Consultation on Functional Skills Qualification Reform – English and Mathematics

Contents

Foreword

This consultation relates to the reform of Functional Skills Qualifications in English and mathematics in England. The purposes of these qualifications, set out by government, are to provide learners with the essential knowledge, skills and understanding that will enable them to operate confidently, effectively and independently in life, and help with progression into employment and further study. In this reform programme we seek to maintain the flexibility and workplace relevance of the existing qualifications, while providing the assurance that learners have demonstrated the knowledge and skills that employers need.

The Department for Education has determined that reformed Functional Skills Qualifications in English and mathematics should have common subject content, which is an important development to specify expectations and increase comparability across awarding organisations. The detailed subject content is the responsibility of government and is being consulted on separately by the Department. When finalised, we will adopt this into our regulatory framework.

Our consultation sets out a proposed approach to regulating Functional Skills Qualifications in English and mathematics. We ask for views on the design, delivery and awarding of these qualifications and on the detail of how to maintain standards across awarding organisations and over time.

Through this programme of reform we are proposing to retain the existing features of the current qualifications that work well, as identified through extensive engagement with English and mathematics practitioners carried out by the Education and Training Foundation. Our primary focus is to introduce measures that strengthen our ability as the regulator to ensure comparability between different awarding organisations, across the cohort and over time. This regulatory approach will require us to balance flexibility of delivery with appropriate control over standards; this will inevitably lead to some trade-offs. We set out our proposals in detail here in order to seek your views.

If you have an interest in Functional Skills Qualifications now and in the future, please let us know what you think about the options and proposals we set out here. Our consultation questions can be answered either online or in hard copy. They can be found on the consultation page. We look forward to hearing from you.

Sally Collier

Chief Regulator

Consultation summary

Functional Skills Qualifications (FSQs) are currently available in English, mathematics and ICT at five levels (Levels 1 and 2 and Entry levels 1, 2 and 3). This consultation only relates to the reform of English and mathematics FSQs. ICT will be considered separately. The five levels will be retained within the reformed FSQs.

Our proposals seek to increase the comparability between qualifications that are offered by different awarding organisations and over time, and to ensure that there is greater control over standards. We have looked at these aims in the context of how and why these qualifications are being taken and used. We aim to strike the right balance to ensure that the requirements of users, particularly employers, are considered appropriately. Our proposed approach is set out below.

Assuring the approach to assessment

We plan to introduce an evaluation of the new FSQs developed by awarding organisations before they are offered to learners. This evaluation will consider the design and proposed delivery of reformed qualifications. To support this approach we propose that awarding organisations should produce a document which explains their overall approach to the assessment of FSQs (an assessment strategy). We propose to set requirements around what should be included within an awarding organisation's assessment strategy. We think that the assessment strategies will play a vital role in helping us to understand each awarding organisation's qualifications and approach, to give us assurance about the reformed qualifications before they are delivered.

Design features of the reformed qualifications

The new FSQs will have detailed subject content (developed by the Department for Education) which will be common across all awarding organisations. This is vital in supporting comparability and enables us to enhance the approach to maintaining standards. Taking the new subject content in to account, we propose to introduce new and specific design rules for each subject. These will set out, for example, the required forms of assessment in relation to particular areas of the subject content.

We propose that at Levels 1 and 2, all mathematics assessments and the Reading and Writing assessments in English will be required to be set and marked by the awarding organisation, allowing for a high level of control over these assessments. We recognise the limitations of this approach in relation to the Entry levels, and the Speaking, listening and communicating assessments at Levels 1 and 2, and so propose to continue to allow these to be set and marked by centres.

We recognise that the flexibility of current qualification delivery is highly valued by users and we therefore do not propose to restrict the availability of assessment opportunities in reformed FSQs. This means that, depending on the approach taken

by awarding organisations, learners will be able to take their assessments whenever they wish, as at present. We do however propose to require each awarding organisation to have processes in place to manage the issues which may arise as a result of this flexibility, and we will require them to explain these processes in their assessment strategy.

We propose retaining a requirement around minimum overall assessment time, as we feel this acts to enhance comparability across awarding organisations, but feel it is unnecessary to set a requirement around maximum assessment time.

We also propose to retain pass/fail grading for reformed FSQs. We think this works well, and reflects the curriculum intention that these qualification are intended to certify that learners have, overall, acquired sufficient literacy and numeracy skills to progress into further study or employment.

Setting and maintaining standards

The optimal approach to standard setting will depend on how the awarding organisation designs their assessments, and we do not intend to require a specified approach to setting standards. However, we do propose to require that awarding organisations explain the approach they will be taking to standard setting in their assessment strategies, and satisfy us that it is appropriate.

We are proposing to strengthen expectations around the awarding of FSQs. These would differ depending on the approach an awarding organisation takes to awarding. This may have implications for the frequency with which awards can be made and the amount of evidence they must draw on, but we feel it is necessary to increase assurance around standards. We are also considering that we may take a different regulatory approach in the first year that reformed FSQs are offered. This may include upfront activity to ensure standards are set appropriately, and comparably, at the outset.

In order to further strengthen this assurance, we also consider it necessary that standards between awarding organisations and over time are kept under review on an ongoing basis. We therefore propose to require a new process to scrutinise qualification outcomes. It is likely, given the way in which these qualifications are made available, that this process would take place after awarding, with a view to influencing future approaches.

Subject specific rules

The Department for Education's proposed subject content is more detailed than the high-level skill standards that apply to the current FSQs, and allows for less variation across awarding organisations offering these qualifications. So that the subject content is binding across all awarding organisations we will adopt it into our rules and guidance for reformed FSQs.

Mathematics

For mathematics, the government's curriculum intentions for reformed FSQs are that underpinning knowledge should include the [demonstration of mathematical skills both with and without a calculator](#). We propose that learners should be assessed against both forms of assessment. This is a change from the approach in current FSQs which allows access to a calculator throughout the assessments. To ensure comparable approaches to this assessment we propose to stipulate the amount of assessment without a calculator that would be required.

To enhance comparability between qualifications offered by different awarding organisations, we propose to assign weighting ranges to the [content areas](#) set out in the Department for Education's subject content document. We also propose to assign new weightings for the [assessment of underpinning skills; underpinning skills in an applied context; and problem-solving in an applied context](#). This is because the draft subject content requires that learners are assessed on their core knowledge and skills as well as their ability to solve problems in an applied context.

English

We propose to require learners to [pass all three components](#) (Reading, Writing, and Speaking, listening and communicating) to achieve an overall pass in the reformed qualifications. This approach ensures a pass indicates that a learner has demonstrated their ability in all three content areas.

We propose to set a weighting range for the spelling punctuation and grammar (SPaG) requirements set out in the subject content. This will ensure a comparable approach is undertaken across the different awarding organisations. For sections of the Writing assessment(s) where SPaG will be assessed, we propose that learners should now not have access to spelling and grammar checks, as this would undermine the assessment of learners' underpinning skills.

We propose to produce new common assessment criteria for the [Speaking, listening and communicating](#) component at each level, and require all awarding organisations to adopt these to promote comparability across awarding organisations. We are also consulting on whether to introduce a new common approach (mark-based or level-based) to assessing Speaking, listening and communicating.

To ensure a common approach is taken, we propose that reformed FSQs should assess learners at the Entry levels on their ability to [correctly read and spell words](#) from the respective lists contained within the new subject content appendix.[1]

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[1] https://www.gov.uk/government/consultations/maths-and-english-functional-skills-revised-subject-content

1. Background

About Functional Skills Qualifications

1.1 Functional Skills Qualifications (FSQs) were introduced in 2006, providing learners with an alternative in three key subject areas to GCSEs. FSQs were designed to recognise literacy, numeracy and ICT skills through assessments set in different contexts. They aim to provide learners with the essential knowledge, skills and understanding they need to operate confidently, effectively and independently in everyday life and in the workplace. They also support learners in their progression into employment and further study.

1.2 FSQs are currently available in English, mathematics and ICT at five levels (Levels 1 and 2 and Entry levels 1, 2 and 3). Current FSQs have around 830,000 certifications[2] annually across five levels and three subjects.

1.3 FSQs at Levels 1 and 2 are important qualifications, particularly in the case of English and mathematics. This is because in some contexts they form part of school and college accountability measures.[3]

1.4 FSQs at all levels have an important role, as they are taken by school-age learners and adults, including as part of ESOL provision and apprenticeships. They play an important role for those in prison and for learners with learning difficulties or disabilities. Many learners take FSQs, with their overall annual entry size being second only to GCSEs amongst the qualifications that we regulate.

Reforming Functional Skills Qualifications in English and mathematics

1.5 The Department for Education has taken the decision to reform FSQs in English and mathematics across all five levels. The reformed FSQs in English and mathematics will be introduced for first teaching from September 2019. No

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[2] Between October 2015 and September 2016, in England there were 336,855 certifications for FSQs in English, 348,860 certifications for FSQs in mathematics, and 144,440 certifications for FSQs in ICT. (Figures taken from Ofqual's quarterly vocational qualifications dataset): https://www.gov.uk/government/statistical-data-sets/vocational-qualifications-dataset

[3] Level 1 and 2 FSQs are an approved stepping stone qualification to satisfy the 16-19 condition of funding for students that do not have GCSE maths and English at grade D or grade 3 or above, see www.gov.uk/guidance/16-to-19-funding-maths-and-english-condition-of-funding#grade-d-requirement-to-the-condition-of-funding

Level 1 and 2 FSQs can also form part of apprenticeships for learners who do not have mathematics and English GCSE at grade C or grade 4 and above.

decision has been taken as yet in relation to FSQs in ICT, and as such this consultation relates solely to FSQs in English and mathematics.

The purposes of reformed Functional Skills Qualifications

1.6   The Minister of State for Apprenticeships, Skills and Women wrote to us[4] setting out the purposes of reformed FSQs in English and mathematics, and the range of factors we should take into account when determining our regulatory approach.

1.7   The Minister's letter confirms that the purposes of reformed FSQs are to provide:

- reliable evidence of learners' achievements against demanding, but appropriate, content that is relevant to the workplace;

- assessment of learners' underpinning knowledge as well as their ability to apply this in different contexts; and

- a foundation for progression into further study or employment.

1.8   The Minister's letter indicates that our approach to regulating FSQs should take into account that in some contexts, FSQs play a part in the government's accountability system.

1.9   The letter also confirms the Minister's expectations that:

- the size of FSQs should not change significantly;

- they should retain a pass/fail grading system; and

- employers and learners should have confidence in relation to the comparability between these qualifications, irrespective of the awarding organisation and the year in which they were taken.

1.10 The Minister noted that the flexibility of FSQs is important to learners and other stakeholders, but recognised that there is a balance to be struck between retaining flexibility and introducing controls necessary to maintain qualification standards over time and between awarding organisations.

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[4] The letter is published on our consultation page
https://www.gov.uk/government/consultations/reforming-functional-skills-qualifications-in-english-and-maths

Ofqual's role in Functional Skills Qualification reform

1.11 We hold awarding organisations to account for designing, delivering and awarding qualifications that are fit for purpose. We will set rules and guidance for reformed FSQs. In particular, we will decide the specific design features that will apply to reformed FSQs, and will have oversight of the approaches awarding organisations take to maintaining the standard of the qualifications so that they are comparable between awarding organisations and over time.

1.12 This consultation is the first step in determining our regulatory requirements for reformed FSQs. It sets out our proposed approach to regulating reformed FSQs, which takes account of both the qualification purpose statements, and the additional considerations identified in the Minister's letter.

1.13 Using the responses that we receive from this consultation, we will make decisions on our regulatory approach. We will then consult on the detailed rules and guidance that will implement our approach.

1.14 We plan to evaluate the reformed qualifications developed by the awarding organisations, and the approaches taken to the design and delivery of the qualifications before they are offered to learners.

Subject content

1.15 The Department for Education has determined that reformed FSQs in English and mathematics should have common subject content. The Department for Education is responsible for producing this content, and is currently consulting[5] on it. We plan to adopt the Department for Education's subject content into our rules and guidance for reformed FSQs. This would mean that reformed FSQs must meet the Department for Education's subject content requirements.

1.16 Before we are able to adopt the subject content into our rules and guidance, we must first ensure that it can be regulated. In order to reach this decision we must be confident that:

■ the demand of the content is appropriate for the level and size of the qualification;

■ it is possible to assess the knowledge, understanding and skills that the content contains in a sufficiently valid way; and

■ the content requirements are specified in a way that is sufficiently clear for us to regulate against them.

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[5] https://www.gov.uk/government/consultations/maths-and-english-functional-skills-revised-subject-content

1.17 If you have any comments that relate to the subject content, you should respond to the Department for Education's consultation.

2.   Key design features

Design rules

2.1   Currently the knowledge, understanding and skills required within FSQs are set out within high-level skill standards.[6] The intention in reformed FSQs is to express the equivalent expectations in greater detail, through subject content. This subject content will therefore replace the current skill standards.

2.2   We also propose to introduce specific design rules for each subject, setting out, for example, any required forms of assessment and weightings in relation to particular areas of the subject content. We believe that introducing more targeted design rules will secure increased comparability of FSQs offered by different awarding organisations. We set out in the subject-specific sections of this consultation the design rules that we propose to set for English and mathematics.

Assessment time requirements

2.3   The current FSQ criteria[7] set minimum and maximum assessment times at each level. Having requirements around assessment time is one way (as part of a set of measures) of increasing comparability of qualifications across the range of awarding organisations offering them.

2.4   We would look to ensure that minimum overall assessment time requirements are set such that the amount of assessment is as required to generate reliable results, but are not excessive such that assessments become unduly long and adversely impact learners taking these qualifications.

2.5   It would be undesirable to have awarding organisations providing assessments of very different lengths against what will be centrally defined subject content. Our view is that such differences in the length of assessments could create both actual and perceived differences in demand between specifications.

2.6   We recognise that shorter assessments do not necessarily make a qualification less demanding, however we propose specifying minimum overall assessment times for FSQ assessments. This is to ensure acceptably valid assessment and to prevent inappropriately short overall assessment times that would not allow coverage of subject content.

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[6] For FSQs in mathematics, pages 3 to 7 of the Functional Skill criteria for mathematics cover the skills standards https://www.gov.uk/government/publications/functional-skills-criteria-for-mathematics
For FSQs in English, pages 4 to 8 of the Functional Skills criteria for English cover the skills standards: https://www.gov.uk/government/publications/functional-skills-criteria-for-english
[7] Mathematics - https://www.gov.uk/government/publications/functional-skills-criteria-for-mathematics
English - https://www.gov.uk/government/publications/functional-skills-criteria-for-english

2.7 It is generally undesirable to centres, learners and awarding organisations for there to be unduly long assessment times, so while we propose introducing a requirement around minimum overall assessment time, we feel it would be unnecessary to set a requirement around maximum assessment time.

2.8 We have not yet considered what any minimum assessment times we may want to set for reformed FSQs should be. If we adopt this proposal, we will consult further with qualification users and subject experts to ensure that our proposed timings are appropriate.

> **Question 1: To what extent do you agree or disagree that we should introduce requirements setting minimum, but no maximum overall assessment times for reformed Functional Skills Qualifications?**

Number of assessments

2.9 We have considered whether it would be necessary to set a requirement specifying the number of assessments for reformed FSQs in English and mathematics at each qualification level.

2.10 Where a qualification consists of a large number of units, an awarding organisation's control of overall standards is reduced. For example, if the units are taken in a modular way, an awarding organisation would not know the overall pass rate that would result from individual decisions taken at unit level. Additionally, having a large number of units can lead to 'regression effects'. These happen when units target different things and/or students perform unevenly between them, meaning unit-level grade boundaries have to be relatively low or overall pass rates will be low. Also if the units are too small they individually would not cover a meaningful proportion of the subject content. These are all undesirable outcomes.

2.11 However, there are different legitimate approaches that awarding organisations could take to determining the number of assessments that would be appropriate within reformed FSQs, and setting a rule around the number of assessments could unnecessarily restrict the assessment design options available to awarding organisations.

2.12 We believe that the number of assessments should support effective assessment of the content, and allow awarding organisations to have control of qualification standards, but should remain manageable for learners and centres. We are not proposing to set requirements around the number of assessments within individual FSQs. We would however expect awarding organisations to explain to us how their approach to the number of assessments/units achieves these principles.

> **Question 2: To what extent do you agree or disagree that we should <u>not</u> set requirements around the number of assessments within individual Functional Skills Qualifications?**

Mode of assessment

Entry levels

2.13 The criteria for current FSQs[8] set out that, for English and mathematics, all assessments for FSQs at the Entry levels must be centre set and centre marked using marking criteria produced by the awarding organisations. Centres may currently use tasks set by the awarding organisation; contextualise tasks set by the awarding organisation; or produce their own tasks based on those provided by the awarding organisation.

2.14 We recognise the importance of centres being able to tailor assessments for learners at the Entry levels. Taking into account the expectations of the draft subject content, and the contexts in which they are taken, continuing to permit centre set and centre marked assessments would appear be an appropriate approach to take to assessments at the Entry levels in reformed FSQs.

2.15 In making this proposal we recognise that this approach would reduce the level of control awarding organisations would have over assessments, compared with an awarding organisation set and marked approach. However, where the approach taken by an awarding organisation allows centres to set and/or mark assessments, awarding organisations must comply with the requirements of our General Conditions of Recognition.[9] These rules are detailed and require:

- there to be a centre agreement in place which sets out the controls around the relationship between the centre and awarding organisation;

- the awarding organisation to provide guidance and information around the aspects of the qualification the centre is expected to deliver; and

- the awarding organisation to have in place clear and effective arrangements to undertake moderation of any centre marked assessment.

2.16 Requiring assessments to be set and marked by the awarding organisations at the Entry levels would introduce burden into the system, particularly where

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[8] Criteria for mathematics; www.gov.uk/government/publications/functional-skills-criteria-for-mathematics
Criteria for English; www.gov.uk/government/publications/functional-skills-criteria-for-english
[9] See General Conditions C2 and H2 www.gov.uk/government/publications/general-conditions-of-recognition

assessments are available on-demand, and in scenarios whereby learners who are unsuccessful wish to re-sit their assessments as soon as possible.

2.17 We would not however, require that centres must set and mark all assessments at the Entry levels as this would prevent awarding organisations from marking assessments, even in a case where, for example, large-scale malpractice has been uncovered at a centre. This outcome would obviously be undesirable. Additionally, should an awarding organisation wish to introduce more control into the conduct of the qualification, for example by marking the assessments at the Entry levels, this would not be something we would wish to prevent. We are therefore proposing to allow, rather than require, assessments at the Entry levels to be centre set and centre marked. We will require awarding organisations to provide guidance and support to centres to ensure that there are sufficient controls in place around them doing this.

Question 3: To what extent do you agree or disagree that at the Entry levels we should allow, but not require, centres to set and mark the assessments?

Levels 1 and 2

2.18 FSQs at Levels 1 and 2 are gateway English and mathematics qualifications that are part of accountability measures and part of apprenticeships. Their overall annual entry size is second only to GCSEs amongst the qualifications that we regulate. Under these circumstances, we think it is proportionate to maintain a high degree of awarding organisation control for the qualifications at these levels. We therefore propose to retain the current requirement that at Levels 1 and 2 all mathematics assessments, and the Reading and Writing assessments in English, must be set and marked by the awarding organisation.

2.19 In current FSQs in English, centres must set and mark the Speaking, listening and communicating assessments. We consider that requiring awarding organisations to set and mark these assessments could present significant burden and difficulty, given the nature of the assessments. However we do not wish to prevent awarding organisations from taking greater control in these assessments if they wish, or where they need to. We are therefore proposing to allow, rather than require, the Speaking, listening and communicating assessment at Levels 1 and 2 to be centre set and centre marked.

Question 4: To what extent do you agree or disagree that at Levels 1 and 2 we should require all mathematics assessments, and the Reading and Writing assessments in English, to be set and marked by the awarding organisation?

Question 5: To what extent do you agree or disagree that at Levels 1 and 2 for the Speaking, listening and communicating assessment(s) in English we should allow, but not require, centres to set and mark the assessments?

Assessment availability

2.20 This section sets out our proposals around the availability of FSQ assessments that are set and marked by awarding organisations.[10] We set out above our proposal that centres should be allowed to set and mark assessments for Entry level FSQs in mathematics and English, and for the Speaking, listening and communicating component of FSQs in English at Levels 1 and 2. Under these proposals assessment availability would be centre- and learner-led, so it would not be effective for us to try to restrict their availability.

2.21 The approach to assessment availability in the current FSQs is flexible. Awarding organisations offering the qualifications at Levels 1 and 2 set different availability frequencies for their external assessments. These include:

■ set days when assessments are available;

■ set periods when assessments are available; and

■ on-demand availability.

2.22 Entries in current FSQs are made unit by unit. Where a learner fails a unit of a qualification, they only need to re-sit that particular unit. This approach also supports flexibility, allowing learners to progress through the qualification in a way that fits their learning style and to take the assessments when they are ready.

2.23 The current flexible approach to assessment availability does create challenges in relation to comparability, predictability and confidentiality. Where an awarding organisation has multiple assessments available in a given period, those assessments must be comparably demanding. Comparability also applies to different assessment models that may be available, such as online versus paper-based.

2.24 To address the concerns highlighted above, we considered whether to restrict when or how often assessments can occur, for example, by limiting assessments to certain windows or periods within a year. However, we recognise that restricting assessment availability would reduce the flexibility that employers and learners alike value.

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[10] Under our proposals this would be all assessments in mathematics at Levels 1 and 2, and the Reading and Writing assessments in English at Levels 1 and 2.

2.25 A key purpose of FSQs is to give learners access to important skills that are critical to progressing in employment or further study. Restricting assessment opportunities could prevent learners from demonstrating that they have achieved these skills at the earliest opportunity, which could lead to knock-on negative implications and delays, for example, for access to employment, promotions or further study. We therefore propose not to restrict the availability of assessment opportunities in reformed FSQs.

2.26 We recognise that the potential for comparability, predictability and confidentiality issues to arise depends to some degree on the approach awarding organisations take to assessment availability. As such, we propose to require each awarding organisation to explain how the approach they are taking to assessment design manages or mitigates these issues.

> **Question 6: To what extent do you agree or disagree that we should not place any restrictions around availability of assessments in reformed Functional Skills Qualifications?**

Grading

2.27 Current FSQs use pass/fail grading. For reformed FSQs, we considered whether to introduce a different grading approach that would provide greater detail about different levels of attainment. However, we noted several issues with changing from pass/fail grading:

- The introduction of a graduated scale (such as a 'pass, merit and distinction' scale) could cause confusion for qualification users around the different grades awarded. For example, there could be confusion around which demonstrated higher achievement, a pass grade at Level 2, or a distinction grade at Level 1.

- If the pass mark intends to certify attainment across the full range of skills within reformed FSQs, the pass mark may be set at a relatively high proportion of the total mark. In such situations, fitting in multiple levels of additional grades above 'pass' could mean these would be very close together. This would make it difficult to distinguish between the level of attainment they are indicating and would increase the potential for grading errors.

- When they were originally developed FSQs were designed to certify 'competence'. The move to a graduated scale would move away from that ethos.

2.28 Taking these issues into account, and the steer from government on this issue, we propose to retain pass/fail grading for reformed FSQs.

Question 7: To what extent do you agree or disagree that we should continue to have a pass/fail grading model for reformed Functional Skills Qualifications?

3. Regulating the reformed Functional Skills Qualifications

Setting and maintaining standards

3.1   For FSQs at Levels 1 and 2, as set out above, we propose (with the exception of the Speaking, listening and communicating assessment) that assessments should be set and marked by the awarding organisation, whereas at the Entry levels all assessments may be set and marked by centres. This is the same approach as in current FSQs. Assessments at Levels 1 and 2 have a higher level of risk attached to them than those at the Entry levels, for example because in some contexts they form part of accountability measures. We therefore propose to take separate approaches to setting and maintaining standards for FSQs at Levels 1 and 2 than those at the Entry levels.

3.2   We note that there are clear government expectations relating to the need for there to be confidence in reformed FSQs, particularly in relation to comparability of demand between awarding organisations and maintenance of standards over time. Our proposals for setting and maintaining standards aim to increase assurance around these important issues.

Setting standards and reviewing qualification outcomes – Levels 1 and 2

Approaches to standard setting

3.3   Currently, awarding organisations can adopt a range of approaches to standard setting for FSQs at Levels 1 and 2. Determining how to set standards is an important part of an awarding organisation's responsibility, and the most appropriate approach will depend on the subject, the awarding organisation's approach to the design of their assessments, and assessment availability.

3.4   We only restrict or specify aspects of a qualification where allowing a number of approaches unacceptably risks compromising validity. In this case, given that there will be a number of acceptable approaches an awarding organisation may take depending on how they have designed their qualifications, we propose not to set a single or limited number of acceptable approaches to standard setting for reformed FSQs. We do however propose to require that awarding organisations explain to us the approach they will be taking to standard setting and that we will consider this upfront before delivery.

3.5   We set out above our proposal to introduce design rules within our regulatory arrangements for reformed FSQs. Design rules are one way of increasing the comparability of qualifications. However, 'upfront' design approaches by themselves are not enough to ensure sufficient comparability. In qualifications

such as FSQs, post-hoc measures – that is, measures implemented after learners take assessments – are required to support the design rules that we put in place.

3.6 Currently, awarding organisations offering FSQs take different approaches to awarding (the process for setting the pass mark). The main two are:

■ The pass mark is set after all the learners taking the assessment in question have done so.

■ Where assessments are available on-demand, the pass mark is set after a proportion of learners have taken the assessment, and is then carried forward when further learners take the assessment.

3.7 Awarding decisions require consideration of a wide range of qualitative and quantitative evidence. Where awarding is frequent, the cohorts for each award tend to be smaller and more varied, meaning the evidence that can be drawn on is less robust. This can reduce the level of comparability over time and between awarding organisations, which can in turn reduce the level of confidence in the award.

3.8 In cases where the pass mark is set when some (but not all) the learners taking the assessment in question have done so, and this pass mark is then carried forward when further learners take the assessment, we consider it important that these pass marks are based on a sufficient range of evidence. We therefore propose that such approaches must either:

■ use pre-set pass marks based on rigorous pre-testing of the assessments; or

■ in setting pass marks, draw on evidence from the actual performance of a sufficiently representative sample of the anticipated cohort.

3.9 Where an awarding organisation intends to take such an approach, we would require a full explanation of the technical methodology they would use, including analysis and evidence to support it providing the basis for robust awarding of these qualifications.

3.10 In cases where the pass mark is set after all the learners taking the assessment in question have done so, we are considering whether we should restrict the number of awarding sessions to no more than four each year. In suggesting this restriction we aim to increase the confidence that we have in each award, and secure greater comparability over time, by ensuring that cohorts are not too small. In making this proposal, we recognise that if we are too restrictive over the number of awarding sessions within a year, the qualifications will lose the

flexibility that stakeholders value. We would welcome views in particular on whether restricting the number of awards to no more than four in a year would be too restrictive, or lead to unforeseen issues, and if so whether there is an alternative approach that would deliver our aim.

Question 8: To what extent do you agree or disagree that, at Levels 1 and 2, awarding decisions made <u>before</u> assessments have been taken by all learners involved must either: use pre-set pass marks based on rigorous pre-testing of the assessments; or in setting pass marks, draw on evidence from the actual performance of a sufficiently representative sample of the anticipated cohort?

Question 9: To what extent do you agree or disagree that, at Levels 1 and 2, for awarding decisions made <u>after</u> assessments have been taken by all learners involved, we should restrict the number of awarding sessions an awarding organisation can hold to no more than four each year?

First awards

3.11 We are considering whether we should regulate differently between the first year that reformed FSQs are available and subsequent years. There are two main aspects to this: the expectations of the pass grade; and the amount of evidence that first awards must be based on.

3.12 We are of the view that it may help to ensure standards are set appropriately, as well as comparably between different awarding organisations, if there is activity at the outset to define the expectations of a pass grade. There are different approaches to this that could be taken, for instance, we could develop a 'pass descriptor' at each level, for each subject. Such an approach could be useful in setting initial standards, as part of a full range of qualitative and quantitative evidence.

3.13 In addition, the flexibility in the proposed approach to assessment and awarding in FSQs creates a risk that the standards initially set will be based on a small amount of evidence. It is important that awarding organisations set initial standards appropriately, because these standards will carry forward to subsequent awards. We are therefore considering setting a requirement on awarding organisations, in the first year that they offer reformed FSQs, to wait until they have sufficient evidence before awarding. If we decide to adopt this proposal, we would require awarding organisations to explain to us how their arrangements will ensure they have sufficient evidence to make the first awards and set appropriate standards.

> **Question 10: To what extent do you agree or disagree that we should regulate differently for the first year of awards for reformed Functional Skills Qualifications, to ensure initial standards are set appropriately?**

Scrutiny of qualification outcomes

3.14 We propose to adopt an enhanced level of scrutiny of qualification outcomes for reformed FSQs at Levels 1 and 2. This is to make sure that, as far as possible, outcomes are comparable between awarding organisations and over time.

3.15 We anticipate that around 15 awarding organisations are likely to offer reformed FSQs. Their approaches to assessment design and structure will vary, as will their approaches to assessment availability, and setting standards. This, coupled with our proposal to continue to allow flexibility in terms of assessment availability, presents challenges for securing comparability of standards in reformed FSQs as was recognised in the government's letter on these reforms.

3.16 Without introducing increased scrutiny of qualification outcomes, we cannot see a way to provide sufficient assurance of comparability between awards made by different awarding organisations and over time.

3.17 However, we do not believe that it would be appropriate to take the same approach to the scrutiny of qualification outcomes in reformed FSQs as we do for GCSEs and A levels. A key difference for reformed FSQs at Levels 1 and 2, compared with GCSEs and A levels, will be their timing and volume. Learners take assessments for GCSE and A level at the same time each year, in very large numbers, and the scrutiny of outcomes takes place post-awarding, but before results are issued.

3.18 To conduct a similar pre-results review for reformed FSQs, the awarding processes for each awarding organisation would need to happen at the same time of year and the number of awards per year would need to be restricted further than we already propose. It would also be likely to prohibit, or at least significantly complicate, approaches to on-demand assessment. Pre-results scrutiny could lead to delays in the issue of FSQ results, particularly where this is on-demand but also across the piece. This is likely to be unwelcome for learners and other qualification users such as employers.

3.19 We therefore propose that the scrutiny of outcomes process for reformed FSQs should occur *post-results*, and only affect *future* paper-setting and awarding decisions. Despite this, the principles of scrutiny would nonetheless be fundamentally the same for FSQs as they are for GCSEs and A levels, for example:

- qualification outcomes, both between awarding organisations and over time, will be compared on some common basis;

- there will be an obligation on awarding organisations to participate in the scrutiny of qualification outcomes; and

- there will be an obligation on awarding organisations to align their standards for future awards, where this is necessary.

3.20 Owing to the diverse nature of FSQ cohorts, we expect that the main challenge in adopting our proposed approach will be determining the basis for comparison. For example, there may be no data (such as in relation to prior attainment) that could be used as a basis – the data would have to be consistently on record for a highly diverse cohort, and also with a measurable relationship between the data and FSQ results. We will therefore consider using comparison methodologies that are similar to GCSE and A level where those are viable, but will explore alternatives where they are not.[11]

3.21 We are mindful of the resourcing consequences of our proposals for awarding organisations. We regulate using a risk-based approach, and with that in mind we are conscious that the Level 2 qualifications play a more prominent role in accountability measures than those at Level 1. As such, we are considering whether it may be practical and proportionate to focus our initial approach particularly on Level 2, with less emphasis on the Level 1 qualifications. For awarding organisations, this would reduce the overall burden of our proposals.

3.22 We could take a number of different approaches to conducting scrutiny of qualification outcomes at Level 1 should we do this. For example, we could:

- require all awarding organisations to undertake post award scrutiny of qualification outcomes, but do so for a sample of learners only; or

- require awarding organisations to undertake scrutiny of qualification outcomes less frequently than for Level 2 qualifications.

3.23 We have not determined the exact approaches that will be put in place around post award scrutiny of qualification outcomes for reformed FSQs and would welcome views on this in response to this consultation.

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[11] There are more technical options that we could consider, such as comparative judgement exercises and use of common candidates. There might also be merit in exploring some more 'traditional' approaches: producing exemplification materials; and requiring events where awarding organisations compare samples of work.

Question 11: To what extent do you agree or disagree that, for Levels 1 and 2, we should require an enhanced level of scrutiny of qualification outcomes post-awarding?

Setting standards and reviewing qualification outcomes – Entry levels and Speaking, listening and communicating at Levels 1 and 2

3.24 We propose to introduce a process for reviewing qualification outcomes post award for the Entry levels and the Speaking, listening and communicating components at Levels 1 and 2. This process will take place on a regular basis and will have the same purpose as our proposals for Levels 1 and 2 set out above, but will be tailored to centre-set assessments.

3.25 With centres setting and marking assessments, the level of control that awarding organisations could exert over qualification outcomes will be reduced compared with those assessments that are set and marked by the awarding organisation. We therefore propose to place a strong emphasis on centre monitoring arrangements instead.

3.26 Any review process might, in these circumstances, focus on exploring how far differences in pass rates between awarding organisations can be explained through reference to the demands of centre-set tasks, the comparability of awarding organisation-determined pass marks, and the comparability of work that achieves a pass between the awarding organisations.

Question 12: To what extent do you agree or disagree that we should set a process for reviewing qualification outcomes for the Entry levels, and for Speaking, listening and communicating at Levels 1 and 2, that has the same purpose to that proposed for Levels 1 and 2, and is tailored to the fact that these assessments are likely to be centre- set and marked?

3.27 Given the lack of upfront controls in centre-set and marked assessment, we propose to introduce additional requirements and/or guidance around awarding organisations' centre monitoring procedures.

3.28 We also propose to set requirements on awarding organisations to produce enhanced guidance for centres around the conduct and assessment of the Speaking, listening and communicating assessment at all levels. This will help to secure greater comparability of standards across centres.

Question 13: To what extent do you agree or disagree that we should set requirements and/or guidance around awarding organisations' centre–monitoring procedures in relation to Functional Skills Qualifications?

> **Question 14: To what extent do you agree or disagree that we should set requirements on awarding organisations to produce guidance for centres on the conduct and assessment of Speaking, listening and communicating?**

Assuring the approach to assessment

3.29 In relation to a number of proposals set out above, for example the proposals around the number of assessments, availability of assessments and approach to standard setting, we have indicated that we would require awarding organisations to explain or justify the approaches they intend to take. We propose that these explanations should be set out in a document created to explain an awarding organisation's overall approach to the assessment of FSQs.[12]

3.30 We propose that this document (an assessment strategy) should set out in detail the awarding organisations' approach in the following areas:

- **Rationale for the design of the qualification.** This could include detailing what the structure of the qualification looks like, how many marks are in each assessment and why this is appropriate.

- **Approach to assessments over time.** This could include the awarding organisations' approach to:

  - sampling content;

  - marking the qualification;

  - assessment delivery and frequency (whether it will be on-demand or windows of assessment, paper-based or online);

  - availability of assessments;

  - promoting comparability of assessment demand over time (and between different versions of assessments, if this applies);

  - minimising predictability; and

  - controls for centre-set and centre-marked work.

- **Approach to setting standards.** This would include the measures used to promote comparability of grade standards over time, details of the approach to awarding and the rationale for this.

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[12] These would be similar to the assessment strategy documents that we require exam boards to submit as part of accreditation for reformed GCSE, AS and A levels.

3.31 We do not ask awarding organisations to produce these documents for current FSQs, however we think they will play a vital role in helping us to understand each awarding organisation's qualifications and approach, and could give us assurance about the reformed qualifications before they are delivered.

3.32 To maximise the assurance that these documents provide, we are considering whether to specify minimum requirements setting out what awarding organisations must include in them. We plan to use these documents as a part of an evaluation process which will take place before the qualifications are made available to learners.

> **Question 15: To what extent do you agree or disagree that we should set a requirement for awarding organisations to produce a document covering their approach to assessing reformed Functional Skills Qualifications?**

Transitional arrangements

3.33 We plan to set requirements that ensure a smooth transition for centres and learners between current and reformed FSQs. We would look to ensure that transition from legacy to reformed qualifications takes place as soon as reasonably practicable, but in a way that ensures learners are not disadvantaged by the arrangements. We anticipate an approach where there is a transitional period during which both current and reformed FSQs are available alongside each other. During this transitional period:

- All new learners should be enrolled onto the reformed FSQs, rather than the legacy qualifications; but

- Learners that are already enrolled on legacy FSQ courses should be allowed to complete assessments and have a reasonable opportunity to resit on the legacy courses.

3.34 In determining the length of any transitional period, we would look to avoid an unduly long period which could result in confusion around which qualifications learners should enrol on, and place considerable burden on awarding organisations, who would need to run both the current and reformed qualifications alongside each other.

3.35 Awarding organisations take different approaches to the delivery and frequency of the current FSQ assessments they make available. There is also wide variation in the time that learners take to complete current FSQs. For example, teachers from the Offender Learner and Skills Service have confirmed that learners on their programmes can take as little as five weeks to complete FSQs because teaching and assessment time is compressed in order to allow learners serving short sentences to complete their qualifications. Whereas

information we have received from colleges offering FSQ courses to apprentices indicates that these learners tend to be on programme for between 12 and 18 months, allowing for resit opportunities. This variation presents many challenges to setting a transition length that gives learners enough time to complete their assessments, whilst also ensuring the burden we place on awarding organisations is minimised.

3.36 We think it could be helpful to give awarding organisations some flexibility to set a transitional period that is suitable to the ways that their reformed FSQs are taught and assessed. We therefore propose to set a requirement on awarding organisations to continue to make current FSQs available for teaching and assessment (including resits) for a minimum of 9 months, and a maximum of 12 months once the reformed FSQs become available for teaching in September 2019.

Question 16: To what extent do you agree or disagree that once reformed Functional Skills Qualifications are available, we should require awarding organisations to make current Functional Skills Qualifications available for a minimum of 9 months, and a maximum of 12 months which would include all resits?

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4. Subject specific features of the reformed Functional Skills Qualifications

4.1 We describe above our proposal to introduce design rules as a way to increase the comparability of reformed FSQs that awarding organisations offer. In this section, we set out the subject-specific design rules that we propose to introduce.

Design rules for mathematics

Content areas

4.2 The draft subject content sets out three content areas (number and the number system; common measures, shape and space; and handling information and data). We propose to assign weighting ranges to these content areas, similar to the approach taken in the current FSQs within the skill standards.

4.3 In current FSQs in mathematics, the weighting ranges are consistent across all qualification levels. We are considering whether the weighting ranges should differ between the different levels for reformed FSQs, because the conceptual demand between the content areas varies, so different balances across them may be appropriate for different levels. Either way, we will work with subject experts and will consult further on any proposed weighting ranges alongside the other detailed rules and guidance that we propose to implement.

Question 17: To what extent do you agree or disagree that we should assign weighting ranges to the content areas for reformed Functional Skills Qualifications in mathematics?

Question 18: To what extent do you agree or disagree that any weighting ranges set for content areas should differ between the levels in reformed Functional Skills Qualifications in mathematics?

Assessing calculator and non-calculator based skills

4.4 The letter received from the Minister of State for Apprenticeships, Skills and Women sets out the expectation that FSQs will assess learners' underpinning knowledge as well as their ability to apply this in different contexts.[13] For mathematics, the curriculum intentions are that underpinning knowledge should include the demonstration of mathematical skills without access to a calculator.

4.5 Given these curriculum intentions, we propose to require reformed FSQs to assess learners both where they are allowed to use a calculator and where

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[13] The letter is published on our consultation page
https://www.gov.uk/government/consultations/reforming-functional-skills-qualifications-in-english-and-maths

they are not. This marks a change from current FSQs, which allow learners to use calculators for all parts of the assessment.

4.6   To promote comparability between awarding organisations, and over time, we propose to stipulate the amount of assessment without a calculator that would be required. (For example, this might take the form of a percentage range of the total mark, or an exact percentage with a tolerance either side.) This amount would be such that both calculator- and non-calculator assessment would have a meaningful weighting in contributing to the overall mark, and that the assessment(s) as a whole would reflect the qualification purpose. If we decide to adopt this proposal, we will consult further on the specific requirements with the other detailed rules and guidance that we propose to implement.

> **Question 19: To what extent do you agree or disagree that we should set weightings for calculator- and non-calculator based assessment within reformed Functional Skills Qualifications in mathematics?**

Skill areas

4.7   The draft subject content requires that learners are assessed on their core knowledge and skills, as well as their ability to solve problems in an applied context. To increase the comparability of qualifications between the different awarding organisations, we propose to assign weightings for the assessment of:

- underpinning skills;

- underpinning skills in an applied context; and

- problem-solving in an applied context.

4.8   To reflect everyday life situations, and the functional nature of these qualifications, we think we should place more emphasis on underpinning skills in an applied context and problem solving in an applied context.

4.9   If we decide to adopt weightings for the skill areas mentioned above, we will work with subject experts and will consult further on any proposed weighting ranges alongside the other detailed rules and guidance that we propose to implement.

> **Question 20: To what extent do you agree or disagree that we should set weightings for the assessment of underpinning skills, underpinning skills in an applied context and problem solving in an applied context in reformed Functional Skills Qualifications in mathematics?**

Question 21: To what extent do you agree or disagree that we should set greater emphasis on the assessment of underpinning skills in an applied context and problem solving in an applied context than on underpinning skills in reformed Functional Skills Qualifications in mathematics?

Design rules for English

4.10 Current FSQs in English set out three separate content areas; Reading, Writing, and Speaking, listening and communication. Each of these content areas currently forms a separate component, and learners must pass each of the three components to achieve an overall pass in the qualification. The draft subject content for reformed FSQs in English retains the same three separate content areas.

4.11 We propose to continue to require learners to achieve a pass in all three content areas to achieve an overall pass in the reformed qualification. This approach ensures a pass in reformed FSQs in English indicates that a learner has demonstrated competency in all three content areas.

4.12 Current FSQs contain requirements around spelling, punctuation and grammar (SPaG), including an acceptable weighting range of 40-45% of total marks for the writing component. The draft subject content for reformed FSQs also includes SPaG requirements within the writing component.

4.13 We propose to continue to set a weighting range for these SPaG requirements, to reflect the importance of underpinning skills to the curriculum intentions. This will allow awarding organisations to set appropriate emphasis on SPaG to reflect content requirements, and ensure a comparable approach is undertaken across the different awarding organisations. If we decide to adopt this proposal, we will work with subject experts and will consult further on any proposed weighting ranges alongside the other detailed rules and guidance that we propose to implement.

4.14 For sections of the Writing assessments where SPaG will be assessed, we propose that learners should not have access to dictionaries or spelling and grammar checks, as this would undermine the assessment of learners' underpinning skills. Online versions of the Writing assessment(s) will need to disable the use of spelling, punctuation and grammar checks for the sections of the test where SPaG is being assessed, and in paper-based assessments learners will not be allowed access to dictionaries for those sections. We would welcome views and evidence around the impact of this.

> **Question 22: To what extent do you agree or disagree that we should set a requirement that learners must pass each of the three content areas (Reading; Writing; and Speaking, listening and communicating) in order to achieve an overall pass in Functional Skills Qualifications in English?**
>
> **Question 23: To what extent do you agree or disagree that we should set a weighting for spelling, punctuation and grammar that will apply to the Writing assessments for Functional Skills Qualifications in English?**
>
> **Question 24: To what extent do you agree or disagree that for those sections of online Writing assessments where spelling, punctuation and grammar will be assessed for Functional Skills Qualifications in English, we should set a requirement that disallows spelling, punctuation and grammar checks?**

Assessment of Speaking, listening and communicating

Approach to assessment

4.15 There are two broad approaches that could be taken to assessing Speaking, listening and communicating. These are:

- **A mark-based approach.** With this approach, each learner could be given a series of individual marks for different areas, which are then aggregated to give a total mark. Alternatively, they could be given an overall mark using a 'best-fit' judgement of their performance across all the areas.

- **A level-based approach.** In this approach, each learner is judged to have met (or not met) a particular level, based on an overall judgement of their performance. There is no use of marks.

4.16 A mark-based approach allows awarding organisations to adjust scores and determine a pass mark, since there is a quantitative evidence base to do this. This can be important to allow for variations in task demand and the potential for lenience or severity in assessor judgements. By contrast, a level-based approach would not easily allow awarding organisations to adjust scores or determine a pass mark.

4.17 Our choice of approach may depend on how important it is to be able to adjust scores and determine pass marks. That said, it can be difficult to reliably apply mark-based assessment to a unit such as this, and it might be assessed more reliably through level-based assessment. We welcome views on the feasibility and impact of either, or both, of these approaches.

> **Question 25: Do you think that we should set a mark-based or a level-based approach to the assessment of Speaking, listening and communicating for Functional Skills Qualifications in English? Please give reasons for your answer.**

Common assessment criteria

4.18 To promote comparability across awarding organisations, we propose to produce common assessment criteria for the Speaking, listening and communicating component at each level, and require all awarding organisations to use these. If we choose to adopt this proposal, we will consult further on the details of these assessment criteria alongside all of the other detailed rules and guidance that we propose to implement.

> **Question 26: To what extent do you agree or disagree that we should set mandatory common assessment criteria for Speaking, listening and communicating at each level for Functional Skills Qualifications in English?**

Reading and Spelling Expectations

4.19 The draft subject content[14] contains an appendix that sets out expectations for word reading, and for word reading and spelling at each of the Entry levels. We propose that reformed FSQs should assess learners at the Entry levels in their ability to correctly read and spell words from those respective lists, so that awarding organisations take a consistent approach in respect of this element of the subject content. We may consider introducing a rule, for example, that sets out that the wording of the assessment tasks and the texts used must conform, at each level, to the relevant appendix. Similarly, we may consider a rule that confirms that where spelling is assessed, this should address the expectations set out in the relevant appendix.

4.20 If we decide to set rules around the assessment of the reading and spelling expectations set out in the appendix, we will consult further on what those rules would be in the detailed consultation that will follow this one.

4.21 The introduction section of the draft subject content for FSQs in English sets out that phonics should be used to teach learners Reading and Writing at the Entry levels. We take the view that reformed FSQs need not <u>assess</u> learners using a phonics-based approach, because phonics is specified as the teaching method to be used, rather than forming a part of the substantive subject content.

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[14] Page 3, Functional Skills English Subject Content Draft for consultation
https://consult.education.gov.uk/adult-english-and-maths/reformed-functional-skills-maths-and-english-subje/

Question 27: To what extent do you agree or disagree that we should set rules around the assessment of reading and spelling of words contained in the appendix of the subject content?

5. Equality analysis

5.1 Ofqual is a public body, so the public sector equality duty in the Equality Act 2010 applies to us. We explain in Appendix A how this duty interacts with our statutory objectives and other duties.

5.2 We have considered how our proposals might affect people who share protected characteristics.[15]

5.3 We have not identified any impacts of our proposals (positive or negative) on persons who share the protected characteristics of age, race, sex or sexual orientation.

5.4 For the remaining protected characteristics, we set out all of the impacts (both positive and negative) we have identified, as well as the ways we could mitigate any negative impacts.

Approach to assessment

Assessment time and number of assessments

5.5 We are proposing to introduce requirements around minimum overall assessment time, but do not propose to set requirements around maximum overall assessment time. Our proposal is based on the fact that assessments need to be long enough to allow sufficient coverage of subject content. We recognise that should assessments be unduly long this could impact on learners with certain disabilities. We will consult further on the length of any minimum overall assessment time requirements to ensure that our proposed times are appropriate. We do not propose setting maximum assessment times, as it is generally undesirable for learners, centres and awarding organisations to have unduly long assessment times.

5.6 We are not proposing to set a rule around the number of assessments as this could unnecessarily restrict assessment design options available to awarding organisations. There is the possibility that having more but shorter assessments could benefit learners with certain disabilities as the assessments could be more manageable. This option is available to awarding organisations, so long as the approach they take supports effective assessment of the content, allows them control over qualification standards and remains manageable for learners.

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[15] The term 'protected characteristics' is defined in the Equality Act 2010. Here, it means sex, disability, racial group, age, religion or belief, pregnancy or maternity, sexual orientation and gender reassignment.

Assessment availability

5.7   We are proposing to retain flexibility around the availability of assessments in reformed FSQs. The flexibility to take assessments at any time has a positive impact on individuals who need to avoid taking assessments at particular times as a result of their protected characteristics, for example due to pregnancy or maternity, participation in religious festivals, or gender reassignment. Similarly, this can also benefit learners with certain disabilities, particularly those with chronic or fluctuating conditions, as they may be able to take assessments when their symptoms are less severe.

Use of centre set and marked assessment

5.8   We are proposing that centres should continue to be allowed to set and mark assessments at the Entry levels, and for Speaking, listening and communicating assessments at Levels 1 and 2.

5.9   We consider that centre set assessments may have a positive impact on individuals with certain disabilities (such as autism-spectrum disorders or attention-deficit disorders) who can find it difficult to demonstrate their knowledge, skills and understanding in more formal exams. Where centres set the assessments, they are able to adapt them and provide tailored support to meet the needs of learners with learning difficulties and disabilities.

5.10   We also take the view that a number of our proposals will help to mitigate any possible negative impacts that arise from using centre set assessments in FSQs. In particular:

- setting common assessment criteria for the Speaking, listening and communicating assessments of reformed FSQs in English. This will help teachers to mark consistently across learners, including those who share protected characteristics; and

- requiring awarding organisations to strengthen their arrangements around centre controls and monitoring of centre set and marked assessments.

Assessment in applied contexts

5.11   The draft subject content documents require some assessment to be set in applied contexts. Depending on the applied context set by an awarding organisation or centre, there is the potential for learners with protected characteristics to suffer a disadvantage. This is the case in current FSQs, and is one that we would expect awarding organisations to take steps to manage in order to meet their obligations under the General Conditions of Recognition.[16]

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[16] See Condition D2 www.gov.uk/government/publications/general-conditions-of-recognition

Use of sign language in Functional Skills Qualifications in English

5.12 The Equality Act 2010 allows us to restrict the use of adjustments awarding bodies can make for learners with disabilities taking assessments.[17] One of the rules we have set using those powers prevents the use of alternative languages (such as BSL) when an assessment is testing knowledge of, skills in, or understanding of another language.

5.13 Because current FSQs assess communication skills generally, rather than communication specifically in English, learners taking FSQs in English can legitimately demonstrate their communication skills using sign language such as BSL or sign-supported English.

5.14 The same skills are being assessed in reformed FSQs in English and as such sign language may continue to be used as part of the Speaking, listening and communicating assessments. This will have a positive impact on sign language users (who are normally hearing-impaired), as it will allow them to access all elements of a widely recognised English qualification.

5.15 This approach is different from GCSE English language where learners cannot use BSL in the Spoken Language component because GCSE English language specifically tests learners on their ability to speak in English.

Access to spelling, punctuation and grammar checks

5.16 For sections of the Writing assessments where spelling, punctuation and grammar (SPaG) will be assessed, we propose that learners should not have access to dictionaries or spelling and grammar checks, as this would undermine the assessment of learners' underpinning skills. Online versions of the Writing assessment(s) will need to disable the use of spelling, punctuation and grammar checks for the sections of the assessment where SPaG is being assessed, and in paper-based assessments learners will not be allowed access to dictionaries for those sections.

5.17 We recognise that this is likely to impact on learners with certain disabilities, but it is a requirement of the subject content that underpinning skills are assessed. You should respond to the Department for Education's consultation[18] if you wish to comment on any equality impacts associated with the requirement to demonstrate underpinning skills.

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[17] www.gov.uk/government/publications/specifications-in-relation-to-the-reasonable-adjustment-of-general-qualifications

[18] https://www.gov.uk/government/consultations/maths-and-english-functional-skills-revised-subject-content

Phonics

5.18 The draft subject content for FSQs in English sets out that phonics should be used to teach learners Reading and Writing at the Entry levels. We take the view that reformed FSQs need not assess learners using a phonics-based approach, because phonics is specified as the teaching method to be used, rather than forming part of the subject content itself.

5.19 You should respond to the Department for Education's consultation if you wish to comment on any equality impacts associated with the requirement to teach learners using a phonics based approach.

Assessing non-calculator skills in mathematics

5.20 Current FSQs in mathematics allow learners to use a calculator throughout the assessment. Reformed FSQs, however, will require learners to demonstrate underpinning (non-calculator) skills. Our early engagement with stakeholders has not identified any impacts, positive or negative, on persons who share protected characteristics that will arise from the introduction of non-calculator assessment, however we would welcome views on this.

5.21 This change to the skills learners must demonstrate stems from the government's curriculum intentions and the draft subject content. You should respond to the Department for Education's consultation if you wish to comment on any equality impacts associated with the requirement to demonstrate underpinning mathematical skills.

Transitional arrangements

5.22 We are aware that there is variation in the time taken by learners to complete FSQs, and we will seek to ensure that any transitional period we set protects the interests of learners, including those with relevant protected characteristics, such as pregnancy or maternity, or learners with disabilities.

> **Question 28: We have set out the ways in which our proposals could impact (positively or negatively) on learners who share a protected characteristic.[19] Are there any potential impacts that we have not identified?**
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> **Question 29: Are there any additional steps we could take to mitigate any negative impact, resulting from our proposals, on learners who share a protected characteristic?**

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[19] The term 'protected characteristics' is defined in the Equality Act 2010. Here, it means sex, disability, racial group, age, religion or belief, pregnancy or maternity, sexual orientation and gender reassignment.

Question 30: Do you have any other comments on the impacts of our proposals on learners who share a protected characteristic?

6. Regulatory impact assessment

6.1 We acknowledge that a number of our proposals will necessitate a change in approach to the design, delivery and award of reformed FSQs. As such we also acknowledge that those changes will have a cost and resource impact on awarding organisations. We have little information at this time as to what the costs may be to awarding organisations if some or all of the proposals are implemented. We will use responses from this consultation to produce a detailed regulatory impact assessment in relation to our proposals and will use this to inform the decisions we take following this consultation. To aid those decisions we will also engage with awarding organisations throughout the consultation period.

Impacts on awarding organisations

Qualification development

6.2 One of the most significant costs awarding organisations will face as a result of the reform of FSQs is the cost of developing new qualifications that meet our (and the Department for Education's) new requirements.

6.3 The need to develop new qualifications ultimately stems from Department for Education's decision to reform FSQs. We have considered carefully whether any of our proposals could create further development costs over and above the normal costs associated with developing new qualifications.

6.4 Our view is that the following proposals are likely to have an additional potential cost and/or resource impact:

- In all reformed FSQs, we are proposing to require awarding organisations to produce an assessment strategy (a formal document that sets out and governs their approach to assessing the qualification) in order to have confidence in their qualifications being fit for purpose. 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 reformed FSQs. We consider that this will limit the degree to which our proposed requirement will impact on awarding organisations, but would welcome views on this.

- In reformed FSQs in mathematics in line with the subject content requirements, we propose to require assessment of both calculator and non-calculator skills. This is not a requirement of the current qualifications, but in our view, must form part of the assessment in the reformed qualifications in order to deliver the government's curriculum intentions. Depending on the approach they take, this requirement is likely to impact

on how awarding organisations approach the design of their qualifications, and may lead to additional delivery considerations which could bear costs. We acknowledge that this may also have an impact on centres.

- In reformed FSQs in English for sections of the writing assessments where spelling, punctuation and grammar (SPaG) will be assessed, we are proposing that learners should not have access to dictionaries or spelling and grammar checks. This is not a requirement of the current qualifications, but in our view, is needed to ensure the assessment remains valid. Online versions of the Writing assessment(s) will need to disable the use of spelling, punctuation and grammar checks for the sections of the test where SPaG is being assessed, and in paper-based assessments learners will not be allowed access to dictionaries for those sections. We would welcome views and evidence around the impact of this.

Pre-delivery evaluation of qualifications

6.5 The Minister of State for Apprenticeships, Skills and Women noted that the flexibility of FSQs is important to learners and other stakeholders, but recognised that there is a balance to be struck between retaining flexibility and introducing controls necessary to maintain qualification standards over time and between awarding organisations. [20]

6.6 Our proposals aim to strike the right balance to ensure that the requirements of users, particularly employers, are considered appropriately. We have taken steps to allow awarding organisations freedom in terms of how they design, deliver and award their qualifications so that they meet the needs of learners and employers. We do however think it is important that we have oversight of the approaches the awarding organisations have taken, so that we can be assured the qualifications will work to meet the government's and our objectives, including that qualification standards are maintained over time and between awarding organisations.

6.7 We currently run evaluation activities in relation to qualifications that are already in delivery, ensuring that they are functioning appropriately, and are producing valid assessments. In the case of reformed FSQs we think that running such an evaluation exercise on the qualifications would be a valuable step to take. Doing this at a point in time before the qualifications are offered to learners would mean that any issues identified through the evaluation activity could be addressed by the awarding organisation before the qualifications are

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[20] The letter is published on our consultation page
https://www.gov.uk/government/consultations/reforming-functional-skills-qualifications-in-english-and-maths

made available. We are a risk-based regulator, and the approach we take to evaluation of reformed FSQs will be targeted and proportionate.

6.8 As part of this evaluation process, awarding organisations offering reformed FSQs will need to provide us with information, which will include their assessment strategy (if this proposal is adopted), and which may also include sample assessment materials.

6.9 We appreciate that awarding organisations being required to produce assessment strategies and have sample assessment materials may bear additional costs (see above). However, we acknowledge that there may also be some additional impact and/or burden introduced through engagement with us in this upfront evaluation process. This impact and/or burden we think is necessary to meet the government's expectations around these reformed qualifications. We would welcome views on this.

Assessment delivery

6.10 In most cases, we are retaining existing approaches to setting, delivering and marking assessments for FSQs. However, we have proposed to lift current restrictions that prevent awarding organisations from setting, delivering and marking assessments at the Entry levels, and for assessments of Speaking, listening and communicating in English FSQs.

6.11 This change simply gives awarding organisations an additional option which may be helpful or necessary in certain circumstances; it does not require any changes to existing approaches. As such, we do not consider that these proposals will create any additional impact on awarding organisations, but would welcome views on that.

Awarding

6.12 We are proposing the following approach to awarding:

- where the pass mark is set before all the learners taking the assessment have done so, and this pass mark is then carried forward when further learners take the assessment, the pass marks must be based on a sufficient range of evidence, meaning that either:

  □ the approach taken must use pre-set pass marks based on rigorous pre-testing of the assessments, or

  □ in setting pass marks, this must draw on evidence from a sufficiently representative sample of the anticipated cohort.

- In cases where the pass mark is set after all the learners taking the assessment in question have done so, the number of awarding sessions will be limited to no more than four per year.

6.13 While on-demand results would still be possible if an awarding organisation decided to use pre-set pass marks, we recognise that this will involve pre-testing which could be lengthy and therefore costly.

6.14 Where awarding organisations set the pass marks drawing on evidence from a representative sample, this could lead to a delay in them being able to issue results which could impact on their established delivery model.

6.15 Where pass marks are set after all learners have taken the assessment, our proposal to limit the number of awarding sessions could also impact on an awarding organisation's established delivery model.

6.16 We believe that these steps are needed to have confidence in the standards being set and maintained across awarding organisations and over time. This is critical to gaining public confidence in these qualifications. We would welcome views on the likely impact of all of the potential approaches.

Setting standards and monitoring qualification outcomes

6.17 We have proposed to require awarding organisations to undertake an enhanced level of scrutiny of qualification outcomes following awarding. This is a new process with no parallel in existing regulatory arrangements for FSQs.

6.18 As yet we have not determined the exact approaches that will be put in place around scrutiny of qualification outcomes. Any process we do adopt is likely to impact on awarding organisations, for example there may be a need to provide qualification outcome data, attend post-award meetings, and potentially review future pass marks.

6.19 We are also proposing that awarding organisations should undertake additional monitoring of centre set and marked assessments at the Entry levels, and for Speaking, listening and communicating assessments. This is likely to impact on both awarding organisations and centres.

6.20 We believe that these steps are needed to have confidence in the standards being set and maintained across awarding organisations and over time. This is critical to gaining public confidence in these qualifications. We will be consulting on the detail of any such approach in our future consultation around the detailed rules that we propose putting in place.

Transitional arrangements

6.21 We have proposed that awarding organisations must continue offering current FSQs alongside reformed FSQs during a transitional period.

6.22 We recognise that running both current and reformed FSQs in parallel will create additional costs. However, we must take steps to ensure a smooth transition between current and reformed qualifications. Whilst we will attempt to make any overlap between the current and reformed qualifications as short as possible, we must balance this against the need to ensure learners are not disadvantaged by our approach. We consider that a need for an overlap period is justified in these circumstances. However, we are consulting on the length of the transitional period, and would welcome views on the anticipated impact of our proposal.

> **Question 31: Are there any regulatory impacts that we have not identified arising from our proposals?**
>
> **Question 32: Are there any additional steps we could take to minimise the regulatory impact of our proposals?**
>
> **Question 33: Are there any costs or benefits associated with our proposals which we have not identified?**
>
> **Question 34: Is there any additional information we should consider when evaluating the costs and benefits of our proposals?**

How to respond to this consultation

The closing date for responses is **22nd November 2017**.

Please respond to this consultation in one of three ways:

- complete the online response (click 'Respond online' on the [consultation homepage](#))

- download the response form from the [consultation homepage](#) and either:

  o email your response to [consultations@ofqual.gov.uk](#) – please include the consultation title (*Functional Skills Qualification Reform – English and Mathematics*) in the subject line of the email and make clear who you are and in what capacity you are responding

  o post your response to: *Functional Skills Qualification Reform – English and Mathematics*, Ofqual, Spring Place, Herald Avenue, Coventry, CV5 6UB, making clear who you are and in what capacity you are responding

Evaluating the responses

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity. We will therefore only consider your response if you complete the 'About you' section.

Any personal data (such as your name, address and any other identifying information) will be processed in accordance with the Data Protection Act 1998.

We will publish a summary of the responses received. We will not include your personal details in any published summary of responses, although we may quote from your response anonymously.

Sharing responses

The Department for Education is responsible for setting the subject content for reformed FSQs. We may share with them any responses to our consultation that comment on the proposed subject content. The responses that are shared with the Department for Education will be anonymised. We will only consider sharing your details with the Department for Education if you confirm that you are happy for us to do so.

Please respond by 5pm on 22nd November 2017

Appendix A: 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;[21]

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

   a) give a reliable indication of knowledge, skills and understanding; and

   b) indicate:

      i) a consistent level of attainment (including over time) between comparable regulated qualifications; and

      ii) a consistent level of attainment (but not over time) between qualifications we regulate and comparable qualifications (including those awarded outside of the UK) that we do not regulate

2) **The assessment standards objective**, which is to promote the development and implementation of regulated assessment arrangements which

   a) give a reliable indication of achievement, and

   b) indicate a consistent level of attainment (including over time) between comparable assessments

3) **The public confidence objective**, which is to promote public confidence in regulated qualifications and regulated assessment arrangements

4) **The awareness objective**, which is to promote awareness and understanding of

   a) the range of regulated qualifications available,

   b) the benefits of regulated qualifications to learners, employers and institutions within the higher education sector, and

   c) the benefits of recognition to bodies awarding or authenticating qualifications

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[21] http://www.legislation.gov.uk/ukpga/2009/22/section/128

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.[22] 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 Functional Skills 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.

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[22] Equality Act 2010, s.149. http://www.legislation.gov.uk/ukpga/2010/15/section/149

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.

We wish to make our publications widely accessible. Please contact us at publications@ofqual.gov.uk if you have any specific accessibility requirements.

OGL

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Any enquiries regarding this publication should be sent to us at:

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