

CONSULTATION

Awarding organisation controls for centre assessments

Consultation on Conditions, requirements and
guidance

ofqual

Contents

1. Introduction	3
<i>About this consultation</i>	4
<i>Audience</i>	4
<i>Consultation arrangements</i>	4
Duration.....	4
Respond.....	4
2. Proposals for regulating awarding organisation controls for scrutinising the standards of centre assessment judgements	6
<i>Centre Assessment Standards Scrutiny</i>	6
Our decisions	6
<i>Centre Assessment Standards Scrutiny strategies</i>	13
Our decisions	13
<i>Results and certificates</i>	15
Our decisions	15
<i>Other changes</i>	17
3. Our proposed rules and guidance	18
<i>Proposed additions and amendments to General Conditions of Recognition</i>	18
<i>Proposed additions and amendments to Statutory Guidance to General Conditions of Recognition.....</i>	19
4. Regulatory impact assessment	20
<i>Centre Assessment Standards Scrutiny</i>	20
5. Equality analysis	23
6. Implementation	24
Annex A – Your data.....	25
<i>The identity of the data controller and contact details of our Data Protection Officer</i>	25
<i>How to contact us</i>	25
<i>Our legal basis for processing your personal data</i>	25
<i>How we will use your response.....</i>	25
<i>Sharing your response</i>	25
<i>How long will we keep your personal data</i>	26
Your data.....	26
Annex B – Ofqual’s objectives and duties.....	28
<i>The Apprenticeship, Skills, Children and Learning Act 2009</i>	28
<i>The Equality Act 2010</i>	29

1. Introduction

- 1.1 As part of our work to strengthen vocational and technical qualifications we consulted, between February and May 2019, on how we regulate awarding organisations' controls where centres make assessment judgements on their behalf.
- 1.2 We consulted on proposals that would require some amendments to our General Conditions and some additional guidance. These were designed to ensure that awarding organisations retain sufficient control over the standards of their qualifications, where centres make assessment judgements on their behalf. At the same time, we sought to reflect the range of different qualifications and assessments that exist, by allowing greater flexibility in our framework, in particular for assessments where it is not practical for awarding organisations to sample check results for every cohort before they are issued.
- 1.3 As a result of feedback to that consultation, we have decided to adopt the following approach:
 - to require awarding organisations to put in place a process to scrutinise the standards of centre assessment decisions, known as a Centre Assessment Standards Scrutiny and for all centre assessments to be subject to a form of such scrutiny
 - to amend the definition of Moderation to remove reference to verification, and to make Moderation a distinct form of Centre Assessment Standards Scrutiny
 - to specify that centre assessment in certain qualifications must always be subject to Moderation
 - to set minimum requirements for the controls awarding organisations must have in place as part of their Centre Assessment Standards Scrutiny and provide guidance on when and how an awarding organisation might go beyond these minimum requirements
 - to require an awarding organisation to set out its approach to Centre Assessment Standards Scrutiny (including Moderation) in a Centre Assessment Standards Scrutiny strategy
 - to put in place guidance about what an awarding organisation should do when, through Centre Assessment Standards Scrutiny, it discovers a centre has issued incorrect results, and to allow for awarding organisations to revoke certificates in such circumstances
 - to allow awarding organisations to phase implementation of our requirements, meeting them in full no later than September 2021.

About this consultation

- 1.4 Having considered the responses to our earlier consultation we have published our decisions alongside this consultation¹. This consultation builds on those decisions.
- 1.5 We are consulting here on the draft Conditions, requirements and guidance we are proposing to put in place to implement these decisions. These will sit alongside our existing rules and guidance for all qualifications.
- In section 2 we explain our detailed proposals for regulating the controls awarding organisations have in place with centres to ensure the standards of qualifications where centres make assessment judgements on their behalf.
 - In section 3 we set out the draft Conditions, requirements and guidance we propose to put in place.
- 1.6 We would like your views on our draft rules and guidance.

Audience

- 1.7 This consultation is open to anyone who may wish to make a representation. We think it may be of particular interest to awarding organisations, as it sets out the detail of the rules with which they will have to comply. We welcome responses from any other respondents with an interest in this work.
- 1.8 Those with an interest in this work may also want to refer to our published decisions document, which sets out the decisions we have taken on our overall approach, following our previous consultation.

Consultation arrangements

Duration

- 1.9 This consultation will be open for 8 weeks starting on 19 September and ending on 14 November.
- 1.10 We expect to announce the outcomes to this consultation in early 2020. If we proceed to implement these proposals following this consultation, we will set out the date when our requirements take effect, and the date by which we would expect awarding organisations to comply with any new requirements.

Respond

- 1.11 Please respond to this consultation by using one of the following methods:
- [complete the online response](#)

¹ [Consultation decisions for 'Moderation and verification of centre assessment judgements'](#)

- email your response to consultations@ofqual.gov.uk - please include the consultation title in the subject line of the email and make clear who you are and in what capacity you are responding

1.12 You do not need to respond to every question if you do not want to do so, we welcome responses to the questions where you wish to express a view. For information on how we will use and manage your data, please see Annex A.

2. Proposals for regulating awarding organisation controls for scrutinising the standards of centre assessment judgements

Centre Assessment Standards Scrutiny

Our decisions

- To require awarding organisations to put in place a Centre Assessment Standards Scrutiny process to scrutinise the standards of assessment judgements made by centres
- To modify our definition for Moderation and to remove references to verification
- For Moderation to be a distinct form of Centre Assessment Standards Scrutiny
- To set minimum requirements that an awarding organisation's Centre Assessment Standards Scrutiny process must meet
- To require that all centre assessments are subject to a Centre Assessment Standards Scrutiny, with Moderation being a distinct form of this and to require some qualifications with centre assessment to always be subject to Moderation (e.g. GCSEs and A levels)
- Where we have not required Moderation, to require awarding organisations to determine the most effective approach to ensure the standards of centre assessment judgements
- To require awarding organisations to take a risk-based approach to deciding when and how to go beyond our minimum requirements as part of their Centre Assessment Standards Scrutiny

2.1 We are proposing to amend Condition H2 (Moderation where an assessment is marked by a Centre) to require awarding organisations to have arrangements to undertake Centre Assessment Standards Scrutiny in respect of assessments that are marked by Centres. We propose to put in place Conditions to require:

- where an assessment is marked by a Centre, awarding organisations to have in place clear and effective arrangements to undertake Centre Assessment Standards Scrutiny in respect of the assessment
- an awarding organisation to ensure its Centre Assessment Standards Scrutiny process complies with any requirements and has regard to any guidance published by Ofqual and any requirements which Ofqual has communicated to it in writing

- 2.2 To support this process, we propose to define the term Centre Assessment Standards Scrutiny. Our proposed definition is:

Centre Assessment Standards Scrutiny

The process through which an Awarding Organisation –

- (a) periodically scrutinises the marking of an assessment by a Centre to ensure that it has not deviated from required standards,
- (b) considers whether it is appropriate to correct any mark and, if appropriate, corrects that mark (including where changes are required under Condition H2.5(b)),
- (c) in line with Condition H6.2(b), considers whether it is appropriate to correct any incorrect result and, if appropriate, corrects that result, and
- (d) takes action to prevent such deviation from recurring.

Question

1. Do you have any comments on our proposed definition for Centre Assessment Standards Scrutiny?

- 2.3 We are proposing that Moderation will be a specific form of Centre Assessment Standards Scrutiny which must be adopted for certain qualifications specified by Ofqual. We are proposing to put in place Conditions to require an awarding organisation's Centre Assessment Standards Scrutiny process to include Moderation:

- where the qualification is on a list published by Ofqual
- in circumstances which Ofqual has communicated to it in writing

- 2.4 As part of this proposal, we propose to modify our existing definition of Moderation². Our proposed new definition for Moderation is:

Moderation

A particular form of Centre Assessment Standards Scrutiny through which the marking of assessments by Centres is monitored to make sure it meets required standards and through which adjustments to a Centre's marking are made, where required, to ensure that results are based on the required standard. Moderation takes place before final results are issued under Condition H6.1.

² Moderation: The process through which the marking of assessments by Centres is monitored to make sure it meets required standards and through which adjustments to results are made, where required, to ensure that results are based on the required standard. This includes verification.

Question

2. Do you have any comments on our proposed definition for Moderation?

2.5 We have set out above our proposal that for qualifications on a list specified by Ofqual, centre assessment must always be subject to Moderation. We proposed in our previous consultation that such qualifications would include high-stakes sessional qualifications where the delivery model lends itself to Moderation. We propose that the qualifications we will specify where centre-assessments must always be subject to Moderation will be:

- GCSEs³
- GCEs (AS and A levels)⁴
- Project Qualifications
- Technical Qualifications (that form part of T Levels)

2.6 While we would not expect this list to change regularly, we will keep it under review to ensure that it remains appropriate.

Questions

3. Do you have any comments on the qualifications we propose to specify where centre assessments must always be subject to Moderation?

4. Are there any other qualifications which we should also specify?

2.7 We have decided that other than where Ofqual specifies, it will be for an awarding organisation to determine whether to use Moderation or another form of Centre Assessment Standards Scrutiny. We would expect an awarding organisation to explain the approach it has taken, including why this is appropriate based on the specific risks relating to the qualification or the centres delivering it. We propose to provide guidance setting out that where an awarding organisation chooses (as opposed to being required) to take a Moderation approach, it may decide to do this at different levels, for example for a whole qualification, or for particular qualifications, centres or units.

2.8 We have decided to set minimum requirements that an awarding organisation's Centre Assessment Standards Scrutiny process must meet. We will set these as requirements under the amended Condition H2 (Centre Assessment Standards Scrutiny where an assessment is marked by a Centre).

³ Other than where this requirement has been disapplied for the spoken language assessment in GCSE English language.

⁴ Other than where this requirement has been disapplied for the practical science assessment in A level biology, chemistry, geology and physics.

2.9 We propose to require:

- An awarding organisation, through its Centre Assessment Standards Scrutiny process, to take all reasonable steps to effectively determine whether or not:
 - an assessment remains, or was, fit for purpose and
 - the criteria against which learners' performance is differentiated are being, or were, applied accurately and consistently by assessors in different centres

2.10 We propose that in order to demonstrate it is taking all reasonable steps, an awarding organisation must ensure that, as a minimum, its requirements include:

- annual activities, which could take place face-to-face or remotely. These activities should include consideration of centre marking since the last scrutiny. They should also include observations of assessments being taken and marked, where appropriate.

2.11 We propose to provide guidance on these annual activities which will set out:

- our expectations that some of these activities will take place in person rather than remotely and that some will take place with only short notice given to the centre
- that other than Moderation, forms of Centre Assessment Standards Scrutiny are not required to (although may) take place before final results are issued.

2.12 We also propose to require that as a minimum, an awarding organisation's Centre Assessment Standards Scrutiny activities must:

- include a scrutiny of marking undertaken by a centre of all units, although each unit does not necessarily need to be subject to scrutiny every year
- include a scrutiny of an appropriate sample of marking by the centre (including, where it considers it necessary in light of identified risks, work that goes beyond that selected by the centre), and have regard to:
 - any specific risks that relate to that centre, assessment or qualification
 - the number of learners registered for the qualification at the centre
 - the range of attainments demonstrated by those learners
 - the number of assessors at the centre involved in marking the relevant assessment
 - the number of persons involved in internal quality assurance in relation to marking at the centre

- be conducted by people who have appropriate competence, have received relevant training, and have no personal interest in the outcome of the scrutiny
- provide effective guidance to centres in relation to its Centre Assessment Standards Scrutiny activities

2.13 We propose to put in place guidance to help an awarding organisation consider the most effective controls for ensuring the standards of centre assessment judgements. We propose to set out factors that we would expect an awarding organisation to consider in determining its approach, which could include:

- the typical course of study for the qualification – for example whether it is sessional or whether it is roll-on/roll-off and whether there are fixed start or end points for the qualification
- the typical course duration of the course of study – for example the number of terms a learner typically takes to complete the qualification
- the typical learner for the qualification and type of centre delivering it – for example whether these are school/college learners, or employees taking qualifications through a training provider or employer
- the number of units in the qualification and the number of these that are marked by a centre
- the typical assessment evidence that is generated by the learner – for example a portfolio of evidence, a performance or a task/assignment
- the assessment model – for example whether units are graded or marked
- the number of learners taking the qualification – the overall number and whether these are following the same course of study, or are part of different intakes per term

Question

5. Do you have any comments on the factors we have set out that an awarding organisation might consider when determining the most effective Centre Assessment Standards Scrutiny approach?

2.14 We propose that our guidance will also set out the controls an awarding organisation may implement as a result of considering these, which could include:

- the typical frequency and type of monitoring activities it conducts in respect of the centre
- the timing of such monitoring activities – for example when these take place in relation to the delivery of assessments
- the number of units sampled during monitoring activities – the number of units and also which units are sampled, for example whether these relate to learners that have started the course of study at different times
- the time period over which all units for a qualification are sampled – for example whether every unit is sampled every year
- the number of learners sampled during each activity for each unit
- whether sample checking involves learners that have already received results for their qualification or only those that have yet to receive results
- whether all or some learners are sampled prior to receiving results
- the intended outcome of activities – for example whether it would be likely to inform future changes to processes, require reassessment of learners that have not yet received results, or lead to revocation of certificates that have already been issued

2.15 We are keen to understand from awarding organisations whether the factors we have set out in our proposed guidance represent those that they would expect to consider.

Question

6. Do you have any comments on the controls an awarding organisation might put in place based on the factors set out above?

2.16 We would also like to know whether there are specific examples of the factors an awarding organisation would consider and the controls it might put in place for particular assessment types. We will seek to discuss this further with awarding organisations during the consultation period.

Question

7. Do you have any examples of controls you may put in place for particular types of assessment?

- 2.17 As part of an awarding organisation's Centre Assessment Standards Scrutiny process, we have decided that an awarding organisation will need to put in place arrangements to ensure that it is able to identify, and where appropriate correct, any errors that it discovers have occurred in between its monitoring activities with a centre. We propose to amend Condition C2 (Arrangements with Centres) to require an awarding organisation to put such arrangements in place through its centre agreement. We propose that the centre agreement must:
- set out any arrangements in relation to Centre Assessment Standards Scrutiny that the awarding organisation will undertake or that will be undertaken on its behalf, and
 - require the centre to retain any data (including evidence generated by learners and marked by the centre) that the awarding organisation considers necessary to allow it to undertake that scrutiny effectively
- 2.18 It will be for an awarding organisation to consider how to meet this requirement, and whether to do so through requiring the retention of evidence, or through other means, for example through remote arrangements.
- 2.19 We propose to require an awarding organisation to take a risk-based approach to its Centre Assessment Standards Scrutiny process, going beyond our minimum requirements as appropriate, for example in relation to specific risks identified or incidents that occur.
- 2.20 To help an awarding organisation determine when it may be appropriate to go beyond our minimum requirements, we propose to include guidance to these requirements. This guidance will set out factors in relation to:
- a centre, such as where centres have not previously marked assessments for a qualification, or where previous instances of malpractice or maladministration relating to the centre have been identified
 - a qualification, such as where the professional standard for a qualification has changed, or where an awarding organisation's analysis of data or evidence suggests that a particular approach is required
- 2.21 We have set out the full list of factors to be considered as part of our draft guidance which is published alongside this consultation document.
- 2.22 We propose that as part of our guidance, where an awarding organisation decides it is necessary to go beyond our minimum requirements for reasons linked to a centre's performance, it should consider whether it would be appropriate to notify other awarding organisations on whose behalf that centre also delivers qualifications.

Centre Assessment Standards Scrutiny strategies

Our decisions

- To require awarding organisations to produce a Centre Assessment Standards Scrutiny strategy, and to set minimum requirements that the awarding organisation's strategy must meet

2.23 We have decided to require an awarding organisation to produce a document called a Centre Assessment Standards Scrutiny strategy, which will explain its approach, and rationale, for Centre Assessment Standards Scrutiny, including where these take the form of Moderation. Awarding organisations will be required to comply with their strategy on an ongoing basis.

2.24 We propose to require, as part of Condition H2 (Centre Assessment Standards Scrutiny where an assessment is marked by a Centre), that an awarding organisation:

- establishes and maintains a Centre Assessment Standards Scrutiny strategy for all qualifications which include centre assessment, which complies with any requirements and has regard to any guidance published by Ofqual
- sets out in its Centre Assessment Standards Scrutiny strategy how it intends to secure, on an ongoing basis, compliance with our Conditions relating to Centre Assessment Standards Scrutiny
- ensures that it complies with its Centre Assessment Standards Scrutiny strategy
- keeps its Centre Assessment Standards Scrutiny strategy under review, revises it as necessary, submits it to Ofqual on request, and reviews and revises it as required in line with any requirements communicated to it in writing by Ofqual
- on request, demonstrates to Ofqual's satisfaction that it has complied with its Centre Assessment Standards Scrutiny strategy, or explains why it has not, and gives effect to any recommendation made by Ofqual in respect of its strategy

2.25 Our proposed Condition will require an awarding organisation to comply with any requirements published by Ofqual. We propose to publish requirements setting out the minimum information that must be provided as part of a Centre Assessment Standards Scrutiny strategy. These requirements will set out that:

- a Centre Assessment Standards Scrutiny strategy must provide a comprehensive picture of an awarding organisation's approach and that an awarding organisation may produce a strategy covering multiple qualifications, or have different strategies for different qualifications

- the strategy can refer to policies and procedures that exist in other documents, but in doing so, must present a logical and coherent narrative describing an awarding organisation's approach
- the strategy must explain:
 - the awarding organisation's overall approach, including why it considers centre marking to be appropriate and how its approach will ensure that standards are maintained
 - how the awarding organisation decides whether to allow a centre to mark assessments and issue results on its behalf
 - how the awarding organisation will monitor to make sure that centres are marking in accordance with its requirements
 - how its approach will enable it to identify and manage risks that relate to its approach to Centre Assessment Standards Scrutiny
 - how it will identify and resolve issues with centre marking, and how it will decide on the appropriate action to take
 - how it will keep its approach to Centre Assessment Standards Scrutiny under review and improve them as necessary

2.26 To help awarding organisations understand our requirements in relation to Centre Assessment Standards Scrutiny strategies, we propose to provide guidance on these requirements. Our guidance will set out that the awarding organisation needs to explain how it has considered a range of factors in developing its strategy, including:

- the qualification
- nature of the assessments
- the centre
- experience of an awarding organisation
- how the qualification is intended to be delivered

2.27 Our guidance will also set out that an awarding organisation:

- will need to consider the range of controls that it may apply as part of its Centre Assessment Standards Scrutiny process, and how it applies these to specific qualifications or centres
- should show how it has considered the qualification, including how it is intended to be delivered, the nature of assessments, the centre, and the experience of the awarding organisation itself
- may choose to publish, or not, some or all of its Centre Assessment Standards Scrutiny strategy

2.28 The guidance will also provide additional detail in the following areas, explaining what an awarding organisation should include in its Centre Assessment Standards Scrutiny strategy:

- overall approach
- allowing centres to mark assessments
- monitoring
- taking action and making adjustments
- ongoing review

2.29 We have published the full detail of these requirements and guidance alongside this consultation document.

Results and certificates

Our decisions

- To provide guidance on the factors awarding organisations should consider when deciding whether to correct an incorrect result that has been issued, as part of their Centre Assessment Standards Scrutiny process
- To allow awarding organisations to revoke certificates that have been issued in reliance of an incorrect result, as part of an awarding organisation's Centre Assessment Standards Scrutiny process

2.30 As a result of our decision to require an awarding organisation to put in place arrangements for a Centre Assessment Standards Scrutiny we propose to amend Condition H6.1 to refer to this process. This Condition requires an awarding organisation to issue results that accurately and completely reflect the marking of assessments, including the outcome of any Moderation or other quality assurance process. We propose to amend this Condition to require an awarding organisation to:

- issue results which accurately and completely reflect the marking of assessments (including the outcome of any Centre Assessment Standards Scrutiny and any other quality assurance process)

- 2.31 Where an awarding organisation discovers that a result it has issued is incorrect, we propose to put in place a Condition requiring that it must:
- correct that result where the error is discovered through an appeals process
 - in all other cases –
 - consider whether it is appropriate to correct that result, having regard to any guidance on making changes to incorrect results published by Ofqual and revised from time to time, and
 - correct that result where it considers it appropriate to do so
- 2.32 The change will make it clear for awarding organisations that they do in fact have the power to amend incorrect results once issued.
- 2.33 The proposed amendment will also provide a more explicit link with our guidance by requiring an awarding organisation to have regard to the guidance on making changes to incorrect results published by Ofqual.
- 2.34 We are proposing to add to our existing guidance in this area, with specific guidance on our expectations where such an issue is identified as part of an awarding organisation's Centre Assessment Standards Scrutiny process. This guidance will set out the factors an awarding organisation will need to consider, in addition to the guidance for all qualifications, when deciding what action to take, including:
- the need to prioritise the maintenance of standards, which will normally lead to correction of errors
 - the passage of time since results were issued
 - whether a qualification has been used to secure employment
 - any health and safety implications associated with the qualification
 - whether the qualification is a licence to practise
 - the availability of opportunities to retake the assessment
 - any other Adverse Effect that might be caused by a decision to correct, or not to correct, a result

- 2.35 The guidance will also set out that in terms of the weight given to these factors, an awarding organisation should prioritise the correction of results in situations where, for example, there are health and safety implications associated with the qualification such that it may be unsafe for a person to be undertaking a particular activity where he or she is not competent to do so.
- 2.36 Where an awarding organisation, having considered our guidance, decides to make a change to an incorrect result, it will also need to consider whether to revoke any certificate that has been issued in reliance on that result. To allow it to do so where this is appropriate, we propose to amend Condition I4 (Issuing certificates and replacement certificates) to provide for this. We propose to require an awarding organisation to take all reasonable steps, including having procedures in place, to ensure that it revokes any certificate if the result on the certificate is false because of malpractice, maladministration, or because the result has been corrected.

Other changes

- 2.37 As a result of the changes proposed in this consultation, we will need to make a minor change to Condition A4 (Conflicts of interest), to reflect the introduction of a Centre Assessment Standards Scrutiny process. We propose to update Condition A4.6 to replace the current reference to Moderation, with a reference to Centre Assessment Standards Scrutiny. The updated drafting for this Condition is included in the draft Conditions published alongside this consultation.

3. Our proposed rules and guidance

3.1 Alongside this consultation, we are publishing two draft documents that set out:

- additions and amendments to the General Conditions of Recognition
- additions and amendments to Statutory Guidance to the General Conditions of Recognition

Proposed additions and amendments to General Conditions of Recognition

- A4.6 – Conflicts of Interest (amendment)
- C2.3(j) – Arrangements with Centres (amendment)
- H2 – Centre Assessment Standards Scrutiny where an assessment is marked by a Centre
 - Amendments to H2.1, H2.2, H2.3
 - Renumbering of H2.4 (currently H2.2), H2.5 (currently H2.3)
- Centre Assessment Standards Scrutiny requirements (new)
- H2.6 – Centre Assessment Standards Scrutiny Strategy (new)
- Centre Assessment Standards Scrutiny strategy requirements (new)
- H6.1(d) – Issuing results (amendment)
- H6.2⁵ – Issuing results (new)
- I4.2(c) – Issuing results and replacement certificates (amendment)
- J1.8 – Definitions
 - Centre Assessment Standards Scrutiny (new)
 - Moderation (amended)

⁵ As part of the [Consultation on changes to the Conditions of Recognition](#) that is currently being run with QW and CCEA, an addition has been proposed to Condition H6 which is also numbered in that consultation as H6.2. The proposed change in this consultation is in addition to that proposal and we will review Condition numbering as we finalise both sets of proposals.

Question

8. Do you have any comments on our proposed Conditions?

Proposed additions and amendments to Statutory Guidance to General Conditions of Recognition

- Guidance on Centre Assessment Standards Scrutiny (new)
- Guidance on Centre Assessment Standards Scrutiny strategies (new)
- Guidance on making changes to incorrect results (amended)

Question

9. Do you have any comments on our proposed guidance?

4. Regulatory impact assessment

- 4.1 We have considered the regulatory impact of our proposals as we have developed them. In a number of areas covered by these Conditions, requirements and guidance, we have amended our approach since our first consultation, to try and reduce the regulatory impact of our proposals. We have explained this in the decisions document that we have published alongside this consultation.
- 4.2 Despite these changes, however, our proposals are likely to impact on awarding organisations that have to meet our proposed requirements. They may also, through the arrangements awarding organisations put in place to meet our requirements, impact on centres delivering qualifications.
- 4.3 We sought in our previous consultation to gather information in order to measure this impact, and are keen to gather further information from respondents to help us assess this on the basis of the further detail we are providing as part of this technical consultation.
- 4.4 We are discussing our approach with the qualifications regulators in Wales and Northern Ireland, alongside our discussions on proposals included in the current *Consultation on changes to the Conditions of Recognition*⁶. It will be for each regulator to make its own decision on any changes to its own regulatory requirements in relation to the proposals covered by this consultation, and we will continue to discuss this work with them as our consultation progresses.

Centre Assessment Standards Scrutiny

- 4.5 We have proposed that all qualifications should be subject to Centre Assessment Standards Scrutiny, and that this should meet minimum requirements we set. In drafting our minimum requirements, we have taken account of the concerns raised in response to our previous consultation, about the burden of setting prescriptive requirements relating to things such as awarding organisation visits to centres.
- 4.6 There is likely to be some burden on awarding organisations where they have to put in place additional controls in order to meet the minimum requirements we propose to set. The extent of the burden of these proposals will depend on the controls awarding organisations have in place currently. An awarding organisation that has strong controls in place is likely to see a lower additional burden as a result of these new requirements than one which has weaker controls currently. An awarding organisation that currently undertakes Moderation on a cohort by cohort basis for all qualifications with centre assessment, in line with the current requirements of our Conditions, might

⁶ [Consultation of changes to the Conditions of Recognition](#)

experience a reduction in burden over time if it decided to adapt its approach in light of the greater flexibility allowed for by the proposed Conditions.

- 4.7 We are proposing to set requirements that allow for awarding organisations to determine the most effective approach to ensuring the standards of centre assessment judgements. Our requirements will also allow awarding organisations to take a risk-based approach to determining when and how to go beyond our minimum requirements.
- 4.8 We have proposed for some qualifications to always require Moderation where centres make assessment judgements on behalf of an awarding organisation. The qualifications we have proposed in this consultation are those for which Moderation is currently required. In these qualifications, moderation currently takes place, and the qualifications are delivered in such a way to allow for this. We therefore expect there to be no additional burden by requiring moderation in these qualifications.

Centre Assessment Standards Scrutiny strategies

- 4.9 We are proposing to require all awarding organisations to put in place a Centre Assessment Standards Scrutiny strategy setting out its approach and its rationale for its Centre Assessment Standards Scrutiny.
- 4.10 Requiring such a strategy will impose some burden on awarding organisations, as this will be a new document, which they are not currently required to have in place. We have sought to mitigate the impact of this additional burden by:
- allowing awarding organisations to draw upon existing documentation where this covers things that would appear in its strategy
 - by setting high level, rather than prescriptive, requirements to allow awarding organisations to determine the most effective approach to writing their strategies
 - not prescribing a fixed form or template for the strategy to follow
 - allowing awarding organisations to put in place single, or multiple, strategies
- 4.11 The exact impact will vary by awarding organisation and qualification. An awarding organisation with a strong existing approach that is well documented, is likely to find this proposal less burdensome than one which does not currently have in place such a robust approach.
- 4.12 We are not proposing that awarding organisations will need to submit their strategies to Ofqual for approval or evaluation by default. We will take a

strategic and risk-based approach to evaluating awarding organisations' strategies, for example through specific programmes of work, our audit programme or as part of our response to an incident or event. We will communicate our intentions during the implementation period. This may present a lower impact than if we were to require that centre-assurance strategies were approved by Ofqual prior to being able to start delivering a qualification.

- 4.13 We are keen to understand the potential cost of developing a Centre Assessment Standards Scrutiny strategy, now that we have published our draft requirements and guidance.

Question

10. What cost would you anticipate the development of a Centre Assessment Standards Scrutiny strategy for the relevant qualifications offered by your awarding organisation would be?

Question

11. Are there any regulatory impacts that we have not identified arising from our proposals? Please identify any additional impacts.

- 4.14 We have a duty under the Apprenticeships, Skills, Children and Learning Act⁷ to have regard to the desirability of facilitating innovation in connection with the provision of regulated qualifications. We have committed in our Corporate Plan⁸ to survey awarding organisations' views of the impact of our regulatory requirements on innovation and consider any revisions required in response. We do not believe that there is anything in our proposals that would prevent innovation by awarding organisations, but would welcome your views on this.

Question

12. We have not identified any ways our proposals will prevent innovation by awarding organisations. Do you have any comments on this assessment? Please provide specific examples.

⁷ [The Apprenticeship, Skills, Children and Learning Act 2009](#)

⁸ [Ofqual's corporate plan](#)

5. Equality analysis

- 5.1 Ofqual is a public body, so the public sector equality duty in the Equality Act 2010 applies to us. We explain in Annex B how this duty interacts with our statutory objectives and other duties.
- 5.2 We have considered the potential impact of the proposals included in this consultation on people who share protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.
- 5.3 In our previous consultation, respondents identified that the additional burden caused by our proposals could disproportionately affect smaller centres, which often deliver niche qualifications taken by learners with protected characteristics, particularly disabled learners.
- 5.4 In seeking to reduce the burden of our proposed approach, for example by removing prescription from our proposed requirements, we are hopeful that this impact has been minimised, but would welcome any views on this. We have not identified any other impacts of our proposals (positive or negative) on persons who share protected characteristics.

Questions

13. We have set out our view of the impact of our proposals on people who share a particular protected characteristic. Are there any potential impacts that we have not identified?

14. Are there any additional steps we could take to mitigate any negative impact you have identified would result from our proposals, on people who share a protected characteristic?

15. Do you have any other comments on the impacts of our proposals on people who share a protected characteristic?

6. Implementation

- 6.1 We will announce our final Conditions and guidance in early 2020, following this consultation. We will also confirm the date on which any new requirements take effect in our regulatory framework.
- 6.2 We have decided to allow awarding organisations to phase the introduction of these requirements, recognising that it will be possible to implement and meet some aspects more quickly than others. Awarding organisations should seek to implement all of our requirements as soon as is possible, prioritising those aspects that, in relation to its current processes, will have the greatest impact on ensuring the standards of centre assessment judgements. In meeting our requirements, awarding organisations should ensure that they are met, in full, no later than September 2021, and where some or all of these requirements can be met sooner than this, they should be. If we consider it necessary for specific qualifications to meet our requirements sooner than this, we will set this out as we implement our new requirements.
- 6.3 While September 2021 will be the latest date by which they must be met in full, we would expect an awarding organisation to be able to demonstrate its progress towards full implementation ahead of this. In particular, if an incident occurs which calls into question an awarding organisation's controls with its centres, we would seek to understand its approach to achieving full compliance with our requirements.

Annex A – Your data

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). We are a 'controller' for the purposes of the General Data Protection Regulation (EU) 2016/679 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.

How to contact us

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 dprequests@ofqual.gov.uk or write to us at: Data Protection Officer, Ofqual, Earlsdon Park, 53-55 Butts Road, Coventry, CV1 3BH.

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 may be happy to be contacted by Ofqual in relation to their response. If you or your organisation are happy to be contacted with regard to this consultation, please give your consent by providing your name and contact details in your response.

Our legal basis for processing your personal data

For this consultation, we are relying upon your consent for processing personal data. You may withdraw your consent at any time by contacting us using the details above.

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.

Sharing your response

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships (IFA) 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. 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 IFA with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Following the end of the consultation, we will publish a summary of responses and may publish copies of responses on our website, www.gov.uk/ofqual. We will not include personal details.

We will also publish an annex to the consultation summary listing all organisations that responded. We will not include personal names or other contact details.

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, but we cannot guarantee that confidentiality can be maintained in all circumstances.

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 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 European Economic Area
- 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
- 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.

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.

If there is any part of your response that you wish to remain confidential, please indicate so in your response.

Annex B – Ofqual’s 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;⁹

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 learners, 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 learners 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 learners, including those with special educational needs and disabilities, of employers and of the higher

⁹ <http://www.legislation.gov.uk/ukpga/2009/22/section/128>

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.¹⁰ 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 learner's knowledge, skills and understanding, a learner 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, learners' preparedness to take the qualification and the assessments within it. While a wide range of factors can

¹⁰ Equality Act 2010, s.149. www.legislation.gov.uk/ukpga/2010/15/section/149

have an impact on a learner'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 learners 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 learner 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 learners 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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