

Board Paper

Paper 6/19

Date

22 May 2019

Title

Chief Regulator's report

Report by

Sally Collier, Chief Regulator

Paper for information and decision**Recommendation**

1. The Board is asked to note and discuss the matters reported and to:
 - a. Note the responses to the consultation on the Exam Procedure Review Service (EPRS), and agree that EPRS should be reformed to remove the requirement for some final decisions to be taken by a panel including external members; that it should be extended to include Technical Qualifications (TQs); that these changes be implemented for cases from the 2019 summer series; and to delegate final wording for the decisions document, and the necessary decisions for implementation, to the Chief Regulator (para 11).
 - b. Delegate authority to the Chief Regulator, in consultation with the Chair, to approve the wording of the response to the Department for Education's consultation on post-16 qualifications at Level 3 and below in England; and to agree to publish, on the Ofqual website, our response to the consultation once it is submitted (para 22).
 - c. Delegate to the Chief Regulator authority to sign the Memorandum of Understanding with the Standards and Testing Agency (para 30).

Overview

2. On 7 2019 May we received a letter signed by around 150 university teachers of Modern Foreign Languages (MFL) expressing concerns about grading of MFL in A level and GCSE and the perceived difficulty of MFL exam papers; the letter was subsequently published by The Guardian. This was in response to our research, published in November, and decision that there is not a compelling case to adjust grading standards in A levels in science or MFL. We responded to the letter explaining that we will be

evaluating the impact of our approach following summer awarding. As the Board will recall, we are considering whether the grade standards of MFL at GCSE are appropriate. We will report to the Board in September with a view to announcing our decision in the autumn.

3. The summer series of exams began at the start of May, and with it our daily event notification meetings and social media monitoring.

General Qualifications

GCSE in British Sign Language

4. The DfE has started work to draft subject content for a possible GCSE in British Sign Language. We are continuing to engage with the development, as we set out in Paper 63/18. In due course we will invite the Board to decide whether the proposed content can be effectively regulated before adopting it into our regulatory framework. Based on the provisional timeline from DfE this is likely to be towards the end of 2019 or early 2020.

Accessibility of qualifications and assessments

5. We held an Access Consultation Forum on 29 April to discuss with the exam boards, JCQ and groups representing disabled students the accessibility of qualifications and assessments. We presented our plans to develop guidance on accessibility and research work that will inform this. Other contributions included:
 - a. The Standards and Testing Agency (STA) on the accessibility of the multiplication tables check;
 - b. The British Association of Teachers of the Deaf (BATOD) and the National Deaf Children's Society on options for modifying exams using British Sign Language;
 - c. AbilityNet and the British Dyslexia Association on digital exam papers and meeting accessibility standards;
 - d. Updates from the exam boards about recent work to enhance the accessibility of their qualifications, including for colour blind students, deaf students and students with autism.
6. We plan to promote visibility of the forum through blogs to follow each meeting.

Ofsted Regulatory Inspection Consultation

7. Ofsted consulted on its new inspection framework between 16 January and 5 April 2019. The proposed framework marks a significant change from what was in place before, with Ofsted setting out two linked themes underpinning its new proposals: the 'substance of education', and integrity. They emphasise that this means a new focus on the curriculum and how it is taught, with test and exam outcomes looked at in that context, not in

isolation. A new 'quality of education' judgement is proposed to reflect this new focus.

8. We responded to the consultation to say that, while we do not have responsibility for teaching and learning or school curricula and so have not commented on all proposals, we were supportive of those changes which were likely to build confidence in the way qualifications are used in schools and colleges.
9. In particular, we supported the proposal to introduce a 'quality of education' judgement. We noted that the perceived emphasis currently placed by Ofsted on exam results pressurises some teachers and school leaders to act in ways which are not always in the best interests of their students and could undermine the validity of the qualifications. It also does not fully recognise that school and college results will contain an inherent level of variability, meaning currently small changes in them can be over-interpreted. We also supported the proposal not to look during inspections at non-statutory internal progress and attainment data. We noted the limitations we see in teachers' ability to predict an individual student's future grades, and that less emphasis on such predication may support better tier entry choices.

Exam Procedure Review Service (EPRS)

10. Following the Board's consideration of proposals to reform EPRS in November, we consulted on the proposed reforms and received six responses. Four AOs and two representative bodies responded; there was broad agreement with our proposals.
11. Further detail on the consultation responses is attached at Annex D. **The Board is asked to note the responses to the consultation and to agree:**
 - a. **That EPRS should be reformed to remove the requirement for some final decisions to be taken by a panel including external members;**
 - b. **That EPRS should be extended to include Technical Qualifications (TQs);**
 - c. **That these changes be implemented for cases from the 2019 summer series; and**
 - d. **To delegate final wording for the decisions document, and the necessary decisions for implementation, to the Chief Regulator.**

Vocational and Technical Qualifications

Apprenticeships

12. [This section has been redacted, as its publication would be prejudicial to the effective conduct of public affairs.]

13. We have now accepted 62 Apprenticeship Standards for EQA under our current processes. We completed a major audit of AOs offering Apprenticeships over the last period, focused on assessor capacity and capability. Our first annual report of EQA activity is nearing completion, and summarises activity against Apprenticeship Standards where End Point Assessments (EPAs) have been developed and are on our register. The report focuses on the imperative of good assessment design and the challenges faced by AOs operationalising EPAs. It also highlights key regulatory activity such as our recent enforcement activity against CILEx.
14. Over the last eight months, we have met with 29 organisations interested in becoming Ofqual recognised to deliver EPAs, equating to one fifth of all early engagement meetings undertaken and one eighth of enquiries received. Seven applications from new organisations seeking EPA recognition are currently being reviewed.

T Levels

15. The development phase for the three Wave 1 Technical Qualifications is underway. We are on track to meet our project milestones.

Functional Skills Qualifications (FSQs) English and Maths

16. We have now approved the submissions from AQA and Pearson in English and maths for first teaching in September this year. We have evaluated all the initial submissions from Awarding Organisations (AOs) and are in the process of evaluating their resubmissions. We anticipate some of these resubmissions being approved in the next few weeks.

Digital Skills

17. Following discussions at the last Board meeting, we published our final Conditions and Guidance for the new Essential Digital Skills qualifications (EDSQs) on 23 April. The Department for Education published the final version of national standards for essential digital skills, from which the qualifications will be derived, at the same time. The qualifications are expected to be available for first teaching in September 2020, and EDSQs will be eligible for funding through the new adult digital entitlement from the same date. We are in the process of finalising our arrangements for the technical evaluation of these qualifications with awarding organisations, in line with the DfE's timescales.
18. In January, we received a steer letter from the Minister Milton, setting out her expectations for the reform of FSQs in ICT qualifications, which will be replaced with new Digital FSQs. These qualifications are expected to be available for first teaching in September 2021 and will be eligible for funding through the adult digital entitlement from the same date. On 3 May, a reform committee of the Board, with delegated authority, approved our proposals for a policy consultation. We intend to launch this on 16 May, at the same time that DfE launch their consultation on the subject content for the new Digital

FSQs. The outcomes from the policy consultation will inform our subsequent technical consultation and final Conditions and Guidance.

Accountability for Awards

19. Our consultation on Accountability for Awards opened on 26 February and runs until 20 May. In conjunction with this we have held a number of engagement events including two sessions at our recent AO Conference and three stakeholder workshops. The stakeholder workshops have had 134 unique attendees from 92 unique organisations, including 60 awarding organisations; the rest being centres and representative bodies. As of 26 April, we had received 25 completed responses and 75 partial responses to the consultation.

Qualification Reviews

20. DfE published its consultation on post-16 qualifications at Level 3 and below in England on 19 March 2019, alongside a detailed “case for change” document. The scope of the review extends to all funded qualifications except A and AS levels, GCSEs, and qualifications being developed for T levels, new FSQs and Essential (formerly “Basic”) Digital Skills Qualifications.
21. We plan to publish our own response to the consultation in May, highlighting the importance of the breadth and diversity of the market and the potential wider impact of funding decisions made in relation to 16-19s. Our proposed response to the consultation is attached at Annex E.
22. **The Board is asked to agree:**
 - a. **To delegate authority to the Chief Regulator, in consultation with the Chair, to approve the wording of the response to the DfE consultation on post-16 qualifications at Level 3 and below in England; and**
 - b. **To publish, on the Ofqual website, our response to the consultation once it is submitted to DfE.**

Induction of newly recognised AOs

23. As part of Ofqual’s new approach to recognition and post-recognition engagement, we have conducted inductions of eight newly recognised AOs. The purpose of the induction is to provide new AOs with an overview of our regulatory requirements and tools, and to introduce them to key members of Ofqual staff, including their portfolio lead. Each induction session is tailored to the qualifications the AOs are recognised to offer, with a bespoke section on Apprenticeship Standards for example for EPAOs. Feedback from the AOs after each induction session has been positive, with AOs showing their appreciation of the materials and the level of engagement from us.

Statements of Compliance 2019

24. We have communicated to all AOs about our approach to the 2019 statements of compliance cycle, including an additional activity to sample AOs' mechanisms to prepare and agree the contents of their declaration to ensure that the statements are accurate and timely.

Strategic Relationships

25. **AO Conference.** 237 delegates from 135 AOs attended our 2019 Annual Conference for Awarding Organisations on 26 March. Feedback has been positive, particularly in relation to the range of seminars offered in the afternoon, and we will take this into account for future conference planning. We have published a significant volume of material from the event (including transcripts of keynote speeches, Q&A and materials from the seminars) in order to reach a greater number of staff within AOs.
26. **VTQ Perceptions Survey.** Early results of the annual survey of perceptions of employers, training providers and learners of Functional Skills Qualifications, Vocational and Technical Qualifications and Apprenticeship End Point Assessments have been shared with us. There has been a positive uplift in understanding of FSQs and VTQs amongst employers, which reflects significant efforts in the past year; and high proportions of respondents say they value VTQs. Perceptions of EPAs continue to be less positive.

National Assessments

2019 assessment cycle

27. This year's key stage (KS) 2 tests are taking place from 13-16 May (before this Board meeting but after the drafting of this paper). Our monitoring of the 2019 assessment cycle is on track and will support our annual report later this year. It includes observing the Standard and Testing Agency's (STA) standard setting, validity item (seed) selection, marker training and local authority moderation meetings.

Memorandum of Understanding with the STA

28. We have recently agreed in principle a memorandum of understanding (MoU) with the STA to provide greater clarity about our engagement and support effective ways of working (attached at Annex F).
29. The MoU is aligned with our wider [MoU with the DfE](#) and also with our [Regulatory Framework for National Assessments](#), which we revised and republished in March 2018. This MoU will formally take effect from the date it is published but will not be legally binding (unlike our Framework which has statutory status). Following approval, we would like to publish the MoU as we have done with other memoranda we have recently concluded.

30. **The Board is asked to delegate to the Chief Regulator authority to sign the Memorandum of Understanding with the Standards and Testing Agency.**

Communications

31. We have seen the volume of press coverage associated with GCSEs and A levels build as we have moved closer to the exam series. Much of the coverage has focused on exam stress, along with debates about the future of GCSEs, SATs and BTECs.
32. There was significant national coverage of comments made by Geoff Barton, General Secretary of ASCL, about the 'forgotten third' of GCSE pupils at the ASCL conference in mid-March. Comments by the CBI, describing GCSEs as 'incredibly archaic', also got a degree of traction in the wake of Robert Halfon's call for them to be scrapped.
33. The debate about whether reformed GCSEs are the cause of exam stress has escalated somewhat. The Secretary of State gave an interview to the Guardian saying 'exams aren't everything' and wrote an op-ed in the Sunday Times that 'exam stress is a part of life'. It is pleasing to see that much of the reporting has been balanced, with good recent examples in TES and on Radio 4's *You and Yours*.
34. There continue to be pieces ahead of the exam series offering advice on how students can manage stress, and we are seeing further social media engagement with the resources we have produced and previously circulated. We are reissuing these to school and college heads, along with other supportive messages and materials associated with our malpractice campaign, in a letter to be sent from me ahead of GCSE and A levels starting. The Chair also discussed the issue of exam stress and pupils' mental health in an interview with TES, which was picked up by the mainstream press including the Times and Telegraph.
35. The ED for VTQ and I have both given speeches at apprenticeships conferences in recent weeks. We echoed comments we made at our own conference about the value we think regulation brings to external quality assurance.

Forward Look

36. We will monitor the delivery of the summer exams, and following this our attention will turn to the marking of scripts. We will be in a position to update the Board on progress at the July meeting.
37. Between now and the end of May we will be working closely with colleagues from the National Audit Office, who are conducting their annual audit of our accounts. Concurrently we are preparing our 2018/19 Annual Report; this,

along with the accounts, will be presented to the Audit and Risk Assurance Committee, and the Board, for sign off in June.

ANNEXES

[This section has been redacted, as its publication would be prejudicial to the effective conduct of public affairs.]

Paper to be published	YES
Publication date (if relevant)	
If it is proposed not to publish the paper or to not publish in full please outline the reasons why with reference to the exemptions available under the Freedom of Information Act (FOIA), please include references to specific paragraphs	