

# Decisions on changes to Ofqual's regulatory framework for national assessments



We consulted between 18 October and 20 December 2017 on updating our *Regulatory framework for national assessments*<sup>1</sup>. This is the framework that responsible bodies for national assessments must have regard to.

## Our proposals

We proposed to:

- bring the framework up-to-date and reflect changes to the bodies responsible for developing and delivering national assessments
- provide greater transparency and clarity about how we regulate, including by explaining in more detail our regulatory approach, our regulatory tools and our focus on the validity of national assessments
- make sure our expectations of responsible bodies focus on outcomes such as validity, rather than prescribing certain administrative approaches
- make more explicit our expectations relating to assessment purpose and to strengthen our expectations about risks that should be escalated to us by responsible bodies
- to implement our revised framework in Spring 2018

## Our decisions

There were 12 responses to our consultation. Respondents generally supported our proposed framework, although there were some specific comments about how the wording in some areas could be clarified. Some responses suggested that we had not always made our intentions clear enough, for instance a number of responses

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<sup>1</sup> <https://www.gov.uk/government/publications/regulatory-framework-for-national-assessments>

suggested that we should do things that were already included within our proposed framework. There were also some comments relating to the proposed implementation date of Spring 2018. This document does not respond individually to every point made, some related to the style rather than the substance of the framework. The document focusses though on the issues raised, and the decisions we have taken in response to them.

We have decided to implement the framework on which we consulted, subject to a small number of minor amendments to make our approach and focus clearer in some areas. These changes do not affect the overall approach proposed. We have decided to implement our revised framework in spring 2018. We explain in more detail below the decisions we have taken in response to comments made.

## **Part 1 – National assessments and responsible bodies**

The first part of our proposed framework was intended to provide a general understanding of national assessments and the roles of the different bodies involved.

Respondents commented that this section was clear and that they welcomed it. One respondent said that this helped introduce transparency into a system which some feel is opaque and remote. One respondent commented that this section would benefit from being given a higher profile.

Based on this feedback, we have decided to implement this section of the framework as consulted on, other than a minor drafting change to make it clearer that the governing boards of academy trusts are also responsible for aspects of national assessments and are therefore covered by our framework. We are not proposing to remove a reference to the term 'SATs' as this is the commonly used term for national curriculum assessments and using it should help people to better understand our framework.

## **Part 2 – Ofqual's role**

The second part of our proposed framework explained Ofqual's role in relation to national assessments. It set out the scope of what we can and can't do, our regulatory approach including our focus on validity, and the regulatory tools that we can use to help achieve our objectives. While respondents generally supported our approach, some comments suggested there may have been a lack of clarity about how we would apply this in some areas.

Respondents commented on our proposal to focus on outcomes rather than prescribing administrative approaches, with more in favour of our proposal than not. Those that disagreed felt we should be scrutinising processes put in place by responsible bodies, not just looking at outcomes. We are clear that focussing on outcomes does not mean that we will not look at processes where appropriate. Indeed, scrutinising processes that impact on validity is covered in our framework (for

example Part 2, Section C, 'Observing processes related to validity' and 'Scrutiny of aspects of validity').

Some respondents also commented that we need to ensure we can take action in relation to policy changes to prevent things going wrong, rather than analysing them when they do so. Again, we are clear that while we will be able to take action after assessments have been delivered, we will also be proactive in identifying issues that could affect validity in relation to current or future assessments and feed these risks back as appropriate so that they can be addressed by responsible bodies. We have made some minor changes to Part 2, Section C ('Observing processes related to validity' and 'Providing an expert view on proposed assessment changes') to make this point more clearly.

One respondent commented on our communications with the Secretary of State. The respondent commented that it would be helpful if these could be made public and if we could find a way to measure the impact of our advice. We do monitor the impact of advice we provide, however we must be able to provide advice confidentially to the Secretary of State in order to support the effective development of government policy. We are transparent about our views where significant changes are proposed, for example, publishing our response to recent public consultations on primary assessment. Our framework commits us to being more transparent about our national assessments regulation as a whole (see below).

We also proposed that we would set out each year our key areas of focus. While respondents welcomed this, some cautioned that we would need to make sure that this did not prevent us from addressing issues that arise, which we had not previously intended to focus on. We agree with respondents here and our proposed framework referenced our intention to be responsive to events as they arise: we would not refrain from taking action on the basis that something was not in our annual plan. We have amended the wording at the start of Part 2, Section C to make this clearer.

In Part 2, Section A (Regulatory Scope), we explain that our role is not to determine where national standards should be set, but that independent regulation can provide assurance that effective technical processes, such as those relating to the setting and maintenance of annual test standards, are in place. One respondent commented that Ofqual should put in place arrangements for standards maintenance. Standards maintenance is for the responsible body (eg the Standards and Testing Agency (STA)) and we feel that the proposed framework makes our role in standards maintenance sufficiently clear.

Some respondents also commented on the need for us to make our views known, to communicate externally and generally to be more transparent in relation to our national assessments work. We agree that these things are important and feel that our proposed framework makes clear our intention to be transparent about our work, for

example, our commitment to publishing research and an annual report (See for example Part 2, Section B 'Principles' and Part 2, Section C 'Publishing reports').

We have decided to implement this section as consulted on, although we have made some changes to the drafting to explain more clearly those issues outlined above.

### **Part 3 – Expectations of responsible bodies**

Part 3 of our proposed framework set out our expectations of responsible bodies, including in relation to the validity of assessments and the responsible body itself.

Respondents felt that this part set out clearly what our expectations are. Some respondents felt that we could also explain what actions we may take if a responsible body does not act in line with our expectations. We do not propose to amend our proposed framework to reflect this, as we set out our powers elsewhere in the framework and we would not want to limit ourselves to taking a certain action for a certain type of issue.

A minority of respondents commented on our proposal to no longer require responsible bodies to have 'accountable officers', with some feeling this should be retained. Such comments may represent a lack of clarity about the role of an accountable officer. The role of an accountable officer relates to accountability for compliance with regulation, not responsibility for that organisation's delivery of its role in assessments. The STA's guidance (in particular its Assessment and Reporting Arrangements) sets out the responsibilities of head teachers and local authorities in national assessments. We remain of the view that requiring each responsible body to have an officer accountable for compliance with our regulatory expectations would be unduly burdensome.

One respondent commented on our proposal to no longer require responsible bodies to have a specification for each assessment. Our proposed framework does still require responsible bodies to set out the type of information that would form part of any specification. We now also require that information to be published.

One respondent commented that it was not clear which government body was responsible for ensuring that procurement processes are followed appropriately. The Department for Education and its agencies, including the Standards and Testing Agency, are responsible for following public procurement rules set out in UK and European legislation and regulations. These rules are enforceable through the courts. While we are removing some prescriptions within our framework relating to how responsible bodies should run their procurement processes, Ofqual remains responsible for keeping national assessment arrangements as a whole under review. So we will consider a wide range of issues, including in relation to procurement, as they might be relevant to our focus on assessment validity and public confidence.

Based on this feedback, we have decided to implement this section of the framework as consulted on.

## **Implementation**

We proposed to implement our framework in spring 2018 and there were mixed views on this. Some felt that spring 2018 was too soon, given that assessments for 2018 will be close to delivery by that point. Others preferred for it to be introduced as proposed, in time for 2018 assessment delivery. Some respondents asked us to consider the need to communicate appropriately about the changes, to reassure stakeholders that the revised framework does not mean further reform to primary assessment.

We have decided to implement our framework in spring 2018, as proposed. The test development process typically takes three and a half years and planning for delivery begins at least a year in advance. So there is not a specific point in the year at which it would be most appropriate for us to implement our new framework. In addition, the revised framework is not imposing any fundamental changes to our approach with many of the amendments intended to provide greater transparency and clarity. New requirements that are implemented mostly relate to clarifying the circumstances in which responsible bodies should escalate issues to Ofqual. Given these factors, we do not think there is merit in delaying publication of our framework, which is an important part of clarifying and communicating our role. We have specifically discussed implementation dates with the STA, who are content with implementation of our new framework in spring 2018.

The implementation of this new framework will not result in any immediate changes to assessments, rather, it should help Ofqual to effectively fulfil our regulatory role, which in turn should contribute to greater assessment validity over time.

## **Next steps**

We have published a new version of our:

- Regulatory framework for national assessments<sup>2</sup>

This new version replaces all previous versions and takes effect from Tuesday 6 March 2018.

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<sup>2</sup> <https://www.gov.uk/government/publications/regulatory-framework-for-national-assessments>