

# Regulatory Framework for National Assessments

This is a version for consultation purposes



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# Contents

Contents .....	1
Foreword .....	3
Introduction.....	4
Ofqual’s role as regulator .....	4
What Ofqual regulates .....	7
What Ofqual does not regulate .....	7
The purpose of this framework.....	7
Part A The principles of regulation .....	9
Section 1 Ofqual’s approach to regulation .....	9
Section 2 Criteria for regulation.....	12
Section 3 The regulatory process .....	15
Section 4 Managing change.....	20
Section 5 Independent reviews .....	24
Section 6 Issues reported by stakeholders .....	25
Part B Assessment arrangements: roles of responsible bodies in implementing the framework.....	26
Section 7 The Secretary of State .....	26
Section 8 Department for Education .....	27
Section 9 Qualifications and Curriculum Development Agency (QCDA).....	28
Section 10 Local authorities .....	34
Section 11 Ofsted .....	36
Section 12 Schools and settings .....	37
Section 13 Headteachers, managers and leaders of Early Years Foundation Stage settings and governors .....	38
Section 14 Teachers .....	40
Section 15 CWDC – the Children’s Workforce Development Council.....	41

Section 16 The Chartered Institute of Educational Assessors .....	42
Glossary .....	43
Annex 1 The regulatory process in action .....	46

# **Foreword**

This is to be added at a later date

# Introduction

## Ofqual's role as regulator

1. The Apprenticeships, Skills, Children and Learning Act 2009 (the ASCL Act 2009) established the Office of Qualifications and Examinations Regulation (Ofqual) as the independent regulator of qualifications, examinations and assessments in England and of vocational qualifications in Northern Ireland. Its objectives, duties and powers in relation to National Assessments, as defined in the Act, are set out in the following paragraphs.

## Objectives

2. As the regulator of National Assessments<sup>1</sup> Ofqual's key objectives are to:
  - encourage and support the development and implementation of regulated assessments that give a reliable indication of achievement, and that indicate a consistent level of attainment (including over time)
  - promote public confidence in *regulated assessment arrangements* (see Glossary).

## Duties

3. Ofqual has a specific duty to keep under review all aspects of statutory national assessment arrangements. This includes:
  - the consistency and reliability of teacher and practitioner judgements
  - the development of tests, tasks and assessment models
  - the way *responsible bodies*<sup>2</sup> execute their monitoring, audit, development and implementation activities

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<sup>1</sup> In this document the term National Assessments refers to National Curriculum and Early Years Foundation Stage assessments.

<sup>2</sup> See Glossary for the general definition of responsible bodies. Responsible bodies include the Qualifications and Curriculum Development Agency (QCDA), local authorities, Ofsted, Early Years Foundation Stage providers and headteachers of maintained schools. (The government recently announced its intention to introduce legislation to abolish the Qualifications and Curriculum Development Agency (QCDA) and to ensure that National Curriculum tests continue to be delivered. For the purpose of this consultation, the current functions of QCDA in conducting National Assessments have been identified.)

- establishing whether assessment outcomes are being used in a way that is consistent with the *statutory or specified purpose of the assessment* (see Glossary)
  - for Early Years Foundation Stage, the involvement of pupils and children in initiating activities that could inform teacher or practitioner judgements.
4. In this context Ofqual will have regard to its general duties, which include:
    - the reasonable requirements of pupils and children, including persons with learning difficulties
    - information supplied to Ofqual by the persons falling within section 129(4) of the ASCL Act 2009<sup>3</sup>
    - the specified purposes of regulated assessment arrangements.
  5. If it appears that there is or is likely to be a significant failing (see Glossary) in the statutory assessment arrangements, Ofqual has a duty to notify the Secretary of State<sup>4</sup> and any relevant responsible body.
  6. Ofqual has a duty to act efficiently and effectively and to avoid imposing burdens which it considers unnecessary.
  7. Ofqual has a duty to report to Parliament.

## **Powers**

8. Ofqual has the power to request from relevant persons, at any time, information that it considers necessary for the performance of any of its functions, including from the Secretary of State, National Curriculum or Early Years Foundation Stage responsible bodies.
9. Ofqual has the power to require information which Ofqual considers necessary or expedient to have in order to perform its functions to review assessment arrangements from the Secretary of State, Her Majesty's Chief Inspector of Education, Children's Services and Skills and any responsible body. Ofqual would expect any organisation that has a remit for developing, implementing or monitoring any aspect of National Assessments, including any of a responsible body's suppliers, to provide

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<sup>3</sup> Section 129(4) of the ASCL Act 2009 designates QCDA, Her Majesty's Chief Inspector of Education, Children's Services and Skills and other relevant persons or relevant persons of such a description as the Secretary of State may direct.

<sup>4</sup> The Secretary of State referred to in this document relates to the Secretary of State with responsibility for early years, primary and secondary education.

information promptly and directly to Ofqual, where necessary including obtaining information from any of a responsible body's suppliers.

## **Other functions**

10. Ofqual must produce regulatory frameworks relating to National Curriculum and Early Years Foundation Stage assessment arrangements, and responsible bodies should meet the requirements of these frameworks when performing their functions.
11. Ofqual will promote a framework to support the consistent and appropriate application of criteria used by practitioners and teachers for assessment within and between settings<sup>5</sup>, schools and local authorities. Ofqual will review and report the effectiveness of this framework and may make changes to the framework that will further support the consistent and appropriate application of assessment criteria by practitioners and teachers.
12. As part of its regulatory activity Ofqual will take into account all duties placed upon it as a public body<sup>6</sup>. These duties<sup>7</sup> include promoting:
  - the elimination of discrimination
  - the equality of opportunity
  - good community relations
  - the elimination of harassment
  - positive attitudes towards disabled people
  - participation among disabled people
  - favourable treatment towards disabled people, if necessary
  - respecting human rights.

Ofqual will keep these duties under review as they develop over time.

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<sup>5</sup> Throughout this document the term settings refers to establishments, other than schools, that deliver the Early Years Foundation Stage curriculum and associated statutory assessments.

<sup>6</sup> Public body means a body exercising public functions.

<sup>7</sup> These duties apply to any responsible body that is also a public body.

**What Ofqual regulates**

13. Ofqual will focus on statutory National Assessments. However, if issues are raised about the quality or standards of any nationally provided non-statutory assessment materials, such as optional tests or additional teacher assessment support materials, Ofqual may investigate and make recommendations to improve the quality of the assessments.

**What Ofqual does not regulate**

14. Ofqual does not regulate the quality of teaching and learning. However, it will keep under review the impact of statutory National Assessments on the delivery of the curriculum and how stakeholders use the outcomes of these assessments.
15. It is the responsibility of the Secretary of State to set the statutory arrangements for National Assessments, identify the purposes of the assessments and assign the remits to responsible bodies to develop and implement all or part of a national assessment.

**The purpose of this framework**

16. The purpose of this document<sup>8</sup> is to set out how Ofqual will perform its function to keep under review all aspects of national assessment arrangements and to give guidance to responsible bodies about the performance of their functions in relation to national assessment arrangements so that the public can have confidence in the outcomes from National Assessments. This document focuses on regulation of national assessment arrangements and is not intended to cover all aspects of Ofqual's roles and responsibilities.
17. In line with its regulatory function set out in paragraph 10, Ofqual has produced this regulatory framework, which relates to National Curriculum assessments and Early Years Foundation Stage assessments (referred to as National Assessments in this document).
18. The framework ensures that responsible bodies and other specified persons understand their roles and responsibilities in relation to National Assessments, the outcomes expected from each part of the development and implementation process and how the regulatory programme will be managed.
19. The regulatory framework is intended to ensure that the roles and responsibilities of responsible bodies and specified persons are understood

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<sup>8</sup> This document has been prepared and published to meet the requirements at Sections 164 and 165 of the ASCL Act 2009.



by anyone with an interest in National Curriculum assessments and Early Years Foundation Stage assessments.

20. The framework also sets out the arrangements that should be carried out when changes to the assessments are made, how these changes will be monitored and the management procedures that should be in place during the change process.
21. The framework will also support the regulator to ensure that good practice is disseminated and then implemented.
22. This framework will be used by Ofqual in conjunction with its monitoring framework, which will be reviewed annually and published on its website.
23. This framework takes account of equality legislation. The framework is presented in two parts:
  - Part A sets out what Ofqual is required to do to deliver its regulatory function and the criteria and principles on which regulation will be based. Ofqual will implement the regulatory framework according to this part of the document, to ensure that responsible bodies' processes lead to continuous quality improvements and there is confidence in the outcomes of National Assessments. When reading Part A please note that, unless otherwise stated, the term responsible body means all responsible bodies.
  - Part B provides guidance on the roles and responsibilities of responsible bodies. It also identifies what Ofqual expects these bodies to demonstrate in order that stakeholders can be confident that the National Assessments are valid, reliable, appropriate, fair, manageable and accessible to all pupils for whom they are designed. This includes the requirement for responsible bodies to meet equality legislation.

## Part A The principles of regulation

### Section 1 Ofqual's approach to regulation

24. Ofqual's regulatory approach has regard to the five principles of regulation established by the government's Better Regulation Task Force.
- a) **Transparent: regulators should be open and keep regulations simple and user-friendly.** Each year Ofqual publishes its programme for monitoring national assessment arrangements, which sets out the monitoring priorities – see Section 3, 'The regulatory process'.
  - b) **Proportionate: regulators should intervene only when necessary, and intervention should be appropriate to the risk posed.** Ofqual's intervention will be based on the likely impact of the risk posed.
  - c) **Targeted: regulation should not only recognise the weaknesses but also the strengths of a responsible body's assessment arrangements.** However, when issues become evident, Ofqual's risk management strategy will ensure that regulation is targeted on those issues.
  - d) **Consistent: regulation must be implemented fairly and meet published standards.** Ofqual will apply the following five common criteria to the regulation of national assessment arrangements (see Section 2):
    - i. validity
    - ii. reliability
    - iii. comparability
    - iv. manageability
    - v. minimise bias.
25. Ofqual will determine the frequency and intensity with which it will monitor a responsible body according to:
- the extent of the responsible body's remit in the context of National Assessments
  - the possible impact of the responsible body failing to deliver all or part of its remit in the context of National Assessments
  - Ofqual's judgement of the level of confidence it has in the responsible body's arrangements to protect the interests of learners, standards and public confidence.

Ofqual's judgement will be primarily based on the:

- robustness of the responsible body's processes and procedures as identified through the responsible body's self-evaluation and Ofqual's monitoring activities
  - effectiveness of the responsible body's self-evaluation – the degree to which the responsible body proactively, accurately and comprehensively identifies and resolves problems itself
  - need to ensure consistency and standards when new assessment arrangements are being introduced.
26. Where a responsible body has its own remit to keep under review particular national assessment arrangements, as is the case for Qualifications and Curriculum Development Agency (QCDA), in order to avoid duplication of regulatory activity Ofqual will only keep under review the responsible body's arrangements to meet its remit.
27. Ofqual will seek evidence from the responsible body to confirm that the responsible body is fulfilling its remit to time and to quality. Ofqual will do this by measuring the extent to which the purposes of the assessments result in assessments that meet, or are likely to meet the common criteria – see paragraphs 34–36.

### **Outcomes of Ofqual's regulatory approach**

28. Ofqual's regulatory approach is designed to achieve the following outcomes over time:
- assessments are valid, reliable, comparable, manageable and minimise bias<sup>9</sup>
  - the content of assessments which comprise knowledge, skills and understanding is fit for the statutory or specified purposes of National Assessments and ensures appropriate coverage of the curriculum and, for the Early Years Foundation Stage, also addresses children's attitudes and dispositions
  - confidence in the reported outcomes of National Assessments
  - so far as possible, all pupils should be able to access assessment arrangements on an equal basis

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<sup>9</sup> These are the common criteria for regulation – see paragraph 36 for definitions.

- responsible bodies' processes lead to continuous quality improvement and ensure valid outcomes at each point of the national assessment delivery process.

### **Other aspects of Ofqual's regulatory approach**

29. Ofqual may contact schools, suppliers or local authorities directly as part of its programme to deliver its objectives.
30. Ofqual will ensure that its approach to regulation meets its own published Code of Conduct.
31. Ofqual will continue to keep its regulatory framework under review, including conducting impact assessments to ensure that regulation is fit for purpose, transparent, clearly communicated and takes into account the views of stakeholders.

## Section 2 Criteria for regulation

32. The criteria for regulating National Assessments comprise the common criteria (see paragraphs 34–36) and the assessment criteria (see paragraphs 37–41).
33. Responsible bodies with functions relating to development of National Assessments should develop assessments that meet the common and assessment criteria and ensure that their suppliers meet these requirements.

## Common criteria

34. The common criteria are set by Ofqual and are used to judge the extent to which the outcomes of statutory National Curriculum assessment arrangements meet, or are likely to meet, their statutory or specified purpose. Ofqual must consult with relevant stakeholders on any proposed changes to the common criteria from one year to the next.
35. The common criteria apply to the development, implementation, marking and reporting of externally assessed tests and internally assessed tasks, and the moderation of teacher assessment and Early Years Foundation Stage profile judgements. The responsible body should ensure that the procedures for each part of the assessment process and activities meet the relevant common criteria, and that the common criteria are considered during any evaluation.
36. Ofqual will apply the following five common criteria to regulation:
  - **Validity – the central concept in evaluating the quality of assessment outcomes. It is the overarching concept and subsumes other concepts. All regulatory activities will consider the extent to which an assessment activity provides a valid outcome.** Validity is a multi-faceted but unitary concept – other concepts, such as reliability, comparability and minimise bias, are aspects of validity, but validity remains one whole, indivisible concept. However, aspects of validity can be in conflict; for instance, to make more reliable test scores, one might make a test longer, but this would tend to make the test less manageable.

Validity pertains to the arguments or interpretations placed on assessment outcomes, results or scores. In evaluating validity, one would be evaluating arguments such as:

- a. ‘The results of this assessment provide a sound basis for informing teachers on pupils’ or children’s progress at the next stage of learning.’
- b. ‘The results of this assessment provide useful information for teachers in succeeding years to understand pupils’ strengths and weaknesses.’

The evaluation of validity will amount to working out whether the outcomes of the assessment procedure (grades, profile of the child, etc) provide adequate information to sustain the argument being made. One needs to evaluate validity separately for each interpretation that is made.

Validity will rarely be an absolute condition; for example, one would be more likely to decide that 'the outcomes from this assessment are *sufficiently* valid' rather than saying that they are valid in absolute terms.

- **Reliability – relates to the propensity of an assessment procedure to generate consistent outcomes.** If an assessment procedure tends to give the same result when repeated, then it will tend to be reliable. Reliability is a property of the assessment outcomes (scores, grades, levels, etc), not of the test itself.

Reliability is a necessary condition for validity; if an assessment procedure is not measuring consistently, in effect it is not measuring at all. Achieving this with teacher assessment is dependent on the quality of criteria, moderation processes and exemplification and guidance, for example.

- **Comparability – relates to the extent to which several (different) assessment procedures generate consistent outcomes.** For example, one might consider comparability between:
  - i. years – was this year's assessment easier or harder than last year's?
  - ii. areas of learning or subjects – is the standard expected in one area of learning higher or lower than in another?

Like reliability, comparability relates to assessment outcomes such as scores or grades rather than the assessment itself. Like validity, aspects of comparability can be in conflict: for example, one may have to choose whether to retain comparability between years or seek to improve the moderation of assessments. One may not be able to guarantee both.

- **Manageability – an assessment can be deemed manageable if it is feasibly possible to carry it out, given known practical constraints such as time, budget, numbers of pupils, etc.** Unlike validity, reliability and comparability, manageability *does* relate to the assessment procedure itself; for example, one could have a very long test that produced very reliable results, yet was not sufficiently manageable.
- **Minimise bias – an assessment can be said to minimise bias in so far as it does not produce unreasonably adverse outcomes for a group of learners with given social characteristics (for example, gender, age, disability, sexuality, ethnic origin, socioeconomic status, etc).** Minimising bias as a characteristic of assessment is closely related to

statutory equality duties. Ofqual's approach to the discharge of those duties can be found in its Equality Scheme.

### **Assessment criteria**

37. The assessment criteria supplement the common criteria and must:
  - clarify how the assessment meets the purposes of the assessment that have been set by the Secretary of State
  - illustrate how the responsible body is delivering its remit
  - describe how the assessment will meet the common criteria
  - describe the form of the assessment
  - define the coverage of the relevant area of learning relating to that key stage.
38. The assessment criteria for each national assessment are produced by the responsible body that has the remit for developing and/or implementing the relevant national assessment.
39. The assessment criteria should be agreed with Ofqual. A responsible body should seek approval from Ofqual if it wishes to modify the assessment criteria. Changes will be agreed if they are deemed to be in the interest of the learner or to secure the integrity of the assessment.
40. Responsible bodies should develop specifications and associated assessment arrangements that meet both the common and assessment criteria.
41. The responsible body for a particular assessment, or part of an assessment, should keep the relevant assessment criteria under review. Any proposed revisions should be agreed with Ofqual. Any changes advised by Ofqual should be implemented by the responsible body. Revisions may arise as a result of the monitoring and evaluation of the assessment arrangements, changes in assessment policy, revised statutory orders or National Curriculum requirements. The arrangements described in Section 4, 'Managing change', should be followed.

### **Section 3 The regulatory process**

#### **The regulatory programme**

42. Ofqual will publish an annual programme of monitoring the national assessment arrangements for each year that will include:
  - monitoring the implementation and quality of the assessment arrangements over time
  - risk-based monitoring
  - additional annual checks.
43. Over time this programme will cover all the stages and activities involved in developing and implementing National Assessments including:
  - the development, implementation, marking and reporting of externally assessed tests and internally assessed tasks
  - suppliers' delivery systems
  - teacher assessment and the moderation of teacher assessment judgements
  - practitioner assessments and the moderation of Early Years Foundation Stage profile judgements
  - the evaluation of guidance and training materials
  - the use of assessment data outcomes
  - all aspects of National Curriculum and Early Years Foundation Stage assessment arrangements
  - the role that stakeholders play in conducting and quality assuring the assessment arrangements.
44. Ofqual may re-focus its published programme of monitoring if risks have been identified that threaten the quality or implementation of assessments, or if issues have arisen during a review or additional check of a responsible body, its suppliers or their systems.
45. Each year Ofqual will also carry out specific monitoring exercises focused on a particular theme or key activity. These exercises will be determined by Ofqual at its discretion but based on those areas where risk assessment indicates there is most concern. The evidence from risk assessment will be used to determine the nature, scope and frequency of the monitoring activities and will be informed by consideration of the following factors:



- changes to how the assessment arrangements are conducted
  - changes to the processes and systems in relation to the assessment arrangement
  - changes to suppliers of assessment products or systems or key personnel
  - the issue of new national guidance and support material
  - analysis of assessment outcomes data and how data are used
  - outcomes of self-assessment undertaken by responsible bodies and Ofqual's previous monitoring
  - complaints Ofqual may have received concerning the assessment arrangements or feedback from Ofsted and other relevant bodies
  - the need to ensure Ofqual monitoring activities are appropriately targeted and add value
  - research that indicates the need for a monitoring activity
  - feedback from stakeholders including parents, guardians or carers, and practitioners.
46. Details of the processes and procedures used by Ofqual in fulfilling its regulatory remit will be published in a handbook – the *Monitoring Framework for (year)*. This handbook will be updated annually.

### **Requirements of the regulatory process**

47. Responsible bodies should:
- maintain a record of all activity associated with the development and implementation of their remit
  - keep under review the progress of all such activity to ensure completion to time and to quality
  - share their risk register with Ofqual.
48. Ofqual may require responsible bodies to attend accountability meetings at key stages of the assessment development and implementation process.
49. Responsible bodies should provide details of their national assessment development and implementation programmes to Ofqual by an agreed date. The information and documents required are listed in Ofqual's published handbook – the *Monitoring Framework for (year)*.

50. Ofqual will share the relevant detail of its monitoring programme with each responsible body by an agreed date. Ofqual will provide a rationale or justification for its scheduled monitoring activity. In the event of additional monitoring activity, Ofqual will provide a rationale or justification prior to commencement of that activity.
51. Responsible bodies should provide additional data and management information when requested by Ofqual. Ofqual will set a date for receipt of this information and any justifications or explanations that it requires in order to carry out its regulatory function. If the data are not provided by the deadline Ofqual may request information directly from the supplier where possible.
52. Ofqual will evaluate national assessment materials under development on their potential to meet the five common criteria (see paragraphs 34–36) and the agreed published assessment criteria (see paragraphs 37-41).
53. Responsible bodies should:
  - at the commencement of their remit, define and plan each key activity relating to the development and implementation of the assessment
  - prior to implementation, quality assure each key activity, with clear mitigations put in place to address identified risks and issues
  - on completion, review and evaluate each key activity in order to provide evidence to Ofqual, if requested, and to inform final self-assessment
  - ensure that the outcomes of review and evaluations are used to inform continuous quality improvement and self-assessment evaluation in order to deliver structured improvement.
54. Ofqual will review the responsible body's self-assessment reports and recommendations, and will compare these against evidence from Ofqual's own sampling programme of the National Assessments.
55. At each stage of the assessment development and implementation process, responsible bodies should inform Ofqual of:
  - the operational procedures
  - the controls and potential points of failure
  - how risks will be minimised and what contingency plans exist
  - the evidence of success for each stage of the process.

56. Responsible bodies are subject to equalities legislation, and are responsible for complying with its requirements.
57. Ofqual may carry out additional checks to confirm that processes and systems are fit for purpose, can deliver on schedule and meet the required quality.
58. Following monitoring activity, Ofqual will share its findings, including any risks or issues that need to be addressed urgently, with the relevant responsible body.
59. Responsible bodies should confirm that recommendations and highlighted risks or issues, identified by either themselves or Ofqual, have been addressed and what action has been taken.
60. Ofqual will, if requested, advise the Secretary of State on the progress made by responsible bodies towards the delivery of the statutory National Assessments to schedule and to quality.
61. As a result of monitoring, Ofqual will provide feedback to responsible bodies, and publish an annual summary.
62. A flowchart outlining how the regulatory process will work in practice is provided at Annex 1.

### **Managing risks**

63. Responsible bodies and suppliers should each keep active risk registers that are regularly updated and reviewed. The risk registers should address:
  - threats to the validity of the assessment and the quality of assessment materials
  - threats to the delivery of the assessment
  - the performance of new suppliers and any risks that could result in a failure of delivery.
64. Responsible bodies should identify how such risks could be effectively mitigated and have planned contingencies to address each risk.
65. Ofqual will agree with a responsible body the risk tolerances (including timing) outside of which the regulator should be informed. The responsible body should ensure that, within the risk management framework, disaster recovery/business continuity plans are maintained and regularly practised and reviewed to prepare for major incidents that could adversely affect the assessment systems.

66. Ofqual, responsible bodies and the responsible bodies' suppliers should have clear procedures for escalating risks:
- a responsible body should ensure that its suppliers inform it of any risk to the delivery of its part of the assessment process
  - the responsible body should then inform Ofqual of any potential risk to the quality or implementation of the assessments.
67. Ofqual must inform the Secretary of State, of any risks:
- to the validity of the assessments
  - to the delivery or the quality of the assessments
- that may jeopardise the delivery of the statutory or specified purposes of the assessment.

## **Section 4 Managing change**

### **Procurement**

68. Responsible bodies should inform Ofqual of any procurement activities relating to the development or delivery of assessments and systems, and ensure that Ofqual is informed of progress throughout the procurement process.
69. Responsible bodies should demonstrate that:
  - they are following their published procurement procedures
  - these procedures meet legal requirements
  - the procedures are transparent and efficiently carried out within the published time frame
  - the procurement criteria are rigorous, robust and appropriate
  - they are managing the risks associated with the procurement activity and are actively updating their risk register
  - they have carried out an equality impact assessment on the procurement activity and also on the outcomes.
70. Responsible bodies should confirm that they, their preferred and potential suppliers:
  - have the necessary knowledge, capacity, experience and track record to deliver its function
  - can meet the regulatory framework
  - have policies to meet the legal requirements of employment and equalities legislation applicable to them
  - promote the delivery and monitoring of equal opportunities as set out in legislation.
71. Responsible bodies should monitor the performance of all new suppliers more closely than existing suppliers and report any issues arising to Ofqual.
72. Ofqual will include the performance of a new supplier in its monitoring programme.

## Changes to the assessments

73. From time to time, it may be necessary to amend the national assessment arrangements. This may be required for a variety of reasons, for example:
- (a) policy changes requested by ministers or Department for Education
  - (b) curriculum developments<sup>10</sup> recommended by a responsible body
  - (c) recommendations from Ofqual as the outcome of monitoring activities
  - (d) continuous improvement through a responsible body's self-assessment
  - (e) modernisation programmes.
74. Any change to the assessments will have an effect on the comparability of standards and delivery of the assessments.
- The relevant responsible body must have in place arrangements to manage and justify changes in the system.
  - Ofqual will provide advice on the extent to which these changes support the fitness for purpose of each assessment
  - Ofqual will take into account the impact of these changes on standards and provide advice on how standards may be carried forward
75. Where changes are proposed to content, structure or processes, responsible bodies must, if requested, provide Ofqual with an *impact analysis* (see Glossary) of the proposed changes. This analysis should be evaluated against the appropriate common criteria (identified in Section 3).
76. Ofqual will review the impact analysis to ensure that the expected benefits and risks are justified in the content of the change and minimised.
77. Based on the scale of the changes proposed, the responsible body and Ofqual will agree on the appropriate level of change management and the involvement of the responsible body's chief executive, the responsible body's board, Department for Education and ministers according to the nature and impact of the proposed changes.
78. The following principles apply when implementing change:
- (a) The responsible body should explain the changes to Ofqual.

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<sup>10</sup> Decisions on curriculum developments are made by the Secretary of State.

- (b) Where appropriate, the responsible body should obtain written consent from the Department for Education.
  - (c) Where change to the system is proposed, the responsible body and its suppliers should each identify and monitor the risks associated with implementing the change.
  - (d) An equality impact assessment should be conducted on the proposed changes.
  - (e) Ofqual will incorporate relevant changes into the regulatory framework's common criteria.
  - (f) Ofqual will keep under review any amendments to the assessment criteria proposed by the responsible body.
79. Depending on the scale of the proposed changes to the content, format or methods of assessment, Ofqual will provide advice on a timescale for implementation. The responsible body should ensure that adequate notice is given to schools or settings to implement the change so that the integrity of the assessments is maintained and the interests of children and pupils are protected.

### **Piloting changes**

80. Where changes are introduced responsible bodies should provide Ofqual with an evaluation of any proposed:
- changes to assessments or assessment arrangements
  - changes to assessments where Ofqual or the Department for Education deem that a pilot is required
  - changes to systems to ensure that they are sufficiently robust to cope with a national roll-out.
81. In the light of these evaluations Ofqual will provide advice as to whether the proposed change should be piloted.
82. Ofqual will require the responsible body whose remit is to develop and implement the pilot to provide data as detailed in Ofqual's regulatory handbook – the *Monitoring framework for (year)*.
83. Ofqual will keep account of the pilot arrangements, evaluate the pilot process and report any issues where the proposed changes do not meet the common criteria to the relevant responsible body, Department for Education and, where appropriate, the Secretary of State.

84. Decisions on whether to implement any piloted activities for accountability purposes should be agreed with Ofqual before implementation.



**Section 5 Independent reviews**

85. Ofqual may investigate complaints made by stakeholders about the way in which National Assessments have been conducted by responsible bodies after due process.<sup>11</sup>
86. Stakeholders may contact Ofqual to seek an independent review of a decision made by the responsible body such as the outcome of a review of marking or an investigation of alleged maladministration.
87. Ofqual may carry out the review once the stakeholder and the relevant responsible body have confirmed that they have followed and completed the responsible body's published procedures for seeking a review of a decision.
88. The responsible body should provide Ofqual with any requested information from the responsible body's review.
89. Ofqual will publish its procedures for applying for an independent review and how it will carry out independent reviews.

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<sup>11</sup> QCDA has a statutory duty to investigate complaints made by stakeholders.

**Section 6 Issues reported by stakeholders**

90. Any person or persons may report directly to Ofqual issues that have arisen about the quality or implementation of the assessment that will have an impact on the integrity or validity of the assessment outcomes. The person or persons must do so without fear of consequence from their employer. Such a report may be protected under the Public Interest Disclosure Act 1998 subject to the requirements of the Act having been complied with.

# **Part B Assessment arrangements: roles of responsible bodies in implementing the framework**

## **Section 7 The Secretary of State responsible for education**

### **Role and responsibilities**

91. The Secretary of State is responsible for:
  - determining the scope and status<sup>12</sup> of all National Assessments up to age 14
  - specifying the purposes of these national assessments
  - setting the statutory arrangements.
92. The Secretary of State is required to consult Ofqual before making any changes to statutory national assessment arrangements.

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<sup>12</sup> Status' includes assessments that are statutory and optional.

**Section 8 Department for Education**

**Role and responsibilities**

93. The Department for Education will set the remit for responsible bodies to develop and deliver National Assessments in line with current policy as determined by the Secretary of State.
94. The Department for Education is expected to consider Ofqual's recommendations for any changes to current assessment arrangements and, in particular, innovative approaches to developing and delivering assessments. These changes will have been thoroughly investigated following the procedures outlined in Section 4, 'Managing change'. Ofqual will provide clear justification and a rationale for a proposed change and will confirm that the change can be implemented manageably.
95. The Department for Education may request Ofqual's expert advice on specific issues.
96. The Department for Education:
  - receives data from responsible bodies on how the national cohort of pupils has performed in the National Curriculum assessments and achievement data from local authorities for the Early Years Foundation Stage profile and key stage 1
  - publishes these data
  - may carry out international comparisons based on data from the statutory National Assessments.

**The government recently announced its intention to introduce legislation to abolish the Qualifications and Curriculum Development Agency (QCDA) and to ensure that National Curriculum tests continue to be delivered. For the purpose of this consultation, the current functions of QCDA in conducting National Assessments have been identified.**

#### **Section 9 Qualifications and Curriculum Development Agency (QCDA)**

### **Role and responsibilities**

97. QCDA is appointed by the Secretary of State to develop and implement statutory National Assessments and their associated assessment arrangements.
98. QCDA is accountable to the Secretary of State for ensuring that the public is confident that statutory National Assessments meet the requirements of the common criteria – paragraphs 34–36.
99. QCDA's chief executive is ultimately responsible for the integrity and quality of the National Assessments for which it has been remitted to deliver and for maintaining standards of these assessments.
100. Where QCDA sub-contracts any part of the development or implementation process, including associated systems, QCDA remains ultimately responsible for the quality and timely delivery of that process.
101. QCDA must provide exemplification of standards in the assessments and ensure that these standards are maintained.
102. QCDA's demands on schools, headteachers, managers and leaders of Early Years Foundation Stage settings, teachers and practitioners must be the minimum necessary to support their professional competence in assessment and to maintain the integrity of the assessments.
103. QCDA must identify and use the most effective and efficient form for communicating and disseminating information, guidance or support materials.
104. QCDA must communicate information about National Assessments clearly and effectively so that local authorities, schools and Early Years Foundation Stage settings are informed of their statutory assessment responsibilities and the statutory assessment arrangements, and have sufficient time to plan and carry out its responsibilities.
105. QCDA must:
  - ensure that its staff involved in National Curriculum assessments have awareness and understanding of the statutory requirements placed on

local authorities, schools and teachers relating to National Curriculum assessments

- carry out reviews, involving a wide range of stakeholders representing different social backgrounds, religion and belief, sexual orientation, age, race, gender, ability or disability to evaluate the strengths and weaknesses of its communication and dissemination strategies, and implement identified improvements
  - publish the findings of its reviews and, along with its own self-assessment, use the findings to inform the implementation of the national assessment programme in subsequent years
  - ensure that the views of stakeholders have been taken into account when changes to the National Assessments, reporting arrangements or assessment processes and arrangements are proposed – see Section 4, ‘Managing change’
  - ensure that local authorities, schools and Early Years Foundation Stage settings are involved in the design and delivery of information, guidance and support through partnership, so that they can contribute to improving systems for the future
  - keep the burden of administering National Assessments to a minimum without risking the validity of the assessment process
  - ensure that deadlines by which local authorities, schools and Early Years Foundation stage settings are expected to have completed an activity are clear, achievable and published in a timely manner
  - respond promptly and effectively to any communication in accordance with its published customer service code of conduct
  - have a defined system of improvement that ensures continuous quality improvement.
106. QCDA has a statutory duty to investigate any matter of maladministration brought to its attention that could jeopardise the integrity, security or confidentiality of the assessments and lead to the validity of the outcomes being compromised.
107. QCDA is appointed to audit any aspect of the implementation of National Assessments that is carried out by another organisation and should provide guidance, training and examples of good practice for that organisation.

108. QCDA and its suppliers should demonstrate that they carry out equality impact assessments on all assessment materials, written communications with stakeholders, procurement arrangements and appointment of staff.
109. QCDA should provide Ofqual with all the information that it requests to carry out its regulatory function.
110. The responsibilities of QCDA are discharged through its staff and appointed suppliers. QCDA should ensure that its staff, and its suppliers, meet the requirements of current equalities legislation.
111. QCDA should provide appropriate training and support to ensure that its personnel can carry out the functions set out in this regulatory framework.

#### **QCDA's accountable officer(s)**

112. QCDA will appoint a named person or persons for ensuring that the quality and standard of National Assessments meet those expected by Ofqual. This person is/are the accountable officer.
113. The accountable officer(s) is responsible for demonstrating:
  - that all necessary action will be taken to maintain standards in each area of learning (See Glossary) from year to year
  - QCDA's compliance with the requirements of the regulatory framework
  - that continuous quality improvement procedures are in place and being actioned
  - QCDA's participation in comparability, monitoring and evaluation activities
  - that any information or data requested by Ofqual is supplied by an agreed or specified date
  - that any procedural changes to assessments have been agreed with Ofqual and piloted to meet Ofqual's common criteria
  - that the diversity and inclusion requirements set out in this regulatory framework document have been met
  - that Ofqual is immediately informed of any major risks and issues that could affect the integrity or delivery of the assessments.

#### **QCDA's staff**

114. QCDA's staff manage all the stages and key activities of their assessment remit. They should ensure that:

- the stages are carried out in accordance with the regulatory framework and with the responsible body's own policies and procedures
- the responsible body's senior management, including the accountable officer(s), are alerted to issues or concerns that arise during the process which pose a threat to the validity of the outcomes.

115. QCDA's staff should demonstrate that all diversity and inclusion issues raised during the assessment process have been considered.

### **QCDA's suppliers**

116. QCDA's suppliers should provide information to Ofqual when required (see paragraph 9). If this information is not provided by the agreed or specified date, the Secretary of State may nominate the supplier as a responsible body and require the supplier to provide the information.

## **Evidence and outcomes**

### **Externally developed and implemented assessments**

#### *Outcome evidence for regulation*

117. QCDA should demonstrate that it has:

- developed and implemented assessments that meet the common criteria and assessment criteria – see paragraphs 34–41
- produced and distributed clear statements of operational processes and procedures to relevant parties
- documented operational processes for purposes of communication, management, knowledge transfer and quality
- a defined system of improvement that ensures continuous quality improvement for each process
- ensured that appropriate administrative processes and procedures are distributed in time for schools and local authorities to plan how they will be implemented
- ensured that National Curriculum assessments are delivered on schedule and meets the common criteria
- ensured that no pupil working at the level of the assessment arrangements has been excluded or disadvantaged and is able to access assessments on an equal basis
- procedures in place for ensuring the confidentiality and security of all assessment materials where required



- involved practitioners, assessors (See Glossary), suppliers and local authorities from a cross-range of backgrounds, irrespective of social background, religion and belief, sexual orientation, age, race, gender, ability or disability in reviewing the assessment process and has considered the outcome of the reviews
- consider issues, and recommendations to improve any aspect of National Assessments, raised by Ofqual.

### **National sampling**

118. QCDA should demonstrate that:

- the sample of pupils and schools is representative of the cohort
- there is clear and effective communication with schools and their local authorities about the arrangements for national sampling for that year
- high quality assessment materials have been developed that meet the common criteria and assessment criteria and allow international comparisons to be made
- assessment materials are kept secure, according to the published arrangements
- performance data are accurately collated and passed to the Department for Education
- a report on standards over time is provided for the Department for Education.

### **Teacher and practitioner assessments**

As part of its remit QCDA has a role supporting local authorities in monitoring the administration of statutory National Curriculum assessments in line with statutory requirements. Paragraph 118 should therefore be read in conjunction with Section 10, pages 33 and 34.

#### *Outcome evidence for regulation*

119. QCDA should demonstrate that:

- it has provided schools and settings with guidance material that support teacher and practitioners making valid and reliable judgements
- any assessment materials it has produced to inform teacher and practitioner assessment judgements meet the regulatory principles set out in the relevant subsections in this document

- it has clearly communicated with schools and settings about the assessment arrangements including the timetable for reporting the outcome of teacher and practitioner assessments
- it has provided local authorities with the necessary statutory information, guidance and training to moderate teacher and practitioner assessment judgements
- local authorities are monitoring the statutory assessment outcomes of National Curriculum teacher assessments, and Early Years Foundation Stage profile practitioner judgements in line with national standards.

## **Section 10 Local authorities**

### **Roles and responsibilities**

120. Local authorities have a statutory duty to monitor the administration of statutory National Curriculum assessments in line with statutory requirements.
121. Where National Assessments have to be taken on a specified date, local authorities are responsible for monitoring the security of assessment materials in their schools.
122. Local authorities are responsible for ensuring that their Early Years Foundation Stage settings – schools and private, voluntary and independent settings – administer appropriately the Early Years Foundation Stage statutory framework and reporting arrangements. They should ensure that their schools and settings understand and follow requirements.
123. Local authorities have a statutory responsibility for moderating practitioner and teacher assessments, in line with statutory requirements, to secure consistent standards in the judgements. Local authorities will be provided with the necessary statutory information, guidance and training to carry out these duties.
124. Local authorities have a responsibility for collecting key stage 1 and Early Years Foundation Stage profile attainment data from their schools and Early Years Foundation Stage settings, checking the data and then submitting the data to the Department for Education.
125. Local authorities should share information about assessment arrangements provided by responsible bodies within their authority, schools and Early Years Foundation Stage settings to ensure common understanding and consistency.

### **Evidence and outcomes**

#### **Externally developed and implemented assessments**

##### **Regulating key activities**

###### *Access arrangements*

126. Local authorities should be able to demonstrate that they have monitored the use of access arrangements in their schools.

## **Teacher and practitioner assessments**

### *Outcome evidence for regulation*

127. Local authorities should demonstrate to QCDA that:

- procedures are in place in their schools and settings to ensure that teacher and practitioner assessment judgements are consistent and meet national standards
- the assessment judgements are a true reflection of children's and pupils' attainment.
- they support and implement, where possible, cross key stage moderation arrangements
- they have efficient procedures in place to ensure that any statutory requirement to collect pupil and children's attainment data from their schools and settings is accurate before submitting the data to the Department for Education.

**Section 11 Ofsted**

**Roles and responsibilities**

128. Ofsted uses the aggregated attainment and progress data generated from National Assessments as part of its evidence base for the evaluation of achievement and assessment outcomes in schools and settings.
129. When inspecting foundation schools and settings, Ofsted would expect to see completed Early Years Foundation Stage profiles.
130. Ofsted should inform Ofqual of any issues arising as part of its inspection process that may affect the validity and reliability of National Assessments.

**Section 12 Schools and settings**

**Roles and responsibilities**

131. Maintained schools must participate in the statutory National Curriculum assessments and report the outcomes to parents, guardians or carers.
132. If non-maintained schools choose to participate in the national assessment system, they should follow the published assessment arrangements.
133. All schools and settings that provide for children in the Early Years Foundation Stage must make arrangements for an Early Years Foundation Stage profile to be completed for each child in the final year of their Early Years Foundation Stage.
134. All schools and settings that provide for children in the Early Years Foundation Stage must provide parents, guardians or carers with a written summary of a child's progress against the early learning goals and assessment scales at the end of the foundation stage of learning. This written summary must also be used to inform key stage 1 teachers about children's attainment.

**Section 13 Headteachers, managers and leaders of Early Years Foundation Stage settings and governors**

**Roles and responsibilities**

135. It is the responsibility of headteachers, managers and leaders of Early Years Foundation Stage settings and governors of maintained schools to ensure that the statutory National Assessments are carried out according to the published statutory assessment arrangements and that achievement in these assessments is reported to parents, guardians or carers.
136. Headteachers that provide for children in the Early Years Foundation Stage and managers and leaders of foundation stage settings, where this is appropriate, must make sure that their schools comply with all aspects of the foundation stage curriculum and assessment.
137. Headteachers and managers and leaders of foundation stage settings must ensure that arrangements are in place to ensure that reliable and consistent teacher and practitioner assessment judgements are made. These arrangements must include internal moderation and moderation across adjacent key stages.
138. Headteachers and managers and leaders of foundation stage settings, where this is appropriate, must provide their local authorities with key stage 1 and Early Years Foundation Stage profile achievement data.
139. Headteachers and managers and leaders of foundation stage settings, where this is appropriate, must engage parents, guardians or carers in the recording of attainment for the Early Years Foundation Stage profile.

**Evidence and outcomes**

**Externally developed and implemented assessments**

*Outcome evidence for regulation*

140. Headteachers are required to confirm that the statutory assessments have been administered to all eligible pupils according to the published statutory assessment arrangements.

**Regulating key activities**

*Access arrangements*

141. Headteachers must be able to confirm:
  - the security and confidentiality of assessment materials that have been opened early to make approved modifications for individual pupils

- that all pupils who meet the eligibility criteria for access arrangements have been identified
- that these pupils have been given the opportunity of the access arrangements to show their ability.



## Section 14 Teachers

### Roles and responsibilities

142. Teachers, with advice from education and assessment experts, are responsible for identifying any children or pupils who need additional arrangements to be able to access or show their ability in the statutory National Assessments.
143. Teachers and early years practitioners are responsible for ensuring the consistency and accuracy of their assessment judgements.

### Evidence and outcomes

#### Teacher and practitioner assessments

##### *Outcome evidence for regulation*

144. Teachers and practitioners must show that:
- they have used evidence of performance in a range of activities to inform their assessment judgement
  - this judgement is a true reflection of that pupil's or child's attainment
145. Teachers and practitioners must demonstrate the consistency and accuracy of their assessment judgements through participation in:
- internal moderation with teachers or practitioners in their own school or setting
  - external moderation between schools and settings and across key stages.

**Section 15 CWDC – the Children’s Workforce Development Council**

**Roles and responsibilities**

146. The Children’s Workforce Development Council is responsible for defining qualifications and training requirements acceptable for registration as an early years practitioner and for regulatory purposes.

**Section 16 The Chartered Institute of Educational Assessors**

**Roles and responsibilities**

147. The Chartered Institute of Educational Assessors provides support and professional development in assessment. It provides accreditation for teachers, moderators and *assessors* (see Glossary) that recognises their knowledge, understanding and capabilities in assessment.
148. The Chartered Institute of Educational Assessors may accredit schools for their arrangements in ensuring that teacher assessment judgements are consistent and meet national standards.

## Glossary

**Access arrangements** Arrangements that are approved in advance of an assessment, to allow attainment to be demonstrated by pupils with specific assessment requirements.

**Areas of learning** underpin learning activity and may cut across traditional subject areas. Areas of learning allow for the development of skills, knowledge and experiences.

**Assessment archive** Assessment documents, including pupils' work from previous years, that have been stored and catalogued. The documents are used to check that standards from one year to the next have been carried forward.

**Assessment materials** Any materials relating to the delivery of an assessment, such as test papers, source materials, answer sheets and mark schemes.

**Assessor** Any person who makes a judgement on an assessment.

**Early Years Foundation Stage profile** A child's record of attainment at the end of the Early Years Foundation Stage.

**Equality impact assessment** An assessment that considers the impact of a measure on race, age, disability, gender, sexual orientation and religion or belief.

**Impact analysis** An assessment of the expected benefits and risks associated with a change in assessment arrangements or processes.

**Likely to be a significant failing** A likely significant failing may be identified either by the responsible body itself or by Ofqual.

**Maladministration** Maladministration, in this document, refers to any act that threatens the integrity of the assessments or the validity of the results of individuals or groups of pupils. It may or may not have arisen from a deliberate intent to intervene in the statutory assessment process.

**Marker** Any person who applies a predetermined marking framework to part or the whole of an assessment.

**Moderation** The process through which teacher assessment is monitored to ensure that it is reliable, fair and consistent with required standards.

**Modified materials** Test papers and other assessment materials that have been amended for pupils with specific assessment requirements.

**Monitoring** Ensuring that processes and procedures are being carried out according to the specification provided.

**Pre-testing** The trialling of assessment materials with a sample of pupils as part of the test development process.

**Regulated assessment arrangements** The arrangements made for assessing pupils in England in respect of each key stage of the National Curriculum; and the arrangements for assessing children in England. (This equates currently to National Curriculum tests at key stages 1 and 2, teacher assessment as part of key stages 1 to 3 and the Early Years Foundation Stage profile.)

**Regulator** The body, accountable to Parliament, that is responsible for securing public confidence in the validity, reliability and rigour of statutory assessments and in the maintenance of standards over time, i.e. Ofqual.

**Responsible bodies** Organisations and individuals who under or by virtue of an order made under section 39(1)(a) of the Childcare Act 2006 or section 87(3)(c) of the Education Act 2002 have functions in relation to the development, implementation or monitoring of assessment arrangements.

**Significant failing** There is a significant failing if, as a result of the way in which the arrangements are being developed or implemented, they fail in a significant way to achieve one or more of the specified purposes of the arrangements (as noted in paragraph 3).

**Special consideration** Arrangements that may result in an adjustment to the marks of a pupil whose performance in the assessments has been affected.

**Specific assessment arrangements** Additional arrangements, agreed with the responsible body, that allow access to the assessment for pupils with assessment needs that are not covered by the published arrangements.

**Specified purpose of assessment** are as follows:

**Single level tests** The specified purpose is to confirm that the pupil is working within the National Curriculum level specified in reading, writing or mathematics.

**National sampling** The specified purpose is to monitor national performance standards against public service agreement targets with respect to the National Curriculum in English, mathematics and science at key stage 3 and science at key stage 2.

**Stakeholder** Any person with an interest or involvement in National Assessments.

**Statutory purpose of assessment are as follows**

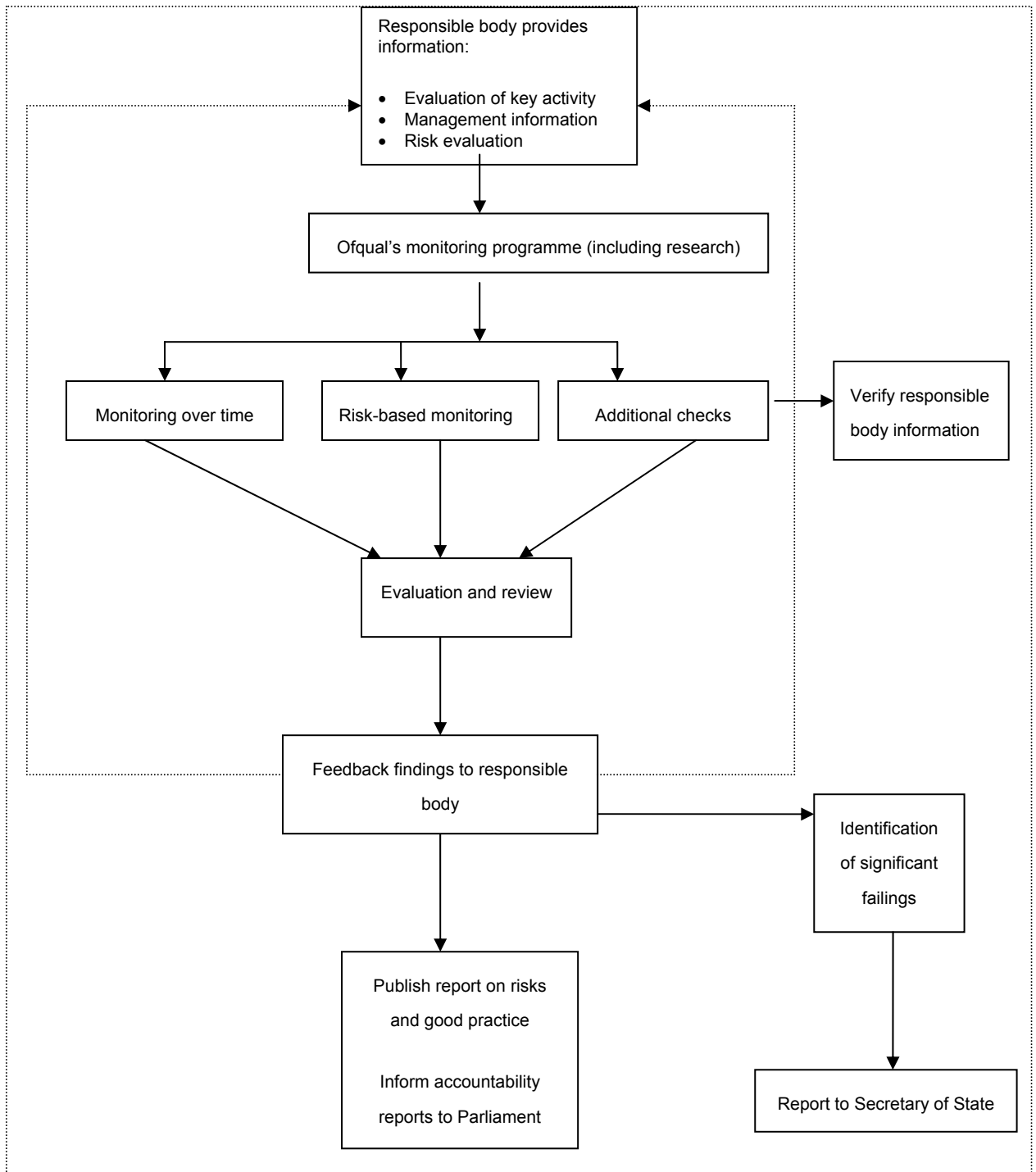
**End of key stage tests** The statutory purpose is ascertaining what pupils have achieved in relation to the attainment targets for that stage.

**Early Years Foundation Stage assessments** The statutory purpose of assessment is ascertaining what children have achieved in relation to the early learning goals.

**Statutory national assessment arrangements** see regulated assessment arrangements

**Supplier** An individual or organisation that provides assessment materials or systems to the responsible body for developing and/or delivering National Assessments.

# Annex 1 The regulatory process in action



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