

CONSULTATION DECISIONS

# The General Qualifications Alternative Awarding Framework: Guidance

Statutory guidance in relation to appeals under the  
GQAA regulatory framework

**ofqual**

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# Introduction

We consulted on exceptional arrangements for awarding qualifications this summer from 15 to 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 \(GQAA\) Framework](#) 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

From 21 April to 5 May 2021 we consulted on proposals for statutory guidance to help awarding organisations to comply with Condition GQAA4, which specifies the arrangements for reviews and appeals for GQ Qualifications this summer.

We explained that the proposed guidance will also be of assistance to awarding organisations which make available any vocational and technical qualifications (VTQs) 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, we explained that 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 that guidance, relevant Category B vocational and technical qualifications should have a review and appeals process similar to that available for GQ Qualifications.

We received 222 completed responses to the technical consultation.

## Summary of decisions

We have published an [analysis of the responses we received to the technical consultation](#) and now set out the decisions we have made about the proposed statutory guidance.

In summary, we have decided to set and publish the proposed statutory guidance largely as set out in the consultation. In response to feedback during the consultation, we have made small amendments to make the guidance clearer in some places.

## Details

In this decisions document and the accompanying analysis we have not sought to discuss every point that has been made by respondents to our consultation. However, in arriving at our final decisions we have considered all the points made by respondents which pertained to the consultation.

We explained in the technical consultation that responses which addressed the underlying policy decisions would be read but were out of scope for this consultation.

We asked 7 consultation questions. Two questions concerned the impact of our proposals and 5 concerned the proposed guidance itself. Each of these 5 questions related to a sub-heading within the proposed guidance and we have used those subheadings in this decisions document.

## The Learner's right to a review and appeal

Paragraphs 1 to 3 of the proposed guidance emphasise that unlike in other years it is the learner, and not their school or college, who decides whether or not to apply for a review or appeal.

We received a number of representations in response to this section which raised a range of issues. Those issues are explained in our analysis of the responses. Many of the concerns raised are beyond the scope of the proposed guidance and instead concern matters which we considered when we set the GQAA Conditions (such as the need for a centre to submit the learner's appeal to the awarding organisation), or which may more usefully be addressed by awarding organisations in their guidance for centres (for example the suggestion that centres should retain records that learners have consented to an appeal). We have made awarding organisations aware of these suggestions.

Several of the responses concerned the impact of the review and appeal arrangements on schools and colleges, in particular the potential need for teachers

to be available in mid-August in connection with reviews and appeals. Those considerations are, however, outside the scope of this consultation. It is Government policy that results days this year will be in early August and that A level, AS and GCSE results should be released in the same week.

It is a matter for individual schools and colleges to consider which staff are engaged with the review and appeals process and when they are engaged over the summer. We will not expect an awarding organisation to uphold a complaint against a centre which completes reviews in time to submit a learner's appeal before the relevant deadline. Similarly, we will not expect an Awarding Organisation to uphold a complaint against a centre which, having submitted the learner's appeal, is unable to respond promptly to requests by the awarding organisation for information, if that information is held by specialist staff who the centre cannot reach at the time.

We have decided to set paragraphs 1 to 3 of the guidance as proposed.

## Grounds of appeal

Paragraphs 4 to 8 of the proposed guidance concern the need for a learner to explain why they consider their result was incorrect and should be changed in their application for an appeal.

A number of the responses to this section reflected a concern that the reviews and appeals process might be hard for learners to navigate. Respondents were concerned that learners might find it difficult to identify how a centre deviated from its process or to explain why an academic decision was unreasonable. However, none of the responses identified any way in which these potential difficulties could be overcome or alleviated through changes to the proposed statutory guidance, which is intended to help awarding organisations comply with Condition GQAA4 and not primarily to provide practical advice for learners.

Following the launch of the consultation on the proposed guidance, we have published a [student guide which explains the reviews and appeals process](#) in a way which is more appropriate for, and accessible to, learners. However, awarding organisations will design and deliver the appeals process, as well as providing guidance for centres on the centre review. It is awarding organisations which are best placed to help learners navigate those processes through the information they make available. We remain of the view that a learner's explanation of the reasons for their appeal – why they consider their result was incorrect – need not be complex.

Some concerns were expressed about whether the proposed guidance was sufficiently clear about how limited the opportunity would be for a learner to appeal on the grounds that the choice of evidence relied on to determine their teacher-assessed grade (TAG) reflected an unreasonable academic judgement. In particular, some respondents were concerned that appeals may be submitted by learners who simply disagree with reasonable decisions made by their centres. We recognise this possibility, and where reasonable decisions have been made such appeals should not succeed. However, we cannot identify any way in which the guidance, the purpose of which is to assist awarding organisations to comply with the conditions, might explain more clearly that it will be necessary for a learner to explain why the

choice of evidence was unreasonable and not simply that they would have preferred different evidence to be used.

We note the suggestion that a template or proforma for appeals might be useful, but do not consider it would be appropriate for Ofqual to develop such a document. We have drawn this suggestion to the attention of the awarding organisations which make available GQ Qualifications.

We have made a small change to paragraph 6 of the proposed guidance, for clarity but have otherwise decided to set paragraphs 4 to 8 of the guidance as proposed.

## Procedural and administrative errors

Paragraphs 9 to 13 of the proposed guidance concern the arrangements which must be in place for reviews and appeals in respect of procedural and administrative errors.

The main focus of the concerns raised in relation to this section was the underlying Condition, GQAA4, which gives the learner the right to seek a review and / or appeal on procedural or administrative grounds. Setting guidance does not affect the meaning of the condition.

We have carefully considered the suggestions made as to how we might rephrase the guidance, but we consider the original drafting to be more accurate than the available alternatives.

We have made a small change to paragraph 12 of the proposed guidance, for clarity, but have otherwise decided to set paragraphs 9 to 13 of the guidance as proposed.

## Academic judgement

Paragraphs 14 to 21 of the proposed guidance set out further information about the exercise of academic judgement in the context of appeals.

The observations made about this section of the guidance ranged from those which suggested the proposed guidance perhaps understated the difficulty of meeting the test of unreasonable academic judgement to those which suggested that test was itself unduly restrictive.

The latter comments are out of scope for this consultation which is concerned with the wording of the guidance and not with the underlying condition (GQAA4), which set the threshold for appeals. Similarly, we explained in our decisions following the technical consultation on the GQAA Conditions that an unreasonable decision might be made in respect of the selection of evidence, or the determination of a TAG from that evidence, or both. This possibility was not introduced through the proposed guidance as some respondents appeared to consider.

We do not think it would be appropriate to include the further commentary on the use of 'unreasonable' which was suggested in some responses. The primary question will always be whether the decision subject to the appeal was or was not an unreasonable exercise of academic judgement in the view of the awarding organisation determining the appeal. Not all of the scenarios which might arise in an appeal can be, or should be, addressed in statutory guidance and we consider there is sufficient information in the proposed guidance for the circumstances of this summer. Ultimately, each case will have its own facts and awarding organisations will make decisions on a case-by-case basis.

We have made a small change to paragraph 21 of the proposed guidance, for completeness, but have otherwise decided to set paragraphs 14 to 21 of the guidance as proposed.

## Correcting results

Paragraphs 22 to 29 of the proposed guidance concern the correction of results which are identified as incorrect through the reviews and appeals process.

We explained in our technical consultation and decisions document when we set the GQAA Conditions that, as in any other year, results could go down as well as up if they were found to be incorrect through the centre review or awarding organisation appeal process. The difference this year is that awarding organisations will have discretion whether to correct results, whereas usually incorrect results identified [through an appeals process must be corrected](#). It follows that the several concerns raised about the possibility that results might be lowered following a review or appeal are out of scope for this consultation on the proposed statutory guidance.

Condition GQAA4.10 requires an awarding organisation to have regard to our pre-existing [Guidance on Correcting Incorrect Results](#) when deciding whether or not to correct an incorrect result. We do not consider it is necessary to explain any further principles in relation to the decision whether or not to correct an incorrect result, as was suggested in some responses. The starting point set in our Guidance on Correcting Incorrect Results is that an incorrect result should be corrected. Against that background we do not think it would be proportionate to require an awarding organisation to produce any further rationale, beyond the reasons contemplated by the conditions, where it decides to lower a result.

We recognise, as one awarding organisation noted, that the proposed guidance does not explain whether there are circumstances in which an awarding organisation would be required proactively to look for incorrect results beyond those it has identified through the reviews and appeals process. This is because the proposed guidance reflects the obligations arising from Condition GQAA4, which concerns only those instances in which incorrect results are identified by the awarding organisation through the reviews and appeals process set by that condition. The General Conditions of Recognition allow incorrect results to be corrected which come to light in other circumstances. This includes obligations in respect of the management of incidents which could have an adverse effect, which could potentially include the discovery of widespread incorrect results.

We note the concerns raised by one awarding organisation that there might be circumstances in which there is a tension between the default position indicated by the Guidance on Correcting Incorrect Results (that the result should be corrected) and a lack of evidence as to what the 'right' result should be. We do not think it is necessary to modify the proposed guidance to reflect that potential scenario, to the exclusion of other scenarios which might arise, and consider that to do so could have unintended consequences. Although the proposed guidance reflects a starting point, the decision whether it is appropriate to correct the incorrect result is for the awarding organisation to take on a case-by-case basis in light of all of the circumstances.

We have decided to make minor changes to improve the clarity of the guidance at paragraphs 25 and 26. Otherwise, we have decided to set the guidance as proposed.

## Equality impact assessment

Although we received a number of specific comments in relation to this section of the consultation, few of those comments concerned the impact of the proposed guidance on persons who share particular protected characteristics.

Some respondents expressed their concern that the exceptional arrangements for grading this summer might be less effective in relation to learners with special educational needs and disabilities (SEND), which is a possibility we evaluated when we made our initial policy decisions. There are routes through the appeal process should a learner consider that evidence relevant to their SEND was not properly taken into account when TAGs were determined. This includes if the centre did not follow its procedure properly or consistently in relation to reasonable adjustments, or potentially, if the selection of evidence was unreasonable in light of a learner's SEND. We do not consider, as was suggested, that we need to develop an additional route of appeal.

Some responses referred to the possibility that bias or discrimination might affect the determination of a TAG and suggested the guidance should address that possibility. We do not think this is necessary. The appeals process exists to remedy TAGs which are affected by an error, or an unreasonable exercise of academic judgement, whatever the cause. If there was a procedural failing, or an unreasonable exercise of academic judgement, then it is not necessary (in determining the appeal) for the awarding organisation to establish, or even to consider, why that might have occurred. If it occurred and it affected the TAG then a correction can be made regardless of the underlying reason.

Some responses reflected the possibility that socioeconomic factors might affect the determination of TAGs and might affect whether or not learners decide to submit an appeal. We have published information for teachers and centres on making objective judgements in connection with TAGs and, as above, if there is evidence something went wrong in the determination of a TAG, or the TAG represents an unreasonable exercise of academic judgement, then the learner's result can be



corrected through the appeals process regardless of (and without investigation into) any underlying reasons for the error.

The information which will be made available by awarding organisations, and to a lesser extent our student guide, will, we anticipate, address the possibility identified by some respondents that the proposed guidance – the primary audience for which is awarding organisations – and / or the appeals process itself, might not be accessible to learners.

On balance, we remain of the view that the matters raised in response to this section of the consultation were sufficiently considered when we made our policy decisions, any impact there is does not arise from the proposed guidance.

## Regulatory impact assessment

We explained in the consultation that we considered 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.

Responses to this question reflected the relative complexity of the arrangements for awarding qualifications this summer, as well as the time within which information about those arrangements, including appeals, has become available. Those matters are beyond the scope of this consultation.

We remain of the view that the beneficial effect of publishing guidance outweighs the costs associated with having regard to that guidance.



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