

CONSULTATION

# Regulating Performance Table Qualifications

Consultation on Ofqual's approach to regulating the Technical Award qualifications listed in school and college performance tables by the Department for Education

**ofqual**

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# Foreword

Earlier this year we confirmed our intention to launch a programme of work designed to strengthen our regulation of existing technical and vocational qualifications used in performance tables for school and college accountability purposes.

These qualifications play a key part in many young people's lives. We want to ensure they are as good as they can be so that students who take them, those who teach them and those who rely on them, such as colleges and employers, can understand and be confident in these qualifications.

This consultation focuses on our regulation of Technical Awards offered to 14 to 16 year olds as part of Key Stage 4 education. Research carried out by the Department for Education (DfE) <sup>1</sup> has shown the important role these qualifications can play for certain students including those with special educational needs and those who are disadvantaged. The research found that, for these groups, taking a Technical Award could be associated with both lower absence rates and lower exclusion rates.

We know, however, that there are some concerns over the potential vulnerability of these qualifications – that they may be open to grade inflation or misuse for example. Our proposed approach to regulating Technical Awards demonstrates the need for tighter rules that can contribute to better control of qualification standards while still allowing for appropriate differences in the qualifications' design and delivery.

We have worked closely with DfE in developing this new approach to regulating Technical Awards. Many of the rules we are proposing in this consultation integrate requirements that have previously been set by DfE. We will review against these rules any qualifications that awarding organisations submit to DfE for consideration as performance table qualifications. The decision as to which qualifications are listed in performance tables rests with DfE and we will provide advice based on our reviews to support their decisions.

The intention is that our rules proposed here will apply to Technical Awards to be taught from September 2021. We recognise this gives us a very short timescale to implement our approach and it is for that reason that we present this consultation, which sets out both our intended policy position and our detailed proposed approach to regulation, in one overarching document. Please let us know what you think about the proposals we set out here. We look forward to hearing from you.

*Sally Collier, Chief Regulator*

<sup>1</sup> <https://www.gov.uk/government/publications/non-gcse-qualifications-in-england-key-stage-4-entries-and-absence-and-exclusions-outcomes>

## The audience for this consultation

This consultation is open to anyone who might wish to make a representation, but may be of most interest to:

- awarding organisations and their representative bodies – particularly those that deliver (or want to deliver) qualifications that feature on school and college performance tables
- schools, colleges and training providers and their representative bodies – particularly those that deliver qualifications that feature on school and college performance tables
- students
- employers

## Consultation arrangements

### Duration

This consultation will be open for 6 weeks starting on 21 October 2019 and ending on 2 December 2019.

### Respond

Please respond to this consultation by completing the online response at <https://www.gov.uk/government/consultations/regulating-performance-table-qualifications>.

If the online form is not suitable for your response, you can email your response to [consultations@ofqual.gov.uk](mailto:consultations@ofqual.gov.uk) - please include the consultation title in the subject line of the email and make clear who you are and in what capacity you are responding.

For information on how we will use and manage your data, please see Annex A.

# 1 Introduction

## Background

- 1.1 Ofqual is the independent regulator for qualifications in England. We have a number of statutory objectives<sup>2</sup> which include securing the standards of and promoting public confidence in regulated qualifications. We do this by setting rules that awarding organisations must follow, and monitoring to make sure they meet them. We take action if we discover our rules are not being met.
- 1.2 Last year we committed to looking more closely at those vocational and technical qualifications (VTQs) that play an important role in schools and colleges through their use in the performance tables that are used by government to hold those schools and colleges to account. The VTQs currently in performance tables have been designed to meet particular characteristics set out in a Technical Guidance<sup>3</sup> document published by the Department for Education (DfE).
- 1.3 Research we have conducted in recent years<sup>4</sup> has highlighted a number of issues which potentially serve to undermine the maintenance of standards in some VTQs in performance tables and has pointed to risks that are challenging to mitigate. Further to this, in its consultation on the review of post-16 qualifications at level 3 and below<sup>5</sup>, DfE noted concerns with the reliability and validity of some VTQs on Key Stage 4 performance tables, and around issues such as the potential for grade inflation.
- 1.4 We have signalled an intent to regulate VTQs in performance tables with the same seriousness and focus as we do general qualifications, so we can ensure that they reliably and validly represent the knowledge and skills that students should be able to develop by studying such qualifications.
- 1.5 We think, however, that some of the current requirements in our rules and in DfE's Technical Guidance appear to overlap or create challenges for awarding organisations to design qualifications that ensure standards and validity as effectively as they could, while remaining deliverable and manageable for a wide range of schools, colleges and other education providers.

<sup>2</sup> See Annex B

<sup>3</sup> <https://www.gov.uk/government/publications/14-to-19-technical-and-applied-qualifications-technical-guidance>

<sup>4</sup> Published research includes:

- <https://www.gov.uk/government/publications/assessment-functioning-of-external-assessments>
- <https://www.gov.uk/government/publications/strengthening-vocational-and-technical-qualifications>

<sup>5</sup> <https://www.gov.uk/government/consultations/review-of-post-16-qualifications-at-level-3-and-below-in-england>

- 1.6 As a result, we are now proposing to introduce a new regulatory framework for performance table qualifications, which is the subject of this consultation.
- 1.7 Our proposals here focus on Technical Award qualifications. These are level 1 and 2 non-GCSE Key Stage 4 performance table qualifications that are designed to provide 14 to 16 year olds with applied knowledge and practical skills. They focus on providing knowledge, skills and understanding of a sector or occupational group. Taken by approximately 35% of Key Stage 4 students alongside GCSEs (in the academic year 2017/18), these qualifications, according to DfE research<sup>6</sup>, are associated with reduced levels of absence and exclusions for certain groups of students including those with special educational needs and those who are classed as disadvantaged.
- 1.8 We propose to introduce this new regulatory framework in line with DfE lifting the current moratorium on Key Stage 4 qualifications (no new qualifications have been added to the list since 2018). DfE has confirmed its intention to lift the moratorium for the 2023 Key Stage 4 performance tables subject to confirmation of the outcomes of this consultation.

## Current performance tables

- 1.9 Currently, VTQs that feature in school and college performance tables – which are Technical Awards in Key Stage 4 performance tables and Technical Certificates, Tech Levels and Applied Generals in 16-18 performance tables – are designed against Technical Guidance issued by DfE. This covers characteristics of qualification design including size, content coverage and approaches to assessment. We do not have any specific rules in place governing the design or delivery of these qualifications beyond our General Conditions of Recognition<sup>7</sup>.
- 1.10 All of the VTQs included in current school and college performance tables have been judged by DfE as adhering to the Technical Guidance, with the final decision on inclusion taken by the Secretary of State for Education.
- 1.11 Up until last year, awarding organisations submitted their qualifications for review by DfE against the Technical Guidance on a rolling basis with two annual submission windows. Qualifications would only be considered if they were already regulated by Ofqual and approved for funding for the relevant age group. As part of the considerations, we would share the relevant factual

<sup>6</sup> <https://www.gov.uk/government/publications/non-gcse-qualifications-in-england-key-stage-4-entries-and-absence-and-exclusions-outcomes>

<sup>7</sup> <https://www.gov.uk/guidance/ofqual-handbook>

information we held on the submitted qualifications to support DfE's decision-making.

- 1.12 However, a moratorium has been in place since the decisions were taken on the VTQs to be included in the 2020 performance tables and no new VTQs have been added to the lists that were last published in 2018. Subject to the completion of this consultation, DfE intends to bring the moratorium for Key Stage 4 Technical Awards to an end, which would mean that qualifications in current performance tables would be last awarded under existing requirements in 2022.

## A proposed new approach

- 1.13 As part of ongoing discussions with DfE – along with consideration of the findings of our research – we identified a number of ways that we might strengthen the controls in place for performance table VTQs. We agreed that it would be appropriate for us to incorporate many of the requirements from DfE's current Technical Guidance into our regulatory framework, alongside other rules we think appropriate to include for these qualifications, in the form of Qualification Level Conditions (QLCs), requirements and guidance. These Conditions are proposed to sit below our General Conditions of Recognition and will be applied to performance table qualifications – in this instance to level 1 and 2 Technical Awards in Key Stage 4 performance tables. DfE will continue to publish Technical Guidance which establishes the characteristics of Technical Awards. This will be updated – subject to the conclusion of this consultation – to reflect the introduction of our QLCs.
- 1.14 The Performance Table Qualification QLCs, requirements and guidance we are proposing have been designed to reflect government policy for VTQs offered to 14-16 year olds in schools and to mitigate some of the risks arising from their use in accountability measures. Given the variance in the design and delivery of Technical Awards that feature currently in performance tables, we want our rules to also allow for this.
- 1.15 We want to encourage awarding organisations to strike an appropriate balance in delivering qualifications that are valid, reliable and manageable. This means we too have a careful balance to strike. Our proposals here set out what we think is an appropriate level of flexibility for awarding organisations, whilst regulating VTQs in performance tables more rigorously. By putting the proposed Performance Table Qualification QLCs in place, we will be able to monitor compliance and quality in a more integrated, effective way and on an ongoing basis, using our powers where necessary to rectify any identified non-compliances.

- 1.16 Throughout this consultation we refer to 'burden' and 'impact'. We recognise that any requirement we place on awarding organisations is a burden but that some burden is a necessary and proper part of regulation. We have considered this as we have developed our proposals and have aimed to address issues of burden by balancing the benefits of regulation against the burden we propose to impose.
- 1.17 We have also considered how our proposed requirements impact more widely, such as how schools, colleges and students will be affected, and also any impacts our proposals may have on people who share a protected characteristic. Our aim is to minimise, where possible, the disruption from any changes we make to how these qualifications are designed or delivered.
- 1.18 When responding to those questions, we encourage you to consider any way that the proposals will create additional costs, work, barriers or time issues as well as other consequences, for example on students or the way in which course delivery would be affected.
- 1.19 We use this consultation to explain our proposals for regulating level 1 and 2 Key Stage 4 Technical Awards, and also provide our draft QLCs, requirements and guidance. Throughout the consultation we ask for views, and where we have identified that there are regulatory or equalities impacts, or indeed broader impacts, we have included specific questions on those. There is also a series of questions at the end of this consultation asking for any further views regarding the impact of our proposals.

## 2 Our proposed approach to regulating performance table qualifications

### Scope

- 2.1 The rules proposed in this consultation are intended to apply to Technical Awards offered in England at levels 1 and 2 at Key Stage 4. This is because these qualifications are not currently subject to government review, which is the case for post-16 qualifications at level 3 and below on which DfE consulted earlier this year.
- 2.2 The rules will be applied to qualifications included in 2023 performance tables, which will be taught from September 2021. The rules are designed in such a way, however, that once they are applied to a particular Technical Award, they will apply whether or not that qualification is being used to count, in the case of any individual school or college, towards secondary accountability measures in any particular year.
- 2.3 We are awaiting the outcomes of DfE's post 16 qualifications review before considering whether we may need to take any particular action for the other qualifications referred to in that review.

### Process

- 2.4 We propose that a submission window will open in spring 2020 for awarding organisations to put forward qualifications to DfE for review by them and ourselves.
- 2.5 Our proposal is for awarding organisations to develop an assessment strategy for each qualification it wants to put forward for review. Assessment strategies are used for awarding organisations to demonstrate how their qualification and assessment design is fit for purpose. The assessment strategies submitted will relate to qualifications for potential inclusion in 2023 performance tables, which will be taught from September 2021.
- 2.6 The intention is for there to be one submission window for awarding organisations in 2020. During this window, we will review the assessment strategies and DfE will review the submissions against the characteristics set out in its updated Technical Guidance. DfE anticipates that these characteristics will be broadly the same as those currently in place. The updated Technical Guidance will take into account the outcome of this consultation and will be published once this consultation has concluded.

- 2.7 We propose to use our review process to decide how confident we are that each qualification will meet our proposed rules on an ongoing basis when it is being delivered as a performance table qualification.
- 2.8 Our intention is to provide advice to DfE based on what our reviews tell us, including detail of any changes we think awarding organisations should make in order to address any shortcomings. If DfE decides to include a qualification in performance tables where we have suggested changes might need to be made, we are likely to then require those changes to be made. We may do this through the issue of additional requirements under the Performance Table Qualification QLCs or, where relevant, under our General Conditions of Recognition.
- 2.9 We will not take any decisions about which qualifications are included in the Key Stage 4 performance table lists – the final decision on performance table inclusion will continue to lie with the Secretary of State for Education.
- 2.10 Once qualifications are included in performance tables, we propose that our rules will apply to each performance table qualification on an ongoing basis and the relevant awarding organisations will have to comply with them. When a qualification is to be removed from a performance table list, Ofqual will determine a date from which the rules will no longer apply.

## Qualification Level Conditions

- 2.11 The rules we are proposing here, which take the form of QLCs, requirements and guidance, reflect a number of factors. These include the government's policy aims for performance table qualifications and our commitment to regulate these qualifications with the same seriousness and focus as we do general qualifications. They also reflect our statutory objectives (as set out in the Apprenticeships, Skills, Children and Learning Act 2009), our duty not to impose or maintain unnecessary burdens and our public sector equality duty.
- 2.12 The framework is intended to underpin the strengthened regulatory approach we are seeking to take for performance table qualifications and through this approach we want to encourage awarding organisations to prioritise the delivery of valid, reliable qualifications. We are also mindful that qualifications must be manageable to deliver and administer and we have considered the impact our proposals might have on schools, colleges and other providers, with a view to minimising disruption where possible. This also acknowledges the government position not to undertake further major reforms at this time to Key Stage 4 qualifications.

- 2.13 Much of the substance of our proposed rules is drawn from DfE’s current Technical Guidance. We recognise that Technical Awards cover a wide range of subjects and approaches to design and delivery. This means we have sought to create a framework with sufficient flexibility built in to enable some exemptions to be made from a limited number of rules where this might result in a more valid qualification being offered. We indicate in the course of this consultation those rules where we think an awarding organisation should be able to apply for exemption or variation.
- 2.14 We intend that it is only once qualifications have been confirmed by DfE for inclusion in Key Stage 4 performance tables that they will then become subject to our Performance Table Qualification QLCs.
- 2.15 We intend to evaluate, once they are in operation, the effectiveness of these rules in achieving improvements to the validity and standards of Technical Awards. Where we find that we may be able to deliver further improvements in the future, the design of our regulatory approach enables us to revise or introduce new requirements over time.
- 2.16 Although we are proposing a new set of QLCs, we also propose that most of our General Conditions of Recognition will continue to apply. We propose to regulate performance table qualifications and the awarding organisations that design them against the General Conditions as far as is possible. However, we are proposing to disapply a small number of the General Conditions, where there will be a bespoke Performance Table Qualification QLCs in place instead. We set out the proposed Conditions to be disapplied later in this document.
- 2.17 The intention is that Technical Awards will remain subject to these proposed Conditions until they are no longer in performance tables, when awarding organisations can apply to have the Conditions lifted. Where a qualification is removed from performance tables by DfE, or an awarding organisation chooses to remove it, we have proposed an approach for managing withdrawal so as to protect students.

**Our proposed approach to regulating performance table qualifications**

In summary, we propose:

- to introduce QLCs, requirements and guidance; with much of the substance of these drawn from the DfE’s current Technical Guidance
- that the rules will first apply to level 1 and 2 Key Stage 4 Technical Awards listed in 2023 Key Stage 4 performance tables (and then onwards for each academic year’s listing)

- that awarding organisations will submit their qualifications in spring 2020 for our review, and review by DfE, in consideration for inclusion as Technical Awards in 2023 Key Stage 4 performance tables
- that we will provide advice to DfE based on our reviews, including on our degree of confidence that qualifications can or do meet our regulations, but that we will not take decisions about which qualifications will be listed on performance tables. That decision will continue to rest with the Secretary of State for Education
- that qualifications will only become subject to our Performance Table Qualification QLCs once they are listed on the Key Stage 4 performance tables as Technical Awards, and will remain subject to them until they are no longer included in the performance table list, when they will be subject to a managed exit

### **Our proposed approach to regulating performance table qualifications**

**QUESTION 1: Do you have any comments on our proposed approach to regulating Technical Awards?**

## 3 Proposals: Design of Technical Award qualifications and assessments

### Qualification purpose

- 3.1 Decisions taken about the design of qualifications and their assessments should reflect a qualification's purpose. A well-defined purpose should ensure that users are clear about what a qualification should do. We think that these qualifications should share the same broad purposes, as the government has already set out what these qualifications are designed to do, and who they are for.
- 3.2 In DfE's current Technical Guidance it is stated that Technical Awards are intended to equip 14 to 16-year olds with applied knowledge not usually acquired through general qualifications (e.g. GCSEs). They are intended to focus on a sector or occupational group and enable the development of knowledge as well as associated practical skills where appropriate, but they are not intended to focus on any specific occupation. As stated in the current Technical Guidance, qualifications in DfE EBacc subjects<sup>8</sup>, or applied versions of these subjects, will not be approved as Technical Awards.
- 3.3 Taking account of these intentions and of their use in accountability measures, we propose that we set out in our QLCs the general purposes for these qualifications.
- 3.4 We then propose to require awarding organisations to set out in their assessment strategies the specific purposes of each of their qualifications, ensuring that they are in line with the general purposes, and to explain how their qualification will fulfil those specific purposes. This should ensure that users are clear about what the qualification offers and should help ensure that the qualification purpose is embedded in the design decisions made by the awarding organisation.
- 3.5 We propose that Technical Awards should meet the general purposes of providing:
  - (a) Users of the qualification with reliable evidence of Learners' attainment in relation to the knowledge, skills and understanding assessed as part of the qualification (General Purpose A),

<sup>8</sup> The EBacc subjects, as defined by DfE are; English, mathematics, sciences (including computer science), languages, history and geography

- (b) Learners with a breadth and depth of study of a sector or broad occupational group (but not a particular occupation or skill), to prepare them for further study (General Purpose B),
- (c) a basis for schools and colleges to be held accountable for the performance of their Learners (General Purpose C), and
- (d) a course of learning with which Learners can suitably engage (General Purpose D).

3.6 We also propose to provide guidance which further explains the intention of these purposes, and the relative priorities these purposes should take. This is set out in the draft QLCs, requirements and guidance which are published on our website alongside this consultation.

3.7 As we are introducing requirements specific to the purposes of Key Stage 4 Technical Awards, we propose to disapply our General Conditions E1.1 and E1.2. These Conditions require awarding organisations to ensure their qualifications have objectives and provide detail of what the objectives may include.

#### **Qualification purpose**

In summary, we propose:

- to set out general purposes for level 1 and 2 Key Stage 4 Technical Awards, and to provide guidance on the purposes and their relative priorities
- to require awarding organisations, in their assessment strategies, to set out the specific purposes for their qualifications – which should be in line with the general purposes – and how their qualifications are designed to fulfil these
- to disapply General Conditions E1.1 and E1.2

#### **Qualification purpose**

**QUESTION 2: Do you have any comments on the general purpose statements for Technical Awards, and the guidance supporting those statements, that we propose to include in our rules?**

**QUESTION 3: To what extent do you agree or disagree with our requirement that awarding organisations should define specific qualification purposes in the context of the general purposes and explain how their qualification will fulfil the purposes they set out?**

**QUESTION 4: To what extent do you agree or disagree with our proposal to disapply General Conditions E1.1 and E 1.2?**

## Qualification design

### Size

- 3.8 We propose to set a specific size requirement for Technical Awards. This means that we will be able to carry out more specific and effective checks of qualification size, if and when required.
- 3.9 As Technical Awards are used as a Key Stage 4 performance measure alongside GCSEs and it is government's intention that Technical Awards should be broadly similar in size to GCSEs – which currently have 120 hours of Guided Learning – we propose to require that awarding organisations should design their Technical Awards so that the number of hours for Guided Learning are at least 120.
- 3.10 We also propose that an awarding organisation will be required to assign the number of hours for Total Qualification Time (TQT) by applying the TQT Criteria, and to explain in its assessment strategy how it has reached its judgements on the size (both guided learning hours and TQT) of its qualification.
- 3.11 In order to introduce such a rule specific to Key Stage 4 Technical Awards, we propose to disapply our General Condition E7. This Condition requires awarding organisations to assign to each qualification it makes available a number of hours for guided learning and TQT.

### Content

- 3.12 DfE's current Technical Guidance requires that the content included in a qualification relates directly to the qualification purpose. Awarding organisations should also ensure that the content is set at an appropriate level of demand, suitable for the size of the qualification and appropriate to the design of the assessments to be taken and we propose to set rules that reflect all of these expectations.
- 3.13 We propose that awarding organisations should explain in their assessment strategy their choice of content in terms of level of demand, size and how it relates to the qualification's specific purposes and approaches to assessment.

As there is no nationally set content for Technical Awards, we do not propose to set any requirements about the actual content subject-by-subject.

- 3.14 We do propose that an awarding organisation should assign either levels 1 or 2 or both levels to their Technical Award, and as a result of this, we propose to disapply General Condition E9 which relates more broadly to the assignment of levels to qualifications.
- 3.15 We think awarding organisations should consider how their choice of assessment enables students to develop and demonstrate a breadth of understanding across a qualification's content (this relates to General Purpose B).
- 3.16 We have seen that where qualifications are designed with several assessments available at multiple points throughout the course, a risk exists that students could develop a fragmented understanding of the content being studied. This potentially undermines the intention of General Purpose B, and so in such situations, we think it is important that awarding organisations ensure students can make effective connections and draw together knowledge, skills and understanding from across their qualification's content.
- 3.17 We therefore propose that awarding organisations should design their qualifications to promote achievement of holistic understanding. We propose that their assessment design should provide opportunities, as appropriate to the subject, to assess how far students have developed a broad understanding across the qualification content. We do not propose to specify any model for this given the varied approaches that may be appropriate across different subject areas.
- 3.18 The intention behind these proposals is that together they will best achieve the policy objective, as set out in DfE's current Technical Guidance, that the qualifications contain meaningful and valid synoptic assessment.

#### **Qualification design**

In summary, we propose:

- to require that Technical Awards are broadly similar in size to GCSEs, with the qualifications being designed to include at least 120 hours Guided Learning
- to disapply General Condition E7 and introduce a bespoke Condition for assigning guided learning hours and TQT for performance table qualifications
- to require that awarding organisations ensure their content is relevant to qualification purpose, of an appropriate level of demand, suitable for the size of the qualification and appropriate to the design of the assessments,

and to explain their content choice in relation to these points in their assessment strategy

- that Technical Awards should be assigned to either level 1 or 2, or both, and that General Condition E9 is disapplied
- that in their assessment strategies, awarding organisations should explain how their qualifications, in line with government policy for synoptic assessment, promote a holistic understanding of the content and provide assessments that enable students to demonstrate a broad understanding across that content

### Qualification design

**QUESTION 5: Do you have any comments on our proposal to introduce a bespoke Condition for guided learning and TQT that requires Technical Awards guided learning to be at least 120 hours?**

**QUESTION 6: Do you have any comments on our proposal to require an awarding organisation to ensure the appropriateness of its Technical Award qualification content in relation to purpose, level, size and assessment methods?**

**QUESTION 7: To what extent do you agree or disagree with our proposals that Technical Awards should be assigned either level 1 or 2 or both?**

**QUESTION 8: To what extent do you agree or disagree with our proposal relating to synopticity that awarding organisations should design their assessments to demonstrate how their qualifications promote a holistic understanding of the content and provide opportunities for students to demonstrate a broad understanding across the qualification content?**

**QUESTION 9: To what extent do you agree or disagree with our proposals to disapply General Condition E7 and General Condition E9?**

### Impact

3.19 Our proposals around qualification design are based on the intentions of the current DfE Technical Guidance. While awarding organisations will be expected to present detail on the requirements here in their assessment strategies (which is covered in our review of impact in section 4), the direct impact of our proposed requirements here should be minimal and they should not prompt any specific changes in qualification design.

**QUESTION 10: To what extent do you agree or disagree with our assessment of the potential impact of our proposals?**

**QUESTION 11: Is there any additional information you think we should consider when evaluating the impact of our proposals? Please provide estimated figures if related to costs or savings.**

## Assessment

### Assessment by examination

#### Assessment methodology and weighting

- 3.20 In the current Technical Guidance, ‘external assessment’ is expected to contribute at least 40% towards the final qualification grade. External assessment is defined as assessment that is specified by the awarding organisation, taken under specified conditions and assessed/marked by the awarding organisation. The requirement was introduced to ensure greater controls of assessment design, delivery and standard setting were in place over a proportion of the assessment within the qualification.
- 3.21 We understand the importance of sufficient controls around assessment and can see clear benefits for there being an element of the qualification that is set and marked by the awarding organisation, and taken under specific conditions.
- 3.22 For consistency, we do not propose to change the intended weighting of external assessment as set out in DfE’s current Technical Guidance, but we think there is scope to tighten the definition of external assessment – making it clearer and less open to interpretation – and to bring in further, more consistent controls that should better support the ongoing maintenance of standards.
- 3.23 With that in mind we propose that, of the total marks available for a Technical Award, an awarding organisation must ensure that at least 40% of those marks are made available through an ‘assessment by examination’ which should be in the form of a written test (or tests)<sup>9</sup>.
- 3.24 The assessment by examination in the form of a written test may take a number of forms which might include multiple choice, short, extended or essay answers and could be on-paper or on-screen. We propose to provide guidance

<sup>9</sup> In the remainder of this consultation we will refer to ‘assessment by examination in the form of a written test’ or ‘assessment by examination’ both in the singular– this should be taken to mean either assessment by examination in the form of a written test or tests and either assessment or assessments by examination.

– which is published alongside this consultation – on what might constitute an assessment by examination in the form of a written test.

3.25 While we would expect the majority of Technical Awards to have a written test as the assessment by examination, we recognise that there may occasionally be situations where an awarding organisation identifies an alternative assessment method that optimises validity or improves on the validity of the written test. We propose that in such a situation, an awarding organisation can apply, through their assessment strategy, for an exemption to assessing in the form of a written test. We would expect the awarding organisation to present evidence as to why it would be more valid to deliver assessment by examination in a form other than a written test.

3.26 In a similar vein, we see little reason to vary from the requirement for at least 40% assessment by examination but do recognise the potential that exceptionally an awarding organisation may identify that they are not able to develop a valid qualification with this assessment weighting. As a result, we propose that we will also allow an awarding organisation to apply for exemption, through their assessment strategy, from the requirement that the assessment by examination should account for at least 40% of the overall qualification marks – this would be to decrease the percentage, but not to remove the requirement altogether. Again, we would expect the awarding organisation to be able to present evidence as to why it would be more valid to vary from the requirement.

### **Setting and marking**

3.27 We propose that in order to have tighter levels of control over assessment by examination, awarding organisations should set and mark the assessment by examination and set out the specific conditions for taking that assessment – whether that is in the form of a written test or whether in another form as an exemption has been granted. We propose that awarding organisations should explain their approach in their assessment strategies.

### **Assessing the content**

3.28 Awarding organisations should ensure that the content they propose to be covered by the assessment by examination in the form of a written test is appropriate to be assessed in such a way. If there is, for example, a sufficient amount of content suitable for assessment by examination in the form of a written test, we would not expect to see an application for exemption to use a different form of assessment by examination.

- 3.29 We propose that an awarding organisation should explain their selection of content for their assessment by examination in the assessment strategy.

### **Assessment availability**

- 3.30 An awarding organisation's ability to set and maintain appropriate standards is usually improved if evidence is simultaneously available from a large number of candidates. This typically enables more reliable statistical analysis and a greater volume of performance evidence to support qualitative scrutiny. As well as this, sitting of assessments over a period of time adds risk to the confidentiality of assessment materials and/or requires a number of alternative versions of assessments to be made available. This adds additional risk to the comparability of demand over time as well as question paper security.
- 3.31 In order to provide an awarding organisation with increased controls, over standards and security, for example, we propose that each Technical Award's assessment by examination is designed to be taken simultaneously by all relevant students. Alongside this, we propose that an awarding organisation provides two set dates each academic year on which the assessment by examination must be taken.
- 3.32 We propose that awarding organisations may apply for the requirement for simultaneous sitting to be lifted, only where they have also applied for exemption from the use of a written test as the form of assessment by examination. Any application from exemption here should relate to the alternative form of assessment by examination proposed and should set out the controls the awarding organisation is able to put in place to manage the risks, for example to confidentiality and authenticity, arising from its intended approach to assessment availability.
- 3.33 We are still considering whether we should establish the windows within which awarding organisations will set the assessment by examination dates. These windows would be likely to be at the beginning of a school's spring term (January) and towards the end of a school's summer term (May-June). As currently drafted, our proposed QLCs create the capacity for us to set dates separately and subsequent to publishing the Conditions. We ask for views on this intention in this consultation but would not set any specific dates or windows without further consultation.

### **Terminal assessment requirement**

- 3.34 To further support awarding organisations' control of qualification level standard setting, we think it would be appropriate to introduce a terminal assessment requirement. We propose that students should be required to take

the assessment by examination in the assessment series immediately prior to certificating for the qualification. That is the point which would be seen as the end of their course, where with all assessments completed, the centre would 'claim' for a student to receive their qualification.

- 3.35 If an exemption has been granted to reduce the contribution of the assessment by examination to less than 40%, we propose that awarding organisations should require that other assessments that are part of the qualification are also taken to ensure that the student has undertaken assessment worth at least 40% of the available marks at the end of their course.
- 3.36 The requirements we propose to introduce on assessment availability and terminal assessment take steps to address concerns that where there are multiple opportunities to sit an assessment it can lead to significantly more time spent on assessment (and preparing for it) rather than on teaching.
- 3.37 However, we do recognise that there is value to enabling students to resit an assessment, and so – bearing in mind the other requirements on availability and terminal assessment – we do not propose to put in place any particular restriction on the number of times a student might resit an assessment by examination.

#### **Assessment by examination**

In summary, we propose:

- that, as a starting point, of the total marks available for a Technical Award, an awarding organisation must ensure that at least 40% of those marks are made available through an assessment by examination that is in the form of a written test (or tests) set by the awarding organisation
- that an awarding organisation should set and mark the assessment by examination and set out the specific conditions for sitting that assessment
- that an awarding organisation should provide two set dates in each academic year for all relevant students to take the assessment simultaneously; and that we might (subject to future consultation) set the windows within which such dates should be set
- to allow awarding organisations to apply for exemption from the percentage requirement and the form of assessment by examination. And where a varied form of assessment by examination is permitted, to allow the awarding organisation to apply for exemption from the requirement around simultaneous sitting of the assessment
- that awarding organisations should, in their assessment strategy, explain their choice of content for assessment by examination
- that students should be required to take the assessment by examination in the series immediately prior to certificating for the qualification

- that where the assessment by examination does not account for 40% of the total marks available for the qualification, other assessment that forms part of the qualification and can bring the contribution immediately prior to certification to at least 40% should also be undertaken at the end of the course
- not to put in place a specific restriction on resitting assessments by examination

### **Assessment by examination**

**QUESTION 12: To what extent do you agree or disagree with our proposal to require that Technical Award assessment by examination is in the form of a written test or tests?**

**QUESTION 13: Do you have any comments on our proposal that of the total marks available for a Technical Award, an awarding organisation must ensure that at least 40% of those marks are made available through an assessment by examination that is normally in the form of a written test (or tests) set by the awarding organisation**

**QUESTION 14: Do you have any comments on our proposals that awarding organisations should set and mark their assessments for examination and specify conditions for sitting the assessments by examination?**

**QUESTION 15: To what extent do you agree or disagree that there should be two set dates in each academic year to take the assessment by examination? Please include in your comments your thoughts on whether or not it would be appropriate for us to set the windows for those set dates, and whether January and May/June would be suitable.**

**QUESTION 16: To what extent do you agree or disagree with our proposal that the assessment by examination should be taken in the assessment series immediately prior to a student's certification?**

**QUESTION 17: Do you have any comments on our intention not to put in place any specific limitation on resitting assessments by examination?**

**QUESTION 18: Do you have any comments on our intention that an awarding organisation should be able to apply for exemptions from some of the requirements? Please provide any views as to when an awarding organisation might think it appropriate to apply for exemption.**

## **Impact**

- 3.38 We have proposed to require specific approaches to setting, marking and taking assessments by examination. We appreciate that requiring awarding organisations to set and mark assessments may impose additional costs, however awarding organisations with performance table qualifications are already required to do this for external assessment, so this impact may be limited for some awarding organisations. The proposed introduction of a terminal assessment rule, however, may place additional burden on awarding organisations who do not currently have this approach to assessment delivery.
- 3.39 We also recognise that the requirement that at least 40% of the total marks must be made available through assessment by examination in the form of a written test will have an impact where the external assessment is not currently in written test form, and that awarding organisations may have to change their assessment model. We understand that the majority of awarding organisations already use written tests for their external assessment so this impact may be on the minority.
- 3.40 We are also allowing awarding organisations to apply to us for an exemption from the requirement to use assessment by examination in the form of a written test where they can show that a different form of assessment is appropriate and more valid for the qualification. The extent of any costs and burdens from taking a different approach to assessment will largely depend on the awarding organisation's chosen approach.
- 3.41 We are proposing a requirement that awarding organisations make their assessments by examination available on two set dates in each academic year. There may be some additional burden on awarding organisations should they have to put in place systems to manage these arrangements. However, this must be balanced against the fact that reducing the number of dates on which assessments by examination are available can provide a stronger lever to maintain standards and also addresses some of the challenges of ensuring assessment security.
- 3.42 Overall, we believe that our proposals relating to assessment by examination are necessary: to ensure that more consistent controls are put in place than the varied set of approaches to external assessment that are currently used; to minimise risks to validity in these qualifications; and to better enable the maintenance of standards over time. They are also consistent with the policy intent of DfE's current Technical Guidance.

- 3.43 We have also considered the equalities impact of the proposals around assessment by examination, including the use of written test, having two set dates to sit the assessment and the proposed terminal assessment rule.
- 3.44 We understand that the use of alternative assessment arrangements, such as controlled assessment in place of examinations, is sometimes seen as having a more positive impact on some persons who share a protected characteristic in comparison to the use of a written test.
- 3.45 We also understand that by requiring two set dates for the assessment by examination, this will mean that in some years religious occasions may coincide with assessment dates. The potential impact on students who are, for example, celebrating a festival or observing a fast will vary – particularly where this may fall in line with the need to take a terminal assessment. Schools may be able to provide additional support to students, which would not compromise the integrity of the examinations but may, for example, enable them to observe religious practices.
- 3.46 Unfortunately, there is always a risk that some students will be disadvantaged at whatever time an examination is offered for assessment, or whatever approach to assessment is used. However, in terms of the availability – we propose for there to be two assessment dates in each academic year – students will at least be able to choose the most appropriate date to meet their needs, although we do recognise this may be limited somewhat by the proposed introduction of the terminal assessment rule.
- 3.47 In assessing the impact of our proposals, we have taken into account the risks to standards that exist with qualifications that are used in performance tables, and the level of the controls we are proposing to put in place to address these. We believe that the controls are proportionate and the potential equalities and regulatory impacts can be justified, and therefore that the benefits of our approach outweigh the identified impacts.

**QUESTION 19: To what extent do you agree or disagree with our assessment of the potential impact of our proposals?**

**QUESTION 20: Is there any additional information you think we should consider when evaluating the impact of our proposals? Please provide estimated figures if related to costs or savings.**

## Non-exam assessment

### Assessment methodology and weighting

- 3.48 Having described 'external assessment', in its current Technical Guidance DfE also refers to 'internal assessment'. To come in line with our proposed term 'assessment by examination', we propose that the remaining percentage of the total marks made available in Technical Awards (DfE's 'internal assessment') – which would be up to 60% – should be through assessment known as 'non-exam assessment'.
- 3.49 We recognise that there are a number of approaches to non-exam assessment currently in place, and in order not to prompt wide-scale changes to assessment methodologies, we do not propose to define the required methods for non-exam assessment. We do propose that we require, through the assessment strategy, that awarding organisations explain their choices around the design of non-exam assessments, in relation to the content being assessed and to the purposes of the qualification. We would expect these explanations to identify any risks to validity in the approach and how they would be managed.

### Setting and adapting non-exam assessments

- 3.50 In order to maintain an effective level of control around the non-exam assessment, we propose that an awarding organisation should set the assessment or assessments<sup>10</sup>, and in doing so should set out as a minimum: the student work required; the size (e.g. time and scope) of the assessment; the content to be covered; and the characteristics that will enable assessors to differentiate between students' levels of attainment.
- 3.51 As part of setting the assessment, we accept that there can on occasion be some merit in an awarding organisation allowing a centre to make adaptations to the contexts in the assessment, usually in order to ensure the assessment is relevant and accessible to students. We propose then to allow adaptation of contexts in Technical Award non-exam assessments.
- 3.52 However, in order to ensure continuing validity and reliability of assessment, we propose that adaptations should only be permitted which do not change the nature of what is being assessed, the level of demand of any task or question or the conditions under which the assessment should be completed (unless a Reasonable Adjustment is in place, or it is for the purpose of a Special

<sup>10</sup> In the remainder of this consultation we will refer to 'non-exam assessment' in the singular – this should be taken to mean either non-exam assessment or assessments.

Consideration). We propose that awarding organisations should use their assessment strategy to explain any adaptations they intend to permit.

- 3.53 At present we are still considering whether there would be sufficient benefit in providing any detailed guidance on centre adaptation of non-exam assessments. This is largely because the options available to awarding organisations around allowing different types of adaptation can vary based on the non-exam assessment methodology chosen. We are seeking views on whether guidance on adaptation would be appropriate and useful to provide.

### **Controlling the delivery of non-exam assessments**

- 3.54 We see the controls that awarding organisations put in place for the delivery of its assessments as being critical to qualification validity and reliability.
- 3.55 We propose that an awarding organisation should explain in its assessment strategy the controls it has in place around delivery, including setting appropriate conditions for sitting assessments and providing clear guidance to teachers about the level of support they might provide while assessment is undertaken. Awarding organisations should also be able to explain how they will check their controls are in place in centres and whether they are sufficient and/or effective.

### **Marking**

- 3.56 We propose that centres can undertake the marking of non-exam assessments, as well as or instead of awarding organisations, as we recognise the additional burden and cost that might be imposed if we were to require awarding organisations to carry out all marking.
- 3.57 Where awarding organisations choose to allow centres to mark, we think it is important that awarding organisations retain adequate control over centre-marking. We therefore propose that, through their assessment strategies, awarding organisations must explain the risks to validity related to centre-marking of non-exam assessments that they have identified and demonstrate that effective controls will be in place to mitigate the risks of centre-marking.
- 3.58 As part of mitigating the risks, and to enable awarding organisations to have adequate control of marking judgements made in centres, we also propose to introduce a requirement that non-exam assessments must be mark-based, rather than, for example, grades being based on assessors deciding whether criteria have been met. A mark-based approach should provide greater scope for any adjustments that an awarding organisation might seek to make through a moderation process.

3.59 We recognise, however, that there may be existing assessments for which it would be difficult to allocate marks without significant change. In response to this, we propose that where an awarding organisation believes it can justify an approach other than using marks in a non-exam assessment, and can describe how the consequential risks of this approach would be managed, it could apply for an exemption from this requirement. We would not expect to see such an application for newly designed qualifications where a mark-based approach could be designed in from the start. We envisage that the majority of, if not all, Technical Award non-exam assessments in years to come will be mark-based.

### **Moderation**

3.60 Under General Condition H2, awarding organisations must have in place clear and effective arrangements to undertake moderation of assessments that are marked by centres. This will continue to apply to Key Stage 4 Technical Awards.

3.61 However, it should be noted that we are currently consulting<sup>11</sup> (until 14 November 2019) on a new regulatory approach relating to the controls awarding organisations have in place to ensure an appropriate level of control over centre assessment judgements. Our view, as described in our related policy consultation on moderation and verification<sup>12</sup>, is that moderation provides a greater degree of awarding organisation control over standards and that for some qualifications – because of their purposes or the way they are delivered – we think the moderation should be necessary in order to secure standards.

3.62 We propose that – subject to confirmation of the new regulatory approach to moderation and verification – performance table qualifications will be added to the list of qualifications for which centre-assessment judgements must be subject to moderation.

### **Assessment availability**

3.63 We do not propose to restrict when students might undertake their non-exam assessment; this recognises the varying nature of assessment methods that can be used to deliver non-exam assessment and the amount of disruption changes here might also cause. We would, however, expect an awarding organisation to be able to show in its assessment strategy how it intends to manage any risks that arise from its particular choices around assessment availability.

<sup>11</sup> <https://www.gov.uk/government/consultations/awarding-organisation-controls-for-centre-assessments-regulations>

<sup>12</sup> <https://www.gov.uk/government/consultations/moderation-and-verification-of-centre-assessment-judgements>

- 3.64 To further support controls around non-exam assessment outcomes, we propose that awarding organisations should limit centres' submission of non-exam assessment outcomes to two windows in each academic year. This is because of the improvements in setting and maintaining standards, for example in relation to moderation activities and around the use of data in standard setting, that we think can be achieved when evidence is available from a larger number of students.
- 3.65 As with the setting of windows for assessments by examination, we are also still considering here whether we should set the windows for submission of non-exam assessment outcomes. Again, these windows would be likely to be at the beginning of a school's spring term (January) and towards the end of a school's summer term (May-June). Our proposed QLCs create the capacity for us to set such windows subsequent to publishing the Conditions. We want to use this consultation to seek views on this intention but would not set any specific dates for windows without further consultation.

### **Resubmission or retaking of non-exam assessments**

- 3.66 We do not intend to impose any particular resubmission or retaking requirement, as we recognise the benefits of enabling retakes or resubmissions of non-exam assessment. However, we recognise that there are risks associated with allowing retakes or resubmissions of work. We therefore propose that an awarding organisation must explain in its assessment strategy the controls it has in place to mitigate any risks that might arise from the particular assessment retake or resubmission arrangements it puts in place. We would expect the controls to particularly focus on authenticity and the feedback that is provided to students, in terms of the nature of the feedback (e.g. how directive it may be) and the frequency.

#### **Non-exam assessment**

In summary, we propose:

- that non-exam assessment set by the awarding organisation will make up the remaining marks available for a Technical Award (which would be up to 60% of the qualification, as at least 40% will be required to be by assessment by examination)
- not to define the methods that should be used for non-exam assessment, but to require awarding organisations to explain, in their assessment strategies, the design of their non-exam assessment and any adaptations they intend to permit centres to make
- that awarding organisations should set out, in their assessment strategies, their controls in relation to delivering non-exam assessments including specified conditions and requirements for centre-marking

- that centres or awarding organisations can mark non-exam assessments
- to require that non-exam assessments are mark-based, but that awarding organisations may apply for exemption from this requirement
- that Technical Awards are added to the list of qualifications required to be moderated (subject to completion of our separate moderation and verification consultation)
- not to limit the availability of any non-exam assessments each academic year in terms of when students might complete the assessments
- that awarding organisations have two windows each academic year for centres to submit outcomes from non-exam assessments, and that we may (subject to future consultation) set these windows
- not to put in place any specific requirements around resubmitting or retaking non-exam assessments, but for awarding organisations to explain in their assessment strategies the controls they have in place to manage any opportunities they provide

#### **Non-exam assessment**

**QUESTION 21: Do you have any comments on our proposal that awarding organisations must explain and justify in their assessment strategy their approach to non-exam assessment including methodology, availability, marking, delivery requirements and controls?**

**QUESTION 22: To what extent do you agree or disagree with the limits we propose to include on adaptations allowed to be made to awarding organisation-set non-exam assessments by centres? Please include in your comments your thoughts on whether guidance on adaptation would be useful for us to provide.**

**QUESTION 23: To what extent do you agree or disagree with our proposal that non-exam assessments should be mark-based? Please include in your comments your thoughts on whether awarding organisations should be allowed to apply for exemption from this requirement.**

**QUESTION 24: Do you have any comments on our intention to place performance table qualifications on the list of those qualifications that should always be subject to moderation (subject to the closure of that consultation)?**

**QUESTION 25: To what extent do you agree or disagree with our proposal that awarding organisations should put in place two windows each academic year for the submission of outcomes from non-exam assessments? Please include in your comments your thoughts on whether or not it would be appropriate for us to set the windows.**

**QUESTION 26: Do you have any comments on our proposal not to set requirements around resubmitting or retaking non-exam assessments, but to require awarding organisations to explain the controls they have in place to manage their chosen approach in their assessment strategies?**

## Impact

- 3.67 Our proposals around the design and delivery of non-exam assessments may create some regulatory burden for awarding organisations, however we believe that this impact will be minimal as we are not proposing any significant changes to the non-exam assessment approaches that may already be in place for Technical Awards.
- 3.68 The information that we propose an awarding organisation should provide to us in their assessment strategy, and the greater burden this would create, must be balanced against the increased effectiveness with which we would be able to assess the validity of these qualifications. We therefore believe that the regulatory impact of our proposals is outweighed by the benefits of them.
- 3.69 Our proposed requirement that awarding organisations put in place two windows each academic year for the submission of outcomes from non-exam assessments may have more impact on awarding organisations if it adds administrative burden for them at particular points of the academic year. However, limiting submission of outcomes should increase the efficacy of moderation as it should bring together a wider sample of assessment evidence against which the awarding organisation can set and ensure standards.
- 3.70 The proposed requirement for non-exam assessments to be mark-based may also result in some additional work for some awarding organisations including potentially some assessment redesign. However, the use of marks should positively aid the moderation process and on balance we think the benefits of our proposals outweigh the regulatory impacts.
- 3.71 Our proposal around moderation reflects General Condition H2 and the intentions of our current moderation and verification consultation. The impact of our proposals will depend on the arrangements that awarding organisations currently have in place, and there may be greater impact for awarding organisations moving to a more sessional approach to assessment and to moderation. We believe, however, that such burden can be justified when taking into account the pressures and subsequent risks to standards that Technical Awards bear through their use in performance tables.

**QUESTION 27: To what extent do you agree or disagree with our assessment of the potential impact of our proposals?**

**QUESTION 28: Is there any additional information you think we should consider when evaluating the impact of our proposals? Please provide estimated figures if related to costs or savings.**

## Setting the specified levels of attainment

### Grading

- 3.72 The current DfE Technical Guidance requires an approach to grading that follows a minimum structure of pass, merit and distinction (as well as ungraded). While some awarding organisations' qualifications use this exact structure, there are many Technical Awards which use different terminology and/or which have more grades which is particularly the case where an awarding organisation offers a Technical Award over both levels 1 and 2.
- 3.73 We considered whether to impose the use of a common grading scale to rationalise the current situation and help increase the understanding of Technical Awards. However, while we think the current variety is not particularly helpful, we currently have no evidence that any one grading scale may be more appropriate than any other for these qualifications. We think that to require any particular single approach could prompt unnecessary change, uncertainty regarding the continuity of standards over time and would not provide any greater assurance over comparability of standards. As a result of this, we do not currently intend to impose a common grading scale for Technical Awards.
- 3.74 However, we think it would be sensible not to further complicate what already exists in terms of grading Technical Awards, which is set out in DfE's Secondary Accountability Measures guidance<sup>13</sup>. To guide this, we propose that a Technical Award should have no fewer than three grades (such as pass, merit, distinction) and no more than four grades for a qualification at either level 1 or level 2, or no more than seven grades for a qualification that spans both levels 1 and 2 (such as level 1 pass, merit, distinction, level 2 pass, merit, distinction, distinction\*). An unclassified or ungraded outcome should also be provided.

<sup>13</sup> <https://www.gov.uk/government/publications/progress-8-school-performance-measure> (pp39-40)

3.75 We propose that an awarding organisation should justify its choice of grading scale in its assessment strategy, and should explain how their grading scale enables sufficient differentiation between students.

3.76 We do think, however, that there is a benefit in further investigating the suitability of adopting a common approach between all Technical Awards. There is no set timescale for this, and we are using this consultation to seek initial feedback on our intention to look further into this matter.

### Grading

In summary, we propose:

- that Technical Awards have no less than three grades, and for a level 1 or level 2 Technical Award no more than four grades or no more than seven grades for a Technical Award across levels 1 and 2, and that also an unclassified or ungraded outcome should also be provided
- to review, in future, the potential for a common grading scale for Technical Awards

### Grading

**QUESTION 29: To what extent do you agree or disagree with our proposal that Technical Awards: all have a minimum of three grades; for level 1 or 2 a maximum of four grades and for a Technical Award across level 1 and 2 a maximum of seven grades; and an unclassified or ungraded outcome?**

**QUESTION 30: Do you have any comments on the potential for us to require a common grading scale for Technical Awards in the future, including any benefits or risks you think such an approach might bring?**

### Generating outcomes for individual assessments

3.77 There are no requirements in the current Technical Guidance that relate to how students' marks are combined within an individual assessment. We have considered whether it would be appropriate in Technical Awards to require the use of a compensatory approach, both for assessment by examination and for non-exam assessment. This approach is particularly suited to assessments where the outcomes are intended to reflect a student's overall knowledge and understanding of the content that has been studied for that component. Performance can then appropriately be assessed in a compensatory manner with strengths and weaknesses permitted to balance each other out.

- 3.78 We recognise, however, that there may be specific elements within current Technical Awards that focus on the development of technical skills, and that where such skills are assessed, criterion (normally non-compensatory) based approaches may be more suitable.
- 3.79 However, as Technical Awards are not intended to testify as to overall occupational proficiency we would not expect the qualifications to have the development of skills for proficiency as a specific purpose. Indeed this is reflected in the general purposes we set out, which focus more on the attainment of a broad range of knowledge, skills and understanding which should support progression to further study.
- 3.80 This has led us to propose that as a starting point, all assessments should use a compensatory approach to combining students' marks within an individual assessment. However, we also propose that an awarding organisation will be able to apply for an exemption to this, through their assessment strategy, where they are able to demonstrate that not taking a compensatory approach for any particular assessment within their qualification would be a more valid approach.

### **Aggregating outcomes across assessments**

- 3.81 There currently appears to be a variety of ways in which awarding organisations aggregate outcomes from across assessments in order to calculate a final grade for a qualification. Recognising this, and with wanting to avoid driving unnecessary change, we do not propose to require any particular approach to aggregation.
- 3.82 Some awarding organisations currently prescribe that a student must pass all assessments to achieve their Technical Award, while some prescribe that a student has to pass just their external assessment. Both of these appear to be interpretations of DfE's current Technical Guidance rather than any explicit requirement that DfE has set out, and so it is clear that not all awarding organisations have interpreted the guidance in the same way.
- 3.83 We have considered whether or not we should set rules that require a student to pass either the assessment by examination or all assessments, but we have taken the decision not to propose any particular requirement here. We think that because there are currently differences in the use, or not, of 'must-pass' requirements, that if we were to take a stance on this – to require their use or to rule them out – we would not be able to fully predict the impact across qualification outcomes, and this is undesirable.

- 3.84 We encourage awarding organisations, however, to consider the general purposes of Technical Awards. We think that the use of ‘must-pass’ hurdles is generally unsuited to these qualifications – Technical Awards should be designed to enable students to develop broad knowledge, skills and understanding of a sector or occupational group, rather than occupational proficiency. As a result, while we don’t propose a specific requirement, we would not expect to see the inclusion of must-pass requirements in any newly designed Technical Awards.
- 3.85 We do, however, propose that an awarding organisation should justify, in their assessment strategies, the approach to aggregation that they choose and to demonstrate how their approach enables them to maintain standards.
- 3.86 We know that currently for certain qualifications, when aggregating together students’ outcomes from across their assessment opportunities, awarding organisations publish information, for example about where and how they intend to set their specified levels of attainment such as grade boundaries or the approach for calculating grades, as a way of supporting centres if they want to make predictions about student performance. In some cases this is to support the approach where raw marks are converted to a common scale to ensure fairness for students sitting different versions of the same assessment. In other cases we know that this may be in the form of providing boundary marks or percentages, or grading matrices.
- 3.87 We have seen how providing information about setting specified levels of attainment, in particular providing set grade boundaries in advance of assessments being taken, may mislead centres and lead them to make pre-emptive judgements around the completion of assessments. As a result, we propose that an awarding organisation should not publish details of how it plans to set specified levels of attainment in advance of individual assessments being marked.

#### **Generating outcomes for individual assessments and aggregation**

In summary, we propose:

- that awarding organisations should use a compensatory approach to combining students’ marks within each individual assessment in their qualification, but that they may apply for exemption from this
- not to require any particular approach to aggregation of assessment outcomes for calculating the final qualification grade, and not to set a particular rule relating to ‘must-pass’ requirements
- that awarding organisations should explain and justify their chosen approach to aggregation in their assessment strategies

- that awarding organisations should not publish details around setting specified levels of attainment in advance of assessments being marked

### **Generating outcomes for individual assessments and aggregation**

**QUESTION 31: To what extent do you agree or disagree with our proposal to require a compensatory approach to generating individual assessment scores for individual assessments? Please include in your comments your thoughts on whether awarding organisations should be allowed to apply for exemption from this requirement.**

**QUESTION 32: To what extent do you agree or disagree with our intention not to require a specific approach to aggregation of outcomes across assessment opportunities to calculate the final grade?**

**QUESTION 33: To what extent do you agree or disagree with our proposal not to prescribe any must-pass requirements?**

**QUESTION 34: To what extent do you agree or disagree with our proposal that awarding organisations should not publish details around setting specified levels of attainment in advance of assessments being marked?**

### **Impact**

3.88 The approach we propose to grading Technical Awards reflects the current requirements as set out by DfE. This should mean that there is no additional burden created by what we propose.

3.89 There is currently little in DfE's existing Technical Guidance on the approach to marking of assessments. Our proposal to require compensatory marking within individual assessments may create some burden for awarding organisations in that they will need to ensure that their assessments are designed in such a way that this requirement is met, or will need to be able to justify why they should not meet this requirement. However, we think the consequential benefit for students of requiring a compensatory approach within assessments in general justifies this additional burden.

**QUESTION 35: To what extent do you agree or disagree with our assessment of the potential impact of our proposals?**

**QUESTION 36: Is there any additional information you think we should consider when evaluating the impact of our proposals? Please provide estimated figures if related to costs or savings.**

## Setting standards

- 3.90 Setting and maintaining standards in a qualification is a critical responsibility for an awarding organisation, especially where that qualification is subject to additional pressures from its use in performance tables. Any approach to setting standards is impacted by an awarding organisation's choice of assessment design, and factors such as cohort size, and so design choices should be influenced by the need to ensure standards.
- 3.91 With Technical Awards, there are limited common design characteristics between the qualifications, which means it would be inappropriate to mandate a single technical approach to setting and maintaining standards. We do not intend to impose any particular approach.
- 3.92 There are, however, fundamental elements in standard setting that could be applied and so we propose that we require awarding organisations to ensure their approach to the setting and maintenance of standards promotes consistent standards within each qualification over time and supports, where possible, comparability between qualifications in similar subject areas.
- 3.93 To do this, we expect that awarding organisations should take into account an appropriate range of evidence – both qualitative and quantitative, as set out in the draft QLCs – and we would expect them to be able to explain the rationale for their approach, including the evidence and the methods to be used. We propose that this is done through the awarding organisation's assessment strategy.
- 3.94 We note here that we already have a programme of work underway looking into the use of additional evidence in awarding and its role in improved standard setting and maintenance. This programme is looking at a wider range of detail that might be used, such as prior attainment data. If the work provides a strong indication of the suitability of using different forms of evidence, we may put in place further, more detailed requirements over time.

### Optionality

- 3.95 A specific challenge in setting and maintaining standards presents itself where a qualification offers optional routes, where students can choose from several

study options (usually alongside mandatory components) within the qualification.

3.96 We recognise that such optionality can be important in some qualifications, for example, in reflecting a range of user needs and resources. It does, however, pose a challenge in terms of comparability within the qualification itself. We propose that an awarding organisation should, in its assessment strategy, explain its rationale for offering optional routes of study and how it intends to set and maintain standards between the routes, especially if there are different methodologies on offer in different assessments.

### Setting standards

In summary, we propose:

- that we do not impose a single technical approach to setting and maintaining standards, but require that awarding organisations should ensure their approach promotes consistent standards within qualifications over time, and where possible, supports comparability between qualifications in similar subject areas
- that when setting and maintaining standards, awarding organisations should take into account an appropriate range of evidence, and that we may look in the future to put in place further, more detailed, requirements around the use of evidence in awarding
- that awarding organisations should explain their rationale for their approach to the setting and maintenance of standards in their assessment strategies
- that where awarding organisations allow optional routes of study in their qualifications, they explain in their assessment strategies their rationale for this and how they will set and maintain standards between the routes

### Setting standards

**QUESTION 37: To what extent do you agree or disagree with our proposed approach for setting standards?**

### Impact

3.97 We have not proposed any single approach to setting and maintaining standards, however we do set out our expectations around the evidence that should be used by awarding organisations. We do not believe that our proposals should lead to any significant changes in approach to standard setting by any awarding organisation. However we recognise there may be burden for awarding organisations in ensuring their standard setting is designed to meet our rules in particular around promoting consistency of

standards: between routes within qualifications; within qualifications over time; and, where possible, between qualifications in similar subject areas. This last aspect may be particularly burdensome where this has not previously been considered between relevant awarding organisations.

3.98 Overall, we think that these proposals are necessary, not least in order to ensure clarity and coherence around what is expected, but also to ensure consistency of standards as much as possible, and so the consequential benefits justify any additional burden.

**QUESTION 38: To what extent do you agree or disagree with our assessment of the potential impact of our proposals?**

**QUESTION 39: Is there any additional information you think we should consider when evaluating the impact of our proposals? Please provide estimated figures if related to costs or savings.**

## Other requirements for qualifications approved for performance table lists

### Data collection

- 3.99 In order for us to monitor the delivery and outcomes of performance table qualifications over time, and where possible between the qualifications as well, we propose that we put in place Conditions that require awarding organisations to comply with any notice we issue in relation to the provision of data relating to their performance table qualifications.
- 3.100 We propose that the range of information that we may require might include details of the students and the centre where the assessment is taken, as well as details of other qualifications that are being taken by students taking performance table qualifications, levels of attainment for individual students, data on moderation and reviews of marking and information about the use of reasonable adjustments and special considerations. Other aspects that we may require to be provided include details on the performance of individual assessments including any errors, the monitoring of assessor marking and the evidence used in setting specified levels of attainment.

**QUESTION 40: To what extent do you agree or disagree that we propose to put in place Conditions that require awarding organisations to comply with any notice we issue in relation to the provision of data about performance table qualifications?**

### Event notifications

- 3.101 An awarding organisation must promptly notify us when it has reason to believe that something has happened or is likely to happen, which might have an adverse impact – this could be anything from a breach in confidentiality of assessment materials to an allegation of malpractice at a centre. When an awarding organisation contacts us about such issues, it is known as an ‘event notification’.
- 3.102 Reflecting our intention to strengthen our regulation of performance table qualifications, it is important that we are able to identify through our data systems when an awarding organisation makes an event notification about a qualification in a performance table. However, we do not intend to introduce a regulatory type that identifies performance table qualifications, because this is not a list of qualifications that we decide; DfE makes the decisions as to which qualifications are on or off a list at any point in time.

3.103 This means that we propose to introduce a requirement that an awarding organisation must make it clear to us when an event notification relates to a Technical Award.

**QUESTION 41: Do you have any comments about our proposal to require awarding organisations to specify clearly within an event notification that the event relates to a Technical Award?**

### **Withdrawal of qualifications from the Performance Table Qualification Qualification Level Conditions**

3.104 We propose to introduce a Condition that requires an awarding organisation to tell us when one of their qualifications is proposed to be removed from a performance table list and to explain the circumstances for this and to request that the QLCs no longer apply.

3.105 We also propose that we introduce specific requirements relating to the withdrawal of a Technical Award from the Performance Table Qualification QLCs, including that we will determine the date from when the rules will be disapplied. This will ensure clarity for all with an interest in performance table qualifications, as we will be able to ensure that the rules continue to apply and to protect students for as long as there are some taking the qualifications as Technical Awards.

**QUESTION 42: Do you have any comments on our proposed approach to managing the withdrawal of qualifications from the Performance Table Qualification QLCs, requirements and guidance?**

### **Impact of the other proposed requirements**

3.106 Our proposals on both data collection and event notifications may require additional information from awarding organisations above current demands. There may be some burden on some awarding organisations if these proposals are adopted.

3.107 As it is our intention that data collection would allow us to monitor, for example, the levels of attainment for qualifications, and enable improved maintenance of standards over time, there is a benefit to taking such an approach and we believe that any regulatory impact is outweighed by this. Similarly, the requirement around event notifications will help us to better track

issues and analyse risks around Technical Awards, with very minimal additional burden to awarding organisations.

3.108 Our proposals around withdrawal are designed to ensure clarity as to when our rules apply, and also enable us to ensure that students are protected where qualifications are being withdrawn from performance table use.

3.109 Given that we think our proposals are only like to create minimal additional burden, we believe that the clear benefits outweigh the regulatory impact.

**QUESTION 43: To what extent do you agree or disagree with our assessment of the potential impact of our proposals?**

**QUESTION 44: Is there any additional information you think we should consider when evaluating the impact of our proposals? Please provide estimated figures if related to costs or savings.**

## Potential additional requirements for qualifications approved for performance table lists

3.110 There are two aspects of our proposals that we are still considering. We are describing them here in order to gather opinion on whether or how they might be introduced into our rules for Technical Awards.

3.111 We are interested to understand the value and any impacts, from the viewpoints of awarding organisations and users of Technical Awards, of introducing requirements around reviews of marking, moderation and appeals and for the branding of Technical Awards.

### **Reviews of Marking, Moderation and Appeals**

3.112 Our General Conditions of Recognition (Condition I1) require that awarding organisations have an appeals process that provides for: the appeal of the results of assessment; decisions regarding reasonable adjustments and special consideration; and decisions relating to any action to be taken against a student or a school/college following an investigation into malpractice or maladministration.

3.113 We are currently considering whether it would be appropriate to disapply Condition I1, and to put in place more detailed provisions for the review of marking, moderation and appeals for Technical Awards. These provisions would be based on the current requirements that apply to GCSEs, amended as appropriate to reflect the specific features of Technical Awards.

3.114 This consideration is based on the use of these qualifications. They bear the pressure of being taken by the same cohort of students as GCSEs and used in performance tables alongside GCSEs; we know they can be high stakes for some individual students. The rules for reviews of marking, moderation and appeals are familiar to schools, and have been informed by extensive research and consultation. We think that it is important that we can have in a place for Technical Awards a review and appeal system that functions effectively and consistently across the different qualifications.

3.115 This proposal is still under consideration, however, and we are using this consultation to seek views on our intentions. We are still considering the impact of introducing such a requirement on both awarding organisations and schools and would welcome views on benefits and costs of implementing such an approach. If we decide to propose to require awarding organisations to have a specific process for reviews of marking, moderation and appeals that is in line with the requirements for GCSEs, we will conduct a further consultation.

**QUESTION 45: Do you have any comments on our considerations around introducing requirements in line with those we have in place for the reviews of marking moderation and appeals in GCSEs?**

## **Branding**

3.116 We recognise that the current landscape of qualifications can appear quite complex, and that it is helpful to users of qualifications if there is a signal to denote the status and/or role of a particular qualification where it has certain identifying features.

3.117 We are considering whether it would be appropriate to introduce rules that enable or require awarding organisations to brand any qualification that is in a performance table list so that it is clearly understood to be a Technical Award. This could be in the form of requiring the use of the term 'Technical Award' on certificates or in marketing materials. We recognise that there are potential benefits and drawbacks to putting in place specific requirements around branding, and are seeking views as to the value of such a proposal.

**QUESTION 46: Do you have any comments on our considerations on introducing requirements around the marketing or branding of Technical Awards?**

## 4 Proposals: Assurance of awarding organisation design choices

### Assessment strategies

- 4.1 As we explained in section 2, we propose to require awarding organisations to develop an assessment strategy for each qualification they want to put forward for review. It is our view that assessment strategies play an important role in helping us to understand an awarding organisation's qualification and assessment design decisions. Awarding organisations can use their assessment strategies to demonstrate to us the validity of their qualifications and the coherence of their decisions with the purpose of Technical Awards.
- 4.2 We have set out throughout this consultation some aspects that we expect to be included in an assessment strategy, but we would expect assessment strategies to provide a comprehensive picture of an awarding organisation's approach to the design, delivery and awarding of their qualifications.
- 4.3 It is our intention that for Technical Awards, awarding organisations should use their assessment strategies to present explanations, justifications and supporting evidence for the decisions they have taken, and to identify the risks and impacts of those decisions. Evidence may take the form of relevant research and examples from live or sample assessment materials, including test items, tasks and mark schemes.
- 4.4 We propose to set rules that require awarding organisations to:
- establish and maintain an assessment strategy for each Technical Award they offer
  - ensure their assessment strategy sets out how they will comply, on an ongoing basis, with all of the requirements that apply
  - design, set, deliver and mark all assessments for their Technical Award in line with their assessment strategy
  - keep their assessment strategies under review, and notify us of any changes to them
  - review their assessment strategy when we ask them to, and make any changes we request

- if we ask them to, show how they have complied with their assessment strategy (or explain why not) and follow any instructions we give them about complying with their assessment strategy.

4.5 We propose that the assessment strategy should cover the following detail:

- qualification purposes
- content domain
- assessment design
- assessment delivery
- marking and standardisation
- attainment and reporting
- standard setting and maintenance
- qualification monitoring

4.6 The full detail of the assessment strategy requirements are set out in the draft QLCs, requirements and guidance that are published alongside this consultation.

**QUESTION 47: To what extent do you agree or disagree with our proposal to require awarding organisations to develop an assessment strategy for each qualification they submit to be considered for inclusion as Technical Awards in performance tables?**

**QUESTION 48: Do you have any comments on the areas of detail we propose should be included in each assessment strategy?**

## **Impact**

4.7 Our proposal to require awarding organisations to develop an assessment strategy for each qualification they wish to submit for consideration for performance tables is intended to give us confidence that qualifications are fit for purpose.

4.8 We believe that whether or not we were to require an awarding organisation to produce an assessment strategy, they will as a matter of course need to consider and address all of the issues that relate to the design, development

and delivery of these qualifications. We recognise that there will be some burden in requiring development and submission of assessment strategies. However we consider that the burden will be limited to the degree that awarding organisations are only being asked to articulate in writing matters that they should have already considered in the development and design of their qualifications.

- 4.9 When we considered a similar requirement in the reform of Functional Skills qualifications in maths and English<sup>14</sup> and asked the views of awarding organisations, they made it clear that there was a financial and administrative burden in developing assessment strategies, including staff time for the development of documentation, consultation with stakeholders (both internal and external) and the use of external consultants to assist in development.
- 4.10 While we recognised that awarding organisations estimated a wide range of costs from several to many thousands of pounds for assessment strategy development, we came to the conclusion that the burden was necessary. This was because the information set out in assessment strategies would play a vital role in helping us to determine whether the intended qualification design was likely to produce qualifications that were robust and fit for purpose, and which met our rules.
- 4.11 We think we are in a similar position here. As with Functional Skills qualifications, we recognise that the potential costs and other burdens will be impacted by aspects such as the previous experience of the awarding organisation and also how they interpret our requirements – and so we would like to understand views on the impact of developing assessment strategies specifically for Technical Awards.

**QUESTION 49: To what extent do you agree or disagree with our assessment of the potential impact of our proposals?**

**QUESTION 50: Is there any additional information you think we should consider when evaluating the impact of our proposals? Please provide estimated figures if related to costs or savings.**

<sup>14</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/720046/regulatory-impact-assessment-reforming-functional-skills-qualifications-in-english-and-mathematics.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/720046/regulatory-impact-assessment-reforming-functional-skills-qualifications-in-english-and-mathematics.pdf)

## 5 Draft Qualification Level Conditions, requirements and guidance

- 5.1 This section of our consultation relates to our proposed rules in the form of QLCs, requirements and guidance for Technical Awards.
- 5.2 These are provided on our website alongside this consultation, and should be read in conjunction with this document.

**QUESTION 51: Do you have any comments on our proposed Performance Table Qualification QLCs requirements and guidance for Technical Awards?**

## 6 Regulatory Impact Assessment

- 6.1 We acknowledge that a number of our proposals will necessitate changes in current approaches to the design, delivery and award of Technical Awards. We also acknowledge that those changes will have a cost and resource impact on awarding organisations. We do not have sufficient information at this time as to what the costs may be to awarding organisations if some or all of the proposals are implemented. We will use responses from this consultation to inform the decisions we subsequently take. To aid those decisions we will also engage with awarding organisations throughout the consultation period.
- 6.2 Throughout this consultation, we have indicated where we believe our proposals have notable impact, cost or resource implications for awarding organisations. We have set out alongside our proposals the impact we expect them to have and we do not repeat in detail in this section those impacts which we have already identified. Here, we ask that you consider any additional regulatory impacts that you have identified, which have not already been addressed elsewhere in the consultation.

**QUESTION 52: Are there any regulatory impacts that we have not identified arising from our proposals? If yes what are they and are there any additional steps we could take to minimise the regulatory impact of our proposals?**

**QUESTION 53: Is there any additional information associated with our proposals which we have not identified? Please provide estimated figures if related to costs or savings.**

- 6.3 We have a duty under the Apprenticeships, Skills, Children and Learning Act 2009 to have regard to the desirability of facilitating innovation relating to the provision of regulated qualifications. We have committed in our Corporate Plan to surveying awarding organisations' views of the impact of our regulatory requirements on innovation and to consider any revisions required in response.
- 6.4 We believe the regulatory approach we are proposing for Technical Awards will allow awarding organisations to take innovative approaches to the design and delivery of these qualifications. We would, however, welcome views on whether there is anything in our proposals that would prevent innovation by awarding organisations wanting to offer Technical Awards.

**QUESTION 54: Do you have any comments on the impact of our proposals on innovation by awarding organisations?**

## 7 Equality Impact Assessment

- 7.1 Ofqual is a public body, so the public sector equality duty in the Equality Act 2010 applies to us. We explain in Annex B how this duty interacts with our statutory objectives and other duties.
- 7.2 We have considered how our proposals might affect people who share a protected characteristic<sup>15</sup> and we have already asked questions the likely impacts on students who share a protected characteristic from some of our requirements for assessment by examination (questions 19 and 20).
- 7.3 We have not identified any additional equalities impacts to the ones set out above. We have also not identified any impact on persons who share the protected characteristics of age, disability, gender reassignment, marriage and civil partnerships, race, sex or sexual orientation.
- 7.4 Here, we ask that you consider any additional equality impacts that you have identified, which have not already been addressed elsewhere in the consultation.

**QUESTION 55: Are there any potential impacts (positive or negative) on students who share protected characteristics that we have not identified?**

**QUESTION 56: Are there any additional steps we could take to mitigate any negative impact, resulting from our proposals, on students who share a protected characteristic?**

**QUESTION 57: Do you have any other comments on the impacts of our proposals on students who share a protected characteristic?**

<sup>15</sup> 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.

## Annex A - Your data

### The identity of the data controller and contact details of our Data Protection Officer

This Privacy Notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual). We are a 'controller' for the purposes of the General Data Protection Regulation (EU) 2016/679 and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this Privacy Notice carefully as it contains important information about our processing of consultation responses and your rights.

### How to contact us

If you have any questions about this Privacy Notice, how we handle your personal data, or want to exercise any of your rights, please contact:

Data Protection Officer at [dprequests@ofqual.gov.uk](mailto:dprequests@ofqual.gov.uk) or write to us at:  
Data Protection Officer, Ofqual, Earlsdon Park, 53-55 Butts Road, Coventry, CV1 3BH.

As part of this consultation process you are not required to provide your name or any personal information that will identify you, however we are aware that some respondents may be happy to be contacted by Ofqual in relation to their response. If you or your organisation are happy to be contacted with regard to this consultation, please give your consent by providing your name and contact details in your response.

### Our legal basis for processing your personal data

For this consultation, we are relying upon your consent for processing personal data. You may withdraw your consent at any time by contacting us using the details above.

### How we will use your response

We will use your response to help us shape our policies and regulatory activity. If you provide your personal details, we may contact you in relation to your response.

### Sharing your response

We may share your response, in full, with DfE where the consultation is part of work involving it. We may need to share responses with it to ensure that our approach aligns with the wider process. If we share a response, we will not include any personal data (if you have provided any). Where we have received a response to the consultation from an organisation, we will provide DfE with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Following the end of the consultation, we will publish a summary of responses and may publish copies of responses on our website, [www.gov.uk/ofqual](http://www.gov.uk/ofqual). We will not include personal details.

We will also publish an annex to the consultation summary listing all organisations that responded. We will not include personal names or other contact details.

Please note that information in response to this consultation may be subject to release to the public or other parties in accordance with access to information law, primarily the Freedom of Information Act 2000 (FOIA). We have obligations to disclose information to particular recipients or including member of the public in certain circumstances. Your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance requests for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response, but we cannot guarantee that confidentiality can be maintained in all circumstances.

Members of the public are entitled to ask for information we hold under the Freedom of Information Act 2000. On such occasions, we will usually anonymise responses, or ask for consent from those who have responded, but please be aware that we cannot guarantee confidentiality.

If you choose 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make your personal name and private contact details publicly available.

## How long will we keep your personal data

For this consultation, Ofqual will keep your personal data (if provided) for a period of 2 years after the close of the consultation.

## Your data

Your personal data:

- will not be sent outside of the European Economic Area
- will not be used for any automated decision making
- will be kept secure

We implement appropriate technical and organisational measures in order to protect your personal data against accidental or unlawful destruction, accidental loss or alteration, unauthorised disclosure or access and any other unlawful forms of processing.

## Your rights, e.g. access, rectification, erasure

As a data subject, you have the legal right to:

- access personal data relating to you
- have all or some of your data deleted or corrected
- prevent your personal data being processed in some circumstances
- ask us to stop using your data, but keep it on record

If you would like to exercise your rights, please contact us using the details set out above.

We will respond to any rights that you exercise within a month of receiving your request, unless the request is particularly complex, in which case we will respond within three months.

Please note that exceptions apply to some of these rights which we will apply in accordance with the law.

You also have the right to lodge a complaint with the Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at [ico.org.uk](http://ico.org.uk), or telephone 0303 123 1113. ICO, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

If there is any part of your response that you wish to remain confidential, please indicate so in your response.

# Annex B – Ofqual’s objectives and duties

## The Apprenticeship, Skills, Children and Learning Act 2009

We have five statutory objectives, which are set out in the Apprenticeship, Skills, Children and Learning Act 2009<sup>16</sup>.

1. **The qualification standards objective**, which is to secure that the qualifications we regulate:
  - a. give a reliable indication of knowledge, skills and understanding; and
  - b. indicate:
    - i. a consistent level of attainment (including over time) between comparable regulated qualifications; and
    - ii. a consistent level of attainment (but not over time) between qualifications we regulate and comparable qualifications (including those awarded outside of the UK) that we do not regulate.
2. **The assessment standards objective**, which is to promote the development and implementation of regulated assessment arrangements which
  - a. give a reliable indication of achievement, and
  - b. indicate a consistent level of attainment (including over time) between comparable assessments.
3. **The public confidence objective**, which is to promote public confidence in regulated qualifications and regulated assessment arrangements.
4. **The awareness objective**, which is to promote awareness and understanding of
  - a. the range of regulated qualifications available,
  - b. the benefits of regulated qualifications to students, employers and institutions within the higher education sector, and
  - c. the benefits of recognition to bodies awarding or authenticating qualifications.
5. **The efficiency objective**, which is to secure that regulated qualifications are provided efficiently, and that any relevant sums payable to a body awarding or authenticating a qualification represent value for money.

<sup>16</sup> <http://www.legislation.gov.uk/ukpga/2009/22/section/128>

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.

## The Equality Act 2010

As a public body, we are subject to the public sector equality duty<sup>17</sup>. This duty requires us to have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The awarding organisations that design, deliver and award performance table qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications.

We are subject to a number of duties and we must aim to achieve a number of objectives.

These different duties and objectives can, sometimes conflict with each other. For example, if we regulate to secure that a qualification gives a reliable indication of a 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 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

<sup>17</sup> <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

all the available evidence and actively consider all the available options before coming to a final, justifiable decision.

Qualifications cannot mitigate inequalities or unfairness in the education system or in society more widely that might affect, for example, 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 assessment, our influence is limited to the qualification design and assessment.

We require awarding bodies to design qualifications that give a reliable indication of the knowledge, skills and understanding of the students that take them. We also require awarding organisations to avoid, where possible, features of a qualification that could, without justification, make a qualification more difficult for a student to achieve because they have a particular protected characteristic. We require awarding organisations to monitor whether any features of their qualifications have this effect.

In setting the overall framework within which awarding organisations will design, assess and award performance table qualifications, we want to understand the possible impacts of the proposals on students who share a protected characteristic.

The protected characteristics under the Equality Act 2010 are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

With respect to the public sector equality duty under section 149 of the Equality Act, we are not required to have due regard to impacts on those who are married or in a civil partnership.



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