

CORPORATE REPORT

Equalities report

January 2020

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Introduction

The purpose of this report

We collect and analyse information to support our understanding of the impact of our policies and practices on people who share particular protected characteristics. We publish this information to demonstrate our compliance with the Public Sector Equality Duty (PSED).

As a public body, we are required by the [Equality Act 2010](#) to meet the [PSED](#), and by the [Equality Act 2020 \(Specific Duties\) Regulations 2011](#) to publish one or more equality objectives at least every four years.

In this report we summarise how we have fulfilled our duties in relation to equality, both as a regulator and an employer. The report covers the period April 2015 – December 2019.

What we do

We regulate qualifications and national assessments taken in England. We are independent of government and report directly to Parliament.

We are required to act (so far as is reasonably practicable) in accordance with our five statutory objectives¹. In brief, these are to:

- i. secure qualification standards
- ii. promote National Assessment standards
- iii. promote public confidence in regulated qualifications and National Assessment arrangements
- iv. promote awareness of the range and benefits of regulated qualifications
- v. secure that regulated qualifications are provided efficiently

We regulate about 160 awarding organisations² (AOs) that develop, deliver and award qualifications. Between them they award around 12 million certificates from around 13,000 qualifications each year. We also regulate national assessments taken by primary school pupils in England.

Our duties

Our obligations under the PSED mean that we must have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share relevant 'protected characteristics' and people who do not.

¹ as set out in [Section 129](#) of the [Apprenticeships, Skills, Children and Learning Act 2009](#) (the [ASCL Act](#))

² We usually refer to the awarding organisations that award GCSE, AS and A level as exam boards.

The objectives we have set for ourselves to help us make sure we achieve our public sector equality duty are to:

- regulate to promote good practice in the way qualifications are designed, delivered and assessed;
- promote equality in recruiting and employing members of staff;
- promote equality when we procure goods and services.

We also have a wide range of duties as set out in the [ASCL Act](#). For example we must have regard to the reasonable requirements of learners who take regulated qualifications and national assessments, including people with special educational needs³, as well as to the reasonable needs of employers, higher education institutions and the professions. A child or young person has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision⁴.

Our public sector equality duties and our statutory objectives as a regulator can, from time to time, conflict with each other. We must regulate to make sure that a qualification gives a reliable indication of a person's knowledge, skills and/or understanding. This means only a person who has been able to demonstrate the required knowledge, skills and/or understanding for a qualification should be awarded that qualification. For example, if the purpose of a particular qualification is to attest to a person's ability to fell a tree safely, it should only be awarded to someone who can safely do so. A person, perhaps because of their age or a disability, might not be able to fell a tree safely, even with reasonable adjustments, in which case they should not be awarded the qualification. It would not be appropriate for us to intervene to change this because, by doing so, the qualification would not be valid.

On the other hand, a qualification would not be valid if its assessment was influenced by irrelevant factors. For example, a qualification that is designed to allow a person to demonstrate they can use every day English would not be valid if the assessments were designed so that, to be successful, a learner would need to be familiar with local traditions and customs. We should intervene if a qualification we regulated used invalid assessments such as this. Our intervention should both secure the validity of the qualification and remove barriers for learners less likely to be familiar with such traditions and customs, perhaps because of their ethnicity and/or religion.

Stakeholder engagement

We engage with stakeholders about our work to promote equality for those taking the qualifications and assessments we regulate. Such engagement helps us to understand features of qualifications and assessments, and the reasonable adjustments made to them, that have an impact on their accessibility for learners who share particular protected characteristics. This understanding informs our regulatory approach, including the statutory guidance we publish, the research we

³ [Children and Families Act 2014 \(c. 6\), s. 139\(6\)](#), Sch. 3 para. 94(a); [S.I. 2014/889, art. 7\(a\)](#)

⁴ [Children and Families Act 2014, Part 3, para 20 \(1\)](#)

undertake and the nature of the specifications we publish in line with [s96](#) of the Equality Act 2010.

Our stakeholder engagements include:

- meeting with groups that represent the interests of, or teach, disabled learners;
- meeting colleagues in other government departments to discuss areas of overlap and/or mutual interest that concern the accessibility of qualifications and assessments to learners;
- working with the other UK qualifications regulators to help ensure consistency in approach, wherever appropriate, and to minimise burden on those we regulate;
- visiting schools, colleges and other centres to meet with teachers and learners;
- exchanging information with awarding organisations.

We hold an annual conference for the awarding organisations we regulate, during which we have held sessions on the accessibility of qualifications and awarding organisations' obligations under the Equality Act. For example, at the 2015 conference we considered accessibility of assessments and reasonable adjustments for disabled learners. In the same year we wrote to the AOs that offer GCSEs and A levels confirming that, subject to complying with the relevant rules, our regulatory framework does not prohibit a learner's certificate from being issued in the learner's preferred name, including where they registered for the qualification in their birth name.

We organise and host the Access Consultation Forum (ACF) in partnership with the other UK qualification regulators (Qualifications Wales (QW) for Wales, Council for the Curriculum, Examinations and Assessment (CCEA) for Northern Ireland, and the Scottish Qualifications Authority (SQA) for Scotland).

We use this forum to consider, with a number of awarding organisations and bodies who represent the interests of disabled learners, issues which affect the accessibility to disabled learners of the qualifications and assessments we regulate. We routinely discuss proposed qualification and assessment design features of new or reformed qualifications at the ACF and ask ACF members to help to raise awareness of our consultations. This year we reviewed and published the [Terms of Reference](#) for the ACF.

How we monitor equality impacts

We monitor equality impacts in several different ways. We undertake equality impact assessments on our work. We engage with stakeholders to understand how our work, our policy decisions, and decisions of the awarding organisations we regulate, can have a particular impact on some people because of their protected characteristics. We consult widely as we develop our policies and before we introduce new rules and guidance. Our research and evaluation programmes and our data collection and analyses inform our understanding of the potential or actual impact on learners of the qualifications and assessments we regulate. Through our audit, monitoring and investigatory work we understand how awarding organisations

are complying with the equality-related rules we set and we can take regulatory action to bring about their compliance if necessary.

We explain more about this work below.

Regulating to promote good practice in the way qualifications are designed, delivered and assessed

In this section we cover:

- the importance of a qualification's validity and the connection between validity and equality;
- the equality-related rules with which the awarding organisations we regulate must comply and how we monitor their compliance;
- the work we have undertaken to promote the provision of exam-based assessments that are as accessible as possible to learners;
- the provision of reasonable adjustments for disabled learners, including :
 - our power under the Equality Act 2010 to make specifications with regard to reasonable adjustments for certain qualifications;
 - the quality of the documentation for schools and colleges on reasonable adjustments for students taking GCSEs, AS and A levels;
 - the availability of modified past GCSE, AS and A level exam papers;
 - our work to understand the quality of modified GCSE exam papers for blind and visually impaired students;
 - the use of assistive technology;
 - data on the use of reasonable adjustments for GCSE, AS and A levels;
- how we regulate national assessments;
- how we have assessed the equality impact of qualification reform;
- the accessibility of our communications;
- the accessibility of our regulatory portal;
- our handling of complaints.

Validity and equality

A valid qualification (or assessment) reliably measures the extent to which an individual has the knowledge, skills and/or understanding the qualification is intended to indicate. We focus much of our work on the validity of the qualifications that are developed, delivered and awarded by awarding organisations we regulate.

Our statutory objectives include the qualifications standards objective, which is to secure that the qualifications we regulate:

- a) give a reliable indication of knowledge, skills and understanding; and
- b) i. indicate 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) which we do not regulate.

We must therefore regulate so that qualifications properly differentiate between learners who have demonstrated they have the knowledge, skills and/or understanding required to attain the qualification and those who have not.

The rules with which awarding organisations must comply to promote the accessibility of their qualifications

We require the awarding organisations we regulate to develop and deliver qualifications that properly measure a learner's knowledge, skills and understanding. Their assessments should only differentiate between learners on the basis of their ability and not differentiate between learners on the basis of irrelevant factors.

We have the same expectations for national assessments as set out in our [Regulatory framework for national assessments](#).

Our rules require each awarding organisation to:

- comply with equalities law
- monitor whether any features of its qualifications disadvantage learners who share a particular characteristic
- remove any unjustifiable disadvantage, and maintain a record of any disadvantage the awarding organisation believes to be justifiable
- design assessments in a way that permits reasonable adjustments to be made, whilst also minimising the need for them.
- have in place, and publish, clear arrangements for making reasonable adjustments for disabled learners
- ensure its assessments use only appropriate language and stimulus materials which are not likely to cause unnecessary offence to learners and do not unreasonably disadvantage the attainment level of a group of learners who share a common attribute or circumstance - because of that attribute or circumstance

We do not recognise an organisation to offer regulated qualifications unless we are confident it will be able to comply with these (and all our other) requirements.

Monitoring awarding organisations

We monitor awarding organisations to consider the extent to which they are complying with our rules and to identify areas of good practice and where there is room for improvement.

In 2019, we carried out readiness reviews of a number of awarding organisations that offer vocational and technical qualifications (which are included in Department for Education (DfE) performance tables). These reviews included their arrangements for reasonable adjustments. This year we completed a desk-based review that sampled other awarding organisations' reasonable adjustment policies. We are collecting further information to inform our further monitoring activities.

We made reasonable adjustments for an awarding organisation whose staff have British Sign Language as their first language, by facilitating interpreters for a meeting with them at our office. We also organised interpreters for them at our annual awarding organisation conference.

In 2016/17, we audited the exam boards offering general qualifications, in relation to their likely compliance with the provision of reasonable adjustments for disabled learners.

We made reasonable adjustments for awarding organisations' disabled staff to ensure they could participate in audits.

The accessibility of exam papers and other assessments

A qualification's exams or assessments should not feature unnecessary or inappropriate barriers that could stop a learner demonstrating the knowledge, skills and/or understanding that underpins the qualification.

GCSEs in England have been reformed to keep pace with universities' and employers' demands. They are based on new and more demanding subject content. The first of the reformed qualifications have been taught since 2015, with the first reformed GCSEs awarded in 2017. A significant proportion of young learners study GCSEs. In summer 2019, GCSE examinations were taken by 580,850 16 year olds. We have worked with stakeholders to help us understand the extent to which GCSE exams are as accessible as they can be to learners.

In 2018 we commissioned some members of the [British Association of Teachers of the Deaf \(BATOD\)](#) who had experience of modifying papers, to review a sample of past GCSE exam papers to advise us on the accessibility of these papers to deaf learners.

The reviewers found room for improvement in a number of the papers they looked at. For example, the reviewers suggested exam boards should:

- not use sentences with complex structures
- not use words with more than one meaning, such as explore, draw, focus, engage
- not use passive sentence structures or relative pronouns
- make sure instructions are clear and unambiguous

We discussed the findings with the exam boards and groups representing the interests of disabled learners at our ACF in October 2018. We shared BATOD's detailed feedback on the individual papers with the relevant exam board so they could learn from best practice and address any areas suggested for improvement.

With support from the DfE, the [Autism Education Trust \(AET\)](#) evaluated the accessibility of GCSE English and mathematics questions for learners on the autism spectrum. Their findings were also discussed with the ACF and the report was shared with the exam boards. There was some commonality between AET's findings

and BATOD's views on the features of accessible questions, such as the need to avoid ambiguous language and use terminology consistently.

We are currently supporting [The Bell Foundation](#) with its project to analyse the language content of GCSE exams in geography, mathematics and combined science. The aim of the project is to identify any barriers to the accessibility of the qualifications for learners for whom English is an additional language and to identify good practice.

Although most GCSE and A level exam papers are printed in black and white, parts of questions (for example, maps or charts) in some subjects, such as geography, are sometimes printed in colour. We invited the organisation [Colour Blind Awareness](#) to present to the ACF in October 2018 on how exam materials can be made accessible for colour blind learners. Since then each of the exam boards has had direct contact with Colour Blind Awareness with a view to ensuring their assessments are as accessible as possible.

We are using the findings of each of these pieces of work as we develop new statutory guidance on designing accessible exams and assessments.

Reasonable adjustments for disabled learners taking regulated qualifications

Awarding organisations are required by the Equality Act 2010 to make reasonable adjustments for disabled learners taking their qualifications.

When an awarding organisation makes a reasonable adjustment for a disabled learner, or allows one to be made by a learner's school or college, this usually changes how an assessment is undertaken. To ensure that the qualification remains valid, the learner must still be able to demonstrate the knowledge, skills and/or understanding to the levels required by that qualification. Reasonable adjustments are used where a disabled learner would otherwise be at a substantial disadvantage, compared to their position had they not been disabled, when demonstrating in an assessment what they know, understand and/or can do.

Specifications made under s96 of the Equality Act

[Section 96](#) of the Equality Act 2010 gives us the power to limit the extent of the duty on awarding organisations to make reasonable adjustments for relevant qualifications⁵ taken by learners in England. When we exercise this power we must have regard to:

- the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities;
- 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;
- the need to maintain public confidence in the qualification.

⁵ The list of 'relevant qualifications' covered by Section 96 is set by the Secretary of State for Education, and published by the DfE.

We set [specifications](#) that prohibit or limit the extent to which awarding organisations must make or allow reasonable adjustments in relevant qualifications.

In 2016 we consulted on updating our specifications, which had been in place since December 2011. We did this to make sure they were clear, relevant and reflected changes to the qualifications since our original publication. As a result of this consultation, we updated our specifications in relation to:

- exemptions
- grade boundaries and pass marks
- readers
- scribes/speech recognition systems
- alternative languages (such as British Sign Language)
- practical assistants

We also introduced one new specification related to:

- access to texts and other materials

To help awarding organisations understand how our updated specifications should be applied we included guidance within the document.

Our powers allow us to specify which forms of reasonable adjustment must not be made. We do not have the power to specify which forms of reasonable adjustments should be made. However, our specifications signal to awarding organisations the types of reasonable adjustment we think they might make for these qualifications. The qualifications to which the specifications apply are summarised on our [website](#), and set out fully in Appendix 1 to the specifications.

Documentation for schools and colleges on applying for reasonable adjustments in GCSEs, AS, A levels and certain other qualifications

In 2018 we commissioned a review from an external lawyer on the quality of the documentation provided to schools and colleges by the Joint Council for Qualifications (JCQ), on behalf of the exam boards, which sets out how to apply for a reasonable adjustment on behalf of a disabled learner.

We fed back to the exam boards and JCQ in October 2018 how the documentation could be made clearer for users. We continue to pursue this with both the exam boards and JCQ.

The [September 2019 report](#) by the Independent Commission on Examination Malpractice recommended that JCQ documentation should be rationalised, simplified and put onto the JCQ website in a way that enables centres to search easily for the information they require; all documents should be indexed; and definitions and examples should be included for some common terminology. On 19 December 2019 the JCQ published its [interim progress report](#) in response to the Independent Commission's report. This included JCQ's plans to improve the quality of its communication and documentation.

Access to modified past papers for GCSEs, AS and A levels

Some learners need their exam papers to be modified, as they cannot read the questions in the standard format. This is a form of reasonable adjustment. Exam

boards commonly provide modified papers for blind or visually impaired learners. The papers are presented in larger print than is used for the standard papers; braille versions are also produced. Some blind or visually impaired learners might prefer to use assistive technology to access their exam papers and exam boards also provide for these types of reasonable adjustment.

Learners often make use of past exam papers to help them prepare for their exams. Exam boards have traditionally provided modified versions of past papers on request. Some modified papers can be downloaded from the exam boards' websites. In some cases, however, and particularly for braille papers, exam boards do not have a modified version of a particular past paper available, including because the quality of braille papers declines over time. While exam boards have usually arranged for modified versions to be produced, the costs of newly modifying a past paper have in the past been passed on to the learner's school or college.

In 2019 we asked each of the four exam boards to consider who should carry the costs of making past papers available to learners in braille. During 2019 all of the exam boards changed their approach, and they now absorb the costs themselves.

Working with the RNIB on the quality of modified exam papers for blind and partially-sighted learners

In 2015, we supported the [Royal National Institute of Blind People](#) (RNIB) to review the accessibility of a sample of GCSE exam papers that had been presented in braille and/or modified large print. The RNIB looked at 101 GCSE papers from the 4 exam boards that offer these qualifications.

The RNIB found that, while there were problems with some of the papers they looked at, there were also examples of good practice. The RNIB made 10 recommendations aimed at ensuring greater consistency in the way that papers are modified and produced, and the ways in which schools prepare their learners for external examinations. We expect exam boards to have regard to such findings and to respond where necessary and we facilitated discussions between the RNIB and the exam boards to consider the findings and the recommendations.

In June 2019 we commissioned RNIB to put together a panel of expert reviewers to review a sample of GCSE exam papers from 2018 which the exam boards had modified for blind or partially-sighted learners. We wanted to gain some insights into the quality of papers more recently modified. The review covered a sample of 17 modified large-print exam papers and 19 exam papers that had been presented in braille. The papers came from all four exam boards in a range of GCSE subjects.

For each paper, RNIB reviewers gave us views on:

- any issues which might cause undue difficulty for a blind or partially-sighted learner taking the assessment;
- how well the modified paper was likely to have met the needs of a blind or partially-sighted learner;
- whether the modified paper was likely to have been sufficiently accessible for those learners; and
- any other issues with the quality of the assessments.

The RNIB panel reviewed the papers taking into account relevant sources of best practice, including minimum accessibility standards and guidance produced by the

UK Association for Accessible Formats (UKAAF), and in particular by *General and Vocational Examinations for Candidates with Visual Impairment – Best Practice Guidance for Modifiers and Producers* (UKAAF, 2018).

RNIB reviewers looked at a total of 17 modified large-print papers – each paper was reviewed by one reviewer. The reviewers found one paper that exemplified best practice, another one was excellent and free from issues, and a further 7 were found broadly to meet the needs of learners.

Of the 19 braille papers that were reviewed, 9 were found to meet the needs of learners, with a further 2 considered broadly accessible.

The reviewers found scope for improvement in most of the papers. The suggested improvements mostly related to how specific graphs, diagrams and images were presented. The overarching issue was that the modified versions of the graphs and diagrams could be unclear to the learners for whom they were produced, either through being too small, too detailed or indistinct. In 4 papers the reviewers identified tasks that imposed additional challenge on learners using the modified paper. For example, learners had to draw a pie chart or plot bars to the nearest small square which could have been unduly challenging for a blind or partially-sighted learner.

The exam boards have each considered the feedback on their respective papers. We expect exam boards to have regard to the findings of the review and we will continue to monitor them

We will also consider the reviewers' feedback as we write guidance for awarding organisations on how to maximise the accessibility of regulated assessments.

Assistive technology

The data shows that, following a gradual increase in the use of assistive technology for which exam board approval was originally required, there was a small reduction in approvals for reasonable adjustments using technology in 2017/2018. Such a change is likely to be explained by the exam boards' decision to allow students to use some forms of technology-enabled reasonable adjustments without their school or college needing to make an application. For example, a student can now use a reading pen in an exam that does not test reading skills without needing to apply to the exam board to do so.

As more disabled learners use assistive technology in their exams we want to improve our understanding of their experiences of doing so, and of any barriers to its use. We started researching this in 2019 and expect to publish our findings in spring 2020. We have sought views from a number of disabled learners who use assistive technology when taking their exams and from their teachers⁶.

⁶ When we commission internal research of this type, the commissioner must complete an Ethical Approval Form for Research Activities. If any ethical considerations are identified (including age, and learning or communication difficulties), ethical approval will be sought from the Ofqual Research Ethics Committee (OREC). The OREC deals with all research ethical issues in accordance with the research ethics guidelines for the British Education Research Association (BERA).

Statistics on reasonable adjustments for GCSEs, AS and A levels

Each year we publish data on the number of access arrangements⁷ approved for GCSE, AS and A level. Schools and colleges apply for these on behalf of their learners. This data includes reasonable adjustments (for disabled learners) and special consideration (pre-assessment adjustments for learners who were ill or injured when they took their exam(s) or for whom English is not their first language (a form of special consideration⁸)).

These statistics do not provide a full picture of the number and nature of reasonable adjustments made for these qualifications, as some adjustments can simply be made by the school or college without any reference to the exam board, such as the use of a reading pen, the support of a prompter and the support of a communication professional for a learner who usually uses sign language; data is not collected on these. The statistics do include data on extra time, the most commonly used form of reasonable adjustment.

Data on access arrangements for each academic year can be accessed here:

[2015/16](#)

[2016/17](#)

[2017/18](#)

[2018/19](#)

There are limitations to the data we have received from the exam boards to date. We have therefore requested that exam boards provide us with better quality, more granular data for 2020.

We use our statistical data to help us monitor and regulate activity around examinations. In 2017 we identified a small number of schools and colleges that had, without obvious good reason, either an unusually high or an unusually low number of approved requests for reasonable adjustments. We brought this to the attention of the exam boards who then contacted these centres to remind them of the need to make proper use of reasonable adjustments for any of their disabled learners.

We continue to monitor exam boards' compliance with our rules and will take appropriate action, if required.

National assessments

We regulate the early years foundation stage (EYFS) profile and national curriculum key stage tests (commonly known as 'SATs'), which together we refer to as 'national assessments'. These are delivered in England and have specified purposes set out in statute.

⁷ Access arrangements should not be confused with post-examination adjustments to the marks of learners who have not been able to demonstrate their ability in an assessment due to exceptional circumstances, such as bereavement at the time of the assessment. These post-examination adjustments are covered in a separate report on special consideration.

⁸ Special consideration is defined in the [Ofqual Handbook](https://www.gov.uk/guidance/ofqual-handbook/section-j-interpretation-and-definitions): <https://www.gov.uk/guidance/ofqual-handbook/section-j-interpretation-and-definitions>

We set out our approach in our [regulatory framework for national assessments](#).

Our current regulatory framework for national assessments came into effect in March 2018, replacing our previous framework that had been in place since 2011. Our new framework clearly sets out that our focus is on the validity of the assessments (and, within this, the need to minimise bias), and our expectation that the bodies that design and deliver national assessments comply with equalities legislation.

Key Stage 2 reading test

In 2017, following concerns expressed by teachers, we carried out research into the accessibility of the 2016 key stage 2 (KS2) reading test⁹. We held focus groups with disability and special educational needs experts, as well as English subject experts. We also reviewed item functioning data, including facility data, omit rates and DIF analysis¹⁰ (which looks at whether test questions perform unusually when taken by different groups, such as boys and girls).

As well as considering the experience of SEND pupils with different cognitive or physical disabilities, we also considered and discussed issues relating to socio-economic status, gender, and pupils with English as an alternative language (EAL).

While item functioning data did not suggest significant issues, we concluded that, on the balance of evidence presented, it seemed plausible that the combined impact from multiple ostensibly negligible challenges may have rendered the 2016 reading test unduly hard to access for at least some pupils. On this basis, we raised a number of questions for the Standards and Testing Agency (STA) to consider. Since this research, STA has reviewed and made changes to its expert review and text selection processes to provide additional quality assurance. There have not been similar concerns raised since 2016.

We took a particular interest in the accessibility of the new Multiplication Tables Check (MTC) being introduced into primary schools from 2019. We invited the STA to demonstrate to our ACF the ways this on-screen test could be adjusted to make it accessible for different learners. We were satisfied that the STA was giving careful consideration to the accessibility of the check for all students and the adjustments that could reasonably be made to the tests.

How we have assessed the likely and actual impact of qualification reforms

For most regulated qualifications, the awarding organisation that awards the qualification determines how it is structured and assessed. The awarding organisation must make sure it complies with our [General Conditions of Recognition](#) so that its qualifications are valid and fair and the public can have confidence in

⁹ Accessibility of the 2016 key stage 2 national curriculum reading test: review of evidence, <https://www.gov.uk/government/publications/content-validation-study-2016-key-stage-2-english-and-maths-tests>

¹⁰ Differential Item Functioning analysis

them. There remains scope, however, for the awarding organisation to decide on the detailed arrangements for its qualifications.

For other qualifications, notably those that fall within a suite of national qualifications such as GCSEs, A levels, Functional Skills Qualifications (FSQs), and Technical Qualifications (TQs) that will be taken within a T Level programme, we specify certain design requirements, such as the form of the assessments. The content (the knowledge, skills and/or understanding a learner must demonstrate to be awarded the qualification) for such qualifications is usually set by the government.

We consult before we introduce new rules, or amend or disapply existing rules. We consider the possible equality impacts of the options before we consult and we seek views on our equality impact analysis of our proposals during our consultations.

The equality impact analysis helps us to determine any likely positive or negative impacts of a policy option on people who share particular protected characteristics. Our equality impact analyses also help us to consider how we can mitigate or eliminate any negative impacts, promote opportunities for ensuring equality and decide what future action to take. Our equality impact analyses are informed by evidence about the potential impact of a proposed policy, and support us in making better informed decisions.

Typically those who respond to our consultation questions on the potential equality impacts of our proposed regulatory changes do not identify further impacts or mitigations, and often do not comment on these questions. In 2018 we reviewed our approach to consultations and made some changes with the aim of improving engagement, including in response to questions on equality impacts. We will continue to monitor responses and identify whether there is more we could do in this area.

Between 1 April 2015 and 31 December 2019 we published 70 consultations, all of which have concluded. We are analysing feedback from 5. The large number of consultations during this period arose in relation to our programme to reform GCSEs, AS and A levels and our programme to reform vocational and technical qualifications. We included an equality impact assessment in each of our consultations.

Each of these consultations contained an equality impact assessment. In the equality impact assessment we explained our public sector equality duty, and identified potential impacts of our proposals on those sharing a particular protected characteristic. We invited respondents to indicate whether they agreed with our analysis, to identify any potential impacts we might have overlooked and to suggest how any negatives impacts might be avoided or mitigated. We analysed the consultation feedback received and used this to inform our decisions on each aspect of our proposals. We published our analysis of any feedback received, and our final decision.

The vocational and technical qualifications landscape has changed significantly over the last few years, and continues to change as government reforms are implemented. To ensure we can regulate reformed qualifications effectively, since 2017 we have consulted on bespoke rules and guidance for some aspects of

reformed qualifications, and in some cases, have disapplied existing rules to enable this. These consultations cover:

- Reforming Functional Skills Qualifications in English, maths and digital skills
- Regulating apprenticeship end point assessments
- Regulating Technical Qualifications
- Regulating Essential Digital Skills Qualifications
- Regulating Performance Table Qualifications

For example, Technical Qualifications are currently being developed. They will form part of the T Level study programme. T Levels will be level 3 technical study programmes, mainly studied at an education or training provider, designed to support entry to skilled employment and progression to higher education. They will consist of:

- a Technical Qualification (TQ)
- an industry placement
- maths, English and digital requirements (for example Functional Skills qualifications in maths and English)
- any other occupation-specific requirements/qualifications, as set out by the relevant T Level panel (such as a licence to practise)
- any further employability, enrichment and pastoral (EEP) provision (as required in all study programmes)

Learners must complete all of these to achieve a T Level. The TQ within the T Level will be an Ofqual-regulated qualification, consisting of two separately graded parts – the Core (made up of an exam and a project) and Occupational Specialism(s) (consisting of assessment of occupationally-related skills). We consulted in 2018 on our approach to regulating TQs.

One area where we proposed to set rules was about when TQ assessments could be made available. Our original policy proposal was that all assessments should take place during May/June each year, meaning there would be one opportunity to take (or retake) each assessment each year.

Following our consultation, we amended this proposal to address concerns identified by respondents, including that such an approach could have a negative impact on learners who shared particular protected characteristics. Some who responded to our consultation suggested that our initial proposal could disadvantage learners with certain protected characteristics, for example because of pregnancy or maternity, participation in religious festivals, or gender reassignment. They also felt that the proposals could have disadvantaged learners with certain disabilities, particularly those with chronic or fluctuating conditions.

In response to these concerns, we revised our proposals to aim to mitigate the potential negative equality impacts identified. We decided to allow additional assessment opportunities, including for retakes, so that awarding organisations could make each assessment available up to twice each year. We also decided that we would allow these to be scheduled at any point in the year, not just May or June.

The changes we made mean that learners who might have been disadvantaged by our original proposals will have additional assessment and retake opportunities. The additional assessment opportunities mean they will be more able to take the Core and Occupational Specialism assessments in a different series to one another. These changes are likely to benefit some learners, including those with particular protected characteristics.

Where particular issues are raised we might review the accuracy of our equality impact analyses after policies have been implemented. At this stage we consider whether our conclusions were correct, and whether we should revisit the policy in light of evidence about the actual equality impacts.

As an example, we consulted in June 2013, shortly after the start of the GCSE reform programme, on our proposal that GCSEs should return to being linear qualifications with all assessments taken at the end of the programme. This allows assessments to include some synoptic elements, makes it easier for the exam boards to maintain standards and stops students being entered for assessments multiple times throughout their GCSE studies. Similar qualifications taken outside of the UK are typically linear.

A number of respondents to our consultation, which included our equality impact analysis on this and other design proposals for GCSEs, suggested that certain students, including female students, disabled students, refugees and travellers, would be disadvantaged relative to other students when taking linear rather than modular qualifications. The concerns were not supported by convincing evidence and we decided that GCSEs should become linear qualifications again, in line with government policy.

Nevertheless, we wanted to understand whether the concerns raised in response to our 2013 consultation would, in fact, be realised. We collaborated with an Oxford University research study to investigate whether GCSE outcomes (results) for certain groups of students taking the reformed, linear qualifications in English, mathematics and science were, in fact, different to the outcomes for such students taking the previous modular versions of the qualifications. The research considered the students' school type, gender and socio-economic status. The researchers found no educationally significant evidence that outcomes were affected by the linear nature of the new GCSEs. There was no statistical evidence to suggest that there was any impact on outcomes for students according to their school type, gender or socio-economic status that could be associated with the modular or linear design of the qualifications.

Communication

We aim to make our communication as clear and accessible as possible. Whether we communicate verbally or in writing, it is important that what we say is clear to its intended audience.

Wherever possible, we avoid using jargon. However, it is sometimes necessary to use technical language. This may be because we need to use a word in its defined sense¹¹, refer to complex legislation or to discuss a technical aspect of assessment.

Our website is hosted by GOV.UK which is a cross-government platform. GOV.UK is maintained and improved by the Government Digital Service (GDS). GDS follow best-practice based on the W3C's Web Content Accessibility Guidelines (WCAG) and the [Public Sector Bodies \(Websites and Mobile Applications\) \(No. 2\) Accessibility Regulations 2018](#). This legislation is designed to make sure all government websites meet level AA of version 2.1 of WCAG.

We follow Government Digital Service (GDS) published best-practice and try to make our communication accessible in the following ways:

- writing in plain English
- using accessible formats on our website (such as text that can be read using a screen-reader)
- including subtitles on films we publish to our [YouTube](#) channel
- recording, and publishing, transcripts of our webinars and videos
- making reasonable adjustments (for example, we used a signer at the 2019 AO conference)
- ensuring events venues are accessible

In 2018, we redesigned our corporate branding and introduced new colour palettes to make our documents more accessible to those with colour blindness. We also introduced guidelines for colour contrast and font sizes, to improve accessibility.

Where we have published files that may not be suitable for users of assistive technology, we state this and provide a link inviting users to contact us to request an accessible format. We will provide versions of documents in more accessible formats, suitable for users of assistive technology, wherever we can.

The Portal

We use a secure online system, called The Portal, to communicate with approximately 2,000 users within Ofqual-recognised awarding organisations. To ensure The Portal is accessible, we use industry standard accessibility tools. We aim to meet [W3C Web Content Accessibility Guidelines 2.0](#) (W3C WCAG 2.0). These guidelines recommend how to make website content more accessible to a wider range of people with disabilities, including the following (and combinations of these):

- blindness and low vision
- deafness and hearing loss
- learning disabilities
- cognitive limitations
- limited movement
- speech disabilities

¹¹ Section J of the Ofqual Handbook contains a list of defined terms and their definitions: <https://www.gov.uk/guidance/ofqual-handbook/section-j-interpretation-and-definitions>

- photosensitivity

W3C WCAG 2.0 has 3 levels. Each level has a number of criteria with a testable statement against which digital resources can be tested to check compliance. Level A has 25 criteria, level AA has 38 criteria, and level AAA has 61 criteria. We aim to meet level AAA, the highest level of accessibility standard for these guidelines.

Where we find accessibility issues, we take action to address them. For example, we used Lighthouse, an automated tool for improving the quality of web pages, to check how accessible The Portal was. This highlighted some accessibility issues. Based on the results, we added Accessible Rich Internet Application (ARIA) labels to enhance the user experience for users who need to use a screen reader.

Although our aim is to make our content more accessible to people with disabilities, we recognise the additional wider benefit of improving accessibility for all users.

Complaints

We require awarding organisations to have their own procedures for dealing with complaints. We will consider a complaint that is raised with us once the awarding organisation's own complaints procedure has been used. On our website, we explain the types of complaint we can deal with and how to make a complaint¹².

We encourage and enable people to complain by whichever communication method makes most sense to them, and are mindful of any particular support needs they may have throughout the course of our interaction with them. Our staff are trained to identify and support the needs of vulnerable people, engaging with advocates who support vulnerable customers, and flexibly responding to individual needs. When responding, we aim to use plain, accessible language.

Between 1 March 2016 (when we started using our current case management system) and 31 December 2019, 20 of the 1,169 complaints we received (around 2%) related primarily to arrangements for Reasonable Adjustments.

Over half related to the assessment of spelling, punctuation and grammar and arrangements for dyslexic candidates. Other concerns related to accessibility for candidates with autism, chronic illnesses and those needing a modified papers. We found in each case that the awarding organisation had acted appropriately.

¹² <https://www.gov.uk/government/organisations/ofqual/about/complaints-procedure>

Promoting equality in recruiting and employing members of staff

We employ just over 200 permanent staff in our office in Coventry. We are committed to recruiting, and retaining, expert, engaged people. Our staff are vital to our work. We aim to make sure we have a diverse and empowered workforce.

Ofqual People Strategy

In 2018, we revised our [People Strategy](#). Our People Strategy outlines how our teams work together to achieve our objectives. It reflects the Civil Service's wider ambition to become the UK's most inclusive employer.

The Ofqual People Strategy has 2 specific aims that relate to equality and diversity:

- To build a collaborative, innovative, healthy and safe working environment with a culture that promotes equality and diversity; and
- To recruit the best people by attracting talented and capable people from a diverse range of sectors and from all walks of life.

Civil Service People Survey

We take part in the annual Civil Service People Survey (CSPS) which looks at civil servants' attitudes to and experience of working in government departments.

Our 2019 staff engagement scores increased by 2 percentage points since the 2018 survey, rising to 70%. This result places Ofqual 7 percentage points above the Civil Service as a whole, and 3 percentage points above Civil Service high performers. 211 (93% of) Ofqual staff responded to the survey, placing Ofqual's response rate in joint 13th position across the Civil Service.

These results followed the commitment we made following the 2017 survey feedback to:

- empower our people, and encourage innovation where practicable
- encourage diversity and inclusion, with a particular focus on recruitment
- improve our meetings culture – carefully considering length, attendees, and the need to preserve some non-meeting time throughout the day

Staff engagement

Established in 2016, our Employee Forum meets regularly with leaders to discuss and communicate issues affecting Ofqual staff. The Forum, represented by elected members of staff, aims to secure effective communication within the organisation, and gives employees an opportunity to make suggestions to enhance Ofqual as a place to work.

In early 2018, we established a Diversity and Inclusion Working Group to discuss the diversity and inclusion agenda, ways of promoting equality and diversity within Ofqual, and diversity and inclusion issues in relation to staff. Committed to supporting Ofqual meet its strategic aims, the group is guided and informed by Ofqual's People Strategy. Chaired by a member of our Senior Leadership Team, attendees include HR and Employee Forum representatives, and staff with a broad cross-section of experience, knowledge and interests.

Our Diversity and Inclusion Strategy articulates how we operate and work within our organisation. Our strategy supports our vision to build a collaborative culture that promotes diversity and inclusion and seeks to attract and retain staff from a diverse range of sectors and from all walks of life.

Dignity at Work

In 2017, to support our Dignity at Work policy, we offered Dignity at Work training to all staff. This training aimed to develop knowledge and raise awareness of the role each of us plays in creating a workplace environment that treats everyone with dignity and respect.

The percentage of Ofqual staff responding to the 2017 Civil Service survey who said they had personally experienced bullying or harassment at work within the last 12 months was 8%, compared to 13% in 2016. This figure has remained at 8% in the 2018 and 2019 survey results. While these results have kept Ofqual 3% below the Civil Service benchmark figures for bullying or harassment since 2017, we wish to reduce the figure further.

Disability Confident

In 2017, Ofqual was accredited as Disability Confident. The Disability Confident scheme supports employers in:

- benefiting from the talents people with disabilities can bring to the workplace
- recruiting and retaining great people
- drawing from the widest possible pool of talent
- securing high quality staff who are skilled, loyal and hard working
- improving employee morale and commitment by demonstrating that all employees are treated fairly
- demonstrating commitment to workplace equality

Recruitment

We recruit by merit on the basis of fair and open competition, as outlined in the [Civil Service Commission's Recruitment Principles 2018](#).

Branded Recruitment Adverts

We brand all our recruitment adverts with the following statements:

Ofqual is an equal opportunities employer and welcomes applications from candidates regardless of ethnic origin, religious belief, gender, sexual orientation, disability, age or any factor unrelated to someone's ability to perform the job.

We particularly welcome applications from black and minority ethnic candidates.

The Civil Service embraces diversity and promotes equality of opportunity. We have a guaranteed interview scheme (GIS) for candidates with disabilities who meet minimum selection criteria.

Anonymised applications

We have used anonymised applications in our recruitment process since 2017 for vacancies at grade 7 and below. This means an applicant's name, date of birth, and other personal details are not seen by the sift panel. This promotes a fair process by reducing conscious or unconscious bias affecting the sifting and shortlisting of applications for employment at Ofqual.

Reasonable adjustments

If a disabled person is put at a substantial disadvantage compared to a non-disabled person, we have a duty to make reasonable changes to our processes. Our job advertisements invite applicants to contact us if they need a change to be made so that they can apply, and/or to let us know if they need further help in the recruitment process. We ask applicants to contact us to discuss their needs.

Training and support for staff

Our induction programme for new starters includes a focus on equality and diversity. We incorporated dignity at work training into the programme in 2017 and unconscious bias training in 2019.

Our Flexible Working policy, which reflects employment and health and safety legislation, is underpinned by our commitment to equality and diversity. All staff who have been employed for at least 6 months, and have successfully completed their probationary period, can apply for flexible working arrangements.

In November 2019, as part of our Employee Value Proposition offering, we launched a pilot scheme to allow employees the option to buy or sell up to 3 days (21.6 hours) of annual leave.

In 2019 we provided mental health and wellbeing training for all employees, to increase awareness of mental health issues affecting life in (and outside of) the workplace. We introduced Mental Health First Aiders to support staff and signpost where further help is needed. Eight employees have been trained as Mental Health First Aiders, and given the tools to help them recognise concerns and confidently discuss mental health issues with colleagues.

In 2019 we began to pilot a reverse mentoring scheme to:

- open up conversations between senior leaders/managers and more junior staff about potential workplace barriers to progression;
- help senior learners reflect upon and challenge attitudes to inclusion and take appropriate action within the organisation; and
- help shape Ofqual to become a more diverse and inclusive place to work.

The pilot scheme was open to everyone but we sought expressions of interest from under-represented groups in Ofqual (particularly at senior levels for Black, Asian, and minority ethnic (BAME), disabled, and lesbian, gay, bisexual, and transgender (LBGT) staff).

The scheme was launched in April 2019. By 31 December 2019 9 mentor/ mentee pairs had participated. Following positive feedback about the success of the pilot, the scheme will be continued for members of staff interested in taking part in 2020.

Diversity data

We collect and publish data on the diversity of our staff.

We hold data on the gender and age of all our staff. We ask new starters to provide data on their ethnicity, disability, religion, sexual orientation and caring responsibilities, although staff can indicate that they prefer not to say.

As at 31 March 2019, our staff gender split was 60% female and 40% male. Staff ages ranged from 18 to 74, with 45% of staff aged 35 to 44, and 24% of staff aged 45 to 54.

Our most valuable resource is our people. It is important that we invest in our talent and ensure that everyone has an equal and fair opportunity to flourish and contribute to the success of Ofqual.

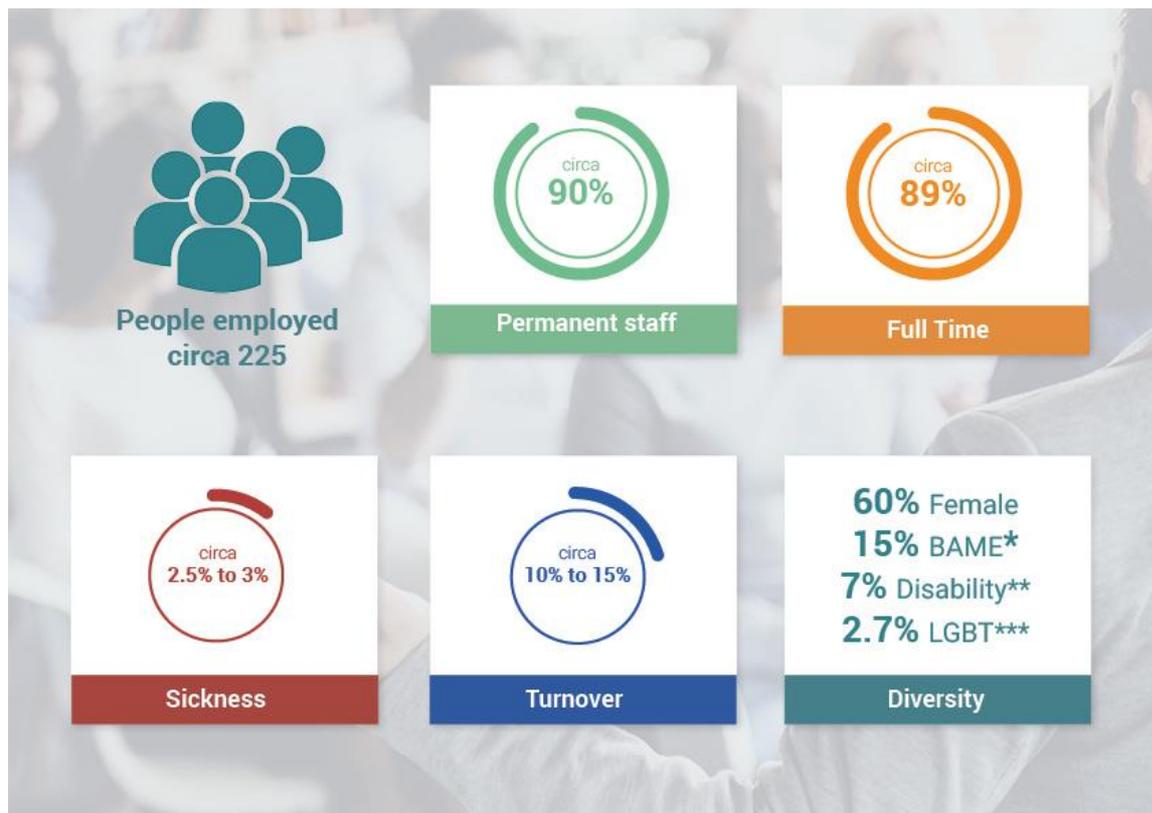
A breakdown of the characteristics of our workforce as at October 2019 is shown in Figure 1 below. Our analysis is set in the context of around 18% of working age adults in the UK identifying themselves as disabled¹³ and 2% of the UK population identifying as lesbian, gay or bisexual.¹⁴

¹³ <https://www.gov.uk/government/statistics/family-resources-survey-financial-year-201718>

¹⁴

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2017>

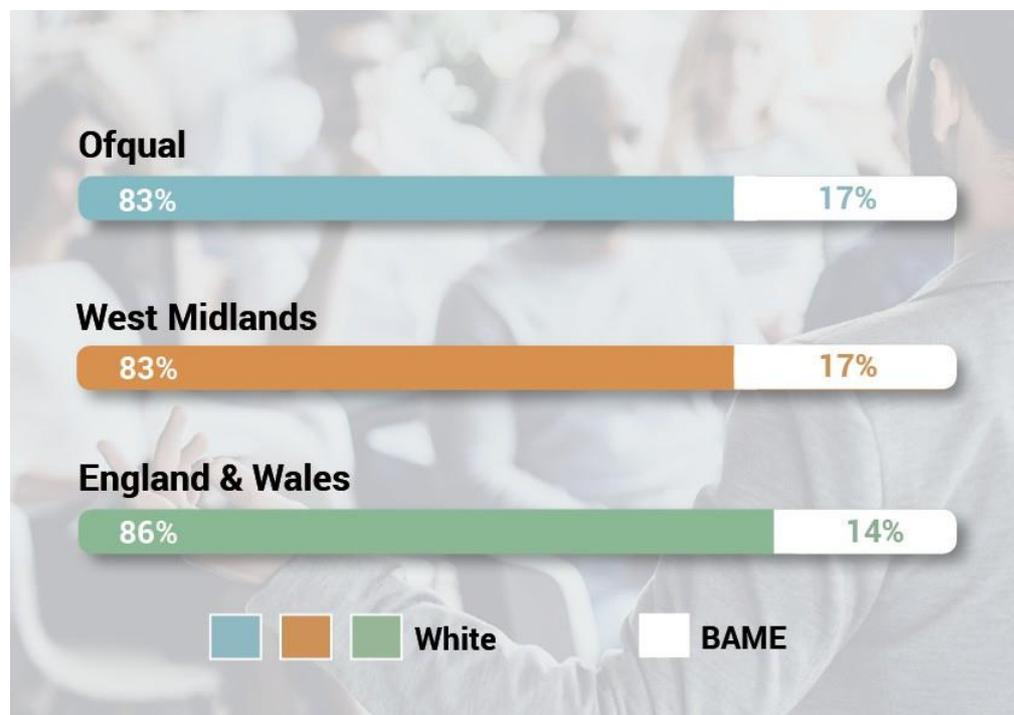
Figure 1: Ofqual Workforce - October 2019



*13% blank or prefer not to say **47% blank or prefer not to say *** 46.7% blank or prefer not to say

The following chart (Figure 2) is a comparison of our workforce to the West Midlands Average and the national average for ethnicity taken from the 2011 Census.

Figure 2: Ethnicity compared to West Midlands and National Averages



*Excludes the 13% of Ofqual employees who have not declared their ethnicity or opted to prefer not to say.

Promoting equality when we procure goods and services

We spend 23% of our £18.2m budget on procurement. When we procure goods or services we consider how we can promote equality in our approach. We also consider equalities when choosing our suppliers.

We follow Crown Commercial Service (CCS) *Public procurement policy*¹⁵ guidance when procuring goods and services. This sets out an over-riding requirement that all public procurement must be based on value for money, and should be achieved through competition, unless there are compelling reasons to the contrary.

As a non-ministerial government department, we are funded by public money and, as such, our procurement is subject to the [EU Treaty](#) principles of:

- non-discrimination
- free movement of goods
- freedom to provide services
- freedom of establishment

In addition to these fundamental EU Treaty principles, some general principles of law have emerged from case law of the European Court of Justice. The most important of these general principles of law to be aware of in the procurement context are:

¹⁵ <https://www.gov.uk/guidance/public-sector-procurement-policy>

- equality of treatment
- transparency
- mutual recognition
- proportionality

These are principles that we implement and observe by default in all of our procurement activity.

Our standard goods and services contract includes a clause which mandates suppliers to comply with all applicable equality law - whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise.

We also require our suppliers to take all necessary steps, and inform us of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation) relating to the suppliers' performance of obligations under the contract.

Choosing our suppliers

We build Procurement Policy Note (PPN)¹⁶ guidance issued by the Crown Commercial Service (CCS) into our tender documents. The PPN mandates the use of a standard Selection Questionnaire (SQ) for all procurement activity over the European Union (EU) threshold of £118k.

We review contracts on a case-by-case basis and, where relevant, we also apply the questionnaire to procurement activity below the threshold. The SQ enables us (on discretionary grounds) to exclude tenderers if, within the last 3 years, they have had a complaint upheld following an investigation by the Equality and Human Rights Commission (EHRC), or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds of unlawful discrimination. This safeguards us from entering into contracts with such tenderers. The PPN guidance allows tenderers the opportunity to evidence 'self-cleaning'. The self-cleaning process means that when a tenderer has breached any of the exclusion grounds in the tender, they have the opportunity to explain how and what action they have taken to rectify the situation.

Paying our suppliers

We comply with the [Late Payment of Commercial Debts \(Interest\) Act 1998](#) by paying invoices within 30 days of receipt, unless we have agreed different terms with our suppliers. In the last financial year (2018-2019) we paid 99% of invoices within 30 days, and 94% of invoices within 10 days. This meant no interest was payable under the Late Payment of Commercial Debts (Interest) Act 1998.

We take action to support small and medium-sized enterprises (SMEs). Wherever possible, we engage with local suppliers, including SMEs, as part of our pre-market

¹⁶ Action Note 8/16

engagement activity. We recognise that late payments can threaten the survival of small businesses¹⁷. As a small organisation, we are not required to meet the government's 5-day target for small and medium enterprises to receive payment. However, we are committed to prompt payment and follow government guidance by aiming to pay 90% of all undisputed invoices within 5 days. Within the first 6 months of this financial year (2019/20) on average we paid 96% of all invoices within 5 working days.

Subject experts

We invite people to join us as external experts to support our work on qualifications and assessments.

External experts are invaluable to the work we do to ensure the qualifications we regulate are fit for purpose.

We recruit people from a wide range of different backgrounds. Our experts are typically teachers, practitioners, assessors, examiners, academics, or have extensive skills and experience in a particular industry. We instruct our experts based on their area of expertise.

We are keen to use a diverse range of experts. The application process to become an external expert includes an optional anonymous equality and diversity form for all applicants to complete.

Our [guidance](#) on applying to become an external expert for Ofqual includes a link to our [YouTube video](#) on who can be an external expert.

¹⁷ <https://www.gov.uk/government/news/ending-late-payments-to-small-businesses>



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