

CONSULTATION DECISIONS

# Exceptional arrangements for assessment and grading in 2020

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

**ofqual**

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# 1 Introduction

We [consulted from 24 April to 8 May 2020](#) on the exceptional arrangements we proposed to put in place temporarily for the awarding of vocational and technical qualifications, and other general qualifications with assessments that would have been taken in spring and summer 2020.

Exceptional arrangements are needed because the coronavirus (COVID-19) pandemic led to the decision, on 18 March 2020 by the Secretary of State for Education, that [exams scheduled for the summer in 2020 should not take place](#). We received a [direction from the government on 9 April](#) establishing its policy direction for vocational and technical qualifications, as well as the other general qualifications which were not covered by the [government's earlier direction in respect of GCSEs, AS and A levels](#).

We proposed introducing exceptional arrangements at speed to:

- provide an extraordinary regulatory framework for qualifications that, depending on their purpose, sets out how an awarding organisation should calculate results or adapt or delay assessments during this crisis period
- 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), and which learners would 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

This document sets out the decisions we have taken following the publication of the direction and our subsequent consultation. The Conditions, requirements and guidance that make up the 'VTQ Covid-19 Framework' are [now available on our website](#). A copy of the consultation and our analysis of responses is also [available on our website](#). The framework comes into force at 14:00 on 22 May 2020.

It was necessary for us to consult over a short timeframe due to the urgency of this work, and so we are grateful to the considerable number of respondents who took the time to engage with this complex set of issues and provide their views on our proposals.

## 2 Summary of decisions

We summarise below the decisions we have taken following our consultation.

<b>Extraordinary regulatory framework</b>	<ul style="list-style-type: none"><li>• We will publish an extraordinary framework to permit approaches to issuing results that are not normally allowed by the General Conditions.</li><li>• The extraordinary framework will apply in addition to the General Conditions, but where an awarding organisation could not comply</li></ul>
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	<p>with both, it must prioritise compliance with the extraordinary framework for those qualifications that are in scope</p>
<p><b>Scope – Which qualifications are covered?</b></p>	<ul style="list-style-type: none"> <li>• Our extraordinary framework will apply to qualifications:             <ul style="list-style-type: none"> <li>• covered by the Secretary of State’s direction, covering those which are eligible for funding by ESFA, including qualifications:                 <ul style="list-style-type: none"> <li>○ at Entry level to Level 6</li> <li>○ designed for progression to FE/HE or to and through employment</li> <li>○ which are subject to public funding in England</li> <li>○ other general qualifications which were not subject to the GCSE/AS/A level direction.</li> </ul> </li> <li>• which will fall in scope in other jurisdictions</li> <li>• where awarding organisations have identified, as part of our advice process, that they have a similar qualification to one which appears on the Secretary of State’s list (that is, where the qualification titles are the same)</li> </ul> </li> <li>• We have published an <a href="#">interactive tool</a> to help identify which specific qualifications are covered</li> <li>• We have published guidance for qualifications that are outside of this scope</li> <li>• Where it is possible to deliver assessments as normal, awarding organisations can continue to do so</li> </ul>
<p><b>Learners – Which learners are covered?</b></p>	<ul style="list-style-type: none"> <li>• All learners taking assessments for qualifications that are in scope and are due to receive a result this summer are covered by the arrangements under the extraordinary framework. This includes:             <ul style="list-style-type: none"> <li>○ learners of any age or year group</li> <li>○ learners not subject to public funding</li> <li>○ learners in year 1 of a 2-year course of study</li> <li>○ private candidates and those who were not yet registered with an awarding organisation to take an assessment, but who were expecting to do so during the summer period</li> </ul> </li> </ul>
<p><b>Concepts and principles</b></p>	<ul style="list-style-type: none"> <li>• Decisions taken under the extraordinary framework must be taken in line with the following principles, which should be prioritised in the order set out:             <ul style="list-style-type: none"> <li>○ Principle 1 – 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</li> <li>○ Principle 2 – ensure that each result it issues is as reliable as possible</li> <li>○ Principle 3 – ensure that its approach minimises burden and maximises deliverability as far as possible</li> <li>○ Principle 4 – maintain standards, as far as possible, within the same qualification in line with previous years</li> <li>○ Principle 5 – maintain standards, as far as possible, across similar qualifications made available by the awarding organisation and by other awarding organisation</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Awarding organisations will also have to comply with their equalities and malpractice obligations as set out in the General Conditions of Recognition</li> </ul>
<p><b>Categories of qualifications</b></p>	<ul style="list-style-type: none"> <li>• We will categorise qualifications, which will inform the approach that is most likely to be taken. Qualifications in scope will fall into one of the following categories:             <ul style="list-style-type: none"> <li>○ Category 1 - qualifications used for progression to further or higher education                 <ul style="list-style-type: none"> <li>▪ starting point calculation, fall back of adaptation, last resort delay</li> </ul> </li> <li>○ Category 2 - qualifications serving a mixed purpose                 <ul style="list-style-type: none"> <li>▪ starting point if qualification is closer to a progression to FE/HE qualification – calculation, fall back of adaptation</li> <li>▪ starting point if qualification is closer to an occupational competence qualification – starting point adaptation</li> <li>▪ Last resort in both cases will be delay</li> </ul> </li> <li>○ Category 3 - qualifications signalling occupational competence                 <ul style="list-style-type: none"> <li>▪ starting point adaptation, fall back of delay</li> </ul> </li> </ul> </li> <li>• We have published an interactive tool to help identify which specific qualifications are in which category</li> </ul>
<p><b>Calculated results</b></p>	<ul style="list-style-type: none"> <li>• Where possible and appropriate, learners will receive a calculated result for their assessment</li> <li>• Calculated results will be based on:             <ul style="list-style-type: none"> <li>○ a centre assessment grade for each learner (generated by the centre) and/or a calculated grade (determined by the awarding organisation) based on the evidence they already hold for the learner</li> <li>○ quality assurance of the overall calculated result (which is derived from the centre assessment grade and/or any awarding organisation calculated grade)</li> <li>○ a check on overall qualification level outcomes and grade profile, and that it is in line with expectations</li> </ul> </li> </ul>
<p><b>Adapted assessments</b></p>	<ul style="list-style-type: none"> <li>• Where it is not possible or appropriate to calculate a result, awarding organisations can offer adapted assessments</li> <li>• When offering adapted assessments, awarding organisations must:             <ul style="list-style-type: none"> <li>○ take all necessary steps to minimise risks to validity by ensuring that coverage of the key areas of the construct of the qualification is retained within the adapted assessment</li> <li>○ 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</li> <li>○ give due regard to any specific requirements put in place by professional and sector bodies when making judgements about adaptations</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ ensure, as far as possible, that any adaptations minimise any disadvantage to learners with a protected characteristic</li> </ul>
<b>Delayed assessments</b>	<ul style="list-style-type: none"> <li>• Where it is not possible or appropriate to issue a calculated result or offer an adapted assessment, awarding organisations can delay assessments</li> </ul>
<b>Record keeping and oversight</b>	<ul style="list-style-type: none"> <li>• Awarding organisations will need to keep records of the decisions they take under the extraordinary regulatory framework</li> <li>• Awarding organisations will need to have regard to any advice we provide in writing as part of our oversight of their approaches</li> </ul>
<b>Autumn 2020 assessment opportunity</b>	<ul style="list-style-type: none"> <li>• Where an autumn assessment opportunity is normally available, awarding organisations must take all reasonable steps to make that opportunity available in autumn 2020</li> <li>• Where an autumn assessment opportunity is not normally made available awarding organisations must consider making assessment opportunities available where there are learners who need them, unless doing so would be impractical or create disproportionate burden</li> <li>• We will be able to require awarding organisations to make an assessment available if necessary</li> </ul>
<b>Appeals</b>	<ul style="list-style-type: none"> <li>• Awarding organisations must allow appeals on the basis that the awarding organisation did not apply procedures consistently or that procedures were not followed properly and fairly, in line with the General Conditions</li> <li>• Awarding organisations will not be expected to consider appeals submitted by individual learners or their representatives unless that is the only way to secure an effective appeal</li> <li>• We have issued guidance which explains that it would not be appropriate to allow appeals relating to the professional judgements of teachers and centres</li> </ul>
<b>Certificates</b>	<ul style="list-style-type: none"> <li>• Awarding organisations should issue certificates (where appropriate) as normal, and should not refer on the certificate to a result having being determined under the arrangements in the extraordinary framework</li> </ul>
<b>Private learners</b>	<ul style="list-style-type: none"> <li>• Where possible and relevant, awarding organisations should seek to issue results for private candidates as they would for other learners</li> </ul>
<b>Unregistered learners</b>	<ul style="list-style-type: none"> <li>• Awarding organisations should take steps to identify the learners who intended to take an assessment this summer</li> </ul>

<p><b>Qualifications taken internationally</b></p>	<ul style="list-style-type: none"> <li>• Awarding organisations may:             <ul style="list-style-type: none"> <li>○ apply the approach in the extraordinary framework where appropriate and manageable, or</li> <li>○ continue to follow the approach in the General Conditions if this is more appropriate based on the needs of the specific international market</li> </ul> </li> <li>• We have flagged that awarding organisations should consider the particular risks of malpractice depending on the nature of the non-UK setting</li> </ul>
<p><b>Awarding organisations facing financial difficulties</b></p>	<ul style="list-style-type: none"> <li>• Awarding organisations should continue to follow the requirements of the General Conditions in these circumstances</li> </ul>
<p><b>Functional Skills qualifications</b></p>	<ul style="list-style-type: none"> <li>• Awarding organisations should seek to issue calculated results where possible, but may offer adapted or delayed assessments if a calculated result is not possible</li> <li>• The regulation end date for legacy Functional Skills qualifications will be extended to 31 December 2020</li> </ul>

## 3 Decisions

In this section we provide our decisions in light of consultation responses. We include a brief summary of the responses received and the key aspects that have informed the decisions we have taken. Some decisions are a change from what we consulted on, and we indicate where this is the case.

### 3.1 Approach: Scope

#### **What we proposed**

We proposed that the extraordinary regulatory framework would only apply to those qualifications which fall in scope of the direction from government.

The direction set out that the qualifications potentially in scope of the direction were all qualifications from Entry to Level 6 which are:

- primarily used for progression either to further or higher education, or into and through employment
- approved for funding and delivery in England to 14 to 16, 16 to 18, and 19 plus learners (including advanced learner loans)
- are not A levels, AS levels, or GCSEs or Advanced Extension Awards and Extended Project Qualifications

We confirmed that the qualifications to which the framework would apply would be determined by the Secretary of State following advice from us following detailed engagement with awarding organisations.

The direction we received related to qualifications awarded in England. However, as we have long-standing collaborative arrangements with the qualifications' regulators

in the UK and given the high degree of coherence of both the qualifications available and our regulatory approaches, we agreed with Qualifications Wales, CCEA Regulation and SQA Accreditation that the proposals relating to Ofqual-regulated qualifications awarded in England should also apply when they are awarded in Wales, Northern Ireland and Scotland.

We set out that not all qualifications we regulate would fall in scope of the direction. Qualifications where the primary use is not progression to further or higher education or into and through employment would not fall into scope. For example, the direction confirmed that some qualifications at lower levels, which were more generic in nature, would not be in scope of the direction. Qualifications not subject to public funding, and those covered by the Secretary of State's direction for GCSEs, AS and A levels, would also not be in scope of the vocational and technical qualifications' extraordinary regulatory framework. Also excluded were qualifications at Levels 7 and 8, given that the direction was only stated to apply to qualifications up to Level 6. We also set out that apprenticeship End Point Assessments were not covered by the direction, though regulated qualifications taken as part of an apprenticeship will be.

We proposed that for those qualifications which were not in scope of the framework, it would be for awarding organisations to consider their approach to these qualifications under our General Conditions of Recognition. We noted that while there would not be the same pressure on awarding organisations to deliver results as there is where a qualification falls under the extraordinary regulatory framework, awarding organisations would still need to consider the best approach to managing the impact of the situation on the learners taking their qualifications.

We set out that under our proposals awarding organisations would need to consider whether to delay or reschedule assessments for out of scope qualifications; or whether it would be possible for them, while acting under our General Conditions, to adapt their assessments or delivery models to allow learners to access them; or to calculate results for their learners. We proposed, and provided in draft form, some statutory guidance to support this.

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

### **Responses received**

Seventy-one per cent of all respondents to our consultation agreed or strongly agreed with our proposed approach to out of scope qualifications, 6% disagreed, and 14% said they neither agreed nor disagreed. Nine per cent of respondents provided no response to this question.

Many of the comments received in response to our question around out of scope qualifications referenced issues relating to fairness in terms of what should be included within scope, rather than how out of scope qualifications should be handled. Similar fairness issues were flagged through our wider engagement activities during the consultation period.

The issues called into question particular issues of fairness:

- between similar qualifications falling in and out of scope depending on whether they are funded

- around judgments about whether certain groupings of qualifications should be included within scope
- between a qualification taken in England (where they might fall out of scope) and the same qualifications taken in other jurisdictions (where as a result of different funding arrangements, the extraordinary regulatory framework may apply)

Respondents also raised questions about which qualifications would fall in and out of scope, and confirmed the need for clarity on this. There was also a call for clarity on the mitigation approaches awarding organisations will take in relation to individual qualifications.

Respondents who did comment on the proposed approach to out of scope qualifications were clear that they thought guidance around the handling of out of scope qualifications was important, and called for further clarity around the arrangements and for there to be oversight of the approaches awarding organisations take.

## **Our decisions**

### Qualifications in scope of extraordinary measures

We have taken on board comments received from consultation respondents relating to particular qualifications and their use for progression, and this has informed our advice to the DfE around which qualifications should be in scope.

Only those qualifications which are eligible for funding from the Education and Skills Funding Agency fall within scope of the Secretary of State's direction to Ofqual. We therefore considered whether we should look to apply the extraordinary regulatory framework to a wider group of qualifications (in other words, not just those subject to funding in England).

This decision was not straightforward. We were mindful that the direction we received contemplated that not all qualifications should be in scope for extraordinary measures. We also considered that introducing wide-ranging changes to the qualifications which fall in scope at this time, would likely be disruptive. Awarding organisations have been acting at risk to develop their approaches and procedures and to develop their communications with centres, and much of this activity is already underway. Large-scale changes in relation to the qualifications that fall in scope would therefore potentially cause additional confusion for both awarding organisations and qualification users.

Having balanced the issues of fairness against the factors set out above, we have decided to expand the scope of qualifications to which the extraordinary regulatory framework will apply. As well as those qualifications which are included on the Secretary of State's list, we have also decided to apply the extraordinary regulatory framework to

- those qualifications which will fall in scope in other jurisdictions
- those qualifications where awarding organisations have identified, as part of our advice process, that they have a similar qualification to one which appears on the Secretary of State's list (i.e. where the qualification titles are the same)

We consider that this approach remains in line the intentions of the DfE direction, and will bring coherence across other jurisdictions, as well as allowing for the most

apparent issues of unfairness around similar qualifications to be removed. It also avoids us introducing wide-ranging changes to the qualifications which fall in scope at a late stage.

Respondents called for clarity around which qualifications fall in and out of scope of the extraordinary regulatory framework, and which approach (calculated results, adapted assessments, or delayed assessment) will apply to an individual qualification. We consider clarity around scope and approach to be very important, and we have developed and published an [interactive tool](#) which will provide qualification users with clarity around whether their qualifications fall in or out of scope of the extraordinary regulatory framework, and what the primary mitigation approach would be in relation to that qualification.

For the clarity of users, we have worked with CCEA Regulation and Qualifications Wales to include, within the interactive tool, qualifications from across the jurisdictions of England, Wales and Northern Ireland. This will ensure that there is a single source of information confirming the approaches which will be adopted. We think that the publication of the interactive tool will address many of the areas of confusion expressed in response to this consultation issue.

### *Out of scope qualifications*

Based on the consultation feedback received, we have decided to implement our guidance for awarding organisations around out of scope qualifications.

We will supplement this in our ongoing engagement activity with awarding organisations and other stakeholders. Out of scope qualifications regulated by Ofqual will continue to be subject to the General Conditions.

## 3.2 Approach: Which learners are covered?

### **What we proposed**

We consulted on the basis that once a qualification is in scope, any learner who expected to receive a result for an assessment this summer is eligible to receive a calculated result or adapted assessment where these are made available by their awarding organisation. This included:

- learners of any age or year group
- learners not subject to public funding
- learners in year 1 of a 2-year course of study
- private candidates and those who were not yet registered with an awarding organisation to take an assessment, but who were expecting to do so during the summer period

We noted that while we did not propose to exclude any 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 to all learners, and that therefore some learners might be subject to delayed assessments.

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

## **Responses received**

Seventy-four per cent of all respondents to the consultation agreed with our proposed approach to which learners were covered by the arrangements, with only 8% disagreeing, and a further 10% said they neither agreed nor disagreed. Eight per cent of respondents did not provide a response to this question.

The focus of the comments received to this question generally related to confusion regarding the position regarding year 10 and year 12 learners, those learners who were not due to certificate, and the position in relation to private candidates. Many of the responses indicated that respondents had not understood the proposals in this area. The majority of respondents were in favour of learners in these groups being covered by the extraordinary regulatory framework, which was in line with our proposal.

A minority of respondents were not in favour of the proposals applying to all year groups of learners, with an expressed preference from one respondent for those in year 13 to be prioritised, as the most crucial cohort; and another responding that the framework should only be applied to those learners for whom the denial of an award would have consequential and adverse implications for their progression. These comments stemmed from manageability concerns in relation to the volumes of work that would be involved delivering results to all learners.

Other respondents flagged comments that related to other areas of our proposals, rather than the issue of which learners the extraordinary regulatory framework would apply to.

## **Our decisions**

While a minority of respondents were not in favour of the proposals applying to all year groups of learners, these comments stemmed from manageability concerns in relation to the volumes of work that would be involved delivering results to all learners. While we can understand the concerns, we consider that identifying the learners to whom arrangements should and shouldn't apply would be difficult, and across the piece would give rise to issues of fairness. In addition there would be large-scale manageability issues for centres per should only certain year groups of learners receive results this summer.

Given the level of support received in relation to this proposal, we have decided to implement our consultation proposal. This means that where a qualification is in scope, any learner who expected to receive a result for an assessment this summer is eligible to receive a calculated result or adapted assessment where these are made available by their awarding organisation. This includes:

- learners of any age or year group
- learners not subject to public funding
- learners in year 1 of a 2-year course of study
- private candidates and those who were not yet registered with an awarding organisation to take an assessment, but who were expecting to do so during the summer period

While we are not excluding any 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 to all learners, and therefore some learners might be subject to delayed assessments.

### 3.3 Approach: Concepts, principles and delivery as normal

#### What we proposed

We proposed that the framework would be based on a number of concepts and principles. We set out that all results would need to be based on sufficient evidence, ensuring that they remain sufficiently valid and reliable, but the extraordinary regulatory framework would need to allow awarding organisations sufficient flexibility to deliver those results. In practice this proposal means that where it is not possible for them to do so, awarding organisations would not have to meet all of the normal regulations that we have in place regarding the design, delivery and award of their qualifications.

We also proposed that the extraordinary regulatory framework would protect a number of key principles which should not be compromised unless it becomes unavoidable. We set out that it would be important for awarding organisations to be consistent in how they make those compromises. We therefore proposed that where there was a conflict between 2 or more of the key principles, the awarding organisation would consider and prioritise the principles in the order in which they are set out. In summary, the proposed principles were:

- **Principle 1** – 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
- **Principle 2** – ensure that each result it issues is as reliable as possible
- **Principle 3** – ensure that its approach minimises burden and maximises deliverability as far as possible
- **Principle 4** – maintain standards, as far as possible, within the same qualification in line with previous years
- **Principle 5** – maintain standards, as far as possible, across similar qualifications made available by the awarding organisation and by other awarding organisation

In addition to the proposed 5 key principles set out above, we also set out that we expected, in all cases where awarding organisations take decisions around how to calculate results and offer adapted assessments, that they should consider how they minimise disadvantage to learners with special educational needs or protected characteristics or to other vulnerable learners.

We also proposed that where it could be possible for awarding organisations to continue to deliver their assessments as normal we would allow such arrangements to continue, rather than requiring results to be delivered under the extraordinary regulatory framework.

#### Concepts

**We asked: 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?**

## **Responses received**

Seventy-three per cent of all respondents to the consultation agreed with our proposed approach, with only 6% disagreeing. Eleven per cent of respondents said they neither agreed nor disagreed, and 10% did not provide a response to this question.

Many respondents who commented reflected that there was a need for a flexible approach in the vocational and technical qualifications' sector, and that a one-size fits all approach would not work.

There was recognition from some respondents that there was an inherent tension between delegating decision-making to awarding organisations, and allowing some flexibility in approach on the one hand, and striving for consistency on the other. Some respondents expressed the view that the lack of consistency was a necessary compromise, others noted that this was a risk, and could lead to confusion for learners and centres. One respondent, an awarding organisation, said that the need for consistency should outweigh the other 2 factors of delegation and flexibility.

Respondents referenced the importance of regulatory oversight around decision-making to reduce the risks to consistency as far as possible, though some expressed concern that the focus of the oversight might be around taking regulatory action, which may hinder the action that awarding organisations might be comfortable taking under the framework.

## **Our decisions**

We recognise the concerns flagged in response to this element of the approach. However, given the diverse nature of the vocational and technical qualifications market, and the range of qualifications and awarding organisations that the approach needs to cover, we remain of the view that we should implement our approach as consulted upon, allowing awarding organisations the flexibility to make decisions and deliver sufficiently valid and reliable results to learners.

We have decided that a single approach would be less likely to secure the delivery of results to as many learners as possible as it would not allow sufficient flexibility to deal with the full range of qualifications and delivery models. We also consider that the approach we have consulted on maximises the ability to secure valid results. For example, requiring all results to be calculated would undermine those qualifications which are competency based.

We do however agree on the importance for regulatory oversight of the decisions awarding organisations are taking, and the potential risks to consistency presented through the delegation of decision-making to them. We have set out further detail on our monitoring strategy below.

We are implementing a range of regulatory oversight activities that will be designed to deliver consistency as far as is possible across the regulatory landscape. We are also currently working directly with awarding organisations and their representative organisations through a number of technical working groups in order to ensure that

decisions being taken calculation and adaptation approaches are consistent and appropriate.

## **Principles**

**We asked: To what extent do you agree or disagree with the key principles we have set out?**

### **Responses received**

The majority of respondents to our consultation (76%) agreed with the key principles, with only 4% disagreeing. Nine per cent said they neither agreed nor disagreed, and a further 11% did not provide a response to this question.

Respondents generally saw the principles as being necessary to support consistency and to maintain qualification integrity, particularly given the flexibilities the framework provides.

Some comments received related to points of understanding about the approach being taken around the principles, rather than whether they agreed with the principles set out. So for example, there was interest in the evidence that needed to be provided in order to ensure that results were sufficiently valid and reliable (and thus meet Principle 1).

Some respondents provided detailed comments on the drafting of the principles. We also received a range of feedback in response to the various principles:

- **Principle 1** – 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
- **Principle 2** – ensure that each result it issues is as reliable as possible
- **Principle 3** – ensure that its approach minimises burden and maximises deliverability as far as possible
- **Principle 4** – maintain standards, as far as possible, within the same qualification in line with previous years
- **Principle 5** – maintain standards, as far as possible, across similar qualifications made available by the awarding organisation and by other awarding organisation

In relation to Principles 1 and Principle 2 some respondents questioned whether both principles were needed, as reliability was referenced in both. Principle 2 represents a higher bar than Principle 1 and we consider that it should remain. Awarding organisations should be aiming to ensure that their results are as reliable as possible, but where that isn't possible Principle 1 retains the minimum level of reliability necessary.

In relation to Principle 3 respondents questioned what the judgement of burden related to – that is, whether it related simply to burden on awarding organisations or also to burden on centres. This is clearer in the principle as drafted in the extraordinary regulatory framework, rather than the principle as summarised. In the framework the principle references minimising burdens generally, and specifically references deliverability in the context of both centres and teachers.

In relation to Principles 4 and 5 some centres questioned whether Principle 4 could act to disadvantage learners, based on previous achievement rates. Awarding organisations separately noted the potential for there to be grade inflation and were concerned that this principle and Principle 5 would be unachievable. We consider it entirely appropriate that awarding organisations should attempt to maintain standards within and between their qualifications, and do not think that these principles should be removed from the list.

Other respondents suggested additional principles to be added to the list, for example:

- minimisation of disadvantage to learners with special educational needs, protected characteristics or other vulnerable learners
- issuing of results as soon as realistically possible
- requiring professional body approval of approaches taken in response to the extraordinary regulatory framework

## **Our decisions**

While we received some feedback in relation to the key principles as set out above, we have decided to implement the key principles as proposed. We consider that the principles are necessary to support consistency of approach between awarding organisations, and are particularly important to maintain qualification integrity, given the flexibilities the framework provides around awarding organisation decision-making.

We note that some respondents suggested that additional principles should be added. We have enhanced the expectations around equalities within the extraordinary regulatory framework (see section below), and do not consider there is a need to include equalities as a key principle, as it underpins every principle. In relation to the issuing of results as soon as possible, and the requirements around professional bodies – these issues are already covered elsewhere in the extraordinary regulatory framework (see VTQCov2.2 in relation to the issuing of results, and the Requirements in relation to the adaptation of assessments for vocational and technical qualifications in relation to professional bodies), and as such we consider that there is no need to include them as additional key principles.

We note that there was interest around the approach we would look to take around overseeing awarding organisation decisions taken under the framework. As set out in the section on record-keeping and decision-making, we will require awarding organisations to document the decisions they are taking around the key principles, and we can call in and review this information in line with our oversight strategy.

### Equalities

We have reflected on the comments received in relation to this question, where respondents have suggested that minimising disadvantage to learners with special educational needs, learners with protected characteristics and other vulnerable learners should be added to the list of key principles. We have also reflected on the engagements we have undertaken with a range of interested stakeholders including the Social Mobility Commission and the Equalities and Human Rights Commission.

We were clear in our consultation that a number of equalities issues surrounded decisions awarding organisations would need to make under the extraordinary regulatory framework. The analysis we completed and which fed into the equalities

impact assessment section of the consultation indicated that learners taking vocational and technical qualifications were, on average, more likely to be disadvantaged and come from lower socio-economically disadvantaged backgrounds than their general qualifications counterparts, making it particularly important that arrangements around vocational and technical qualifications limited any further disadvantage to these learners as far as possible.

We recognised that there was the potential risk of bias in relation to the delivery of calculated results (where those results rely on teacher/assessor judgements which form the centre assessed grades), including bias which gives rise to discrimination. There was also the potential for learners with protected characteristics to suffer disadvantage in terms of the adapted assessments that were made available, where there was the potential that all reasonable adjustments might not be available, or where such learners would suffer particular disadvantage because they might struggle more with taking assessments in different forms, or in ways that they are not as prepared for.

We therefore set out some specific requirements in relation to how awarding organisations should approach calculated results and adaptation in our technical requirements. We expected that in relation to calculated results, the centre assessed grades must take into account performance where learners had access to any reasonable adjustments they had in the normal course of events. And that in relation to adaptations, reasonable adjustments must be made available wherever possible (though non-availability of a particular reasonable adjustment would not mean an assessment could not be made available to other learners).

However, we thought that the extraordinary regulatory framework could be made even clearer around equalities expectations, and we therefore decided to enhance the framework to draw out more clearly the approach set out in our consultation. The final extraordinary regulatory framework now includes:

- additional reference to awarding organisations' equalities responsibilities as set out in the General Conditions. These expectations continue to apply within the extraordinary regulatory framework, and so we have clarified the position
- additional expectations around calculated results, including:
  - expectations on communications with centres regarding the importance of objectivity (drawing on the [guidance to centres we recently published](#) in relation to general qualifications)
  - the need for checks on centre assessment grades produced by teachers (for example through declarations by heads of centre, heads of faculty or department, or similar, recognising the different contexts we are dealing with in vocational and technical qualifications). We consider that this should act to minimise the potential for learners to be subject to discrimination
- reference in the appeals guidance (see below) to the need for awarding organisations to consider their approach to allegations of bias/discrimination

We will also collect data from awarding organisations to support the review of equalities impacts and will contact awarding organisations about this in due course.

Malpractice

Following additional engagement with awarding organisations, and having had the opportunity to review our framework further during the consultation period, we have decided to include reference in guidance sitting within the extraordinary regulatory framework to awarding organisations' continuing obligations under our General Conditions around malpractice.

The decisions that awarding organisations will be making under the extraordinary regulatory framework will in many cases be underpinned by considerations around the risk of malpractice. For example, the risks that are implicit around the identification of 'missing/unregistered learners', the approaches taken to adaptation and the risks that attach to the different approaches that awarding organisations will be deciding between, and decisions around whether to implement the extraordinary regulatory framework in international jurisdictions.

This is not something that we consulted on, but we consider that, like equalities considerations, malpractice will be a factor that is implicit in the decisions awarding organisations will have to make. We therefore think it would be helpful to reference malpractice obligations within the extraordinary regulatory framework to make our expectations clear to awarding organisations.

## **Qualifications where delivery can continue as normal**

**We asked: 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?**

### **Responses received**

The majority of all respondents to the consultation (62%) agreed with our proposal, while 17% disagreed. Twelve per cent of respondents said that they neither agreed nor disagreed and 9% did not provide a response to this question.

Respondents who agreed with the proposal (which included a majority of awarding organisations), noted that in a number of cases there was no need for the extraordinary regulatory framework, as assessment could continue as normal. For example, distance learning courses with online open book assessments, where there would be no need to offer calculated results or adapted assessments. Other respondents expressed support for allowing assessment as normal to continue, as to do otherwise was likely to disrupt learners who had prepared for their assessments and who would potentially be prevented from taking them under the extraordinary regulatory framework.

Respondents who disagreed with the proposal were concerned that awarding organisations could claim that they were offering assessments as normal but in fact would only be able to make assessments available to a small proportion of their learners, leading to many learners suffering a delay. Others commented that learners might not be prepared to continue their assessments as normal as centres will have closed and they may not be prepared.

Some respondents provided comments to this question that indicated they had not understood the proposal. For example, they suggested that where changes were made to delivery arrangements, then assessments would be able to continue as normal. This would in fact be an example of an awarding organisation needing to make an adaptation to their assessment approach, which means they would not be in a position to deliver their assessments as normal.

## **Our decisions**

We have decided to permit awarding organisations to continue to deliver their assessments as normal where this is possible, rather than requiring results to be delivered under the extraordinary regulatory framework. Given the overall level of support for this proposal, and that we consider it delivers results to learners using the best evidence (that is, the completion of the expected assessment), we consider this approach to be appropriate.

Where awarding organisations would need to make changes to their delivery or assessment approaches in order to make an in-scope assessment/qualification available to learners; or where learners are not able to access assessments because of the coronavirus (COVID-19) crisis, awarding organisations would need to act under the extraordinary regulatory framework in delivering results to learners.

## **3.4 Approach: Categories of qualifications**

### **What we proposed**

The direction we from the Secretary of State set out 3 categories of qualifications:

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

The direction also set out the intended mitigation approaches in relation to each of the categories (that is, whether an awarding organisation should provide a calculated result, an adapted assessment, and when they may look to delay the assessment opportunity).

For qualifications in Category 1 which are those used for progression to further or higher education, the direction set out that, as far as possible, these qualifications should be treated in the same way as GCSEs, AS and A levels, with learners receiving a calculated result. In line with the direction we proposed that awarding organisations would be required to take all reasonable steps to provide learners taking these qualifications with a calculated result. We also set out that for those qualifications or learners where the provision of a calculated result is not possible, awarding organisations would need to consider making an adapted assessment available. This was in line with the overall aim of providing sufficiently valid and reliable results to as many learners as possible.

For qualifications in Category 3, which are those used to signal occupational competence, the direction recognised that because of the nature of some of these qualifications (in testifying to skills or competence held) it would not necessarily be suitable for learners to receive a calculated result. In line with the direction, we proposed that the starting point for this group of qualifications would be consideration of whether it would be possible for an awarding organisation to provide an adapted assessment or delivery model.

For qualifications in Category 2, which are those qualifications with a mixed purpose, we proposed in line with the direction that the awarding organisation would need to consider the primary purpose of their qualification. Where a qualification more closely aligns with the primary purpose of supporting progression to further or higher education, then the starting point would be a calculated result, with an adapted

assessment potentially being made available where this is not possible. Where a qualification is more closely aligned with signifying occupational competence, then the starting point should be the provision of adapted assessments.

In all 3 categories, delay of assessments was described as a last resort where other mitigation approaches were not found to be possible.

As set out above, where it is possible for assessments for an in scope qualification to continue as normal, we did not propose to prevent this.

### **We asked: To what extent do you agree or disagree with our proposed approaches for the different categories of qualifications?**

#### **Responses received**

Seventy per cent of all respondents to the consultation agreed with the proposal, with only 7% disagreeing. Thirteen per cent of respondents neither agreed nor disagreed, and 10% of respondents did not provide a response.

Many respondents welcomed that there was not to be a one-size fits all approach, and agreed that different approaches to different kinds of qualifications would be appropriate.

Many comments focused on approaches in particular qualifications, rather than commenting on the overarching approach – respondents were keen to understand what the approach would mean for individual qualifications.

Some respondents disagreed with the 3 categories of qualifications, noting that the primary purpose of a qualification will depend on how individual learners use them. Others disagreed with the fact that different approaches would be available across the qualifications' landscape and felt that a single approach should be implemented for consistency.

Some commented that adapted assessments could disadvantage certain groups of learners, while others commented that adapted assessments should be made available in all cases.

#### **Our decisions**

We are proposing to implement the approach to categories, and the mitigation approaches as consulted on.

We note the comments we have received around the challenges of understanding which qualifications should fall into each category, and also the views expressed that the purpose of a qualification will attach to an individual learner's journey. However, we think that it is important that awarding organisations approach their qualifications using the same starting points. It is our view that this approach has helped to bring some consistency across the landscape.

We consider that allowing adapted assessments to be made available both alongside calculated results, or as a fall-back option where it is not possible for a calculated result to be delivered will help to maximise the number of learners who will be in a position to receive a result this summer. This is in line with views from a number of consultation respondents.

We note a number of respondents to this question were keen to know what approach would be applied to individual qualifications – as we have set out above, we have published an interactive tool that will detail the primary mitigations (that is, whether

the approach is to provide calculated results, or adapted or delayed assessments) for any in scope qualification.

## 3.5 Technical Approaches: Provision of calculated results to learners

### What we proposed

In our consultation we set out that the framework and requirements around calculating results for learners would need to be sufficiently flexible to acknowledge the range of different qualifications and delivery approaches involved, as well as the different evidence available, even within the same qualification. The approach would need to allow awarding organisations to devise and implement approaches to calculating grades which are appropriate within different contexts.

We set out the proposed aims of providing calculated results 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

We proposed that all approaches to calculated results will need to involve 3 elements:

- 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
- quality assurance of the overall calculated result (which is derived from the centre assessment grade and/or any awarding organisation calculated grade)
- a check on overall qualification level outcomes and grade profile, and that it is in line with expectations

In order to devise their approach to calculating results, we proposed that each awarding organisation will need to:

- identify the evidence that is available and can be collected
- evaluate the level of trust they would place in each source of evidence
- devise an approach to maximise the use of the most trusted source of evidence

We proposed that any approach to providing calculated results should be based upon at least one source of trusted evidence (for example, a centre assessment grade or sufficient percentage of banked evidence) and that there will need to be a sufficiently robust means of quality assurance.

We also proposed to implement a range of technical requirements to support awarding organisation decision-making around appropriate evidence, so as to secure that results issued under the framework remain valid and trusted. In addition, we set out that awarding organisations would need to provide effective guidance to centres on the provision of any information required in order to calculate a learners' results. We said this should include that awarding organisations should be clear to centres that they should assume any reasonable adjustments that might have been sought for a particular learner when taking their exams would have been in place.

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

**We asked: 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?**

**We asked: Do you have any other comments on the approach to providing learners with calculated results?**

## **Responses received**

Seventy-three per cent of respondents agreed with our overall proposed approach to calculation, and 8% disagreed. Ten per cent of respondents neither agreed nor disagreed, and a further 9% did not provide a response to the question.

Seventy-five per cent of consultation respondents agreed with our proposal relating to the minimum evidential threshold when calculating results, versus 6% who disagreed. Eight per cent of respondents neither agreed nor disagreed, and a further 11% did not provide a response to this question.

We received 418 comments in response to our proposed approach to providing learners with calculated results.

Across all 3 questions, respondents provided a number of comments. Often the comments were similar, and so we have dealt with the comments together here and in the analysis document.

The majority of respondents who were in agreement with our proposed approaches for calculating results and the requirement for a minimum evidential threshold commented that they believed this was a fair and effective approach, and that this approach should be taken where possible in the interest of delivering results to learners.

Some respondents were concerned that this approach might be applied to qualifications with substantial practical elements or those which lead to occupational competence, which they felt would be inappropriate. Other respondents were concerned that particular groups of learners, including those with special educational needs, might be adversely impacted compared to their peers if they did not have as much evidence available because of how their circumstances might have impacted on the way they engage with their qualifications and learning.

Many comments were received about the requirements around sources of evidence. A number of these comments called for clear instructions to centres and for consistency between awarding organisations.

## **Our decisions**

We have decided to implement our proposed approach to calculated results.

We have engaged with awarding organisations through a variety of forums in regard to the implementation of their approaches for calculation during the consultation period. These forums have been designed to help foster consistent approaches where possible, and discussions have very much confirmed the overall position described in the consultation document.

There are however a few areas where the consultation responses and/or some of the engagement with the awarding organisations has led to some development in our thinking around calculation. As a result, we have decided to clarify our approach in the following areas:

- approaches to learners who are part-way through a qualification
- banked externally examined assessment where learners had previously failed
- on-demand assessments

In the consultation, there was provision for learners in the first year of a 2-year course to receive a calculated result for a component to allow progression to the second year of the course and enable schools, colleges and providers to deliver the second year as originally planned. Some awarding organisations will provide calculated results on the basis of centre assessment grades. However, a number of awarding organisations in some instances, would prefer to provide an awarding organisation calculated grade, but not until the end of the course when it can be based upon all other completed components. The reason for this approach is that the calculated grade will be based on a greater amount of trusted evidence. This approach aligns very much with the consultation position (that is to maximise use of the most trusted evidence) and we have adjusted wording in the framework to ensure there is nothing to prevent this mitigation. Any awarding organisation taking this approach will be clearly communicating this with their centres and learners so that they know what to expect.

A number of vocational and technical qualifications include externally examined components for which a pass grade is required in order to secure a qualification pass grade. Particularly in the context of school-based qualifications, learners are often entered early on in the course sometimes for 'practice' or motivation, in the belief that a resit opportunity would be possible. Some respondents said that learners resitting assessments this summer could be disadvantaged by the approaches set out in our regulatory framework. They commented that for some resitting learners, the evidence held by awarding organisations on which a calculated result would be based, may not reflect any improvement in their likely performance if they had been able to resit. On this basis, when dealing with resitting learners, some awarding organisations may choose to also collect component level centre assessment grades.

Our proposed approach to calculating grades makes use of a range of different types of evidence, including centre assessment grades, and awarding organisations will be able to put in place approaches which take account of the fact students are resitting, within the requirements in our framework. This will help ensure that as far as is possible, the evidence on which calculated results are based reflects a learner's likely performance, including when they are resitting.

Some awarding organisations with on-demand models for assessments are uncertain how the required element 'overall check on outcomes' may relate in their

context. However, we think that an overall check on outcomes should include a comparison to the same period for the previous year (20 March to 31 July in 2019); and propose that awarding organisations should collect centre assessment grades in a single window with one submission per centre per qualification to support a simpler comparison.

## 3.6 Technical Approaches: Provision of adapted assessments to learners

### **What we proposed**

We set out in the consultation that adaptations to assessments might take a number of forms. For example, changing the way that assessments are delivered (a paper-based test being taken online); adapting assessment methods (using simulation in place of an observation); changing invigilation requirements; waiving or adjusting placement requirements; or changing quality assurance methods (standardisation or moderation taking place remotely or online).

We proposed to include a set of requirements within the extraordinary regulatory framework which awarding organisations would apply when making judgements about whether and how to adapt their assessments. For example, we expected awarding organisations to take all necessary steps to minimise risks to validity by ensuring that coverage of the key areas of the construct of the qualification is retained within the adapted assessment; we also expected them to act only within the limits of their capacity and capability and to take all necessary steps to minimise the burden on centres and learners resulting from the introduction of adaptations to assessments.

We also set out that awarding organisations should also look to ensure, as far as possible, that any adaptations minimise any disadvantage to learners with a protected characteristic. However, we set out that 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. This was because doing otherwise would risk limiting the ability of learners to receive a result who otherwise might have done so, which would be contrary to the overall policy aim.

Finally, we proposed to provide guidance to awarding organisations setting out that they should give due regard to any specific requirements put in place by professional and sector bodies when making judgements about adaptations.

### **We asked: To what extent do you agree or disagree with our proposed approach to the adaptation of assessments?**

#### **Responses received**

Fifty-nine per cent of all respondents to our consultation agreed with our proposed approach to adapted assessments, and 10% disagreed. Nineteen per cent of respondents neither agreed nor disagreed, and a further 12% did not provide a response to this question.

Of those respondents who provided a comment, some reflected that investment in adaptations now might lead to more innovation and flexible approaches to delivery in the longer term, which could be of benefit to learners.

However, respondents also raised a number of concerns, many of which related to the potential impact on learners. These included that certain adaptations might not be available to all learners – for example because they don't have the right equipment or environment within which to take an assessment, and that learners might not be familiar with the testing platforms, which could impact on their performance. A number of respondents voiced concern that with adaptations made to assessments, certain reasonable adjustments might not be available, and that this might impact on learners with protected characteristics.

Potential impacts on centres were also identified, with respondents noting that there was a risk of burden on centres having to manage learners through a variety of forms of adapted assessments, and that in some settings there could be challenges in conducting and invigilating adapted assessments, such as in secure facilities like prisons where there may be security issues or restrictions on the use of IT equipment.

Respondents also said that there should be a focus on ensuring that with various adaptations in place, outcomes are still comparable and there can be the same confidence in a learner's ability. A range of respondents also noted the importance of delivering adaptations in a timely way to give learners and teachers time to prepare.

## **Our decisions**

We have decided to implement our proposed approach to adapted assessments.

We had identified many of the concerns included in the consultation responses prior to consultation, for example: that learners might not all be in a position to access an adapted assessment; that learners might not be able to access a particular reasonable adjustment; and that learner performance may be impacted through delivery in an unfamiliar format. We consider that despite the issues raised, the provision of an adapted assessment might be the only way for awarding organisations to provide results in relation to certain qualifications, or to certain learners on a particular qualification.

We set out below our approach to oversight which includes awarding organisations' approaches to adaptation.

## **3.7 Technical Approaches: Delaying assessments**

### **What we proposed**

Under our proposed framework, the delay or rescheduling of an assessment was presented as an option of last resort. This was in line with the overall aim of providing as many learners with sufficiently valid and reliable results this summer as possible.

We recognised that there will be some qualifications in scope where it will not be possible or appropriate 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. Similarly we also recognised that it will be the case that there will be some qualifications where adaptation is not possible or suitable, or some learners who are not able to access adapted assessments. It is in these cases that we proposed that delay would appear to be the only option.

We proposed that where this happens, learners 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.

**We asked: To what extent do you agree or disagree that delaying or rescheduling assessments should be the option of last resort?**

### **Responses received**

Seventy-two per cent of respondents agreed with our proposal, with 12% disagreeing and 7% saying they neither agreed nor disagreed. Nine per cent of respondents did not provide a response to this question.

Many of those who disagreed with the approach did so on the basis that they did not think delay should be an option in any case. Some respondents argued that for some qualifications that are competency-based, rather than delay, it could be appropriate to provide learners with a calculated result, if they had completed a large proportion of their assessments already.

A number of respondents questioned the phrasing around delay being the 'option of last resort' on the basis that for some qualifications, there might be a clear and reasonable rationale for delay. Some of these respondents recognised that neither calculated results nor adapted assessments might be appropriate for some qualifications (for example, those with a health and safety critical element). Others commented that by relying on methods such as calculation to deliver results, learners might progress without the skills or knowledge they needed, and so could be more disadvantaged in the long run. These respondents expressed the view that in some cases delay would be a better option than allowing this to happen.

Many of those who commented did, however, note that delay to assessment opportunities would disadvantage learners who required a result in order to progress, and the majority of respondents were of the view that the delay group should be kept as limited as possible.

### **Our decisions**

Taking into account the views we received, we still consider that for some qualifications, delay will be the only appropriate option. Ongoing conversations with some professional bodies and sector regulators have underlined this position.

Our framework is, however, flexible, and we expect awarding organisations to act in line with the key principle that as many learners as possible should receive sufficiently valid and reliable results this summer, and that they should take decisions about the mitigation that is appropriate on a case by case basis, depending on the category their qualification sits within. If there are ways for awarding organisations to deliver a calculated result or an adapted assessment, they would need to do so under our framework. We are therefore recommending that our proposal should be adopted as consulted on.

## **3.8 Decision-making, record keeping and oversight**

### **What we proposed – decision-making and record keeping**

We proposed in our consultation that we would expect awarding organisations to keep good records of the decisions that they take in line with the extraordinary

regulatory framework. The proposals that we set out place a high degree of trust in awarding organisations, and as the regulator we confirmed that we would need to monitor the decisions they take, and in some cases would want to test them further. We also proposed that in certain circumstances we may 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 proposed that each awarding organisation would be required to maintain records of:

- the reasons, as relevant, as to why it cannot provide a result in line with the requirements for each qualification category
- 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
- the decisions it has made in designing and setting an assessment in compliance with the technical requirements and guidance for adaptations
- how it has complied with our principles
- the rationale for the above decisions
- any other information specified in any requirements that we might publish and revised from time to time

We proposed that awarding organisations would need to maintain these records in a specified form and that awarding organisations would have to provide these records to us upon request to enable us to undertake necessary regulatory supervision and monitoring.

We also proposed that, in relation to any of these decisions made under the extraordinary regulatory framework, awarding organisations must have regard to any advice that we provide in writing. This would take the form of a Technical Advice Notice, and awarding organisations would be expected to follow our advice unless there was a compelling reason not to.

**We asked: To what extent do you agree or disagree with our proposals around decision making and record keeping?**

### **Responses received**

Seventy per cent of respondents to our consultation agreed with our proposals around decision-making and record keeping, with only 3% disagreeing with the proposal. Fourteen per cent neither agreed nor disagreed, and a further 13% did not provide a response to this question.

The majority of comments received emphasised the importance of transparency of decision-making and of good record keeping, and that this would not just aid regulation, but would also help to secure consistency and fairness of treatment.

We did however receive mixed comments around our proposal that records should be kept in a specified form. Some comments were supportive, suggesting that it would promote consistency of approach across awarding organisations, and that it was helpful to have clear guidance around what was expected. However, others were concerned about whether it was practical where awarding organisations have different systems to expect the same form of documentation to be kept, and raised concerns around the potential burden of this proposal.

## **Our decisions**

We have decided to implement the approach we consulted on.

We considered the views received around the specified form of record-keeping. We made this proposal with a view that the collection and analysis of this information would be facilitated if it was recorded by awarding organisations in a standardised form. We also consider that provision of a specified form is likely to be helpful in structuring an awarding organisation's evidence collection and thinking. We have decided to retain the requirement in the extraordinary regulatory framework, but will be mindful of the burden this might impose on awarding organisations before requiring information in a specified format.

## **What we proposed - oversight**

We set out in the consultation that we intended to use a risk-based approach; prioritising our activities to target and mitigate the highest risks, and we proposed to undertake proactive and targeted monitoring work in relation to a number of qualifications and awarding organisations.

We confirmed that our work would include: focusing on the decisions awarding organisations are making on their technical solutions to, for example, 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 also said that we would play close attention to whether awarding organisations were meeting all of the principles to the fullest extent possible.

We proposed that if things went wrong, our main focus would be in securing that errors are corrected and things are put right. We said that we understood these are exceptional circumstances, and our priority would be to work constructively with awarding organisations to achieve the best outcomes for learners. We set out that we expected awarding organisations to operate transparently and in good faith and to notify us promptly if things go wrong. It was our view that engaging in this way will maximise our ability to resolve issues quickly. We proposed to be proportionate in our responses, giving due recognition to where awarding organisations have taken all reasonable steps in the circumstances and have acted in good faith.

We also recognised the risk that the crisis might increase the likelihood of malpractice or other misconduct. We said we would expect awarding organisations to remain alive to these risks and to take steps to manage them accordingly.

We proposed that we would focus our oversight 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 also proposed to closely monitor the approaches taken to securing results for Functional Skills qualifications. For other qualifications, we proposed our approach would be informed by risk and intelligence-led.

**We asked: To what extent do you agree or disagree with our proposed approach to oversight of awarding organisations?**

## **Responses received**

Seventy-three per cent of respondents agreed with our proposed approach to the oversight of awarding organisations, with only 4% disagreeing. Nineteen per cent of respondents neither agreed nor disagreed, and 4% did not provide a response to this question.

Many respondents agreed that regulatory oversight was critical in this period, and that this would give the public assurance that awards this summer are sufficiently valid and reliable.

There was a mixture of views on the approach proposed – some suggested it went too far, and risked placing unnecessary burden on awarding organisations. Others felt it did not go far enough, and there was a risk that errors could be missed if we prioritised only certain groups of qualifications.

A number of respondents felt that the prioritisation of Level 3 qualifications risked devaluing other qualifications, and others commented that the focus should be on high volume Level 3 qualifications, not Level 3 qualifications generally.

Other respondents agreed on the need to monitor Functional Skills qualifications very closely, given that the reformed qualifications are in their first year. Other respondents called for a broader sampling approach to ensure consistency and increased confidence in results.

## **Our decisions**

In our engagement with awarding organisations we have recognised the challenges of delivering results under our proposed extraordinary framework and have set our expectation that awarding organisations:

- be transparent
- tell us promptly if things go wrong and work with us to put them right
- operate in good faith

Where awarding organisations act in line with these expectations, we have committed to taking a supportive and collaborative approach and that our response to any issues that do arise will be proportionate and reflective of the pressures we know that awarding organisations are under.

During the consultation period we continued to develop our regulatory oversight strategy and responses to the consultation have also influenced this.

Our strategy includes 2 main approaches. One is a proactive oversight approach where we are implementing through a series of programmed activities to monitor both technical and operational activities of awarding organisations over a designated group of qualifications. The remaining qualifications will be monitored using a risk and intelligence-led approach. This is to allow us to take a strategic approach to regulating the approximately 13,000 qualifications which are in scope of the extraordinary regulatory framework this summer.

Qualifications on Performance Tables, Functional Skills qualifications, other Level 3 qualifications including Applied General and other General Qualifications will all be subject to monitoring of their technical approaches to calculating grades. We are also planning one-to-one readiness engagement with these awarding organisations which will focus on testing preparedness around a number of the new framework requirements. We will prioritise programmed activities with awarding organisations

with the largest cohorts of Learners and this will include additional Level 2 qualifications. We are also exploring for some qualifications collecting data from awarding organisations which will allow us to compare the overall results profile between 2019 and 2020. We have also identified a number licence to practise qualifications that we consider should be subject to additional proactive monitoring.

We will shortly be issuing a survey to all awarding organisations to identify the range of adaptation approaches in development, with a particular focus on remote invigilation. We are planning specific work to support awarding organisations to quality assure their adaptation approaches.

## 3.9 Assessment opportunity in autumn 2020

### What we proposed

Our consultation noted that government policy is 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.

In line with this policy we proposed that:

- where an awarding organisation normally provides an assessment opportunity between September and December, it should be obliged to continue to provide that opportunity
- where awarding organisations do not normally provide an assessment opportunity in the autumn term, 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
- where awarding organisations are not intending to make an assessment opportunity available in the autumn, and where this 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 are able to require that an additional assessment opportunity must be made available. We noted that we would consult directly with any affected awarding organisations if we were to take this step in relation to any particular qualification

We proposed that where an autumn assessment opportunity is made 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)

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

### Responses received

Fifty-six per cent of respondents agreed with our proposed approach, and 16% disagreed. Seventeen per cent of respondents neither agreed nor disagreed, and a further 11% did not provide a response to this question.

A variety of views were expressed in the detailed comments provided as to the best approach to be taken to managing an autumn assessment opportunity.

While many respondents agreed that such an opportunity should be made available to learners, there was concern expressed by centres regarding their facility to manage such assessments in that time period, and the impact that this could have on incoming cohorts, particularly where the assessments in question were large, time consuming non-exam assessments.

Concern was also expressed, by awarding organisations, that by taking too prescriptive an approach, this set of proposals could give rise to a high degree of regulatory burden. While awarding organisations recognised the need for learners to access an assessment opportunity, the right approach might vary between assessment type and qualification, and there was a general call for flexibility around how an autumn or delayed assessment opportunity should be managed.

## **Our decisions**

### Where an autumn assessment opportunity is normally made available

We have a strong expectation that where awarding organisations normally provide an assessment opportunity between September and December, they should continue to do so.

However, we recognise that in a small number of cases there might be a good reason not to offer an assessment opportunity, for example where there is clear evidence that learners would be disadvantaged as a result of their delayed assessment opportunity being early in an academic year. We are therefore revising the drafting in the extraordinary regulatory framework. Instead of the requirement to continue to make an autumn assessment opportunity available that was proposed in the consultation draft, we are putting in place an all reasonable steps provision. This is still a very high bar. It requires awarding organisations to do everything that is reasonable to continue to offer assessments in the autumn.

We note the concerns raised by centres regarding their facility to manage autumn assessment opportunities. While we sympathise with the difficult position centres find themselves in as a result of the coronavirus (COVID-19) crisis, it is imperative for learners who have been disadvantaged to be given an early opportunity to take their assessment. This is why we are retaining such a strong expectation around autumn assessment opportunities being made available. We do however consider that awarding organisations should be doing what they can to minimise the burden on centres in delivering autumn assessment opportunities. We have therefore included a new requirement that awarding organisations must seek to ensure that their approach minimises burden on centres and is as deliverable as possible while continuing to offer assessment opportunities to learners. This for example could involve adapting assessments, or how they are delivered in order to make them more manageable.

### Where an autumn assessment opportunity is normally not made available

Where awarding organisations do not currently make autumn assessment opportunities available, we do not think we should require them to be provided

automatically in all cases. We have however decided to require that awarding organisations must consider making assessment opportunities available where there are learners who need them. The framework therefore obliges awarding organisations to consider whether they should make an additional assessment opportunity available in 2020 where sufficient demand exists. However, where the awarding organisation considers that providing such an opportunity would be impractical or would create disproportionate burden, they would not need to make such an opportunity available. We have supplemented this provision with some additional guidance setting out possible circumstances where we consider that it may be impractical or would create disproportionate burden.

#### Requiring an additional assessment opportunity to be made available

We will be overseeing the decisions that awarding organisations make following the requirements set out above. In the event that we do not consider awarding organisations have taken appropriate action in relation to making delayed assessment opportunities available to learners, we will have the power to require them to do so. We would engage with relevant awarding organisations before using this power, and hope that it should not be necessary. However, we think this is important in safeguarding learners from further disadvantage.

## 3.10 Appeals

### **What we proposed**

The direction set out that learners should have access to a right of appeal if the relevant process was not followed correctly by the awarding organisation, and that 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 students best.

We set out in the consultation that we were of the view that our existing rules were in line with this Government policy, because [General Condition of Recognition I1](#) requires that an awarding organisation's 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. 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 proposed to introduce some additional guidance for awarding organisations to sit alongside General Condition I1 to promote consistency in approach and to make clear what awarding organisations should consider in relation to the conduct of appeals. We proposed that our guidance would be that awarding organisations would not be obliged to consider appeals submitted by individual learners or their representatives unless that is the only way to secure an effective appeal. We also intended our guidance to 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 could 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 where consistency in approach is important. We would note however that for vocational and technical qualifications there is no overarching standardisation model overseen by Ofqual and so no vocational and technical qualifications' calculated results will be awarded under an identical approach. Approaches to standardisation or quality assurance of centre assessment grades is a matter for awarding organisations, within the requirements of the extraordinary regulatory framework. As such, it will be for awarding organisations to resolve challenges to their awards.

At the time of the launch of our consultation, we were also running a consultation about our proposals for appeals for GCSEs, AS and A level qualifications. We proposed that, pending decisions in response to that consultation, our aim would be 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 asked: To what extent do you agree or disagree with our proposed approach to appeals?**

### **Responses received**

Consultation respondents were largely in favour of our proposed approach. Seventy per cent agreed and only 6% disagreed. Fourteen per cent neither agreed nor disagreed, and a further 10% did not provide a response to this question.

While most responses (including those from centres and teachers) were in favour of there not being appeals on the basis of professional judgements, some respondents (including parents and learners) felt that allowing appeals against teacher's academic judgement used to decide calculated results would help to ensure that the grades are as accurate as they can be in the first place. It was also indicated by some respondents that they felt students should have every right to a full appeal in cases where there was something clearly wrong with the decision.

Awarding organisations also pointed in their regulatory impact assessments to the fact that requirements which mean they have to change or adapt approaches, inevitably lead to additional cost.

### **Our decisions**

We have decided to implement our proposed approach to appeals. We consider that given the range of qualifications and appeals processes that we are looking to cover with our arrangements, the General Conditions of Recognition should continue to apply, rather than us implementing a single prescribed approach.

We have supplemented the General Conditions with some specific guidance highlighting the issues that awarding organisations will need to consider. Our guidance makes clear that in relation to calculated results it would not be appropriate to allow appeals relating to the professional judgements of teachers and centres, so long as those judgements have been arrived at in line with the procedure agreed with the awarding organisation. This is because, in normal circumstances, the basis for such appeals is whether or not a result is reasonable in light of the application of the criteria set by the awarding organisation to the evidence produced by the Learner in an assessment. However, calculated results will not be based on assessments that are marked in line with set criteria and there is therefore no common benchmark

or standard against which the merits of a particular result could be judged in a fair manner. In addition, the potential exposure in an appeal process of the proposed mark or rank order provided to an awarding organisation by a Centre could lead to undue pressure on Teachers and Centres.

Our guidance also reflects that the closer the approach used by an awarding organisation to calculate results is to that used for general qualifications, the more it may consider it appropriate to follow an appeals process similar to that set out for general qualifications.

## 3.11 Certificates

### **What we proposed**

We set out in our consultation that we did not consider that we needed 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.

**We asked: To what extent do you agree or disagree with our proposed position in relation to certificates?**

### **Responses received**

67% of respondents agreed with our proposed approach, and only 2% disagreed. 16% of respondents neither agreed nor disagreed, and 15% of respondents did not respond to this question.

Most respondents were generally in favour of us not putting in place any new requirements or special arrangements around certificates, and agreed that current arrangements were sufficient.

Some respondents however expressed concern as to how awarding organisations would handle certificates during this period – the concern being expressed by some that certificates would reflect that they had been issued on the basis of a calculated result, which could act to disadvantage learners. Other respondents however were concerned that certificates should note that they had been issued on the basis of the exceptional arrangements to avoid any health and safety risks where learners had not been subject to formal assessment.

Some respondents questioned whether any particular steps need to be taken in relation to re-sits, with the facility for learners to receive a replacement certificate with their higher grade where relevant.

Finally, some respondents commented on the methods of delivery for certificates, with some calling for digital certificates to be issued, or for certificates to be issued directly to learners rather than to centres, as this may mean learners receive them sooner.

### **Our decisions**

We have decided not to put any rules in place regarding the issue of certificates under the future regulatory framework. We consider that the issues raised by consultation respondents, as well as those relating to collection and replacement of

certificates following a resit opportunity, are issues that awarding organisations can manage under the General Conditions.

We do not think awarding organisations should include specific reference on certificates to the extraordinary arrangements employed to deliver a result to a learner. There is a risk that this may be taken to indicate that the learner's result is not valid, and this might expose them to further disadvantage. The extraordinary regulatory framework is premised on results being sufficiently valid and reliable, and in cases where they are not, or where there is not sufficient evidence, results should not be issued. This is not something to be managed through the certification process. In addition, when making decisions around the adaptation approaches, awarding organisations will have to take into account whether a particular approach gives rise to health and safety risks. Where it does, they should not make such an adaptation available.

Learners who achieve a better outcome following a resit should receive a replacement certificate with their higher grade. Awarding organisations are used to managing the collection and re-issuing of certificates under the General Conditions, and we do not consider that any further requirements are needed.

We also do not think that we need to put in place requirements which, for example, require the issue of digital certificates. Awarding organisations are free to consider their approaches to delivery of certificates under the General Conditions.

## 3.12 Private learners

### **What we proposed**

In the consultation we noted that there will be some learners, known as private candidates, who are studying independently. We noted that some of these learners may be registered directly with an awarding organisation, and not with a school, college or training provider – which can often be the case where an awarding organisation offers distance-learning. Other private candidates may be registered for a qualification through a school, college or other provider but may not be receiving education directly from them.

We proposed that, where possible and relevant, awarding organisations should seek to issue results for private candidates as they would for other learners.

We proposed that for qualifications that require results to be calculated, this should be undertaken only for those private learners where sufficient evidence is available and the right detail can be properly submitted on the learner's behalf.

We proposed that where awarding organisations were seeking to adapt their assessments, they should consider the assessment approach or mitigations that they might have to put in place for private learners under normal circumstances and, where possible and relevant, apply them under the extraordinary regulatory framework.

We set out that where learners do not have sufficient existing evidence, have not engaged sufficiently with centres, or where assessment adaptation is unsuitable for private candidates, 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.

## **We asked: To what extent do you agree or disagree with our proposed approach in relation to private learners?**

### **Responses received**

While only 40% of consultation respondents agreed with our proposals, only 4% disagreed. Thirty-seven per cent of respondents neither agreed nor disagreed, and 19% of respondents did not provide a response.

A number of respondents commented that our proposals appeared to be the fairest approach for a potentially complex group of learners – in terms of both their range of needs and circumstances and the variety of qualifications they take. Other respondents suggested that they agreed with our proposals because they could see no other or more effective way to support private learners.

Many respondents raised the challenges faced by private learners, for example, many have protected characteristics, or can be learners excluded from mainstream education. They also commented that many tend to be more disadvantaged than their school-based counterparts. Several respondents also noted that many learners preparing for resits do so as private candidates. A number of respondents said the emphasis should be on issuing results to as many private learners as possible, so as not to disadvantage them in comparison to their peers.

Many respondents raised concerns about the evidence needed to support a calculated result. Some respondents understood the need for there to be a minimum evidence bar so as to not undermine the results provided, and a number of respondents said that the same rules should apply to private learners as to all other learners. Others, while recognising that private learners should not be advantaged as opposed to their peers, thought that more flexibility should be granted given their different circumstances, in order to find a solution which provided results to these learners.

There was a general call for flexibility and a note that it was difficult to find centres who would engage with private learners, especially those not already registered and in regular contact with a centre. It was suggested that awarding organisations should offer a route to these learners. However, there were concerns expressed by some awarding organisations about the burden of direct learner engagement.

There was also a comment that private learners should be prioritised for an autumn assessment as they were most likely to be disadvantaged by not being able to access a calculated result or an adapted assessment.

### **Our decisions**

We have decided to implement the proposed approach around private learners. The approach allows for both calculated results and adapted assessments to be made available to private learners, wherever possible.

We intend to permit awarding organisations and centres to work with private learners to establish sufficient evidence on which to base an award; though it will only be in circumstances where there is trusted evidence that a calculated result could be made available. It is our clear view that doing anything else would undermine the validity of the award, and this would not be appropriate.

Where there is insufficient evidence on which to base a calculated result, awarding organisations will need to consider making an adapted assessment available to

private learners, though this will be based on whether an adapted assessment is appropriate, and whether awarding organisations have the capacity to make such an assessment opportunity available. Private learners will have the same opportunity to access an adapted assessment and delayed assessment opportunities as other learners.

While we recognise the difficulties faced by private learners in this situation, we consider that the approach we are taking is as fair as it can be, whilst protecting the validity of qualifications.

### **3.13 Learners not yet registered for assessment**

#### **What we proposed**

We noted in our consultation 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. In some cases learners can be registered to take assessments shortly before assessments are due to take place, and this is particularly the case with on demand qualifications. We proposed that awarding organisations would need to take steps to identify the learners who intended to take an assessment this summer. While it is unlikely that awarding organisations will be able to identify all learners who might have intended to take an assessment, we proposed that they should contact – through centres where possible – all learners registered with them to take their qualification, to ascertain whether or not they intended to take an assessment in coming weeks/months.

We also noted that there is the potential that some learners have been studying a qualification, but have not registered with the relevant awarding organisation. We proposed 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 in any way with the awarding organisation.

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

#### **Responses received**

Forty-nine per cent of all respondents to our consultation agreed with our proposals, and only 4% disagreed. 29% neither agreed nor disagreed, and a further 18% did not provide a response to this question.

There was some confusion in the responses received about what was meant by registration. However, most respondents who commented, provided comments in support of the proposals, noting that learners needed to be given an opportunity to register.

A number commented on concerns that they had around the potential for malpractice, reflecting that:

- centres might try to obtain results for learners who are not ready to be assessed or knowingly are not adequately prepared, and so not deserving of a result
- learners might try to access adapted assessments with a view that these might not being as challenging to achieve

- learners might try to access assessments in order to try to complete qualifications earlier than planned

Twenty-one respondents suggested that on the basis of the risks involved, learners should not be allowed to register at this late stage. Others though suggested a number of potential mitigations, for example:

- awarding organisations should only consider late registrations from centres and not from individual students
- awarding organisations should monitor for unusual patterns of registration from centres

Forty respondents raised concerns that through implementing these proposals – focusing particularly on the proposal that awarding organisations should provide centres with a limited opportunity to register learners who were deemed to be ready to take assessments but who were not already registered – we might prevent the roll-on/roll-off, short notice approach to registration.

## **Our decisions**

We have decided to implement our proposals around unregistered learners. Though we have set out some additional guidance relating to the risks of malpractice that awarding organisations will need to consider and take steps to prevent or mitigate.

In order to support the issue of calculated results, we have decided to set out in the extraordinary regulatory framework a requirement which limits calculated results to assessments that were due to take place between 20 March and 31 July 2020. Only learners that were expecting to take assessments during that period will be able to access calculated results. We currently have not set an end date relating to adapted assessments. We shall keep these time periods under review.

We note that awarding organisations raised concerns relating to the burden of having to identify learners. We think it is appropriate that they make a suitable attempt to identify learners, which may include contacting existing learners directly to ascertain if they had intended to take assessments this spring or summer, if this information is not available from centres. We think that this is justified, given the disadvantage learners might otherwise suffer through no fault of their own.

## **3.14 Qualifications taken internationally**

### **What we proposed**

We set out in the consultation that 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. Of the qualifications that will fall in scope of the proposed regulatory framework, we noted that there would be a number which have international learners as well as learners in the UK.

We did not propose to require any particular approach for assessing or issuing results to international learners. Instead, we proposed a permissive approach. Awarding organisations would need to determine whether they would look to apply the extraordinary regulatory framework to their international offerings, or whether they continue to operate under the General Conditions. We proposed that awarding

organisations will be able to apply the extraordinary regulatory framework to international learners if this was appropriate and manageable.

The reason for not being prescriptive was that awarding organisations would need to consider the approach they take (that is whether they offer a calculated result, an adapted assessment or delay the assessment). Decisions would need to take into account the needs of the market in which they are operating overseas – which may include requirements set out by other regulatory authorities in other countries.

**We asked: 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?**

### **Responses received**

While only 32% of respondents agreed with our proposed approach, only 3% disagreed. The majority of respondents (41%) said they neither agreed nor disagreed, and a further 24% did not respond to the question.

Respondents who commented were supportive of the approach to providing awarding organisations with the flexibility to adapt their approaches to their international markets. There were however some concerns expressed about the increased risk of malpractice and corruption in certain jurisdictions, and the ability of awarding organisations to oversee the approaches taken overseas in relation to calculated results or adapted assessments.

### **Our decisions**

Following our review of the consultation responses received, we intend to adopt the permissive approach we consulted on in relation to the application of the extraordinary regulatory framework to qualifications taken internationally.

We have however decided, based on consultation responses received, that we should look to clarify our guidance around the factors awarding organisations would need to take into account when making their decision about whether to deliver a result under the extraordinary regulatory framework. In addition to considering the needs of the overseas market, we expect awarding organisations to consider the particular risks presented by their individual markets. This guidance draws on awarding organisation obligations around malpractice, and we consider that it should deal with the concerns raised by respondents.

## **3.15 Awarding organisations facing financial difficulties**

### **What we proposed**

We recognised in our consultation that the current situation is creating unprecedented financial pressures and operational challenges on both awarding organisations and centres. We noted that there is a material risk that some awarding organisations will find themselves facing significant financial difficulties for the foreseeable future, and that our extraordinary framework will add burden onto awarding organisations at an already difficult time.

We proposed that we did not need to put in place any additional regulatory provisions with regards managing the impact of financial pressures. It was our view

that our General Conditions of Recognition already contain rules designed to help manage issues related to financial viability and that we have well-established operating protocols in place to respond when awarding organisations find themselves in financial difficulty. We set out in our consultation some of our existing requirements in relation to how awarding organisations should approach managing financial risks, what they should do if they find themselves in financial difficulty and the overall approach that we expect in terms of risk identification and management.

We explained in the consultation that in all cases we would work with awarding organisations to find the best way forward to support them and to protect the availability of their provision in the interests of learners. We said that awarding organisations should engage with us as soon as possible if they find themselves in financial difficulty.

In the consultation we noted the foreseeable risks that might arise should a centre close or an awarding organisation collapse. We said that 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 and helped with finding alternative arrangements should that become necessary.

**We asked: Do you have any comments about our proposed position in relation to awarding organisations facing financial difficulties?**

### **Responses received**

We received 62 comments which agreed with our proposed approach. They welcomed the support offered to awarding organisations, and were pleased that the difficulties facing awarding organisations had been recognised. Others noted however that despite best efforts, some awarding organisations were likely to collapse which would cause adverse effects for learners and centres.

Twelve respondents (mainly teachers and centres) commented that as awarding organisations would not have an assessment series to deliver, and they had been paid exam fees, they should not face any difficulties.

Thirty-four responses raised the notion of awarding organisations requiring government support or assistance. Several awarding organisation respondents expressed concerns that our proposals would not assist in them managing the financial implications of this situation. Fifteen of those respondents however felt that additional financial support should not be necessary.

### **Our decisions**

Given the feedback received, we have decided that our proposed approach to awarding organisations facing financial difficulties remains appropriate. We have provided comments relating to requests for financial support to the DfE, and we are considering the feedback received to this question further as part of our Regulatory Impact Assessment.

## **3.16 Functional Skills qualifications**

### **What we proposed**

The Secretary of State's direction set out that government's policy is that learners due to take assessments for Functional Skills qualifications (at all levels, in English,

maths and ICT and for both legacy and reformed qualifications) before the end of the summer should receive a calculated result, rather than an adapted or postponed assessment.

We recognised 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, might mean that awarding organisations are not able to issue safe and valid calculated results for all learners. For these reasons, we accepted that in some circumstances, awarding organisations may not be able to comply with our requirements for calculated results and would not be able to issue safe and valid results to learners.

As our overriding aim is to enable as many learners as possible to receive a result in spring/summer 2020, we proposed to permit awarding organisations to offer adapted assessments where they felt they had the capacity to do so and where a calculated result could not be awarded safely and validly. We noted that this proposal risked the perception of unfairness if some learners had to sit assessments when others did not. However if we did not allow this, it was our view that we would risk limiting the ability of some learners to receive a result who otherwise might have done so. We proposed that we would expect awarding organisations to demonstrate to us that they had 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 learners.

We recognised that there would 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 proposed that those learners should 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.

We noted in the consultation that the regulation end date for legacy Functional Skills qualifications was being 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.

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

### **Responses received**

Forty-five per cent of respondents to the consultation agreed with our proposed approach, while only 4% disagreed. A further 29% neither agreed nor disagreed with the proposals, and 22% did not provide a response to this question.

Many respondents were supportive of a calculated result being made available, with fairness for these learners when compared with their GCSE counterparts being flagged as a key reason for their support. Other respondents were clear on the need for a flexible approach, and were pleased that the proposals captured all of the difference scenarios learners might find themselves in. These respondents felt that the potential availability of adapted assessments would help to support those learners who had had little contact time with their teachers to access a result. Some

respondents were supportive of learners being able to choose to access an adapted assessment if they would prefer this to being provided with a calculated result.

Some respondents were concerned that the provision of calculated results in Functional Skills qualifications was potentially open to abuse, and welcomed the clarity that awarding organisations would need to base results on trusted evidence. Others recognised that the diversity of settings in which Functional Skills qualifications are taken could make the provision of a calculated result more problematic than in the context of other qualifications.

While some respondents welcomed the flexibility that the mixed approach to Functional Skills qualifications provided, others were concerned that this could lead to inconsistency and confusion. Others felt that allowing awarding organisations to provide adapted assessments could lead to them refusing learners opportunities to receive a calculated result, as they might prefer to award on the basis of an adapted assessment – an approach that would not be permitted under the extraordinary regulatory framework.

Some respondents raised similar concerns in relation to adapted Functional Skills assessments to those described more generally in relation adaptation. For example, noting that some learners might be unable to access adapted assessments because they lack the technology, or would not be able to access a particular reasonable adjustment. Others suggested that adaptations should not be made available because they were less reliable than a delayed assessment opportunity would be.

Other respondents disagreed with the approach because they felt that adapted assessments would be the only appropriate approach in the circumstances, and that calculated results should not be made available, or only made available as a last resort.

Many respondents commented that there was a need for reliable evidence to underpin a result, and others commented that if a centre could not justify a calculated result, then one should not be made available. Respondents commented that calculated results should only be made available where learners absolutely needed them in order to progress. Some reflected comments made elsewhere that it should be made clear on a learner's certificate that the award had been made following a calculated result.

Some respondents set out that they did not believe in the context of Functional Skills qualifications that a calculated result could be fairly determined, with concerns about a lack of evidence to support such judgements. Others were concerned that given the qualifications are pass/fail, teachers were being expected to directly fail their learners which could give rise to conflict. Some were concerned as to the impact on learners who receive a calculated result and progress without the requisite skill, and that this would impact on centre performance into the next academic year.

Some respondents reflected on the added difficulty that reformed Functional Skills qualifications are in their first year of delivery and that would have an impact on the judgements that needed to be made. Others set out that centres needed to understand what they needed to do as a matter of urgency, and others requested further information on how calculated results would be arrived at in the context of Functional Skills qualifications.

Respondents representing the secure estate (prisons) commented that adapted assessments were likely to be particularly problematic (in line with comments on

adaptation more generally above), and that delayed assessments would have a particularly disadvantaging effect, as learners might have moved prisons, or have been released, meaning they had missed out on their chance to achieve.

## **Our decisions**

The consultation feedback reflects a broad a range of views, and various feedback has been given as to the relative merits and disadvantages of calculated results, adapted assessments and mixed approaches within Functional Skills qualifications. We consider that our proposed approach, which aligns with the direction, but allows for additional flexibility, represents a balanced and sensible approach, which will enable as many learners as possible the best possible opportunity to receive a sufficiently valid and reliable result this summer.

We have been working closely with awarding organisations offering Functional Skills qualifications through a Technical Working Group, and we will continue to oversee the approaches that awarding organisations are taking in response to the extraordinary regulatory framework in relation to these important qualifications. We consider that our approach to oversight of Functional Skills qualifications addresses some of the concerns raised by consultation respondents regarding the potential for a lack of consistency in approach by different awarding organisations.

## **3.17 The extraordinary framework**

### **What we proposed**

As part of our consultation, we consulted on the extraordinary regulatory framework – the VTQ Covid-19 Framework – necessary to implement our proposed approach. Alongside our consultation, we provided a draft of our regulatory framework, which included the wording of the conditions, technical requirements and guidance we proposed to put in place to implement the proposals in our consultation.

We set out that the VTQ Covid-19 Framework we proposed would:

- require awarding organisations to take all reasonable steps to issue a result to as many learners as possible
- 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
- require that awarding organisations do all they can to meet the five key principles (as referred to earlier in this document) unless by meeting a higher principle, it means that they cannot meet a lower one
- explain that if there is a conflict between our normal regulations and the VTQ Covid-19 Framework, then the VTQ Covid-19 Framework takes precedence

We provided the draft framework so that respondents, particularly awarding organisations, could see the precise rules they would have to comply with if our proposals were implemented. This was intended to allow respondents to ensure they understood what would be required of them, to highlight any areas that were unclear where further guidance or revised wording would be helpful, and to raise any other issues with the framework itself.

### **We asked: Do you have any comments on the proposed regulatory framework?**

## **Responses received**

We received 393 comments on the framework, which are set out in more detail in the analysis document we have published alongside these decisions. Since the framework is the tool used to implement all of our proposals, it necessarily covers the approaches set out throughout our consultation. Because of this, when providing views on the framework, many respondents chose to comment on aspects of our approach, rather than on the framework itself. Where this was the case, we have considered these comments alongside the relevant policy proposals, and they are reflected elsewhere in this decisions document.

Respondents generally supported our framework noting that it was clear and provided consistency, while allowing an appropriate level of flexibility for awarding organisations to determine their approach.

Where respondents commented specifically on the framework, the main issues that were raised were:

- a number of respondents made specific drafting comments relating to the wording used in parts of the Conditions, technical requirements and guidance. These comments typically did not seek to alter what was required, but instead highlighted aspects that were unclear, and in some cases, suggested alternative forms of wording. These included minor suggestions, for example noting references throughout were to 'VTQ Qualifications', which when written in full actually reads 'Vocational and Technical Qualifications Qualifications' and instances where the stem to a Condition does not work with all of the bullets that follow. Respondents also commented on aspects which they found hard to follow, for example where a Condition refers to a requirement in another Condition, without repeating what that requirement is
- a number of respondents identified areas of the framework where further guidance would be helpful. Respondents thought that providing guidance would help ensure the framework is interpreted consistently by awarding organisations. For example, some respondents commented on the reference to Technical Advice Notices under condition VTQCov11, saying that additional guidance on what these would cover would be welcome. The precise guidance preferences varied across respondents and are set out further in our analysis document
- some respondents commented on how aspects of the framework would be applied in practice. In particular, where an awarding organisation sought to issue results to a revised timeline under Condition VTQCov2, respondents requested clarity on how long it would take us to approve such requests
- respondents queried how the extraordinary framework would work alongside the General Conditions, particularly where the two conflicted. They wanted further clarity about the approach, as while the framework explained that where there was a conflict between it and the General Conditions, it did not specifically disapply any General Conditions. Respondents asked for further clarity about where the main tensions with the framework were likely to be. Respondents also commented on the language used in the framework, commenting that in places the use of legal terminology made it less clear than the General Conditions

- some respondents queried how the framework would be applied in practice. They commented that where mistakes were made by awarding organisation that was trying to comply with the framework, they hoped there would be some discretion applied by us in the event of accidental non-compliance. Awarding organisations also queried some of the processes that would sit outside of the framework, for example whether, or how, they should notify us if they are unable to meet aspects of either the framework or the General Conditions

## **Our decisions**

We have decided to implement our extraordinary regulatory framework largely as consulted on, subject to some minor drafting changes to reflect feedback, and any changes necessary to implement the decisions set out elsewhere in this document.

Where a change to the framework simply reflects a policy change that we have explained earlier in this document, we do not repeat it here. We have also not listed every drafting change here. Instead, we explain the main changes we have made to the framework on which we consulted, and have published the revised framework alongside this document, which incorporates all of the changes.

We have decided to provide additional requirements or guidance in the following areas:

- equalities – we are providing additional guidance on the following:
  - an awarding organisation's overarching duty to consider equality issues when complying with this framework and the need to design assessments to minimise equalities impacts. This will include guidance against [General Condition D2](#) (Accessibility of qualifications)
  - objectivity in centre assessment grading decisions
  - including a quality control to act as an additional check before centre assessment grades are given to awarding organisations (for example confirmation from a head of a centre or relevant department)
  - how awarding organisations record the ways in which they ensure they consider equalities issues
- malpractice – to ensure awarding organisations are aware of their obligations regarding malpractice and are taking all reasonable steps to prevent the occurrence of malpractice and maladministration, which may arise as a result of the framework being applied. This will include guidance for [General Condition A6](#) (Identification and management of risks, and [General Condition A8](#) (Malpractice)
- remote invigilation – to ensure that where an adaptation is made which includes remote invigilation, awarding organisations are aware of the risks this presents, and where they do use it, are doing so in line with their obligations under the Conditions
- appeals – guidance on the need for awarding organisations to provide for appeals that may include an issue in relation to bias or discrimination on the part of a Centre in following a procedure. This will include guidance against [General Condition I1](#) (Appeals)
- missing/unregistered learners – to ensure awarding organisations put in place checks if the numbers of learners a centre is putting forward seems much

higher than in previous cohorts to ensure awarding organisations are only registering those learners that they should be

- international – to ensure that awarding organisations consider the best approach for their international markets, and highlighting that when considering what approach to take to international markets, awarding organisations need to consider the risks that might arise depending on the setting
- that for category 1 and category 2 qualifications, awarding organisations may choose to take different approaches for different learners taking the same qualification. This was already permitted by our draft framework, but the guidance makes this clearer
- autumn assessment series – to provide a requirement that awarding organisations take steps to minimise burden on centres while continuing to offer assessment opportunities to learners, and setting out in guidance possible circumstances where we consider that it may be impractical or would create disproportionate burden to hold an autumn assessment series

In deciding to provide the additional requirements or guidance listed above, we have also taken account of considerations in relation to the regulatory burden imposed on awarding organisations as a result. We believe that guidance in these areas will help awarding organisations understand how to comply with the framework, and ensure that students are not disadvantaged as a result of awarding organisations' approaches, and consider therefore that the additional burden imposed is appropriate.

To improve the clarity of the framework, we have made a small number of amendments which include:

- amending Condition VTQCov2.3 to clarify the position for qualifications taken outside of the UK
- making 'Adaptations' a defined term – this retains the meaning from our drafts, but the use of the term makes the drafting clearer
- amending VTQCov6 which referred to a single point of contact, to make clearer that contact arrangements need to be clear and effective, not necessarily through a single point
- amending VTQCov9 which refers to information to be provided to Centres, to clarify that information must be provided on request to Centres (on a Learner's behalf), a Private Candidate or to a Learner

A respondent queried, in relation to VTQCov1, which sets out that the framework applies until we publish a notice setting the date when it ceases to apply, whether we could clarify that further changes to the Conditions would not be made without further consultation. While this is not something we would specify in the framework, we are required by legislation to consult on changes to our regulatory framework, so would therefore consult as necessary on any further changes.

In relation to the application of the framework, and its status in relation to the General Conditions, we set out in our framework that the VTQCov Conditions apply in addition to the General Conditions, but that where there is an inconsistency between the framework and another General, Qualification or Subject Level Condition, the awarding organisation must comply with the VTQCov framework

Condition and is not required to comply with the General, Qualification or Subject level Condition which conflicts.

In relation to comments relating to our approach to enforcing against the framework, or to timescales in which we would respond to awarding organisations, we have decided not to specify such things in the framework. This will allow a greater degree of flexibility for us and awarding organisations to ensure that specific circumstances are taken into account. We have set out earlier in this document our approach to oversight, and confirmed that if things go wrong, our main focus will be in securing that errors are corrected and things are put right. Understanding that these are exceptional circumstances 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 taken all reasonable steps in the circumstances and have acted in good faith.

In relation to record keeping, under VTQCov8, respondents commented that if we were to specify a form for records to be kept, given such a form could change from time to time, that any change would not result in retrospective changes needing to be made. We would not anticipate requiring adequate records to be changed retrospectively, and have set out earlier in this document our decisions relating to record keeping.

In relation to VTQCov9, covering appeals, some respondents queried the reference to any arrangements being allowed to provide relevant information to support an appeal only on payment of a fee. This requirement sets out that charging a fee would not be prohibited; it does not require that a fee is charged. This is in line with approaches often taken by awarding organisations and is consistent with that which we consulted on.

Some respondents to the consultation were confused about whether the framework would apply where they are able to continue to deliver qualifications as normal, for example where courses and assessments are delivered online and remotely. Our framework will apply where a qualification can't be delivered as normal – where it can be we will not require awarding organisations to operate under the extraordinary regulatory framework, as this will lead to results being based on less robust evidence, and is not in line with results being based on the best evidence.

We have published our full VTQCov extraordinary regulatory framework alongside this document, which incorporates the changes referred to above, some drafting changes to improve clarity, and the changes necessary to implement the other policy decisions set out throughout this document.

## 4 Equalities impact assessment

In our consultation, we set out our assessment of the potential impact of our proposals on particular groups of students, including those with protected characteristics.

One of our key aims in developing the exceptional arrangements needed to deliver qualification results this summer was to make sure the arrangements can be as fair as possible for all students. We understood that there would be particular concerns about the fairness of the arrangements this year, given their exceptional and, therefore, untested nature. We undertook an equality impact assessment, and published this as part of our consultation.

Our equalities impact assessment set out that in meeting the government's policy intention, we were required to secure a qualification outcome for as many learners as possible. We set out that while our proposals would ensure that many learners who would not otherwise have received a result, did so, we also acknowledged that there could be learners, including as a result of their protected characteristics, for whom our proposals would not be able to ensure they received a result. Our proposals were designed to minimise the extent to which this might happen, but nevertheless acknowledged, that where a learner was unable to receive a calculated result, or to undertake an adapted assessment, the only option may be for them to take a delayed assessment.

Our proposed approach was that, as far as possible, where learners receive a calculated result, or sit an assessment that has been adapted in some way, learners should receive the grades they would have received had they taken assessments as planned this year. Our proposals for calculating results are intended to allow awarding organisations to consider a range of evidence, including that provided by centres, who are best placed to judge the likely performance of learners, including those with protected characteristics. Similarly, our proposals to allow awarding organisations to make available adapted assessments should allow awarding organisations to take account of a range of factors, including the needs of learners with protected characteristics, when deciding how best to adapt assessments.

While this will go some way to reducing the potential disadvantage for learners who share protected characteristics, in prioritising the need to issue a calculated result or offer an adapted assessment, it is possible that there will be some learners for whom this is not possible, as a result of a protected characteristic. Where this is the case, then we proposed that assessments should be delayed as a last resort, to seek to minimise the extent to which learners may be disadvantaged.

We recognised that in making such decisions, awarding organisations will need to balance a number of competing factors, and there will inevitably be trade-offs. We were also sensitive to concerns that some special educational needs learners might be particularly affected by the uncertainty caused by the cancellation of assessments this summer. In calculating a result, special educational needs learners will be given centre assessment grades by their teachers who will know best how they would likely have performed in their exams. In coming to a centre assessment grade, we have been clear that centres should assume that any reasonable adjustments that might have been sought for a particular student when taking their exams would have been in place.

We set out in the equalities impact assessment and throughout our consultation, that while any disadvantage to particular groups of learners should be minimised to the greatest extent possible, where this was not possible, awarding organisations should prioritise the issue of results to those learners for whom this is possible. In practice, this meant that where it could calculate or a grade or adapt an assessment, it should do as much as is reasonable to ensure that it does so in such a way that does not

disadvantage groups of learners, but if this was not possible, this should not prevent it taking a particular approach that would allow it to issue results, or adapt assessments, for the majority of learners.

Given the variety of vocational and technical qualifications covered by our proposals, and the range of learners who take them, we were not able to assess in detail, the impact on every group of learners for every qualification in every circumstance. But we were able to identify, in broad terms, those groups of learners who would potentially be affected by our proposals, both where this was as a result of a protected characteristic, or as a result of some other factor, for example their socio-economic background.

Our full equalities impact assessment is available in our consultation, but in summary, we identified the following potential impacts:

- socio-economic factors – learners that take vocational and technical qualifications are on average from more disadvantaged backgrounds, than those taking general qualifications. This is based on a measure of factors such as the numbers entitled to free school meals, the number with special educational needs, household income, and level of previous performance. This means that across all of our proposals, learners from certain backgrounds were more likely to be affected, positively and negatively, compared with the learners taking general qualifications
- calculated results – some groups of learners are less likely to have the evidence on which to base a calculated result. This includes those that may have been absent, including as a result of disability, pregnancy, or other protected characteristics
- private candidates – these learners, and in particular learners who are home-schooled, including for reasons relating to disability or as a result of special educational needs, are less likely to have a grade calculated if they are not associated with a centre
- bias – research from the general qualifications consultation, and included as part of the equalities impact assessment, suggested that teachers may slightly underestimate the performance of learners with special educational needs
- adaptation – some groups of learners may be less able to access adapted assessments. This could be because reasonable adjustments that are normally available to a student may not be available for an adapted assessment
- delay – As a result of the factors above, learners who, because of a protected characteristic, or unable to access a calculated result or adapted assessment, so may be disadvantaged by not getting a result this summer

In our consultation we asked whether there were other potential equality impacts that we had not explored and what they were. We also asked for views on how any potential negative impacts on particular groups of learners could be mitigated.

We received 886 comments across the two equality questions in our consultation from a mixture of students, parents, teachers, carers, individuals, centres, training providers, awarding organisations, local authorities and representative bodies. We have also spoken to a number of equalities representative groups.

Across those we have received responses from and spoken to many who supported our approach and welcomed our proposals, acknowledging the potential disadvantage for all learners as a result of the current circumstances. A number made suggestions that either reinforced those potential impacts we had identified, identified additional impacts, and made suggestions for how these could be mitigated. Respondents also made a number of general comments about fairness and inequality, some relating to groups of learners with protected characteristics, and some relating to other groups of learners.

We set out below the additional equality factors identified as a result of the consultation and the discussions we have held.

### **Calculated results**

A number of respondents commented on the difficulties faced by some groups of learners in relation to receiving a calculated result. Whether a calculated result is possible depends to a large extent on the amount of reliable evidence available to centres on which to base a centre assessment grade. How accurate any calculated result is will then depend on the extent to which any evidence available is an accurate reflection of how the learner is likely to have performed in their assessment.

There are some groups of learners, for whom the evidence needed to calculate a grade may not be available. This could be because a learner has been absent, which is may be more likely in the case of learners with certain disabilities, long-term illnesses, pregnant women, those with childcare or caring responsibilities, children of travelling families or service personnel, and those that have not lived in this country for very long. Where these reasons have caused learners to be absent, there may be less evidence on which to base a calculated result, reducing the likelihood of these learners receiving a result.

There are also factors that may mean that the evidence available to a centre may not be representative of a learner's likely performance in an assessment. Where centres had closed, but continued teaching remotely, some groups of learners, such as those with special educational needs, or from more disadvantaged socio-economic backgrounds may not have produced evidence during this period that reflects their likely performance. This could potentially disadvantage them if this evidence is used by centres when determining a centre assessment grade. There were also concerns that for some learners, performance in previously banked assessments may not reflect performance in assessments missed, as special educational needs and disability learners may perform better or worse in some types of assessments than others, as a result of those needs or disabilities (for example learners with visual impairments may perform better in knowledge units than skills units).

Concerns have also been identified about the potential for bias in relation to the delivery of calculated results (where those results rely on teacher/assessor judgements which form the centre assessed grades), including bias which gives rise to discrimination. This could be as a result of a range of factors, including protected characteristics such as race or disability, as well as wider socio-economic factors, or others relating to things like behaviour of learners.

Respondents also commented on the granularity of the data held by awarding organisations and the extent to which it would be possible for awarding organisations to identify and monitor the impact on specific groups of learners. This is because for

many vocational and technical qualifications, such data may not be routinely collected or held.

We are taking a number of steps to address the concerns identified, as set out below. While it is unlikely we can remove these issues completely, we will seek to mitigate them as far as possible.

We have published guidance for centres on [the awarding of vocational and technical qualifications, and other general qualifications, in summer 2020](#) which sets out the need for centre assessment grades to take account of any reasonable adjustments that would have been in place for a student, and also to ensure that only relevant records and evidence are taken into account, not other factors that don't relate to a learner's knowledge, skills and abilities in relation to the subject. Our requirements for calculating grades and developing an approach which maximises the most trusted evidence sets out that

an awarding organisation must instruct Centres to make their judgements in an impartial, balanced and unbiased way such that, as far as possible, the information provided by them avoids bias and Learners are not systematically advantaged or disadvantaged by having or not having a Characteristic<sup>1</sup> or special educational needs.

We have decided to provide additional information in our framework relating to equalities, to ensure that such concerns are addressed as far as is possible. Specifically, we have decided to include:

- additional reference within the extraordinary regulatory framework to awarding organisation equalities responsibilities as set out in the General Conditions, as these expectations continue to apply within the extraordinary regulatory framework
- additional guidance/requirements around calculated results, including:
  - expectations on communications with centres regarding the importance of objectivity (drawing on the guidance to centres recently published in relation to general qualifications)
  - the need for checks on centre assessed grades produced by teachers (for example through declarations by heads of centre, heads of faculty or department, or similar, recognising the different contexts we are dealing with in the vocational and technical qualifications' landscape)

We are looking to monitor such impacts, so have decided to also include within our framework reference in the appeal guidance (see below) to the need for awarding organisations to consider their approach to allegations of bias/discrimination.

We will also collect data from awarding organisations to support the oversight and review of equalities impacts and will contact awarding organisations about this in due course.

## **Adaptation**

There were a number of comments about to the ability of some groups of learners to access adapted assessments. We recognised in our consultation that there was the

<sup>1</sup> 'Characteristic is explained in our [General Conditions of Recognition](#) as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

potential for learners with protected characteristics to suffer disadvantage in terms of the adapted assessments that were made available, where there was the potential that all reasonable adjustments might not be available, or where such learners would suffer particular disadvantage because they might struggle more with taking assessments in different forms, or in ways that they are not as prepared for. Our proposals were flexible in this area – we did not prescribe forms of adaptation, but allowed awarding organisations to determine what adaptations were appropriate, where it was not possible to calculate a grade.

Respondents were concerned, that depending on the nature of any adaptations, some disabled learners may be unable to access them, even with reasonable adjustments. Particular concerns were raised about learners with hearing or visual impairments, particularly if the necessary specialist input had not been received into the development of adapted assessments. It was noted by a small number of respondents however that depending on the adaptations, some learners may be able to access adapted assessments more easily, if the adaptations made were done appropriately.

There were also concerns that some special educational needs and disability learners may be more affected by having to take assessments in unfamiliar ways, or in unfamiliar environments than other learners, and so could be disadvantaged. Additionally, such learners may not have access to the support they would normally have in a centre setting, both for the assessment, and in advance for preparation. Learners may also require different reasonable adjustments for an adapted assessment than they might have had for the assessment in its original form, so could be disadvantaged either as a result of not knowing what adjustments they need, or of using adjustments they are unfamiliar with.

A large number of concerns were also raised in relation to groups of learners who may not have the necessary resources or equipment to access adapted assessments, particularly where they were conducted remotely, or who may have the means to access them, but not be sufficiently capable of using the equipment. This could particularly be the case for learners from more disadvantaged socio-economic backgrounds, and for some learners who live in rural areas, where internet connectivity may be less reliable.

Awarding organisations are subject to a number of equalities obligations, both under the Equality Act, and under our General Conditions. They are required under [General Condition D2](#), for example, relating to accessibility of qualifications, to design qualifications to minimise equalities impacts. Our General Conditions will continue to apply in addition to the extraordinary framework, therefore awarding organisations will continue to be subject to this requirement and awarding organisations should be aware of this. Condition D2 also requires an awarding organisation to maintain a record of any disadvantage that it believes is justifiable. This will help ensure that any decisions made by awarding organisations are recorded and we can monitor the approaches being taken and follow up if necessary.

We have set requirements in our regulatory framework that reasonable adjustments must be made available wherever possible. We have also decided to put in place additional guidance against Condition D2 which will refer to awarding organisations' ongoing equalities obligations and the need to monitor any disadvantages for any groups of learners and remove these where they are not justified.

These approaches will go some way to reducing the impact of adapted assessments on groups of learners, although since the priority this summer is to secure the issue of results to as many learners as possible, our position, as set out in our consultation, is that awarding organisations should not be prevented from making an adapted assessment available on the basis that such an adaptation is not possible for all groups of learners. But they should do as much as they can to take account of the needs of all groups of learners when determining what adaptations to make.

### **Delay**

We identified in our equalities impact assessment, and it was also identified by a number of respondents, that there was a possibility that some groups of learners may be disadvantaged because they are more likely to be subject to a delayed assessment, due to being unable to access a calculated result or adapted assessment, because of a protected characteristic or other factor. We were clear in our consultation that delay should only be used where it is not possible for an awarding organisation to generate a valid result through a calculation or adaptation approach, but acknowledged that where the other two options were not appropriate, it may be necessary. While all learners whose assessments were delayed were likely to be disadvantaged, it is possible that the reason some students' assessments are delayed is because they can't access either of the other approaches.

Respondents commented on the timing of any delayed assessments. While some thought that these should take place as soon as possible, a number raised concerns that some learners could be disadvantaged if delayed assessments took place too soon after centres are able to reopen. For some special educational needs and disability learners, they may require time to prepare for delayed assessments, both in terms of the assessment itself, and catching up on teaching and learning to prepare themselves for the assessment. Some disabled learners may have stopped attending centres earlier than other learners, as a result of their disability placing them in higher risk-groups for coronavirus (COVID-19), so may require additional time to prepare for their assessments. Additionally, they may not have had access to usual support mechanisms, so again, need time to catch up. Respondents also commented that learners with some disabilities may be required to continue to shield or self-isolate for longer than other learners, as a result of their disability placing them in higher-risk groups. Therefore, if delayed assessments were scheduled too early, they could be disadvantaged if they were unable to take these assessments.

In light of these concerns, we have decided to amend our requirement for delayed assessments, to require awarding organisations to consider making assessment opportunities available, including taking all reasonable steps to do so where they would normally do so, and oblige them to consider additional assessment opportunities where there is demand for these, as well as providing guidance on when this might not be practical. We have explained this change in more detail elsewhere in this decisions document. This will, as far as is possible, help awarding organisations to ensure that learners are not disadvantaged as a result of the arrangements for delayed assessments.

### **Socio-economic factors**

We set out in our equalities impact assessment that vocational and technical qualifications are taken by learners who are, on average, more likely to be from more disadvantaged socio-economic backgrounds. Respondents made comments that

reflected this analysis. Respondents commented on a number of groups of learners who could be more disadvantaged on these grounds, including: those working in the care sector who could be directly affected or have had learning affected, adult learners with caring/childcare responsibilities (including a suggestion that the nature of the industry means those affected by working in the health care sector, or with childcare responsibilities, may disproportionately be female). These learners could be affected either as a result of having less evidence available on which to base a calculated result, potentially being unavailable to take adapted assessments or lacking the resources to do so, or by being unavailable to take delayed assessments.

While such disadvantages would exist whether or not our extraordinary framework is implemented, we want to ensure that as a minimum, such learners are no worse off as a result of the implementation of our proposals. We would expect awarding organisations to be mindful of these factors when determining their approaches, and to ensure that as far as is possible, learners are not disadvantaged. We have spoken with equalities representatives about how such issues could be identified, monitored and addressed.

### **Centre performance**

Respondents to the consultation were concerned that some groups of learners could be disadvantaged as a result of their centre's previous performance. Since centre performance was one of the factors to be considered by awarding organisations when calculating grades, respondents were concerned that improving centres, or those with more variable performance, could be disadvantaged. Respondents said that often, the most likely centres to be showing signs of improvement would be those that were the lowest performing on the first place, and that often these were in the most disadvantaged communities. This would mean that learners who attended these centres could be disadvantaged. Respondents also said that many centres with a high number of special educational needs and disability learners often have variable performance from one year to the next, as centre performance will depend on the nature of any disabilities or special educational needs of its learners.

Our framework will set out how awarding organisations should determine how to provide calculated results and how different sources of evidence should be used. While historical centre data is one piece of evidence to be considered, how it is used will vary based on a range of factors, including how reliable it is considered to be for a centre. We would therefore expect awarding organisations to consider the factors raised, amongst others when using historical centre performance to inform calculated results.

### **Scope of qualifications covered by the framework**

Respondents to the consultation were concerned that since some qualifications are more likely than others to be taken by different groups of learners, for example learners with special educational needs, these learners could be disadvantaged by whether or not these qualifications are included within the scope of the framework. Respondents were concerned in particular that ESOL and Entry Level learners could be disadvantaged if they weren't covered by the framework and eligible for calculated results.

We have set out earlier in these decisions our approach to which qualifications are within and outside of the scope of this framework, which will include ESOL and Entry Level learners. We are launching an interactive tool which will enable users to see

what qualifications are covered, and what the most likely mitigation will be for a particular qualification.

### **Reasonable adjustments**

Some respondents were concerned that for learners receiving calculated results, it may not always be possible for a centre to predict how a learner would have performed with a particular reasonable adjustment in place. Respondents were concerned that the reasonable adjustments required for an adapted assessment may be different to those a learner needs for an assessment that was taken in the way originally intended. As such, the type of reasonable adjustment required to reflect a learner's normal way of working may not be possible, depending on the nature of the adapted assessment.

We would expect any centre assessment grade to take account of any reasonable adjustments that would have been in place for the learner. We have set out earlier our decision to provide guidance for centres when determining centre assessment grades. These may draw on views from those in the centre about how a particular learner would have been likely to perform and we have also set out in guidance the need to consider whether an awarding organisation should require a check to be conducted by the Head of Centre, or some other appropriate member of senior staff on any information provided by the Centre, before that information is sent to the awarding organisation. This may help ensure that views on likely performance with reasonable adjustments take account of a wider range of views.

We have also set out that awarding organisations will need to take account of the needs of learners, including those with protected characteristics who may require reasonable adjustments, when designing their assessments. We will also collect data from awarding organisations to support the oversight and review of equalities impacts and will contact awarding organisations about this in due course. This will enable such impacts if they do occur, to be identified, monitored and addressed as far as is possible. Awarding organisations will also be required to have appeals arrangements in place, meaning that where learners may have been disadvantaged, it will be possible to appeal their result.

### **Private candidates**

A number of respondents commented that private candidates would be disadvantaged by the proposals as they would be unlikely to receive a calculated result. Respondents said that some groups of learners were more likely to be taking assessments as private candidates, and this could include, for example, learners with behavioural difficulties, or special educational needs and disability learners. For these learners, it is unlikely that a centre would be able to calculate a grade, and they may also struggle to access an adapted assessment if they are not associated with a centre. Additionally, respondents commented that some special educational needs and disability learners may not be entered on to courses until they have completed some assessments, as they are not entered until they are ready and the awarding organisation may not require registration until the learner is ready to complete. This could mean that despite being associated with a centre, they may not be registered with the awarding organisation, and the amount of information held by the centre may be limited. Again, this may mean that such learners are less likely to be able to access a calculated result.

Where possible, private candidates should receive centre assessment grades to enable calculated results to take place and we have allowed flexibility for this within our framework. However, given the need for any calculated result to be based on sufficient evidence, it is possible that some learners will not be able to access this, including some special educational needs and disability learners. Private candidates will have the same opportunity to access adapted assessment opportunities as other learners, although we recognise that there may be some circumstances in which private candidates are only able to access delayed assessments. While we recognise the difficulties faced by private candidates, we consider that the proposed approach is as fair as it can be when taking account of the need to issue results to as many learners as possible, while ensuring these remain valid.

### **Students in years 10 and 12**

Respondents commented that some students in years 10 and 12, who were due to take assessments this summer, but not due to complete their qualifications until next year, could be disadvantaged if they were not allowed to receive calculated results for the assessments they should have taken this year. Respondents felt that there was the potential for such learners to be disadvantaged on the basis of their age. Respondents also commented, to a lesser extent, that this should also apply to learners in year 9, who had started courses a year early, so were due to complete their course in year 10, and that they too should be eligible to receive calculated results. Although these learners would not require a calculated result in order to progress this year, respondents said that if they were unable to take assessments this year these learners would be disadvantaged next year, as they would have to take all of the assessments that had been due across both years, in the second year. This would potentially disadvantage these groups of learners.

Our framework sets out that where a qualification falls within the scope of our framework then all learners due to take assessments this year should be eligible for a calculated result. Therefore, such learners should not be disadvantaged as they will be included within the scope of our framework.

### **Resits**

Some respondents to our consultation said that, although not a specific equalities issue, learners resitting assessments this summer could be disadvantaged by the approaches set out in our regulatory framework. They commented that, for some resitting learners, the evidence held by awarding organisations on which a calculated result would be based may not reflect any improvement in their likely performance. If a learner was just resitting an assessment, the evidence may support a grade similar to that they achieved when they first took the assessment. If this evidence was used to calculate a learner's grade, then they may be disadvantaged as the grade may not reflect their likely performance in an assessment.

Our proposed approach to calculating grades makes use of a range of different types of evidence, including centre assessment grades, and awarding organisations will be able to put in place approaches which take account of the fact students are resitting, within the requirements in our framework. This will help ensure that, as far as is possible, the evidence on which calculated results are based reflects a learner's likely performance, including when they are resitting.

### **Prisoners and offenders**

We received responses relating to the application of the framework to learners that were taking assessments in settings other than centres and training providers, in particular prisoners or those taking them in other offender institutions. Respondents commented that qualifications were often delivered differently in these settings to how they are in mainstream education settings, and as such, some of the approaches be not be possible, meaning such learners could face having their assessments delayed.

Our intention is that as many learners as possible are able to receive results this summer. We recognise though that there will be some learners for whom this may not be possible, and for whom delayed assessments may be the only option. Where this is the case, this approach will ensure that learners are still able to receive results, although this may not be until a later date.

### **Mental health**

A number of respondents commented under these questions that learners could be disadvantaged as a result of mental health issues. They identified groups of learners who may be affected as a result of the current circumstances, including those that may have been affected personally or had family members affected by coronavirus (COVID-19). Learners who are carers, or who work in care settings may also be affected in their assessments by issues relating to their mental health. Additionally, some learners, including some special educational needs learners may suffer anxiety as a result of the current circumstances. Respondents commented that for these learners, not only may their performance in adapted or delayed assessments be affected, but also that their learning in the period leading up to centres being closed could also be affected. This could mean that the evidence on which calculated results are based may not accurately reflect their likely performance.

Learners will have the opportunity to delay assessments, or to retake them at a later date if they considered that was the best approach for them. Alongside this, we are ensuring that the arrangements are communicated clearly, and have consulted on and are announcing these changes as quickly as possible, to provide as much certainty as we can, in order to help those that are anxious about the arrangements. While it may not be possible to fully mitigate these issues, these arrangements should go some way to ensuring such learners are not disadvantaged.

### **Appeals**

Respondents commented that that the grounds for appeals against results should include that learners have been disadvantaged, or have been subject to form of bias when calculating their grade. Respondents also note that some groups of learners may not have the support at home to enable them to determine whether to submit an appeal, or to help them do so.

Awarding organisations are required to have appeal arrangements in place so it will be possible for learners to appeal where they think their results is not an accurate reflection of their performance. They are also required to publish information about the appeals process, which we would expect should enable those that need to access the process to do so. Our framework includes guidance on [General Condition 11](#) setting out expectations that awarding organisations may need to adapt their usual appeals process as a result of these arrangements, and that arrangements under this Condition should encompass whether a Centre has followed a procedure

properly and fairly, where relevant, including any issue in relation to bias or discrimination on the part of a Centre in following a procedure.

### **External factors**

Respondents also noted that some learners would need to complete practical work, work placements in particular settings such as health care, or group activities, in order to complete their assessments. They noted that these learners may be unable to complete their assessments, even when delayed assessments are made available, as such assessments may continue not to be possible, due to wider restrictions and social distancing arrangements.

Respondents to the consultation identified that learners with some disabilities, who as described above, may be unable to access calculated results or adapted assessments, may also be in the groups of people who are most affected by coronavirus (COVID-19), or are in the highest risk groups. Although the risks associated with coronavirus (COVID-19) are not possible for us to mitigate, we have ensured as far as is possible, that learners are not unfairly disadvantaged as a result of our proposals.

### **Other issues**

Respondents commented that there would be likely to be some learners, including those with an Education, Health and Care Plan (EHCP) or social, emotional and mental health (SEMH) needs who may ordinarily be unable to access all of a course, but who also may not be considered to have a protected characteristic. They said that these learners could be disadvantaged if these arrangements did not cover such learners.

Respondents commented that some learners may be disadvantaged if they were unable to return to the UK to take assessments as a result of travel restrictions that are in place.

Our arrangements are intended to cover as many learners as possible, to allow them to access either calculated results or adapted assessments, or where this is not possible, to take a delayed assessment. We intend to monitor the impact of these arrangements to enable us, and awarding organisations, to identify any issues that do arise.

Some respondents commented that learners could be affected if they take assessments in different countries, where equalities legislation differs. Our framework will apply to regulated qualifications wherever they are taken. Awarding organisations will however need to ensure that they comply with any equalities legislation that applies in countries where it is offering regulated qualifications. Where an awarding organisation is unable to comply with our requirements as a result of other legislation, we would expect it to notify us of this and we would then consider what action may be appropriate to ensure that learners aren't disadvantaged.

## **5 Regulatory impact assessment**

In our consultation we recognised that some of our proposals may have a regulatory impact. We asked respondents whether there were any regulatory impacts, costs or

benefits associated with the implementation of the framework that were not identified in the consultation. We also asked what additional costs might be incurred through implementing the framework, or conversely whether and where any costs might be saved. Finally, we asked if there are any additional or alternative approaches we could take to minimise the regulatory impact of our proposals.

## **Responses**

The majority of respondents to the consultation who answered the questions relating to regulatory impact did not identify any regulatory costs or benefits that we had not already identified. Responses were mixed about whether there would be additional costs incurred or whether there would be a cost saving. The majority of respondents could not suggest additional or alternative approaches to our proposals.

Throughout the consultation analysis we have noted feedback from awarding organisations about regulatory impact. Key themes were that:

- specific costs are difficult to assess at this stage
- an additional assessment opportunity this year in the autumn would incur expense and significant staff time
- costs will be incurred where awarding organisations need to change their systems and processes
- staff costs will be increased by a number of the proposals
- there will be some savings but they are unlikely to be enough to offset the costs incurred through the proposed changes

Respondents raised the same issues in response to the specific questions about regulatory impact and more detail of that is set out below.

## **Considerations**

Our proposals during this exceptional period have been focused on enabling as many learners as possible to be issued results for vocational and technical qualifications that are used for progression to and through employment, further or higher education, in accordance with the Secretary of State's direction to us.

We have acknowledged from the outset that our proposals will have a cost and resource impact on awarding organisations. Through our consultation, we have sought to obtain more information from stakeholders as to what the costs to them will be if some or all of our proposals are implemented. We have also continued to engage with stakeholders throughout the consultation process to aid our understanding of those impacts and to assist us with our decision-making process.

## **Impacts on awarding organisations**

### **One-off direct costs and administrative burdens**

In our consultation we anticipated that there would be one-off direct costs and administrative burdens to awarding organisations with qualifications in scope of the proposed framework and we set out a list of activities with which those costs and burdens might be associated. Respondents identified some additional one-off direct costs and burdens to those we had listed in our consultation, which included:

- losing a revenue stream by making online resources free of charge
- increased number of post-result enquiries and appeals

- hiring more staff during results days to support learners and manage the process
- training staff to take on new systems and processes, or different duties
- travel to, and PPE needed to carry out assessment for, learners in isolation
- extra assessors
- re-assessing or collating data on access arrangements for learners moving to a new awarding organisation
- reduction in assessor to learner ratio because fewer learners can be assessed
- changes to processes for Centre Assessment Standards Scrutiny

A response by the Federation of Awarding Bodies (FAB) detailed the result of a survey it had undertaken of 43 of its members, and they have since provided us with updated response data from that survey. Forty awarding organisations answered a question asking whether they had any sense of the cost of the development and delivery of calculated, adapted or delayed assessment and their associated processes (for example, in adapting or buying in systems and expertise, staff costs), and how that differed from 'business as usual' at this time of year. It found that 52.5% of respondents (21 awarding organisations) estimated the alternative arrangements would cost between 25 and 50% more than usual business costs; 20% of respondents (eight awarding organisations) estimated that the arrangements would cost between 50 and 75% of their usual business costs; and one respondent estimated that the arrangements would cost 75% more than their usual business costs. Conversely, 20% of respondents (eight awarding organisations) estimated that they would have around the same costs, and 5% of respondents (two awarding organisations) estimated that they would have fewer costs.

FAB also said in their response that they had learned from informal discussions with awarding organisations that cost savings on, for example, marking, are not countering the significant extra costs incurred in upgrading or investing in IT systems, training staff and developing new assessment guidance.

Awarding organisations were generally unable to give exact costings in their response to the consultation. One suggested that the costs associated with the proposed requirements to record detailed information and further monitoring activities would cost in the region of £10,000, whilst others mentioned higher figures.

Some awarding organisations acknowledged that the suspension of assessments reduces costs but creates a significant reduction in income generation. Awarding organisations also told us that they were seeing a dramatic fall in registration income.

Several awarding organisations felt that the main impact for them would be the additional staff time required to put emergency planning in place. This would include resource to train staff, support centres and employees, and produce new resources.

FAB and a number of awarding organisations commented that the provision of technical workshops would help to reduce costs for them by reducing the need to buy in consultancy services. We are already running a number of technical workshops and are holding a FAB webinar to try to address concerns and queries. We will look to do more as our work over the summer continues.

## **Calculated results**

We received a limited number of comments in response to our consultation regarding the regulatory impact of calculated results on awarding organisations.

Some awarding organisations noted that there would be additional costs mainly related to additional staff time in implementing calculated results. One awarding organisation commented that the competencies required to deliver assessments normally and to deliver calculated results are different and not easily transferable. Some awarding organisations particularly noted the additional quality assurance and standards activity that would be required to support the overall calculated result. Others also commented on the investment in new technology that they were being required to make to build applications that would accommodate the submission of centre assessed results.

One awarding organisation acknowledged that there would be costs savings due to the absence of written papers, and their related costs, but that those savings would be off-set to some extent by the extra work involved in quality assuring calculated grades/centre assessment grades.

The additional burden for awarding organisations needing to provide effective guidance to centres on the provision of information it requires in order to calculate learners' results, as acknowledged in our consultation, was not specifically commented upon in responses to the questions on regulatory impact.

We therefore remain of the view 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 learners adversely affected by the current crisis.

### **Adaptation**

In our consultation we recognised the 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.

We have sought to minimise those impacts by allowing maximum flexibility in our extraordinary regulatory framework so that awarding organisations can adapt assessments where necessary in the most appropriate way for their qualifications, whilst balancing their own needs with those of learners.

In their response to our consultation some awarding organisations noted that there will be additional costs incurred for the additional staff time needed to implement adaptation. Some also commented that procedural documentation may need to be developed, and specifications or assessor guidelines amended, if adapting assessments requires change both to delivery and assessment methodology. Another commented on the need to write additional test items to increase the item bank due to moving some qualifications to on-demand testing.

We fully acknowledge that additional costs and burdens such as these will be incurred as a result of awarding organisations needing to adapt their assessments for some qualifications. However, increased burden on awarding organisations in this regard remains, 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 asked in the consultation whether innovative approaches, such as remote invigilation, would mean that initial investment could be applied long-term, allowing for less expensive means of assessment in the future. Some awarding organisations responded about the costs they are encountering to establish contractual arrangements for remote proctoring. One awarding organisation identified that the current crisis is hastening the move to online delivery, which has the potential to make their operations, and those of their centres, more efficient and affordable. Several awarding organisations mentioned the increased use of new technology and innovation. There is some indication, therefore, that the immediate cost impacts on awarding organisations of implementing innovative techniques might lead to less expensive means of assessment in the future, thus reducing the longer-term burden on them, and potentially providing them with additional revenue opportunities.

In its consultation response, one awarding organisation asked for further guidance from us about how adapted assessments may continue to operate after the extraordinary regulatory framework has been phased out, with a specific focus on remote invigilation. We will continue to work with awarding organisations and other stakeholders after the framework has come into force to consider how innovative delivery methods might continue beyond the current crisis.

### **Delay**

We consulted on the basis that only where calculated results or adaptation of assessments are not possible can delay be considered by awarding organisations for qualifications that have a mixed purpose or that signal occupational competence.

Some awarding organisations responded to the consultation on the subject of delay. One identified that delayed assessments will pose a risk to the sustainability of providers and awarding organisations financially, particularly because of the need to resource additional qualified freelance and salaried staff. Another expected costs to increase for the year 2020/2021 owing in part to a deferred peak in September/October with assessments delayed from the summer. One awarding organisation anticipates disruption to other planned work by deferred and additional assessments because they will require additional resource or a delay to the disrupted work.

One awarding organisation suggested that it would be helpful if delay were not positioned as the option of last resort. However, given the other responses to the consultation and the feedback we had received from awarding organisations prior to its launch, we consider that delay should remain the final option for awarding organisations given the impacts that could be created including the need to secure examiners or external verifiers to carry out more work than might ordinarily be done in the autumn term, and the need for awarding organisations to have to manage the impact of increased volumes of assessment being submitted to them in potentially smaller timeframes.

We are therefore of the view that our proposals in relation to delayed assessment will help to minimise the impact on awarding organisations of too many assessments being delayed.

### **Autumn assessment opportunities**

In our consultation we sought to strike a balance between the needs of learners to be afforded an opportunity to complete their assessment at the earliest available opportunity and the financial and other impacts on awarding organisations to achieve

that outcome. We therefore proposed that it is only where an awarding organisation ordinarily has an autumn assessment opportunity available in a specific qualification that they must expand that to make it available to all learners. Conversely, we proposed that where an awarding organisation does not have such an opportunity already available, it 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.

In the responses to our consultation, a number of awarding organisations, centres, exams officers and teachers identified that preparing for an additional assessment opportunity this year in the autumn will incur expense and significant staff time. They identified that activities required could include the development, printing and distribution of assessment materials, marking, moderation and contracting, training of markers and assessors, and increased invigilation costs as a consequence of in-house invigilators not being available. One respondent also commented that it may not be possible to use a provider's own premises for an autumn assessment if providers are simultaneously trying to bring back learners.

The extraordinary regulatory framework requires that where an awarding organisation who in the normal course of events has an autumn assessment opportunity available, they must take all reasonable steps to continue to provide one, and make this available to the affected learners. In other cases awarding organisations must consider whether they should make an autumn assessment opportunity available. These considerations would be based on there being sufficient demand and where providing that opportunity would not be impracticable or create a disproportionate burden on awarding organisations and centres. We have also introduced a new requirement on awarding organisations when delivering an autumn assessment opportunity that they must seek to ensure that their approach minimises burden and is as deliverable as possible, including by centres and teachers. This could, for example involve awarding organisations making changes to their assessments or their delivery model.

We believe that this approach will reduce the impact on awarding organisations and centres by allowing for some flexibility in limited circumstances where it would be unreasonably burdensome to offer an autumn assessment series. We also consider that our approach could improve the manageability of the situation for centres. However, for the sake of learners, we still anticipate that autumn assessment opportunities will be made available in the majority of cases. We recognise that this will create financial impacts but think that the extraordinary regulatory framework now strikes the right balance between the needs of awarding organisations, centres and learners in this regard.

## **Impact on learners**

Responses to the consultation confirmed our understanding as set out within it, that there will be some impacts for learners as a result of the extraordinary measures being put in place over the coming months.

One respondent identified that there will be costs to learners needing to access adapted assessments through digital devices, which they may not already own or have access to them. Learners also identified the potential impact to them of being unable to take qualifications which form part of apprenticeship qualifications and therefore do not allow them to reach gateway and complete their end-point

assessments. Some centres noted that fee-paying learners will be impacted if they have to pay fees for a second time because there is insufficient evidence available for them to be given a calculated result. They commented that financial assistance would need to be put in place to allow those fees to be waived. Some respondents noted that learners needing to take assessments in the autumn may incur additional travel and accommodation costs, as well as the costs incurred by potential delays to their starting employment or needing to postpone higher education opportunities.

Whilst we acknowledge these potential impacts on learners, we remain focused on making sure that, where possible, they are not disadvantaged and that disruption to their planned progression is minimised. Our extraordinary regulatory framework allows for significant flexibility and is designed to ensure that as many learners as possible receive results this summer using the most appropriate method for a particular learner.

We maintain that awarding organisations and their centres should seek to provide as much support and preparation for their learners as they feasibly and appropriately can during this time.

### **Impact on centres**

We acknowledged in our consultation that there will be one-off, direct costs and administrative burdens to centres associated with various activities resulting from our proposals.

Some centre responses to the consultation noted the following additional direct costs:

- extra standards verification at a time of year when this is not normally done
- bridging the gap for a new cohort of learners who have at the least been out of formal education for several months
- additional teaching delivery costs for delayed external assessment and apprenticeship learners
- staffing costs where some staff are in isolation
- increased demand for resits
- familiarisation with guidance issued by awarding organisations, communicating this to staff and training them as required
- communicating and providing ongoing support to learners in relation to measures in place
- establishing online invigilation
- providing staff with online equipment to allow them to deliver remote sessions
- modifying courses to deliver online
- supporting teachers to gather credible evidence of learner performance

However, some school leaders identified categories of savings, which were:

- marking costs and not having re-marks
- any costs that are already committed for processes that will now not take place may be able to be refunded depending on contractual commitments, for example, exam paper printing or postal costs
- a possible reduction in fees as no moderation is taking place for BTECs

- paper and copying costs if all assessments are delivered online

Some training providers stated that they were able to use existing resources to implement the proposals. However, they noted that this may impact on completion dates for new learners if resource has been diverted from teaching to collating evidence for calculated results. One training provider said that they were operating business as usual and said there would only be a minimum difference in cost in comparison to previous years.

An academy chain also noted that costs would be dependent on how many learners needed to take an assessment in the autumn.

### **Impact on the further and higher education sectors and employers**

A number of centres and universities, as well as students and parents, noted that some learners may be looking to progress when they have not yet completed qualifications, because of delays. A number of responses said that, in particular, higher education institutions should find ways to accept learners who have not yet taken delayed assessments, so that their progression is not delayed any further compared to A level students who will all receive calculated results. A range of respondents said that it will be important to make sure that any certificates issued this year are not treated any differently to other years to help ensure progression opportunities can be met.

A number of respondents noted that education providers may have to deliver additional teaching to enable learners to catch up on missed education and to prepare for assessments, as well as delivering more assessments in the autumn. Some of these respondents identified that this was likely to require additional staff. Some centres also expressed concern about the impact delayed assessments would have on the teaching of new cohorts.

An academy chain and a representative body commented that there might be future costs to employers who feel the need to test and check the skills and knowledge of potential employees who hold a particular qualification, when they know that it may not have been assessed or taught in the usual way.

### **Estimated costs and savings**

Many respondents commented that it was too soon to estimate with any precision the additional costs that might be involved when implementing our proposals and specific costings were therefore limited in responses.

A response from a school leader indicated a cost for enhancement of their IT systems of £20,000. A centre indicated that savings on invigilation, equipment hire, transport and sundries during May and June would amount to approximately £40,000.

One awarding organisation identified that the current crisis is hastening the move to online delivery, which has the potential to make their operations, and those of their centres, more efficient and affordable.

An awarding organisation identified that the postponement of various work streams, such as the implementation of the new framework for regulating performance table qualifications, was allowing them to reallocate resources to implement the proposed extraordinary regulatory framework. Another noted that they had put other projects back, which was allowing them to divert resource.

Several respondents thought costs and savings would balance each other out.

FAB and a number of awarding organisations responded that they would appreciate us considering whether any financial support could be provided to awarding organisations to aid them in dealing with the unanticipated cost of delivering results this summer. This is not a decision for us, but we have raised these concerns with the Department for Education.

### **Costs in 2020/2021**

Some awarding organisations commented on the cost implications for them in late 2020 and in 2021 when they may also need to adjust to ongoing impacts, for example, changes in cohort size, increased numbers of resits or additional work required in awarding – such as setting grade boundaries to account for potential impact on candidate performance. Some respondents identified that there will be a need for additional teaching for learners who have missed out on learning opportunities due to the coronavirus (COVID-19) restrictions, which will increase staff costs.

We recognise that the length of time that the current crisis will impact for is unknown and we acknowledge that there is uncertainty for awarding organisations about how long the extraordinary measures we are implementing will need to be in place. We will continue to engage with awarding organisations through the summer to review the situation and as soon as conditions allow we will look to disapply the extraordinary regulatory framework.

### **Our decision**

Responses to our consultation largely confirmed the costs and impacts on awarding organisations that we had identified in the Regulatory Impact Assessment in our consultation.

Within the responses to the consultation, several pointed out the benefits of our proposals. One described them as the “best solution in the situation.” Another noted that the flexibilities of our proposed approach would “benefit learners who are unable to progress through their study during the Covid-19 situation.”

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 organisations within the parameters set down by the Secretary of State. However, we have sought, in accordance with that direction, to create an extraordinary regulatory framework that will allow as many learners as possible to progress, based on the principle of fairness. At the same time we have tried to minimise the impact on awarding organisations and other stakeholders. We have done this by:

- building maximum flexibility into the extraordinary regulatory framework
- taking a risk-based approach to our oversight activities with targeted monitoring work, focusing on securing that errors are corrected and put right, and working constructively with awarding organisations by recognising these exceptional circumstances
- allowing awarding organisations with out of scope qualifications to calculate results for learners or adapt assessments or delivery models for the qualification so long as they can still comply with the requirements of their General Conditions of Recognition

- providing additional guidance in the extraordinary regulatory framework, including in relation to equalities awareness, appeals, malpractice and remote invigilation
- not prescribing a single approach to appeals
- suspending our annual Statement of Compliance process for 2020

We therefore remain of the view that the increased costs and burdens on awarding organisations are proportionate and necessary to achieve the exceptional arrangements we are putting in place, which will allow as many learners as possible to receive their results and progress to employment, further or higher education during this crisis.

## 6 Implementation timescales

We have published alongside this document the VTQ Covid-19 Framework. This comes into effect from 14:00 on 22 May 2020, and implements the decisions set out in this document.

As we set out in the consultation our intention is for the VTQ Covid-19 Framework to apply for the duration of the spring and summer 2020. However, 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 put in place a specific end date. Instead we propose that the VTQ Covid-19 Framework will apply until we publish a notice setting an end date.



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