

CONSULTATION

Exceptional arrangements for assessment and grading in 2020

Consultation on the assessment and grading of
vocational, technical and other general
qualifications

ofqual

Contents

1 Introduction	4
1.1 Context	4
1.2 Our proposals	5
1.3 The Direction from DfE	6
1.4 Engagement	7
1.5 The audience for this consultation	8
2 Consultation arrangements	9
2.1 Duration	9
2.2 Respond	9
3 Consultation details	9
PART A – Scope and approach	11
3.1 Approach	11
3.1.1 Scope	11
3.1.2 Which learners are covered?	13
3.1.3 Concepts	14
3.1.4 Categories of qualifications	16
3.2 Technical approaches	19
3.2.1 Provision of calculated results to learners	19
3.2.2 Provision of adapted assessments to learners	30
3.2.3 Delaying assessments	31
3.3 Decision-making, record keeping and oversight	32
3.3.1 Decision-making and record keeping	32
3.3.2 Oversight of awarding organisations	32
3.4 Assessment opportunity in autumn 2020	33
3.5 Appeals	35
3.6 Certificates	36
3.7 Private learners and learners not yet registered for assessments	36
3.7.1 Private learners	36
3.7.2 Learners not yet registered for assessment this summer	38
3.8 Qualifications taken internationally	39
3.9 Awarding organisations facing financial difficulties	39
3.10 Functional Skills qualifications	41
PART B – The VTQ Covid-19 Framework	44
3.11 How the extraordinary regulatory framework will operate	44
3.11.1 Summary	44
3.11.2 Application, interpretation and definitions	45
3.11.3 Principles to be applied	45
3.11.4 Issuing results in summer 2020	46
3.11.5 Assessments and results for VTQ Qualifications in summer 2020	47

3.11.6 Assessments and results for Category 1 Qualifications in summer 2020	47
3.11.7 Assessments and results for Category 2 Qualifications in summer 2020	48
3.11.8 Assessments and results for Category 3 Qualifications in summer 2020	49
3.11.9 Support for Centres and information to be provided to Centres	49
3.11.10 Keeping a record of decision-making and Technical Advice Notices	50
3.11.11 Autumn 2020 assessment opportunity.....	51
3.11.12 Appeals	51
3.12 <i>The extraordinary framework</i>	52
4 Equality Impact Assessment.....	53
4.1 <i>Calculated results</i>	56
4.2 <i>Adaptation</i>	58
4.3 <i>Delay</i>	59
5 Regulatory Impact Assessment.....	61
5.1 <i>Impacts on awarding organisations</i>	62
5.2 <i>Impact on learners</i>	66
5.3 <i>Impact on centres</i>	66
5.4 <i>Impact on the FE and HE sectors and employers</i>	67
5.5 <i>Innovation and growth</i>	67
5.6 <i>Estimated costs and savings</i>	68
Annex A – Your data	69
<i>The identity of the data controller and contact details of our Data Protection Officer</i>	69
<i>How to contact us</i>	69
<i>Our legal basis for processing your personal data</i>	69
<i>How we will use your response</i>	69
<i>Sharing your response</i>	69
<i>How long we will keep your personal data</i>	70
Annex B – Ofqual’s objectives and duties	72
<i>The Apprenticeship, Skills, Children and Learning Act 2009</i>	72
<i>The Equality Act 2010</i>	73

1 Introduction

The coronavirus (COVID-19) pandemic has led to the closure of schools, colleges and training providers to all except the children of key workers and vulnerable children. It has also led to the cancellation of a range of exams and assessments in vocational and technical qualifications. In line with government policy we are working to enable learners nevertheless to receive qualification grades.

The intention of this consultation is to seek views on the exceptional arrangements we are proposing to put in place temporarily for awarding vocational and technical qualifications with assessments that would have been taken in spring and summer 2020. We are setting out clear expectations about the approaches that awarding organisations should take in relation to a number of different categories of qualifications. The proposed approach we set out in this consultation will also cover any general qualification which is not covered by the approach [we are \(separately\) consulting on in relation to GCSEs, AS and A levels](#).

Our aims are:

- to ensure learners can receive grades in these qualifications this summer so they can progress to the next stages of their lives without further disruption
- that the grades will be as valued as those of any other year
- that the approach will be fair

1.1 Context

Vocational and technical qualifications serve a range of purposes; from those used to access study opportunities in further or higher education to those used to license entry into specific job roles. Some qualifications validate technical, professional or occupational skills and knowledge, while others are taken by those undertaking study for personal interest. We know that learners taking these qualifications cover a considerable age range and access their learning opportunities through a variety of settings including schools, colleges and training providers, and through full-time or part-time study as well as distance learning.

Currently there are more than 14,000 regulated vocational and technical qualifications. They feature many different approaches to study and teaching, as well as to assessment, and are of varying levels of demand and size. This consultation addresses the approaches to be taken to the delivery of results for these qualifications, as well as other general qualifications, such as the International Baccalaureate, Cambridge Pre-U and Core Maths qualifications.

This makes the landscape of qualifications covered by this consultation complex. It is also large. [More than 5.8 million certificates were issued in the last academic year](#) for the qualifications covered in this consultation. And it is not just the qualifications' landscape that is complex. There is also variation in the awarding organisations we regulate, and the resources they have available to them. We currently regulate 161 awarding organisations who vary in size from those who offer a handful of regulated qualifications and certificate fewer than 100 learners a year to those who offer 1,000-plus different qualifications, issuing more than a million certificates a year.

1.2 Our proposals

As we have developed our proposals, we have consulted with groups representing education and training providers and those representing employers and professional bodies, and with a range of awarding organisations. We have sought views from groups that represent learners and have drawn on the advice of assessment experts on technical issues. This has enabled us to consider the impact of coronavirus (COVID-19) on awarding organisations, centres (schools, colleges, training providers) and their learners, and on those who rely on qualification results for indication of knowledge, skills and ability, such as employers and further and higher education institutions.

It is important that we, and the awarding organisations we regulate, can take sufficient steps to protect the integrity of regulated qualifications. This consultation sets out the principles and guidance to help awarding organisations come to appropriate judgements around whether to carry out assessments and/or to issue results for assessments and qualifications that would have been completed in spring or summer 2020. We are introducing these exceptional arrangements at speed to:

- provide a temporary framework for qualifications that, depending on their purpose, sets out how an awarding organisation should calculate results, or adapt or delay assessments
- allow awarding organisations to provide clarity to schools, colleges and training providers about what evidence they should gather and consider, and what evidence they will submit to the awarding organisations, where required to calculate a grade
- allow awarding organisations to make clear which learners should receive a calculated result (and how it will be awarded), or be required to complete an assessment
- enable awarding organisations to access, adapt, or build the systems needed to issue results this summer and adapt assessments where this is necessary

We know that there will be no suitable single approach to issuing results that works for every awarding organisation and qualification. Indeed, in some circumstances we know that it may not be appropriate to issue results at all. We would expect any approach to support progression; in some cases it may be important to retain assessments where qualifications are a critical component of occupational or professional competence. This means that while it is possible for calculated results to be issued to many learners, in some circumstances it will still be necessary to conduct an assessment. This might involve adapting existing assessments or delaying them until it is possible to conduct them in their original form. We also recognise that there may be some cases where results cannot be issued. This may be due to a lack of relevant evidence and information which would be needed in order to generate a calculated result and/or in the case of adapted assessments due to a lack of access to centres (including remote access) which would mean learners were unable to carry out assessments.

It is our intention that where results are to be issued and/or assessments taken, all reasonable measures should be taken to ensure those assessments and results are safe, reliable and valid, with standards maintained as far as possible.

We are hopeful that the majority of learners who planned to take exams and assessments this summer for progression to either further or higher education or into employment will receive a result calculated by awarding organisations. Some learners, and particularly those who are completing programmes of study that are linked directly to occupational or professional competence, may be required to undertake an assessment, which could be adapted (either in relation to its assessment methodology, content, or delivery or marking method). Where adapted assessment is not possible, assessment opportunities and results might need to be delayed.

Learners who feel that a calculated result does not reflect their ability, or for whom it was not possible to issue a calculated result or adapted assessment opportunity, will be able to take their assessments either in the autumn or through assessment opportunities that will be in place through the ordinary course of events (for example, where assessments are made available by awarding organisations on demand).

Aspects of the arrangements by which learners will receive results this summer have already been set out by the government. However, there are implementation decisions we must make, including the introduction of the proposed extraordinary regulatory framework set out alongside this consultation to allow awarding organisations to take steps to issue results in these extraordinary circumstances.

1.3 The Direction from DfE

On 18 March 2020 the Secretary of State for Education told Parliament that, in response to the coronavirus (COVID-19) pandemic, schools and colleges in England would shut to all but the children of key workers and vulnerable children after 20 March until further notice, and [exams scheduled for the summer would not take place](#). The Secretary of State said that the government would work with the education sector and with Ofqual to make sure learners who were preparing to take GCSEs, AS and A level exams in the summer would not be unfairly penalised.

On 31 March 2020 the [Secretary of State directed us to have regard to this policy in respect of GCSE, AS and A level qualifications](#), and acknowledged in that letter that the policy position is different for vocational and technical qualifications, given both the nature of those qualifications and the complexity of the sector. The letter also signalled that there would be a further policy direction in relation to vocational and technical qualifications and other general qualifications not covered by the earlier direction. [This was provided to us on 9 April 2020.](#)

Summary of the direction

The direction relating to vocational and technical and other general qualifications sets out that:

- learners taking vocational and technical and other general qualifications that are used for progression to and through employment, further or

higher education should be issued results this summer to allow them to progress

- learners should, wherever possible, receive a result that fairly reflects the work that they have put in and their level of attainment and, where relevant, maintains the same broad levels of comparability with previous years
- all reasonable measures should be taken to ensure a safe and valid result can be awarded to learners, and that standards are maintained as consistently as possible, recognising challenges for maintenance of standards and reliability
- there will be some learners who cannot be provided with a result this summer because there is simply no way in which a valid result can be calculated, or an assessment adapted while still remaining fit for purpose
- learners should have access to a right of appeal if the relevant process was not followed correctly by the awarding organisation
- learners who do not feel their result reflects their ability should be afforded an opportunity to complete an assessment at the earliest available opportunity

The qualifications in scope of the direction fall into 3 categories:

- qualifications used for progression to further or higher education
- qualifications serving a mixed purpose
- qualifications signalling occupational competence

The direction sets out the approach that the Secretary of State considers should be taken to each category (that is, whether it is considered that the result for a qualification falling into each category should be calculated, or subject to adaptation).

The direction asks us to provide advice on which qualifications fall within each category. The Secretary of State will then, on the basis of this advice, determine the qualifications to which the extraordinary regulatory framework applies.

1.4 Engagement

In developing the proposed extraordinary measures that we are consulting on here, we have engaged with a range of stakeholders, including groups that represent schools, colleges and training providers; groups that represent areas of industry and employers including professional bodies and industry regulators; government; and a range of technical experts in assessment and qualification design and delivery. We have engaged closely with the organisations we regulate and their representative groups, including delivering several webinars and publishing advice online.

We have also created several extraordinary advisory groups:

- a VTQ Summer Advisory Group made up of representatives of our Board and our Standards Advisory Group
- a VTQ Oversight Board, consisting of senior colleagues across Ofqual and regulators in Wales, Northern Ireland and Scotland, the Department for

Education, the Federation of Awarding Bodies, Joint Council for Qualifications and a selection of awarding organisations

- Functional Skills Qualifications Extraordinary Measures Technical Working Group
- Vocational and Technical Qualifications Extraordinary Measures Technical Working Group

To aid our understanding and inform our decision making on equalities impacts we have, and will continue to engage during the consultation period, with the EHRC, the Department for Education's Alternative Provision Team, the Social Mobility Commission, the National Association of Hospital Education, the National Association for PRUs and Alternative Provision (PRUsAP) and the Alternative Provision/SEND CEOs network.

We have used the information and advice we have received from our engagement to shape the proposals here. We are grateful for the contribution of our stakeholders as we have defined the measures we set out, to ensure they are appropriate and manageable, and as fair as possible for those learners who would have been completing assessments and qualifications this spring and summer as well as for awarding organisations.

1.5 The audience for this consultation

This consultation is open to anyone who may wish to make representations. We expect a wide range of people will be interested in our proposals, but they may be of particular interest to:

- the awarding organisations we regulate, and their representative bodies
- learners who are expecting to be awarded a vocational or technical qualification, or other general qualification¹ in 2020
- the family, parents or carers of these learners
- teachers, tutors, exams staff and other representatives from schools, colleges, training providers and other places where the relevant qualifications are delivered
- higher education institutions, further education colleges and training providers that may be making offers to learners for future academic years
- education representative bodies
- employers who might be receiving job applications from learners taking these qualifications, or who might already employ these learners
- professional bodies, regulators and industry groups

¹ 'other general qualification' refers to qualifications not covered by [our consultation on specified general qualifications](#)

2 Consultation arrangements

2.1 Duration

This consultation will be open for 2 weeks starting on 24 April 2020 and ending on 8 May 2020 at 23:45.

We recognise this is a much shorter period than we would normally allow for consultation, but we believe it is necessary and reasonable in the current situation. The short timeline has been set in order to provide more certainty to awarding organisations, learners and teaching staff as quickly as possible, and to allow sufficient time for arrangements to be put in place by awarding organisations.

2.2 Respond

Please respond to this consultation by completing the online response form at <https://www.gov.uk/government/consultations/exceptional-arrangements-for-assessment-and-grading-in-2020>

For information on how we will use and manage your data, please see annex A.

3 Consultation details

The coronavirus (COVID-19) pandemic has led to the [closure of schools, colleges and training providers](#) to learners across the country (except for children of key workers and vulnerable children), and to the cancellation of assessments that were due to take place. In line with government policy, we are working to ensure that wherever possible, learners receive qualification results which will allow them to progress as expected, either through to higher or further education, or on to employment.

We are proposing to implement an extraordinary regulatory framework which will permit awarding organisations to deliver results using approaches that would not be allowed in ordinary circumstances. The framework will identify the key principles that awarding organisations should do all they can to meet while delivering results to learners, and will set out the approach we expect them to take to either calculating results, adapting assessments or delaying the delivery of those assessments. The framework will be designed to give awarding organisations the flexibility they need to deliver results for as many learners as possible during the current crisis.

This approach will mean in practice that where it is not possible for them to do so, awarding organisations will not have to meet all of the regulations that we have in place regarding the design, delivery and award of their qualifications. The priority will be placed around issuing results to learners to enable them to progress (though this will only be possible where there is sufficient evidence on which to base a result).

Our intention is for the extraordinary regulatory framework to apply for duration of the spring and summer 2020 assessments. As we cannot know at this point in time when the crisis will come to an end or when assessments will be able to resume in the usual way, we have not proposed a specific end date. Instead we propose that it will apply until we publish a notice setting an end date.

This consultation is set out in two parts.

- Part A sets out the detail of the policy underlying our approach
- Part B sets out the detail of the extraordinary regulatory framework that we are proposing to implement

Alongside this consultation we have published a draft of the [extraordinary regulatory framework](#).

PART A – Scope and approach

3.1 Approach

3.1.1 Scope

The extraordinary regulatory framework we propose to implement will only apply to those qualifications which fall in scope of the direction. These will be determined by the Secretary of State, following advice we will provide in due course. The qualifications potentially in scope of the direction are:

- All qualifications from Entry to Level 6
 - which are approved for funding in England and delivery to 14 to 16, 16 to 18, and 19 plus (including advanced learner loans); and
 - which are not A levels, AS levels, or GCSEs or Advanced Extension Awards and Extended Project Qualifications

The direction, and the proposed approach we set out in this consultation will therefore cover any general qualification which is not covered by the Secretary of State’s GCSE, AS and A level direction.²

Within the extensive group of qualifications to which the direction potentially applies, it is only those qualifications which are used for progression either to further or higher education, or into and through employment that will fall within scope.

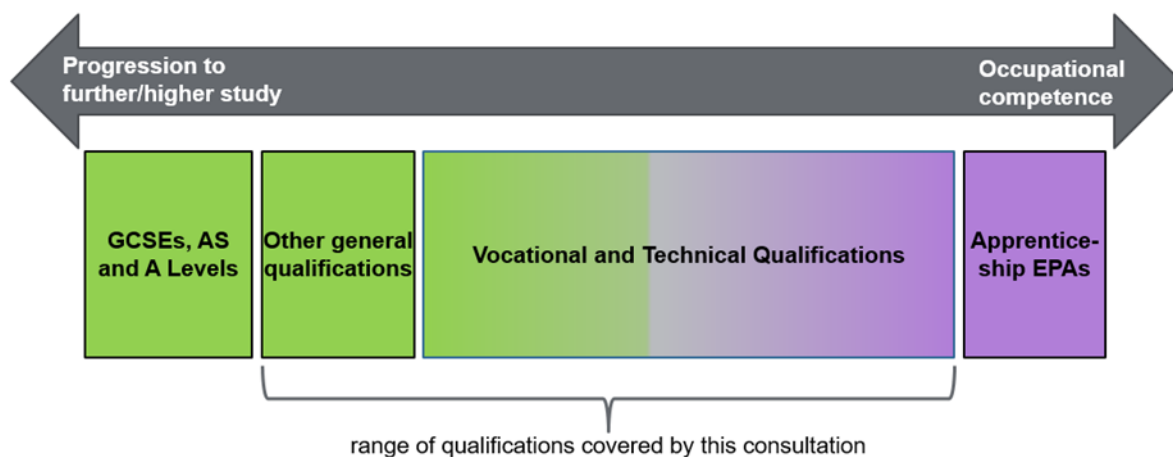


Figure 1: Range of qualifications in the regulated landscape in scope of the direction

Qualifications where the primary use is not progression to further or higher education or employment are not covered by the direction. For example, the direction confirms that some qualifications at lower levels, which are more generic in nature, are not in scope of the direction. Also excluded are qualifications at Levels 7 and 8, given that the direction is only stated to apply to qualifications up to Level 6. Apprenticeship

² We are however [consulting on applying the proposed calculation approach for GCSE, AS and A levels to Extended Project Qualifications and the Advanced Extension Award](#)

End Point Assessments are also not covered by the direction, though qualifications taken as part of an apprenticeship will be.

The direction requests our advice on which qualifications fall within scope, and on the basis of this the Secretary of State will determine the qualifications to which the direction applies. We are already working with awarding organisations, who are providing us with details of their qualifications which they consider fall within scope.

The direction relates to qualifications awarded in England, although we know that regulated qualifications are awarded around the world. We have long-standing collaborative arrangements with the qualifications' regulators in the UK. Given the high degree of coherence of both the qualifications available and our regulatory approaches, we have agreed with Qualifications Wales, CCEA Regulation and SQA Accreditation that our proposals relating to Ofqual-regulated qualifications awarded in England should also apply when they are awarded in Wales, Northern Ireland and Scotland.

Qualifications Wales, CCEA Regulation and SQA Accreditation will have specific requirements in relation to qualifications designed specifically for Wales, Northern Ireland and Scotland (respectively). We will continue to work closely with the other regulators to make sure it is clear to awarding organisations which rules apply.

Our proposals for [qualifications awarded internationally](#) are set out separately below.

Qualifications that fall out of scope of the direction

The extraordinary regulatory framework will not apply to those qualifications which have not been determined as in scope by the Secretary of State. This means that awarding organisations will need to consider their approach to these qualifications under our General Conditions of Recognition.

We do however propose to provide guidance to awarding organisations to support them in their decision-making around how to deal with qualifications that are not in scope. This is included in the draft extraordinary regulatory framework we have published alongside [this consultation](#). While there won't be the same pressure on awarding organisations to deliver results as there is where a qualification falls under the extraordinary regulatory framework, awarding organisations will still need to consider the best approach to managing the impact of the situation on the learners taking their qualifications.

It will be open to awarding organisations to consider whether the best approach would be to delay or reschedule assessments, or whether it is possible for them, while acting under our normal regulations, to adapt their assessments or delivery models to allow learners to access them, or to calculate results for their learners. Awarding organisations will need to balance the risks that apply to any approach they take, and in particular will need to consider the impact of their approach on fairness to learners – both ensuring that learners are not unfairly advantaged or disadvantaged compared to one another. We think that awarding organisations should have regard to the technical requirements we are putting in place as part of the extraordinary regulatory framework if they are considering providing learners with a calculated result, or an adapted assessment.

Question 1: To what extent do you agree or disagree with our proposed approach to qualifications which fall out of scope of the extraordinary regulatory framework?

3.1.2 Which learners are covered?

We considered whether the extraordinary regulatory framework should apply solely to the graduating cohort of learners, for example those due to complete their course of study this summer, or indeed those who were in year 11 or year 13 that is, the cohort common with most GCSE/A level learners. However:

- it is not always possible for awarding organisations to be clear who the graduating cohort are. Some learners will complete courses of study over longer periods, whereas some might leave their centre at the end of the first year, and choose to certificate at that point
- the nested nature of some qualifications doesn't make it clear to awarding organisations at which point the learner intends to complete
- given the nature of many vocational and technical qualification assessments, (for example, a practical or portfolio assessment taken over the course of several weeks); it may not be possible to accommodate a delayed assessment within a later assessment window, even if a learner has another year left on their programme of study, and it might be better for those learners to have a result for a particular unit calculated to prevent further disruption to teaching and learning
- some qualifications which can be completed by learners, for example at the end of the first year of a two-year study programme, fulfil a similar purpose of supporting progression to higher or further education. Excluding results from those would lead to unfairness
- distinguishing on the basis of year group or age would lead to inconsistency and unfairness in terms of who could access results

Overall, we consider that being restrictive around the groups of learners that are able to access calculated results will lead to inconsistency, unfairness and confusion for awarding organisations, centres and learners. We also consider that a restrictive approach could cause additional burden on centres who would have to manage returning learners through the completion of the previous year's assessments as well as delivering teaching, learning and assessment for the current year.

We therefore think that if a qualification falls within scope of the direction, then all learners, no matter their age or the setting within which they are taking their assessments, should be able to access a result or an adapted assessment where that is made available by their awarding organisation. We consider that this is the fairest approach and will lead to more consistent approaches being taken across awarding organisations.

While we are not excluding particular groups of learners from being able to access a result or adapted assessment, it might not be possible for awarding organisations to provide these results to all learners. We consider further below [the approach to private candidates](#) and [the approach to learners who are not registered with awarding organisations](#), where awarding organisations, in the absence of information from centres, might struggle to provide a calculated result for such learners.

We also consider below the approach to [qualifications taken internationally](#). We propose to take a permissive approach to awarding organisations making these arrangements available internationally. However, taking into account the local circumstances and any additional rules or regulations which might apply, an awarding organisation might decide not to, and international learners might not therefore have access to a calculated result or adapted assessment in the same way as learners in the UK.

Question 2: To what extent do you agree or disagree with our proposed approach to determining to which learners the extraordinary regulatory framework applies?

3.1.3 Concepts

The aim of any approach we take is to ensure that, as far as possible, learners receive qualification results, which will allow them to progress as expected either through to higher or further education, or into and through employment. The results will need to be based on sufficient evidence, ensuring that they remain sufficiently valid and reliable.

The landscape in which we are attempting to secure results for learners is vast and complex. Our analysis indicates that there will be around 10,000 qualifications in scope. The approach we take will therefore need to take into account a large number of qualifications which are taken by a diverse range of learners. Therefore, while we have the same aim as for GCSEs, AS and A levels, in relation to delivering results for learners, we are not in a position in relation to vocational and technical, and other general, qualifications to take the same prescriptive regulatory approach.

Any approach we take will need to be flexible in order to take into account the range of qualifications, centres and learners to which it will apply. We therefore, as set out above, propose to establish a principles-based framework which delivers against the expectations set out in the direction, but which gives awarding organisations the flexibility to make decisions around how they deliver results, given that the contexts in which they are doing so, and the evidence which they will be relying on will vary.

This approach will mean in practice that where it is not possible for them to do so, awarding organisations will not have to meet all of the normal regulations that we have in place regarding the design, delivery and award of their qualifications. We do however propose to protect five key principles through the extraordinary regulatory framework. Awarding organisations will need to do all they can to meet these principles, and they should not be compromised unless it becomes unavoidable. The principles are that an awarding organisation must seek to:

- issue results to as many learners as possible in spring/summer 2020, provided that those results are based on evidence which ensures that they are sufficiently valid and reliable
- ensure that each result it issues is as reliable as possible
- ensure that its approach minimises burden and maximises deliverability as far as possible
- maintain standards, as far as possible, within the same qualification in line with previous years

- maintain standards, as far as possible, across similar qualifications made available by the awarding organisation and by other awarding organisations

Although we consider that the key principles all represent critically important requirements, we also recognise that hard choices might have to be made and that it is likely that some compromises will become unavoidable. It is important that awarding organisations should be consistent in how they make those compromises. We therefore propose that where there is a conflict between two or more principles, the awarding organisation must consider the principles in the order in which they are set out here, determine the extent to which each can be met in a particular case, and give priority to meeting them in accordance with the order in which they are set out.

We also expect, in all cases where awarding organisations are taking decisions around how to calculate results and offer adapted assessments, that they consider how they minimise disadvantage to learners with special educational needs and/or protected characteristics, [or other vulnerable learners](#). We set out more detail on this in the sections on calculation and adaptation below, and in the equalities impact section of this document.

This approach will delegate much of the decision-making to awarding organisations. However, this delegation involves awarding organisations making professional judgements around technical solutions to approaches like calculation; determining whether they have sufficient evidence on which to base awards; and determining whether an approach to adaptation would be appropriate in the context of the qualification that they are delivering. Awarding organisations are responsible for taking such decisions in the normal course of events when operating under our General Conditions of Recognition, and we think it is appropriate in this context too.

The approach may mean that different awarding organisations (or even the same organisation) take different approaches to similar qualifications, depending on the circumstances that apply, but the framework that we produce will aim to introduce some consistency around how awarding organisations make their decisions.

We will also aim to introduce consistency through the oversight we put in place in relation to the decisions that awarding organisations are taking. We will use a risk-based approach to prioritise our activities to target and mitigate the highest risks. We plan to undertake proactive and targeted monitoring work in relation to a number of qualifications and awarding organisations. We set out more detail below on [our approach to regulating awarding organisations during this crisis](#).

Unfortunately though, regardless of the steps that we take to securing approaches that will lead to learners receiving results, awarding organisations will not be in a position to deliver results to all learners this summer. The delivery of calculated results and adapted assessments relies on the cooperation of centres. We recognise that there may be some cases where it will not be possible to issue results due to a lack of relevant evidence and information which would be needed in order to generate a calculated result and/or in the case of adapted assessments due to a lack of access to centres (including remote access) which would mean learners were unable to carry out assessments. As such, it is important that learners are provided with an assessment opportunity as soon as possible. [We discuss this further below](#).

Where awarding organisations are able to deliver their qualifications to learners as normal, we are not proposing to prevent this. We consider that prevention could have unintended consequences and would undermine the aim of securing results for

as many learners as possible this summer. We do not, however, consider that there will be many examples where an awarding organisation will be able to do this.

Question 3: To what extent do you agree or disagree with the balance we are proposing to strike across the 3 elements of: delegation to awarding organisations; flexibility; and consistency?

Question 4: To what extent do you agree or disagree with the key principles we have set out?

Question 5: To what extent do you agree or disagree with our proposal to allow awarding organisations to deliver their qualifications as normal where they are able to?

3.1.4 Categories of qualifications

Qualifications falling within scope of the direction serve different purposes, and the direction recognises that different types of qualification will likely require different approaches, with a blanket approach for all qualifications simply not being feasible. In recognition of this, the direction sets out the qualifications in scope in three categories:

- qualifications used for progression to further or higher education
- qualifications serving a mixed purpose
- qualifications signalling occupational competence

The direction also sets out the approach that should be taken to getting learners results in each of the categories. The options are between providing learners with calculated results, or with adapted assessments; with the delay of assessment opportunities presented as a last resort, given the impact of this on a learner's progression.

This section focuses on the approach that should be taken in each category (that is, whether the assessment result for a qualification in a particular category should be calculated, or the assessment adapted). We set out more detail on the approaches to calculation and adaptation in the following section.

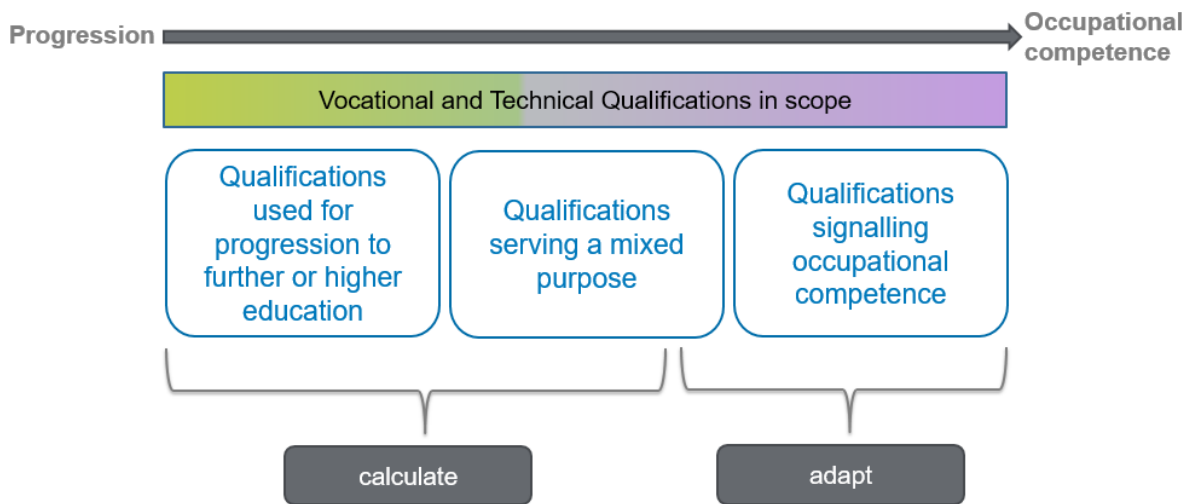


Figure 2: Qualifications falling within scope of the direction

Qualifications used for progression to further or higher education

Qualifications in this category include vocational and technical qualifications and other general qualifications which share many design features with GCSEs, AS and A levels. They are principally used for progression to further or higher education. Qualifications likely to fall into this category include performance table qualifications such as Applied General qualifications and Technical Awards. We know that there will be a significant number of qualifications in this category that are popular with many learners who take them instead of or alongside GCSEs, AS and A levels – this is likely to account for several hundred thousand learners. It is government policy that, as far as possible, qualifications in this category should be treated in the same way as GCSEs, AS and A levels, with learners receiving a calculated result.

In line with the stated policy, we will be requiring awarding organisations to take all reasonable steps to provide learners taking these qualifications with a calculated result. This is the strong expectation and the starting point for qualifications in this category.

We recognise however that there might be some qualifications, or some learners taking qualifications within this category, where it may not be possible for an awarding organisation to issue a calculated result. This might be because they cannot, at this time, access information from teachers or exams administrators, or because they do not have access to sufficient other relevant information to quality assure the centre assessment grades provided by teachers.

Our overriding principle is to enable as many learners as possible to receive a result in summer 2020, provided that those results are sufficiently valid and reliable. This has led us to consider whether we should permit the adaptation of qualifications in this category, which might enable learners who cannot receive a calculated result to still receive a result, rather than automatically suffering a delay to their progression.

Whether or not we allow adaptation in this category, we know that there may be a lack of access for some learners to their centres (including remote access) to carry out adapted assessments and that there may be some learners who will not have access to the technology necessary to sit assessments in their own home, if that option is made available by their awarding organisation. It also might not be possible for awarding organisations to adapt many of the qualifications in this category, given

the fact that they tend to operate sessionally, and that running a very small session for a small number of learners might not be viable.

We recognise that enabling some learners to receive calculated results whilst other learners are expected to sit assessments to receive their results, may be perceived to be unfair, and may also pose additional demands on awarding organisations and centres by requiring them to run two sets of arrangements in parallel over the summer months.

However, we risk limiting the ability of some learners to receive a result who otherwise might have done so if we did not permit awarding organisations to offer adapted assessments where they felt they had the capacity to do so and where this was requested by centres and learners. We think such requests might arise because a calculated result could not be awarded safely and validly.

Our proposal is therefore that awarding organisations should work to prioritise the provision of a calculated result for qualifications falling in this category, wherever they are able to provide a safe and valid result which reflects what the learner would have received, had they been able to complete the assessment component or the qualification. For those learners where the awarding organisation can demonstrate that this is not possible, we will permit awarding organisations to offer adapted assessments. We do not propose to make this a requirement of all awarding organisations, as we recognise that awarding organisations have different profile of centre types and the provision of adapted assessments may not be necessary or appropriate in all circumstances.

Despite taking this permissive approach, we recognise that there will be some learners taking qualifications in this category who still will not receive a result this summer, either because they are unable to receive a calculated result or cannot access an adapted assessment where this is made available. Our expectation is that calculated results will be made available to the vast majority of learners taking qualifications in this category.

Qualifications signalling occupational competence

Qualifications in this category are primarily used for progression into and through employment. They are primarily designed to signal occupational or professional or regulated competence (including licence to practise). Examples of qualifications that are likely to fall into this category include: Level 2 Award for working as a Door Supervisor within the Private Security Industry (which is a Security Industry Authority required qualification for employment in close protection roles); and Level 3 Certificate in Leisure Management (which is a qualification recognised by The Chartered Institute for the Management of Sport and Physical Activity).

The direction recognises that providing a result that signals competency that has not been evidenced to the usual expected standard creates risks, including those relating to health and safety. It could mean that a learner does not possess the skills required by the role to which the qualification relates, or does not meet the standards set by professional bodies or in regulations.

As such, government policy recognises that a calculated result will not be suitable for vocational and technical qualifications appearing in this category.

Instead, in order to ensure that learners taking these qualifications can progress with a result this summer, we propose that consideration should be given to adapting the

assessments or delivery models where this would not undermine the validity and reliability of the result. Only if this is not possible, should delay be considered.

We set out more detail on the approach awarding organisations should take when considering adapting their assessments in the next section.

Qualifications serving a mixed purpose

There are a range of vocational and technical qualifications that do not straightforwardly align with either GCSE, AS and A levels or those qualifications directly signalling occupational or professional competence. Such qualifications may enable learners to progress to further study, enter into employment or be prerequisite for a programme of study, such as Functional Skills qualifications.

In the case of qualifications falling into this category:

- where qualifications more closely align with the **primary purpose of supporting progression to further or higher education:**
 - the starting point should be the provision of calculated results
 - where calculated results are not possible or appropriate, the provision of adapted assessments should be considered
 - the postponement of assessments leading to a delay to results beyond this summer should be a last resort
- for those more closely aligned with **signifying occupational competence:**
 - the starting point should be the provision of adapted assessments
 - the postponement of assessments leading to a delay to results beyond this summer should be a last resort

For some qualifications serving a mixed purpose, there might be elements of the qualification where calculated results could be provided, and other elements where an adapted assessment might be necessary. Awarding organisations will need to consider whether a hybrid approach is appropriate. We think that such an approach is unlikely to be needed in relation to the first category set out above, but if it is, the same flexibility would be available.

<p>Question 6: To what extent do you agree or disagree with our proposed approaches for the different categories of qualifications?</p>
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3.2 Technical approaches

3.2.1 Provision of calculated results to learners

In his direction to us, the Secretary of State explained that calculated results for summer 2020 could be based on centre judgements as well as a range of other evidence including completed assessments, and recognised that there would need to be a wide range of different approaches to calculating results. The Secretary of State explained:

Calculated results could be based in part on teacher, trainer or tutor judgements of their ability, where appropriate, in combination with a range of other evidence. A number of students will already have completed assessments in some modules and, where that evidence usually counts

towards a result, it could be taken into account. I recognise that a wide range of different approaches to estimation and scaling will be required for vocational qualifications given the differences between the qualifications. However, I would expect that, where appropriate, statistical techniques based on learners' results in previous years, on these and on their academic qualifications, will form part of the adopted approach.

In this section, we explain our proposals in relation to:

- the aims of calculated results
- the overall approach to calculated results
- three high level requirements of awarding organisations for devising and implementing approaches to calculating grades
- different sources of evidence
- developing an approach which maximises the use of the most trusted evidence
- an overall check on outcomes
- minimum evidential threshold
- notes on centre assessment grades

Aims of calculated results

The proposed aims of providing calculated results are as follows:

1. to provide learners with the grades that they would have most likely have achieved had they been able to take their assessments in summer 2020
2. to enable the maximum possible number of learners to receive grades based on a principled evidence-based approach, such that in similar situations, similar approaches to calculated results would be used
3. to protect, as far as is possible, learners from being systematically advantaged or disadvantaged, notwithstanding their socio-economic background or whether they have a protected characteristic
4. for the methods to be sufficiently transparent and easy to explain to promote confidence
5. to be deliverable by awarding organisations with sufficient oversight from Ofqual

Question 7: To what extent do you agree or disagree with the aims of our proposed approach to calculating results?

The overall approach to calculated results

Those vocational and technical qualifications in scope of the direction for learners receiving a calculated result this summer are quite varied in a number of respects, including:

- the amount of teaching time and size of the qualification

- assessment structure (for example, the proportion of internal versus external assessment; or the number of pathways through)
- the profile of marks-based and directly graded components
- the grading structures (for example Distinction, Merit, Pass; A to E etc.)
- the range of qualification delivery models (timetabled, sessional, on-demand)

This means that the learners due to complete qualifications this summer are likely to have very different profiles of formal assessment already completed.

Therefore the framework and requirements around calculating results for learners will need to be sufficiently flexible to acknowledge these differences and allow awarding organisations to devise and implement approaches to calculating grades which are appropriate within different contexts. At the same time, the requirements also need to help promote as much consistency as possible such that similar qualifications and/or qualifications with similar contexts, should have similar ways of calculating results for learners.

Three high level requirements of awarding organisations for devising and implementing approaches to calculating grades

In respect of each qualification for which calculated results will be issued, there are three high level requirements:

1. awarding organisations should identify both the available evidence and the evidence that can be collected in respect of each qualification. This evidence falls into 6 categories as detailed below. Awarding organisations should appraise the level of trust in each source of evidence
2. each awarding organisation should devise an approach which maximises the use of the most-trusted evidence
3. any approach should contain 3 important elements:
 - i. a centre assessment grade for each learner (generated by the centre) and/or a calculated grade (determined by the awarding organisation) based on the results they already hold for the learner
 - ii. quality assurance of the overall calculated result (which is derived from the centre assessment grade and/or any awarding organisation calculated grade)
 - iii. a check on overall qualification level outcomes and grade profile, and that it is in line with expectations

Different sources of evidence

For each qualification, awarding organisations should identify both the available evidence and other useful evidence that can be collected. Some evidence might be already held within the awarding organisation, and some may be information or evidence that could be collected from centres. This evidence falls into 6 types of sources.

1. 'Banked component marks or grades' for learners' completed assessments in qualification components to date. This includes both external assessments as

well as internal assessments³ where the marks/grades have already been through the normal moderation or verification process.

2. Internal assessment grades for completed work but not yet externally moderated or verified.
3. Centre assessment grades or other centre sourced information about learners. Centre assessment grades involves asking centres to provide a judgement about the grade that each learner is most likely to have achieved. A centre assessment grade could be for the remaining components; or it could be requested for the qualification overall, depending upon the structure of the qualification and the proportion of components already completed. This professional judgement is to be derived from evidence held within the centre (learner work or evidence of learner work) and which has been reviewed by subject teachers/tutors/assessors and relevant heads of department. Awarding organisations may also ask for other information in order to support an approach to calculating grades such as a rank order for learners. This might involve an overall rank order of learners or a rank order of learners in each grade.
4. Historical data about qualification functioning. Analysis of historical relationships between different components within a qualification might show that performance on one component is highly predictive of performance on another component. These sorts of analyses might be useful either for generating awarding organisation calculated grades and/or for quality assuring centre assessment grades.
5. Centre data and information. This includes a range of data and information. One useful type of data is likely to be analyses of qualification outcomes at centre level to understand the degree of stability or variability over time. This historical evidence of centre performance may be useful for generating predictions of centre performance to quality assure centre assessment grades. There may be other information available such as centre risk profiles, centre visit information and records of any investigations. Again, this data may form the basis for quality assurance.
6. Prior attainment data. For some qualifications, learner prior attainment data (for example Key Stage 2 data or mean GCSE score), may be available and may be used routinely in annual standards maintaining exercises.

Learner work is referred to in the context of centre assessment grades and is not explicitly a stand-alone category, as given current restrictions on centres and movement it is likely that few centres could organise collection and dispatch of learner work to awarding organisations. There is no expectation that new work should be completed in order to contribute to the calculated results. However, it may be in some situations that either some work has already been uploaded into systems; or that awarding organisations might indicate the potential for centres to support their centre assessment grades at some point in the future as part of the quality assurance approach.

³ External assessment indicates assessments set and marked by awarding organisations. This includes assessments by examination, written tests, performances or written materials where the task is set and marked by the awarding organisation. Internal assessment indicates one which is marked or graded by a centre and then reviewed (for example, verified or moderated) by an awarding organisation.

Table 1 below outlines the different categories of evidence and how such evidence might be weighed. For each qualification, awarding organisations are best placed to make these judgements.

Table 1: Different categories or sources of evidence, weighing the evidence, and potential implications for how to use within a calculated results process.

	Category / Source of evidence	Judging trust in the evidence	Implications for use in an approach to calculated results
1	Banked component marks/grades	By 'banked' this means that the marks/grades have either been derived through external assessment or through internal assessment which has completed moderation/verification, and is held on the system. This evidence, where it exists, should always have the highest trust.	Where this evidence exists, it should always form part of the basis for the final qualification grade, either as a contributory component, and possibly also as a basis on which to calculate performance on 'missing' components.
2	Internal assessment marks/grades not yet moderated/verified	Considerations might include the completeness of the work, extent to which centre grades have been agreed or overturned or challenged during previous moderation/verification; centre familiarity with the assessments and their criteria.	It is likely where there is sufficient trust, pre-verified/moderated grades or marks or other information will contribute to the calculated result.
3	Centre assessment grades or other centre sourced information about learners.	<p>There is likely to be some variability in how different qualifications are delivered. Many qualifications follow a delivery model such that centres have access to learner work, good formative information or assessment data on learners; in some, there may be less contact or formative information available.</p> <p>The longevity of a qualification, the likely familiarity of the cohort of centres with these qualifications and outcomes is also relevant. In some cases, awarding organisations have regular and established working relationships with centre staff through providing guidance and standardisation activities.</p> <p>There may also be some historical evidence, if this sort of data has been collected previously, to show that centres have previously successfully predicted or estimated qualification or component grades.</p> <p>In a highly modular scheme, the level of trust in individual component centre assessment grades might be higher than for overall qualification centre assessment grades.</p>	Likely to be very useful. The methods of quality assurance will likely reflect the level of trust.
4	Historical data about qualification functioning	Analysis of historical relationships between different components within a qualification will show the extent to which performance on one component or group of components is predictive of performance on other components. This sort of evaluation might take the form of correlational analyses or more sophisticated analyses.	Where there is sufficient trust and availability, it may be useful particularly where a reasonable proportion of learner work is already banked to predict or supply some missing component outcomes (this is often the basis for aegrotat awards in normal circumstances). Or using this

	Category / Source of evidence	Judging trust in the evidence	Implications for use in an approach to calculated results
			data may form part of the quality assurance of centre assessment grades.
5	Centre data and information	<p>Analyses of qualification outcomes at centre level to understand the degree of stability over time. Stable outcomes are likely to warrant greater trust.</p> <p>Other information may be available about centres such as records of visits, investigations, risk profiles. The trust in this information will likely vary on factors such as recency and completeness.</p>	<p>This historical evidence of centre performance may be useful for generating predictions of centre performance to quality assure centre assessment grades, or through other statistical techniques to identify centres with unexpected profiles of centre assessment grades. Alternatively, data may form a starting point for centres in outlining expectations about the likely distribution of grade outcomes.</p> <p>Centre risk profiles may form a basis for quality assuring centre assessment grades.</p>
6	Prior attainment data	<p>For Level 2 qualifications, this likely means Key Stage 2 data or Level 1 qualification data; for Level 3 qualifications, this likely means 'mean GCSE' or other Level 2 qualification data. Such data may or may not be readily held by an awarding organisation, and may or may not have been used in respect of standards maintaining for this qualification historically.</p> <p>Where the relationship between prior attainment data and qualification outcomes is well understood and has been shown to be predictive, it may be useful. Where the profile of learners means an insufficient proportion of the cohort can be matched to prior attainment data, and/or there is weak or no evidence that it is predictive of qualification outcomes (low correlational values, for example) this indicates it should have lower trust. This is probably because the qualification is testing different constructs and abilities. Another consideration is that AOs may or may not be able to access such data in the time available.</p>	<p>If available and has high trust, this will be most appropriate in the context of quality assuring centre assessment grades, for example through a 'statistical moderation' approach, but not for providing a direct basis for creating individuals' grades.</p>

Developing an approach which maximises the use of most trusted evidence

Once an awarding organisation has identified and evaluated the sources of evidence, it can develop an approach which should make the most of the best quality evidence available. The approach should use such evidence both in sourcing a calculated result (whether a centre assessment grade or an awarding organisation calculated grade) and as part of the evidence-based approach to quality assuring the calculated result.

For example, if there is a relatively high proportion of 'banked component data', this may be used directly to calculate learners' missing component grades. This is often a method that is used in ordinary circumstances where it has been determined that a learner is 'absent with good reason' and receives an 'aegrotat' award under normal Special Consideration processes. There may be a number of different ways of calculating the missing component data, such as assigning the average of all the component data, weighting some components more than others, or perhaps where there is a high proportion of data banked component data, the aggregation might be completed without the final missing component(s). Whichever particular method is adopted, the awarding organisation will likely need to have tested out different approaches to satisfy themselves that the adopted approach represents the fairest method of calculating learner results. This process of exploring different ways of calculating results in itself represents a method of quality assurance. In order to do this, it is likely that an awarding organisation would want to look at historical data from previous series and previous years. This quality assurance should, wherever possible, take account of whether the approach might have a negative impact on particular groups of learners and, if so, how that might be mitigated.

In another example, there might be a relatively low proportion of 'banked component data', but sufficient trust in centre assessment grades, either for the missing or incomplete components or for the qualification overall. The quality assurance method should draw upon other sources of trusted evidence such as historical centre performance profiles, centre risk profiles or predictions based on banked component data. The best quality assurance models are likely to build in more than one source of trusted evidence. Larger and more established qualifications are likely to have more sources of evidence available to contribute to a quality assurance approach.

Where centre assessment grades are used as part of the overall approach calculating results, the awarding organisation should develop a quality assurance method for this approach as outlined above and which results in either:

1. challenging the centre to provide additional evidence to support judgements
2. directly 'standardising' grades

In some scenarios, awarding organisations are likely to encounter some qualifications where the range of evidence available is not uniform for all learners, particularly where there is a high degree of variability in how the qualification courses are delivered as well as how providers organise internal assessment moderation with awarding organisations. For example, there may be different subsets of learners, such that some have banked 75% of assessments with the awarding organisation and some have banked perhaps 25% or less. In these cases, awarding organisations may need to adopt a multiple stranded approach to calculating results, but will also have to be certain as part of the quality assurance of this approach that different methods for different subsets of learners do not systematically advantage or

disadvantage these subsets. Furthermore, it may be some learners in some qualifications do not meet the minimum evidential threshold for receiving a calculated result this summer.

An overall check on outcomes

As set out in the direction from the Secretary of State, the results this summer should, for the individual qualification, maintain the same broad levels of comparability with previous years, in line with the approach being taken for GCSEs, AS and A levels. This means for each qualification, awarding organisations will need to build this into their overall approach at the outset. Additionally, we would expect that awarding organisations should check the overall results profile, prior to issuing results, against previous years and other data to make sure that it is in line with expectations. If there is a difference in the overall outcomes, this will necessitate awarding organisations re-evaluating the calculated results and/or their approach to quality assurance. In accordance with our overall approach and the extraordinary regulatory framework, we will put in place additional measures for oversight for those qualifications in scope and which are used primarily for progression to higher education.

Summary of the approach

In summary all approaches to calculated results should require three elements – the calculated results ‘blueprint’, as detailed below and schematised in Figure 3.

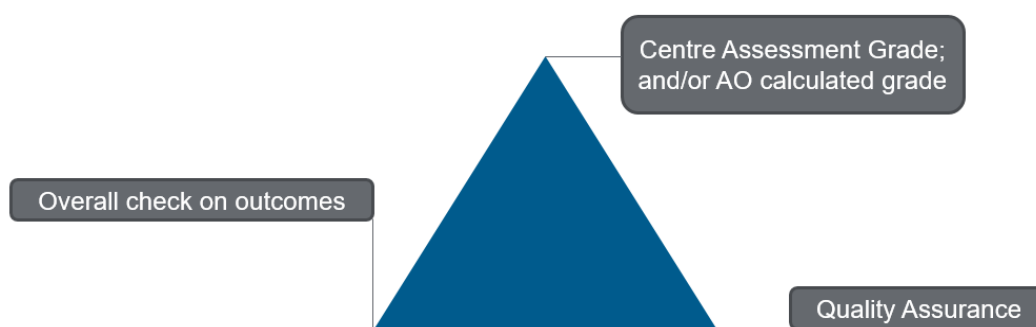


Figure 3: Illustration of the three elements of any Calculated Results blueprint

The approaches to calculated grades developed by awarding organisations can sequence the three elements according to their determinations of how they can best promote results in accordance with the overall aims.

Figure 4 summarises the sequence of activity each awarding organisation should undertake in respect of each qualification in scope to devise an approach for calculated results.

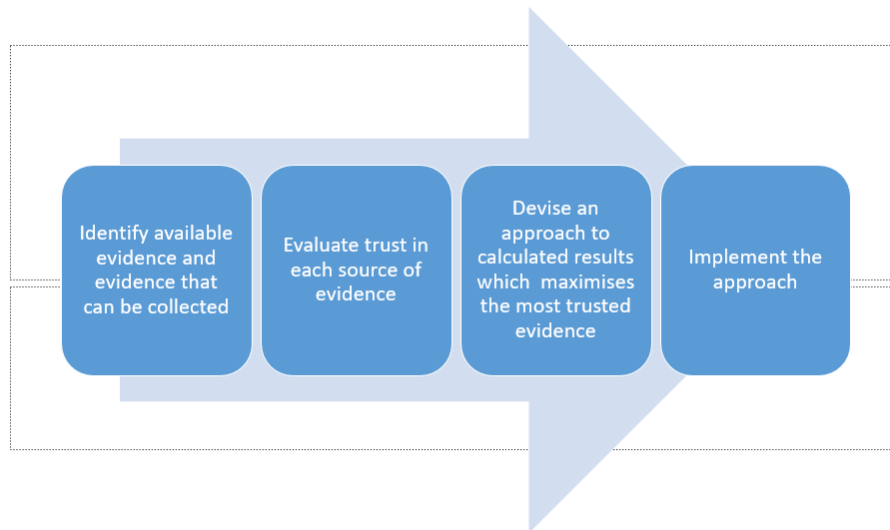


Figure 4: Calculating results: summarising the overall process awarding organisations for devising and implementing an approach to calculating results for any particular qualification

Minimum evidential threshold

One of the aims of providing calculated results is to enable the maximum possible number of learners to receive sufficiently valid and reliable grades so that they can progress to and through employment and education. Operationally, this means the aim is to provide learners with the grades that they would most likely have achieved had they been able to take their assessments in summer 2020. However, it might be in some circumstances that there is insufficient evidence, or insufficiently trusted evidence, to safely predict what that grade might have been.

Some consideration must be given therefore to a minimum evidential threshold. Given the overall framework and the context of the complex vocational and technical landscape, and that different qualifications require different approaches to calculating results, it is not possible to stipulate an amount, or specific type of evidence. Rather, it is our view that awarding organisations should make the determination of what is appropriate. In identifying and evaluating the different sources of evidence, an awarding organisation might determine that for some qualifications and/or some learners on some qualifications, there is insufficient trusted evidence to safely calculate a result.

Our proposal is that any approach to providing calculated results needs to be based upon at least one source of trusted evidence along with a sufficiently robust basis for quality assurance.

This means that where there is little or no banked component data, insufficient trust in centre assessment grades, and little opportunity or evidence to quality assure centre assessment grades, an awarding organisation may determine that this is below the minimum evidential threshold.

Question 8: To what extent do you agree or disagree with our proposal that the minimum evidential threshold is that any approach to providing calculated results needs to be based upon at least one source of trusted evidence along with a sufficiently robust basis for quality assurance?

Notes on centre assessment grades

Centre assessment grades are one source of evidence an awarding organisation might request as part of an overall calculated results approach. In the context of vocational and technical qualifications, centre assessment grades may be for learner results at qualification or component level. Awarding organisations may also ask for other information in order to support an approach to calculating grades such as a rank order for learners. This might involve an overall rank order of learners or a rank order of learners in each grade.

This professional judgement is to be derived from evidence held within the centre and which has been reviewed by qualification teachers and relevant heads of department. This should be a holistic professional judgement, balancing the different sources of evidence, using knowledge of the assessment aims and criteria. Teachers and heads of department in many cases will have a good understanding of their learners' performance and how they compare to other learners on the same course this year, and on previous courses and in previous years.

We realise that teachers will not know precisely how each learner might have performed on assessments and examinations that had not been encountered. However, they will have a good understanding of how learners with similar achievements have performed in the past on the same or similar assessments. They should use this knowledge, combined with other evidence including previous formal and informal assessments, mock examinations and homework in coming to their judgements. We want teachers to consider each learner's performance over the course of study and make a realistic judgement of the grade each learner would have been most likely to receive if they had completed the relevant component(s) or qualification as requested by the awarding organisation. This should include U (ungraded) or fail. Where the centre has no evidence upon which to base a centre assessment grade, the centre should not provide a centre assessment grade.

We know that many awarding organisations intend to collect centre assessment grades and believe that centres are willing to provide that information.

We expect that awarding organisations, when requesting centre assessment grades, should also direct centres to include within their consideration any impact of the use of reasonable adjustment that the learner would have. For example, if a learner qualifies for extra time in an examination, the judged centre assessment grade should incorporate how the learner would perform having the full amount of time they are entitled to. We also expect that awarding organisations, when requesting assessment grades, will instruct teachers to make their judgements in an impartial, balanced and unbiased way; such that the assessment grades are based on evidence of attainment held within the centre and must avoid bias as far as is possible, so that learners are not systematically advantaged or disadvantaged by having or not having a protected characteristic.

We propose that an awarding organisation must provide effective guidance to a centre on the provision of any information that the awarding organisation requires in order to calculate a learner's result. We set out this [expectation around guidance to centres](#) in more detail in the next part of this document.

<p>Question 9: Do you have any other comments on the approach to providing learners with calculated results?</p>

3.2.2 Provision of adapted assessments to learners

As set out above, it will not be possible to issue calculated results for some vocational and technical qualifications because such results cannot be awarded reliably or safely. This is likely to be the case for some qualifications that are used to signal occupational competence, and where such competence cannot be evidenced using the usual, expected methods at present. Where this is the case, we propose that awarding organisations should consider whether they are able to suitably and manageably adapt their assessments and related processes in order that learners might complete their qualifications.

There are a number of ways in which awarding organisations could make changes to their qualifications to enable learners to achieve results during the summer. These might include:

- changing the way in which assessments are delivered, for example using an online rather than paper-based test, or carrying out an assessment remotely rather than face to face
- adapting assessment methods, for example using a practical simulation in place of an observation, or professional discussion in place of a practical demonstration
- changing invigilation requirements, for example allowing the use of on-line invigilation (also known as remote invigilation or proctoring) so that assessments can take place in a wider range of settings
- waiving or adjusting work experience or placement requirements, for example allowing candidates to undertake a shorter period of work experience
- changing the way in which a qualification is quality assured, for example allowing for standardisation or moderation to take place remotely or on-line

In some cases, these adaptations would be compliant with our current regulatory framework. However, in other cases, such adaptations might ordinarily not be compliant with our General Conditions, Qualification or Subject Level Conditions, or an awarding organisation's assessment strategy. For this reason, we propose to include a set of requirements within the extraordinary regulatory framework which awarding organisations must apply when making judgements about whether and how to adapt assessments.

Any judgements awarding organisations make about adaptation should also continue to take into account the over-arching principles set out in the extraordinary regulatory framework.

We propose to introduce technical requirements around adaptation which set out that:

- awarding organisations must take all necessary steps to minimise risks to reliability and validity by ensuring that coverage of the key areas of the construct of the qualification is retained within the adapted assessment
- awarding organisations must act only within the limits of their capacity and capability and take all necessary steps to minimise the burden on centres and learners resulting from the introduction of adaptations to assessments

Awarding organisations should also look to ensure, as far as possible, that any adaptations minimise any disadvantage to learners with special education needs or a protected characteristic. However, where an awarding organisation can offer an adapted assessment but only in a way that, despite their best efforts, does disadvantage some learners, the awarding organisation should still offer the adapted assessment. We think that this is in line with the overall aim of the government's policy of ensuring that as many learners as possible are provided with results. We propose to include this steer as part of the technical requirements on adaptation. We think that this achieves an appropriate balance, as it will ensure that awarding organisations prioritise the provision of adapted assessments that meet the needs of learners with protected characteristics wherever they are able to do so, but secures more widely the provision of adapted assessments to as many learners as possible, which is in line with the overall policy aim of delivering results to learners.

For qualifications which act specifically as licences to practise or give access to a particular profession, there is an important balance to be struck between maintaining the validity of the qualification – aligned to its purpose – and permitting flexibility to allow learners to receive a result this summer. It is our view that in some cases it is more likely that this balance will swing towards maintaining greater validity (and avoiding unnecessary risks) and that this may prompt an awarding organisation to determine that adaptation may not be possible.

We recognise that professional and sector regulatory/oversight bodies will also play a key role here as they may potentially set other parameters around any permissible adaptations or other approaches to be taken to assessment and the issue of results. They may also take a view around ensuring consistent approaches across awarding organisations.

We propose therefore to provide guidance that sets out that awarding organisations should give due regard to any specific requirements put in place by professional and sector bodies when making judgements about adaptations.

We think that our proposed approach around adaptation strikes the right balance between delegating responsibility to awarding organisations to make judgements based on their detailed understanding of the purpose and design of their qualifications, and of their (and their centres') ability to implement adapted assessments, and ensuring that there is a broadly comparable approach across awarding organisations.

Question 10: To what extent do you agree or disagree with our proposed approach to the adaptation of assessments?
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3.2.3 Delaying assessments

In order to achieve the overall aim of providing as many vocational and technical qualification learners with sufficiently valid and reliable results this summer as possible, and in order to minimise the burden on awarding organisations, centres and learners, we propose that delaying or re-scheduling assessments should be the option of last resort.

There will however, as set out in the sections above, be some qualifications in scope, where it will not be possible for awarding organisations to issue results, or where there are qualifications where results can be issued, but some learners to

whom it will not be possible to give a result for that qualification – in such cases delay will unfortunately be the only option. Where this happens learners who will not receive results this summer should, as far as possible, be offered opportunities to sit their assessments at a later date, and as soon as reasonably possible, ideally no later than in the autumn term.

Awarding organisations will have to take account of whether the assessment method poses particular challenges if assessments are delayed into the autumn term – for example an extended assignment that is developed over a period of several weeks is likely to be more difficult for centres and learners to accommodate than an examination. This may have implications for when any deadline or session date should be scheduled.

We set out below [our detailed proposals around an autumn assessment opportunity](#).

Question 11: To what extent do you agree or disagree that delaying or re scheduling assessments should be the option of last resort?

3.3 Decision-making, record keeping and oversight

3.3.1 Decision-making and record keeping

It is important that awarding organisations keep good records of the decisions that they take in line with the extraordinary regulatory framework, for example the reasoning behind the approach they are taking (calculating results, adapting assessments or delivery methods, or delaying assessments), or the evidence they are relying on in terms of their calculation approach.

The proposals that we have set out place a high degree of trust in awarding organisations, and as the regulator we will need to monitor the decisions they take, and in some cases will want to test them further. In certain circumstances we may also need to assist an awarding organisation in their decision-making, or to raise issues where it appears an awarding organisation has made an error.

We set out in Part B of this consultation more detail on [our expectations around decision-making, record keeping and advice](#).

Question 12: To what extent do you agree or disagree with our proposals around decision making and record keeping?

3.3.2 Oversight of awarding organisations

We are a risk-based regulator. We gather intelligence, analyse evidence and evaluate risk to target our priorities. This means the nature of our activities will vary across the qualifications and parts of the qualifications market we regulate. We intend to adopt broadly the same approach this year, recognising that the nature and level of risks that we are managing has changed.

We have proposed a flexible regulatory framework that will allow awarding organisations to make sensible choices, based on evidence and in light of their own specific context in these exceptional circumstances.

Using a risk-based approach means that we will prioritise our activities to target and mitigate the highest risks. We plan to undertake proactive and targeted monitoring work in relation to a number of qualifications and awarding organisations. Our work will include focusing on the professional judgements that awarding organisations are making with regards to technical solutions, for example, around calculation; determining whether they have sufficient evidence on which to base awards; and determining whether an approach to adaptation would be appropriate in the context of the qualification that they are delivering.

We will focus in particular on those qualifications in Goal 2 of our Corporate Plan – which we describe as ‘national technical and vocational qualifications and assessments’ – with particular attention on higher volume Level 3 qualifications that are used in the same way as A levels to progress onto higher education. We will also closely monitor the approaches taken to securing results for Functional Skills qualifications.

For other qualifications our approach will be informed by risk and will be intelligence led. This allows us to operate flexibly in response to a changing situation. We will draw on our existing understanding of where risks exist and will prioritise addressing issues where there is a heightened likelihood of an Adverse Effect. We will focus particularly on protecting learners and securing that awards are safe and valid in line with our proposed framework.

If things go wrong, our main focus will be in securing that errors are corrected and things are put right. We understand that these are exceptional circumstances and our priority will be to work constructively with awarding organisations to achieve the best outcomes for learners. We expect awarding organisations to operate transparently and in good faith and to notify us promptly if things go wrong. Engaging in this way will maximise our ability to resolve issues quickly and we will be proportionate in our response, giving due recognition to where awarding organisations have done their best and have acted in good faith.

We also recognise the risk that the crisis might increase the risk of malpractice or other misconduct. We expect awarding organisations to remain alive to these risks and to take steps to manage them accordingly. Our expectation remains the same that awarding organisations must take clear and decisive action to address malpractice or other misconduct. We will continue to regulate to secure that malpractice or other misconduct is managed effectively.

Question 13: To what extent do you agree or disagree with our proposed approach to oversight of awarding organisations?

3.4 Assessment opportunity in autumn 2020

The direction set out that it is government policy that learners who do not feel that their result reflects their ability should be afforded an opportunity to complete an assessment at the earliest available opportunity. The direction recognises that much of the vocational and technical sector finds itself under significant pressure as a result of the crisis. That pressure is unlikely to have reduced in the autumn term where centres will have the extra demands of a new cohort of learners as well as those learners who either could not receive a result or where they do not feel their result reflects their ability. In addition to this, many vocational and technical

assessments are practical or portfolio based, rather than exams and in some cases delivering them is time consuming and resource intensive for centres.

Many vocational and technical qualifications are delivered in a modular way. This means that for many of these qualifications another assessment opportunity would typically be available in the autumn term in any event. We do however recognise that in an ordinary year, the autumn assessments may not have large entries of learners, and extending availability to the 2020 cohort could have a significant impact in terms of burden on both centres and awarding organisations. Nevertheless, in light of government's stated policy we propose that where an awarding organisation normally provides an assessment opportunity between September and December, it should be obliged to continue to provide that opportunity.

For some qualifications, awarding organisations do not normally provide an assessment opportunity in the autumn term. We recognise that a balance needs to be struck between making an assessment available at the earliest opportunity and the burden of providing additional assessments. We therefore propose that for most qualifications, additional assessment opportunities should be made available where sufficient demand exists and where meeting that demand would not create a disproportionate burden on awarding organisations or centres.

In some limited circumstances we consider that it would create a material unfairness for learners should an additional assessment opportunity not be available, or not available early in the autumn term, even if that creates additional burden. We think that this would be particularly the case for those qualifications at Level 3 which are used in the same way as A levels for progression to higher education.

We therefore propose that if no assessment opportunity is being made available in line with the arrangements set out above, that we may require that an additional assessment opportunity must be made available. This could be for some specific assessments within a qualification or all assessments. We think we might also need to specify when in the autumn term those assessments should take place.

This consultation does not include a list of which qualifications which we think will fall into scope of this proposed measure. Before creating any such a list we would, as a minimum, consult relevant awarding organisations directly on the feasibility and impact of imposing this requirement and would take their views into account. We would not expect to use this provision unless it was necessary to do so in the interests of fairness for learners.

Finally we propose that in relation to all of the proposals above that where an autumn assessment opportunity is available, awarding organisations must allow entries from:

- learners who received either a calculated result, or a result following an adapted assessment
- learners who were registered to take an assessment in the spring or summer but who did not receive a result because it was not possible to secure one (including, for example, private candidates)

Question 14: To what extent do you agree or disagree with our proposed position on the delivery of an assessment opportunity to learners in autumn 2020?

3.5 Appeals

The Secretary of State said in his direction that learners should have access to a right of appeal if the relevant process was not followed correctly by the awarding organisation. This should be focused upon whether the process was followed and, where applicable, should not involve second-guessing the judgement of teachers, tutors or trainers, who know their learners best.

The direction recognises that the requirements in our current General Conditions of Recognition already provide for such an appeal, although these requirements could, if we considered it necessary, be supplemented with specific guidance on appeals for these learners.

We consider that our existing rules are in line with government policy as set out in the direction. This is because General Condition of Recognition I1 requires that awarding organisations' appeals process must provide for the effective appeal of results on the basis that the awarding organisation did not apply procedures consistently or that procedures were not followed properly and fairly. It sets out minimum procedural standards that must be met, including ensuring the independence and competence of people making appeal decisions. Our rules do not require that appeals can be made against teacher judgements and they do not require awarding organisations to accept appeals directly from learners. However neither do our rules prohibit these approaches and ordinarily awarding organisations have discretion to include additional grounds should they wish to do so.

We recognise that the extraordinary regulatory framework that we put in place for vocational and technical as well as other general qualifications will apply to a large number of awarding organisations, all of whom have their own appeals processes in line with General Condition of Recognition I1. There will be a wide range of different approaches to be taken to securing calculated results with a focus on identifying and using the most trusted evidence. The appeals system will also need to accommodate situations where awarding organisations have delivered adapted assessments.

As it is not feasible or appropriate for us to require a single technical approach to securing calculated grade or adapted assessments, we do not consider that we could prescribe a single approach to appeals. We are concerned that given the number of awarding organisations across such a broad range of qualifications that we might create an unduly rigid system that doesn't reflect the different contexts and would be disproportionately burdensome for both awarding organisations and centres to implement. We are also concerned that imposing a new system would be vulnerable to unintended consequences as each awarding organisation might have to implement wholly new policies and procedures, and communicate those to centres. We think this heightens the risk of mistakes being made.

Therefore, as far as possible, our proposed approach expects awarding organisations to build on their existing policies and procedures and only to adapt those where it is necessary to do so to ensure an effective appeals system will operate in response to the current crisis.

We do consider that awarding organisations' approaches to appeals should, as far as possible, be consistent. We also recognise that the decisions that may be appealed this year are novel and that some changes to approach are likely to be necessary. We would encourage awarding organisations and their representative

bodies to collaborate in relation to delivering as coordinated an approach to appeals as possible, with a particular mind to reducing burdens on centres who may have to submit appeals through multiple different processes.

In light of this we consider that additional guidance for awarding organisations is necessary. We therefore propose that we should introduce statutory guidance to sit alongside General Condition of Recognition I1 to promote consistency in approach and to make clear what awarding organisations should consider in relation to the conduct of appeals this year.

Our guidance will make clear that awarding organisations are not obliged to consider appeals submitted by individual learners or their representatives unless that is the only way to secure an effective appeal. Our guidance will also make clear that there is no duty on awarding organisations to accept appeals against teacher judgements and that an appeals process premised on scrutinising individual centre judgements, the efficacy of the evidence on which centres relied and/or the grades submitted by a centre would be both undesirable and impractical. This is particularly the case the closer that the awarding organisation's technical model is to that used for calculating grades of GCSEs, AS and A level qualifications. We are currently running a consultation about [our proposals for appeals for GCSEs, AS and A level qualifications](#). We propose that pending decisions in response to that consultation our aim is that awarding organisations should be able to implement those same arrangements for vocational and technical qualifications should that be appropriate in their specific context.

We consider that this is the most pragmatic, straightforward and least burdensome approach. We consider that it will promote a consistent and effective appeals system across the wide vocational and technical qualifications landscape while retaining some limited discretion for awarding organisations to take account of their specific circumstances and the nature of their qualifications.

Question 15: To what extent do you agree or disagree with our proposed approach to appeals?

3.6 Certificates

We do not consider that we need to put in place any specific requirements around certificates in the event of an appeal, or a subsequent re-assessment opportunity.

Our Conditions of Recognition allow awarding organisations the flexibility to manage the reissuing and collection of certificates as needed following either an appeal or a reassessment opportunity.

Question 16: To what extent do you agree or disagree with our proposed position in relation to certificates?

3.7 Private learners and learners not yet registered for assessments

3.7.1 Private learners

There will be some learners who are studying vocational, technical and other general qualifications independently. Some of these learners may be registered directly with an awarding organisation, and not with a school, college or training provider – this can often be the case where the awarding organisation offers distance-learning. Others may be registered for a qualification through a school, college or other provider but may not be receiving education directly from them – these learners are often known as private candidates.

Where learners are registered for a qualification and have engaged sufficiently with the awarding organisation or school/college/provider, then there is the potential that there may be appropriate understanding of a learner's potential assessment performance to be able to provide a calculated grade, although awarding organisations will have to be alert to any potential increased risks relating to receiving centre assessment grades for learners not actually taught by any centre. Many vocational and technical qualifications are designed with a number of assessments which can be taken throughout the duration of the qualification. Where a private learner has banked some of these assessments, this will further influence whether calculated results can be provided.

Where private learners have not engaged with a provider or an awarding organisation and have not yet been awarded any marks for assessment, the challenge for an awarding organisation to be able to calculate a result may increase. However, we know that the design of assessments in some qualifications enable a learner to put together evidence of understanding throughout the duration of the qualification, and that where this is the case a private learner might still be able to submit their work as expected to awarding organisations or centres in line with normal practices. This reflects our proposal that we would not prevent awarding organisations from offering assessments where they can be delivered as normal; though we recognise that this is unlikely to be the case in most qualifications.

Where learners do not have sufficient existing evidence, or have not engaged sufficiently with centres, it is likely then that the most appropriate option may be for those learners to wait until the next opportunity provided by the awarding organisation to take their assessment, which we propose should be offered as soon as reasonably possible, ideally no later than in the autumn term.

It is our view, that where it is possible and relevant, awarding organisations should seek to issue results for private learners as they will for other learners. For qualifications that require results to be calculated, this should only be done where sufficient evidence is available and where the right detail can be properly submitted on the learner's behalf.

Where awarding organisations are seeking to adapt their assessments, they should consider the assessment approach or mitigations that they might have put in place for private learners under normal circumstances and, where possible and relevant, apply them here. In many cases, private learners might take assessments in the same way as learners in school or college, and so any adaptation made to assessments should apply equally to private learners. Again, where an adaptation is not suitable for a private learner, the most appropriate option may be for those learners to wait until the next opportunity provided by the awarding organisation to take their assessment.

Where private learners are able to receive a calculated result, or undertake an adapted assessment which enables the provision of a result, we propose that they should also be provided by awarding organisations with a direct right of appeal, rather than an appeal having to be made on the learner's behalf by a school, college or other centre. This reflects that some private learners will have only engaged with an awarding organisation, and not a centre, throughout their period of study.

Question 17: To what extent do you agree or disagree with our proposed approach in relation to private learners?

3.7.2 Learners not yet registered for assessment this summer

We are aware that some awarding organisations may not be able to identify all of the learners who were due to take assessments and receive results this summer. Our understanding is that this will most commonly occur where a learner is registered with an awarding organisation as undertaking a qualification, but has not yet been entered for the summer assessment. This may be because they were taking a qualification either with no set structure for completion (for example a distance learning course where modules can be completed over time to suit the learner's needs) or with on-demand assessment that does not require particularly advanced notice registration. It may also be the case that the learner is not registered at all with the awarding organisation for the qualification they are studying.

We propose that where an awarding organisation believes it might have learners who were not yet entered for assessments this summer, it should contact all learners registered to take their qualification to ascertain whether or not they intended to take an assessment in coming weeks/months. This would most suitably be done through the learners' centres, colleges or training providers, in order that the awarding organisation can better assure themselves around the learner's intention to sit assessments. There is a risk that learners might seek the opportunity, where a calculated result is 'on offer', as such, to state that they intended to take an assessment in order to try to get a qualification result and avoid having to take any further assessments.

We expect awarding organisations to take all necessary steps to ensure that only learners who were intending to take an assessment with the intention of receiving a certificate for that qualification (or a result for an assessment component) this summer are able to receive a calculated result.

There is also the potential that some learners have been studying a qualification, but have not registered with the relevant awarding organisation. This may happen, for example, in the case of learners studying qualifications where centres do not need to register the learner with the relevant awarding organisation until they are ready to be assessed. We propose that awarding organisations should provide their centres with a limited opportunity to register learners who were deemed to be ready to take assessments but who were not already registered with the awarding organisation. Any unusual patterns of registration should be monitored by awarding organisations to ensure that the process is not being abused.

This approach may enable awarding organisations to identify further learners who may be issued results or who need to access adapted assessments, and is in line

with the overall aim of providing results to learners who were expecting to receive a result this spring or summer. We recognise however that there is a balance to be struck by awarding organisations who need to enable learners who genuinely would have completed qualifications this summer to be issued with results where they can be, but who also have to manage the potential risks around misuse or malpractice or any approach they take.

Question 18: To what extent do you agree or disagree with our proposed approach in relation to learners who are not yet registered for an assessment?

3.8 Qualifications taken internationally

We regulate qualifications taken internationally only where there are, or an awarding organisation reasonably expects there to be, some learners who are assessed wholly or mainly in England as well. The scope of our proposals applies to England, Wales, Northern Ireland and Scotland, as agreed with Qualifications Wales, CCEA Regulation and SQA Accreditation.

Of the qualifications that will fall in scope of the proposed regulatory framework, there will be a number which have international learners as well as learners in the UK.

We propose to take a permissive approach around the assessment and/or awarding of results for international learners taking regulated qualifications. We would expect awarding organisations to determine whether they need to calculate results or adapt assessments based not just on the purpose served by the qualifications, but also on the needs of the market in which they are operating overseas – this may include requirements set out by other regulatory authorities in other countries.

We do not intend to require any particular approach for assessing or issuing results to international learners, regardless of the measures in place for learners in the UK. Awarding organisations will be able to apply the same extraordinary measures for international learners as they use for learners in the UK if they see this as appropriate and manageable. However, they may also choose to take a different approach.

Question 19: To what extent do you agree or disagree with our intention to not require any particular approach for adapting assessments and/or issuing results to international learners?

3.9 Awarding organisations facing financial difficulties

Many stakeholders have told us that the crisis is creating unprecedented financial pressures and operational challenges on both awarding organisations and centres and that this is a situation that is likely to get worse. We already know that some centres have closed and that there is a material risk that some awarding organisations will find themselves facing significant financial difficulties.

Our proposed extraordinary regulatory framework also asks much of our awarding organisations. We are grateful for how positively they have engaged with us and the work that they are all doing in the interests of the wider system and in protecting their learners. We recognise that our proposals add burden on them at an already difficult time. This has heavily informed our approach for a permissive and flexible framework.

We have considered whether there are any provisions that we could propose for inclusion in our extraordinary regulatory framework that could help awarding organisations better manage the impact of the financial pressures. This is in relation to both the crisis itself and the impact of implementing our proposals. We do not however consider that additional regulatory provisions are necessary. The General Conditions of Recognition already contain rules that are designed to help manage issues related to the financial viability and we have well established operating protocols in place to respond when awarding organisations find themselves in financial difficulty.

We have set out below some of our existing requirements in relation to how awarding organisations should approach managing financial risks, what to do if they find themselves in financial trouble and the overall approach that we expect in terms of risk identification and management.

Awarding organisations must ensure that they have and will have sufficient financial resources and facilities available to enable them to develop, deliver and award qualifications, until all learners have had the chance to complete their qualifications.⁴

Where awarding organisations identify that they are facing financial difficulties and that they are at risk of not having sufficient financial resources they must promptly notify us through an Event Notification.⁵ Awarding organisations must also promptly notify us if they find themselves vulnerable to insolvency or bankruptcy proceedings.⁶ We have established operating procedures which will guide our response to such notifications and there may be specific flexibilities that we can implement on a case by case basis that could help. This might include temporarily lifting some regulatory requirements and putting in place some alternative short-term arrangements to provide some space and time.

In all cases we will work with awarding organisations to find the best way forward to support them and to protect the availability of their provision and the interests of learners. In order to help us do this, awarding organisations must engage with us as soon as possible if they find themselves in financial trouble.

In the current situation there are clear and obvious risks to learners that would arise as a result of a centre closing or an awarding organisation collapsing. This includes learners who are on programme as well as those who are due to take their assessments this spring or summer. Given this is a foreseeable risk, we would expect awarding organisations, as far as possible, to have an up-to-date record of their learners and where they are registered so that they could be more easily identified. Maintaining these records makes it more straightforward to us to help find alternative arrangements for learners should that become necessary. We will work

⁴ [General Condition of Recognition A5.4](#)

⁵ [General Conditions of Recognition, Section B](#), contains our rules and Guidance on Adverse Effects and Event Notifications

⁶ [General Condition of Recognition B3.3\(d\)](#)

with other parts of government, such as the Education and Skills Funding Agency where we need to, to help protect learners, using agreed protocols.

The role that responsible officers play within awarding organisations has always been key, as they are the main point of our communication with those we regulate. We would remind awarding organisations of the importance of this role, especially at this time.

We have published additional information on a range of coronavirus (COVID-19) related matters, including financial risks, Event Notifications and staff furloughs on our online portal for awarding organisations. We encourage all awarding organisations to make sure they have read this information and check back regularly for updates.

Question 20: Do you have any comments about our proposed position in relation to awarding organisations facing financial difficulties?

3.10 Functional Skills qualifications

The Secretary of State's direction sets out that the government's policy is that learners due to take assessments for Functional Skills qualifications before the end of the summer should receive a calculated result rather than an adapted or postponed assessment. This is in recognition of the important role these qualifications play in enabling learners to progress to further study or enter into employment, and in being a pre-requisite for a programme of study, such as an apprenticeship. The government's policy applies to Functional Skills qualifications at all levels (Entry to Level 2), to all 3 subjects (English, maths and ICT), and to both the legacy and reformed English and maths qualifications.

As such, our expectation is that awarding organisations should devise and implement approaches for calculating results for Functional Skills qualification learners in line with our three high level requirements: identifying available and potentially available evidence; appraising the level of trust in each source of evidence; and maximising the most-trusted evidence.

Any approach devised should contain three important elements:

- a method of obtaining a grade for each learner (either through a centre assessment grade or an awarding organisation calculated grade)
- quality assurance of the approach, and
- a check on the grade profile, and that it is in line with expectations

We recognise however that the diversity of settings in which Functional Skills qualifications are taught and the varied nature of the learner cohorts, together with the assessment design of the qualifications, may mean that awarding organisations are not able to issue safe and valid calculated grades for all learners.

The number of assessment components in different Functional Skills qualifications means that awarding organisations are unlikely to have 'banked' evidence for some learners which could be used towards the calculation of results. Although Functional Skills qualifications in English are made up of 3 assessment components, the skills

in each component are very different, and performance in one area does not necessarily translate to performance in another, making it difficult for an awarding organisation to calculate overall performance based on outcomes from individual components. Functional Skills qualifications in mathematics and ICT are single component qualifications and Entry level qualifications in all subject areas are centre-assessed, single component qualifications. This means that calculated grades in most cases will be based on centre assessment grades, quality assured by the awarding organisation.

Where Functional Skills qualifications are taught in 1-year courses in a school or college, in a similar way to GCSEs, centres are likely to have a range of evidence about the candidate available, upon which to base their centre assessment grades, such as the results of practice assignments or tests, or previously submitted class work, as well as their professional judgement of how learners with a similar profile usually perform. The awarding organisation is also likely to have access to a range of information about the centre, such as historical achievement data and centre risk profiles, to enable them to quality assure centre assessment grades. This would mean that the awarding organisation would be able to satisfy itself that calculated results could be safely determined and quality assured, meeting our minimum evidential requirements.

However, some learners study for their Functional Skills qualifications with limited direct contact with centres or centre staff, sometimes remotely, sometimes on short roll-on/roll-off courses. Under these circumstances, centres may have insufficient evidence upon which to make a judgment about the result a candidate would have received had they been able to complete the assessment. In other words, centres may have insufficient evidence to provide a centre assessment grade. Awarding organisations may also not be able to quality assure centre assessment grades because they do not have reliable information about centres or their historical achievement data, or because other mechanisms of quality assurance are not available to them. This might happen where a centre is new to Functional Skills qualifications, and/or the awarding organisation or perhaps because a centre indicates it cannot provide supporting evidence for centre assessment grades.

Therefore, although our clear expectation is that Functional Skills learners wherever possible should receive a calculated grade in line with the policy set out in the direction, we accept that in some circumstances, awarding organisations may not be able to do so because they could not comply with our requirements for calculated results and would not be able to issue safe and valid results as required.

Our overriding aim is to enable as many learners as possible to receive a result in spring/summer 2020. This has led us to consider whether to permit adaptation of Functional Skills qualification assessments, as this could enable learners who cannot receive a calculated result to still receive a result. In the context of Functional Skills qualifications, adaptation is likely to take the form of either enabling the assessment of centre-assessed components to take place remotely or on-line (such as the Speaking, Listening and Communicating component in Functional Skills English), or by making changes to invigilation arrangements whereby learners can sit assessments in their own homes with online invigilation (sometimes referred to as remote invigilation or remote proctoring).

We know that there will be some Functional Skills learners who will not have access to the technology necessary to sit assessments in their own home, or that there may

be a lack of access (which could include remote access) for some learners to centres in order to carry out adapted assessments.

We recognise that enabling some learners to receive calculated grades whilst other learners are expected to sit assessments to receive their results, may be perceived to be unfair, and may also pose additional demands on awarding organisations by requiring them to run two sets of arrangements in parallel over the summer months.

However, if we did not permit awarding organisations to offer adapted assessments where they felt they had the capacity to do so, because a calculated result could not be awarded safely and validly, then we risk limiting the ability of some learners to receive a result who otherwise might have done so.

Our proposal is therefore that awarding organisations should work towards providing a calculated result for those Functional Skills learners where they are able to provide a safe and valid result which reflects what the candidate would have received had they been able to complete the assessment component or the qualification. For those learners where the awarding organisation can demonstrate that this is not possible, we will permit awarding organisations to offer adapted assessments. We do not propose to make this a requirement of all awarding organisations, as we recognise that awarding organisations have different centre profiles and the provision of adapted assessments may not be possible or appropriate.

We will expect awarding organisations to demonstrate to us that they have given due consideration to complying with the direction and our technical requirements for calculating results, and that they have a sound rationale for proceeding with adaptation, before deciding not to issue calculated results for any learners.

We recognise that there will be some Functional Skills qualification learners who still will not receive a result this summer, because they are unable to receive a calculated result, cannot access an adapted assessment, have had their apprenticeship suspended, and/or have decided to delay taking their assessments. We expect those learners to be offered opportunities to sit their assessments at a later date, and as soon as reasonably possible, ideally no later than in the autumn term.

The regulation end date for legacy Functional Skills qualifications will be extended to 31 December 2020 to allow learners who are currently on these qualifications, but who are yet to certificate, an opportunity to complete their qualification.

Question 21: To what extent do you agree or disagree with our proposed position in relation to the issuing of results for Functional Skills qualification learners?

PART B – The VTQ Covid-19 Framework

3.11 How the extraordinary regulatory framework will operate

3.11.1 Summary

As explained above, the direction asked that the approaches that should be adopted by awarding organisations in order to achieve the government's policy intention must be set out within an extraordinary regulatory framework set by Ofqual's rules, and based, as far as possible, on the principle of fairness.

In particular, the direction says:

In order to promote consistency, as far as possible, Ofqual should set out the permitted approaches in an extraordinary regulatory framework developed specifically for responding to this unprecedented health pandemic, as well as the circumstances in which they may be used.

For the purposes of this consultation we shall refer to the proposed extraordinary regulatory framework as the VTQ Covid-19 Framework.

The proposed VTQ Covid-19 Framework contains a relatively small number of key VTQ Covid-19 conditions. It will contain two sets of technical requirements and guidance. The technical requirements and guidance will set out in much more detail the technical processes for calculation and adaptation and how they should be chosen and used, described in detail in the [technical approach section](#) above.

We also set out our proposal to include five key principles. These principles represent the most important elements of both the VTQ Covid-19 Framework and the General Conditions of Recognition. We propose that awarding organisations must do all they can to meet all five of these principles. We will only permit not meeting them all in cases where, by meeting one principle, an awarding organisation cannot meet another. In those circumstances, awarding organisations must give priority to meeting the principles in accordance with the order in which they are set out.

The proposed VTQ Covid-19 Framework will only apply to the qualifications that have been determined by the Secretary of State to be in scope.

We propose that our General Conditions of Recognition and any relevant Qualification Level Conditions and Subject Level Conditions remain in force, but that the conditions, requirements and guidance contained in the proposed VTQ Covid-19 Framework will sit above them and will take priority.

In summary, the proposed VTQ Covid-19 Framework will:

1. require awarding organisations to take all reasonable steps to issue a result to as many learners as possible
2. describe the approaches that should be used to secure calculated results or make an adaptation (either to the assessment or delivery approaches for the qualification) and set the minimum evidential threshold that must be met

3. require that awarding organisations do all they can to meet the five key principles unless by meeting a higher principle, it means that it cannot meet a lower one
4. explain that if there is a conflict between Ofqual's normal regulations, and the VTQ Covid-19 Framework, then the VTQ Covid-19 Framework takes precedence

3.11.2 Application, interpretation and definitions

The proposals described in this section are set out in Condition VTQCov1 in the draft VTQ Covid-19 Framework published alongside [this consultation](#).

The proposed VTQ Covid-19 Framework will apply to all vocational and technical qualifications that have been determined to be in scope by the Secretary of State.

Our intention is for it to apply for the duration of the spring and summer 2020. As we cannot know at this point in time when the crisis will come to an end or when assessments will be able to resume in the usual way we have not proposed a specific end date. Instead we propose that the VTQ Covid-19 Framework will apply until we publish a notice setting an end date.

We propose that this notice will work in a number of ways. It can be applied to one or more vocational and technical qualifications, and to one or more of the conditions within the VTQ Covid-19 Framework. This would allow us to be flexible in managing transition back to the usual regulatory framework where we need to be.

We also propose that the notice can set out transitional and saving provisions to allow us to manage any specific issues that might arise. For example, we might use a saving and transitional provision to address risks arising from residual disruption to the delivery of assessments in the autumn term or in relation to how estimated results from units or components are to be used in relation to awards beyond summer 2020.

We propose that the General Conditions of Recognition and any relevant Qualification Level Conditions and Subject Level Conditions should continue to apply. We fully recognise however that what we are asking awarding organisations to do in order to secure results for the most learners will require steps to be taken that might not be compliant in any ordinary year. It is very likely therefore that there will be conflicts between the provisions set out in the VTQ Covid-19 Framework and the General Conditions of Recognition and any relevant Qualification Level Conditions or Subject Level Conditions, such that an awarding organisation could not comply with both. Where such a conflict arises, we propose that awarding organisations should comply with the provisions set out in the VTQ Covid-19 Framework.

We have also proposed some new definitions to aid interpretation of the provisions in the VTQ Covid-19 Framework.

3.11.3 Principles to be applied

The proposals described in this section are set out in Condition VTQCov7 in the draft VTQ Covid-19 Framework.

We explained our proposal that where there are conflicts between the VTQ Covid-19 Framework and the General Conditions of Recognition and Qualification Level

Conditions or Subject Level Conditions, such that an awarding organisation could not comply with both, that the requirements of the VTQ Covid-19 Framework should take precedence.

We do however recognise that there are some essential principles that awarding organisations should do all they can to meet and which should not be compromised unless it becomes unavoidable. We have therefore proposed five key principles that should be given special protection in the VTQ Covid-19 Framework. These are as follows:

Principle 1 – An awarding organisation must seek to issue results in spring and summer 2020 that –

- a) meet the requirements of the VTQCov Conditions, and
- b) in particular, are based on evidence (whether from an assessment or otherwise) which ensures that they are sufficiently valid and reliable,

to as many Learners as possible who are taking a VTQ Qualification which it makes available

Principle 2 – An awarding organisation must seek to ensure that each result that it issues is as reliable as possible and reflects, as far as possible –

- a) the Learner's potential level of attainment in summer 2020, where that result is calculated, and
- b) in all other cases, the Learner's level of attainment as demonstrated in an assessment for the qualification

Principle 3 – An awarding organisation must seek to ensure that its approach –

- a) minimises burdens as far as possible, and
- b) is as deliverable as possible, including by Centres and Teachers, with appropriate oversight by Ofqual

Principle 4 – An awarding organisation must seek to maintain standards, as far as possible, within the same qualification in line with previous years.

Principle 5 – An awarding organisation must seek to maintain standards, as far as possible, across similar qualifications made available by the awarding organisation and by other awarding organisations.

We propose that an awarding organisation must secure compliance with all of the principles to the greatest extent possible.

Although we consider that the key principles all represent critically important requirements, we also recognise that hard choices might have to be made and that it is likely that some compromises will become unavoidable. It is important that awarding organisations should be consistent in how they make those compromises. We therefore propose that where there is a conflict between two or more principles, the awarding organisation must consider the principles in the order in which they are set out here, determine the extent to which each can be met in a particular case, and give priority to meeting them in accordance with the order in which they are set out.

3.11.4 Issuing results in summer 2020

The proposals described in this section are set out in Condition VTQCov2 in the draft VTQ Covid-19 Framework published alongside [this consultation](#).

We have proposed a new requirement that awarding organisations should take all reasonable steps to issue results for qualifications to each learner who was registered to take an assessment this spring or summer but who could not take or complete that assessment, as well as learners who might reasonably be expected to have been registered to take assessments as described above. We do not intend to restrict this to qualification level results and therefore awarding organisations would also need to issue results for units even where a learner was not due to be awarded their qualification this summer.

We propose limiting this requirement only to awards made in England, Wales and Northern Ireland. We have set out further proposals in relation to awards made outside of these three countries above.

We have proposed a requirement that awarding organisations should take all reasonable steps to issue results in line with their published timescales. In some cases, there will be good reasons for awarding organisations to change their published timescales. In these cases, these changes should be agreed in advance with us. This might include changes to allow for common results days.

We recognise however that in some circumstances awarding organisations simply will not be able to issue results on time. Where it is not possible, we propose that awarding organisations should issue results as soon as they can after that date.

3.11.5 Assessments and results for VTQ Qualifications in summer 2020

Given the range of delivery models that are used in vocational and technical qualifications we have not proposed that we should prevent assessments going ahead where they can be delivered as normal. We consider that this could have unintended consequences and would undermine the aim of securing results for as many learners as possible this summer. We do not however consider that there will be many examples where an awarding organisation can deliver and mark its assessments in the normal way for a whole cohort of learners.

In the following three sections we set out our proposals for how the VTQ Covid-19 Framework will apply to:

- qualifications used for progression to further or higher education (**Category 1**)
- qualifications serving a mixed purpose (**Category 2**)
- qualifications signalling occupational competence (**Category 3**)

In all three sections the provisions will apply where an awarding organisation cannot deliver and mark its assessments as it normally would. Even where an awarding organisation could deliver and mark its assessments in the normal way, they would be permitted to use the approaches set out in the VTQ Covid-19 Framework.

3.11.6 Assessments and results for Category 1 Qualifications in summer 2020

The proposals described in this section are set out in Condition VTQCov3 in the draft VTQ Covid-19 Framework.

This proposal relates to how awarding organisations should approach calculating results for Category 1 qualifications. We propose that awarding organisations must take all reasonable steps to ensure that each result is calculated in line with the [technical requirements and guidance described above](#).

We recognise that in some cases, awarding organisations will not have sufficient evidence to be able to issue a calculated result in line with our technical requirements and guidance. In such circumstances the effect of our proposed framework is that the awarding organisation must not issue a calculated result to that learner. This is because the calculation would not be based on sufficient evidence it would not meet our minimum expectations and would therefore not be sufficiently valid.

We propose that in circumstances where there is insufficient evidence to issue a calculated result, awarding organisations must still issue a result where they can through a form of adaptation. The forms of adaptation that may be used will be set out in the [technical requirements and guidance described in more detail above](#).

Finally, we propose that where a learner's qualification level result is based on more than one assessment, awarding organisations should be permitted to use a combination of calculation and adaptation in line with the provisions above where they consider this to be necessary. This would still require calculation as a starting point but would also permit assessing a unit or component result through an adaptation where calculation was not possible. This is in line with our overarching aim of securing results for as many learners as possible.

This would allow for a scenario where a learner was due to complete two assessments and an awarding organisation could calculate results for one assessment but not the second. In that case, an awarding organisation would be permitted to use an adaptation in order to secure a result for the second assessment.

3.11.7 Assessments and results for Category 2 Qualifications in summer 2020

The proposals described in this section are set out in Condition VTQCov4 in the draft VTQ Covid-19 Framework.

As explained above, Category 2 qualifications served a mixed purpose. It will not always be straightforward to determine whether calculation or an adaptation is the appropriate way to secure a result.

We consider that awarding organisations are best placed in the first instance to review their Category 2 qualifications in order to determine the most appropriate approach.

We therefore propose that awarding organisations should review each of their Category 2 qualifications in light of its purpose and in the first instance consider and decide whether it is appropriate to issue a calculated result. Where an awarding organisation decides that it is appropriate to issue a calculated result then it should do so in the same way as if the qualification was a Category 1 qualification.

In some cases, in light of a qualification's purpose, an awarding organisation will not consider that it is appropriate to issue a calculated result. In other cases, there may be insufficient evidence to meet our requirements for the calculation of results. In these two scenarios we propose that awarding organisations must still issue a result where they can through a form of adaptation. The forms of adaptation that may be used will be set out in the [technical requirements and guidance described in more detail above](#).

Where a vocational and technical qualification contains more than one unit or component there may be an added complication. For some Category 2 qualifications it may be appropriate to calculate results for some units or components but not others. This will depend on the purpose of the unit or component and in particular whether it relates to occupational competency. In such cases we propose that where it is appropriate to calculate results for a unit or component and there is sufficient evidence available to do so then that is the approach that should be taken. For any remaining units or components where it is not possible to estimate then an awarding organisation must still issue a result where they can through a form of adaptation.

Finally, we recognise that Category 2 qualifications will have a range of different structures, types of assessment and rules of combination. We can see that in some cases, whether calculation is appropriate will depend on which assessments, units or components have not been completed. We can see that in some cases, it might be appropriate to deliver a calculated result for some learners and not others. As such we propose to permit awarding organisations to take different approaches within a single qualification where it needs to, in line with the general overall approach. We think that this is unlikely to arise for Category 1 qualifications, but if it does, the same flexibility would be available.

3.11.8 Assessments and results for Category 3 Qualifications in summer 2020

The proposals described in this section are set out in Condition VTQCov5 in the draft VTQ Covid-19 Framework.

For the reasons explained above, for Category 3 qualifications a calculated result will not be suitable. We do not therefore propose allowing any calculated results for Category 3 qualifications.

This proposal therefore relates to how awarding organisations should approach securing results for Category 3 Qualifications. We propose that awarding organisations must take all reasonable steps to issue a result through a form of adaptation. The form of adaptation must be in line with the [technical requirements and guidance described in more detail above](#).

3.11.9 Support for centres and information to be provided to centres

The proposals described in this section are set out in Conditions VTQCov6 and VTQCov9 in the draft VTQ Covid-19 Framework.

In order to be in a position to deliver calculated results, awarding organisations will have to work closely with their centres. Given the wide range of potential approaches to estimation it is not possible to propose a single approach to how that should operate.

We therefore propose that an awarding organisation must provide effective guidance to a centre on the provision of any information that the awarding organisation requires in order to calculate a learner's result and, where necessary, in relation to adapted assessments. We also propose that the awarding organisation must nominate a single point of contact that centres can access should they encounter difficulties in providing that information. The single point of contact could be a designated person, a dedicated email address or hotline number, or a number of portfolio leads or virtual hub.

It is essential that the decisions that awarding organisations make are transparent. This is in order to preserve public confidence in the qualification, meet the reasonable needs of learners and other users of qualifications and also to allow learners and centres to consider whether or not to appeal a result. We therefore propose that in order to meet these three outcomes, the methods adopted by an awarding organisation to arrive at a result must be sufficiently transparent.

In order to support this further, we also propose that an awarding organisation must establish, maintain and comply with arrangements to provide to centres, on request, the information used to calculate results. The arrangements must provide enough information and a reasonable amount of time to allow learners and centres to consider whether to request an appeal.

We have proposed some additional provisions. These are that awarding organisations are permitted to only provide the relevant information on payment of a fee, that they can set other reasonable requirements for how to make an information request for the information, and may specify a time period during which the information must be requested.

3.11.10 Keeping a record of decision-making and Technical Advice Notices

The proposals described in this section are set out in Condition VTQCov8 in the draft VTQ Covid-19 Framework.

It will be important that awarding organisations keep good records of their decisions. Our proposals place a high degree of trust in awarding organisations to make sensible and appropriate decisions. As the regulator we will monitor those decisions and, in some cases, will want to test them further.

We plan to undertake proactive and targeted monitoring work in relation to a number of qualifications and awarding organisations, and will take a risk-based approach to prioritise our activities to target and mitigate the highest risks. Our work will include focusing on the decisions awarding organisations are making on their technical solutions, for example, to calculation; determining whether they have sufficient evidence on which to base awards; and determining whether an approach to adaptation would be appropriate in the context of the qualification that they are delivering. We will also play close attention to whether awarding organisations are meeting all of the principles to the fullest extent possible.

We therefore propose that awarding organisations must maintain a record of:

- a) the reasons, as relevant, as to why it cannot provide a result in line with the requirements for Category 1, Category 2 or Category 3 qualifications

- b) the method and evidence it has used to calculate a result in line with the technical requirements and guidance for calculated results and the weight given to that evidence
- c) the decisions it has made in designing and setting an assessment in compliance with the technical requirements and guidance for adaptations
- d) how it has complied with our principles
- e) the rationale for the above decisions
- f) any other information specified in any requirements that may be published by Ofqual and revised from time to time

We also propose that awarding organisations maintain these records in specified form. One of the reasons for this proposal is that it would support the collection and analysis of this information if it is recorded by awarding organisations in a standardised form. We are considering the impact of setting a requirement on how these records should be made. We think that doing so could reduce burden on awarding organisations by providing more clarity on the amount of information that should be created.

We propose that awarding organisations would have to provide these records to us upon request. The purpose of this proposal is to enable us to undertake necessary regulatory supervision and monitoring.

Finally we propose that in relation to any of these decisions made under the VTQ Covid-19 Framework that awarding organisations must have regard to any advice that we provide in writing. This would take the form of a Technical Advice Notice.

We propose to use Technical Advice Notices in a range of ways. We may use them to assist awarding organisations in their decision making, to formally bring to an awarding organisation's attention matters which it may have overlooked or where we consider awarding organisations may have made errors. We propose that awarding organisations would have to provide a response to any Technical Advice Notice within a reasonable period, setting out how it had taken account of the advice. We would expect awarding organisations to follow our advice unless there was a compelling reason not to.

3.11.11 Autumn 2020 assessment opportunity

We describe above our proposed approach to delivering [an autumn assessment opportunity to learners](#). The proposals we described are set out in Condition VTQCov10 in the draft VTQ Covid-19 Framework.

3.11.12 Appeals

We describe above our proposed approach to [appeals](#). Our requirements in relation to appeals for all of the qualifications in scope of the VTQ Covid-19 Framework are set out in [General Condition of Recognition I1](#). We are proposing statutory guidance to sit alongside this.

3.12 The extraordinary framework

Alongside [this consultation](#), we are publishing a document which sets out the draft Conditions, requirements and guidance which make up the proposed extraordinary regulatory framework.

Question 22: Do you have any comments on the proposed regulatory framework?

4 Equality Impact Assessment

As a public body, we are subject to the public sector equality duty. Annex B sets out how this duty interacts with our statutory objectives and other duties.

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.

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.

We have considered whether any of our proposals might impact (positively or negatively) on learners and other learners who share protected characteristics⁷.

It is our view that the government's policy intention as set out in the Secretary of State's letter to us of 9 April 2020 asks us to secure a qualification outcome for as many learners as possible. We recognise that the proposals and options we put forward will ensure some learners with protected characteristics will get results who wouldn't otherwise have done so. In the absence of our proposals and the government policy intent, no learners (with or without protected characteristics) would get results. In furtherance of that policy intent, we recognise that the proposals for an extraordinary regulatory framework should be based on the principle of fairness and aim to protect all learners and other learners from any systematic advantage or disadvantage, notwithstanding their socio-economic circumstances or whether they share a protected characteristic. However, we also recognise that in some circumstances, the proposed approaches may not provide solutions for all learners.

We have proposed that we establish an extraordinary regulatory framework that will guide awarding organisations through the choices they will need to make in how they make their awards. In some cases we have asked that they consider a range of

⁷ For the purposes of the public sector equality duty, the 'protected characteristics' are: disability, race, age, religion or belief, pregnancy or maternity, sex, sexual orientation, and gender reassignment.

approaches to achieve a calculated grade. In other cases, we have asked them to consider a range of adaptations to allow a form of assessment to take place. In both cases both we and the awarding organisations can only work within the realm of what is reasonably possible. In developing our proposals, we have sought, as far as is possible, to minimise the extent to which learners with a particular protected characteristic are further disadvantaged when compared with learners who do not share that characteristic.

Awarding organisations are required to comply with equalities legislation, and our existing General Conditions of Recognition reinforce this in relation to the qualifications they make available. They are required to monitor their qualifications to identify features which may disadvantage a group of learners who may share a protected characteristic, and this applies to the design, delivery and award of their qualifications. We would encourage awarding organisations to conduct their own equality impact assessments when considering which approaches they will use to issue results for different learners in accordance with our extraordinary regulatory framework.

We recognise that the provision of calculated results and adapted assessments is more challenging for awarding organisations in relation to learners with special educational needs (SEN) and those who share protected characteristics. Awarding organisations may feel unable to provide an adapted assessment to any learner, if that adaptation cannot also be provided for learners with protected characteristics.

We consider that it is unavoidable that some learners will be disadvantaged and awarding organisations will not be in a position to provide them with the result that reflects their expected level of performance in the qualification and that they may need to progress. We recognise that learners who share protected characteristics may be disproportionately represented in the group of learners for whom, for a range of reasons, a qualification result cannot be secured. This could well cause disadvantage to this group as against their peers, in some cases within the same qualification. While we can consider the impact on learners with protected characteristics in broad terms, and have sought to do so throughout this consultation, we are not yet in a position to quantify that impact, given the number of qualifications that are within scope, and the varying cohorts that take them. We would welcome all responses that can aid our understanding of the extent of the impact, and inform our decision making.

We have explained in our consultation that we are proposing not to be restrictive about the groups of learners to which our framework applies. We have proposed that if a qualification falls within scope of the direction, then all learners, no matter their age or the setting within which they are taking their assessments, should be able to access a result or an adapted assessment where that is made available by their awarding organisation. We consider that this is the fairest approach, and will lead to more consistent approaches being taken across awarding organisations.

Comparison of learners

We acknowledge in our consultation that there will be some learners for whom a calculated result or adapted assessment is not possible, and for whom a delayed assessment may be the only option. As part of our analysis, we have considered whether particular groups of learners, in particular those with special educational needs, or those from certain socio-economic backgrounds, are more likely than

others to be taking the qualifications covered by our proposals than other qualifications (such as GCSEs or A levels).

We have carried out a comparison between learners taking GCSEs and those taking other level 1 and 2 qualifications, and between learners taking A levels and those taking other level 3 qualifications for the 2018/19 academic year using the National Pupil Database. This data contains information on pupil's test and exam results, prior attainment and characteristics of the pupil (for example, first language or special educational needs provision) for pupils in state schools, non-maintained special schools, sixth form and further education colleges and (where available) independent schools.

For the learners included in our analysis at levels 1 and 2 (equivalent to GCSE), the data shows that those taking other level 1 or 2 qualifications typically have a lower average level of achievement at key stage 2 (4.26 for other level 1/2 qualifications compared with 4.46 for GCSE) and a higher proportion of these are entitled to free school meals (17.1% other level 1/2 compared with 13.9% GCSE) or have special educational needs (15.8% other level 1/2 compared with 13.6% GCSE). This analysis shows that a smaller percentage of learners taking other level 1/2 qualifications are female (48.7% other level 1/2 compared with 49.2% GCSE) and have English as an additional language (15.5% other level 1/2 compared with 16.5% GCSE). Our analysis also shows that a higher proportion of learners taking other level 1/2 qualifications live in low income households compared with those taking GCSEs (mean IDACI⁸ 0.225 the level 1/2 compared with 0.199 GCSE). This data indicates that when compared with learners taking GCSEs, the learners taking other level 1/2 qualifications that are covered by the regulatory framework proposed in this consultation are, on average, more likely to come from lower socio-economic backgrounds.

For the learners included in our analysis at level 3 (equivalent to A level), the data shows that those taking other level 3 qualifications typically have a lower average attainment 8 score (50.25⁹ for other level 3 qualifications compared with 62.32 for A level) and a higher proportion of these are entitled to free school meals (10% other level 3 compared with 6.3% A level) or have special educational needs (9.2% other level 3 compared with 4.4% A level). This analysis shows that a smaller percentage of learners taking other level 3 qualifications are female (52.6% other level 3 compared with 55.8% A level) and have English as an additional language (15.6% other level 3 compared with 17.6% A level). Our analysis also shows that a higher proportion of learners taking other level 3 qualifications live in low income households compared with those taking A levels (mean IDACI 0.19 other level 3 compared with 0.16 A level). This data indicates that when compared with learners taking A levels, the learners taking other level 3 qualifications that are covered by the regulatory framework proposed in this consultation are on average, more likely to come from lower socio-economic backgrounds.

⁸ Income Deprivation Affecting Children Index

⁹ Based on available data for which attainment 8 data for some 19-year-old learners was missing

4.1 Calculated results

We have set out our proposal that where possible, awarding organisations should provide a calculated result for learners, which represents the result which that learner would have most likely achieved.

Given the diverse and complex nature of vocational and technical qualifications, a range of different evidence will be needed to source calculated results. Evidence might include actual achievement data for candidates (exams, internal assessments, data about protected characteristics etc.), centre assessment grades (teacher estimates) at component or qualifications level, and data including centre risk profiles and historical outcomes.

For some learners, depending on a range of factors, including the capability and capacity of the awarding organisation they are registered with and their place of learning, calculating results may not prove possible.

We consider that there are likely to be 2 groups of learners for whom this is may be the case:

- learners who are not attending schools/colleges (for example, because they are being home-educated or they are adult learners who are studying by themselves)
- learners who have not been at their current school, college or other provider for long enough for teachers to form a secure judgement

We think this gives rise to a number of potential equality impacts, as these groups of learners are likely to contain a disproportionate number of learners who share certain protected characteristics, including:

- learners who are educated at home for reasons of a disability that makes it difficult for them to attend school or college, or for religious reasons
- learners who have been absent for an extended period because of medical treatment for a disability or serious illness, because they are pregnant or have recently given birth, or to undergo gender reassignment, or
- learners who have recently arrived in the country (who may well share the protected characteristic of race), or who change schools frequently – this will include Gypsy/Roma/Irish Traveller learners

We would welcome views on whether there are any other groups that we have not as yet identified for whom it may not be possible to provide a calculated result.

Use of centre assessed grades

Centre assessment results will, by their very nature, be more subjective than results based on results of formal assessments. As with any such judgements, there is a risk that teachers contributing to the determination of such results might exhibit a degree of unconscious bias that disadvantages learners who share particular protected characteristics.

To understand the likely nature and extent of any such bias, we carried out a [small-scale review of relevant research](#) that, although focussed on general qualifications,

does give us some insight into the potential impact in vocational and technical qualifications. Given the urgent need to put in place arrangements for this summer, this review is not comprehensive, but rather focuses on two main types of research.

1. Research into the reliability of predicted GCSE, AS and A level grades. This covers both research into:
 - the teacher estimated grades that were submitted to exam boards to support awarding of GCSEs, AS and A levels prior to 2015. While some of this work is unpublished, it looks at how teacher estimated grades at both GCSE and A level compare with learners' actual results, and as such is directly relevant to this work
 - predicted A level grades used for university entry. While these predictions only cover A levels, and are made for a different purpose, they nonetheless provide helpful insight into reliability of teacher-assessed grades
2. Research into reliability of teacher assessment more generally. Much of this research is less directly relevant, and a degree of caution is required when interpreting findings from it in the context of this work.

Whilst this research focuses on estimated grading for general qualifications, we believe that the principles outlined in the research may also be applicable to the vocational and technical qualifications' landscape.

Reliability of teacher assessment

Evidence from wider research into teacher assessment is largely inconclusive – with different studies identifying apparent under- and over-estimates of learner performance compared to exams, with few clear patterns.

Several studies suggest teachers may slightly under-estimate performance of learners with SEN. But even here the observed effect is difficult to quantify, and it is not clear to what extent findings in different contexts and other countries might be applicable to centre assessment grades.

Conclusions in respect of the use of calculated results

Overall, the evidence of the likelihood of bias in centre assessment grades is mixed. Some studies have identified differences in prediction accuracy by ethnicity and broad measures of disadvantage. But the size of such effects has not been properly estimated and they do not always survive more sophisticated analyses controlling for the impact of other potentially confounding variables. Moreover, the effects are inconsistent – varying by the context in which the teacher or tutor predictions / estimates were being given and by subject / qualification.

That is not to say that there is no risk of some level of unconscious bias in centre assessment grades. However, the evidence suggests it will not exceed that which might occur in other forms of assessment, for example when teachers mark internal assessments. We believe that, in the circumstances and where relevant, centre assessment grades are the most reliable way of obtaining evidence and ensuring learners get the grade that reflects their expected performance and they need to progress this year.

4.2 Adaptation

As set out earlier in the consultation, we recognise that assessments could be adapted to provide opportunities for learners to achieve results. Such adaptations could include:

- Changing the way in which assessments are delivered, for example using an online rather than paper-based test, or carrying out an assessment remotely rather than face to face
- Adapting assessment methods, for example using a practical simulation in place of an observation, or professional discussion in place of a practical demonstration
- Changing invigilation requirements, for example allowing the use of on-line invigilation (also known as remote invigilation or remote proctoring) so that assessments can take place in a wider range of settings
- Waiving or adjusting work experience or placement requirements, for example allowing candidates to undertake a shorter period of work experience
- Changing the way in which a qualification is quality assured, for example allowing for standardisation or moderation to take place remotely or on-line

We know from our early engagement with awarding organisations and sector stakeholders, that the provision of adapted assessments may be challenging purely because of the impact of the public health crisis. This is because centres may be closed, and learners therefore might be prevented from utilising the technology that would normally be available to them. That would include the standard technology that might be used to deliver assessments, but also assistive technology that is used to enable learners to take such assessments. Where the provision of calculated results is not a viable option for awarding organisations, and adaptation is considered to allow assessments to be taken by learners in their own homes, we understand that learners may therefore not have access to all the technology necessary to sit those assessments. We also recognise fewer reasonable adjustments may be available for adapted assessment modes and some may not be feasible at all.

When considering adapting assessments, awarding organisations should look to ensure, as far as possible, that any adaptations would not advantage or disadvantage any particular learner. However, where an awarding organisation can offer an adapted assessment but only in a way that, despite their best efforts, does disadvantage some learners, the awarding organisation should still offer the adapted assessment. We have considered the impact that prioritising offering the adapted assessment may have. When considering the overall aim of the government's policy of ensuring that as many learners as possible are provided with results, we consider that this achieves an appropriate balance, as it will ensure that awarding organisations prioritise the provision of adapted assessments that meet the needs of learners with protected characteristics wherever they are able to do so, but secures more widely the provision of adapted assessments to as many learners as possible, which is in line with the overall policy aim of delivering results to learners.

It may be possible for learners that may have a protected characteristic and whose disadvantage in an assessment may not be minimised as far as possible to choose to sit an adapted assessment, and they may also be afforded an opportunity to take the assessments again in a future series. Similarly, we recognise that some learners may not be able to attempt an adapted assessment, and their recourse would be to await an opportunity that would meet their needs, and therefore be subject to a delay.

We understand and recognise that in these very testing circumstances, this will mean that some learners may be prevented from getting the results they have been working towards this summer. We understand that awarding organisations are still thinking through the implications for learners of sitting assessments in the ways set out above, and are considering what other adaptations may be possible, and whether the correct knowledge, skills and behaviours can be assessed.

4.3 Delay

We have set out in the consultation our proposal that in order to achieve the overall aim of providing as many learners with sufficiently valid and reliable results this summer as possible, and in order to minimise the burden on awarding organisations, centres and learners, delaying or re-scheduling assessments should be the option of last resort.

As indicated above, where an awarding organisation is not able to calculate a result or adapt an assessment, for a qualification in either Category 1 or 2, in such a way that it is capable of being made available to learners with protected characteristics, we recognise that affected learners could be significantly disadvantaged. Unlike their peers (with whom they may be competing for opportunities), they may not have the results they might need for progression to employment, or higher education.

We have asked organisations that represent higher and further education providers to consider the steps that providers could take when making admissions decisions this summer for any learners who do not receive a result. They have told us that they believe that some institutions might be able to consider a range of other evidence and information for these learners to allow them to progress wherever possible.

We are considering what we might do to mitigate this disadvantage for these learners. But there is no easy solution; if centres lack the evidence to make a secure judgement for a learner and adaptation is simply not possible, then awarding organisations will not have a sound basis to provide a result.

We have set out in our approach that delaying assessments should be the last resort. Where an awarding organisation is able to calculate a result, or provide an adapted assessment, it should do so. In some cases, a delay may be the only possible option, and we recognise that this may disadvantage learners, including those who share protected characteristics.

Where any learner is not able to receive a calculated result or undertake an adapted assessment there is the potential that they may suffer disadvantage, especially where a calculated result or adapted assessment outcome is required for progression. This could be particularly relevant to learners with protected characteristics. Delaying assessment for such learners might go some way to mitigating the disadvantage caused by having to potentially take an adapted assessment where those learners may not have their normal adjustments available

to them, or they are not accustomed to those particular methods of assessment. A delay will mean that such learners will still have an opportunity to take an assessment and provide them with the best opportunity to progress, and would ensure such learners are not further disadvantaged compared to their peers. We would however welcome views on whether there are alternative approaches which could reduce the extent to which learners with protected characteristics are disadvantaged, where either a calculated grade or adapted assessment are not possible.

Question 23: Are there other potential equality impacts that we have not explored? If yes what are they?

Question 24: Do you have any views on how any potential negative impacts on particular groups of learners could be mitigated?

5 Regulatory Impact Assessment

We are proposing exceptional arrangements that will enable results to be issued to learners who are taking vocational and technical qualifications that are used for progression to and through employment, further or higher education.

In his direction to us, the Secretary of State recognised that the current crisis will have a significant impact on the vocational and technical system which will need to find pragmatic and flexible solutions to the challenges now being faced.

Given the complexity of the vocational and technical qualification landscape, the Secretary of State also recognised that, in order to achieve the issuing of results over the coming months, a blanket approach would not be possible. As such, the direction identified three different approaches (calculated results, adaptation or, as a last resort, delay) depending on which of three categories a qualification fell into.

The Secretary of State asked us to:

- set out in an extraordinary regulatory framework the permitted approaches to achieving the issuing of results, and the circumstances in which they may be used;
- provide advice on which qualifications fall into each category for the Secretary of State to determine which qualifications could then be subject to our extraordinary regulatory framework;
- develop principles and guidance to help awarding organisations come to appropriate judgements in line with the government's policy intent.

The direction makes clear that, amongst others, government priorities include getting learners and other learners results in order that they can progress, and that the approach should be based on a principle of fairness.

Our assessment of the potential costs and burdens, and also potential savings, resulting from the proposed awarding arrangements for the coming months should be understood in this context. The opportunity for us to minimise regulatory burden is limited to the scope of our role in delivering as fair a process as possible for awarding within the parameters set down by the Secretary of State.

We acknowledge that some of our proposals will have a cost and resource impact on awarding organisations. We have little information at this time as to what the costs may be to awarding organisations if some or all of the proposals are implemented. We will use responses from this consultation to further consider the regulatory impact and will use this to inform the decisions we take following this consultation. To aid those decisions we will also engage with awarding organisations throughout the consultation period.

We are also mindful that many awarding organisations will be impacted by the current health situation in different ways, and that this will provide challenge alongside any additional burden created by our proposals. As set out earlier in this consultation, some awarding organisations may become financially vulnerable and so this regulatory impact assessment is particularly important in that additional burden may present increased threat to financial viability.

As we have developed the framework proposed here, we have engaged with, amongst others, awarding organisations, organisations representing schools, colleges and other providers and assessment experts, with the aim of putting in place arrangements that are both manageable and appropriate.

5.1 Impacts on awarding organisations

The proposed arrangements apply to all awarding organisations offering vocational and technical qualifications that fall within the scope of the direction. We recognise that the impact of a qualification being in scope of the direction will put significantly more onus on an awarding organisation to find a way to deliver results for that qualification at an already very difficult time.

We also recognise that the current health situation creates further potential pressure on this onus to deliver – some awarding organisations may have decreased staff availability or they may be working with centres who are unable or, potentially, unwilling to engage with them in calculating grades or delivering adapted assessments.

For those qualifications that are out of scope, it remains within the discretion of awarding organisations to determine the most appropriate approach, in line with our existing regulatory framework and further guidance we will provide. We expect the scale of impact will vary across each organisation according to the range of qualifications offered and number of learners.

One-off Direct Costs and Administrative Burdens

We expect there will be one-off, direct costs and administrative burdens to awarding organisations with qualifications in scope of the proposed framework. These costs and burdens may be associated with activities such as:

- familiarisation with the proposed VTQ Covid-19 Conditions, requirements and guidance
- communication of requirements to centres
- adaptation or development, and delivery, of processes and systems for the calculation of grades
- adaptation or development, and delivery, of processes and systems for adapted assessments
- maintaining a record of decisions made to calculate a result/adapt or delay an assessment and the rationale for them
- preventing, detecting and investigating any malpractice or maladministration specifically relating to the provision of any centre assessment grades or to the delivery of adapted assessments
- adjustments to systems to enable quality assurance of whichever approach(es) are adopted to obtain results
- issuing of results in accordance with new arrangements
- supporting centre activities and managing increased volumes of enquiries from centres and learners due to the unusual arrangements
- familiarisation with guidance that will be given on our expectations in relation to appeals
- assessment of changed costs – both decreasing and increasing

- additional and/or revised data submissions to us

The costs listed here are likely to be incurred, for many awarding organisations, over and above their usual running costs, although we think there is also the potential that some awarding organisations may be able to absorb some of these costs where they do not incur their 'usual' costs as a result of the cancellations of some assessments. There may be some opportunities, and some need, for awarding organisations to divert usual resources to alternative activities, however, we recognise that there will be circumstances where awarding organisations will have to deliver these extraordinary approaches alongside their usual qualification design and development, assessment and awarding activities, adding to the burden of work and cost.

Calculated results

We are proposing that an awarding organisation must provide effective guidance to a centre on the provision of any information that it requires from it in order to calculate a learner's result. We recognise that this will create some additional burden for awarding organisations, not least because the mixed approaches or methodologies that may need to be adopted will probably mean that different guidance will need to be given to different centres for different qualifications. It is also likely that awarding organisations will feel additional burden in relation to this, as it can be expected that they will be in receipt of an increased number of enquiries from centres than they might normally expect to handle during a normal assessment series.

We think the burden of providing such guidance is balanced by two factors. First, if appropriate guidance is given to centres, awarding organisations will be afforded with clearer information and appropriate evidence to allow them to calculate results, potentially reducing the burden on them further down the line. Second, our proposal to allow awarding organisations to be flexible in the methodology they adopt for calculating grades, depending on the qualification and learners, inevitably means that they must provide clarity to centres about the information they require.

We are aware from our recent engagement with awarding organisations that there is concern that new systems will need to be built or bought in, or adaptations made to existing systems, to allow them to collate the information from centres and to have appropriate quality assurance systems in place. We would welcome views on whether awarding organisations feel they have appropriate systems in place already, or what the impact will be on them if they need to build those systems or adapt them. We think that some burden is inevitable and necessary in order for calculated results to be achievable and for the disruption to learners to be minimised as much as possible, but consider that these steps are necessary to try and achieve the issuing of results for learner and learners adversely affected by the current crisis.

Where results for qualifications will be obtained through calculated grades, awarding organisations will of course no longer be holding assessments for those qualifications. In those circumstances, we anticipate that for some qualifications there will be a range of activities that some awarding organisations would usually be undertaking to deliver their assessments that they will not be doing for a number of months. These may include:

- printing, delivery, collection and scanning of exam papers, scripts and other assessments

- decisions on and implementing requests for special consideration and reasonable adjustments
- identification and investigation of malpractice and maladministration arising in usual exam delivery arrangements.
- undertaking scheduled forms of Centre Assessment Standards Scrutiny activity
- marking of exams and assessments – including examiner recruitment, standardisation, and quality assurance arrangements

Costs associated with some of these activities may already be contractually committed and so may not be recoverable in full or in part. This may have been heightened by the necessary short notice of any decisions made. However, where there are potential savings from not running assessments this summer, awarding organisations may be able to absorb some of the costs from implementing systems and processes to calculate results. We would welcome views on whether there may be any opportunities to absorb costs, as a result of any potential savings that could be made as a result of cancelled assessments.

Adaptation

We know that there will be an inevitable impact on awarding organisations where, by adapting an assessment, they need to develop alternative forms of assessment and adapt quality assurance processes as required. In our engagement with awarding organisations, specific financial impacts that have been identified include the costs of:

- moving awarding and standardisation processes online where they have previously been undertaken face-to-face
- setting up online invigilation of assessments
- introducing systems to enable secure submission of assessments carried out remotely
- developing adapted assessment methods, for example where practical simulations might replace observations.

Increased burden on awarding organisations in this regard is, in our view, an inevitable and necessary consequence of the attempts to achieve insofar as is possible, a fair outcome for all of those learners that need results this summer to progress, as set out by the Secretary of State. We acknowledge that some adaptations are likely to go beyond those which would normally be permitted by our regulations, and that awarding organisations' assessment of compliance with our regulations for any adapted approach would be an additional cost. We will seek to minimise that cost as far as possible through our proposed extraordinary framework and any supporting guidance that we develop. However, whilst needing to adapt assessments in some circumstances will increase burden on awarding organisations now, we think that there is the potential for the investment required at this stage to bear fruit in the future. Whilst innovative approaches, such as remote invigilation, would undoubtedly create immediate costs, such investment would be long-term and might allow for less expensive means of assessment in the future. There is, however, a risk that awarding organisations will not have enough time to ensure that the adaptations they make are assessing the required knowledge, skills and

behaviour and that more work will be needed if these adaptations are to be used in future. We would welcome views on whether these new adaptation methods might create costs savings, or off-set immediate costs, in the future. Being transparent about our approach in this regard is intended to reduce the regulatory burden on awarding organisations as much as possible so that they can adopt flexible approaches balancing their own needs with those of learners.

Delay

Only where calculated results or adaptation of assessments are not possible, taking into account the need for a sound evidence base, can delay be considered by awarding organisations for qualifications that have a mixed purpose or that signal occupational competence.

We consider that delay could create an impact for awarding organisations where they may not have the capacity or capability to accommodate additional assessments taken outside usual timelines. This would particularly be the case for qualifications with set assessment series and limited assessment opportunities.

We know, however, that many vocational and technical qualifications are designed to allow a more flexible approach to completing assessments, which may make it more straightforward for them to be delayed. We recognise, though, that there will be other knock-on effects from delays, for example where awarding organisations will need to secure examiners or external verifiers to carry out more work than might ordinarily be done in the autumn term. One such example that has been highlighted to us is where awarding organisations have externally marked (rather than centre-marked) assessments, usually in the form of an exam. They have indicated to us that many of their examiners are teaching staff who undertake the marking of such assessments during the early weeks of the summer holidays, and so may not have the same availability during term time.

Awarding organisations will also have to handle the impact of increased volumes of assessment being submitted to them in potentially smaller timeframes. This may affect the amount of time available for activity such as Centre Assessment Standards Scrutiny as well as moving, if not increasing, administrative burden.

We would welcome further information from awarding organisations about any regulatory and financial impacts that delaying assessments might create for them so that we can better assess the extent of any potential burden on them.

Autumn assessment opportunities

The government considers that learners and other learners who do not feel their result reflects their ability should be afforded an opportunity to complete an assessment at the earliest available opportunity.

Our analysis to date suggests that there are a number of qualifications with a unitised structure where further assessment opportunities will already be available in the autumn. However, we recognise that this is not true in all cases and that there are significant feasibility issues with providing such opportunities where large or lengthy practical assessments and portfolios are required.

We have therefore sought to strike a balance in our proposals between the financial and other impacts on awarding organisations and providers and the needs of learners, whilst recognising that there must be some regulatory impact on awarding organisations to achieve the directed outcome.

Therefore, it is only where an awarding organisation ordinarily has an autumn assessment opportunity available in a specific qualification that we are proposing they must expand that to make it available to all learners. Where an awarding organisation does not have such an assessment opportunity already available, our view is that they should make assessments available where sufficient demand exists and that meeting the demand would not create a disproportionate burden, on either awarding organisations or centres.

There may be limited circumstances where we would oblige awarding organisations to make specific assessment opportunities available. However, we would consult further in those circumstances and conduct further impact analysis.

5.2 Impact on learners

We are focused on making sure that, where possible, learners are not disadvantaged and that disruption to their planned progression is minimised. However, we recognise that regardless of the steps that can be taken to securing approaches that will lead to learners receiving results; awarding organisations will not be in a position to deliver results to all learners this summer.

We understand there may be negative impacts, including possible financial impacts, for any learners whose qualifications are delayed, where their progression is also delayed. This could include those who need to improve their results in order to progress to their chosen study or employment destination. Our proposals are aimed at keeping delayed assessments to the absolute minimum so that the majority of learners can obtain a result for their qualifications over the coming months.

We also understand that there may be an impact on learner performance where they take adapted assessments using methods that are unfamiliar to them, or taken in surroundings that might normally not be suitable for assessment – for example where a learner might take an online assessment in their home rather than at their centre, or where a learner might undertake an activity that is simulated rather than being undertaken in a real or live environment. Where possible, awarding organisations and their centres should seek to provide as much support and preparation for their learners as they feasibly and appropriately can.

We are sensitive to the potential for learners to be particularly anxious during this unsettling time and are seeking, through our communications, to reassure learners that they should have confidence in the processes that will be used for awarding this year.

5.3 Impact on centres

We expect there will be one-off, direct costs and administrative burdens to centres associated with activities including:

- familiarisation with guidance issued by awarding organisations, communicating this to staff and training as them required
- communication and ongoing support to learners in relation to measures in place

- enabling and supporting the delivery of adapted assessments, and the provision of completed assessments and, where relevant, outcomes to awarding organisations
- enabling the required information to be gathered and provided to awarding organisations to allow for calculated grades
- managing high volumes of enquiries from learners and parents
- familiarisation with the guidance we will provide on appeals

Where assessments are delayed, there will be other resource burdens for centres to consider – for example, delivering assessments in the centre when the next academic year's cohort will also be on site. It is likely that there will be centres with limited accommodation and staff resource who are unable to teach learners and conduct delayed assessments at the same time.

As we acknowledged earlier in this section, the burden of delivering any revised awarding organisation arrangements could be greater and more challenging for centres where staff availability is affected by coronavirus (COVID-19) or centres have been closed.

We welcome views from centres about the impact of these proposals on them and specifically in relation to calculated grades, adaptation of assessments and delay. We also welcome views on the impact of our proposals to ensure that learners have access to an assessment opportunity at a later date as soon as reasonably possible, and ideally no later than in the autumn term.

5.4 Impact on the FE and HE sectors and employers

There would likely be significant negative impacts on the FE and HE sectors and employers – in terms of their recruitment activity – if large numbers of learners were not able to progress as planned in 2020, however our proposed arrangements aim to ensure that as many learners as possible receive a result in as similar a timeframe as possible to the one they were anticipating before the crisis. For those learners that do not receive results, some education providers and employers may be able to take appropriate action so that the learners are not treated unfairly against others who may have results.

Schools, colleges, training providers and universities may have to seek to take mitigating approaches for learners who do not receive results this summer. We recognise that this means there may be additional demands on resources or approaches to delivery, particularly if institutions either have to accommodate more learners or have to cater for learners who are seeking to take delayed assessments, alongside welcoming a new learner cohort for the academic year 2020/2021.

5.5 Innovation and growth

The Deregulation Act 2015 imposes a duty on any person exercising a regulatory function to have regard for the desirability of promoting economic growth (the Growth Duty). We must exercise our regulatory activity in a way that ensures that any action taken is proportionate and only taken when needed. Growth Duty sits alongside our

duty to avoid imposing unnecessary burden, as required under the ASCL Act 2009, as well as our statutory duties relating to equality and the Business Impact Target. We consider the proposals for these exceptional, one-off arrangements are proportionate and necessary to achieve the aims as set out by the Secretary of State in this crisis situation. However, it may also be that adaptations to assessments encourage innovation and investments which yield for awarding organisations in the longer term.

5.6 Estimated costs and savings

Given the timescales, we have not sought to estimate the likely costs and savings of these one-off arrangements. We do though encourage respondents to share with us as much information as possible about the likely costs and administrative burdens, as well as any savings or benefits of the proposals set out in this consultation, so that we may consider this information when reaching our decisions. We encourage anyone who responds to this consultation to tell us if they think there is something we could do differently that would still achieve the same aim but would reduce costs and administrative burden.

Question 25: Are there any regulatory impacts costs or benefits associated with the implementation of this framework that are not identified in this consultation? If yes what are they?

Question 26: What additional costs do you expect you will incur through implementing this framework? Will you save any costs? When might these costs and savings occur? Please provide estimated figures where possible.

Question 27: Are there any additional or alternative approaches we could take to minimise the regulatory impact of our proposals?

Annex A – Your data

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). We are a 'controller' for the purposes of the General Data Protection Regulation (EU) 2016/679 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:

Data Protection Officer at dp.requests@ofqual.gov.uk or write to us at: Data Protection Officer, Ofqual, Earlsdon Park, 53-55 Butts Road, Coventry, CV1 3BH.

As part of this 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 may be happy to be contacted by Ofqual in relation to their response. If you or your organisation are happy to be contacted with regard to this consultation, please give your consent by providing your name and contact details in your response.

Our legal basis for processing your personal data

For this consultation, we are relying upon your consent for processing personal data. You may withdraw your consent at any time by contacting us using the details above.

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.

Sharing your response

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships (IFA) 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. 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 IFA with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Following the end of the consultation, we will publish a summary of responses and may publish copies of responses on our website, www.gov.uk/ofqual. We will not include personal details.

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

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 or including member 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, but we cannot guarantee that confidentiality can be maintained in all circumstances.

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 long we will keep your personal data

For this consultation, Ofqual will keep your personal data (if provided) for a period of 2 years after the close of the consultation.

Your data

Your personal data:

- will not be sent outside of the European Economic Area
- 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, e.g. access, rectification, erasure

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

- access personal data relating to you
- 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 set out above.

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.

Exceptional arrangements for assessment and grading in 2020

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

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.org.uk, or telephone 0303 123 1113. ICO, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

If there is any part of your response that you wish to remain confidential, please indicate so in your response.

Annex B – Ofqual’s objectives and duties

The Apprenticeship, Skills, Children and Learning Act 2009

We have five statutory objectives, which are set out in the Apprenticeship, Skills, Children and Learning Act 2009¹⁰.

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:
 - c. a consistent level of attainment (including over time) between comparable regulated qualifications; and
 - d. 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.

¹⁰ <http://www.legislation.gov.uk/ukpga/2009/22/section/128>

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 duty¹¹. 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 performance table qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications.

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.

¹¹ <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

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 the overall framework within which awarding organisations will design, assess and award performance table qualifications, 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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