

Regulator Assessment: Qualifying Regulatory Provisions

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| Title of proposal | New and amended specifications in relation to the reasonable adjustment of general qualifications (under the Equality Act 2010) |
| Lead Regulator | Ofqual |
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| Date of assessment | 30 March 2017 |
| Commencement date | 1 January 2017 |
| Origin | Domestic |
| Does this include implementation of a Cutting Red Tape review? | No |
| Which areas of the UK will be affected? | England |

Brief outline of new or amended regulatory activity:

Awarding organisations have a duty under the Equality Act 2010 (the Act) to make reasonable adjustments for disabled students taking their qualifications. Section 96(7) of the Act gives Ofqual the power to prohibit or limit the extent to which awarding organisations must make or allow reasonable adjustments for specified general qualifications. We have been given this power so we can make sure that reasonable adjustments do not:

- prevent a qualification giving a reliable indication of a student's knowledge, skills and understanding
- damage public confidence in a qualification

The Secretary of State for Education prescribes the list of qualifications to which Ofqual's specifications apply.

In December 2016 we published new and amended specifications which came into effect on 1 January 2017. We included in this publication guidance and examples to help awarding organisations in the application of these specifications.

Which type of business will be affected? How many are estimated to be affected?

22 awarding organisations who offer the qualifications to which the specifications apply are affected.

Summary of costs and benefits

| Price base year | Implementation date | Duration of policy (years) | Net Present Value | Business Net Present Value | Net cost to business (EANDCB) | BIT score |
|-----------------|---------------------|----------------------------|-------------------|----------------------------|-------------------------------|-----------|
| 2016 | 1/1/2017 | 10 | -0.01 | -0.01 | 0 | 0 |

Please set out the impact to business clearly with a breakdown of costs and benefits

In 2011 we introduced eight specifications on reasonable adjustments. We committed to keeping these specifications under review. In May 2016 we proposed amendments to the wording of our eight existing specifications to make them clearer and to ensure they remained up to date. We also proposed to introduce one new specification, to restrict the provision of resources and materials to students as a reasonable adjustment (such as calculators or copies of texts) where these are not routinely made available to students in an assessment. A table setting out the former specifications against the new and revised specifications is at **Annex A**.

At the same time we proposed changes to the list of qualifications to which our specifications should apply, that we intended to recommend to the Department for Education (DfE).

We consulted on these proposals between 25 May and 31 July 2016.

Having considered the responses in relation to the proposed list of qualifications to which our specifications should apply, we submitted our recommendations to the DfE. The impact of DfE's implementation of these changes has been assessed separately and considered by the RPC under reference RPC-3569(1)-DfE.

We considered all consultation responses before arriving at our decisions on the one new and eight amended specifications. Many respondents suggested refinements to the wording of the draft specifications to improve their clarity. Where the comments related to whether the proposed specification might place a student at an unfair disadvantage, we considered this feedback carefully. We published our decisions on 1 December 2016.

Costs

Awarding organisation staff will need to read and understand the new and revised specifications and guidance in order to apply the rules correctly when making decisions on reasonable adjustment requests. The expected cost of familiarisation is set out below:

| Awarding organisation size | Number of AOs of this size | Number of staff who read the guidance | Total readership |
|-----------------------------------|-----------------------------------|--|-------------------------|
| Large | 5 | 10 | 50 |
| Medium/ small | 17 | 5 | 85 |
| TOTAL | 22 | | 135 |

Size of AO:

We have categorised organisations by numbers of certificates awarded per annum (in 2014/15):

Large: Awarded more than 1m certificates - 11.6m certificates combined

Medium: Awarded between 100k and 1m certificates– 2.3m certificates combined

Small: Awarded fewer than 100k certificates – 1.9m certificates combined

Number of staff in each AO who read the specifications:

We consider 10/5 respectively to be a reasonable estimate of staff in each organisation type dealing with decisions on reasonable adjustments.

Assumptions on time spent reading and understanding how to apply the specifications

Ofqual documents average 200 words per page. Normal reading time would be 200 words per minute, so 60 pages per hour.

Reading time plus time to absorb and consider the information is assumed to be 6 times longer than reading time only, so equivalent to 10 pages per hour.

Staff hourly cost:

We have sampled published figures on annual staff costs of 12 awarding organisations to identify a reasonable average rate of £26 per hour (includes 'on costs'). The AOs sampled include a range of small, medium and large organisations.

Calculation of expected cost

21 pages of new guidance to read

10 pages per hour

2.1 hours to read and absorb

135 staff will read it

283.5 total hours spent

£26.00 average hourly staff rate

Cost impact = 21 pages x 10 pages per hour x £26 per hour x 135 staff.

£7,371 total estimated expected impact across all awarding organisations.

We consider this is likely to be a generous estimate of cost as we are aware that the large exam boards work together on reasonable adjustments through the Joint Council for Qualifications.

We do not expect the changes to our specifications to impose any other costs or burdens on awarding organisations.

Benefits (non-monetised)

Awarding organisations: We consider the provision of these specifications saves awarding organisations time and money as they do not have to make certain decisions on reasonable adjustments. This is because the specifications prescribe the circumstances in which reasonable adjustments must not be made. The changes to the specifications which came into effect on 1 January 2017 are small and in the main provide clarification on their application. Any administrative/ time saving generated by these changes is likely to be small, and to monetise this would be disproportionate.

Schools: for the purposes of BIT we only need to consider the impact of the changes on independent schools. The provision of clearer specifications helps schools to understand which reasonable adjustment requests are prohibited, meaning they will know when not to apply to an awarding organisation for the adjustment. This could potentially lead to small administrative/ time savings. To monetise these would be disproportionate.

Impact on candidates seeking reasonable adjustments (non-monetised)

While it is possible that some adjustments which would previously have been allowed would be prohibited under the new specifications, we consider this is highly unlikely due to the way the specifications have been written. In any case, our view is that the restrictions the specifications impose are justified because they act to safeguard the integrity of the qualifications to which they apply.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score

Annex A: BIT –Specifications for reasonable adjustments of general qualifications

| | Specifications published 2011 | | Specifications (8 amended/ 1 new) effective 1 January 2017 |
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| A | An exemption must not be used as a reasonable adjustment, except where no other reasonable adjustment is available to the candidate. | A | An exemption must not be used as a reasonable adjustment except where no other reasonable adjustment would avoid the substantial disadvantage faced by a Learner in demonstrating the knowledge, skills and understanding being assessed. |
| B | An exemption must not be used as a reasonable adjustment where it would form more than 40% of the available (weighted) marks of the qualification. In a GCE, at least one A2 unit must be completed. For Principal Learning, 40% of the qualification should be taken to mean 40% of the guided learning hours. | B | An exemption must not be used as a reasonable adjustment where it would form more than 40% of the available (weighted) marks of a qualification. In addition – (i) In respect of a legacy GCE qualification, a reasonable adjustment must not be made where this would mean that a Learner does not complete at least one A2 unit. (ii) In respect of a GCSE qualification (9-1) in English language, a Learner who has been granted an exemption from the spoken language assessment must not be granted any other exemption. (iii) In respect of a GCE A level qualification in biology, chemistry or physics, a Learner who has been granted an exemption from the practical science assessment must not be granted any other exemption. (iv) In respect of a GCE A level qualification in geology, a Learner who has been granted an exemption from the practical skills assessment must not be granted any other exemption. |
| C | An exemption to part of a component must not be used as a reasonable adjustment. Exemptions must only be provided for whole components where a candidate cannot access any part of that component. | C | An exemption to part of a Component must not be used as a reasonable adjustment. Exemptions must only be provided for whole Components where a Learner can access no part of that Component. |
| D | Awarding organisations must not make reasonable adjustments for disabled candidates in relation to grade boundaries and pass marks, also known as ‘cut scores’. | D | Awarding organisations must not make reasonable adjustments in relation to grade boundaries, pass marks (also known as ‘cut scores’), or marks awarded for particular aspects of knowledge, skills and understanding save |

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| | | | where those marks are awarded as a result of an exemption from a whole Component. |
| E | Human readers must not be used as a reasonable adjustment where a candidate's reading ability is being assessed. | E | Where an assessment seeks (in whole or in part) to test a Learner's reading ability, a human reader must not be used as a reasonable adjustment to allow a Learner to access marks in relation to any aspect of that reading ability save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself. |
| F | Human scribes and voice recognition systems must not be used as a reasonable adjustment to demonstrate written skills where those written skills form part of the qualification's assessment objectives. | F | Where an assessment seeks (in whole or in part) to test a Learner's written communication skills, a human scribe, speech recognition system or other writing aid must not be used as a reasonable adjustment to allow a Learner to access marks in relation to any aspect of those written communication skills save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself. |
| G | British Sign Language must not be used as a reasonable adjustment where candidates are required to demonstrate their ability to speak or listen in English or a modern foreign language. | G | Where an assessment seeks to test a Learner's knowledge of, skills in, or understanding of a particular language, the use of an alternative language – such as British Sign Language – must not be used as a reasonable adjustment where such use would prevent the Learner demonstrating the required knowledge, skills or understanding. |
| H | Practical assistants must not be used as a reasonable adjustment to carry out physical tasks or demonstrate physical abilities where those physical tasks or abilities form part of the qualification's assessment objectives. | H | Where an assessment seeks to test a Learner's skills in relation to carrying out practical tasks, or demonstrating practical abilities, a practical assistant must not be used as a reasonable adjustment to allow a Learner to access marks, or be awarded a result, in relation to carrying out those tasks or demonstrating those abilities save where the Learner demonstrates the relevant knowledge, skills and understanding in the assessment him or herself. |
| | | I | Materials and other resources that are not normally made available to Learners during an assessment must not be provided as a reasonable |

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| | | adjustment where that provision would compromise the ability of the awarding organisation to make judgements on the Learner's knowledge, skills and understanding being assessed. (New) |
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