

CONSULTATION

The General Qualifications Alternative Awarding Framework: Guidance

Consultation on statutory guidance in relation to
appeals under the GQAA regulatory framework

ofqual

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Proposals at a glance

We are seeking views on proposed guidance as part of the General Qualifications Alternative Awarding (GQAA) regulatory framework.

The proposed guidance relates to arrangements for reviews and appeals and covers:

- the Learner's right to a review and appeal
- grounds of appeal
- procedural and administrative errors
- academic judgement
- correcting results

We are seeking views on the proposed guidance only. We are not seeking views on the underlying policy decisions, which we explained in our analysis and decisions documents [in relation to our consultation on how GCSE, AS and A level grades should be awarded in 2021](#), or on the Conditions and Requirements, which we explained in the decisions document in relation to our [technical consultation on the general qualifications alternative awarding framework](#).

Audience

This consultation is open to anyone who may wish to make representations but is likely to be of most interest to awarding organisations which make available GQ qualifications and those which make available certain VTQ qualifications, to centres responsible for managing reviews and submitting appeals this summer, and to learners who might require centres to conduct such reviews and submit appeals.

We would invite respondents to confine responses to this consultation to the proposed framing of the guidance. We will read all responses to this consultation, but will not include in our analysis any responses which concern the underpinning policy decisions, or the Conditions and Requirements, which are now settled.

Duration

This consultation will be open for 15 days starting on 21 April 2021 and ending on 5 May 2021 at 23:45.

This is a shorter period than we would normally allow for a consultation on statutory guidance but we consider this is necessary and reasonable in the current exceptional circumstances. It is important that we are able to make final decisions on any statutory guidance in good time to allow awarding organisations to make any necessary changes to their systems and processes for appeals before results are

issued and to allow schools, colleges, students and their parents and carers to be able to access information on how reviews and appeals will operate this year.

Respond

Please respond to this consultation by completing [the online response form on our consultation page](#).

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

Introduction

Ofqual's statutory guidance

We publish guidance to help awarding organisations understand how to comply with their Conditions of Recognition. Awarding organisations that develop, deliver and award regulated qualifications must have regard to the guidance that we publish.

This means that they must review the guidance and take seriously what it says.

Guidance is not a further set of rules, and the approaches set out within it are not the only way to comply. However, if an awarding organisation chooses to take a different approach, it needs to be able to explain why it has done so.

Background to this consultation

We consulted on exceptional arrangements for awarding qualifications this summer between 15 and 29 January 2021. We announced our decisions following that consultation on 25 February 2021 and on the same date published technical consultations explaining the regulatory frameworks we proposed to put in place to implement those policy decisions.

On 24 March 2021 we set and published the General Qualifications Alternative Awarding Framework (GQAA) and the Vocational and Technical Qualifications Contingency Regulatory Framework (VCRF).

The GQAA framework applies to all GQ Qualifications, which are:

- GCSE qualifications
- GCE (A level and AS) qualifications
- Project qualifications (at all levels)
- Advanced Extension Award (AEA) qualifications

We are now consulting on draft statutory guidance to help awarding organisations to comply with Condition GQAA4, which specifies the arrangements for reviews and appeals for GQ Qualifications this summer.

As well as awarding organisations which make available GQ Qualifications, the proposed guidance will be of assistance to awarding organisations which make available any VTQ qualifications in Category B, under the VCRF, which the awarding organisation has decided to award in a similar way to GCSE, AS and A level qualifications.

In particular, the proposed guidance will assist those awarding organisations to comply with VCRF Principle B4 and to understand how Condition I1 can be followed

this year in light of the VCRF guidance under which relevant Category B vocational and technical qualifications should have a review and appeals process similar to that available for GQ Qualifications.

Consultation details

Proposals

We propose to issue guidance on Condition GQAA4. The proposed guidance is not intended to be a comprehensive description of the review and appeals process under Condition GQAA4 and should not be read in this way. Rather, the guidance concerns those aspects of the process in respect of which we consider guidance might be of most benefit, including highlighting aspects of the process which are different this year to other years.

The proposed guidance is set out in part 4 of this consultation, our proposals are explained in brief in this part. The proposed guidance is divided into five sections and we have used the same section-headings in this part. The consultation questions on which we invite responses are set out in part 4, part 5 and part 6.

The learner's right to a review and appeal

This section emphasises that unlike in other years when in most cases a learner may request a review of marking and then an appeal against results and the centre will decide whether a review or appeal should be pursued, this year every learner will be able to instruct the centre which determined their Teacher Assessed Grade (TAG) to conduct a centre review and to submit an appeal to the awarding organisation on behalf of the learner, in relation to that TAG.

The centre will have no discretion whether or not to conduct the review or submit the appeal.

A learner may complain to an awarding organisation if their centre does not have in place the necessary arrangements to conduct reviews or submit appeals. The proposed guidance makes clear that should a learner's review or appeal be delayed solely because of the actions of their centre then we expect awarding organisations to apply appeal deadlines flexibly.

Grounds of Appeal

When an appeal is submitted to the awarding organisation, it will be necessary to explain in the application the reasons why the learner considers their result was incorrect and should be changed. These reasons are known as the grounds of appeal.

In other years grounds of appeal are usually prepared by the centre which submits the appeal on the learner's behalf. This year, because the centre made the decision subject to the appeal (the TAG), the learner will be responsible for explaining the grounds of appeal.

It is not our expectation that a learner should need any expert assistance or advice to prepare an appeal. This section of the proposed guidance explains that effective grounds of appeal may be set out quite simply and need do no more than explain what the learner believes went wrong and why it made a difference. The section also describes how an effective appeals process could be structured to help the learner explain their grounds of appeal.

Procedural and administrative errors

Every centre will have a written procedure for the determination and internal quality assurance of TAGs. A procedural error will occur where the centre did not follow that procedure properly or consistently. A procedural error may be identified as part of the centre review or as part of an appeal to the awarding organisation.

Where a centre deviated from its written procedures in relation to a TAG, it will usually be able to identify that deviation. We anticipate, therefore, that the majority of procedural errors will be identified during the centre review, which will allow the impact of such errors to be corrected promptly.

The proposed guidance also makes clear that the purpose of the appeal to the awarding organisation is to consider only whether the centre made a procedural error. The purpose of the appeal is not to consider whether the centre's written procedure was adequate.

The proposed guidance reflects that an administrative error might be made by the centre or made by the awarding organisation. The former can be corrected at the review stage and the latter at the appeal stage.

In many cases, a learner will seek a centre review on procedural grounds as well as on the basis of administrative error. The proposed guidance suggests that in the rare cases where a learner requests a review on the basis of administrative error only, but then goes on to seek an appeal on the basis of a failure to follow the centre procedure properly or consistently, the centre should promptly review the procedural

grounds prior to submitting the appeal on the learner's behalf. This is because if the centre agrees that it failed to follow its procedure properly or consistently, it will be more efficient for it to resolve that failure through the review process, and if appropriate submit a new proposed TAG to the awarding organisation.

Academic judgement

This section of the proposed guidance sets out further information about the exercise of academic judgement in the context of appeals. Under Condition GQAA4.10(a), an awarding organisation must have regard to the [guidance published under Condition H6.3\(b\)\(i\)](#) when considering whether it is appropriate to correct a result following a review or appeal. The proposed guidance is intended to show how the guidance on academic judgement published under Condition H6.3(b)(i) can be applied in the context of this year.

In particular, the guidance specifies that because a TAG is holistic in nature, the decision-maker should approach the appeal in the same holistic way. The question in the appeal is whether the original decision was one which could reasonably have been made, and not whether other decisions – which the learner might have preferred – could also reasonably have been made.

In some cases, the learner will advance an alternative proposition, either as to the evidence which could have been used to determine a TAG, the TAG which the evidence might have supported, or both. Although the decision-maker will have regard to any alternative proposition, the guidance exemplifies that the question remains whether the original decision was unreasonable and not whether the alternative proposition was, or might have been, as or more appropriate.

The guidance also sets out that the centre's written procedure will be relevant to appeals concerning the selection of evidence. Our document, Information for Heads of Centre¹ to which all centres must have regard, specifies that as far as possible sources of evidence should be consistent across a class or cohort of students, although there will be good reason for divergence in some cases. The guidance reflects that where the centre procedure sets this starting point, the question in an appeal in relation to the selection of evidence will be whether a decision to depart from, or not to depart from, the written procedure for the particular learner was an unreasonable exercise of academic judgement.

¹ [Information for heads of centre, heads of department and teachers on the submission of teacher assessed grades: summer 2021](#)

Correcting Results

This section of the draft guidance describes the circumstances in which an incorrect result might be identified through the review or appeal process. A result may be incorrect where it is too low or too high, and an incorrect result could affect the learner who submitted the application for review or appeal or, less commonly, another learner whose result is found to be incorrect as a consequence of someone else's review or appeal.

Awarding organisations are responsible for issuing results and have the final decision whether to correct a result, and what the revised result should be, whenever an incorrect result is identified. As discussed above, an awarding organisation must have regard to the guidance published under Condition H6.3(b)(i) when considering whether it is appropriate to correct a result following a review or appeal. The starting position under that existing guidance is that an incorrect result should be corrected.

The proposed guidance which is the subject of this consultation also makes clear that it is possible for an administrative or procedural error to be made which does not affect a TAG. Not every such error will lead to a change of grade.

Under Condition GQAA4.11, awarding organisations must provide guidance for centres in respect of reviews and appeals. We propose that the guidance provided by awarding organisations should include advice to help centres manage reviews through which it is identified that a result may be too high, as well as reviews which identify a procedural or administrative error which does not affect the TAG.

Proposed Guidance

The guidance we propose to set is reproduced in this section. We have numbered the paragraphs to allow respondents to refer to specific sections in their responses.

The Learner's right to a review and appeal

1. The GQAA Framework requires that, where requested by a Learner (including a Private Candidate), a Centre must conduct a procedural and/or administrative review in relation to any Teacher Assessed Grade (TAG) for a GQ Qualification that it determined for that Learner. Where the Learner remains concerned that the TAG is incorrect after that review, the GQAA Framework also requires that the Centre must submit an appeal on the Learner's behalf to the awarding organisation, where requested. An appeal must not be submitted on behalf of a Learner without that Learner's consent.
2. Awarding organisations must take all reasonable steps to ensure Centres have in place the necessary arrangements for Centre reviews and appeals. This means that, as well as providing advice and guidance to Centres,

awarding organisations should react promptly should information come to light which indicates any Centre does not have the necessary arrangements in place. This includes, but is not limited to, responding promptly to complaints from Learners that a Centre has refused to conduct a review or submit an appeal.

3. We will expect an awarding organisation to do what it can to try to ensure that a Learner is not disadvantaged where they miss any deadline for submitting an appeal to the awarding organisation because a Centre wrongly fails to conduct a review or submit an appeal for that Learner or does not do so in a timely manner.

Question 1

Do you have any comments on paragraphs 1 – 3 of the proposed guidance – The Learner’s right to a review and appeal ?

Grounds of appeal

4. An appeal is not an investigation by the awarding organisation but an evaluation of the Learner’s result in light of the grounds of appeal.
5. It is for the Learner to present the grounds of appeal but doing so should not require any particular skill. The most effective grounds of appeal may be those which explain simply and clearly what the Learner considers went wrong and how they think this made a difference to the determination of the TAG by the Centre. An effective appeals process will lead the Learner step by step to explain, as appropriate:
 - a. what they consider the Centre failed to do, why that was a failure to follow the Centre’s procedures, and why that failure was important to the determination of the TAG
 - b. in what way they consider the awarding organisation made an administrative error, and what difference it made to the determination of the TAG
 - c. in what way they consider there was an unreasonable exercise of academic judgement:
 - i. in the selection of evidence used to determine the TAG
 - ii. in the determination of a TAG from the selected evidence
6. An explanation why a Learner considers a decision was unreasonable need not be detailed or complex. The awarding organisation needs to know:
 - a. what evidence the Learner considers should have been included, or excluded, and why they think it was unreasonable to exclude or include it; or

- b. why the Learner considers the TAG derived from the evidence which was used was unreasonable because, for example, it did not reflect the standard shown by that evidence.
7. It will not usually assist a Learner's appeal to explain whether they consider a procedural error, or an unreasonable exercise of academic judgement, to be deliberate or accidental, or to allege any particular motive. It is not necessary for an awarding organisation to consider such questions to decide the appeal. Rather, the question is whether or not the Centre followed its procedure properly and consistently, or whether or not the determination of the TAG represents an unreasonable exercise of academic judgement.
8. Whether a Learner raised any objection to the inclusion or exclusion of particular evidence before the determination of the TAG is a factor which an awarding organisation may take into account, but it should not be determinative. Similarly, a failure by a Centre, prior to the determination of the TAG, to disclose to the Learner what evidence they would rely on might or might not be a relevant factor.

Question 2

Do you have any comments on paragraphs 4 – 8 of the proposed guidance – Grounds of Appeal ?

Procedural and administrative errors

9. A procedural error might be identified by the Centre following a Learner's request for a Centre review or by the awarding organisation where the Learner's grounds of an appeal raise procedural issues. In practice, Centres will usually be best placed to identify whether they have failed to follow their procedures properly and consistently. This means that the majority of such errors are likely to be detected at the Centre review stage.
10. A Centre may identify as part of a Centre review that it made an administrative error in connection with a TAG. Whether an administrative error occurred – for example transposing TAGs for Learners with similar names – is a matter of fact, which can be determined by the Centre on the information available to it.
11. In rare cases, where a Learner who requested a Centre review on the basis only of administrative error then intends to appeal to the awarding organisation on procedural grounds, it may assist the Learner for the Centre to review the procedural grounds identified by the Learner with a view swiftly to identifying whether it agrees that it failed to follow its procedure properly or consistently. This would involve the Centre remaking its review decision and communicating any new proposed TAG to the awarding organisation accordingly under Condition GQAA4.4.
12. Where a Learner's appeal includes procedural grounds, the awarding organisation must evaluate whether or not the Centre deviated from its own

procedures in the way(s) identified by the Learner in the grounds of appeal. The determination of such an appeal does not require a comprehensive or step-by-step evaluation of the merits of the procedure set by the Centre. The appropriateness of the Centre's procedure will have been checked by the awarding organisation as part of its external quality assurance. The question on appeal is whether the Centre followed that procedure properly and consistently in arriving at the Learner's TAG.

13. A Learner may appeal on the basis that the awarding organisation introduced an administrative error, for example when issuing a revised result following the Centre review or by transposing TAGs for Learners with similar names when issuing results. Where such an error occurs, Centres will be well placed to assist awarding organisations to consider such appeals by supporting the Learner to identify and explain the error in their grounds of appeal.

Question 3

Do you have any comments on paragraphs 9 – 13 of the proposed guidance – Procedural and administrative errors ?

Academic judgement

14. Awarding organisations must have in place an appeals process which includes arrangements for an appeal to the awarding organisation on the basis that a result reflects an unreasonable exercise of academic judgement by the Centre.
15. The appeal must be upheld if the person determining the appeal considers the TAG determined by the Centre represents an unreasonable exercise of academic judgement. This might occur in two ways:
 - a. the Centre's judgement as to the evidence which should be used to determine a TAG was unreasonable, or
 - b. the Centre's judgement as to the TAG indicated by the evidence it selected was unreasonable
16. We set out below our guidance on unreasonable academic judgement in respect of results derived from TAGs.
17. Where academic judgement must be exercised, there will often be a range of different decisions which could reasonably be made in the circumstances. It is only where the original decision represents an unreasonable application of academic judgement that a result will be incorrect. For example, a decision to award a grade B will not be unreasonable where the decision maker for the appeal considers the evidence would support either a grade A or a grade B. Both would be reasonable and therefore neither would be unreasonable.
18. The starting point for considering whether a TAG represents an unreasonable exercise of academic judgement is always the TAG itself, and not any

alternative TAG which the Learner considers could or should have been determined.

19. A TAG represents an academic judgement of the Learner's performance and is holistic in nature. In considering an argument that academic judgement was unreasonable, it will be appropriate for the decision-maker to take a similarly holistic approach. The question is whether the original academic decision is one which could reasonably have been made, not whether different decisions might also have been justified.
20. An exercise of academic judgment will not be unreasonable simply because a Learner considers that different evidence should have been selected, or that the evidence which was selected could have supported a higher result. There will often be a range of different decisions which could reasonably be made in relation to the inclusion or exclusion of evidence, or the weighting of that evidence, in the determination of a TAG. Although a person carrying out an appeal will consider the Learner's proposition, the question is not whether that alternative proposition would be a more appropriate exercise of academic judgement – or whether the decision-maker would have determined a different TAG – but whether the original decision was unreasonable on its own terms.
21. Where the appeal concerns the selection of evidence, the academic decision should be considered in the context of the Centre procedure. In particular, where the Centre procedure sets a starting point that the same evidence will be used for all Learners in a cohort the relevant question will be whether an academic decision to depart from, or not to depart from, the starting point in respect of the particular Learner was unreasonable. That question should be considered in the context of our *Information for heads of centre, heads of department and teachers on the submission of teacher assessed grades: summer 2021* which states that as far as possible, the sources of evidence used by a Centre to determine TAGs for a particular qualification should be consistent across a class or cohort of Learners.

Question 4

Do you have any comments on paragraphs 14 – 21 of the proposed guidance – Academic Judgement?

Correcting Results

22. Condition GQAA4.10 requires that an awarding organisation must have regard to our Guidance on Correcting Incorrect Results, published under General Condition H6.3(b)(i), whenever it identifies an incorrect result through the review and appeals process. In practice, this might arise:
 - a. Following a Centre review, where having considered the outcome of that review the awarding organisation must decide whether to issue a revised result for the Learner who requested the review

- b. Following an appeal, where the awarding organisation finds that the result for the Learner who requested the appeal was incorrect
 - c. Following a Centre review or an appeal, where the awarding organisation discovers that a result issued to a different Learner was incorrect
23. Not all procedural and administrative errors will affect the Learner's TAG. In some cases it will be clear that had the error not occurred, a different TAG would have been determined, but in other cases it will be clear to the person conducting the review or appeal that the issue had no effect on the TAG.
24. Where an awarding organisation determines that a procedural or administrative error has occurred, but that error did not affect the TAG, it should make that fact plain when it reports the outcome of the appeal.
25. Where an awarding organisation decides, following an appeal in which it finds that the result for the Learner who requested the appeal should be changed, to seek the views of the Centre as to the appropriate revised result, it must have regard to the Guidance on Correcting Incorrect Results when it decides whether the revised result should be in line with the Centre's views.
26. Whenever an incorrect result is identified through the review and appeals process established under Condition GQAA4, that result may be increased, lowered or may stay the same. Our Guidance on Correcting Incorrect Results explains the factors an awarding organisation should take into account in deciding whether to correct the result.
27. The Guidance on Correcting Incorrect Results indicates that the default position is that an awarding organisation should correct an incorrect result unless it would not be reasonable to do so in light of any negative impact that correction might have. The Guidance then provides a series of factors to support the awarding organisation's analysis in that regard. Where the outcome of an appeal indicates that a result for the Learner who requested the appeal was too low, it is our expectation that the factors identified in the Guidance on Correcting Incorrect Results will usually indicate that result should be corrected.
28. Awarding organisations must provide guidance for Centres in respect of the Centre review. That guidance should include assistance for Centres in relation to reviews which indicate that a result is too high. In particular, awarding organisations should assist Centres to identify those aspects of the Guidance on Correcting Incorrect Results which will help the Centre to decide whether to propose a replacement result should it identify through a review:
- a. that the result subject to that review (awarded to the Learner who submitted the review) may be too high, and
 - b. that another result may be too high
29. Awarding organisations should include in the guidance they provide for Centres advice on the management of procedural and administrative reviews where an error is identified which does not affect the TAG.

Question 5

Do you have any comments on paragraphs 22 – 29 of the proposed guidance – Correcting Results ?

Equality impact assessment

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

We carefully considered whether any of our proposals might impact (positively or negatively) on students who share particular protected characteristics² as part of the policy consultation, and again when we made our policy decisions.

We have considered the potential impact on persons with protected characteristics of our proposed guidance in this consultation, which is intended to help awarding organisations to comply with the GQAA Conditions. We have not identified any positive or negative impacts of this guidance which were not already considered and taken into account when we made our policy decisions.

Question 6

Do you consider there are any equalities impacts arising from our draft guidance which we have not previously identified?

Regulatory impact assessment

We carefully considered the impact of our proposals on awarding organisations and on centres as part of our policy consultation and again when we explained our policy decisions.

Publishing additional guidance could increase the overall impact of our regulatory requirements in terms of the amount of information to which awarding organisations must have regard.

² For the purposes of the public sector equality duty, the 'protected characteristics' are: disability, race, age, religion or belief, pregnancy or maternity, sex, sexual orientation, and gender reassignment.

Conversely, providing guidance should help awarding organisations to understand better how to comply with our requirements. This is particularly so in relation to the novel and exceptional regulatory arrangements we have put in place for summer 2021.

On balance, we consider the beneficial effect of the proposed guidance, helping awarding organisations to comply with the GQAA framework, is likely to outweigh the costs associated with having regard to that guidance.

Question 7

Do you consider there are any regulatory impacts arising from our draft guidance which we have not previously identified?

Annex A: Your data

Privacy Notice – February 2021

The identity of the data controller and contact details of our Data Protection Officer

This Privacy Notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual). The relevant data protection regime that applies to our processing is the UK GDPR³ and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this Privacy Notice carefully as it contains important information about our processing of consultation responses and your rights.

If you have any questions about this Privacy Notice, how we handle your personal data, or want to exercise any of your rights, please contact:

Data Protection Officer at dp.requests@ofqual.gov.uk

Our legal basis for processing your personal data

Where you provide personal data for this consultation, we are relying upon the public task basis as set out in Article 6 (1) (e) of UK GDPR to process personal data which allows processing of personal data when this is necessary for the performance of our public tasks. We will consult where there is a statutory duty to consult or where there is a legitimate expectation that a process of consultation will take place.

Where you provide special category data, we process sensitive personal data such as ethnicity and disability, we rely on Article 9(2) (g) of UK GDPR as processing is necessary for reasons of substantial public interest.

Why we are collecting your personal data

As part of this consultation process you are not required to provide your name or any personal information that will identify you. However, we are aware that some respondents would like to provide contact information. If you or your organisation

³ Please note that as of 1st January 2021, data protection laws in the UK have changed. The General Data Protection Regulation (EU) 2016/679(GDPR) no longer applies to the UK. However, the UK has incorporated GDPR into domestic law subject to minor technical changes. The Data Protection, Privacy and Electronic Communications (Amendment etc.) EU exit Regulations (DPPEC) came into force in the UK on 1st January 2021. This consolidates and amends the GDPR and UK Data Protection Act 2018 to create the new UK GDPR.

are happy to provide personal data, with regard to this consultation, please complete the details below. We would like to hear as many views as possible and ensure that we are reaching as many people as possible. In order for us to monitor this, understand views of different groups and take steps to reach specific groups, we are asking for sensitive data such as ethnicity and disability to understand the reach of this consultation and views of specific groups. You do not have to provide this information and it is entirely optional.

If there is any part of your response that you wish to remain confidential, you will have the opportunity to indicate this in your response. Where you have requested that your response or any part remains confidential, we will not include your details in any published list of respondents, however, we may quote from the response anonymously in order to illustrate the kind of feedback we have received.

Please note that information in response to this consultation may be subject to release to the public or other parties in accordance with access to information law, primarily the Freedom of Information Act 2000 (FOIA). We have obligations to disclose information to particular recipients or including member of the public in certain circumstances. Your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance requests for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response and assess this in accordance with applicable data protection rules.

Members of the public are entitled to ask for information we hold under the Freedom of Information Act 2000. On such occasions, we will usually anonymise responses, or ask for consent from those who have responded, but please be aware that we cannot guarantee confidentiality.

If you choose 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make your personal name and private contact details publicly available.

How we will use your response

We will use your response to help us shape our policies and regulatory activity. If you provide your personal details we may contact you in relation to your response. We will analyse all responses and produce reports of consultation responses. In the course of analysis, we will where possible avoid using your name and contact details. We will only process the body of your response but we are aware that in some cases, this may contain information that could identify you.

Sharing your response

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships & Technical Education (IFATE) where the consultation is part of work involving those organisations. We may need to share responses with them to ensure that our approach aligns with the wider process. Where possible, if we share a response, we will not include any personal data (if you have provided any). Where we have received a response to the consultation from an organisation, we will provide the DfE and IFATE with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Where we share data, we ensure that adequate safeguards are in place to ensure that your rights and freedoms are not affected.

We use Citizen Space, which is part of Delib Limited, to collect consultation responses and they act as our data processor. You can view [Citizen Space's privacy notice on their website](#).

Your response will also be shared internally within Ofqual in order to analyse the responses and shape our policies and regulatory activity. We use third party software to produce analysis reports, which may require hosting of data outside the UK, specifically the US. Please note that limited personal information is shared. All personal contact information is removed during this process. Where we transfer any personal data outside the UK, we make sure that appropriate safeguards are in place to ensure that the personal data is protected and kept secure.

Following the end of the consultation, we will publish an analysis of responses on our website, www.gov.uk/ofqual. We will not include personal details in the responses that we publish.

We may also publish an annex to the analysis listing all organisations that responded, but will not include personal names or other contact details.

How long will we keep your personal data?

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

Your data

Your personal data:

- will not be sent outside of the UK unless there are appropriate safeguards in place to protect your personal data

- will not be used for any automated decision making
- will be kept secure

We implement appropriate technical and organisational measures in order to protect your personal data against accidental or unlawful destruction, accidental loss or alteration, unauthorised disclosure or access and any other unlawful forms of processing.

Your rights, e.g. access, rectification, erasure

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

- access personal data relating to you
- object to the processing of your personal data
- have all or some of your data deleted or corrected
- prevent your personal data being processed in some circumstances
- ask us to stop using your data, but keep it on record

If you would like to exercise your rights, please contact us using the details set out above. You can also find further details about Ofqual's privacy information [here](#).

We will respond to any rights that you exercise within a month of receiving your request, unless the request is particularly complex, in which case we will respond within 3 months.

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

You also have the right to lodge a complaint with the Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at ico.org.uk, or telephone 0303 123 1113. ICO, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Annex B – Ofqual’s role, objectives and duties

The Apprenticeship, Skills, Children and Learning Act 2009

Ofqual has five statutory objectives, set out in the Apprenticeship, Skills, Children and Learning Act 2009;

- 1) **The qualification standards objective**, which is to secure that the qualifications we regulate:
 - a) give a reliable indication of knowledge, skills and understanding; and b) indicate:
 - i) a consistent level of attainment (including over time) between comparable regulated qualifications; and
 - ii) a consistent level of attainment (but not over time) between qualifications we regulate and comparable qualifications (including those awarded outside of the UK) that we do not regulate
- 2) **The assessment standards objective**, which is to promote the development and implementation of regulated assessment arrangements which:
 - a) give a reliable indication of achievement, and
 - b) indicate a consistent level of attainment (including over time) between comparable assessments
- 3) **The public confidence objective**, which is to promote public confidence in regulated qualifications and regulated assessment arrangements
- 4) **The awareness objective**, which is to promote awareness and understanding of:
 - a) the range of regulated qualifications available,
 - b) the benefits of regulated qualifications to Students, employers and institutions within the higher education sector, and
 - c) the benefits of recognition to bodies awarding or authenticating qualifications
- 5) **The efficiency objective**, which is to secure that regulated qualifications are provided efficiently, and that any relevant sums payable to a body awarding or authenticating a qualification represent value for money.

We must therefore regulate so that qualifications properly differentiate between Students who have demonstrated that they have the knowledge, skills and understanding required to attain the qualification and those who have not.

We also have a duty under the Apprenticeship, Skills, Children and Learning Act 2009 to have regard to the reasonable requirements of relevant Students, including those with special educational needs and disabilities, of employers and of the higher education sector, and to aspects of government policy when so directed by the Secretary of State.

The Equality Act 2010

As a public body, we are subject to the public sector equality duty. This duty requires us to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The awarding organisations that design, deliver and award qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications, except where we have specified that such adjustments should not be made.

When we decide whether such adjustments should not be made, we must have regard to:

- a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities
- b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred
- c) the need to maintain public confidence in the qualification

We are subject to a number of duties and we must aim to achieve a number of objectives. These different duties and objectives can, sometimes conflict with each other. For example, if we regulate to secure that a qualification gives a reliable indication of a Student's knowledge, skills and understanding, a Student who has not been able to demonstrate the required knowledge, skills and/or understanding will not be awarded the qualification.

A person may find it more difficult, or impossible, to demonstrate the required knowledge, skills and/or understanding because they have a protected characteristic. This could put them at a disadvantage relative to others who have been awarded the qualification.

It is not always possible for us to regulate so that qualifications give a reliable indication of knowledge, skills and understanding and advance equality between people who share a protected characteristic and those who do not. We must review all the available evidence and actively consider all the available options before coming to a final, justifiable decision.

Qualifications cannot mitigate inequalities or unfairness in the education system or in society more widely that might affect, for example, Students' preparedness to take the qualification and the assessments within it. While a wide range of factors can have an impact on a Student's ability to achieve a particular assessment, our influence is limited to the qualification design and assessment.

We require awarding bodies to design qualifications that give a reliable indication of the knowledge, skills and understanding of the Students that take them. We also require awarding organisations to avoid, where possible, features of a qualification

that could, without justification, make a qualification more difficult for a Student to achieve because they have a particular protected characteristic. We require awarding organisations to monitor whether any features of their qualifications have this effect.

In setting our proposed requirements, we want to understand the possible impacts of the proposals on Students who share a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage and civil partnerships
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

With respect to the public sector equality duty under section 149 of the Equality Act, we are not required to have due regard to impacts on those who are married or in a civil partnership.



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