

GCSE English Language

Consultation on Conditions and Guidance



June 2015

Ofqual/15/5710

Contents

About this consultation	3
Summary of our proposals	4
How to respond to this consultation	5
1. Proposed rules and guidance in new English language GCSEs	7
Rules and guidance for spoken language assessments	7
Rules for marking and results	17
Certificate requirements	19
2. Accreditation of GCSE English language qualifications	22
3. Equality impact analysis	23
Ofqual’s role, objectives and duties	23
Equality impact analysis relating to proposed changes to GCSE qualifications	23
Responding to the consultation	26
Your details	26
Questions	30
Appendix A: Regulatory tools	34
Comparability and innovation	34
Conditions of Recognition	34
Regulatory documents	35
Statutory guidance	35
Appendix B: Ofqual’s role, objectives and duties	36

About this consultation

We are seeking views on additional rules and guidance we propose to put in place for the new English language GCSEs which are being taught in England from September 2015.

Most of these new rules relate to the spoken language assessment, but we are also proposing some rules around marking, results and certificate requirements which would apply to the qualification more generally.

We have already accredited all the new English language GCSEs which will be taught from September 2015. The specifications for these new qualifications currently include provisional information about spoken language assessments. This has enabled exam boards to trial different approaches to the spoken language assessment. Those trials are complete and we have considered their outcomes. We are now consulting on the detailed rules and guidance we propose to put in place for spoken language assessments.

After this consultation, when we have put in place the final rules and guidance, exam boards will make appropriate changes to their specifications (as needed). The exam boards will not need to resubmit their amended specifications for accreditation.

This consultation follows on from our earlier consultations: *GCSE Reform Consultation – June 2013*;¹ *GCSE Reform Technical Consultation – December 2013*;² and our *Consultation on the Conduct, Marking and Grading of Spoken Language Skills in GCSE English Language*.³ We do not repeat the policy proposals we consulted on in those earlier consultations or the options we considered when we did so.

We explain how our proposed rules and guidance will work alongside our other regulatory tools in appendix A.

Further information about the reform of GCSEs, AS and A levels can be found at www.gov.uk/government/publications/get-the-facts-gcse-and-a-level-reform.

¹ <http://webarchive.nationalarchives.gov.uk/20141110161323/http://comment.ofqual.gov.uk/gcse-reform-june-2013/>

² <http://webarchive.nationalarchives.gov.uk/20141110161323/http://comment.ofqual.gov.uk/gcse-reform-december-2013/>

³ www.gov.uk/government/consultations/gcse-english-language-assessment-of-spoken-language-skills

Summary of our proposals

Spoken language assessment

- We are consulting on new conditions and requirements to implement the following decisions which we have taken following our policy consultation on spoken language assessments:
 - spoken language assessments will be assessed by teachers (although we have made provision for students to be directly assessed by the exam boards where desirable or necessary) using a set of criteria that will be common across all exam boards;
 - a non-marks based approach will be used to assess students. A student must achieve all criteria within a level to be awarded that level;
 - there will be three levels, called 'Pass', 'Merit' and 'Distinction', and one outcome indicating that the required standard was not met. This will be described as 'Not Classified';
 - exam boards will monitor internal assessments by:
 - requiring schools to submit complete and unedited audio-visual recordings of a sample of their students' spoken language assessments, and
 - using those recordings to help determine whether or not the spoken language assessment remains fit for purpose and whether or not students' work is being marked accurately and consistently;
- in addition, we are also proposing that:
 - the spoken language assessment should take place in a formal setting, before an audience, and require preparation to have been undertaken by the learner;
 - exam boards must require schools to provide a statement confirming they have taken reasonable steps to secure that students complete the spoken language assessment. If a school fails to provide a statement, or provides a false statement, the exam board must treat that as malpractice and/or maladministration.

Marking and results

- There will be two separate results reported in respect of each GCSE English language qualification, one for the spoken language assessment and one for the written exams.
- No account should be taken of the result for one part of the qualification when assessing the outcome for the other part of the qualification.
- A student can carry their spoken language assessment result forward for the lifetime of the qualification, should they resit their written exams.
- A student will only get a certificate if they achieve at least a grade 1 in the examined part of the qualification.
- Unlike other qualifications, all possible results for the spoken language assessment (including Not Classified) will be reported on certificates.
- If a disabled student is exempt from the spoken language assessment, his or her certificate will be in line with our approach to the reporting of exemptions generally (which is currently set out in our *Specifications in Relation to the Reasonable Adjustment of General Qualifications*⁴).

How to respond to this consultation

The closing date for responses is 2nd July 2015.

Please respond to this consultation in one of three ways:

- complete the online response at www.surveygizmo.co.uk/s3/2171627/GCSE-reform-regulations-for-English-language;
- email your response to consultations@ofqual.gov.uk – please include the consultation title (*English Spoken Language Consultation 2015*) in the subject line of the email and make clear who you are and in what capacity you are responding; or
- post your response to: English Spoken Language Consultation 2015, Ofqual, Spring Place, Coventry Business Park, Herald Avenue, Coventry, CV5 6UB, making clear who you are and in what capacity you are responding.

⁴ www.gov.uk/government/publications/specifications-in-relation-to-the-reasonable-adjustment-of-general-qualifications

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 information page.

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

We will publish the evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Please respond by 2nd July 2015.

1. Proposed rules and guidance in new English language GCSEs

- 1.1 We are proposing to introduce rules and guidance in new English language GCSEs. These rules and guidance relate primarily to the spoken language assessment, but some also cover marking, results and certificate requirements which would apply to the qualification more generally.
- 1.2 Our proposed new rules and guidance will sit within our existing rules and guidance in relation to new English Language GCSEs⁵ save that we are proposing to replace the existing Condition GCSE(English Language)³, which we have published in *GCSE (9 to 1) Subject Level Conditions and Requirements for English Language*.

Rules and guidance for spoken language assessments

- 1.3 Following our *Consultation on the Conduct, Marking and Grading of Spoken Language Skills in GCSE English Language*,⁶ we have decided that:
- spoken language assessments will be assessed by teachers (although we have made provision for students to be directly assessed by the exam boards where desirable or necessary) using a set of criteria that will be common across all exam boards;
 - a non-marks based approach will be used to assess students;
 - a student must achieve all criteria within a level to be awarded that level;
 - there will be three levels, called Pass, Merit and Distinction, and one outcome indicating that the required standard was not met, described as Not Classified;
 - exam boards will monitor internal assessments by requiring schools to submit audio-visual recordings of a sample of their students taking the assessment.
- 1.4 To implement these decisions, we are proposing to introduce a new Condition for GCSE English language, supported by more detailed rules and guidance.
- 1.5 Our proposed Condition defines what we mean by a ‘spoken language assessment’, allows us to publish rules and guidance governing the spoken

⁵ www.gov.uk/government/publications/gcse-9-to-1-subject-level-conditions-and-requirements-for-english-language and <https://www.gov.uk/government/publications/gcse-9-to-1-subject-level-guidance-for-english-language>

⁶ www.gov.uk/government/consultations/gcse-english-language-assessment-of-spoken-language-skills

language assessment, and requires exam boards to comply with the rules and have regard to the guidance. It also lifts some of our other rules which would not work for the spoken language assessment, namely:

- General Condition H2 (one of our *General Conditions of Recognition*⁷), which requires exam boards to moderate marks whenever an assessment is marked by a school. We propose to lift this rule to make provision instead for a more tailored monitoring regime under which schools must record and provide only a sample of their spoken language assessments. Although this will mean that exam boards will not have the evidence they need to be able to moderate the spoken language assessment in the way they moderate other teacher-marked assessments it will still ensure that an appropriate mechanism for quality assurance is in place;
 - Condition GCSE4.1 (one of our *GCSE Qualification Level Conditions*⁸ which apply to all new GCSEs), which requires all new GCSEs to use exams for assessments. We need to lift this rule because it is not possible to carry out spoken language assessments under exam conditions or for all students to be assessed at the same time. Instead, our proposed Condition requires all spoken language assessments to be non-exam assessments.
- 1.6 Our proposed condition would oblige exam boards to require schools to provide them with an annual statement confirming that they have taken reasonable steps to make sure the students they have entered for the exams in GCSE English language have completed the spoken language assessment.
- 1.7 This reflects both the approach we have proposed in other subjects (for example, practical skills in GCSE science, fieldwork in GCSE geography and citizenship action in GCSE citizenship) and the importance of the spoken language assessment in English language. It should guard against schools focusing solely on preparing students for the exams in English language, and not giving students proper opportunities to develop and demonstrate their spoken language skills.
- 1.8 At the same time, we recognise that some students might not, despite the best efforts of their school, complete the spoken language assessment. We also recognise that there can be legitimate reasons (such as illness or disability) that prevent students from completing the spoken language assessment. Our proposed approach takes account of these issues. Schools will have to confirm they have taken reasonable steps to make sure their students have completed

⁷ www.gov.uk/government/publications/general-conditions-of-recognition

⁸ www.gov.uk/government/publications/gcse-9-to-1-qualification-level-conditions

the spoken language assessment, but they will not be prohibited from entering a student who has not completed the spoken language assessment.

- 1.9 We set out our proposed new Condition below. We propose that this new Condition will replace the existing Condition GCSE(English Language)3, which we have published in *GCSE (9 to 1) Subject Level Conditions and Requirements for English Language*.⁹

Condition GCSE(English Language)3	Spoken Language Assessments
GCSE(English Language)3.1	<p>In respect of a spoken language assessment for a GCSE English Language qualification that an awarding organisation makes available or proposes to make available –</p> <p>(a) Condition H2 does not apply,</p> <p>(b) Condition GCSE4.1 does not apply, and</p> <p>(c) that assessment must not be an Assessment by Examination.</p>
GCSE(English Language)3.2	<p>In respect of each assessment cycle for a GCSE English Language qualification which it makes available, an awarding organisation must –</p> <p>(a) require each Centre to provide a spoken language statement to the awarding organisation, and</p> <p>(b) treat any failure by a Centre to provide a spoken language statement to the awarding organisation in a timely manner as malpractice and/or maladministration (under General Condition A8 (Malpractice and maladministration)).</p>
GCSE(English Language)3.3	<p>An awarding organisation must ensure that in respect of each spoken language assessment for a GCSE English Language qualification which it makes available it complies with any requirements, and has regard to any guidance, which may be published by Ofqual and revised from time to time.</p>

⁹ www.gov.uk/government/publications/gcse-9-to-1-subject-level-conditions-and-requirements-for-english-language

GCSE(English Language)3.4	<p>For the purposes of this condition, a 'spoken language assessment' is an assessment, set by an awarding organisation, of a Learner's ability to –</p> <p>(a) demonstrate presentation skills in a formal setting,</p> <p>(b) listen and respond appropriately to spoken language, including to questions and feedback to presentations, and</p> <p>(c) use spoken standard English effectively in speeches and presentations.</p>
GCSE(English Language)3.5	<p>For the purposes of this condition, a 'spoken language statement' is a true and accurate written statement made by a Centre to an awarding organisation which confirms that it has taken reasonable steps to secure that each Learner to whom that Centre has delivered the assessments to be taken in a particular assessment cycle for a GCSE English Language qualification which the awarding organisation makes available has completed a spoken language assessment.</p>

1.10 To support this Condition, we are also proposing to introduce more detailed rules around the form, marking, assessment, grading and monitoring of the spoken language assessment.

1.11 We have worked with exam boards to develop and test our proposed approach to the spoken language assessment, and our proposed rules and guidance reflect the results of that work.

Form of the spoken language assessment

1.12 The form of the spoken language assessment can have an impact on students' ability to demonstrate their spoken language skills. To ensure assessments are fair for all students, we want to make sure that they take place under similar conditions. But we also want to allow some flexibility to ensure all students get good opportunities to demonstrate their skills.

1.13 We are proposing that the spoken language assessment should take place in a formal setting, before an audience, and require preparation to have been undertaken by the learner.

Marking the spoken language assessment

- 1.14 Our requirements for marking the spoken language assessment implement our decisions on the use of a non-marks based approach to assessment, and on the different grades that will be used to report the outcomes of the assessment.
- 1.15 To ensure the spoken language assessments offered by different exam boards are comparable, we will specify the criteria which must be used for marking.
- 1.16 These criteria have been designed to assess students against the subject content and assessment objectives for spoken language specified by the Department for Education.¹⁰ We have worked with the exam boards to develop, test and refine these criteria.

Monitoring spoken language assessments

- 1.17 The large number of students who will take this qualification, means that the number of examiners and the amount of time that would be required to mark or moderate the work is too high to be manageable for the exam boards. Because exam boards will not be able to moderate spoken language assessments, there is a risk that the assessments will not be carried out consistently. To mitigate this, we are proposing to introduce requirements around the monitoring of the spoken language assessments.
- 1.18 In particular, we are proposing that exam boards must:
- require each school to provide complete and unedited audio-visual recordings of a sample of their students' spoken language assessments;
 - use those recordings to help determine whether or not the spoken language assessment remains fit for purpose, and whether or not students' work is being marked accurately and consistently; and
 - set out their approach to monitoring in more detail in their assessment strategies.

Our proposed requirements

Requirements in relation to spoken language assessments

Condition GCSE(English Language)3.3 allows us to specify requirements and guidance in relation to spoken language assessments (as defined in Condition GCSE (English Language)3.4) for GCSE English Language qualifications.

¹⁰ www.gov.uk/government/publications/gcse-english-language-and-gcse-english-literature-new-content

We set out our requirements for the purposes of Condition GCSE(English Language)3.3 below.

Form of the spoken language assessment

An awarding organisation must ensure that each spoken language assessment is designed and set –

- (a) to ensure that the only evidence that will be admissible in the assessment is a presentation by each Learner which –
 - (i) takes place in a formal setting,
 - (ii) takes place before an audience, and
 - (iii) requires the Learner to have undertaken preparation prior to the assessment, and
- (b) in such a way as to –
 - (i) allow each Learner to demonstrate appropriate knowledge and understanding of the content outlined in the Content Document,
 - (ii) allow each of the specified levels of attainment set out below to be reached by a Learner who has attained the required level of knowledge, skills and understanding, and
 - (iii) facilitate the comparability of such assessments.

Marking of spoken language assessments

Evidence generated by a Learner in a spoken language assessment may be marked –

- (a) by the awarding organisation or a person connected to the awarding organisation,
- (b) by a Centre, or
- (c) through a combination of (a) and (b).

In any event, the awarding organisation must demonstrate to Ofqual's satisfaction in its assessment strategy that –

- (a) it has taken all reasonable steps to identify the risk of any Adverse Effect which may result from its approach to marking spoken language assessments, and
- (b) where such a risk is identified, it has taken all reasonable steps to prevent that Adverse Effect or, where it cannot be prevented, to mitigate that Adverse Effect.

Specified levels of attainment in spoken language assessments

In relation to each spoken language assessment, an awarding organisation must ensure that –

- (a) the specified levels of attainment are Pass, Merit and Distinction,
- (b) the criteria used by Assessors to determine whether each Learner will be awarded a Pass, Merit or Distinction are those set out in Table 1 below, and
- (c) a Learner who does not meet the criteria to be awarded a Pass, Merit or Distinction, or who has not been exempted on grounds of disability from the assessment but who does not take that assessment, is issued a result of 'not classified' .

Under Condition H1.1, an awarding organisation must have in place arrangements to ensure that, as far as possible, the criteria set out in Table 1 are –

- (a) understood by Assessors and accurately applied, and
- (b) applied consistently by Assessors, regardless of the identity of the Assessor, Learner or Centre.

Table 1: The criteria for Pass, Merit and Distinction

General criteria
<p>To be awarded a Pass, Merit or Distinction a Learner must –</p> <ul style="list-style-type: none"> ■ be audible; and ■ use Spoken Standard English which, for the purposes of the spoken language assessment, means that a Learner must – <ul style="list-style-type: none"> □ be intelligible; and □ generally use language appropriate to the formal setting of the presentation.

Pass	Merit	Distinction
<p>In addition to the general criteria, to be awarded a Pass a Learner's performance in his or her spoken language assessment must meet all of the following criteria –</p> <ul style="list-style-type: none"> ▪ expresses straightforward ideas/information/feelings, ▪ makes an attempt to organise and structure his or her presentation, ▪ makes an attempt to meet the needs of the audience, and ▪ listens to questions/feedback and provides an appropriate response in a straightforward manner. 	<p>In addition to the general criteria, to be awarded a Merit a Learner's performance in his or her spoken language assessment must meet all of the following criteria –</p> <ul style="list-style-type: none"> ▪ expresses challenging ideas/information/feelings using a range of vocabulary, ▪ organises and structures his or her presentation clearly and appropriately to meet the needs of the audience, ▪ achieves the purpose of his or her presentation, and ▪ listens to questions/feedback, responds formally and in some detail. 	<p>In addition to the general criteria, to be awarded a Distinction a Learner's performance in his or her spoken language assessment must meet all of the following criteria –</p> <ul style="list-style-type: none"> ▪ expresses sophisticated ideas/information/feelings using a sophisticated repertoire of vocabulary, ▪ organises and structures his or her presentation using an effective range of strategies to engage the audience, ▪ achieves the purpose of his or her presentation, and ▪ listens to questions/feedback, responds perceptively and if appropriate elaborates with further ideas and information.

Monitoring of spoken language assessments

Where evidence generated by a Learner in a spoken language assessment for a GCSE English Language qualification made available by an awarding organisation is marked by Centres, the awarding organisation must have in place clear and effective arrangements to monitor that marking by Centres.

As part of those arrangements, in respect of each assessment cycle for a GCSE English Language qualification which it makes available, an awarding organisation must ensure that –

(a) each Centre which delivers spoken language assessments provides the awarding organisation with a complete and unedited audiovisual recording of the evidence generated in that assessment by a sample of Learners,

(b) it uses those recordings as part of the means by which it determines whether or not –

(i) the spoken language assessment remains fit for purpose, and

(ii) the criteria against which Learners' performance is differentiated are being applied accurately and consistently by Assessors in different Centres and by Assessors in the same Centre.

An awarding organisation must set out its approach to monitoring, and in particular how it will meet the above requirements, in its assessment strategy for a GCSE English Language qualification which it makes available, or proposes to make available.

1.19 We are also proposing to introduce the following guidance to support our requirements for the spoken language assessment. This clarifies our expectations around the format of the presentations and around audience size and composition. We also provide guidance on our expectations for the monitoring arrangements exam boards will put in place.

Guidance on spoken language assessments

Condition GCSE(English Language)3.3 allows us to specify requirements and guidance in relation to spoken language assessments (as defined in Condition GCSE (English Language)3.4) for GCSE English Language qualifications.

We set out our guidance for the purposes of Condition GCSE(English Language)3.3 below.

Presentation formats

Under the requirements in relation to spoken language assessments contained in our *GCSE Subject Level Conditions and Requirements for English Language and Certificate Requirements*, an awarding organisation must ensure that each such assessment is designed and set in such a way as to –

(a) allow each Learner to demonstrate appropriate knowledge and understanding of the content outlined in the Content Document;

- (b) allow each of the specified levels of attainment for the spoken language assessment to be reached by a Learner who has attained the required level of knowledge, skills and understanding; and
- (c) facilitate the comparability of such assessments.

We note that the format of the presentation which each Learner is required to give has the potential to affect the degree of sophistication with which that Learner is able to demonstrate knowledge and understanding of the subject content and hence the specified levels of attainment which that Learner can reach.

The requirements outlined above are intended to ensure that the formats of presentations are such that the spoken language assessment is open to Learners across the full range of abilities.

We therefore expect an awarding organisation to allow each Centre which delivers the spoken language assessment a degree of flexibility in selecting presentation formats. Such formats may include –

- (a) a speech or talk by a Learner, followed by questions from the audience; or
- (b) a formal dialogue, such as an interview where the Learner is able to prepare extended responses to questions or prompts which have been shared in advance, followed by questions from the audience.

We expect an awarding organisation to explain in its assessment strategy for a GCSE English Language qualification how it will ensure that spoken language assessments are comparable in view of any flexibility regarding presentation format.

Audience size and composition

Under the requirements in relation to spoken language assessments contained in our *GCSE Subject Level Conditions and Requirements for English Language and Certificate Requirements*, each Learner's presentation must take place before an audience.

The degree of sophistication which a Learner can demonstrate in responding to questions and feedback can be affected by the size and composition of an audience. This may in turn impact on the specified levels of attainment which that Learner can reach.

We expect an awarding organisation to provide guidance to Centres on the size and composition of the audience in a spoken language assessment. We expect such guidance to include the advice that an audience consisting of at least two

people can be more likely to create the circumstances under which a Learner can demonstrate the knowledge, skills and understanding necessary to reach the higher specified levels of attainment in the spoken language assessment. We also expect such guidance to include the advice that an audience should be composed of individuals able to provide the Learner with opportunities to respond to appropriate questions and feedback.

Monitoring of spoken language assessments

In its assessment strategy, an awarding organisation must demonstrate to Ofqual's satisfaction that it has taken all reasonable steps to identify any Adverse Effect which may result from its approach to marking spoken language assessments.

Where evidence generated by a Learner in such an assessment is marked by a Centre an awarding organisation is required to ensure that each Centre provides the awarding organisation with complete and unedited audiovisual recordings of the evidence generated in that assessment by a sample of Learners. An awarding organisation must use such recordings in its monitoring of the spoken language assessment.

Although use of audiovisual evidence will be an important part of monitoring the spoken language assessment and identifying and dealing with potential Adverse Effects where that assessment is marked by a Centre, we do not expect it to be the only means used by an awarding organisation to meet these requirements.

For example, the monitoring arrangements put in place by an awarding organisation could include statistical screening exercises through which Learners' results for spoken language assessments are compared against Learners' results for the Assessments by Examination for the qualification. The use of such exercises need not involve making adjustments to either result, but may help identify potentially anomalous patterns of attainment. Such information could then assist the awarding organisation in targeting its monitoring and considering how best to mitigate or prevent any Adverse Effect.

Rules for marking and results

1.20 We are proposing to introduce a Condition relating to marking and results.

1.21 Our proposed Condition sets out that:

- there will be two separate results reported in respect of each GCSE English language qualification, one for the spoken language assessment, and one for the written exams;

- no account should be taken of the result for one part of the qualification when assessing the outcome for the other part of the qualification;
- a learner can carry their spoken language assessment result forward for the lifetime of the qualification, should they resit their written exams.

1.22 We set out our proposed new Condition below.

Condition GCSE(English Language)4	Marking and results
GCSE(English Language)4.1	<p>In respect of each GCSE English Language qualification which it makes available an awarding organisation must calculate and publish the following two separate results for each Learner –</p> <p>(a) a result for the Assessments by Examination to be taken for that qualification, and</p> <p>(b) a result for the spoken language assessment.</p>
GCSE(English Language)4.2	<p>In respect of each GCSE English Language qualification which it makes available, an awarding organisation must ensure that an Assessor does not have any regard to a Learner’s –</p> <p>(a) result for the spoken language assessment in calculating that Learner's final mark and result for the Assessments by Examination, and/or</p> <p>(b) final mark or result for the Assessments by Examination in determining that Learner's result for the spoken language assessment.</p>
GCSE(English Language)4.3	<p>In respect of each spoken language assessment an awarding organisation must ensure that it complies with any Certificate Requirements which may be published by Ofqual and revised from time to time.</p>
GCSE(English Language)4.4	<p>In respect of each GCSE English Language qualification which it makes available, an awarding organisation must ensure that –</p> <p>(a) a Learner may use the result for a spoken language assessment which he or she has taken for a GSCE English</p>

	<p>Language qualification made available by the awarding organisation or another awarding organisation, and</p> <p>(b) that Learner is not required to take a further spoken language assessment before being awarded the qualification.</p>
GCSE(English Language)4.5	For the purposes of this condition, a 'spoken language assessment' has the same meaning as in Condition GCSE(English Language)3.4.

Certificate requirements

1.23 Conditions I3 and I4 of our *General Conditions of Recognition*¹¹ require exam boards to issue certificates which comply with any certificate requirements that we publish and which are accurate, complete, clear and readily capable of being understood by users of qualifications. We already publish certificate requirements which apply to all qualifications.¹² We are proposing to publish additional specific detailed requirements that set how outcomes for English language GCSEs are to be reported on certificates.

1.24 Our proposed certificate requirements mean that:

- a student will only get a certificate if they achieve at least a grade 1 in the exams for the qualification;
- unlike other qualifications, all possible results for the spoken language assessment (including Not Classified) will be reported on certificates; and
- if a disabled student is exempt from the spoken language assessment, their grades will be reported in line with our approach to exemptions given for other qualifications. Our current approach is set out in our *Specifications in Relation to the Reasonable Adjustment of General Qualifications*¹³. We will be reviewing this approach before any certificates for new GCSE English language GCSEs are issued and will consult on any proposed changes.

¹¹ www.gov.uk/government/publications/general-conditions-of-recognition

¹² www.gov.uk/government/uploads/system/uploads/attachment_data/file/371129/2011-09-12-additional_certificate_requirements.pdf

¹³ www.gov.uk/government/publications/specifications-in-relation-to-the-reasonable-adjustment-of-general-qualifications

1.25 Our proposed certificate requirements are set out below.

Certificate Requirements

Condition GCSE(English Language)4.3 allows us to specify Certificate Requirements in relation to the way in which a Learner's attainment in a spoken language assessment is reflected on that Learner's certificate for the qualification.

In addition, under Condition I3.1, an awarding organisation is required to ensure that the design of each certificate in relation to a qualification which it makes available complies with the Certificate Requirements which may be published by Ofqual and revised from time to time.

We set out our Certificate Requirements for the purposes of Condition GCSE(English Language)4.3 and Condition I3.1 below.

These requirements must be followed together with the *Additional Certificate Requirements*¹⁴ which apply to all qualifications.

Certificate requirements for spoken language assessments

A certificate will only be issued for a GCSE English Language qualification where a Learner has been awarded a grade 9–1 in respect of the level of attainment he or she has demonstrated in the Assessments by Examination to be taken for that qualification.

Where a Learner has not been awarded a grade 9–1 in respect of those Assessments by Examination, an awarding organisation must ensure that no certificate is issued in respect of that Learner's spoken language assessment, regardless of the result for that assessment.

For clarity, the result for that Learner's spoken language assessment must still be issued, together with the Learner's result for the Assessments by Examination, under Condition H6.1.

Where a certificate will be issued to a Learner in respect of the Assessments by Examination, an awarding organisation must ensure that it meets the following requirements in recording the outcome of the spoken language assessment on that certificate –

- (a) Where the Learner has been awarded a Pass, Merit or Distinction, that outcome must be recorded on the certificate.

¹⁴ www.gov.uk/government/uploads/system/uploads/attachment_data/file/371129/2011-09-12-additional_certificate_requirements.pdf

(b) Where the Learner –

- (i) has taken the spoken language assessment but has not been awarded a Pass, Merit or Distinction, or
- (ii) has not been granted an exemption on grounds of disability from taking the spoken language assessment, but has not taken that assessment,

the outcome reported on the certificate must be 'not classified'.

(c) Where the Learner has been granted an exemption from taking the spoken language assessment under Condition G6, the outcome reported on the certificate must be in line with any requirements which may be published by Ofqual and revised from time to time.

(d) In all cases an awarding organisation must ensure that it is clear that the above outcomes are in relation to the spoken language assessment.

2. Accreditation of GCSE English language qualifications

- 2.1 All GCSEs must be accredited before they can be awarded. We have already accredited all the new English language GCSEs that exam boards are introducing for first teaching in England in September 2015.
- 2.2 We decide whether to accredit GCSEs using the criterion set out in our *Accreditation Criterion*.¹⁵ This states that the exam boards must demonstrate that they are capable of complying on an ongoing basis with the conditions which apply in respect of the qualification for which it is seeking accreditation.
- 2.3 As a consequence, any change to the regulatory requirements which apply to a GCSE qualification will, in effect, be a revision to that qualification's accreditation criterion. We are also consulting on that revision to the accreditation criterion for new English language GCSEs.
- 2.4 Whenever we make such a revision, we need to decide whether or not exam boards need to submit their existing qualifications for re-accreditation.
- 2.5 In this case, we are proposing that we should not require exam boards to submit their existing GCSE English language qualifications for re-accreditation. This would mean that existing qualifications would need to comply with our new rules, but would remain accredited.

¹⁵ www.gov.uk/government/publications/accreditation-criterion

3. Equality impact analysis

Ofqual's role, objectives and duties

- 3.1 We are subject to the public sector equality duty. We have set out in appendix B how this duty interacts with our statutory objectives and other duties.

Equality impact analysis relating to proposed changes to GCSE qualifications

- 3.2 In our 2014 *Consultation on the Conduct, Marking and Grading of Spoken Language Skills in GCSE English Language*,¹⁶ we included a detailed, initial equality impact analysis. We invited respondents to identify any potential impacts that the proposals might have on students who share particular protected characteristics. The decisions we have since made take into account the responses to that consultation.
- 3.3 This equality impact analysis forms the basis of the decisions we have taken¹⁷ as well as analysing the proposals for the rules on which we are now consulting.
- 3.4 In our 2014 consultation, forty-one of the 105 respondents said they had identified potential impacts on students who share protected characteristics which we had not identified in our consultation. We have taken these into account when making our final decisions.
- 3.5 We did not initially identify any aspects of the proposed arrangements for the new GCSE in English language which may have a negative impact on students because of age, gender reassignment, pregnancy and maternity, sex or sexual orientation (beyond those that apply generally because of the timing of assessments and as considered in our equality impact analysis of the GCSE reforms generally). We have not identified any subsequently.
- 3.6 In our 2014 consultation, we received some comments about the detailed wording of the assessment criteria and we have considered these in drafting the version of the criteria on which we are now consulting.
- 3.7 Other comments related to the proposed audio-visual recording of the spoken language assessment. A number of respondents noted that learners from some cultures or racial groups may not wish to be filmed, and some parents may not consent to their child being filmed. Others were concerned that visual recording

¹⁶ <http://webarchive.nationalarchives.gov.uk/20141110161323/http://comment.ofqual.gov.uk/spoken-language-skills-in-gcse-english-language/>

¹⁷ www.gov.uk/government/consultations/gcse-english-language-assessment-of-spoken-language-skills

could add to the anxiety experienced by some students, including students whose anxiety was associated with a disability.

- 3.8 However, other respondents noted that audio-visual recording may be the fairest way to capture the evidence of some students' performances. For example, the British Association of Teachers of the Deaf, the National Deaf Children's Society and The Communication Trust all commented that, for deaf students, an audio-visual recording would be helpful. They commented that, although such students may have advanced spoken English skills, they may have speech which is not initially intelligible to the unfamiliar listener. An audio-visual recording would therefore assist moderators to follow what is being said and how the student is responding.
- 3.9 We have taken the different concerns into account and considered these alongside the findings of the school-based trials that the exam boards have been undertaking.
- 3.10 As reflected in our proposed requirements, we have decided on an approach which we think best balances the need to ensure reliable internal assessment of spoken language with the need to avoid placing significant burdens on schools and students. Our draft rules would require exam boards to require schools to make and submit audio-visual recordings of a sample (but not all) of their students taking assessments, and exam boards to use these recordings alongside other methods of monitoring internal assessment.
- 3.11 In response to our earlier consultation, there were a number of comments about the way that a disabled student's exemption from the spoken language assessment should be recorded on his or her certificate. We will consider and consult further on this when we review our specifications on the use of reasonable adjustments under s.96 of the Equality Act 2010.
- 3.12 Others were concerned that some schools might downgrade the importance they attach to developing their students' spoken language skills because students' performance in the spoken language assessment will be reported as a separate grade to that for their written exams. However, we had previously consulted on using separate grades to report the written and the spoken language assessments, and this issue was not a matter for that consultation.
- 3.13 The proposed number of grades to be available for the spoken language assessment could also, it was suggested by some, downgrade the importance attached to developing students' spoken language skills. There were concerns that as a result students whose spoken language skills were impaired by their disability might miss out on support and interventions which might otherwise

enhance their skills, because schools might consider the effort required to improve spoken language skills would not be rewarded by a higher grade.

- 3.14 Spoken language skills are required as part of the subject content and are included in all accredited specifications for the new GCSE English language. We will regulate in a way which, as far as possible, ensures that appropriate attention is given to this part of the curriculum. In our proposed conditions, requirements and guidance we have included a number of provisions that will reduce the risk that schools might downgrade the importance they attach to their students developing these skill, such as the provision of a written statement by schools confirming they have taken reasonable steps to ensure that their students have completed the spoken language assessment.
- 3.15 The Conditions, requirements and guidance on which we are now consulting reflect the decisions we have made after taking into account the responses to our 2014 consultation. We have not identified any additional impacts on students who share particular protected characteristics resulting from the current proposals but we encourage you to consider whether the draft Conditions, requirements or guidance would introduce any such impacts.

Responding to the consultation

Your details

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 following information section.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Please answer all questions marked with a star*

Name*

Position*

Organisation name (if applicable)*

Address

Email

Telephone

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?*

Personal response (please answer the question “If you ticked ‘Personal response’...”)

Official response (please answer the question “If you ticked ‘Official response’...”)

If you ticked “Personal response”, which of the following are you?

Student

Parent or carer

Teacher (but responding in a personal capacity)

Other, including general public (please state below)

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

Awarding organisation

Local authority

School or college (please answer the question below)

Academy chain

Private training provider

University or other higher education institution

Employer

Other representative or interest group (please answer the question below)

School or college type

- Comprehensive or non-selective academy
 - State selective or selective academy
 - Independent
 - Special school
 - Further education college
 - Sixth form college
 - Other (please state below)
-

Type of representative group or interest group

- Group of awarding organisations
 - Union
 - Employer or business representative group
 - Subject association or learned society
 - Equality organisation or group
 - School, college or teacher representative group
 - Other (please state below)
-

Nation*

- England
- Wales
- Northern Ireland
- Scotland
- Other EU country: _____
- Non-EU country: _____

How did you find out about this consultation?

Our newsletter or another one of our communications

Our website

Internet search

Other

May we contact you for further information?

Yes No

Questions

Question 1

Do you have any comments on our proposed Condition, requirements and guidance for spoken language assessments in new English language GCSEs?

Yes No

If yes, please provide them here:

.....

.....

.....

.....

.....

.....

Question 2

Do you have any comments on our proposed Condition on marking and results in new English language GCSEs?

Yes No

If yes, please provide them here:

.....

.....

.....

.....

.....

.....

Question 3

Do you have any comments on our proposed certificate requirements for new English language GCSEs?

Yes No

If yes, please provide them here:

.....

.....

.....

.....

.....

.....

.....

Question 4

Do you have any comments arising from the fact that the new Conditions and requirements proposed in this consultation will, if adopted, have the effect of revising the accreditation criterion for English language GCSEs?

Yes No

If yes, please provide them here:

.....

.....

.....

.....

.....

.....

.....

Question 5

We have not identified any ways in which our proposals for new English language GCSEs would impact (positively or negatively) on persons who share a protected characteristic.¹⁸ Are there any potential impacts we have not identified?

Yes No

If yes, please provide them here:

.....
.....
.....
.....
.....
.....
.....

Question 6

Are there any additional steps we could take to mitigate any negative impact resulting from these proposals on persons who share a protected characteristic?

Yes No

If yes, please comment on the additional steps we could take to mitigate negative impacts:

.....
.....
.....
.....
.....
.....

¹⁸ 'Protected characteristic' is defined in the Equality Act 2010. Here, it means disability, racial group, age, religion or belief, pregnancy or maternity, sex, sexual orientation and gender reassignment

Question 7

Have you any other comments on the impacts of the proposals on students who share a protected characteristic?

Yes No

If yes, please provide them here:

.....

.....

.....

.....

.....

.....

Question 8

Do you have any comments on the impacts of our proposals on schools and/or awarding organisations?

Yes No

If yes, please provide them here:

.....

.....

.....

.....

.....

.....

Appendix A: Regulatory tools

Comparability and innovation

Exam boards operate in a market. They can design and deliver their qualifications in different ways, within the parameters we set. This provides some choice to schools or colleges, which is one of the benefits of a qualifications market. Exam boards must, however, make sure that the levels of attainment indicated by their qualifications are comparable to those of other exam boards' versions of the qualifications. The exam boards cooperate in a range of ways to make sure that the standards of their respective qualifications are comparable. To make sure standards are maintained and comparability is secured, we review GCSE, A level and AS qualifications before they can be made available, by applying an accreditation requirement to the qualifications, and we oversee the awarding of GCSE, A level and AS qualifications.

We do not wish to close down opportunities for exam boards to design and deliver their qualifications in different ways. Indeed, we have a statutory duty to have regard to the desirability of facilitating innovation in connection with the provision of regulated qualifications and a statutory objective with regard to the efficiency with which the qualifications market works. If we adopt a regulatory approach in which all aspects of a qualification are very tightly defined, we could effectively remove scope for exam boards to distinguish their qualifications from others and stop choice for schools or colleges. On the other hand, if exam boards have too much scope to vary their approach their qualifications might not be comparable.

In striking a balance, we use a range of tools to regulate qualifications and the exam boards that provide them. The main regulatory tools we use for the qualifications in this consultation are explained below.

Conditions of Recognition

Exam boards must comply at all times with our Conditions of Recognition. These are the main regulatory rules that we use. We can take regulatory action against an exam board that breaches or is likely to breach a Condition.

There are three sets of Conditions that will apply to new GCSEs (together 'the Conditions'):

- (i) the published *General Conditions of Recognition*¹⁹ that apply to all regulated qualifications;

¹⁹ www.gov.uk/government/publications/general-conditions-of-recognition

- (ii) GCSE (9 to 1) Qualification Level Conditions and Requirements²⁰ that apply to all new GCSEs;
- (iii) GCSE Subject Level Conditions that apply to a new GCSE in a specific subject – we are consulting now on changes to the GCSE Subject Level Conditions that apply to English language.

Regulatory documents

In some Conditions we refer to published regulatory requirements with which the exam boards are required to comply.

We are proposing two separate sets of regulatory requirements relating to:

- Spoken language assessments; and
- Certificates.

The requirements will have effect as if they were part of a Condition. The requirements will be set out in a stand-alone section of the Conditions document, simply because they are technical and detailed so they sit better as separate to, rather than within, the Condition itself.

Statutory guidance

We publish guidance to help exam boards identify the types of behaviour or practice they could use to meet a Condition. Exam boards must have regard to such guidance, but they do not have to follow this guidance in the same way that they must comply with the Conditions; they are free to meet the outcomes of the Conditions in their own ways. An exam board that decides to take a different approach to that set out in guidance must still be able to show that it is meeting the Condition or Conditions to which the guidance relates.

We are consulting now on a set of draft guidance on spoken language assessments.

²⁰ www.gov.uk/government/publications/gcse-9-to-1-qualification-level-conditions

Appendix B: Ofqual’s role, objectives and duties

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) 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.

We must therefore regulate so that qualifications properly differentiate between students 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 students, 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.

As a public body, we are subject to the public sector equality duty.²¹ 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 exam boards that design, deliver and award GCSE, A level and AS 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.

²¹ Equality Act 2010, s.149.

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.

Legislation therefore sets out a framework within which we must operate. We are subject to a number of duties and we must aim to achieve a number of objectives. These different duties and objectives can, from time to time, conflict with each other. For example, if we regulate to secure that a qualification gives a reliable indication of a student's knowledge, skills and understanding, a student 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 we can both secure 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, rational decision.

Qualifications cannot be used to mitigate inequalities or unfairness in the education system or in society more widely than might affect, for example, students' preparedness to take the qualification and the assessments within it. While a wide range of factors can have an impact on a student's ability to achieve a particular mark in an assessment, our influence is limited to the way the qualification is designed and assessed.

We require the exam boards to design qualifications to give a reliable indication of the knowledge, skills and understanding of those on whom they are conferred. We also require the exam boards to avoid, where possible, features of a qualification that could, without justification, make a qualification more difficult for a student to achieve because they have a particular protected characteristic. We require exam boards to monitor whether any features of their qualifications have this effect.

In setting the overall framework within which exam boards will design, assess and award the reformed GCSE, A level and AS qualifications, we want to understand the possible impacts of the proposals on persons 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.

It should be noted that 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.



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit <http://nationalarchives.gov.uk/doc/open-government-licence/version/3> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: publications@ofqual.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/ofqual.

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

Office of Qualifications and Examinations Regulation

Spring Place
Coventry Business Park
Herald Avenue
Coventry CV5 6UB

2nd Floor
Glendinning House
6 Murray Street
Belfast BT1 6DN

Telephone 0300 303 3344

Textphone 0300 303 3345

Helpline 0300 303 3346