

CONSULTATION DECISIONS

Awarding organisation controls for centre assessments - regulations

Consultation on Conditions, requirements and
guidance

ofqual

Contents

| | |
|--|-----------|
| 1. Introduction | 3 |
| 2. Summary of decisions | 4 |
| 3. Decisions | 5 |
| Centre Assessment Standards Scrutiny and Moderation | 5 |
| Qualifications subject to Moderation..... | 7 |
| Minimum CASS requirements | 9 |
| CASS strategies | 12 |
| Results & certificates | 14 |
| Terminology and other changes | 15 |
| 4. Equalities impact assessment | 17 |
| 5. Regulatory impact assessment | 18 |
| 6. Next steps..... | 24 |

1. Introduction

- 1.1 Our consultation on the Conditions, requirements and guidance for awarding organisation controls of Centre¹ assessments took place between 19 September and 14 November 2019. A copy of the consultation and our analysis of responses is available on our website². This followed our previous consultation on our policy approach which is also available on our website³.
- 1.2 This document sets out the decisions we have taken on our Conditions, requirements and guidance following the consultation. We are publishing these decisions alongside an updated version of the Ofqual handbook⁴, incorporating these changes to our Conditions, requirements and guidance.
- 1.3 These new Conditions, requirements and guidance come into force from 00:01 on 13 February 2020. Following publication, we expect awarding organisations to be fully compliant by 1 September 2021. We will take a proportionate approach to enforcement against these Conditions until this date. This means that while we acknowledge it may take some time for awarding organisations to become fully compliant, we would expect to see progress towards compliance between now and September 2021. In the event of an incident occurring before September 2021 that calls into question the controls between an awarding organisation and its centres, progress towards full compliance with these Conditions, requirements and guidance will be one factor that we take into account when determining what action to take.
- 1.4 These changes apply to qualifications regulated by Ofqual. We have discussed our decisions with the qualifications regulators in Wales (Qualifications Wales) and Northern Ireland (CCEA Regulation). Throughout the consultation process, we have worked with both regulators to ensure that our approaches are as aligned as possible. The changes being made across the three countries are broadly similar, however slight differences in how we approach our respective legislative frameworks means the way we implement them differs slightly in places. For example, Qualifications Wales would normally include requirements that are specific to a particular qualification or description of qualification in its qualification-specific Criteria and Conditions; CCEA Regulation will incorporate changes to Conditions and the new requirements, and consider at a later date whether to also incorporate guidance.

¹ In our General Conditions, we define a Centre as: 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.

² <https://www.gov.uk/government/consultations/awarding-organisation-controls-for-centre-assessments-regulations>

³ <https://www.gov.uk/government/consultations/moderation-and-verification-of-centre-assessment-judgements>

⁴ <https://www.gov.uk/guidance/ofqual-handbook>

2. Summary of decisions

2.1 We summarise below the decisions we have taken following our consultation.

2.2 We have decided to require:

- Awarding organisations to put in place Centre Assessment Standards Scrutiny (CASS) arrangements (which will become a defined term) for all assessments marked by centres.
- Awarding organisations to comply with requirements and have regard to guidance set by Ofqual (which we are publishing alongside this), in relation to their CASS arrangements.
- Moderation (where applicable) to be a distinct form of CASS which must take place for all cohorts of learners before results are issued and allow an awarding organisation to adjust any results as necessary before they are issued.
- All centre-marked assessments, in qualifications on a list specified by Ofqual, to be subject to Moderation.
- All other forms of CASS to be permitted to take place before or after results are issued and for awarding organisations to consider the appropriate action to take for any results discovered that are not in line with the required standard.
- Awarding organisations to put in place, comply with, and keep under review a CASS strategy for all qualifications that are marked by centres (including those that are subject to Moderation), explaining its approach to CASS (for which we are publishing requirements and guidance).
- Where an awarding organisation discovers an incorrect result, they must have regard to guidance from Ofqual on correcting results and correct these where necessary.
- Awarding organisations to revoke certificates where they are found to reflect an incorrect result which has been corrected.

2.3 We will also make consequential changes to our Conditions to reflect the introduction of CASS.

3. Decisions

- 3.1 We have decided to implement all of our consultation proposals, subject to some minor changes to the wording of the regulations to address points of clarity raised by respondents. We set out our decisions for each of our proposals below.

Centre Assessment Standards Scrutiny and Moderation

What we proposed

- **To set requirements for all centre-assessments to be subject to a form of Centre Assessment Standards Scrutiny**

- **To require that Moderation is one distinct form of Centre Assessment Standards Scrutiny**

- **To define the terms Centre Assessment Standards Scrutiny and amend the definition of Moderation**

Responses received

- 3.2 Respondents generally welcomed the approach to requiring all assessments to be subject to a form of Centre Assessment Standards Scrutiny (CASS). They felt that allowing flexibility for awarding organisations to determine the precise form in most instances, would enable the most appropriate controls for a particular qualification, assessment or centre to be implemented.
- 3.3 There was broad support for the proposed definition of CASS presented in the consultation. Similarly, there was support for the proposed amendments to the definition of Moderation.
- 3.4 Respondents who commented on these proposals typically commented on points of detail in relation to the terminology used. There were requests, for example, to clarify what is meant by the terms 'marks' and 'marking'. Some respondents had incorrectly understood this term to apply only to assessments that use numerical marks. Within our rules and guidance, this term can apply to both numerical marks and other judgements made by awarding organisations about learner attainment, such as pass/fail, or other graded results.

Our decision

- **To set requirements for all centre-assessments to be subject to a form of CASS, of which Moderation will be one distinct form**

- **To define Centre Assessment Standards Scrutiny**

- **To modify our definition for Moderation**

3.5 We have decided that all centre assessments should be subject to a form of CASS. This will be the process by which an awarding organisation ensures that the standards being applied by centres when marking assessments are being applied accurately, and reflect those that the awarding organisation requires.

3.6 CASS activities will, in most cases, be allowed to take place before or after results are issued. It will be for an awarding organisation to determine the most appropriate form of CASS for the qualifications and assessments it offers, and the centres that deliver and mark those assessments. While awarding organisations will be able to determine this, we will put in place minimum requirements for an awarding organisation's CASS arrangements, and in some instances require that the particular form of CASS used in a qualification must be Moderation. We explain this in the following sections.

3.7 We have decided to put in place the following definition for CASS:

The process through which an Awarding Organisation –

(a) periodically scrutinises the marking of assessments by a Centre to ensure that it has not deviated from required standards,

(b) considers whether it is appropriate to correct any mark and, if appropriate, corrects that mark (including where changes are required under Condition H2.5(b)),

(c) in line with Condition H6.3(b), considers whether it is appropriate to correct any incorrect result and, if appropriate, corrects that result, and

(d) takes action to prevent such deviation from recurring.

3.8 There will be some instances where it would not be appropriate for results to be issued before being checked. We have therefore decided that one distinct form of CASS, which we will require in some instances, and which awarding organisations may choose to adopt in others if appropriate, will be Moderation. Moderation must take place for all cohorts of learners (or a sample from within that cohort), before results are issued. Moderation is a term that is already defined within our General Conditions, but we have decided to amend the existing definition, to distinguish it more clearly from other forms of CASS. The definition of Moderation that we have decided to put in place is:

A particular form of Centre Assessment Standards Scrutiny through which the marking of assessments by Centres is monitored to make sure it meets required standards and through which adjustments to a Centre's marking are made, where required, to ensure that results are based on the required standard. Moderation takes place before final results are issued under Condition H6.1.

3.9 CASS and Moderation will apply to individual assessments. This means that where a qualification consists of multiple centre-marked assessments, it is possible that different controls will apply to different assessments. An awarding organisation may choose, for example, to apply Moderation for some

assessments within a qualification, and to apply other appropriate forms of CASS to other assessments within that same qualification, or to different centres delivering that qualification (other than if we have required that all assessments for a qualification are subject to Moderation, which we explain in more detail below). This is an important distinction, as it will affect the assessments to which our minimum CASS requirements (which are also explained below) apply.

3.10 We received comments about the use of the term ‘marking’ within our definitions. These related to a misunderstanding that marking referred only to a numerical mark. This is not the case, as the term marking in our Conditions can refer both to numerical marks, and also to other ways in which an awarding organisation might differentiate performance between learners, for example, through judgements such as pass/fail, or pass/merit/distinction. To make this clear, we have decided to provide guidance to explain this.

Qualifications subject to Moderation

What we proposed

- **To require that for some qualifications, all centre assessments must be subject to Moderation**

Responses received

3.11 There was considerable support for this proposal. The comments received mainly related to requests for clarity about exactly what qualifications were on this list, for example, what is meant by “project qualifications”. Respondents also asked for clarity on the process for adding and removing qualifications to and from the list.

3.12 Some respondents also suggested additional qualifications which they felt could also be included in the list, including:

- Licence to Practice qualifications
- Health and Safety qualifications
- Applied Generals
- Equivalent qualifications to A levels and GCSEs

Our decision

- **To require that all centre assessments in the following qualifications are subject to Moderation⁵:**
 - **GCSE**
 - **AS and A level**

⁵ Other than where this requirement has been disapplied for the spoken language assessment in GCSE English language, and the practical science assessment in A level biology, chemistry, geology and physics.

- **Technical Qualifications (that form a part of T Levels)**
- **Project qualifications**
- **To put in place requirements to allow us to require Moderation in other circumstances where this is necessary**

- 3.13 We have decided to put in place a list of assessments that must always be Moderated. This will set out that all assessments for the following qualifications must be subject to Moderation where assessments are marked by a Centre:
- (a) qualifications to which either the GCSE (9 to 1) Qualification Level Conditions or the GCSE (A* to G) Qualification Level Conditions apply
 - (b) qualifications to which either the GCE Qualification Level Conditions or the Pre-reform GCE Qualification Level Conditions apply
 - (c) qualifications to which the Qualification Level Conditions for Technical Qualifications apply
 - (d) qualifications to which the Project Qualification Level Conditions apply
- 3.14 Where our requirement for Moderation has been disapplied by Subject Level Conditions (spoken language assessment in GCSE English language, and the practical science assessment in A level biology, chemistry, geology and physics) this will continue to be the case and awarding organisations will need to continue to comply with the requirements set out in the relevant Subject Level Conditions.
- 3.15 The way in which this list is set out (above) will ensure it is clear, in response to comments made by respondents, which qualifications will be subject to Moderation of all centre-marked assessments. For example, the reference to project qualifications is to those that are subject to the Project Qualification Level Conditions (for example the Extended Project qualification), not to those that simply include a project as the method of assessment. For qualifications not on this list, awarding organisations might still chose to apply Moderation to some or all of the assessments within a qualification where they consider this to be the most appropriate form of CASS for a qualification, assessment or centre.
- 3.16 We have considered whether there are other qualifications for which we should require Moderation of all centre-marked assessments, and specifically those qualifications suggested by respondents to our consultation. We have decided at this point not to include any other qualifications on this list. This is because the way in which such qualifications are delivered can vary to a greater extent than those on the list, meaning that there may be another form of CASS that could be more appropriate in some circumstances. This will not however prevent an awarding organisation from using a Moderation approach if it

considered it appropriate, but it would be for the awarding organisation to determine this for qualifications not on this list.

- 3.17 In addition, we have consulted on adding Technical Award Performance Table Qualifications at Key Stage 4 to the list set out above. This decision, along with the outcomes from that consultation⁶ will be announced shortly.
- 3.18 We intend to keep this list under review, and will consider, for example, if changes are made to the qualifications that are available, whether any new or reformed qualifications should be added. Where we felt this necessary, we would seek views from users ahead of making changes and at this stage, do not anticipate this list changing regularly.
- 3.19 In addition to those assessments for which we will always require Moderation, there may also be other circumstances in which we would require assessments to be Moderated. This could be, for example, as a result of an incident which calls into question an awarding organisation's scrutiny of the standards of centre-marked assessments. In the event that we took this approach, we would notify those affected of any requirements that apply.

Minimum CASS requirements

What we proposed

- **To put in place requirements setting out the minimum activities that must form part of an awarding organisation's approach to CASS (for all forms of CASS other than Moderation)**

- **To put in place guidance on these minimum requirements, including on how an awarding organisation should comply with these and how it should decide when it is appropriate to go beyond these minimum requirements**

Responses received

- 3.20 Respondents generally supported the minimum requirements we proposed and the move from a prescriptive approach to one which allows awarding organisations to take a more risk-based approach. Respondents welcomed the additional clarity provided by referring to 'short notice' activities as opposed to unannounced visits.
- 3.21 Several respondents requested greater clarity about the controls that apply to centre-marked assessments, particularly where a qualification might consist of more than one centre-marked assessment, some of which are moderated, and some of which are not. Respondents wanted to know in what circumstances

⁶ <https://www.gov.uk/government/consultations/regulating-performance-table-qualifications>

the minimum CASS requirements must be met, if only some of the assessments for a qualification include pre-result Moderation checks.

3.22 Some respondents raised specific points of detail about the drafting of our proposed Conditions, requirements and guidance, including in relation to the observation of assessments and marking taking place, querying whether the drafting suggested an awarding organisation might choose to observe marking without also having observed the associated assessment. They stated that the usefulness of assessment observation is highly situational and should not be a blanket requirement. Likewise, the observation of marking separately from an assessment situation would be unproductive.

3.23 Some respondents stated that one of the factors they would consider in relation to the controls they put in place for a particular assessment would be the length of time between scrutiny activities taking place. They commented that this should be included as a factor for consideration, although it would be something for the awarding organisation to determine as opposed to something that should be specified.

Our decision

- **To put in place minimum requirements which an awarding organisation's CASS approach must meet**
- **To put in place guidance on how to meet our minimum requirements and how to decide when to go beyond these**

3.24 We have decided to put in place the minimum requirements on which we consulted, although we have made some small changes to the drafting in some places to make them clearer. These changes do not change the meaning of what we consulted on, but make sure the wording is as clear as possible about what we mean. One example of such a change relates to our requirements for the annual activities that an awarding organisation must undertake. The requirements on which we consulted were:

Annual activities in respect of each Centre, undertaken either face-to-face or remotely, including –

- (i) consideration of marking undertaken by the Centre since the last such scrutiny,
- (ii) where appropriate, observation of one or more assessments being taken, and
- (iii) where appropriate, observation of the marking by the Centre

Respondents felt that point (iii) above was unclear as it suggested an awarding organisation might observe marking in isolation, without also observing the assessment to which it related. We have therefore amended this to become:

- (iii) where appropriate, observation of the marking by the Centre of the assessments observed under (ii).

This change does not alter what is required, but makes clearer that the marking the awarding organisation should observe relates to the assessments they have observed being taken, as opposed to observing marking in isolation.

- 3.25 We have also made some minor amendments to our requirements and provided additional guidance where respondents had not fully understood what we had intended in relation to qualifications with multiple centre-marked assessments, some of which are moderated, and some of which are not. Again, these changes are intended to clarify the requirements, rather than change their meaning.
- 3.26 These changes will set out that our minimum CASS requirements apply only to those centre-marked assessments that are not subject to Moderation. Where an awarding organisation uses Moderation, it does not, for example, need to meet all of the minimum requirements relating to the annual activities we have set out. This is because for moderated assessments, the awarding organisation will have the opportunity to review and adjust results, if necessary, before they are issued. For assessments that are subject to a form of CASS other than Moderation, awarding organisations must meet our minimum CASS requirements. This is because the awarding organisations will not necessarily have the opportunity to check and adjust results before they are issued.
- 3.27 For a qualification that includes both moderated centre-marked assessments, and centre-marked assessments that are subject to other forms of CASS, the awarding organisation may tailor its approach to the different assessments (or to different centres) rather than having to apply the same approach to all assessments within the qualification. This would prevent an assessment that is being moderated having to also meet the minimum CASS requirements, simply because other centre-marked assessments within the qualification are not moderated. The changes to our requirements and the additional guidance we are including will explain this.
- 3.28 Within our guidance, we have amended the way we present those aspects that relate to non-Moderation forms of CASS, and those that are relevant where the form of CASS being used is Moderation. These changes are presentational, but should make it clearer when an awarding organisation must have regard to each part of our guidance.
- 3.29 In our consultation, we also proposed some guidance on the factors an awarding organisation might consider when determining its approach to CASS, and the controls it may put in place as a consequence of these factors. We provided an outline of these factors for comment, and sought views on how

these could be further developed, and whether additional guidance on these would be helpful.

- 3.30 Having considered the responses, and spoken to a number of awarding organisations as part of our consultation activities, we have decided to incorporate the factors on which we consulted into our guidance. But at this stage, we have decided not to further develop these, as the feedback we received suggested although this may be helpful, awarding organisations are not yet in a position to identify exactly what additional guidance would be most useful to them, as it was likely to depend on their individual CASS arrangements. We will keep this under review as awarding organisations develop their approaches and work with awarding organisations to identify what, if any, further guidance would be helpful in future. If this did lead to further guidance being produced, we would consult as appropriate at that point.

CASS strategies

What we proposed

- **To put in place requirements for awarding organisations to have, comply with, and keep under review a CASS strategy, in respect of all centre-marked assessments, and to set minimum requirements for what this should include**

- **To provide guidance on what should be included in an awarding organisation's CASS strategy**

Responses received

- 3.31 Some respondents felt that there was a lack of clarity as to whether our requirements and guidance were intended to set out a template that must be followed, or whether awarding organisations had flexibility to depart from what was set out.
- 3.32 Several respondents commented that it is unclear from the guidance whether the minimum requirements and the need for a strategy applies both to assessments that are Moderated and to those that are subject to other forms of CASS.
- 3.33 Respondents noted that they will need to update centre agreements to reflect changes made as part of their CASS arrangements, and to reflect other aspects of their strategy. A number also requested further clarity on the level of detail Ofqual would require awarding organisations to include.
- 3.34 There were a range of views on our proposal that awarding organisations would not be required to publish their CASS strategies, but would be free to do so if they wished. One respondent stated that they were pleased about this. Another respondent expressed concern about the potential for inconsistency for

centres if some awarding organisations publish some, or all of their CASS strategies, and other awarding organisations that they are working with do not.

Our decision

- **To set Conditions requiring all awarding organisations to have and comply with a CASS strategy in respect of all centre-marked assessments**
- **To set requirements and guidance setting out what should be covered by an awarding organisation's CASS strategy**

- 3.35 We have decided to put in place the Conditions, requirements and guidance on which we consulted, subject to some minor amendments to make them clearer. These amendments will not change the intention of our proposals, but are intended to make sure they are as clear as they can be.
- 3.36 We have also amended our CASS strategy requirements slightly to make it clearer that the strategy should also cover moderated assessments, as well as those that are subject to other forms of CASS. This was always the intention of these proposals, but some respondents did not think this was clear from the wording of our consultation proposals.
- 3.37 Our requirements are worded such that while all awarding organisations will need to have a CASS strategy for all centre-marked assessments, they will have the flexibility to determine the form this takes. An awarding organisation could choose, for example, to have a single strategy covering all of its qualifications, or it could have separate strategies for each qualification. It may also decide to take other approaches, for example, having a single overarching strategy, but which sets out the approaches it might take for different types of assessments, or the centres delivering them. It will be for an awarding organisation to determine this, and we won't prescribe a particular approach.
- 3.38 We have also decided to implement the guidance on which we consulted, again subject to a small number of minor changes to make it clearer. These changes should improve clarity, but do not change the meaning of what we consulted on. These changes will help clarify, as we have in our requirements, that CASS strategies must also cover moderated assessments. Our guidance also makes clearer that the form of the strategy is not prescribed by Ofqual, as long as it meets our minimum requirements.

Results & certificates

What we proposed

- **To provide guidance on the factors awarding organisations should consider when deciding whether to correct an incorrect result that has been issued, as part of their CASS process**
- **To allow awarding organisations to revoke certificates that have been issued in reliance of an incorrect result, as part of an awarding organisation's CASS process**

Responses received

- 3.39 Respondents generally supported these proposals, with a small number making comments about specific aspects of the wording. Some respondents also requested greater clarity about how this guidance relates to the existing guidance on correcting results⁷, and felt that this could be explained more clearly. Respondents also noted that there is some duplication included in the guidance relating to factors to consider on incorrect result revocation decisions. They stated this could be made less complicated.
- 3.40 One respondent requested further guidance relating to what constitutes an 'incorrect result' and whether this, or the remedies to this, vary according to the qualification type (for example, whether GCSEs should be treated differently to vocational qualifications).
- 3.41 Respondents supported our proposal to amend our Conditions to allow certificates to be revoked in such circumstances. Many respondents told us that they would already seek to do this, although pointed out the logistical difficulties that can be faced when trying to retrieve revoked certificates from learners who may no longer attend a particular school or college.

Our decision

- **To put in place guidance on the factors an awarding organisation should consider where incorrect results have been issued under its CASS process**
- **To allow awarding organisations to revoke certificates where incorrect results have been issued in reliance of an incorrect result**

⁷ <https://www.gov.uk/guidance/ofqual-handbook/section-h-from-marking-to-issuing-results>

- 3.42 We have decided to put in place the Conditions and guidance on which we consulted, subject to a small number of minor changes to make them clearer. We have also amended the numbering of this Condition to ensure it aligns with other changes proposed under this Condition as part of the *Consultation on changes to the General Conditions of Recognition*⁸ which we are running with the regulators in Wales (Qualifications Wales) and Northern Ireland (CCEA Regulation).
- 3.43 We have amended the guidance on making changes to incorrect results to make it clear that this guidance applies to CASS approaches other than Moderation. We have also added some text to explain that the guidance on which we consulted applies in addition to our existing guidance in this area, not instead of.

Terminology and other changes

What we proposed

- **To amend the reference to Moderation in Condition A4 (Conflicts of interest) to refer to CASS, in light of changes made as part of these proposals.**
- **To amend Condition C2 (Arrangements with Centres) to refer to CASS and to require awarding organisations to include, as part of their agreement with centres, any requirements relating to the information the centre should retain for the purposes of its CASS arrangements**

Responses received

- 3.44 Respondents did not comment on the minor changes we had proposed to revise references to Moderation to refer to CASS.
- 3.45 A number of respondents made more general comments on the terminology used in our requirements. Some commented on aspects of the definitions for CASS and Moderation, which we have explained earlier in this document. Others commented on the use of terms such as ‘periodically’, querying whether our requirements could be more precise about what constitutes something happening periodically.
- 3.46 Eight respondents expressed concern about the use of the term ‘personal interest’. Most requested clarification and guidance in respect of how Ofqual views this and how they should apply it to their staff and centre staff in particular. Two respondents suggested replacing this term with ‘personal gain’.

⁸ <https://www.gov.uk/government/consultations/consultation-on-changes-to-the-conditions-of-recognition>

3.47 Several respondents stated that the term 'units' was no longer used by awarding organisations. It was suggested that 'components' or 'assessment components' be used instead.

Our decision

- **To amend Conditions A4 (Conflicts of Interest) and C2 (Arrangements with Centres) to reflect the changes made elsewhere as part of our CASS requirements**
- **To amend references to 'unit' with the defined term 'Component' in our CASS requirements**
- **To make no further changes to the terminology used beyond those set out in this document**

3.48 We have decided to implement the minor consequential changes on which we consulted to reflect the introduction of the CASS terminology. These changes will ensure that our Conditions, requirements and guidance remain accurate.

3.49 We have decided to replace the term 'unit' throughout our requirements with the term 'Component', which is already defined in the General Conditions. This reflects feedback from consultation respondents that Component more accurately reflects the terminology used by awarding organisations.

3.50 We have decided not to change the use of the term 'periodically', as the use of this term is context-specific, and will vary depending on an awarding organisation's overall approach. How often something has to happen to be considered 'periodic' would depend on a range of factors. In line with the approach we have taken to not set overly prescriptive requirements, we consider that awarding organisations are best placed to determine their approach.

4. Equalities impact assessment

- 4.1 We asked in our consultation whether there were any positive or negative impacts caused by our proposals on people who share particular protected characteristics⁹.
- 4.2 The Conditions, requirements and guidance on which we consulted incorporated a number of changes since our policy consultation, which help to address equality impacts that had previously been identified. These included the potential impact of an increased number of prescribed visits on smaller or niche centres, who often deliver qualifications that are taken by learners with protected characteristics. Our decision to not prescribe a set number of visits, and to allow awarding organisations to determine the most appropriate approach have helped to minimise this impact. Our decision to allow a more flexible approach allows awarding organisations to adapt their controls appropriately to take account of the needs of learners with protected characteristics as part of their centre controls.
- 4.3 Respondents to the consultation commented again on this issue. Having considered this further, we have decided to implement our Conditions, requirements and guidance as consulted on. While we recognise that awarding organisation controls may affect different centres in different ways, we also believe it necessary to put in place a minimum acceptable level of control, to secure the maintenance of standards and promote public confidence. We believe that the requirements we are putting in place strike an appropriate balance between these considerations. We would expect awarding organisations to consider any potential impacts as they develop their CASS approach, and to take action to address these where possible. We published our assessment of this impact when we announced our policy decisions¹⁰.

⁹ We have considered the potential impact of the proposals on people who share protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

¹⁰ <https://www.gov.uk/government/consultations/moderation-and-verification-of-centre-assessment-judgements>

5. Regulatory impact assessment

- 5.1 We have considered the regulatory impact of our proposals and set out our view of the potential impacts as part of our technical consultation. We have set out our updated impact assessments below.
- 5.2 The estimates in this section are estimates of the cost of meeting our new requirements as written. These estimates do not reflect the reduction in regulatory burden that results from the additional flexibility in approach that was not previously allowed by our rules.
- 5.3 Prior to the changes we are now making, awarding organisations were required by the Conditions to conduct Moderation for all centre-marked assessments before issuing final results for that assessment. Our research suggested that, in many cases, this was not happening and that requiring Moderation was inconsistent with effective delivery for many qualifications. Our proposals throughout have been about changing the way we regulate to better meet the needs of the qualifications market; setting Conditions which allow us to secure the standards of, and promote public confidence in qualifications, whilst allowing awarding organisations reasonable discretion to determine the most appropriate delivery method for their qualifications. The changes we have made mean that many awarding organisations will find that practices they already operate, which would not have complied with the Conditions before these changes, but were nonetheless effective, will now be compliant, provided minimum requirements are met. For these organisations, the cost associated with our changes is likely to be lower than for awarding organisations which have less rigorous pre-existing approaches. For those awarding organisations which have consistently used Moderation to secure standards in centre-marked assessments, the greater flexibility in our changes might allow cost savings.
- 5.4 When we made our initial policy proposals, a number of respondents were concerned about the potential regulatory burden they would pose, particularly in relation to our initial proposal for there to be a set number of face-to-face annual activities, and to produce strategy document outlining the approach. We amended our proposals in light of these concerns, to seek to reduce the potential burden of annual activities, and to clarify what we required to be part of the strategy document.
- 5.5 We sought views in our consultation on the impact of our revised proposals. In addition to the questions in the consultation, we also requested specific information from a representative sample of awarding organisations to help us measure the potential impact of our proposals. We selected 23 awarding organisations representing a cross-section of those we regulate in terms of their size, the qualifications they offer and the number of centres they work with. We required these awarding organisations to provide us with detailed information on:

- The activities they would expect to undertake as part of their CASS approach and how much these activities would cost
- The factors they would consider when deciding the level of scrutiny to apply to a particular qualification, assessment or centre, and what difference these would make to their CASS approach and associated costs

5.6 The nature of our proposals makes the exact burden of our proposals difficult to accurately estimate. The awarding organisations impacted by these proposals operate in different ways, and there are significant differences between the size of the organisations themselves. Some offer a small number of qualifications to a small number of learners at a limited number of centres, whereas others might offer large numbers of qualifications across many centres, with a high number of certifications. There are also significant differences in the qualifications themselves, in terms of how they are delivered and what they are used for, which means the level of scrutiny an awarding organisation chooses to apply could vary significantly.

5.7 We have deliberately designed our requirements to allow for these wide-ranging approaches, as it is important that an awarding organisation can apply the most appropriate level of control. While this potentially reduces the burden by not applying a single rigid approach, it also makes it more difficult to estimate the burden, particularly as many awarding organisations will still be working through their approaches between now and September 2021, so may not be able to say themselves exactly what the burden of meeting these requirements will be.

5.8 The information we have collected does however enable us to make a broad estimate of the potential cost and burden of meeting our requirements. It will also provide a starting point so that we can monitor this as awarding organisations develop their approaches. We set out below our assessment of the regulatory burden of our proposals.

Scrutiny activities

5.9 We asked awarding organisations to estimate the type of activities they expected to undertake as part of their CASS approach, and in particular asked them to provide information about the following types of activities:

- Face-to-face visits (such as visits to centres)
- Remote activities (such online sampling of work)
- Office-based activities (such as desk reviews of policies)

5.10 We asked awarding organisations to estimate the cost of these activities, and how long they would typically spend on each one.

5.11 For the reasons outlined above, the information provided varied between awarding organisations. For our assessment, we have therefore considered the

range of responses provided rather than seeking to provide a single average figure. In terms of these activities, the range of responses we received were:

| Scrutiny Activity | Cost | Time involved |
|---|---------------------|--------------------------|
| Face-to-face visit | Between £200 - £610 | Between 1 and 1.75 days |
| Remote sampling | Between £96 - £385 | Between 0.4 and 1.5 days |
| Video conferencing | Between £50 - £250 | Between 0.3 and 1 day |
| Awarding organisation internal activity | Between £86 - £147 | Between 0.5 and 1 day |

5.12 These figures represent each activity conducted. The exact number will vary depending on the number of such activities carried out. Awarding organisations with a greater number of centres are likely to conduct a higher overall number of activities, using a mixture of face-to-face and remote approaches, whereas an awarding organisation with very few centres may conduct fewer visits, but might only decide only to do face-to-face visits. Additionally, the cost per visit does not take account of the number of learners – a single face-to-face visit may cover a large number of learners, as may a remote sampling activity.

5.13 We recognise that there is a regulatory burden and cost posed by these proposals. It is likely however that not all of these activities are new. Many awarding organisations already visit centres and conduct many of these activities, but we know that the nature and frequency of them varies. Our proposals will provide a baseline for awarding organisations' scrutiny activity which will, in the majority of circumstances, allow standards to be maintained. Those awarding organisations that face the greatest increase in costs will be those that are currently operating with a level of scrutiny that does not meet our minimum requirements. We are mindful that these organisations will incur additional costs to make their approach more robust, but we do not consider our minimum requirements to be excessive; we do not think a lower level of scrutiny will adequately secure standards. We believe therefore that the costs identified are proportionate to the risks to standards and public confidence in qualifications with centre-marked assessments.

Factors that determine the scrutiny approach

5.14 Awarding organisations provided information to us on the range of factors they might consider when determining their approach. They also told us how these factors might in turn impact on the type of controls they put in place as part of their CASS activities.

5.15 The risk factors which were considered in judging whether a centre presented a high, medium or low risk included:

- Newness of centre/lack of track record

- Instances of malpractice or maladministration
- Lack of Direct Claims Status approval
- Issues following EQA activities
- Size of cohorts (especially following sudden increases in size)
- High volumes of learners
- Experience of centre staff, and
- High staff turnover.

5.16 These factors are those we had previously identified, and reflect those included in the guidance which we are publishing. Awarding organisations told us that the impact of these factors will typically be an increase or decrease in the types of activities described in the previous section. So a centre with a large number of learners may be subject to a higher number of visits or other activities. But this is balanced by the fact that an awarding organisation is therefore selling a greater number of qualifications to such a centre, and may in fact benefit from economies of scale, as it is possible that an increase in learner numbers may not lead to an increase in the cost of activities by the same proportion.

5.17 Conversely, a low-risk centre is likely to be subject to a lower number of scrutiny activities, and therefore a lower overall cost. This means that an awarding organisation that applies greater scrutiny upfront, for example by having a rigorous centre approval process to prevent centres which do not meet its standards from offering its qualifications, may benefit from lower overall costs for its other scrutiny activities. We think this is appropriate, and should incentivise awarding organisations to take actions to ensure that only those centres they consider capable of delivering their qualifications in line with the standards they set, are permitted to make those qualifications available.

CASS strategies

5.18 The other key area highlighted by consultation respondents in relation to our proposals was the production of a CASS strategy. This is a document intended to explain an awarding organisation's approach, and to set out its rationale for taking this approach.

5.19 Awarding organisations who provided estimates of the costs and who spoke about this at our consultation events, gave a wide range of responses, varying between £600 per strategy to £25,000 in total. This represented varying approaches, from reviewing, updating and collating existing policies and procedures, through to employing additional staff to develop these documents from scratch.

5.20 These costs again reflect the approach taken by individual awarding organisations. In many areas, awarding organisations take different approaches, for example, whether they have in-house teams who produce such documents, or whether they employ external consultants to produce these

documents. It is possible therefore, that as described, the exact costs could vary significantly.

- 5.21 We did not prescribe a specific approach for these strategies as the most appropriate approach will vary by awarding organisation. An awarding organisation that currently has strong controls and policies is likely to incur lower additional costs than one which currently has less robust controls or policies. We have explained that we do not require existing policies to be duplicated into the strategy, as long as an awarding organisation is clear about them and how they relate to its overall approach.
- 5.22 We believe that the CASS strategy is a key document and forms an important part of our proposals. Requiring an awarding organisation to have such a strategy in place will enable us to monitor approaches, and to hold awarding organisations to account. While we acknowledge there will be a cost and burden imposed, it is likely that once the strategy has been developed, the ongoing cost of keeping it under review will not be significant. We believe that requiring awarding organisations to have, maintain, comply with and keep under review a CASS strategy is proportionate to the risks we to standards and public confidence we are seeking to address.

Impact on Centres

- 5.23 Although we do not regulate the centres delivering qualifications, we are mindful that any increase in the costs to awarding organisations of designing, developing and delivering their qualifications, may be passed on to centres in the form of increased fees.
- 5.24 We have sought throughout the development of our proposals to make sure we understand the scale of any increase in costs and that those costs are proportionate in all of the circumstances, seeking views from as many stakeholders as we can. We have received consultation responses from a range of respondents, including centres, and have spoken with centres and their representatives through our consultation events.
- 5.25 As for the annual activities described above, an increase in the number of activities could lead to an increase in costs. The nature of any increased costs will vary by centre – a low-risk centre is likely to see lower overall costs than a high-risk centre. We think that it is appropriate that a centre that is delivering qualifications in a way that meets the awarding organisation's standards may see lower costs as a result. We also think that the scale of activities is likely to be proportionate to the size of the centre, a larger centre may see greater costs, but is also likely to have greater resources with which to manage this.
- 5.26 We will monitor this as the implementation of these requirements progresses.

Other factors

- 5.27 In addition to specific comments about the CASS approach, respondents also made some more general comments relating to regulatory impacts. In particular, respondents, particularly awarding organisations, commented on the number of parallel consultations occurring in a short period of time which presents challenges for awarding organisations in implementation workload.
- 5.28 We are aware of this concern and seek, wherever possible to manage this burden. However it is also important that we consult on changes to our regulatory framework, and we are required to do so. We have sought to mitigate this through the duration of our consultations, running these over extended periods to allow respondents opportunity to plan their approach to responding, and by holding events at which we can gather views, even where respondents have been unable to respond formally. We have also allowed awarding organisations until September 2021, which is extended from our original proposal of January 2021, to manage their implementation of these requirements.
- 5.29 There was concern also about divergence between the approaches that the three regulators (Ofqual, Qualifications Wales and CCEA Regulation) adopt, as this will create additional burden and costs for awarding organisations. We have been working closely with Qualifications Wales and CCEA Regulation in order to minimise any regulatory divergence and to seek to align our requirements as far as is possible, and where our different statutory obligations allow.

6. Next steps

- 6.1 Alongside these decisions, we have published an updated version of the Ofqual handbook¹¹, which includes the revised Conditions, requirements and guidance referred to in this document.

- 6.2 Our new Conditions, requirements and guidance come into force at 00:01 on 13 February 2020. We understand that it might take some awarding organisations longer than others to secure compliance with the revised Conditions, and in particular to develop and implement CASS strategies for all of the qualifications where they rely on centres to mark assessments. We expect all awarding organisations to be able to demonstrate, no later than 1 September 2021, that they have in place and are complying with CASS strategies for all affected qualifications. Between publishing the revised Conditions and any compliance activity we might undertake from September 2021, we will expect awarding organisations to be making progress towards the implementation of their CASS approach and strategies. Where it is necessary, as a result of an incident or other event, to consider any issues of non-compliance that relate to an awarding organisation's centre-controls between now and September 2021, we will take into account that awarding organisation's approach to and progress in the development and implementation of CASS strategies when we decide what our regulatory response to the incident should be.

- 6.3 Awarding organisations must be fully compliant with those new Conditions no later than 1 September 2021. Between publishing our Conditions and September 2021, we will take a proportionate approach to enforcing against these new and revised Conditions. Although we will not require awarding organisations to be able to demonstrate that they are fully compliant until September 2021, we will expect awarding organisations to be making progress towards meeting them before that date and will take this into account when considering any issues of non-compliance that relate to an awarding organisation's controls with centres.

- 6.4 These changes apply to qualifications regulated by Ofqual. We have discussed our decisions with the qualifications regulators in Wales (Qualifications Wales) and Northern Ireland (CCEA Regulation). Throughout the consultation process, we have worked with both regulators to ensure that our approaches are as aligned as possible. The changes being made across the three countries are broadly similar, however slight differences in how we approach our respective legislative frameworks means the way we implement them differs slightly in places. For example, Qualifications Wales would normally include requirements that are specific to a particular qualification or description of qualification in its qualification-specific Criteria and Conditions; CCEA Regulation will incorporate changes to Conditions and the new requirements, and consider at a later date whether to also incorporate guidance. These changes are also separate to the

¹¹ <https://www.gov.uk/guidance/ofqual-handbook>

decisions being taken as a result of the consultation on changes to the General Conditions, which will be announced separately.



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