

CONSULTATION DECISIONS

Reform of the Exam Procedures Review Service

Consultation on changes to Ofqual's Exam
Procedures Review Service

ofqual

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Introduction

1. From 8 February 2019 to 8 March 2019, we consulted on making changes to the way we decide cases which progress to the final stage of the Exam Procedures Review Service (EPRS) and on broadening the scope of EPRS to include Technical Qualifications.

Summary of decisions

2. We have decided to implement all of the proposals on which we consulted. The proposed changes were designed to:
 - a. speed up the EPRS process by removing the use of formal hearings to decide some EPRS cases
 - b. remove the requirement for some final decisions to be taken by a panel which includes external members
 - c. extend the remit of EPRS to include Technical Qualifications as they become available

Details

A less formal process

3. We proposed changing the decision-making arrangements for the small number of cases which proceed to the final stage of the EPRS process. Rather than a formal hearing, before a panel with one Ofqual member and two external members, we proposed that these cases would be decided following a meeting of the parties which would be facilitated by Ofqual.
4. Respondents agreed that our proposals would make the EPRS process more efficient and effective and noted that, as well as reducing costs, a less formal meeting would reduce stress for the parties.
5. Respondents expressed some concern, however, about whether a less formal process was consistent with an appeals mechanism, and whether the status and impact of EPRS decisions might be undermined.
6. We recognise that a formal procedure, with a hearing, might appear to be more authoritative than a meeting. However, the less formal process will still allow the parties the opportunity to present a case, to ask questions in response to the other's presentation and we (Ofqual) will continue to decide the outcome.
7. EPRS decisions are effective because our regulations (the conditions) require awarding organisations to give due regard to the outcome of the EPRS process. The conditions give the same authority to all Ofqual decisions, and we do not think the additional costs and delays associated with the more formal process are necessary in that context.
- 8.

External Panellists

9. We proposed that, as part of our new process, all EPRS decisions would be taken by members of Ofqual staff. In particular, we would no longer convene a panel with external members to make any final decisions.
10. We explained in our consultation that EPRS outcomes are primarily decisions about whether the awarding organisation has complied with the conditions, and that the Ofqual staff member chairing the EPRS Panel was responsible for making those decisions. The external panellists would help the Chair to formulate their decision, but were not themselves decision-makers.
11. Respondents were split in their reaction to our proposal, with two agreeing, one neutral response and three disagreeing. Respondents who disagreed were concerned:
 - a. That EPRS should be independent of Ofqual.
 - b. That it appeared inconsistent to require awarding organisations to include an independent element in their final appeal but not to replicate that independence in EPRS.
 - c. That without external members EPRS would no longer consider the fairness of outcomes for students.
12. We think these concerns perhaps reflect a misunderstanding about the role of EPRS and about the impact of our proposals, in particular:
 - a. Our proposals do not affect the independence of EPRS. EPRS is and has always been an Ofqual process; it is not independent of Ofqual. EPRS provides independent scrutiny of decisions taken by awarding organisations because the function is delivered by Ofqual, which is the independent regulator of qualifications in England.
 - b. Our conditions require that the final stage of an awarding organisation's appeal process must include a decision maker who is not connected to the awarding organisation because the appeals process is operated by the awarding organisation which made the decision being appealed. EPRS is not equivalent to the awarding organisations' processes, because it is a regulatory function which provides scrutiny, by the independent regulator, of decisions taken by awarding organisations.
 - c. Our proposals do not change the role of EPRS, which is to evaluate decisions taken by awarding organisations in the context of the conditions. EPRS does not directly consider whether particular outcomes are fair, but whether those outcomes are consistent with the conditions. Ofqual takes fairness to candidates as a whole into account when, in setting the conditions, it seeks to secure that qualifications will be sufficiently valid.
13. Respondents made a number of further observations about how the new process will be managed, and in particular how Ofqual will ensure the member of staff making final decisions is impartial.
14. In reality, the new process does not require any significant change to our processes, because the majority of EPRS decisions now are made by

members of Ofqual staff, with only a small majority involving a panel decision. These decision-makers are appointed in accordance with our usual governance principles, which will continue to inform the appointment of decision makers in future cases.

Technical Qualifications

15. All respondents agreed that we should extend the remit of EPRS to include Technical Qualifications as they become available.

Implementation timescales

16. We proposed implementing the new approach for qualifications taken during the 2019 summer assessment series. We would expect to begin receiving eligible EPRS applications for these qualifications between December 2019 and March 2020.
17. Respondents encouraged us to delay implementation, with some questioning whether it was feasible to implement our proposals within the timescale we proposed.
18. We are confident that the timescale we proposed is achievable. We do not think there is any need, as one respondent suggested, for further consultation on the implementation of our proposals which are self-explanatory.

Equalities impact assessment

19. We did not identify any equalities implications in relation to our proposals.
20. No adverse impacts were identified and one respondent considered that by making the EPRS process less formal, we might remove barriers associated with a formal panel hearing.
21. Another respondent commented on the importance of making sure the EPRS process was accessible, which is our intention.

Regulatory impact assessment

22. We considered that our proposals to make the EPRS process less formal would be more likely to reduce than to increase the burden on schools and awarding organisations. Only two respondents addressed this question, both suggesting that the changes might have no impact at all.
23. In relation to Technical Qualifications, we recognised that the EPRS process would be more burdensome for awarding organisations and for centres (albeit to a lesser extent) than engaging with Ofqual's complaints process, which would consider complaints about the awarding organisation's appeal processes for those qualifications for which EPRS is not available. In particular, this was because the complaints process does generally not contemplate an informal meeting of the parties chaired by Ofqual.

24. We considered that any additional burden was proportionate, however, in view of the government's policy that Technical Qualifications should provide a vocational alternative to GCE A levels.
25. We remain of the view that the impact of our proposals is proportionate in all of the circumstances.



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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