Executive summary

- 1.1. We consulted on proposals to make some changes to our rules about how exam boards must conduct reviews of marking, reviews of moderation and appeals for GCSE, GCE and project qualifications. The consultation ran between 14 December 2018 and 25 January 2019.
- 1.2. The consultation questions were available to complete online or via email. A copy of the consultation is available at <https://www.gov.uk/government/consultations/changes-to-our-rules-for-reviews-of-marking-moderation-and-appeals>.
- 1.3. We received 11 responses to the consultation. Of these, 8 were complete online responses and 3 were responses submitted by email. We are grateful to everyone who participated.

2. Introduction

- 2.1. This report is a summary of the views expressed by those who responded to the consultation.
- 2.2. We proposed the changes in response to issues we have seen in the first 2 years of operation of these rules. They aim to make our rules easier to follow and bring them in line with a version of the rules which we have already introduced for Technical Qualifications.
- 2.3. We proposed:
 - simplified wording – to make our rules easier to follow and use
 - provisions for private candidates – to make it clearer that private candidates can apply directly to exam boards for both reviews and appeals
 - a slight change to our rules for reviews of marking of Centre marked assessments to match the way they have been operationalised by the exam boards
 - to remove some requirements about data the exam boards need to publish, to avoid duplication with Official Statistics we publish and to reduce the burden on exam boards
 - in light of decisions we have already taken but which do not come into force until 2020, to update our ‘key dates’ requirements to ensure that all schools, colleges and candidates have the appropriate amount of time, at different stages of the review and appeals processes, to consider whether to make use of this system
 - to introduce additional statutory guidance to help exam boards apply the rules correctly and consistently

3. Who responded?

- 3.1. We received 11 responses to our consultation.
- 3.2. The 4 personal responses were from an assessment professional, a teaching exams officer, an examiner/moderator and a teacher.
- 3.3. Of the 7 organisational responses:

- 4 were from exam boards
- 2 were from a school or college
- 1 was from an 'other representative or interest group'

3.4. A list of the organisations that responded to the consultation is included in Appendix A: List of organisational consultation respondents.

4. Approach to analysis

- 4.1. The consultation was published on our website. Respondents could choose to respond using an online form or by email. The consultation included 22 questions relating to reviews of marking, reviews of moderation and appeals for GCSE, GCE and project qualifications.
- 4.2. This was a public consultation on the views of those who wished to participate. We present the responses to the consultation questions in the order in which they were asked. While respondents could choose to answer all or just some of the questions, in this case we received 11 responses to every question we asked.
- 4.3. We have sometimes edited comments for brevity and to preserve anonymity but have been careful not to change their meaning.

5. Views expressed – consultation response outcomes

- 5.1. In this section we report the views, in broad terms, of those who responded to the consultation document.
- 5.2. Our consultation covered 3 types of qualification – GCSE, GCE and Project. With a few exceptions, which we noted, all our proposals applied to all 3 types of qualification. Where we gave specific examples, we used references to our GCSE Conditions.
- 5.3. In all of these instances, unless otherwise noted, these references can be read across to our Conditions for GCE qualifications. However, the conditions for project qualifications do not have the same numbering as those for GCSE and GCE qualifications. The table in Appendix B sets out which Project Conditions align with which GCSE/GCE conditions.

Question 1: To what extent do you agree or disagree that the changes we have made to the wording of our Conditions makes them easier to read?

Strongly agree	4
Agree	5
Neither agree nor disagree	2
Disagree	0
Strongly disagree	0

- 5.4. An overwhelming majority of respondents agreed with our proposed changes.

These are welcome simplifications that make the document more accessible to non-expert stakeholders such as students.

Representative or interest group

- 5.5. One exam board, which responded with ‘neither agree nor disagree’, welcomed the changes on the whole but also said that:

We consider that there are sections that could be re-drafted to make them easier to read, for example GCSE 15.2 – the repetition of ‘provide’, for example, does not make the statements easy to read.

Exam board

- 5.6. Another exam board said it strongly agreed with our proposed changes, but nonetheless provided a detailed suggestion about GCSE14.6, 14.7 and 14.8.

Question 2: To what extent do you agree or disagree that we should create a new condition which puts in one place all our requirements about exam boards publishing information about their reviews and appeals processes?

Strongly agree	2
Agree	5
Neither agree nor disagree	4
Disagree	0
Strongly disagree	0

- 5.7. All the comments we received regarding this proposal were supportive, agreeing that our proposed changes would make the conditions clearer and more useable. For example:

We agree that all such requirements should be in one new condition. We consider that this provides greater clarity for exam boards and interested stakeholders.

Exam board

This approach removes the need to repeat the same information in 5 different places.

Exam board

- 5.8. The 4 respondents who said they neither agreed nor disagreed with the proposal did not leave any additional comments.

Question 3: To what extent do you agree or disagree that we should remove the requirements for exam boards to publish information for each stage of their reviews and appeals processes about how they train and monitor those undertaking the review, and the actions they take if they learn of any issues?

Strongly agree	5
Agree	4
Neither agree nor disagree	1
Disagree	0
Strongly disagree	1

5.9. Responses to this question were again in strong agreement with our proposal, with respondents viewing it as reducing bureaucracy, particularly in light of the fact that exam boards already publish information about their processes on their websites.

5.10. The sole respondent who strongly disagreed with our proposal did not leave any comment, so we do not know the reason for their response.

Question 4: To what extent do you agree or disagree that we should leave GCSE17.7 and 17.8 in place until 1 May 2020?

Strongly agree	2
Agree	5
Neither agree nor disagree	4
Disagree	0
Strongly disagree	0

5.11. Respondents agreed with our proposal to leave GCSE17.7 and 17.8 in place, rather than remove them. They agreed we should tailor these conditions so that they fitted with our new condition, and then reissue the notice we have already issued under GCSE17.8. This was seen as sensible, and, as one exam board put it, 'a simple way of making it clear that the current rules are in place until 1 May 2020'.

5.12. The 'other representative or interest group', which responded "neither agree nor disagree", noted that:

Given the changes from 2020 this seems sensible. However, it would be desirable for centres and students if the changes were made with immediate effect.

Representative or interest group

Question 5: To what extent do you agree or disagree that the new wording regarding provisions for private candidates is clear and unambiguous?

Strongly agree	0
Agree	5
Neither agree nor disagree	3
Disagree	3
Strongly disagree	0

5.13. Responses to this proposal were mixed. Only 2 of those which agreed provided comments. Both said that the proposed wording was clear, but one noted that it would be important for exam boards to use language on their websites that students would understand, such as 'private candidates'.

5.14. The 3 responses which disagreed with our proposals were all from exam boards and all did so for a similar reason – they were concerned that the words 'private candidate' do not appear in the condition. One suggested that the focus on 'relevant centre' might be confusing:

We endorse the effort to simplify the wording of conditions which relate to private candidates. However, we believe the repeated references to the term "relevant centre", for example in GCSE conditions 15.3 and 15.4, may cause confusion.

A non-private candidate, who had recently left a centre, despite entering for assessments in the past at that centre as an internal candidate, might think these conditions applied to them. We suggest that an alternative for the phrase "relevant centre" is sought or that it is made clear that this condition, and the other conditions like it, apply only to private candidates.

Exam board

Question 6: To what extent do you agree or disagree that the change to the requirements for reviews of marking of centre-marked assessments will make our expectations clearer?

Strongly agree	1
Agree	5
Neither agree nor disagree	2
Disagree	2
Strongly disagree	1

5.15. While the majority of respondents were in favour of our proposals, only one of them commented:

Clarity of purpose will be of great assistance in making the parameters of the review clear to all parties. Amendment in 5.17 will give reassurance to staff that their professional judgement can't be undermined by a second opinion that has no reason to be given greater weight than theirs, unless a genuine mistake has been identified. Clear next step to take if the centre does disagree with the review, which is a glaring omission in the original process.

- 5.16. Those who disagreed, or who responded 'neither agree nor disagree', left many more comments covering a variety of issues.
- 5.17. The 'other representative or interest group' said that this part of the conditions seemed less clear than others. It also questioned whether centre-appointed assessors could ever be considered to have 'no personal interest' in the review. More broadly, the comment notes that 'there are also many problems for centres in releasing results to students at the point suggested'.
- 5.18. The remaining 4 comments were all from exam boards. Two comments raised concerns with paragraph 5.17 from the consultation document, and with the final sentence in particular, which said:

We also propose to amend the rules to make it clear what must happen if the centre cannot accept its reviewer's decision, as we should not presume the reviewer is infallible. The centre remains responsible for the marks it submits. We propose that if the centre does not accept the outcome of a review, it must notify the exam board of the reviewer's finding and the reasons why the centre does not agree with it. The exam board will consider this information in determining the sample of work it requests from that centre.

- 5.19. The 2 comments raised questions about the idea of purposefully adding students' work to the sample.

We have concerns regarding these proposed changes for the sampling and moderation process. We are confident that our current sampling processes are sufficient to identify inconsistencies in centre marking or consistent under or over marking. However, to deliberately introduce into the (random) sample a mark about which there is a particular doubt risks undermining these processes and potentially skewing the outcomes in a way that may be potentially unfair to other students in the cohort, or other centres. For example, if the original teacher's mark is correct, and the reviewer's mark is not, but the reviewer's mark gets submitted and included in the sample, there is a risk that this mark could take the average difference between centre and moderator out of tolerance for the whole cohort and this could lead to the marks being regressed based primarily on this one incorrect mark.

Exam board

- 5.20. Another exam board agreed that the proposed conditions make the process and scope of the review clearer, but it disagreed with the new emphasis on the reviewer's role in assessing the consistency of the marking, as it sees this as the responsibility of the board (via its moderators).
- 5.21. The one exam board which 'strongly disagreed' with the proposal did so because it thinks the proposed conditions could 'create an expectation that the board should

become directly involved with resolving centres' internal reviews'. Another exam board expressed a similar worry that the proposed changes could drive centre behaviour in unintended directions:

For example, centres may choose to fail to engage with review outcomes to avoid difficult conversations with parents, leaving all decisions in the hands of the awarding organisation.

Exam board

Question 7: To what extent do you agree or disagree that we should remove the current reporting requirements relating to review arrangements and the appeals process?

Strongly agree	3
Agree	5
Neither agree nor disagree	2
Disagree	1
Strongly disagree	0

- 5.22. The only respondent to disagree with this proposal – a teacher – did not leave a comment, and neither did the respondents who expressed no clear opinion. We do not therefore know the reasons for their responses.
- 5.23. Where comments were made by the respondents who supported the proposal, they agreed with the rationale we presented in our consultation and highlighted the reduction in burden.

Question 8: To what extent do you agree or disagree that we should require exam boards to report on the number of times they have met and failed to meet the target timescales they have set?

Strongly agree	5
Agree	2
Neither agree nor disagree	2
Disagree	1
Strongly disagree	1

- 5.24. The respondent who said they disagreed with the proposal did not give any reasons for their response. The respondent who 'strongly disagreed' said the proposal was 'unnecessary bureaucracy, not at all needed, a retrograde step.'
- 5.25. The majority of respondents agreed or strongly agreed, including 3 exam boards. They said that this would increase transparency in an area of value to stakeholders. Two exam boards, however, commented that care would need to be taken to present

contextual information alongside the data to make sure that it could be interpreted correctly.

- 5.26. The fourth exam board neither agreed nor disagreed with our proposal, saying that it agreed in principle but pointed out that some factors, such as the time a centre might take to return work to the exam board for a review of moderation, were outside of the exam board's control.

Question 9: To what extent do you agree or disagree that we should introduce key date requirements for access to scripts at GCSE?

Strongly agree	4
Agree	3
Neither agree nor disagree	2
Disagree	1
Strongly disagree	1

- 5.27. Responses to this proposal were again strongly positive on the whole. The respondent who said they disagreed with the proposal did not give any reasons for their response. The respondent who 'strongly disagreed' said only 'retrograde step' without giving any further explanation.
- 5.28. Those who agreed with our proposal expressed a variety of reasons. The exams officer highlighted the value of consistency for centres and the 'other representative or interest group' emphasised that it would give time for students and teachers to check scripts thoroughly.
- 5.29. Two exam boards agreed or agreed strongly without giving extensive reasons, and 2 said that they neither agreed nor disagreed. One said that it saw the benefit of coming to a common decision and would raise the issue with the Joint Council for Qualifications (JCQ). The other said that it agreed in principle, but that there were 'operation matters to consider':

The proposed deadlines would require the review of marking deadline to be extended beyond the current 4 weeks after the issuing of GCSE results to allow for candidates to have 2 weeks to request a script, time for exam bodies to despatch the scripts and 2 weeks to make a review of marking request following receipt of a script. This change could result in different deadlines for different awarding bodies depending on time taken by exam bodies to despatch the scripts. This is likely to cause confusion for centres using multiple exam boards. It may also result in a different deadline date for GCSE and GCE reviews of marking, which could also lead to confusion. The later deadline date for reviews of marking would also have an impact on appeals, potentially extending appeals further into the autumn term, possibly during or after candidates have re-sat GCSE examinations in November. A later deadline date for Reviews of Marking may also impact on the despatch of certificates.

Exam board

Question 10: To what extent do you agree or disagree that we should require that an exam board allows a minimum of two weeks following the issue of results for students and centres to decide whether to access a script?

Strongly agree	4
Agree	4
Neither agree nor disagree	2
Disagree	1
Strongly disagree	0

- 5.30. The only respondent to disagree with this proposal was one of the exam boards. Its comments indicate that that it disagreed with the details rather than the principle.

We agree that the deadline date should be after the start of the autumn term for the June series but that two weeks will delay the review of marking deadline. We consider that centres should receive 12 calendar days to submit an application, that exam boards are given a maximum number of days to return the scripts and that centres/candidates should have 2 weeks from the return of scripts to submit a review of marking. For example for 2020:

27 August – results day

8 September – deadline to request scripts

11 September – deadline for exam board to return scripts

21 September – deadline for review of marking

Exam board

- 5.31. Two of the other exam boards also raised issues for consideration. One said that, although it supported the proposal, exceptions would need to be made for priority reviews of marking at GCE in order to support university admissions. The other noted again that the sector should work together through JCQ and went on to say that to introduce this change for summer 2019 would not give the exam boards sufficient time to make changes. It also highlighted the issue of entry to higher education and said that there might also be an impact on exam board systems and resources.
- 5.32. Other than the exam boards, respondents were all positive, saying that the proposal seemed sensible and that 2 weeks is a reasonable timescale.

Question 11: To what extent do you agree or disagree that we should introduce an additional key dates requirement for exam boards to make scripts available following the outcome of a review?

Strongly agree	4
Agree	3
Neither agree nor disagree	2

Disagree	1
Strongly disagree	1

- 5.33. Overall, there was a high level of support for this proposal. An exams officer commented that without a script it is hard if not impossible to build a case for an appeal, and the ‘other representative or interest group’ said that our proposal seemed sensible.
- 5.34. An examiner, on the other hand, strongly disagreed with our proposal, saying that ‘the whole concept of scripts being available after marking should be reconsidered’ and asking whether, with online marking now common, students would receive a print out or an electronic copy.
- 5.35. Responses from the exam boards were varied. One neither agreed nor disagreed but reiterated its support for a JCQ-agreed solution. Another agreed, noting that any time limit which was set should not disrupt the existing timeline between the outcome of a review and the submission of an appeal, as doing so would risk its ability to manage appeals in a reasonable timeframe.
- 5.36. One exam board disagreed with our proposal, saying that while it understood the rationale, the outcome would be individual candidates having their own deadlines depending on when they had received their review outcome, which would be burdensome to manage.
- 5.37. Finally, one exam board strongly agreed, saying only that ‘this will be a useful additional service to help centres when considering whether to appeal.’

Question 12: To what extent do you agree or disagree that in 2020 we should remove the key dates requirement about providing reasons?

Strongly agree	3
Agree	6
Neither agree nor disagree	1
Disagree	1
Strongly disagree	0

- 5.38. A single respondent – a teacher – disagreed with our proposal but did not leave a comment so we have no way to discern the basis of their disagreement.
- 5.39. The respondent who neither agreed nor disagreed was an exam board, which reiterated its support for a JCQ-agreed solution.
- 5.40. The other respondents all agreed with our proposal, on the basis that after 2020 the requirements will be redundant.

Question 13: To what extent do you agree or disagree that we should introduce new guidance in relation to how an exam board should approach the conduct of reviews and appeals?

Strongly agree	1
Agree	7
Neither agree nor disagree	2
Disagree	0
Strongly disagree	1

- 5.41. One respondent – an examiner – strongly disagreed with our proposal, saying that we should ‘let the exam boards sort it out themselves’.
- 5.42. Other responses were weighted in favour of our proposals. The 2 ‘neither agree nor disagree’ responses were from individuals who did not leave any further comments.
- 5.43. The exam boards all agreed that guidance in this area would be helpful, although 2 of them made some detailed points about aspects of the guidance which they thought could be improved, such as the perception that our proposed guidance assumes that centres must outline specific issues when applying for a review of marking or moderation.

Question 14: Do you have any views on the contents of our proposed new guidance?

Yes	6
No	5

- 5.44. The 6 respondents who commented on the contents of our proposed new guidance had a range of views, ranging from brief (‘let the boards sort it out themselves’) to long and detailed.
- 5.45. One respondent – a school or sixth form – did not directly address our proposed guidance but used the opportunity to criticise the decrease in whole-centre reviews of marking with automatic grade protection, saying that the number of errors reported are much lower than actually occur.
- 5.46. The ‘other representative or interest group’ suggested that we explain in more detail our understanding of ‘intelligible’ in terms of the reasons exam boards must give schools following a review of marking or moderation.
- 5.47. Two exam boards also gave feedback on aspects of our ‘reasons’ guidance. One commented that it was already working through necessary IT changes to support the provision of reasons, and that any further guidance would need to be confirmed quickly to prevent additional work.

- 5.48. The other exam board gave detailed feedback on a number of specific areas of wording in our proposed guidance, linked mainly with how the guidance would interact with the exam board's specific operational practice.
- 5.49. A third exam board welcomed the proposed guidance but commented that we have guidance to both our General Conditions and Qualification Level Conditions, and that it would be helpful to have all the guidance in one place. It also noted our new 'Handbook' and said that its presentation made it more difficult to find relevant information, in part because it cannot be searched to identify all key words in the same way as the previous conditions.

Question 15: To what extent do you agree or disagree that we should introduce new guidance about how exam boards should act if they discover through a review or appeal any issue that may have affected other students?

Strongly agree	3
Agree	5
Neither agree nor disagree	2
Disagree	0
Strongly disagree	1

- 5.50. Respondents were mostly positive regarding our proposal. The 1 respondent who strongly disagreed was consistently against guidance of any sort.
- 5.51. The 4 exam boards said either that they agreed that we should introduce guidance in this area, or that they could neither agree nor disagree without seeing the guidance in question.
- 5.52. We have subsequently sent the 4 exam boards a copy of our proposed guidance, which was not published alongside the consultation due to an oversight. The comments they sent in response indicated that they agreed that additional guidance in this area would be helpful.

This is a complex area where fine judgments need to be made that balance the interests of individual learners and the wider integrity of the system. Clear, principle-based guidance will be helpful.

Exam board

- 5.53. However, 2 exam boards indicated that our proposed guidance was not specific enough and was open to interpretation. In particular, one exam board highlighted the use of the phrase 'all reasonable steps' as open to interpretation.

Although we would welcome additional guidance, we don't believe there is sufficient detail in the text provided. More specific guidance may assist exam boards in consistently interpreting such guidance.

Exam board

Question 16: We have set out our view of the regulatory impact of our proposals on changing our rules for reviews of marking, moderation and appeals in GCSEs, GCEs and project qualifications. Do you have any comments on this assessment?

Yes	1
No	10

Question 17: Are there any additional steps we could take to reduce the regulatory impact of our proposals?

Yes	2
No	9

Question 18: Are there any costs or benefits associated with our proposals which we have not identified?

Yes	1
No	10

5.54. We asked 3 questions about the regulatory impact of our proposals. We received very few comments in response.

5.55. Two responses made general points about our conditions and guidance. One, from an examiner, urged us to 'try wherever possible to shorten and simplify the requirements.' A similar comment from the 'other representative or interest group' emphasised that 'there is a cost to the credibility of the examination system if the review and appeals process are not transparent, robust, neutral and comprehensible to students.'

5.56. We received 2 other substantive comments, both from exam boards. One was regarding the recent change to the presentation of our General Conditions.

Ofqual has a number of regulatory documents. The change to the format of the Handbook on the website does not make key documents easy to navigate. A format which can be printed and fully searchable for key words would improve effectiveness and efficiency.

Exam board

5.57. The other comment made two points. Firstly it emphasised that introducing additional steps or deadlines to post-results services would have an impact on exam boards' established processes.

5.58. Secondly, it expressed a concern that we had underestimated the cost of familiarisation for exam boards in assimilating our revised guidance.

Although the revised guidance is only three pages long, there are multiple documents with which the guidance needs to be cross referenced. Furthermore, in agreeing a considered view as to the Ofqual proposals, a large number of processes have to be reviewed and a range of personnel have to be consulted. In addition to this are the costs associated with sign off from senior leaders. This ignores the cost of

implementation, which will be considerably more significant. Our estimate of the cost of familiarisation for the purposes of responding to this consultation (i.e. excluding the implementation and training required following the publication of the outcome, which will be considerably more costly) is £1900.

Exam board

Question 19: We have set out our view that our proposals would not impact (positively or negatively) on students who share a particular protected characteristic. Are there any potential impacts that we have not identified?

Yes	1
No	10

Question 20: Are there any additional steps we could take to mitigate any negative impact you have identified would result from our proposals, on students who share a protected characteristic?

Yes	1
No	10

Question 21: Do you have any other comments on the impacts of our proposals on students who share a protected characteristic?

Yes	0
No	11

5.59. We asked 3 questions about the impact of our proposals on students who share a particular protected characteristic. Only 1 respondent had any comments, both of which focussed on the effect of our proposals on special schools. The first comment emphasised that students in special schools should not be disadvantaged, and the second asked whether exam boards should be required to 'offer extra support to small centres such as many special schools where exams officers are likely to have less expertise.'

Appendix A: List of organisational consultation respondents

When completing the questionnaire, we asked respondents to indicate whether they were responding as an individual or on behalf of an organisation.

Below we list those organisations that submitted a response to the consultation. We have not included a list of those responding as an individual.

AQA

OCR

Pearson

Rochdale Sixth Form College

The Sixth Form College, Solihull

The Student Room Group

WJEC

Appendix B – Alignment of GCSE/GCE and Project Conditions

GCSE/GCE Conditions	Project Conditions
GCSE12 – Review of marking of centre-marked assessments	Project6 – Review of marking of Centre-marked assessments
GCSE13 – Notification of Moderation outcome	Project7 – Notification of Moderation outcome
GCSE14 – Review of Moderation	Project8 – Review of Moderation
GCSE15 – Making Marked Assessment Materials available to Learners	Project9 – Making Marked Assessment Materials available to Learners
GCSE16 – Administrative Error Review	Project10 – Administrative Error Review
GCSE17 – Review of marking of Marked Assessment Material	Project11 – Review of marking of Marked Assessment Material
GCSE18 – Appeals process for GCSE Qualifications	Project12 – Appeals process for project qualifications
GCSE19 – Centre decisions relating to Review Arrangements	Project13 – Centre decisions relating to Review Arrangements
GCSE20 – Target performance in relation to Review Arrangements and appeals process	Project14 – Target performance in relation to Review Arrangements and appeals process
GCSE21 – Reporting of data relating to Review Arrangements and appeals process	Project15 – Reporting of data relating to Review Arrangements and appeals process
GCSE22 – Review Arrangements and certificates	Project16 – Review Arrangements and certificates
GCSE23 – Discovery of failure in assessment processes	Project17 – Discovery of failure in assessment processes
GCSE24 – Publication of Review Arrangements and appeals process	Project18 – Publication of Review Arrangements and appeals process
GCSE25 – Subjects for GCSE Qualifications	

GCSE26 – Interpretation and Definitions	Project19 – Interpretation and Definitions
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