

CONSULTATION

# Regulating Digital Functional Skills qualifications

Consultation on remaining policy proposals and draft Conditions, Requirements and Guidance

**ofqual**

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## Proposals at a glance

Digital Functional Skills qualifications (FSQs) are new qualifications that seek to provide students with the core digital skills needed to fully participate in society. Being able to carry out searches on the internet safely or using different digital devices to communicate with others are examples of the essential digital skills required as part of daily life and in the workplace. They are being introduced by the Department for Education (referred to as the Department in this document) as part of their plans to [improve adult basic digital skills](#) and will sit alongside Essential Digital Skills Qualifications as part of the government's adult digital offer.

Digital FSQs will be introduced from August 2023 and will be new qualifications replacing the existing Functional Skills Qualifications in Information and Communication Technology (FSQs in ICT). Unlike FSQs in ICT, which are available at Level 1, Level 2 and Entry levels 1, 2 and 3, Digital FSQs will be based on Entry level and Level 1 subject content.

The Department published the [final subject content](#) on 29 October 2021 following a consultation in May 2019. Awarding organisations will use this subject content to create the new qualifications.

We consulted on [our initial policy proposals](#) for how we will regulate the new qualifications at the same time as the Department consulted on the subject content and published our decisions alongside this consultation.

In Part 1 of this consultation, we are consulting on the detail of the following proposals:

- to set requirements around the weighting of marks allocated to the assessment of practical digital skills within assessments
- to set requirements around the coverage and sampling of subject content
- to issue guidance on the differentiation between qualification levels
- to issue guidance on assessment
- to set requirements around the number of components and assessments
- to set requirements around minimum and maximum assessment times
- to introduce a Functional Skills Qualification Level Condition to ensure that awarding organisations will not be able to make FSQs in ICT at any level available after a 12month transitional period

In Part 2, we are consulting on the subject-level and qualification-level Conditions, requirements and guidance which would give effect to the decisions we have already made and our proposals, if we decide to implement them following this consultation.

# Audience

We think this consultation will be of particular interest to awarding organisations, as it sets out the detail of the rules with which they will have to comply.

However, this consultation is open to anyone who may wish to make a representation and may be of interest to:

- students and apprentices who might study Digital FSQs
- teachers, tutors, exam staff and other representatives from schools, colleges, training providers, apprenticeship providers, and other places where the Digital FSQs might be delivered in future
- higher education institutions, further education colleges and training providers that may be making offers to students for future academic years
- bodies representing educational institutions
- bodies representing teachers or other staff working in the education sector
- employers who might be receiving job applications from students taking these qualifications, or who might already employ these students
- professional bodies, regulators and industry groups

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

This consultation will be open for 9 weeks starting on 5 November 2021 and ending on 7 January 2022 at 23:45.

We expect to announce the outcomes to this consultation in early 2022. If we proceed to implement some or all of these proposals following this consultation, we will set out the date when our subject-level and qualification-level Conditions, requirements and guidance take effect, and the date by which we would expect awarding organisations to comply with them.

## Respond

Please respond to this consultation by [completing your response online](#).

You do not need to respond to every question. However, we would welcome responses to those questions where you wish to express a view.

For information on how we will use and manage your data, please see Annex A: Your data.

# Introduction

Digital Functional Skills qualifications (FSQs) are new qualifications that seek to provide students with the core digital skills needed to fully participate in society. Being able to carry out searches on the internet safely or using different digital devices to communicate with others are examples of the essential digital skills required as part of daily life and in the workplace. They are being introduced by the Department for Education (referred to as the Department in this document) as part of their plans to [improve adult basic digital skills](#) and will sit alongside Essential Digital Skills Qualifications as part of the government's adult digital offer.

Digital FSQs will be introduced from August 2023. They will be eligible for national funding through the adult digital entitlement. Unlike FSQs in English and maths, they will not play a part in the Government's accountability system, other than being reported as part of provider achievement rates.

In January 2019, we received [a letter from the then Minister of State for Apprenticeships and Skills](#) setting out her expectations for the reform of Information and Communication Technology (FSQs in ICT).

The Minister expected Digital FSQs to further reinforce understanding of the Functional Skills brand, and to adopt several features in the existing and reformed qualifications, including:

- a Pass or Fail grading system
- 55 hours of Guided Learning
- providing reliable evidence of students' achievement against demanding content relevant to the workplace and everyday life
- providing a foundation for progression to further study or employment
- giving users of qualification the confidence that the level of qualification achieved is comparable across awarding organisations and over time

The Minister's letter also set out that Digital FSQs will:

- be developed from subject content, derived from the new national standards for essential digital skills
- be available at two levels only – Entry level 3 and Level 1, the same as the new Essential Digital Skills qualifications
- not play a part in the government's accountability system, with the exception of provider qualification achievement rates

[The Department published the final subject content on 29 October 2021](#) following a consultation in May 2019. Awarding organisations will use this subject content to create the new qualifications.

We consulted on [our policy proposals for how we will regulate the new qualifications](#) at the same time as the Department consulted on the subject content, taking account of expectations set out by the then Minister of State for Apprenticeships and Skills.

In our policy consultation, we proposed that, as far as possible, we would regulate Digital FSQs and the awarding organisations that deliver them against our General Conditions. However, we also proposed to introduce some subject level Conditions, requirements and guidance to achieve the government's intentions for Digital FSQs.

Our starting point in developing our policy approach was the bespoke conditions for the reformed FSQs in English and maths. This was in response to the ministerial steer to reinforce understanding of the Functional Skills brand, to adopt several features of the reformed FSQs, and to give users confidence in the comparability of the qualifications over time and between awarding organisations.

There were also subject-specific factors that influenced the approach we took. The content and the nature of the skills being assessed in Digital FSQs is different from that previously assessed in FSQs in ICT, reflecting the digital world of today.

## May 2019 consultation decisions

Having considered the responses received, we have published our decisions alongside this consultation.

In summary, we decided to:

- regulate primarily through the General Conditions of Recognition, with a limited number of subject-level Conditions
- include a purpose statement within the introduction to our Conditions document which aligns with the purpose statement set out by the Department for these qualifications
- adopt the subject content developed by the Department into our subject-level Conditions
- require qualifications to be awarded at Entry level 3 and Level 1 only
- introduce a bespoke rule for Total Qualification Time to reflect the Department's decision that the qualifications will have 55 hours of guided learning
- not set rules around the weightings of skills areas in the subject content but expect a reasonable balance across the skills areas

- require that all assessments are set by the awarding organisations
- require that marking of assessments at Entry level 3 is permitted to be conducted either by the awarding organisation, or a centre, or both
- require that marking of assessments at Level 1 is conducted by the awarding organisation
- permit centre adaptation of contexts for assessments at Entry level 3, but not at Level 1
- require a single Pass or Fail grading model
- require a mark-based approach to assessment, with a student's results being based on overall performance across the whole of the assessment or assessments and with decisions about grading to be made separately from marking
- consult on expecting assessments to generally be made available online and on-screen but not to set any other rules around assessment availability
- not require a single technical approach to setting and maintaining standards but to require awarding organisations to explain the approach they intend to use and to require that whatever approach is used, it is based on a range of quantitative and qualitative evidence
- regulate differently for the first year of awards and to adopt an enhanced level of scrutiny of qualification outcomes post results at level 1
- require all awarding organisations to explain and justify the approaches they are taking to designing, delivering and awarding their qualifications in an assessment strategy document
- put in place arrangements for there to be a technical evaluation of the new qualifications, and for awarding organisations to comply with any requirements we set around this process
- set a 12month transitional period for the withdrawal of FSQs in ICT and the introduction of the new Digital FSQs
- disapply General Conditions E1.3-1.5 (Qualifications to have support), E7 (Total Qualification Time) and E9 (Qualification and component levels) to remove regulatory burden or to allow for bespoke subject level conditions

Some of our policy consultation questions were deliberately open-ended and we have developed our thinking in light of the feedback we received and changes to the Department's subject content.



We are now consulting on our remaining proposals and on the draft subject-level and qualification-level Conditions, requirements and guidance, which would bring into effect any proposals we decide to implement following this consultation.

# Consultation details

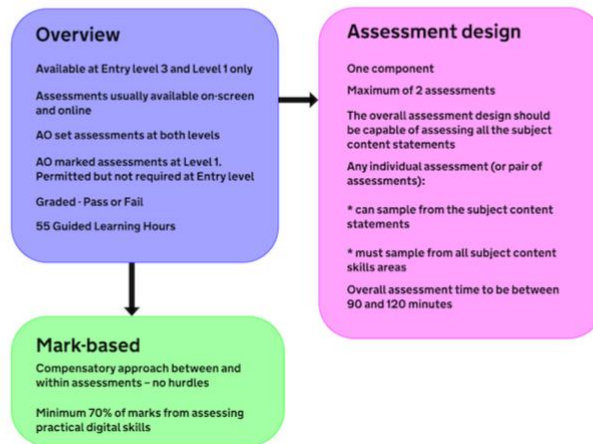
In Part 1 we are consulting on our proposals to:

- set requirements around the weighting of marks allocated to the assessment of practical digital skills within assessments
- set requirements around the coverage and sampling of the subject content
- issue guidance on the differentiation between qualification levels
- issue guidance on assessment
- set requirements around the number of components and assessments
- set requirements around minimum and maximum assessment times
- introduce a Functional Skills Qualification Level Condition to ensure that awarding organisations will not be able to make FSQs in ICT at any level available after the 12month transitional period

In Part 2 we are consulting on the draft subject-level Conditions, requirements and guidance we propose to put in place for the decisions we have already made about how we will regulate Digital FSQs. We are also consulting on the draft subject-level and qualification-level Conditions, requirements and guidance for the proposals set out above, should we decide to implement them following this consultation. These Conditions, requirements and guidance will sit alongside our existing rules and guidance for all qualifications.

We would like your views on both our proposals and the draft subject-level and qualification-level Conditions, requirements and guidance.

## Digital FSQs: A summary of our key decisions and remaining proposals



## Part 1: Proposals for regulating Digital FSQs

### Subject content

#### *Weighting of marks allocated to the assessment of practical digital skills within assessments*

##### **Background**

The draft subject content consulted on by the Department in 2019 identified some subject content statements as knowledge statements and others as skills statements. In our previous consultation, we proposed to set rules so that all awarding organisations took the same assessment approach to the subject content statements, otherwise Digital FSQs offered by different awarding organisations would not be comparable.

Most respondents to that consultation agreed that having a consistent assessment approach for the subject content statements would support comparability between awarding organisations, and over time. It was also felt that this would avoid a 'race to the bottom' where decisions about assessment were made for reasons of cost or manageability rather than validity.

We did receive some feedback of the risk that any rules we set might stifle innovation or lead to over-assessment, because we appeared to be ruling out the indirect assessment of knowledge through the demonstration of practical skills.

##### **Proposal**

In light of the changes to the Digital FSQ subject content and further discussion with awarding organisations, we are now proposing a different approach to achieve comparability between awarding organisations, and over-time.

We think that identifying each subject content statement as either a knowledge statement or a practical digital skills statement for the purpose of assessment, might lead to an atomistic approach to assessment and increase predictability, especially when the skill or knowledge to be tested is quite narrow in focus.

We now propose to set rules for the weighting of marks which could be gained through questions assessing practical digital skills, and those gained through questions assessing knowledge.

Through our engagement with awarding organisations, they have reflected on their experience of developing Essential Digital Skills qualifications and have suggested that a different weighting for questions assessing practical and knowledge skills was required across the two qualification levels. Some awarding organisations suggested

that a greater proportion of marks should be allocated to questions assessing knowledge at Level 1.

However, as the intended aims and outcomes for the 2 qualification levels are very similar, we are not convinced that a difference in weightings between the qualification levels is justified.

Instead, we propose a minimum weighting of 70% of marks to be gained through the assessment of practical digital skills at both qualification levels. The remainder of the marks should be allocated to questions or tasks which assess knowledge. This balance would put the focus of the qualification on the demonstration of practical digital skills but would give awarding organisations greater flexibility to design less predictable and potentially more innovative assessments.

We would expect awarding organisations to justify their approach to the interpretation of subject content statements for the purposes of assessment in their assessment strategy, together with their weightings.

## **Question 1**

To what extent do you agree or disagree with our proposals to:

- a) set rules around the weighting of marks which could be gained through questions assessing practical digital skills and those gained through questions assessing knowledge?
- b) set a minimum weighting of 70% of marks to be gained through the assessment of practical digital skills at both Entry level 3 and Level 1?
- c) require awarding organisations to provide a rationale for their interpretation of subject content statements, together with their weightings, in their assessment strategy?

## ***Coverage of subject content***

### ***Background***

In our previous consultation, we took the view that demonstration of some of the skills statements would be difficult to assess in formal assessment situations (that is externally set, sat in controlled conditions). For these skills statements, we proposed that it would be a better approach for a student's ability to be demonstrated and assessed through the course of study, and for evidence of this to be presented to the awarding organisation, rather than be included within the formal assessment.

With reference to the draft subject content consulted on by the Department, many respondents agreed that there were subject content statements which they did not think could be assessed within a formal assessment. We were also asked to clarify what our expectations were around the quality assurance of those statements assessed through the course of study. There was some concern about the manageability and complexity of the emerging assessment model.

### ***Proposal***

In light of this feedback and the changes the Department has made to the subject content following their consultation, we now think that the number of practical subject content statements which might be difficult to assess in a formal assessment has been reduced.

We are also aware that by identifying some statements as being assessed on-course and not as part of the formal assessment, we discourage awarding organisations from being innovative in their approach to assessment design and delivery, and risk inadvertently suggesting that the subject content statements not included in the formal assessment are less important than others.

We accept that the number of potentially 'difficult to assess' statements will be dependent on the awarding organisations' approach to assessment design and delivery. However, we think that the final version of the subject content enables awarding organisations to design assessments which could cover all the subject content statements and meet our proposed weightings for the assessment of knowledge and demonstration of practical skills.

We are therefore now proposing not to split subject content statements into those assessed in the formal assessment and those assessed on-course and, instead, to require the assessment design covers all subject content statements, at both qualification levels.

## ***Sampling of subject content***

### ***Background***

In our previous consultation, we proposed to include rules about the sampling of subject content to ensure that awarding organisations took a consistent approach to support comparability. Our starting expectation was that all subject content statements should be covered in each set of assessments, as this is the best way to ensure that all of the expected subject content has been taught, and that students have the knowledge, skills and understanding set out in the subject content.

We also acknowledged that there were some content statements where the Department had included the scope of the knowledge or skills in brackets, with the expectation that the content in brackets was sampled over time. In some statements however, the Department intended that the content in brackets was exemplary only. We said that we would explain in our rules what approach awarding organisations should take where content was bracketed in the subject content statements.

All respondents to this consultation agreed with the principle that we should set rules around the sampling of content to support comparability by having a consistent approach between awarding organisations, and that we should explain the approach to sampling the content in brackets in the subject content statements. However, we did receive feedback that requiring assessments to cover all the subject content could lead to long, unmanageable, predictable and contrived assessments, and that we should permit sampling of the subject content statements over time.

### ***Proposal***

In light of this feedback on our initial proposal, we have reconsidered our approach. Although the number of subject content statements has reduced in the final version of the subject content developed by the Department, we agree that there is a risk that requiring coverage of all subject content statements could lead to predictable assessments, which are not realistic, or are too long and unmanageable.

We therefore propose to permit sampling of the subject content statements. We will however require awarding organisations to cover as many of the subject content statements as possible in the assessment (or assessments). They must also include subject content statements from each of the 5 skills areas in their assessments to enable students to make connections between the skills areas, as expected in the subject content. Over time, awarding organisations must cover all subject content statements in their assessments and must explain in their assessment strategy how they will do this.

In the final version of the subject content, bracketed content in the individual subject content statements is no longer exemplary. For example:

Entry level 1.1 'Know the main features and uses of different types of device (including desktop, laptop, mobile devices, smart devices)'. |

The content in brackets must be taught to students.

We propose to permit awarding organisations to sample from this content in their assessments but will expect that all bracketed content is covered over time. Again, awarding organisations must explain in their assessment strategy how they will do this.

In the final version of the subject content statements, there are now 'scope of study' sections included for each of the skills areas. As explained in the subject content, they are intended to provide guidance to awarding organisations to indicate, or elaborate on, the intended breadth and depth of subject content statements.

The examples provided (denoted by 'such as') are illustrative only and are not exhaustive. As these are illustrative only, we do not propose to set rules for the coverage of or sampling of the 'scope of study' sections but we will expect awarding organisations to take account of them when designing their assessments.

## **Question 2**

To what extent do you agree or disagree with our proposals to require at both qualification levels that:

- a) the design of the assessment must be able to cover all subject content statements, over time?
- b) assessments may sample the subject content statements and the bracketed subject content in the subject content statements?
- c) assessments must cover as many of the subject content statements as possible?
- d) assessments must cover subject content statements from each skill area?



## *Differentiating between qualification levels*

### **Background**

In our first consultation, we did not include a proposal around differentiating between qualification levels because the subject content had not been finalised by the Department.

Now that the subject content has been confirmed, to support consistency across awarding organisations, we are proposing to set out our expectations for differentiation between the 2 qualification levels in our subject level rules.

### **Proposal**

The subject content states that:

Progression between the levels should be evident in terms of:

- the complexity of the tasks and activities, and any related information;
- the number of stages within tasks and activities; and
- the extent to which the requirement(s) is set out for, or has to be determined by, the learner

We propose to reflect this differentiation between qualification levels in our guidance on assessment design to support the development of consistent approaches between the qualification levels between awarding organisations.

### **Question 3**

To what extent do you agree or disagree that we should issue guidance to support consistency between awarding organisations when differentiating between qualification levels?

## **Assessment design**

### **Background**

In our previous consultation, we asked for views on some high-level principles that we would expect the assessments to be designed against. We decided to present our expectations as principles because we could not be clear on the specific

expectations that we might look to put in place around assessment design until the subject content being developed by the Department was finalised.

The principles were:

1. learners should demonstrate their skills by using digital devices to complete tasks set in contextualised and authentic scenarios
2. learners should have the opportunity to select approaches, techniques and tools to complete those skills-based tasks, using real-life applications and tools and with access to Internet
3. as far as possible, knowledge and skills should be assessed together, reflecting real-life scenarios, and the number of assessments should be the minimum necessary to assess the subject content
4. that said, only the knowledge statements in the subject content should be assessed through tests of knowledge (either via multiple choice questions or by providing open-ended answers to questions)
5. assessments should be designed so that they can be delivered onscreen and/or on-line, reflecting today's digital world
6. awarding organisations should make full use of recent advances in digital technology to enhance the quality and relevance of assessments

We asked whether these principles would support the design and delivery of qualifications which were innovative, fit for purpose and fulfil the intentions of the subject content. We said that, following the consultation, we may decide to set controls around assessment design, based on these high-level principles, if we felt that they were necessary to support comparability.

Respondents to the consultation broadly supported these high-level principles and our intention to have digital skills assessed in a way that reflects the digital world in which we live today.

However, we were also asked to clarify our expectations around the use of digital technology and to define terms such as on-screen and online. Other respondents highlighted the difficulty some centres may have in accessing the internet, whether to receive and run the assessments themselves, or to give students access to the internet to complete assessment tasks, in particular prisons/the secure estate, and adult and community learning.

We were also asked to provide guidance on how awarding organisations should balance the need for access to the internet to complete some assessment tasks against the overall security of assessment.

We also had feedback from those who disagreed with our proposal that, whilst high level principles could be helpful and support comparability, there was a risk of regulatory burden by adding rules which may not be necessary, and which might limit innovation.

## ***Proposal***

We have concluded that the best way of supporting comparability across awarding organisations would be by reflecting the principles, where they are still relevant following changes to the subject content, as either requirements or guidance in our subject-level Conditions, requirements and guidance.

## ***Real-life focus and connections between skill areas***

To satisfy the qualification purpose, learning aims and outcomes set out in the subject content, we are still of the view that students should demonstrate their knowledge and skills through assessment tasks which require the use of digital devices and which are authentic and relevant to the workplace and everyday life, as set out in principles 1 and 2. We propose to set this expectation in guidance on assessment.

As explained in section ‘Sampling of subject content’ and section ‘Number of components and assessments’, we are proposing to require assessments to include subject content statements from each of the 5 skills area in their assessments to enable students to make connections between the skills areas, as expected in the subject content.

## ***On-screen and online assessment***

As set out in principle 5, we also consider that assessments should be designed to be delivered on-screen and online to enable students to participate in real-life digital and online activities. We think that Digital FSQs that are delivered on-screen and online are more likely to result in assessment approaches which are authentic and relevant to today’s workplace and everyday life.

We have seen through the technical evaluation process for Essential Digital Skills Qualifications that in most cases awarding organisations were able to design their assessments to be delivered on-screen and online and that this has supported the development of authentic and innovative approaches to the assessment of practical digital skills.

In addition, the COVID-19 pandemic has driven an expansion of digital and online delivery of teaching, learning and the assessment for many qualifications. Some of the concerns expressed by centres and awarding organisations about the capacity of

centres to run assessments online are now less likely to apply. However, we accept that some centres may still have limited IT infrastructure.

We have therefore considered whether, alongside on-screen and online assessments, there is any need to require awarding organisations to make assessment materials available in paper-based formats. To clarify, in the context of Digital FSQs, assessment materials that are made available in paper-based formats will still require students to use digital devices to complete the questions and tasks in the assessment. For example, using a computer or a phone. We think however that requiring awarding organisations to make assessment materials additionally available in paper-based formats would be overly burdensome and might increase risks to comparability and standards setting.

We have therefore concluded that it would be more proportionate to take a different regulatory approach. Instead, we propose to permit awarding organisations to make paper-based assessment materials available where they feel this is necessary for some settings. Settings might include in some adult and community learning settings where internet access may not be sufficient to run assessments online. Paper-based assessment materials will also be permitted as part of reasonable adjustments or the application of special consideration.

We therefore propose to set out in guidance our expectation that assessments are delivered on-screen and online and that we would not expect paper-based assessment materials to be generally available. Although awarding organisations must pay regard to the guidance on assessment, as explained above, they would be able to put forward, by exception, alternative approaches if they can justify them. We will however keep this under review and will monitor the number of exceptions requested.

We will expect awarding organisations to have assurance processes in place to ensure that centres who wish to use paper-based assessment materials can justify their request. We propose to require awarding organisations to set out in their assessment strategy how they will do this.

We recognise that there are additional risks arising from the use of paper-based assessment materials made available on demand. Therefore, where awarding organisations do offer paper-based, on-demand assessment materials, we propose to require them to explain how they will manage any risks in their assessment strategy.

To support the development of consistent approaches across awarding organisations, we are proposing to define on-screen and online, using the definitions we have included in the Vocational and Technical Qualifications Contingency Regulatory Framework (VCRF).

On-screen assessment describes where a learner reads and answers the questions of an assessment on-screen, either by typing or clicking the correct response or by assembling digital evidence of achievement.

Online assessment describes where the assessment materials for an on-screen assessment are delivered to the centre, and where a learner's responses to that assessment are returned to the awarding organisation, via the internet.

We propose to require awarding organisations to explain in their assessment strategy how they have balanced the need for access to the internet to complete some assessment tasks with the security of the assessment overall. We don't propose to set any rules around this as the approach taken by awarding organisations will be informed by their assessment platform and their approach to design and delivery.

#### **Question 4**

- a) To what extent do you agree or disagree with our proposal to issue guidance that assessment tasks are authentic and relevant to the workplace and everyday life and require the use of digital devices?
- b) To what extent do you agree or disagree with our proposal to expect that assessments are delivered on-screen and online, but to allow paper-based assessments materials to be made available as an exception, where this can be justified?
- c) To what extent do you agree or disagree with our proposal to set out in guidance that we would expect awarding organisations to ensure that any of their centres who wish to offer assessment materials in a paper-based format can justify that there is a need for them to do so and explain to us in their assessment strategy how they will be so assured?
- d) To what extent do you agree or disagree with our proposals to require awarding organisations to explain how they will manage any risks relating to where paper-based assessment materials are made available on-demand in their assessment strategy?

- e) Do you have any comments on the proposed definitions for on-screen and online?

## Number of components and assessments

### *Background*

In our previous consultation, we proposed that we should set rules around the number of components and assessments for Digital FSQs to support comparability between awarding organisations. We said that we could not however set these rules until the subject content had been finalised.

The majority of respondents to that consultation agreed or strongly agreed that we should set rules around the number of components and assessments in Digital FSQs to support comparability between awarding organisations and to support user and employer confidence in the qualifications. We did however have some feedback that decisions about the number of components and assessments should be left to individual awarding organisations, to be developed in line with their overall assessment approach.

### *Proposal*

We recognise that setting rules around the number of components and assessments limits flexibility in the design of qualifications, but we believe this higher level of control is necessary to support comparability between awarding organisations. It is also consistent with the approach we have taken with the reformed FSQs in English and maths.

Now that the Department has published the final version of the subject content, we are able to propose rules around the number of components and assessments.

We are still of the view that, because of the interrelated nature of the skills statements and the size of the qualifications (55 GLH), the number of components should be limited.

In light of our earlier proposals to introduce a minimum weighting for the marks allocated to the assessment of practical digital skills, and to move away from distinguishing between formal and on-programme assessment, we think that a single component is appropriate for Digital FSQs at both levels. This reflects the size of the qualification and the inter-related nature of the skills areas. It would also rule out having a separate knowledge component which might be a barrier to achievement for some students who may perform better when demonstrating practical digital skills.

We have considered setting a requirement for a single assessment which prevents the development of separate knowledge tests, that could assess knowledge in isolation from the demonstration of practical skills. However, the approach awarding organisations take to the delivery of assessments in some centres may mean that it is necessary. We propose therefore to permit a maximum of 2 assessments at each qualification level.

## **Question 5**

To what extent do you agree or disagree with our proposals to:

- a) require awarding organisations to design qualifications at both qualification levels with a single component?
- b) permit a maximum of 2 assessments within a component, at both qualification levels?

## ***Assessment time***

### ***Background***

In our first consultation, we did not propose to specify minimum and maximum overall assessment times for Digital FSQ assessments. We took the view that the skills in the digital subject content were not time dependent, and that there was not the need to specify assessment times in the way that we do for some GCSE subjects to help promote comparability. Nor did we think that there was likely to be the same level of competition around assessment times as we see in certain other qualifications, which form part of accountability measures.

The majority of respondents disagreed or strongly disagreed with our proposal not to specify minimum and maximum overall assessment times, saying that differences in the length of assessment between awarding organisations would influence centre choice, and a shorter assessment time may suggest that the assessment is easier to pass. Others said that we should be consistent with other reformed FSQs and the current FSQs in ICT, which specify minimum and maximum overall assessment times.

## **Proposal**

Having considered this feedback, we recognise that there is the risk that competition on assessment length might drive poor assessment design as well as lead to inconsistency between awarding organisations.

We have therefore decided to mitigate these risks by setting a requirement for the overall assessment time for Digital FSQs.

In the current FSQs in ICT, the minimum and maximum assessment times are: Entry level – 60 to 120 minutes; Level 1 – 120 to 180 minutes. In view of the similar amount of subject content at Entry level 3 and Level 1 in Digital FSQs, we don't think there is a need for a difference in the assessment times between the levels.

We are therefore proposing to require a minimum and maximum overall assessment time of 90 to 120 minutes, at both qualification levels. We will expect awarding organisations to justify their approach to assessment time, in the context of their overall approach to assessment design, in their assessment strategy.

We think that setting a minimum and a maximum overall assessment time strikes the right balance between promoting comparability between awarding organisations, and allowing awarding organisations to determine the length of individual assessments in light of their decisions about assessment design.

As set out above, in the section 'Assessment design', we are permitting the use of paper-based assessment materials in exceptional circumstances, for example, where technical facilities are limited. We are therefore interested to understand whether the use of paper-based assessment materials could mean that additional time is necessary beyond the range we are proposing.

### **Question 6**

To what extent do you agree or disagree with our proposals:

- a) to set a requirement on the minimum and maximum overall assessment time?
- b) for minimum and maximum overall assessment time to be set at 90 to 120 minutes, at both qualification levels? Please also provide any comments on whether using paper-based assessment materials could mean that additional time is necessary.



## Transitional arrangements

### *Background*

As set out in the letter from the then Minister of State for Skills and Apprenticeships, Digital FSQs will be new qualifications that replace the existing FSQs in ICT.

We therefore proposed to set a maximum transition period of 12 months during which both current FSQs in ICT and Digital FSQs would be available alongside each other.

The majority of respondents agreed or strongly agreed with our proposal and so we decided to implement our proposal.

This means that once the subject level Conditions for Digital FSQs have been introduced, awarding organisations will only be able to award Digital FSQs at Level 1 and Entry level 3.

### *Proposal*

As Digital FSQs are not replacing FSQs in ICT, the new qualifications will not automatically replace FSQs in ICT on our Register of Regulated qualifications. This means there is a risk that awarding organisations continue to make FSQs in ICT available which would have implications for the FSQ brand and the qualification type.

We are therefore proposing to introduce a Functional Skills Qualification Level Condition.

This Condition would mean that an awarding organisation must not make available an FSQ in a subject for which Ofqual has not set and published any FSQ Subject Level Conditions.

By taking this approach we would ensure that awarding organisations will not be able to make FSQs in ICT at any level available after the 12month transitional period. To clarify, the introduction of this Condition will not have any implications for FSQs in English in maths.

### **Question 7**

To what extent do you agree or disagree with our proposals to introduce a qualification level condition to ensure that awarding organisations will not be able to make FSQs in ICT at any level available after the 12-month transitional period?

## Part 2: Our proposed qualification-level and subject-level rules

Alongside this consultation, we are publishing three draft regulatory documents that set out the:

- qualification-level Condition for Functional Skills qualifications
- subject-level Conditions and requirements for Digital FSQs
- guidance for Digital FSQs

The following shows how these draft Conditions, requirements and guidance give effect to the [decisions we have already made for Digital FSQs](#) (as set out in the May 2019 consultation decisions section within the Introduction) and would give effect to policy proposals we are consulting on, if they are implemented.

### *Subject content*

#### ***Decision: to adopt the subject content developed by the Department into our regulatory framework***

Relates to the following Conditions, requirements and guidance:

- Introduction
- Condition DFS1
- Annex 1

#### ***Proposal: to set rules around the weighting of marks allocated to the assessment of practical digital skills within assessments***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Strategy Requirements
- Assessment Requirements

#### ***Proposal: to set rules around the coverage and sampling of subject content***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment

- Assessment Requirements (Coverage of, and alignment with the subject content)

***Decision: not to set rules around the weightings of skills areas in the subject content but expect a reasonable balance across the skills areas***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements

***Proposal: to issue guidance on the differentiation between qualification levels***

Relates to the following Conditions, requirements and guidance:

- Guidance on Assessments (Differentiating between qualification levels)

## ***Assessment design***

***Proposal: to issue guidance on assessment design and delivery***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements
- Guidance on Assessments

***Proposal: to set rules around the number of components***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements (Single Component)

***Proposal: to set rules around the number of assessments***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements (Number of Assessments)

## *Assessment times*

### ***Proposal: to set rules around minimum and maximum assessment times***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment requirements (Overall assessment time)

## *Assessment availability*

### ***Proposal: to issue guidance setting out our expectation that assessments are delivered on-screen and online and that we would not expect paper-based assessment materials to be made generally available***

Relates to the following Conditions, requirements and guidance:

- Guidance on Assessments (Assessment Availability)

### ***Decision: not to set any other rules around assessment availability***

Relates to the following Conditions, requirements and guidance:

- Guidance on Assessments (Assessment Availability)

## *Total Qualification Time*

### ***Decision: to introduce a bespoke rule for Total Qualification Time to reflect the Department's decision that the qualifications will have 55 hours of guided learning***

Relates to the following Conditions, requirements and guidance:

- Condition DFS6 (Total Qualification Time)

## *Use of mark-based and compensatory assessment approaches*

***Decision: to require a mark-based approach to assessment, with a student's results being based on overall performance across the whole subject content, and with decisions about grading to be made separately from marking***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements (Assessment Design)
- Condition DFS8 Specified Levels of Attainment
- Standard Setting guidance (Setting the specified level of attainment)

## *Setting, marking and adaptation of contexts*

***Decision: to require that all assessments are set by the awarding organisations***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements (Setting assessments)
- Guidance on Assessment

***Decision: to require that marking of assessments at Level 1 is conducted by the awarding organisation***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements (Marking of Assessments and Guidance for Centres)

***Decision: to require that marking of assessments at Entry level 3 is permitted to be conducted either by the awarding organisation, or a centre, or both***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements (Marking of Assessments)

***Decision: to permit adaptation of contexts in assessments at Entry level 3, but not at Level 1***

Relates to the following Conditions, requirements and guidance:

- Condition DFS7 Assessment
- Assessment Requirements (Setting assessments; Adaptations at entry level)

***Grading and assignment of qualification levels***

***Decision: to require a single Pass or Fail grading model***

Relates to the following Conditions, requirements and guidance:

- Condition DFS8 Specified Levels of Attainment
- Standard Setting guidance (Specified level of attainment; Issuing results)

***Decision: to require qualifications to be awarded at Entry level 3 and Level 1 only***

Relates to the following Conditions, requirements and guidance:

- Condition DFS5 Levels

***Standard setting***

***Decision: not to require a single technical approach to setting and maintaining standards***

Relates to the following Conditions, requirements and guidance:

- Condition DFS8 Specified Levels of Attainment

***Decision: to require awarding organisations to explain the approach they intend to use to set and maintain standards***

Relates to the following Conditions, requirements and guidance:

- Condition DFS8 Specified Levels of Attainment

***Decision: to require that whatever approach is used, it is based on a range of quantitative and qualitative evidence***

Relates to the following Conditions, requirements and guidance:

- Condition DFS8 Specified Levels of Attainment

***Decision: to put in place arrangements around the first award to ensure that initial standards are set appropriately***

Relates to the following Conditions, requirements and guidance:

- Condition DSF8.2b Specified Levels of Attainment

***Decision: to adopt an enhanced level of scrutiny of qualification outcomes post results at level 1***

Relates to the following Conditions, requirements and guidance:

- Condition DFS8.2b Specified Levels of Attainment

***Assessment strategies and technical evaluation***

***Decision: to require all awarding organisations to explain and justify the approaches they are taking to designing, delivering and awarding their qualifications in an assessment strategy document***

Relates to the following Conditions, requirements and guidance:

- Condition DFS3 Assessment Strategies
- Assessment Strategy requirements

***Decision: to put in place arrangements for there to be a technical evaluation of the new qualifications, and for awarding organisations to comply with any requirements we set around this process***

Relates to the following Conditions, requirements and guidance:

- Condition DFS4 Technical Evaluation

## *Transitional arrangements*

***Decision: To set a 12-month transitional period for the withdrawal of legacy FSQs in ICT, and the introduction of the new Digital FSQs***

Relates to the following Conditions, requirements and guidance:

- Introduction

***Proposal: To introduce a qualification level condition to ensure that awarding organisations will not be able to make FSQs in ICT at any level available after the 12month transitional period***

Relates to the following Conditions, requirements and guidance:

- Condition FSQ1

## *Disapplication of General Conditions*

***Decision: to disapply GCR E1.3 - 1.5 (Qualifications to have support) – these qualifications are being introduced as part of a government-led reform programme, and so already have support***

Relates to the following Conditions, requirements and guidance:

- Condition DFS2 Disapplication of certain General Conditions of Recognition applying to Digital Functional Skills qualifications

***Decision: to disapply GCR E7 (Total Qualification Time) – to allow the introduction of a bespoke requirement covering the Department's decision that the qualifications have 55 hours of guided learning***

Relates to the following Conditions, requirements and guidance:

- Condition DFS2 Disapplication of certain General Conditions of Recognition applying to Digital Functional Skills qualifications



***Decision: to disapply GCR E9 (Qualification and component levels) – to only allow the award of these qualifications at Entry level 3 and Level***

Relates to the following Conditions, requirements and guidance:

- Condition DFS2 Disapplication of certain General Conditions of Recognition applying to Digital Functional Skills qualifications

**Question 8**

Do you have any comments on our proposed Conditions and requirements?

**Question 9**

Do you have any comments on our proposed guidance?

## Regulatory impact assessment

In our previous consultation we set out our assessment of the regulatory impact of our proposals. We have [published our updated impact assessment alongside this consultation](#).

We have set out our assessment of the regulatory impact of our proposals below. As we are largely implementing and building upon the approach on which we previously consulted, we have not identified any additional impacts arising from our proposals and the specific conditions, requirements and statutory guidance we are now proposing to put in place to implement the policy approach.

Our assessment of the impact following our previous consultation suggested that while there may be some ways to mitigate against some of the costs, overall there is likely to be an increased burden as a result of implementing these arrangements. We would welcome views on this however, and if there are further regulatory impacts that we have not identified, we would like to hear how these might be mitigated.

### *Assessment design and delivery costs*

We think that delivering the assessments on-screen and online is consistent with and supports the purpose, learning aims and outcomes of the qualifications. We accept that despite the expansion of digital and online delivery, running on-screen and online assessments may be difficult for some types of centres to manage. For example, in some adult and community learning settings where internet access may not be sufficient to run assessments online.

Awarding organisations must have regard to our proposed guidance setting out our expectation that assessments are delivered on-screen and online. However, awarding organisations will be able to put forward alternative approaches on an exceptions basis where this can be justified. This approach should help minimise the impact on centres that may not have the necessary equipment to deliver the assessments in this way.

We also recognise that awarding organisations will incur some costs through these expectations. For example, investing in IT and systems technology needed to develop and deliver assessments in this way. However, the impact on awarding organisations is likely to vary depending on the individual approaches awarding organisations take, and the extent to which it differs from their current practice. For example, some awarding organisations which already deliver qualifications online and on-screen may be able to make some savings by taking a similar approach.

There are also likely to be costs and resource implications around our requirement for awarding organisations to set assessments at all levels and requiring the qualifications at Level 1 to be marked by the awarding organisation. However, the approaches we have seen used in other qualifications, such as Essential Digital

Skills qualifications where some awarding organisations have automated marking, show that marking by awarding organisations does not have to adversely affect the manageability of qualifications.

### ***Assessment strategy and technical evaluation costs***

Awarding organisations will incur some costs through our requirements to develop assessment strategies and participate in the technical evaluation process.

We believe that, whether or not we require awarding organisations to produce an assessment strategy, they will as a matter of course need to consider and address all of the issues that relate to the design, development and delivery of these qualifications. We consider that this will limit the degree to which our requirement will impact on awarding organisations. In addition, many awarding organisations would have developed sample assessment materials for centres. Therefore, the development of these materials as part of the technical evaluation process will not represent an additional cost for most awarding organisations.

We also acknowledge that there may be some additional impact or burden introduced through engagement with us in the technical evaluation process. We think such impact or burden is necessary to ensure that the new qualifications meet the government's expectations and our regulatory requirements.

### ***Costs incurred to expand scope of recognition for delivery of a new type of qualification***

Digital FSQs will be a new qualification type, so awarding organisations who decide to offer these new qualifications will need to extend their scope of recognition to include them. This application process means awarding organisations will incur a time and personnel cost.

### ***Transitional arrangements costs***

There will be additional burden for awarding organisations by allowing a 12month transitional period for Functional Skills in ICT. However, whilst we are permitting a 12month transitional period, it is not a requirement that awarding organisations continue to deliver Functional Skills in ICT qualifications for the whole 12month transitional period. Therefore, the impact on awarding organisations is likely to vary depending on the individual approaches they take.

### ***Impacts on innovation***

We accept that by setting rules around assessment design such as setting rules around the number of components or number of assessments, we are placing some

limits on the ability of awarding organisations to develop different assessment approaches. However, we consider that this is necessary to support comparability between awarding organisations and over time. We also feel that our proposed approach does not restrict innovation in other areas such as the format of assessments and the delivery of the qualifications.

### **Question 10**

Are there any regulatory impacts that we have not identified arising from our proposals? If yes, what are the impacts and are there any additional steps we could take to minimise the regulatory impact of our proposals?

### **Question 11**

Are there any costs, savings or other benefits associated with our proposals which we have not identified? Please provide estimated figures where possible.

### **Question 12**

Is there any additional information we should consider when evaluating the costs and benefits of our proposals?

### **Question 13**

Do you have any comments on the impact of our proposals on innovation by awarding organisations?

## Equality impact assessment

As a public body, we are subject to the public sector equality duty. Annex B sets out how this duty interacts with our statutory objectives and other duties.

Awarding organisations are required to comply with equalities legislation, and our existing General Conditions of Recognition reinforce this in relation to the qualifications they make available. They are required to monitor their qualifications to identify features which may disadvantage a group of students who may share a protected characteristic, and this applies to the design, delivery and award of their qualifications.

In our previous consultation we set out our assessment of the equalities impacts of our proposals. We have [published our updated impact assessment alongside this consultation](#). We also set out these impacts below.

As we are largely implementing and building upon the approach on which we previously consulted, we have not identified any additional equalities impacts arising from our proposals and the specific conditions, requirements and statutory guidance we are now proposing to put in place to implement the policy approach. We would welcome views on this however, and if there are further equalities impacts that we have not identified, we would like to hear how these might be mitigated.

### *Assessment delivery*

The subject content for Digital FSQs, consulted on and published by the Department, requires some aspects of the assessment to be completed on-screen and online. We also think that delivering the assessments on-screen and online is consistent with and supports the purpose, learning aims and outcomes of the qualifications. We accept that online and on-screen assessments may be difficult for some individuals that share a particular protected characteristic. This might include students with disabilities that need paper-based assessment materials for accessibility reasons or offender students where only partial internet access is available, thereby limiting their ability to take assessments.

Whilst awarding organisations must have regard to the guidance setting out our expectation that assessments are delivered on-screen and online, we are not prohibiting paper-based assessment materials. We would, however, only expect paper-based assessment materials to be made available in limited circumstances, including as part of reasonable adjustments or the application of special consideration. This will allow them to take account of the needs of students who share particular protected characteristics when determining their approach.

By contrast, respondents to our previous consultation reflected that the new modes of assessment, such as on-screen and online assessment, could increase the

accessibility of the qualifications and increase participation, giving students with protected characteristics, for example students with disabilities, the opportunity to engage with digital technology.

### ***Qualification design***

We acknowledge that the proposed single component for these qualifications may deny students with disabilities the opportunity to access exemptions from individual components they cannot access, which means that they are therefore unable to access the qualification. However, we feel this approach reflects the size of the qualifications, and the inter-related nature of the skills areas, and will rule out having a separate knowledge component which might be a barrier to achievement for some students who find it easier to demonstrate practical digital skills.

### ***Qualification levels***

The Digital FSQ subject content has been developed by the Department for Education at Entry level 3 and Level 1. The subject content does not differentiate between the three entry sub-levels to reflect how digital skills are typically taught, learned and applied. While this may give rise to a negative impact on students with certain disabilities such as students with SEND, this decision stems from the approach to the subject content. This does not however prevent the course of study from being delivered in a way that meets the needs of students who would benefit from a curriculum which differentiates between the entry sub-levels.

#### **Question 14**

Are there any potential positive or negative equality impacts arising from our consultation proposals, apart from those we have explored? If yes, what are they and how might they be mitigated?

## 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](mailto: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

Where you provide personal data for this consultation, we are relying upon the public task basis as set out in Article 6(1)(e) of UK GDPR to process personal data which allows processing of personal data when this is necessary for the performance of our public tasks. We will consult where there is a statutory duty to consult or where there is a legitimate expectation that a process of consultation will take place. Where you provide special category data, we process sensitive personal data such as ethnicity and disability, we rely on Article 9(2)(g) of UK GDPR as processing is necessary for reasons of substantial public interest.

### 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](http://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](https://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;

1) **The qualification standards objective**, which is to secure that the qualifications we regulate:

- a) give a reliable indication of knowledge, skills and understanding
- b) indicate
  - i) a consistent level of attainment (including over time) between comparable regulated qualifications
  - 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
- 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
- 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 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](#). 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 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 the overall framework within which awarding organisations will design, assess and award reformed FSQs, 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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