

CONSULTATION DECISIONS

Decisions on changes to our rules for reviews of marking, moderation and appeals

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1. Introduction

- 1.1. From 14 December 2018 to 25 January 2019 we consulted on changes to our rules about how exam boards must conduct reviews of marking, reviews of moderation and appeals for GCSE, GCE and project qualifications.
- 1.2. We proposed the changes to respond to issues we have seen in the first 2 years of operation of these rules. Our aim is 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. Summary of decisions

- 2.1. We have decided to implement the proposals on which we consulted, subject to a change to the way we refer in the conditions to private candidates. We have also made some minor changes to the proposed wording of our Conditions and guidance in a number of places in light of responses to our consultation.
- 2.2. The proposed changes were designed to:
 - simplify the wording of our conditions where possible, to make them easier to follow and use
 - make it clearer that private candidates can apply directly to exam boards for both reviews and appeals
 - slightly change our rules for reviews of marking of Centre marked assessments to match the way the original rules have been operationalised by the exam boards
 - remove some requirements about data the exam boards need to publish, to avoid duplication with Official Statistics published by us, and reduce burden on the exam boards
 - 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 the system
 - introduce additional statutory guidance to help exam boards apply the rules correctly and consistently
- 2.3. We have decided to adopt all of our proposals but have changed how we intend to make it clearer that private candidates can apply directly to exam boards for both reviews and appeals. The text will now refer specifically to private candidates, making the conditions clearer and more transparent.

In various places throughout this document we refer to specific Conditions, requirements and guidance for our qualifications. In some places we use references

such as Condition GCSE12.3, which is from our *GCSE (9 to 1) qualification-level conditions and requirements*.¹

In all of these instances, unless otherwise noted, these references can be read across to our Conditions for GCE qualifications, where the reference would be GCE12.3.

We are also proposing to apply the changes to our Conditions for project qualifications. These conditions do not have the same numbering as those for GCSE and GCE qualifications. The table in Appendix A sets out which Project Conditions align with which GCSE/GCE conditions.

It is important to note that currently no project qualifications include assessments which are marked by the awarding organisation – although we have requirements in place to allow awarding organisations to assess these qualifications in this way, none has yet chosen to do so.

3. Details

Simplification of wording

- 3.1. We proposed to shorten and simplify our current rules in a number of places, without changing the obligations which are placed on exam boards.
- 3.2. None of the respondents to our consultation disagreed with our proposals to simplify the wording. We have decided to adopt the simplified wording on which we consulted.
- 3.3. This includes a general simplification of wording where possible, but also incorporates some other changes, which are described in the following paragraphs.
- 3.4. We have created a new condition which puts in one place all our requirements about exam boards publishing information about their reviews and appeals processes. Previously, each of GCSE14 – GCSE18 contained a section which required exam boards to publish information on the respective appeals or review process. Respondents agreed this change would make the conditions clearer and more useable.
- 3.5. We have also removed the requirement for exam boards to publish, for each stage of their review and appeals process, information about the training and monitoring of their staff. We have separate requirements that ensure exam boards publish on their websites statements about how they undertake their monitoring of reviews of marking and moderation.
- 3.6. There is one area – GCSE17 (Review of marking of Marked Assessment Material) where this change will not take effect until May 2020.
- 3.7. This is because we have decided to retain 2 conditions for the time being – GCSE17.7 and 17.8. We have already decided (and changed our rules accordingly) that from 2020, exam boards will have to provide the reasons for

¹ <https://www.gov.uk/government/publications/gcse-9-to-1-qualification-level-conditions>

reviews of marking decisions automatically. Conditions GCSE17.7 and 17.8, along with the notice we published in June 2017,² make clear that until 2020, our old rules remain in place. In 2020, when the notice expires, we will remove GCSE17.7 and GCSE17.8.

- 3.8. The other option, which we have decided not to take as it would be disproportionately burdensome for both us and the exam boards, would have been to go through a complicated process of removing both GCSE17.7 and 17.8, tailoring them so that they fitted with our new conditions, and then reissuing the notice we have already issued.

Provisions for private candidates

- 3.9. This is the area where our decisions differ the most from the proposals on which we consulted.
- 3.10. Respondents to our consultation supported our proposal to more clearly set out that private candidates – students who enter for a qualification without being taught by a centre – can request a review or appeal without needing the support of a centre.
- 3.11. However, 3 of the exam boards in particular thought that our proposed wording could be clearer. Our proposed Condition used the phrase ‘Where no Relevant Centre exists in relation to a Learner’ in order to define the candidates we wanted to protect. The exam boards noted such students are normally referred to as ‘private candidates’ and that it would be clearer for the Conditions to use that term.
- 3.12. We have, therefore, decided to adopt different wording for the Condition from that on which we consulted. The purpose and function of the wording, however, remains the same.
- 3.13. Our proposal was to use the following form of wording:

Where no Relevant Centre exists in relation to a Learner, the arrangements must allow a Learner to request his or her own Marked Assessment Material.

- 3.14. We have changed this to:

The arrangements must allow for a Learner who is a Private Candidate to request his or her own Marked Assessment Material.

- 3.15. In order to make this completely clear, we are also adding a definition of ‘Private Candidate’ to Condition GCSE25 ‘Interpretations and Definitions’.

Reviews of marking of centre-marked assessments

- 3.16. We proposed to change our requirements for reviews of centre-marked assessments to make them clearer and more effective in 3 ways:
- Where there is a review of marking of centre-marked assessments, the exam boards must require the reviewer to judge whether the marking of an

² <https://www.gov.uk/government/publications/reviews-and-appeals-for-gcses-as-and-a-levels-transitional-arrangements/notice-in-respect-of-conditions-gcse124-gcse157-gcse177-and-gcse205>

individual student's work is consistent with the rest of the marking of the centre.

- The introduction of specific expectations if a centre does not accept the reviewer's decision.
- The introduction of a specific requirement for an exam board to ensure that a centre informs it if the reviewer cannot judge whether the marking of an individual student's work is consistent with the rest of the centre's marking because the reviewer finds the centre's marking to be inconsistent overall.

- 3.17. The exam boards raised a number of concerns regarding this proposal, in particular with the last point. The exam boards were concerned with our proposal that they should consider any such information from the centre in determining the sample of work they request for moderation.
- 3.18. We are clear that the exam board should indeed consider information it receives from centres about disagreements between the centre and a reviewer. However, the proposed conditions place no specific requirements on an exam board to take any particular action when doing so.
- 3.19. Indeed, we do not expect an exam board to take a mechanistic approach. Instead we expect an exam board to consider this information when making sure all candidates receive accurate marks, as required by our *General Condition of Recognition H1.1*. That might mean, for example, that the exam board decides to review a greater number of scripts than it might normally to determine the accuracy of the centre's marking, or, if it concludes that a centre's marking is inconsistent, to mark all of the centre's work itself.
- 3.20. Two exam boards expressed concerns with our proposal, on the grounds that they might result in exam boards more frequently becoming involved in centres' internal reviews. As it is the exam board which is awarding the qualification, we think it is appropriate for an exam board to take responsibility in difficult cases to ensure all students receive accurate marks.

Reporting of data relating to review arrangements and appeals process

- 3.21. We have decided to remove the original reporting requirements relating to review arrangements and the appeals process. We have instead introduced a requirement for exam boards to report on the number of times they have met and failed to meet the target timescales they have each set.
- 3.22. Respondents to our consultation were clear that this would reduce unnecessary burden on the exam boards, and that the change to a simpler set of reporting requirements on the number of times an exam board has met and failed to meet its target timescales would provide more useful and transparent information for stakeholders.

Key dates requirements

- 3.23. The aim of our proposals around key dates requirements is the effective operation of the review system, particularly in light of upcoming changes, namely that exam boards must:
- from 2019 allow appeals of reviews of marking for all subjects
 - from 2020 provide access to exam scripts to inform reviews of marking requests
 - from 2020 provide reasons for review of marking decisions automatically³
- 3.24. We have decided to adopt our proposal to introduce key date requirements for access to scripts at GCSE. One exam board noted that any such requirement would raise operational matters to consider, which is set out in its response. We acknowledge that introducing these changes will mean that exam boards will have to make some changes to their processes, but we believe these changes are important for the effective functioning of the new system.
- 3.25. We have also decided to require that an exam board allows a minimum of 2 weeks following the issue of results for students and centres to decide whether to access a script. One exam board argued that we should allow 12 calendar days rather than two weeks. It is not clear from the response, however, why a difference of 2 days is important, so we have decided to make the minimum a period of 2 weeks. We believe this will support students, schools and colleges in making effective decisions.
- 3.26. Another exam board noted that for A levels, exceptions would need to be made for the 'priority service' reviews which support higher education applications. We do not think an exception is necessary, however. Some exam boards already advise that students or centres which are seeking a priority review of marking should not seek to access scripts first. Our rules would allow such a service to continue to be offered on this basis. Exam boards can make clear that if a student wants a priority review, they might not also be able to request copies of their scripts beforehand. While they could access exam scripts these would be provided to a slower timescale. Alternatively, exam boards could develop systems which provide 'self-service' access to scripts meaning that they could be provided immediately.
- 3.27. We have decided that as well as having key dates requirements for accessing scripts prior to a review, we should also introduce an additional key dates requirement for exam boards to make scripts available following the outcome of a review. This will inform decisions on whether to appeal, and on what grounds.
- 3.28. We accept that this means schools and colleges have deadlines for individual students depending on when they receive their review outcome. This will need to be managed by schools, colleges and exam boards. Given the relatively small proportion of reviews which proceed to appeal, and the extra safeguards we have introduced on access to scripts prior to a review, we think

³ <https://www.gov.uk/government/consultations/changes-to-regulations-for-enquiries-and-appeals>

any additional burden will be small and will be outweighed by the benefit to learners.

- 3.29. From 2020 we will remove the key dates requirement about providing reasons, as from that point forward the provision of reasons will be automatic.

Guidance

- 3.30. We have decided to introduce new guidance in relation to how an exam board should approach the conduct of reviews and appeals.
- 3.31. In general, respondents to our consultation raised few significant concerns with the proposed text of our guidance. One point, however, was raised by two exam boards and we have changed our guidance in response.
- 3.32. In our proposed guidance we used the terms ‘the issues raised in the request for the review’ and ‘the principal important issues raised in the request’.
- 3.33. The exam boards noted that in the case of reviews of marking and moderation, it is not known what a centre’s ‘issues’ are in relation to the request. It would, therefore, be impossible for exam boards to adhere to this guidance as centres do not tell them why they have requested a review.
- 3.34. We accept that the current system does not allow for requests for a review of marking to include reasons for the request. However, we do not wish to preclude exam boards from offering such a facility in the future. We have amended the guidance slightly by changing ‘the issues’ to ‘any issues’, which makes it clear that in some cases specific issues might not have been raised.
- 3.35. We have decided to introduce guidance about how exam boards should act if they discover, through a review or appeal, any issue that might have affected other students. Although the text of our proposed guidance was not published alongside the consultation due to an oversight, we subsequently sent the 4 exam boards a copy of the text so that they could comment. Some exam boards said they thought the guidance was not specific enough, for example in its use of ‘all reasonable steps’, which could be interpreted in a variety of ways.
- 3.36. We think that the circumstances in which this guidance might apply, however, vary so widely that very specific guidance would not be appropriate. We frequently use phrases such as ‘all reasonable steps’ in our conditions and guidance. The meaning of the phrase varies depending on the nature of any given case. What is reasonable in one set of circumstances might not be reasonable in another. We have decided to introduce the wording on which we consulted.

4. Implementation timescales

- 4.1. The changes will come into force when they are published, at the same time as this decisions document.
- 4.2. One of our decisions is about how exam boards and centres must approach reviews of centre-assessed marks. Centres are responsible for following the

exam boards' processes. Centres must make a written record of the review, which must be made available to the exam board on request. The Joint Council for Qualifications' guidance also sets out that advice should be sought from the exam board if the review raises any wider concerns. Our changes make clear our expectation that if there are cases where a centre cannot reconcile the judgement of the initial marker and the independent reviewer, then the centre should always inform the exam board.

- 4.3. We are aware that these documents are being published at a time when centres will be in the process of marking centre-assessed work, and potentially conducting reviews of those marks. We expect therefore that exam boards will take reasonable steps this summer to ensure they hold all the information they need regarding the marks which are being given in centres, and that for summer 2020 they will be in a position to ensure that this happens in every circumstance.

5. Equalities impact assessment

- 5.1. In our consultation we did not identify any impacts of our proposals (positive or negative) on persons who share the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.
- 5.2. Only one respondent to our consultation made any comment regarding the equalities impacts of our proposals. These comments focussed specifically on the effect of the proposals on special schools. The comments did not raise issue with the proposals on which we consulted but emphasised that students from special schools should not be disadvantaged.
- 5.3. We have considered the decisions we have made, and we cannot identify any ways in which they will disadvantage students from special schools, or indeed students who share any of the protected characteristics in any educational setting.

6. Regulatory impact assessment

- 6.1. In our consultation, we estimated that the changes to our conditions would result in a cost of familiarisation for exam boards, as they will need to review the conditions and guidance documents and make sure they understand the changes.
- 6.2. We used our standard cost assumptions to take this familiarisation into account. For the 50 pages of our revised guidance, we estimated this will cost each exam board £2,600. There are five organisations affected, so the total cost is £13,000.
- 6.3. We estimated that it will cost an additional £260 for each exam board to ensure it has familiarised itself with the new guidance. The total cost for five exam boards is £1,300.
- 6.4. One exam board commented in response to our estimation that we had underestimated the cost implications of new guidance. It suggested a figure of £1,900 as the cost of familiarisation, taking into account the multiple

documents with which the guidance needs to be cross referenced and the number of people and processes which need to be consulted.

- 6.5. We understand that reviews of marking and moderation is a complicated area, and we accept that in order to fully assimilate the new and revised guidance it may cost exam boards more than we initially estimated. We have therefore revised our figures to £1,900 for each of the exam boards affected, which brings the total figure to £9,500.
- 6.6. Overall, then, we predict the regulatory impact of these changes to be £4,500 for each of the five affected exam boards, which is a total of £22,500.

Appendix A – 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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Published by:

ofqual

Earlsdon Park
53-55 Butts Road
Coventry
CV1 3BH

0300 303 3344
public.enquiries@ofqual.gov.uk
www.gov.uk/ofqual