

Decisions on Conditions, guidance and requirements for Ofqual-regulated apprenticeship end-point assessments



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Introduction

The government is introducing new standards-based apprenticeships in England, led by the Institute for Apprenticeships (the Institute). Each new apprenticeship will require an apprentice to take an end-point assessment to complete their apprenticeship. The end-point assessment is an assessment of the knowledge, skills and behaviours that demonstrate the occupational competence required for the apprenticeship. It is intended to make sure the apprentice meets the standard set by employers and is fully competent in the occupation.

To make sure each end-point assessment is of the required standard, it must be subject to external quality assurance. Where Ofqual is the external quality assurance provider, we will regulate the end-point assessment in the same way we regulate other qualifications, against our General Conditions of Recognition¹.

We consulted on end-point assessment specific changes to our requirements, to ensure that we can take account of the specific way that end-point assessments are delivered, by removing unnecessary rules, providing bespoke guidance, and ensuring the rules that we apply are appropriate.

We consulted on the proposed Conditions and Guidance between 26 February 2018 and 4 May 2018. This document sets out our final decisions following the consultation.

Overview of our decisions

In response to consultation feedback, we have:

- amended our proposed end-point assessment specific guidance regarding how end-point assessment organisations manage arrangements with Centres and centre based assessments
- expanded our guidance relating to specifications to ensure end-point assessment organisations have clarity around what they must contain and how they must be published
- amended our proposed Condition and guidance relating to event notifications:
 - to clarify what should be reported and what actions should be taken
 - to remove the requirement to notify Ofqual of the intention to offer qualifications substantially different in type or content from those an end-point assessment organisation is recognised for because this would already be required through our recognition process
- provided additional clarity about the use of terminology in our Conditions where it relates to EPAs
- adopted all our other proposals unchanged

¹ <https://www.gov.uk/government/publications/general-conditions-of-recognition>

Changes to consultation proposals

In the areas set out below, we have made changes to our consultation proposals to reflect respondents' feedback.

Centres

Consultation proposals

We proposed to provide end-point assessment specific guidance to set out that:

- in most cases, no part of an end-point assessment will be delivered by a centre². This will include where an assessment takes place on a centre's premises, but the centre takes no part on the assessment. Where this is the case, Condition C2³ will not apply
- in the small number of cases where a centre, such as an employer, does deliver part of an end-point assessment, the end-point assessment organisation must comply with the requirements of Condition C2

Responses received

Many respondents supported the proposed approach. Some respondents noted that there were likely to be more instances where centres are involved in the delivery of end-point assessments on behalf of end-point assessment organisations than we had set out and that further guidance was necessary. This is especially the case in relation to where parties, such as centre employees and employer staff, are considered to be delivering part of the end-point assessment on behalf of the end-point assessment organisation.

Decision

In light of feedback received, we have decided to amend our proposed guidance to provide additional information to help end-point assessment organisations to determine whether a centre is delivering part of the end-point assessment on behalf of the end-point assessment organisation. Our amended guidance will provide examples of tasks, which may mean a centre is involved in delivering an assessment, such as:

- taking delivery of written question papers in advance of the assessment

² An organisation undertaking the delivery of an assessment (and potentially other activities) to Learners on behalf of an awarding organisation. Centres are typically educational institutions, training providers, or employers.

³ Condition C2 - Arrangements with Centres

- handing out written question papers to Learners
- setting up online assessments
- delivering instructions to Learners before the assessment commences
- ensuring that the awarding organisation's rules in relation to the conditions under which the assessment is taken are adhered to, including invigilation
- collecting written responses to assessment and sending to the awarding organisation

Specifications

Consultation proposals

We proposed to:

- require end-point assessment organisations to publish specifications for their end-point assessments
- produce end-point assessment specific guidance setting out how General Condition E3⁴, which relates to specifications, applies to end-point assessments
- lift the suspension we have previously applied on Conditions E3.2(l)⁵, E3.4(a)⁶ and E3.4(c)⁷

Responses received

There was some support and some disagreement for our proposed approach. Several respondents noted that the production of specifications would be beneficial for learners and employers.

Other respondents raised some concerns including: the potential for errors in amalgamating information from the assessment plan and the apprenticeship standard; the potential risks of disclosure of proprietary, commercially sensitive information through specifications; and the possibility of end-point assessment organisations interpreting assessment plans in different ways and the risks this carries for learners.

Some respondents suggested that we should produce end-point assessment specific guidance explaining what a specification should include. Respondents also

⁴ Condition E3 - Publication of a qualification specification

⁵ Condition E3.2(l) – “any value for credit which it has assigned to that qualification and any Component of that qualification, and”

⁶ Condition E3.4(a) – “the number of hours which it has assigned – for Total Qualification Time or Guided Learning”

⁷ Condition E3.4(c) – “any value for credit which it has assigned to that qualification or any Component of that qualification.”

requested further guidance relating to what would need to be included within a specification, who would need to be able to access them, and how they should be published.

A small number of respondents suggested that there was no need for a specification as a separate document, as the apprenticeship standard and the assessment plan provide sufficient information to qualification users.

Decision

We have decided to adopt our proposals in relation to specifications, subject to some amendments to address the feedback received to our consultation.

Our view is that specifications serve a vital function in providing information for learners and employers, and that the apprenticeship standards and assessment plans do not always provide the level of detail apprentices and employers need in order to prepare for a specific awarding organisation's end-point assessment. Because of this, we have decided to require that awarding organisations should produce specifications in relation to their end-point assessments.

To support end-point assessment organisations in the production of specifications, we have decided to adopt our proposed guidance relating to specification content. In response to the consultation feedback, we will be introducing additional guidance on how we expect a specification to be published, including how this should be made available on an end-point assessment organisation's website.

We have also decided to remove the suspension we previously applied to some limbs of General Condition E3 that relate to Total Qualification Time (TQT) and Credit. This is because with the TQT and Credit Conditions being disapplied for EPAs (see decision below), end-point assessment organisations are not required by the specification condition to set out the TQT and Credit values for their end-point assessments.

Event notifications

Consultation proposals

We proposed that in addition to what the existing Condition B3⁸ requires, for end-point assessments we would:

- remove references to events that relate to an end-point assessment organisation issuing certificates
- provide, examples of events that should be reported to us including:
 - where an assessment plan could cause an adverse effect, or lead to an end-point assessment that may not be fit for purpose if followed

⁸ Condition B3 - Notification to Ofqual of certain events

- where an end-point assessment organisation will be unable to deliver an assessment effectively, for example because it does not have enough assessors
- require that in all cases, end-point assessment organisations tell us:
 - if they are removed from the Education and Skills Funding Agency (ESFA) register of end-point assessment organisations
 - if the assessment plan for its end-point assessment is reviewed
 - if any changes are made to an assessment plan for its end-point assessment

Responses received

The majority of respondents supported our proposed approach to apply end-point assessment specific Conditions and Guidance relating to the management of event notifications of adverse effects⁹. Respondents did however note some concerns relating to some aspects of the proposed Conditions and Guidance, specifically:

- how they approach the reporting requirements in the design and development phase
- how the requirements for end-point assessment organisations to produce action plans to mitigate adverse effects operate, where end-point assessment organisations cannot take actions due to the requirement to comply with the assessment plan
- the requirement within the proposed Condition to notify us where they intend to make available a qualification, which is substantially different in type or content to any that it previously made available
- the additional regulatory burden caused by the provision of duplicate information to multiple agencies

Decision

Our view is that it is important to ensure end-point assessment organisations report events with the potential to have an adverse effect. This is so that we can be sure that issues are being managed appropriately, and that we are able to regulate end-point assessments effectively.

⁹ An act, omission, event, incident, or circumstance has an adverse effect if it – (a) gives rise to prejudice to Learners or potential Learners, or (b) adversely affects – (i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition, (ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or (iii) public confidence in qualifications.

Based on the above, and the overall support for the proposal, we have decided to implement the end-point assessment specific version of Condition B3.

In response to respondents' feedback, we have decided to remove the requirement, proposed as Condition EPA3.4, to notify us if they chose to offer a qualification substantially different in type or content. This is because we require end-point assessment organisations to apply for recognition against each standard individually. Therefore, if an end-point assessment organisation wishes to offer an end-point assessment of a different type or content, then we would be notified through the recognition process.

In addition, we have decided to put in place additional guidance against Condition EPA3. This guidance is to support end-point assessment organisations in reporting event notifications in relation to assessment plans. We believe that this will address some the concerns raised by respondents in relation to this proposal.

The guidance will set out that:

- where issues with assessment plans are identified, an end-point assessment organisation may be faced with a range of options, some of which may cause an adverse effect and some of which will not. In such instances, where an end-point assessment organisation chooses an option that would not cause an adverse effect, and this is allowed by the assessment plan, it would not be required to notify Ofqual
- where the only options available to an end-point assessment organisation in order to address an assessment plan issue would cause an adverse effect, the end-point assessment organisation must notify Ofqual under this Condition
- where there are no steps an end-point assessment organisation could take to prevent an adverse effect, or where an assessment plan would prevent it taking such steps, it must notify Ofqual

Terminology

Our proposed end-point assessment specific Conditions and Guidance documents used generic terminology in line with those used in the General Conditions in order to maintain consistency between the two sets of documents. Examples of such terms were 'qualification' and 'awarding organisation'.

Respondents noted throughout their responses that they would prefer the use of more end-point assessment specific terminology, for example 'end-point assessment' rather than 'qualification', and 'end-point assessment organisation' rather than 'awarding organisation'. They felt that this help to avoid confusion, especially for end-point assessment organisations new to regulations.

Owing to the way our framework is structured, we are not able to change terms which also appear in the General Conditions. However, in response to this feedback

we have made reference to 'EPA' where possible in our documents rather than use the term 'qualifications', and we have separately added a note into our Conditions and Guidance documents to clarify that where a generic term is used, it should be read as referring to the relevant term in the context of end-point assessments. This would mean, for example, that 'awarding organisation' should be read as meaning 'end-point assessment organisation'.

Proposals to be adopted unchanged

In the areas below, we have decided to implement our consultation proposals unchanged, save for minor changes to improve clarity.

Conflicts of interest

Consultation proposals

We proposed to provide end-point assessment specific guidance to set out that:

- in meeting Condition A4¹⁰, end-point assessment organisations should have regard to the requirements set by the Institute and ESFA
- where a conflict of interest cannot be avoided, for example because assessment is required to be administered by an employer under the assessment plan, the end-point assessment organisation should ensure that the end-point assessment remains fit for purpose
- end-point assessment organisations should manage both organisational and individual conflicts of interest
- processes and procedures relating to delivery of the training should be sufficiently separate from assessment
- assessment procedures should be sufficiently separate from one another
- examples of who may be considered to have a personal interest in respect of an end-point assessment
- what to do where it is not possible to avoid someone with a personal interest from being involved in an assessment
- that end-point assessment organisations should not enter into reciprocal arrangements whereby they assess one another's apprentices, which could lead to a conflict of interest
- that end-point assessment organisations should be aware of possible financial incentives that could exist based on the number of times an apprentice is required to take an end-point assessment

Responses received

Most respondents supported our proposed approach to conflicts of interest, noting that the guidance would help provide clarity and assist in developing their internal processes in managing conflicts of interest.

¹⁰ Condition A4 – Conflicts of interest

Several respondents expressed concerns about conflicts between the various demands on end-point assessment organisations from different organisations such as the Institute and the ESFA.

Decision

Based on the overall support for the proposal, we have decided to adopt our proposed guidance unchanged.

Our view is that providing end-point assessment specific guidance will enhance an end-point assessment organisation's ability to comply with our Conditions and support them in managing potential conflicts in end-point assessment. Having considered this guidance, we are satisfied that it does not conflict with requirements put in place by other organisations involved in the oversight of end-point assessments.

Reviewing approach

Consultation proposals

We proposed to issue end-point assessment specific guidance setting out that the end-point assessment organisation:

- in carrying out its review, should consider the extent to which any issues it identifies stem from the assessment plan it is required to follow
- has regard to the outcomes of any review carried out by the Institute
- has regard to any feedback provided by the Institute or Ofqual
- for Ofqual-regulated end-point assessments, should only make changes to an end-point assessment to reflect the version included on the list of assessment plans

Responses received

Overall, respondents were supportive of our approach of issuing end-point assessment specific guidance to have regard to the Institute's reviews and feedback as part of keeping its qualifications under review.

Decision

Based on the overall support for the proposal, we have decided to adopt it unchanged.

Qualifications having an objective and support

Consultation proposal

We proposed to disapply Condition E1¹¹ in respect of end-point assessments

Responses received

Overall, respondents supported the disapplication of the General Condition relating to qualifications needing to have an objective and support, citing the role of employer groups in developing apprenticeship standards and assessment plans, and the role of the Institute and Route panels in approving them.

Decision

Based on the overall support for the proposal, we have decided to adopt it unchanged.

Compliance with assessment plans

Consultation proposals

We proposed to put in place an end-point assessment specific Condition to require compliance with the assessment plan. The proposed Condition:

- allowed us to publish a list of assessment plans where Ofqual is the external quality assurance provider
- required end-point assessment organisations to comply with any requirements, and have regard to any guidance, set out in an assessment plan on our published list
- required end-point assessment organisations to interpret an assessment plan on our published list in accordance with any requirements, and having regard to any guidance, that Ofqual publishes

For clarity, we proposed that where an end-point assessment organisation places its end-point assessments on our Register, where we are not the external quality assurance provider and have not reviewed the assessment plan, we will not include it on our List of Assessment Plans.

Responses received

The majority of respondents supported our proposal to put in place a Condition to require compliance with the assessment plan. Some noted that this would support consistency across apprenticeship standards.

Respondents also noted the need for Ofqual and the Institute to work together in approving the assessment plans to ensure that end-point assessment organisations are not caught between conflicting regulations. They also expressed the desire for

¹¹ Condition E1 – Qualifications having an objective and support

further guidance in regard to assessment plans, especially where the plans lack detail, or conflict with other areas of compliance.

Decision

Based on the overall support for the proposal, we have decided to adopt it unchanged. We will continue to work closely with the Institute when considering assessment plans ahead of agreeing to become the external quality assurance provider for a standard.

The Condition we are implementing will allow us to provide guidance or set requirements in relation to assessment plans. We will consider, in conjunction with the Institute, any instances where this may be necessary.

Gateway requirements

Consultation proposal

We proposed to put in place an end-point assessment specific condition which would require an end-point assessment organisation to take all reasonable steps to make sure any relevant gateway requirements have been met before delivering an end-point assessment.

Responses received

Overall, respondents supported our approach, though some respondents requested further guidance on how this would work in practice.

Decision

Based on the overall support for the proposal, we have decided to adopt it, subject to a minor update to the wording to improve its clarity.

Gateway requirements are set out through the apprenticeship standard. Employers will ensure these have been met; end-point assessment organisations will need to satisfy themselves that this is the case. We have clarified this in the updated wording for this Condition which will set out that an end-point assessment organisation must take all reasonable steps to satisfy itself that gateway requirements have been met prior to delivering an end-point assessment.

Total Qualification Time and Credit

Consultation proposals

We proposed to permanently disapply:

- General Condition E7¹² in respect of end-point assessments
- General Condition E8¹³ in respect of end-point assessments

Responses received

In the main, respondents supported our approach, acknowledging that the Condition requiring awarding organisations to apply TQT to a qualification is not relevant in the context of end-point assessments. Respondents also noted that as credit values are calculated based on TQT, then Condition E8 is also not applicable.

Decision

Based on the overall support for the proposal, we have decided to disapply these Conditions.

Qualification titling

Consultation proposals

We proposed to put in place end-point assessment specific guidance that sets out how our titling requirements should be met. This set out that:

- the level(s) of the qualification in the title should be the same as that of the apprenticeship standard approved by the Institute
- the qualification type in the title of the qualification should be end-point assessment
- the title should include a concise indication of the content of the end-point assessment, which replicates the title of the relevant apprenticeship standard

Responses received

Most respondents were supportive of our proposed approach, with several noting that the guidance would enhance consistency and support learners and employers.

Decision

Based on the overall support for the proposal, we have decided to adopt it unchanged. We do however propose to provide an example of an end-point assessment title produced in line with our guidance to provide additional clarity to end-point assessment organisations.

¹² Condition E7 – Total Qualification Time

¹³ Condition E8 - Credit

Qualification levels

Consultation proposal

We proposed to disapply Condition E9¹⁴ and put in place an end-point assessment specific Condition to require the level(s) of the end-point assessment to match that of the apprenticeship standard

Responses received

The majority of respondents supported our proposed approach, stating that this would assist end-point assessment organisations in ensuring a consistent and compliant approach is taken.

Decision

Based on the overall support for the proposal, we have decided to adopt it unchanged.

Fitness for purpose

Consultation proposals

We proposed to put in place end-point assessment specific guidance to explain that:

- end-point assessment organisations must balance the requirements of Conditions D1¹⁵, E4¹⁶ and G1¹⁷ with what the assessment plan requires
- if the requirements of the assessment plan provides challenges for designing assessments that are fit for purpose, the end-point assessment organisation should consider what additional steps it needs to take within what the assessment plan allows, to meet the requirements of these Conditions
- if an assessment plan would prevent an end-point assessment organisation from meeting our requirements to produce an assessment that is fit for purpose, it should notify Ofqual of this
- where an end-point assessment organisation perceives there to be a conflict between Conditions D1, E4 and G1 and an assessment plan on our published list, the awarding organisation must comply with the assessment plan, while meeting those Conditions to the greatest extent that it can
- where an end-point assessment organisation perceives there to be a conflict between the Conditions and an assessment plan that is not on our published list, the awarding organisation must comply with the requirements of our Conditions while meeting the assessment plan to the greatest extent that it can

¹⁴ Condition E9 – Qualification and Component Levels

¹⁵ Fitness for purpose of qualifications

¹⁶ Ensuring an assessment is fit for purpose and can be delivered

¹⁷ Setting the assessment

Responses received

In the main, respondents supported our approach, with many noting that the proposed guidance was helpful and pragmatic.

Decision

Based on the overall support for the proposal, we have decided to adopt it unchanged.

Technical evaluation

Consultation proposals

We proposed to put in place an end-point assessment specific Condition to:

- require an end-point assessment organisation to comply with any written request from Ofqual for materials in relation to end-point assessments
- require the end-point assessment organisation to comply with any requirements specified by Ofqual in relation to the end-point assessment

Responses received

While the majority of respondents supported our proposed approach, some respondents requested further information on how Ofqual's technical evaluation and review process would occur and what materials would be required. Others commented that our proposed Condition replicated other duties from existing Conditions and several noted concerns that this could cause additional burden to end-point assessment organisations.

Decision

Our view is that it is important that we are able to review end-point assessment materials and that end-point assessment organisations have to take action on the basis of our findings. Having a single, end-point assessment specific Condition relating to the provision of materials is more straightforward and easier for end-point assessment organisations to comply with, especially those who are new to regulation. Based on this and the overall support received, we have decided to adopt the proposed Condition unchanged.

We will provide further information to end-point assessment organisations about our technical evaluation process and the materials that will form part of this as part of our ongoing regulation of end-point assessments.

Marking and Moderation

Consultation proposals

We proposed to put in place guidance for Condition H1¹⁸ setting out that:

- Condition H1 applies both where an assessment is marked by an awarding organisation and by a centre
- awarding organisations should ensure marking criteria are understood and applied accurately and consistently by assessors
- an awarding organisation should have processes in place to standardise and monitor markers
- an awarding organisation should identify and mitigate any conflicts of interest that relate to its marking
- an awarding organisation should have arrangements in place, that are separate from its marking to identify issues with the application of its marking criteria, such as through the use of an independent third party, or separate team within its own organisation
- an awarding organisation should make changes to its marking criteria if it identifies a difference in the level of demand between optional tasks or assessments
- in making any changes to its marking criteria, it should do so within the parameters of the assessment plan
- where an assessment plan could lead to inconsistent marking, the awarding organisation must take all reasonable steps within the parameters of the plan to prevent an inconsistency while complying with the requirements of the assessment plan

We also proposed to put in place guidance for Condition H2¹⁹ setting out that:

- the condition only applies where marking is done by a centre and that this will not be the case for many end-point assessments
- in the limited circumstances where marking is undertaken by a centre, for example, an employer, such as where this is required by an assessment plan, the awarding organisation must have effective Moderation arrangements in place in line with the requirements of Condition H2

Responses received

In the main, respondents supported our proposed approach of putting in place end-point assessment specific guidance relating to General Conditions H1 and H2 which relate to marking and moderation.

¹⁸ Condition H1 - Marking the assessment

¹⁹ Condition H2 - Moderation where an assessment is marked by a Centre

Some respondents requested further guidance, in particular relating to marking arrangements and the independence of checks conducted around end-point assessment organisations' marking of assessment.

Decision

Based on the overall support for this proposal, we have decided to adopt our proposed end-point assessment specific guidance setting out how an end-point assessment organisation should comply with General Conditions H1 and H2 in relation to marking and moderation.

Our guidance on marking arrangements makes clear that where end-point assessment organisations mark assessments, they must have arrangements in place to ensure their own assessors carry out marking accurately and consistently. This may include such steps as employing a third party to provide independent oversight of marking, or by setting up independent teams within their organisation to check.

Given the importance of ensuring that marking is carried out accurately and consistently and that the results of end-point assessments can be relied upon, as well as taking into account the various financial and time pressures inherent in the apprenticeship system, we intend to keep this area under review as part of our external quality assurance of end-point assessments.

Issuing results and certificates

Consultation proposals

We proposed to:

- put in place end-point assessment specific guidance for Condition H6²⁰, which relation to issuing results, setting out:
 - We expect an end-point assessment organisation to issue results to the ESFA for the purpose of issuing an overall apprenticeship certificate
 - Where an awarding organisation issues results, such as a summary of results to an apprentice, it should make it clear that this is not a certificate nor the result for the overall apprenticeship.
- Dis-apply General Conditions I3²¹ and I4²², which relate to the issue of certificates, in respect of end-point assessments

Responses received

²⁰ Condition H6 - Issuing results

²¹ Conditions I3 - The design and content of certificates

²² Condition I4 - Issuing certificates and replacement certificates

Most respondents supported end-point assessment specific guidance concerning Condition H6. However, a small number of end-point assessment organisation respondents requested additional guidance detailing how they should approach the issuing of results in order to avoid conflicting with the ESFA's rules which prohibit them from issuing certificates. There was also a query around whether Ofqual's logo could appear on a statement of results.

There was overall support for the dis-application of Conditions I3 and I4 with most respondents understanding that these were not relevant in the end-point assessment context.

Decision

Our view is that our guidance addresses the concerns raised by respondents in relation to how they can avoid coming into conflict with the ESFA. For example, the guidance makes clear that an end-point assessment organisation should make clear that what has been issued (for example, a summary of results) is neither a Learner's overall result for his or her apprenticeship, nor a certificate for that apprenticeship.

In relation to the query around the use of Ofqual's logo, Ofqual's logo requirements are dealt with in a separate regulatory document.²³

Based on the above and the overall support for the proposed guidance around General Condition H6 and disapplication of General Conditions I3 and I4, we have decided to adopt our proposals unchanged.

²³ Logo Requirements and Using regulators' logos on certificates - www.gov.uk/government/publications/logo-requirements

Impact of our proposals

Equality impact

In our consultation²⁴, we identified that our proposals which relate to requiring compliance with assessment plans could impact on people with protected characteristics.²⁵ For example, if an assessment plan did not allow a particular reasonable adjustment (where this was not a requirement of the knowledge, skills or behaviours for the apprenticeship), this could disadvantage a disabled learner. However, to mitigate this risk, our Condition is written so that we would only require compliance with assessment plans that we have reviewed. We will review assessment plans before agreeing to act as the external quality assurance provider for a standard. Where we identify issues, we will not agree to be the external quality assurance provider until these have been resolved. In addition, our General Conditions, which continue to apply to all end-point assessments include requirements on awarding organisations to have in place clear arrangements for making Reasonable Adjustments.

We did not identify any other ways in which our proposals would impact, positively or negatively, on learners that share a protected characteristic. We sought views from respondents around any impacts of our proposals that we had not identified.

Responses received

Twenty-nine respondents felt that there were no equality impacts beyond those we had identified. Several others of those who did comment raised issues not related to the equality impacts of our proposals, but which related to the impact of wider apprenticeship policy.

These included:

- that there was a lack of funding within the apprenticeships programme to support reasonable adjustments at the assessment level, which has the possibility of negatively impacting learners generally
- concerns about how data on learners with protected characteristics would be collected and fed back to improve equality

²⁴ www.gov.uk/government/consultations/regulating-apprenticeship-end-point-assessments

²⁵ The term 'protected characteristics' is defined in the Equality Act 2010. Here, it means sex, disability, racial group, age, religion or belief, pregnancy or maternity, sexual orientation and gender reassignment.

Decisions

We have considered all of the comments provided and found no basis to believe that our proposals will impact, positively or negatively, on learners that share a protected characteristic, other than as identified above.

In relation to the concerns raised above, relating to there being a lack of funding within the apprenticeships programme to support reasonable adjustments at the assessment level, we note that end-point assessment organisations will be under obligations under our General Conditions, as well as Equality Law, to provide reasonable adjustments for learners with disabilities, regardless of the funding position.

Regulatory impact

We set out our consideration of the regulatory impacts of our proposals for end-point assessments in our consultation.²⁶

As part of the consultation we requested views on the potential regulatory impact of our proposals, in particular those relating to:

- removing requirements by dis-applying some Conditions not relevant to end-point assessments
- putting in place new statutory guidance against some of our existing, and some of our proposed new Conditions
- implementing two new Conditions
 - one requiring end-point assessment organisations to comply with assessment plans and ensure that gateway requirements have been met before they deliver their end-point assessments
 - one requiring end-point assessment organisations to provide, on request, information for the purposes of Ofqual’s technical evaluation and to take action where we deem it necessary
- effects of Ofqual’s requirements on new end-point assessment organisations coming into regulation
- managing Ofqual recognised end-point assessment organisations who add end-point assessments to the Register of Regulated Qualifications for standards of which Ofqual is not the external quality assurance provider

Responses received

Among those respondents that did comment on the regulatory impacts of our proposals, some respondents suggested that our proposals would either have a positive effect on end-point assessments or no significant regulatory impact. Although some did request further information regarding the regulatory monitoring regime.

Others noted that Ofqual’s General Conditions of Recognition and the proposed end-point assessment specific Conditions and Guidance represented a cost or commercial impact on end-point assessment organisations.

Decision

We have considered all the responses to our consultation questions, and we acknowledge that respondents had concerns around burden in relation to some our detailed proposals. We have taken steps to adapt the Conditions and guidance in response to the comments made by respondents in order to reduce any perceived

²⁶ www.gov.uk/government/consultations/regulating-apprenticeship-end-point-assessments

regulatory burden where it has been possible to do so. However, we consider that the burden imposed by our Conditions and Guidance is necessary to ensure that we are able to regulate end-point assessments effectively and fulfil our duties as an external quality assurance provider.

We have not identified any other additional regulatory impacts which arise as a result of our proposals.

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