

CONSULTATION DECISIONS

Regulating Performance Table Qualifications

Decisions 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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1 Introduction

- 1.1.1 Between 21 October and 2 December, we consulted on our proposed approach to regulating the Technical Award qualifications that will be listed in the Department for Education’s (DfE) Key Stage 4 performance tables from the 2023 tables and onwards. The proposals were intended to enhance the validity of qualifications and to better align our regulation with the Department for Education’s (DfE) requirements for these qualifications. The consultation explained the rules we proposed to put in place, covering aspects including the design, delivery and awarding of Technical Awards.
- 1.1.2 This document sets out the decisions we have taken following that consultation. Our Performance Table Qualification Qualification Level Conditions (QLCs) and our Performance Table Qualification Qualification Level Guidance are now available on our website¹. A copy of the consultation and our analysis of consultation responses is also available on our website².
- 1.1.3 The Technical Awards that will be subject to our QLCs, requirements and guidance will first be delivered from September 2021. These qualifications will have undergone a review process led by DfE, which will run in spring/summer 2020. As part of this process, we will review assessment strategies submitted by awarding organisations and provide advice to DfE on our confidence around compliance with our QLCs and General Conditions of Recognition when these qualifications are in delivery.

2 Summary of decisions

2.1 Technical Awards from September 2021

- 2.1.1 The table below provides an overview of the key features of Technical Awards once our rules are put in place.

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| Description As per DfE’s Technical Guidance ³ , Technical Awards are intended to equip 14 to 16-year olds with applied knowledge and to focus on a sector or occupational group to enable the development of knowledge and associated practical skills where appropriate, but not intended to focus on a specific occupation |
| Qualification Purpose Technical Awards should be designed to provide: Users of the qualification with reliable evidence of Learners’ attainment in relation to the knowledge, skills and understanding |

¹ <https://www.gov.uk/guidance/ofqual-handbook-performance-table-qualifications>

² <https://www.gov.uk/government/consultations/regulating-performance-table-qualifications>

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

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| <p>assessed as part of the qualification (General Purpose A),</p> <p>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),</p> <p>a basis for schools and colleges to be held accountable for the performance of their Learners (General Purpose C), and</p> <p>a course of learning with which Learners can suitably engage (General Purpose D)</p> <p>Awarding organisations will set out specific purposes of their qualifications in line with the general purposes</p> <p>Additionally, awarding organisations should design their Technical Awards to promote achievement of holistic understanding. Assessment in Technical Awards should provide opportunities to assess how far across the qualification content students have developed an understanding</p> |
| <p>Level Awarded at either level 1 or 2, or across levels 1 and 2</p> <p>Size At least 120 guided learning hours. Awarding organisations will also assign Total Qualification Time to their qualifications</p> <p>Content The content for Technical Award subjects will not be defined. Awarding organisations will explain their content choice in terms of level of demand, size and how it relates to their qualification’s specific purposes and approaches to assessment</p> <p>Grading Use at least a 3-point scale and no more than a 4-point scale for a qualification at either level 1 or level 2, and no more than an 8-point scale for a qualification across levels 1 and 2. An ‘unclassified’ or ungraded outcome is available in addition to the grading scale <i>[This is a change from our consultation which proposed no more than a 7-point scale for a qualification across levels 1 and 2]</i></p> |
| <p>Assessment Of the total marks available for a Technical Award, at least 40% of those marks will be made available through ‘assessment by examination’. The remaining assessment will be described as ‘non-exam assessment’ <i>[This is a change from our proposal, which was that the assessment by examination should be in the form of a written test. We also proposed to enable applications for exemption from this</i></p> |

proposal – to not use written tests and/or to reduce the contribution of the assessment by examination. We have removed the requirement from written test which means no exemption is required, have decided to not allow applications for exemption on weighting]

Assessment by Examination

- Set by the awarding organisation
- Marked numerically by the awarding organisation *[This expands on the rule proposed originally]*
- Taken simultaneously by relevant students on up to two assessment series on set dates each academic year. These dates will be set by each awarding organisation, and Ofqual will not set any parameters for these (awarding organisations can apply for exemption from this depending on the methodology chosen for the assessment) *[This is a change from our consultation which proposed that two dates, rather than up to two dates, should be set]*
- Assessment by examination through which at least 40% of the total marks for the qualification are available must be taken in the final assessment series (the assessment series in which certification for a student is requested). The result achieved in the assessment by examination in that series must be used towards the overall grade
- No limit on the number of resits that can be taken (recognising that due to the measures above there is an effective limit)
- Compensatory approach to be taken for deriving the outcome for each individual assessment

Non-exam Assessment

- Set by the awarding organisation, but centres can make limited adaptations to the assessment
- Delivered under controls set by the awarding organisation to safeguard authenticity and manage appropriate levels of support provided by teachers
- Marked numerically by the awarding organisation or the centre (awarding organisations can apply for exemption from numerical marking)
- Centre-marked outcomes will be subject to awarding organisation moderation
- No restriction on when the assessment can be undertaken
- Awarding organisations will set up to two deadlines each academic year for centres to submit their assessment outcomes. These dates will be set by each awarding organisation, and Ofqual will not set any parameters for these *[This is a change from our consultation which proposed two windows should be set]*
- No limit on retakes or resubmissions
- Compensatory approach to be taken for deriving the outcome for

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| <p>each individual assessment (awarding organisations can apply for exemption from using compensation only if they have also applied for an exemption from using numerical mark-based assessments)</p> |
| <p>Awarding</p> <ul style="list-style-type: none"> • Awarding organisations may take the most appropriate approach to aggregation and awarding for their qualification (ie there are no rules requiring compensation between assessments or the use of must pass hurdles) • Awarding organisations may publish information, in advance of assessments being taken, regarding how they intend to set the specified levels of attainment but should make clear that any grading algorithms and overall grade thresholds provided may be subject to change [<i>This is a change from our consultation, which proposed that no details should be published</i>] <p>Standard setting</p> <ul style="list-style-type: none"> • Awarding organisations do not have to take any specified approach to standard setting, but should ensure their approach promotes consistency of standards over time, and with other qualifications in similar subject areas. In setting the specified levels of attainment, awarding organisations must have regard to an appropriate range of evidence |
| <p>Other detail</p> <ul style="list-style-type: none"> • Awarding organisations will be required to make clear when they make ‘event notifications’ to us about Technical Awards • Withdrawal of a qualification from performance table lists will require withdrawal from these rules, which will be managed through specific requirements • <i>In a change from our consultation proposals, we will not put in place a specific rule around data collection for Technical Awards</i> • We will disapply several General Conditions of Recognition in order to prevent potential duplication or conflict with the QLCs. These are: <ul style="list-style-type: none"> - Conditions E1.1 and E1.2, which relate to our requirements that qualifications must have an objective - Condition E7 which relates to assigning TQT - Condition E9 which is about assigning levels to qualifications |

2.2 Commentary

- 2.2.1 When we launched our consultation last year, our primary intention was to strengthen our regulation of existing technical and vocational qualifications used in performance tables for school and college accountability purposes – with a focus on Technical Awards taught to 14 to 16-year olds in Key Stage 4 education.

- 2.2.2 These qualifications play a key part in many young people’s lives and we want to ensure that students who take them, those who teach them and those who rely on them, such as colleges and employers, can have confidence in these qualifications.
- 2.2.3 We have seen that these qualifications can play an important role for students, particularly those with special educational needs and those who are disadvantaged. Department for Education (DfE) research⁴ has found that, for these groups, taking a Technical Award could be associated with both lower absence rates and lower exclusion rates.
- 2.2.4 We know, however, that there are some concerns over the potential vulnerability of these qualifications. As they are currently designed, some of them risk being subject to weaker controls that might undermine the maintenance of standards. We also know that these risks increase when the qualifications are subject to accountability measures through their use on performance tables.
- 2.2.5 We have been mindful though of the potential impact of our changes on awarding organisations and on the schools and colleges that deliver these qualifications, given that this is not intended to be a programme of reform.
- 2.2.6 In making our decisions, there has been a balance to be found and we have had to weigh up potential impacts against our commitment to developing a set of rules that can contribute to better control of qualification standards in order to increase confidence in these qualifications.

3 Decisions

- 3.1.1 In this section we provide our decisions in light of consultation responses. We include a brief summary of the responses received and the key aspects that have informed the decisions we have taken. Some decisions are a change from what we consulted on, and we indicate where this is the case.

3.2 Our proposed approach to regulating performance table qualifications

What we proposed

- 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 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 to DfE in

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

spring 2020 for review, alongside our review, so that they can be considered for inclusion as Technical Awards in 2023 Key Stage 4 performance tables.

- That we will provide advice to DfE as part of their performance table qualifications' approvals process, but that the decision as to which qualifications will be included on Key Stage 4 performance tables 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 approved for inclusion on the Key Stage 4 performance tables as Technical Awards, and will remain subject to them for as long as they are included on performance tables. If they are no longer included on, or are withdrawn from, performance tables, they will be subject to a managed exit.

Responses received

- 3.2.1 While there was support for our overall proposed approach, some respondents felt that there might be insufficient time to develop assessment strategies, or to implement changes to qualifications where they might be required.
- 3.2.2 Other respondents noted that awarding organisations might need to provide to centres with support where changes to qualifications are made, and this might impact delivery both by awarding organisations and by centres.

Our decision

We have decided that:

- We will introduce QLCs, requirements and guidance for performance table qualifications, that will first apply to Technical Awards listed in 2023 Key Stage 4 performance tables (and then onwards for each academic year's listing).
- Awarding organisations will submit their qualifications to DfE's performance table qualifications' approvals process in spring 2020 for review by DfE and ourselves, and we will provide advice based on our reviews to DfE (noting that the decision as to which qualifications will be included on Key Stage 4 performance tables will continue to rest with the Secretary of State for Education).
- Qualifications will only become subject to our Performance Table Qualification QLCs once they are approved for inclusion on the Key Stage 4 performance tables as Technical Awards, and will remain subject to them for as long as they are included on performance tables. If they are no longer included on, or are withdrawn from, performance tables, they will be subject to a managed exit.

- 3.2.3 As we considered our proposals and their potential impact, we kept in mind our objective of minimising disruption where we can from any changes we

make. We considered whether it might be suitable to phase the introduction of our rules to provide more time for transition. However, we have taken the view that implementing small changes over time might mean that awarding organisations would have to make incremental changes to their qualifications year on year which would be more disruptive to centres and less straightforward to manage.

- 3.2.4 We have also identified some potential weaknesses with the qualifications, and we consider it more appropriate to address them by introducing our QLCs as swiftly as possible. Given the time involved, we will continue to provide support to awarding organisations as they engage with the submission process for the 2023 performance table lists.
- 3.2.5 Many of the qualifications we expect to be submitted for review are already in delivery. Awarding organisations should already have materials available that demonstrate how they have reached their design and awarding decisions – these will support the development of the assessment strategies. We are not specifying the exact materials that have to be submitted for the assessment strategy review process, nor the exact format or design of the assessment strategy, and we are also not requiring the creation of new materials where existing ones exist. We have already engaged in detail about assessment strategy design with awarding organisations, and will continue to do so to provide appropriate support during the performance tables submission and review process. Our considerations on our requirements for the provision of assessment strategies is further considered in point 3.14.
- 3.2.6 On balance, having considered the responses received, and the actions we have taken (and will continue to take) to support awarding organisations through this process, we have decided to implement our proposed approach.

3.3 Qualification purpose

What we proposed

- To set out general purposes for Technical Awards, and to provide guidance on the purposes and their relative priorities.
- That Technical Awards should provide:
 - (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),
 - (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).

- 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, which relate to our requirements that qualifications must have an objective.
- That Technical Awards should be designed to promote achievement of holistic understanding, with assessment design providing opportunities (appropriate to the subject) to assess how far students have developed a broad understanding across the qualification content.

Responses received

- 3.3.1 The majority of consultation responses received were in favour of our proposed General Purpose statements and the notion that awarding organisations should set out specific purposes in line with these.
- 3.3.2 There were different views about the relative priorities. Some respondents thought that ‘engagement’ should not be the lowest priority given the important role these qualifications play for some learners.
- 3.3.3 There were also mixed views as to whether disapplication of the General Conditions reduced the risk of confusion.
- 3.3.4 Awarding organisation respondents welcomed our intention not to direct any particular action around the promotion of holistic learning. There was no disagreement with the proposal, although some said that the approach to assessing a broad range of content should not be limited to assessment by examination in the form of a written test.

Our decision

We have decided that:

- Awarding organisations must ensure that their Technical Awards meet the general purposes, providing –
 - 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),
 - 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),
 - a basis for schools and colleges to be held accountable for the performance of their Learners (General Purpose C), and
 - a course of learning with which Learners can suitably engage

(General Purpose D).

- Awarding organisations should set out specific purposes for their qualifications, which should be in line with the general purposes and explain in their assessment strategies how their qualifications are designed to fulfil these.
- If a trade-off between the general purposes might have to be made during qualification design, awarding organisations should ensure that their qualification provides an engaging course of learning (General Purpose D) without compromising General Purposes A, B and C.
- We will disapply General Conditions E1.1 and E1.2, which relate to our requirements that qualifications must have an objective.
- Awarding organisations should design their Technical Awards so that they promote achievement of holistic understanding, with assessment design providing opportunities (appropriate to the subject) to assess how far students have developed a broad understanding across the qualification content.

3.3.5 Given the support received from respondents for the General Purposes, we will adopt these as drafted. We also noted the feedback with regards the approach to setting out the priority of the purposes.

3.3.6 It is important that the order of the purposes should not guide overall qualification design and that all the purposes should be borne in mind together where possible. We recognise though that there might be points in the design process where an awarding organisation may have to make a trade-off between the purposes, and we expect that where a trade-off has to be made, the awarding organisation should seek to ensure that their qualification provides an engaging course of learning (General Purpose D) without compromising General Purposes A, B and C. We have updated our requirements and guidance to reflect this.

3.3.7 We have considered the few comments that suggested disapplying Conditions E1.1 and E1.2 might cause confusion. However, disapplication of specific General Conditions is used across Ofqual's Qualification Level Conditions in order to avoid duplication of conditions, and we believe that the same approach is required for the Performance Table Qualification QLCs.

3.3.8 We proposed guidance on the promotion of holistic understanding of subject content in light of the current DfE Technical Guidance requirements that synopticity should contribute meaningfully to the final grade. We could have required awarding organisations to take a particular approach to achieve this. However, these qualifications vary in terms of their content and approaches to assessment, and we believe there is potential for the concept of synopticity to be open to different interpretations. It is our view that trying to use our regulations to make clear this specific intention might, for example, risk forcing assessment design decisions that could impact on

validity or reliability. We have therefore decided that we will adopt the guidance as consulted on.

- 3.3.9 We have been clear in our guidance that it is for awarding organisations to decide the most suitable approach for promoting the achievement of holistic understanding in their qualifications, and that it should be able to justify these. When we review assessment strategies, we will be seeking to understand from awarding organisations how they have taken into account the guidance we have provided.

3.4 Qualification Design

What we proposed

- **Size:** that the number of hours of Guided Learning an awarding organisation assigns for Technical Awards should be at least 120, and an awarding organisation will be required to apply the Total Qualification Time (TQT) criteria to assign TQT to their qualification as well. In order to avoid duplication or potential conflict, we also proposed to disapply General Condition E7, which relates to assigning TQT.
- **Content:** that awarding organisations should ensure that the content that will be assessed is appropriate in relation to the qualification purposes, qualification level, approaches to assessment and the qualification size, and they will be expected to demonstrate this through their assessment strategy (we did not propose to set any requirements about the actual content subject-by-subject).
- **Level:** that awarding organisations should assign either levels 1 or 2 or both levels to their Technical Awards. We also proposed to disapply General Condition E9, which is about assigning levels to qualifications.

Responses received

- 3.4.1 The responses we received generally supported our proposals around size and level, with the feedback saying that our proposed approach reflected the current situation for Technical Awards. Some awarding organisations questioned the need for a QLC on size relating to Total Qualification Time when there are already requirements in the General Conditions of Recognition.
- 3.4.2 For our proposal around content, respondents agreed and indicated that, in the absence of nationally set content, awarding organisations should be expected to justify their choices to support validity.
- 3.4.3 Several respondents queried whether it was right that qualifications should be available at either level 1 or 2, or across both levels, with an apparent preference that all Technical Awards should be available across both levels.

Our decision

We have decided that:

- **Size:** Technical Awards should have at least 120 guided learning hours, and that awarding organisations should assign TQT to their qualifications as well. We will disapply General Condition E7, which relates to assigning TQT and introduce a specific QLC about this.
- **Content:** Awarding organisations should ensure that the content that will be assessed is appropriate in relation to the qualification purposes, qualification level, approaches to assessment and the qualification size, and they will demonstrate this through their assessment strategy.
- **Level:** Technical Awards should be assigned to either levels 1 or 2 or both levels. We will disapply General Condition E9, which is about assigning levels to qualifications.

3.4.4 We received comments about the acceptance of qualifications onto Key Stage 4 performance tables at either level 1, level 2, or both; this is a policy matter for DfE. We have provided the feedback to DfE, but in the absence of a change of policy position, we do not propose to change our requirement.

3.4.5 As we received no concerns about the remainder of our proposals on size, level and content, we are adopting these proposals as consulted on.

3.4.6 We have also decided to disapply General Conditions E7 (Total Qualification Time) and E9 (Qualification and Component Levels). This is in order to ensure there that is no conflict or duplication between our QLCs and the General Conditions.

3.5 Assessment methodology and weighting

What we proposed

- That, as a starting point, awarding organisations must ensure that at least 40% of the total available marks for a Technical Award are made available through an assessment by examination⁵ that is in the form of a written test (or tests) set by the awarding organisation.
- That the remaining percentage of the total marks made available in Technical Awards, which would be up to 60%, should be available through 'non-exam assessment'. We did not propose to define any specific assessment methodology for non-exam assessment.
- To provide guidance (which was published alongside the consultation) on what might constitute an assessment by examination in the form of

⁵ Assessment by examination is defined as an assessment which is: set by the awarding organisation; taken under conditions specified by the awarding organisation; and, designed to be taken simultaneously by all relevant students.

a written test.

- That an awarding organisation can apply for an exemption to assessing in the form of a written test.
- That we will also allow awarding organisations to apply for exemption 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.

Responses received

- 3.5.1 Many respondents disagreed with our proposal that the assessment by examination should be in the form of a written test or tests. The general concern was the suitability of a written test for subjects deemed to be more creative or practical, for example in engineering or performing arts. Other respondents felt that requiring a particular method of assessment, regardless of the subject being assessed, might impact validity. Several respondents also questioned whether requiring a written test would disadvantage certain groups of learners, including some of those with protected characteristics, who currently might choose Technical Awards because the qualifications are not like GCSEs, with the external assessments not being written exams.
- 3.5.2 Several awarding organisations noted that the written test requirement would require them to develop new assessments in a short space of time if they were not granted an exemption.
- 3.5.3 In terms of the proposed minimum 40% weighting requirement, it was generally felt that this would be appropriate if awarding organisations could choose the method of assessment by examination. Disagreement with the weighting was particularly voiced by respondents who focused on the written test proposal, saying that they did not think it would be the most suitable form of assessment by examination and so shouldn't carry so much weight.
- 3.5.4 One respondent noted that there are 'legacy' Technical Awards' on current performance tables with external assessments that contribute only 25%. They said that a blanket requirement for a 40% contribution might mean a more significant change might need to be made to the qualification design.
- 3.5.5 The notion of exemptions was welcomed by the majority of respondents, who felt this was required because of the concerns they had with imposing a written test.
- 3.5.6 We did not ask a specific question about the contribution of non-exam assessment to the Technical Award, as this was implicitly covered when asking about the weighting of assessment by examination. When asked about our intention to not define any expected approaches to the methodology for non-exam assessment, respondents agreed that it should be for awarding organisations to select the most appropriate approach, but that they should clearly explain and justify their chosen approach to non-exam assessment, recognising any risks associated with their particular

choices.

Our decision

We have decided that:

- Awarding organisations must ensure that at least 40% of the total marks for a Technical Award are made available through an assessment by examination, with the remaining percentage of the total marks available through non-exam assessment.
- An assessment by examination should be defined as an assessment which is: set by the awarding organisation; taken under conditions specified by the awarding organisation; and, designed to be taken simultaneously by all relevant students.
- We will not require that assessment by examination is in the form of a written test, which also means that we will not provide guidance on written tests and do not need to provide the opportunity to apply for exemption from using a written test.
- We will not allow awarding organisations to apply for exemption from the requirement that the assessment by examination should account for at least 40% of the overall qualification marks.

3.5.7 Our proposal that the assessment by examination should be in the form of a written test was an attempt to address concerns around issues such as predictability and security of assessments. However, on further consideration, we have decided that such concerns can be addressed through the planned assessment strategy reviews. The rules around assessment by examination and, in particular, the requirements that the assessment should be set by the awarding organisation and sat simultaneously, should address many of the concerns we have with some current approaches to external assessment.

3.5.8 As a result, we have decided 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’ (see footnote 4) with the remaining marks available through ‘non-exam assessment’. We will not be specifying the form the assessment by examination must take, and so we will also remove the potential to apply for exemption from this specific aspect of the requirement as this is no longer needed.

3.5.9 We considered the weighting of the non-exam assessment in light of this change and whether there should be the potential to request exemption to reduce the contribution to the overall grade. We also took into account our intentions around the terminal assessment rule (explained later in this document). Most current Technical Awards have 40% external assessment, and our view is that removing our proposed requirement that the assessment by examination be in the form of a written test, would greatly reduce the number of applications for exemption to the weighting. Consultation responses we received supported this notion. We also think

that the potential to exempt on the weighting would lead to unnecessary complexity for awarding organisations and centres around implementing the terminal rule (see point 3.9).

- 3.5.10 We are aware that there are 'legacy' Technical Awards that still have 25% external assessment. However, the number of awarding organisations offering these is small, and in several cases the awarding organisations have already engaged with DfE as part of their annual performance tables process about increasing the weighting and have been considering how they might make such increases. We will continue to engage with the relevant awarding organisations as we implement our decisions.
- 3.5.11 We have therefore decided to remove the exemption from the contribution of assessment by examination to the overall grade for a Technical Award.

3.6 Setting the assessments

What we proposed

For assessment by examination:

- That awarding organisations should set the assessment by examination and set out the specific conditions for taking that assessment.

For Non-exam assessment:

- That an awarding organisation should set the assessment(s), 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.
- That an awarding organisation should explain in its assessment strategy the controls that 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.
- To allow adaptation of contexts in Technical Award non-exam assessments.
- 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 Consideration). (We also indicated that we were considering whether there would be sufficient benefit in providing any further detailed guidance on centre adaptation of non-exam assessments.)

Responses received

Assessment by examination

- 3.6.1 No respondents disagreed with our proposal that awarding organisations should set the assessment by examination. Respondents felt that it would not require much change from awarding organisations' current approaches and processes and that it would ensure consistency.

Non-exam assessment

- 3.6.2 There was also no disagreement that awarding organisations should set the non-exam assessments, and that they should be clear about centre delivery, in terms of the requirements of the assessments and the controls that should be in place.
- 3.6.3 With regards to allowing the adaptation of non-exam assessments, there were more mixed views, although more were in support. Several school respondents disagreed with the limitations proposed, however they did not explain why. Other respondents noted the value in allowing limited adaptations where they might support students appropriately, but noted the challenge for awarding organisations in managing the administration of adaptations in centres.
- 3.6.4 We also asked for feedback as to whether we should provide additional guidance on adaptation and, although there was some limited support, there were no suggestions as to what additional guidance might be useful.

Our decision

We have decided that:

- Awarding organisations should set assessments by examination and set out the specific conditions for taking that assessment.
- Awarding organisations should set non-exam assessments, but allow limited adaptation of contexts in Technical Award non-exam assessments.
- Awarding organisations should explain in their assessment strategies the controls 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.

- 3.6.5 We made these proposals because awarding organisations should have as high a level as possible of control over the assessments taken as part of their qualifications.
- 3.6.6 We accept that there is merit, on occasion, to an awarding organisation allowing a centre to make adaptations to the contexts in an assessment. This is usually done in order to ensure the assessment is relevant and accessible to students and we have decided that adaptation of contexts in Technical Awards should be allowed.

- 3.6.7 We will, however, set out the limitations as proposed to avoid challenges to the reliability of assessments. These are that adaptations should only be permitted if they 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 Consideration). We are therefore adopting our proposal in full. We did not receive any responses that indicated a clear need for further guidance on this, and will not add anything further to our rules on adaptation.

3.7 Marking the assessments

What we proposed

For assessment by examination:

- That an awarding organisation should mark the assessment by examination.

For non-exam assessment:

- That centres can undertake the marking of non-exam assessments, as well as, or instead of, awarding organisations.
- To introduce a requirement that non-exam assessments must be numerically mark-based.
- 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 also proposed that performance table qualifications should be added to the list of qualifications for which centre-assessment judgements must be subject to moderation. (This was subject, at the time of consultation, to the outcomes of a separate Ofqual consultation on awarding organisation controls for centre assessments⁶.)

Responses received

Assessment by examination

- 3.7.1 Our proposal that awarding organisations must mark the assessment by examination did not raise concerns amongst respondents, reflecting that the approach proposed is standard practice currently.

Non-exam assessment

- 3.7.2 We received mixed responses to our proposals around the marking of non-exam assessments, although overall, more were in favour of the set of proposals than against. Those who agreed with the proposal for numerical

⁶ <https://www.gov.uk/government/consultations/awarding-organisation-controls-for-centre-assessments-regulations>

marking recognised our intention that marking should provide for greater differentiation between assessment performance. One respondent also suggested that numerical marking is more helpful where assessments have a compensatory approach designed in as well.

- 3.7.3 Awarding organisations referenced the impact of moving internal/non-exam assessment to numerical marking, in terms of the changes that they would have to make (such as potential redesign of assessments and mark schemes, development of supporting materials, changes in approach to aspects, such as aggregation and changes to administrative systems and processes). Some respondents also suggested that schools might need more support to implement a numerical marking approach, although the responses we received from schools did not suggest that this was a great issue.
- 3.7.4 Some respondents suggested that not all assessments are suited to being mark-based, particularly where practical skills are being assessed. Others said that the application of marks to practical assessments might simply be done by overlaying numbers onto existing grading schemes, creating a risk, for example, that teachers might opt for a ‘middle’ mark in order to be safe within boundaries and genuine differentiation between performances would still not be indicated. Another point raised was that by allowing exemptions to some awarding organisations, we might create inconsistency between Technical Awards.
- 3.7.5 With regard to our proposal about moderation, we received few comments. Those comments in support suggested that moderation would increase rigour, minimise the risk of centres inflating non-exam assessment marks, provide consistency across the qualifications and ensure that adjustments to outcomes can be made prior to students receiving their results. There were also some notes of caution, including: the potential additional burden on awarding organisations and centres; whether awarding organisations have sufficient personnel available to conduct moderation activities in light of the proposed submission windows; and whether it might impact on the time given for completion of assessments.

Our decision

We have decided that:

- Awarding organisations should mark their assessments by examination, and that the marking should use a numerical mark-based approach.
- Centres can undertake the marking of non-exam assessments, as well as, or instead of, awarding organisations, and that the marking should use a numerical mark-based approach. An awarding organisation will be able to apply from exemption from numerical marking.
- Technical Awards will be added to the list of qualifications for which we will require moderation of all centre-marked assessments.

Assessment by examination

- 3.7.6 We decided that we would carry forward our proposal that awarding organisations should mark their assessments by examination.
- 3.7.7 We have also decided that awarding organisations should be required to numerically mark their assessments by examination. This was not included in the original proposals – however, our view is that this approach is appropriate for assessments used for this purpose as it reflects the importance of the assessment differentiating effectively between different levels of student performance and also provides greater control for awarding organisations in setting and maintaining standards. We also considered the impact of requiring this approach and only a small number of awarding organisations and qualifications would potentially be affected.
- 3.7.8 Having not consulted on this element, we engaged directly with the small number of awarding organisations that currently offer Technical Awards with external assessments that are not numerically marked (covering eight qualifications out of 74). One awarding organisation was concerned about the manageability of making this change in the timescales given. However, we decided that the benefits of introducing such a rule outweigh the additional burden created for a small number of awarding organisations. We will take suitable action to support the awarding organisations that will be impacted by this decision through the review process.

Non-exam assessments

- 3.7.9 We recognise the administrative burden that would be placed on awarding organisations if we required them to mark non-exam assessments. We are therefore allowing awarding organisations to require centres to carry out marking. However, we think that it is important that awarding organisations have sufficient control over centre marking. This means that awarding organisations must be aware of the risks associated with centre marking, and need to show us the effective controls that they will put in place to mitigate such risks.
- 3.7.10 We proposed to put in place one particular control relating to this, which was that non-exam assessments should be numerically mark-based (rather than, for example, grades being based on assessors deciding whether criteria have been met). In our view, this style of assessment is more appropriately aligned to the purpose of these qualifications. In addition, we think that this will enable awarding organisations to have adequate control over marking judgements made in centres, not least as it will provide greater scope for any adjustments to the marking standard that an awarding organisation might seek to make through their moderation process.
- 3.7.11 We considered the potential burden on some awarding organisations of moving to a numeric marking approach for non-exam assessment, which was raised by several respondents. In our view, the risks with current internal assessment marking and awarding practices justify that burden. We have therefore decided to require awarding organisations to numerically mark their non-exam assessments.
- 3.7.12 We also consulted on allowing applications for exemption from this

requirement. We received feedback during the consultation period that, based on the subject content, the assessment methodology it necessitates, and other controls that could be put in place, a non-numerical approach to marking could be suitable in some circumstances. We have decided that it would be appropriate to accept applications for exemption to this requirement. Justifications provided in applications for exemption will have to closely relate not just to the content requirements and the related assessment methods, but also to the other controls and processes in place around moderation and awarding.

- 3.7.13 With regards our proposals around moderation, we have now confirmed (having recently consulted separately) our regulations for awarding organisation controls for centre assessments⁷ (moderation and verification of centre assessment judgements).
- 3.7.14 These regulations include a list of qualifications for which we will require moderation of all centre-marked assessments. We proposed that Technical Awards should be included in this list. Our view is that moderation provides the highest level of control over results, other than an awarding organisation carrying out the marking of non-exam assessments itself. It provides awarding organisations with opportunities to check the standard of marking taking place within centres, and to intervene if necessary, before any qualification result is issued. We know that Technical Award assessments have to be able to bear the pressure of use in accountability measures and so we think that awarding organisation scrutiny of proposed results is necessary to secure standards for centre assessment judgements.
- 3.7.15 We considered the feedback received to our proposal about moderation, in particular in terms of potential impact on awarding organisations, and it is our position that any additional burden on awarding organisations is acceptable because of the benefits that moderation should bring, particularly to qualifications such as Technical Awards where centre-moderated assessments can contribute to up to 60% of the overall grade. We have decided that Technical Awards should be added to the list of qualifications for which centre-assessment judgements must be subject to moderation.

3.8 Assessment availability

What we proposed

For assessment by examination:

- That each Technical Award's assessment by examination is designed to be taken simultaneously by all relevant students, but that awarding organisations may apply for the requirement for simultaneous sitting to be lifted (but only where they have also applied for exemption from the use of a written test as the form of assessment by examination).

⁷ <https://www.gov.uk/government/consultations/awarding-organisation-controls-for-centre-assessments-regulations>

- 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.
- We did not propose to put in place any particular restriction on the number of times a student might resit an assessment by examination.

For non-exam assessment:

- 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.
- We did not intend to impose any particular resubmission or retaking requirement.

3.8.1 It should be noted that during the consultation period we discussed with awarding organisations an amended version of two of the proposals. Our consultation proposed sitting the assessment by examination on ‘two set dates’ each academic year, and the submission of non-exam assessment outcomes in ‘two windows’ each academic year. We provided clarification to this proposal to say that the intention was that awarding organisations should provide ‘up to’ two set dates and ‘up to’ two submission windows each academic year. Some of the consultation responses received reflected this clarification, whereas others didn’t – we have taken all comments received into account.

Responses received

Assessment by examination

- 3.8.2 No respondents disagreed with the proposal for the assessment by examination to be sat simultaneously – it was clear that this was partly because of our proposal that awarding organisations could apply for exemption.
- 3.8.3 In terms of restricting the number of assessment opportunities, some respondents felt that fixed assessment windows provided beneficial structure to centres. In our discussions with awarding organisations, the flexibility of ‘up to’ two set dates was preferred, as some currently offer a single external assessment each academic year, with one further opportunity just for resit.
- 3.8.4 There was also preference for awarding organisations to set the dates for their assessments themselves, rather than being restricted to windows set by us. Several respondents felt that it should be for awarding organisations to determine the most suitable dates for them and their centres, based on the specific designs of their qualifications. Some awarding organisations suggested that there was a risk of changes being forced to the structure of existing qualifications if they had less control over when their students could sit assessments, which might then require centres to change behaviours in both delivering assessments and in preparing students for

assessment.

- 3.8.5 We did not propose to put in place any limitation on resit opportunities. Several respondents supported this, noting that with the proposal for the assessment by examination to be in the form of a written test, no limit on resitting might particularly support those students who might struggle with written test assessments. However, there was concern about the potential for repeated retaking to improve grades – with a suggestion that resits might only be for students who had failed previously.
- 3.8.6 Other respondents noted the impact of the proposed terminal assessment requirement (see point 3.9) in that it would mean resit opportunities would be limited anyway. They felt that this would reduce the number of resits taken, and would also potentially affect completion rates and the ability of students to progress. It was also noted that awarding organisations already have a one resit policy in place, and that the proposal might disrupt current practice.

Non-exam assessment

- 3.8.7 Views were mixed on the benefits of introducing windows for submitting non-exam assessment outcomes. Those in favour felt that having set windows each year would support planning and assessment delivery, and that it might help with moderation processes and maintenance of standards. Some respondents however suggested that having two set windows might add administrative burden for awarding organisations. There was support for having a single submission window each academic year.
- 3.8.8 As with assessment by examination, there was some disagreement with the suggestion that Ofqual might set the windows. Several respondents felt there was a risk that we might prompt unnecessary change to existing qualifications by setting dates not in line with existing processes.
- 3.8.9 With regards to our intention to not set any limits around resubmitting non-exam assessments, some respondents raised concerns as to whether that might encourage repeated attempts at assessment. Several awarding organisations pointed out that there was an administrative benefit to limiting resubmissions, and that from their experience many schools did not have the time to make many attempts at non-exam assessments. Other respondents indicated that they thought it should be for the awarding organisation to choose the most appropriate approach to resubmission of non-exam assessments.

Our decision

We have decided that:

- Each Technical Award’s assessment by examination should be designed to be taken simultaneously by all relevant students. Awarding organisations may apply for exemption from the requirement for simultaneous sitting.
- Awarding organisations should provide up to two set dates in each academic year for all relevant students to take the assessment

simultaneously; but that we will not set the windows within which such dates should be set.

- We will not put in place any particular restriction on the number of times a student might resit an assessment by examination.
- Awarding organisations should put in place up to two deadlines each academic year for centres to submit outcomes from non-exam assessments; but that we will not set the windows within which such deadlines should be set.
- We will not impose any particular restrictions around re-taking non-exam assessments.

Assessment by examination

- 3.8.10 We proposed simultaneous sitting of assessments by examination on two dates each academic year. We have seen that the approaches awarding organisations use to set and maintain standards are usually improved if evidence around assessment performance is simultaneously available from a larger number of students, and it can enable more reliable statistical analysis. Sitting assessments on set dates, instead of over a period of time, also reduces the risk, for example, of breaches of confidentiality of assessment materials. In the responses to the consultation, we did not receive any comments that caused us to question this thinking.
- 3.8.11 The move from the original proposal of requiring two set dates, to clarify that it would be ‘up to’ two assessment opportunities each year was supported by respondents. Those who disagreed largely did so with the idea of having two set dates, rather than simultaneous sitting itself. As a result, we have decided that assessments by examination should be designed to be taken simultaneously and that awarding organisations should offer up to two opportunities each academic year to sit the assessment by examination.
- 3.8.12 We have also decided to adopt the proposal that awarding organisations may apply for exemption from the requirement that the assessment by examination should be sat simultaneously. This decision relates to our decision around the forms of assessment by examination (see point 3.5) and bears in mind that it is not possible to deliver some forms simultaneously, because, for example, it might create overly burdensome administrative or logistical challenges. This also reflects feedback we received from respondents.
- 3.8.13 Allowing exemption from simultaneous sitting may give rise to other risks, however, such as around confidentiality of assessment materials. We would expect any application for exemption to explain the mitigations of the risks that might arise from the chosen assessment method and approach to sitting that assessment.
- 3.8.14 We proposed that we might set the windows for when the assessment dates might be set. There was more disagreement than agreement with

this in the few comments received about this proposal. We considered the cumulative effects of our requirements and the degree of change they might prompt, and it was our view that we might force potentially unnecessary, and almost certainly disruptive, change by setting assessment windows, if they were not in line with awarding organisations' current approaches. As a result, we do not intend to set the windows during which the dates for assessment by examination might be set.

- 3.8.15 We also – as proposed – will not put in place any restrictions on resit opportunities. We recognise that current Technical Awards are required through DfE's Technical Guidance to limit resitting to one opportunity. However, several of our proposals, including those around assessment availability and the terminal assessment rule, act to reduce the possibility of students resitting assessments repeatedly. We also do not set any such restrictions on the availability of resits in GCSEs. There will be nothing to prevent an awarding organisation choosing to limit the resit opportunities available to students. We would, however, expect them to make their approach clear to schools and students, and to explain it in their assessment strategy.

Non-exam assessment

- 3.8.16 We proposed that awarding organisations should provide two windows each year in which centres would submit non-exam assessment outcomes. As with the proposal for assessment by examination (that there should be two set dates each year), our proposal was driven by the benefits we perceive in how data can be used in standard setting when evidence is available from a larger number of students. It was also our view that such an approach would support moderation activities.
- 3.8.17 Respondents suggested that requiring two submission windows could cause issues or additional burden for them – for example, undertaking moderation more than once a year, in line with the submission windows, might not be manageable. Again, our move from the original proposal of requiring two windows, to clarify that it would be 'up to' two was supported by respondents.
- 3.8.18 We did not receive any comments that caused us to think that having specific windows for submitting outcomes in itself was problematic. With this in mind, we considered whether the use of the term 'windows' was the most suitable. We decided that it might be clearer and more effective for awarding organisations if we require them to focus on the date by when they need outcomes submitted to them, not the length of time they might have any window open.
- 3.8.19 We will reflect this in the wording of our requirements, and require awarding organisations to set up to two deadlines each academic year for the submission of non-exam assessment outcomes. As with our decision for assessment by examination, we have again recognised that we might drive unintended consequences by imposing windows for submission deadlines and so have decided we will not do this.
- 3.8.20 In terms of retaking non-exam assessments, we have decided that awarding organisations should select an approach that is appropriate to

their selected approach to assessment.

- 3.8.21 We recognise the benefits of enabling students to re-take a non-exam assessment either through submitting new or revised work. We also recognise the risks associated with this, some of which were raised in the consultation feedback, for example, repeated re-taking. Our view is that the other controls in place, such as assessment availability, will act to restrict the opportunities to re-take.
- 3.8.22 Another key risk around re-taking is that of authenticity of student work 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. Awarding organisations will have to explain in their assessment strategies the controls they have in place to mitigate any risks that might arise from the particular assessment arrangements they put in place.

3.9 Terminal assessment

What we proposed

- That students should be required to take the assessment by examination in the assessment series immediately prior to certifying for the qualification.
- That awarding organisations should – if an exemption has been granted to reduce the contribution of the assessment by examination to less than 40% – 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.

Responses received

- 3.9.1 This proposal raised concerns for most of the respondents.
- 3.9.2 Several awarding organisations noted that their current qualification design is such that the external assessment can be taken earlier in the course and that the terminal rule might require a redesign of their qualifications. They also commented on the timescales and burden this would involve.
- 3.9.3 There was also concern that the rule could prompt changes in teaching practices and impact on preparation for and delivery of assessments – potentially adding administrative tasks and management burden to centres in already busy exam periods.
- 3.9.4 Several respondents said that the terminal rule essentially limited or removed the opportunity to resit, and that this might affect school completion rates – impacting on school performance measures. However, they also reflected that current DfE requirements mean that resit opportunities are limited to one.
- 3.9.5 Other respondents suggested that the terminal rule may drive other centre behaviours, in that centres might choose to sit the assessment by examination earlier, so that there is a resit opportunity available – but with the terminal rule this would mean completing all the assessments earlier,

so compressing teaching time for the qualification. One awarding organisation suggested that a terminal rule might be suitable if it was not associated exclusively with assessment by examination. Another argued that with additional controls in place for non-exam assessment, this should be sufficient to not require a terminal rule.

- 3.9.6 Many respondents noted that the terminal assessment requirement might add pressure for students if the assessment has to be taken at the end of the academic year, at the same time as GCSE exams. Impact on student wellbeing and mental health, and also with motivation to engage with another exam at the end of year 11, were all raised as issues. Several respondents noted a potentially more significant impact on students with special educational needs and disability (SEND), while others envisioned impact on disadvantaged or disengaged students. Several schools were strongly of the opinion that a terminal rule, with the assessment to be taken towards the end of year 11, could deter certain students from engaging with these qualifications at all. One noted that they currently use early external assessment as a way of retaining students – saying that achieving part of their qualification early on is more motivational in terms of continuing to engage them throughout the school year.

Our decision

We have decided that:

- Awarding organisations must ensure that students take an assessment by examination through which at least 40% of the total marks for the qualification are available in the final assessment series and that the result achieved in the assessment by examination in that series is used towards the student's overall qualification grade.

- 3.9.7 Our proposal for a terminal assessment rule was developed in order to manage perverse incentives for schools when delivering and marking non-exam assessments and, in doing so, provide awarding organisations with greater control over qualification standards.
- 3.9.8 With qualifications that are subject to the pressures of school accountability, visibility of the results that students require on a non-exam assessment to achieve an overall qualification grade can lead to behaviours that are difficult for awarding organisations to control. Schools often have this visibility when students sit the assessment by examination before the end of the course of study and before submission of their non-exam assessments.
- 3.9.9 The behaviours the terminal rule is seeking to mitigate relate to both the preparation of student work (such risks to the authenticity of that work and the appropriateness of the levels of feedback provided in its production) and in the marking of the assessments (increasing the demands put on the moderation process). Where these risks cannot be effectively managed, the consequences are an inability of the awarding organisation to maintain qualification standards over time and unfairness to students due to

- disruption of the rank order. The terminal rule on which we consulted provides additional protection against malpractice, protects the integrity of the non-exam assessments and provides awarding organisations with greater control over standards.
- 3.9.10 We considered a range of evidence in relation to the proposal for a terminal assessment rule. There were a number of concerns raised in response to the consultation and, in order to understand more about the potential impact on schools and their students, we carried out additional engagement activity with a number of schools and members of our Access Consultation Forum. Their feedback is included in the ‘responses’ section above, and also noted in the impact assessment sections of this document (sections 4 and 5). We particularly noted a key concern about the potential impact of adding to an already busy and potentially stressful time of the year for students, if their terminal assessment falls at the end of year 11.
- 3.9.11 There was also concern that we might drive schools to enter the assessment by examination earlier in the school year, or even in year 10, at the end of the first year of study, in order to ensure a resit opportunity. This would lead to compression of the study time as non-exam assessment would need to be completed before or in the same series as the assessment by examination. We considered this in conjunction with the feedback received that some current Technical Awards enable students to take their external assessment early on in their course, and that the terminal rule might prompt a change in qualification design and, therefore, in centre behaviour.
- 3.9.12 We looked at entry patterns to some of the current Technical Award external assessments, using data provided to us by several awarding organisations. It was noted that even where students might be able to enter assessments early on in their course, the entry patterns showed that the most common approach was to make a first (and often only) attempt at the external assessment in the second year of study. From reviews of the current Technical Award specifications, it appears that less than half of the qualifications (31 of 74) are designed to encourage ‘early’ assessment by examination, e.g. the qualification has been designed such that the external assessment is associated with the first unit of learning in the qualification.
- 3.9.13 Alternative approaches were considered that might give awarding organisations greater control over qualification standards, such as the inclusion of a must-pass requirement on the assessment by examination (in combination with a limit on resits). This approach would not, however, address issues with the accuracy of the rank order of students arising from the non-exam assessment and could have unintended consequences for how awarding organisations might set appropriate standards on their assessments by examination. This approach also does not fit with the overall purpose of these qualifications.
- 3.9.14 While we acknowledge the level of concern in the responses we received, we have decided that we need to take sufficient steps towards improving the reliability and validity of these qualifications and that the terminal rule is, on balance, the most effective way to achieve this.

- 3.9.15 Reflecting on some feedback around the clarity of the proposed requirements, we have decided to adopt the principle we consulted on, but with wording amended to provide clearer requirements.
- 3.9.16 We have decided to require, as proposed, that awarding organisations must ensure that students take an assessment by examination through which at least 40% of the total marks for the qualification are available in the final assessment series – that is the assessment series in which the student requests certification for the qualification. The result a student achieves in the assessment by examination in that series is the one that will be used towards the student’s overall qualification grade.
- 3.9.17 In light of earlier decisions to not allow exemption around the weighting of assessment by exam, an additional rule is now not needed to ensure the weighting of the terminal assessment where that exemption had been granted.

3.10 Setting the specified levels of attainment

What we proposed

Grading:

- 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.
- To review, in future, the potential for a common grading scale for Technical Awards.

Generating outcomes for individual assessments:

- That, as a starting point, all assessments should use a compensatory approach to combining students’ marks within an individual assessment.
- That awarding organisations 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:

- To not require any particular approach to aggregation.
- To not introduce any particular requirement for a student to pass either the assessment by examination or all assessments (must-pass requirements).

Provision of detail about aggregation/ awarding

- That awarding organisations should not publish details of how they plan to set specified levels of attainment in advance of individual assessments being marked.

Responses received

Grading

- 3.10.1 There was general agreement with our proposal about the structure of grading scales, largely based on it reflecting the grading structures that are currently available while still allowing awarding organisations to select an approach they feel is most suitable. One awarding organisation pointed out that it has qualifications on performance tables from 2020 onwards with an eight-point scale.
- 3.10.2 Some respondents said that a common grading scale might enable better understanding of the qualifications.

Generating outcomes for individual assessments

- 3.10.3 There was support for the proposal that awarding organisations should take a compensatory approach to generating outcomes in individual assessments. It was felt that this reflected that these qualifications are not intended to confer occupational proficiency, making a compensatory approach more appropriate. Awarding organisations also noted that compensation would be more straightforward to implement because of the requirement to numerically mark non-exam assessments.
- 3.10.4 It was also noted in the responses, however, that there might occasionally be elements of qualifications where a non-compensatory approach could be more effective, and that having the option to apply for an exemption would be appropriate. Some respondents queried whether allowing compensation in some assessments and not in others would impact on consistency between qualifications.

Aggregating outcomes across assessments

- 3.10.5 Responses to our proposal to not specify an approach to aggregation prompted mixed views, with several respondents conflating the proposal with our proposal to not introduce any must-pass requirements.
- 3.10.6 The issue of comparability was raised, in terms of what might be expected if some qualifications took a compensatory approach while others didn't. However, others suggested that it should be for an awarding organisation to choose the most suitable approach for their qualification and another said that not requiring a specific approach might enable innovation.
- 3.10.7 Several respondents felt that there should be a requirement to achieve a pass in some or all of the Technical Assessments, else it might risk devaluing the qualification if a student could fail a large part of the qualification and still certificate. Others felt that as these qualifications are not designed to test occupational competence, must-pass requirements were not needed.

Provision of detail about aggregation/awarding

- 3.10.8 There was a mixed response to our proposal to restrict the publication of details for setting specified levels of attainment in advance of individual assessments being marked. Some respondents recognised that providing too much information can drive undesirable behaviours in some centres, where particular outcomes are targeted. However, others pointed to the use of awarding information in helping to provide grade predictions and to target teaching activities.
- 3.10.9 Several respondents suggested that awarding organisations should be able to provide some limited information – such as details around grade aggregation or UMS scores.

Our decision

We have decided 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 eight 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.
- We will keep the concept of a common grading approach under consideration.
- All assessments should use a compensatory approach to combining students' marks within an individual assessment, but that awarding organisations will be able to apply for an exemption to this (if they have also applied for exemption from non-exam assessment numerical marking).
- We will not require any particular approach to aggregation, and will introduce a must-pass requirement.
- Awarding organisations may publish information, in advance of assessments being taken, about how they intend to set specified levels of attainment but should make clear that any grading detail provided may be subject to change.

Grading

- 3.10.10 We sought to avoid further proliferation of grading scales in Technical Awards with our proposal, which was set out to reflect what we understood to be currently available in terms of the grading structures of Technical Awards on Key Stage 4 performance tables⁸. We were also aware of the need to not cause too much disruption by requiring significant changes to

⁸ As set out in the Department's Secondary Accountability Measures guidance - <https://www.gov.uk/government/publications/progress-8-school-performance-measure>

- qualifications which any change in grading risks causing.
- 3.10.11 The proposal for a maximum of seven points on the grading scale was based on the qualifications on the 2019 performance tables list. There are, however, qualifications on the 2020 list that have an eight-point scale.
- 3.10.12 Based on the feedback received, we have decided to adopt the principle around our proposal but we have updated the specific requirements to reflect the current performance table listings. This means that we will require that Technical Awards should have no fewer than three grades and no more than four grades for a qualification at either level 1 or level 2, or no more than eight grades (rather than seven) for a qualification that spans both levels 1 and 2. We will also require that an unclassified or ungraded outcome should also be provided.
- 3.10.13 We have also taken into account the feedback we received about the potential for a common grading scale for Technical Awards. We do not intend to do this at this time, but continue to keep the concept under consideration.

Generating outcomes for individual assessments

- 3.10.14 We decided it would be appropriate to require awarding organisations to implement a compensatory approach to combining a student's marks within each individual assessment in their qualifications. In our view, this particularly suits these qualifications as they are intended to reflect a student's overall knowledge and understanding of the content that has been studied. In allowing compensation, performance can then be appropriately assessed in a compensatory manner with strengths and weaknesses permitted to balance each other out.
- 3.10.15 However, we have taken into account the consultation responses and our decision to consider exemptions from numerically-marked non-exam assessments. Therefore, if an exemption from using a numeric marking approach has been granted, an exemption to a compensatory approach may also be granted where awarding organisations provide an appropriate rationale. The basis for this is that, if a sufficiently compelling case has been made for the need to directly grade individual non-exam assessments rather than using a numerical mark scale, then it is possible that this may also impact on the most appropriate way in which the results from across assessments should be aggregated. This means it is important that we provide awarding organisations with the opportunity to present this case and apply for an exemption.

Aggregating outcomes across assessments

- 3.10.16 In some current Technical Awards, students are required to achieve a 'pass' on one or more of the assessments to enable them to achieve the qualification overall. We considered both the potential impact of having 'must-pass' requirements such as this and the risks that the current requirements might be trying to address.
- 3.10.17 We believe that the proposal for increased controls around non-exam assessment might mitigate much of the concern about current assessment weaknesses in a way that protects the validity of student outcomes. We

recognise that a student, without a must pass requirement in place, might be able to pass a qualification without attempting a particular assessment or by achieving few marks on that assessment. However, the use of a must-pass requirement is not fitting with the purpose of these qualifications and, in combination with the terminal rule requirement, risks unfairness to students. Having said that, we would not expect students to routinely be able to achieve an overall pass grade whilst demonstrating a low level of performance on the assessment by examination.

- 3.10.18 We have decided to not require any particular approach to aggregation, and while we will not encourage the use of them, we will not rule out the option of an awarding organisation having must-pass requirements in place where they are able to effectively manage the associated risks. We are aware that many Technical Awards currently have such stipulations, and that removing them may lead to a consequential risk to qualification level grading standards – an inadvertent additional risk that we would not want to create. We would expect to see a strong justification from awarding organisations as to how they might manage the risks arising from having the requirements alongside the terminal assessment rule.

Provision of detail about aggregation/ awarding

- 3.10.19 We recognise that it is important that in order to support centres delivering their qualifications that awarding organisations should be able to provide some level of detail about their approach to awarding. Having reflected on the responses received, we have decided that awarding organisations should be able to publish information that might support schools in understanding the awarding process, and how students' results will be scaled (where appropriate) and aggregated to produce their qualification level grade. That published information should not impact, however, on an awarding organisation's ability to maintain standards in their qualifications by, for example, unnecessarily constraining flexibility over the position of grade boundaries for individual assessments.

3.11 Setting standards

What we proposed

- That we require awarding organisations to ensure their approach to the setting and maintenance of standards promotes consistency between students' levels of attainment in a qualification and across qualifications made available by other awarding organisations in similar subject areas.
- That awarding organisations should take into account an appropriate range of evidence when setting and maintaining standards.
- That where there are optional routes of study in a qualification, awarding organisations should explain how they will set and maintain standards between the routes in their assessment strategies.
- We did not propose to impose any particular approach to setting and

maintaining standards.

Responses received

- 3.11.1 There was support in the consultation responses for not specifically directing awarding organisations in their standard setting processes, as it was noted that these qualifications and the awarding organisations who offer them are not currently subject to exacting requirements which make them instantly comparable.
- 3.11.2 Several respondents were concerned that any action taken towards ensuring comparability would not necessarily be suitable, as these qualifications should be compared without having nationally-set content. Others, however, indicated value in awarding organisations working together to consider comparability in qualifications in similar subject areas.
- 3.11.3 Several respondents showed an interest in the actions that Ofqual might take to support increases in comparability between awarding organisations offering qualifications in similar subject areas, suggesting that Ofqual could bring awarding organisations together and lead on inter-awarding organisation discussions.

Our decision

We have decided that:

- We will not impose any particular approach to setting and maintaining standards.
- Awarding organisations should ensure their approach to the setting and maintenance of standards promotes consistency between students' levels of attainment in a qualification and across qualifications made available by other awarding organisations in similar subject areas.
- Awarding organisations should take into account an appropriate range of evidence when setting and maintaining standards.
- Where there are optional routes of study in a qualification, awarding organisations should explain how they will set and maintain standards between the routes in their assessment strategies.

- 3.11.4 We have decided to adopt the proposals for standard setting as we consulted on them, although we have made some small changes to the wording of the QLCs to make them clearer.
- 3.11.5 It is our view that 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. We recognise that approaches to standard setting are impacted by an awarding organisation's choice of assessment design, as well as factors such as cohort size. With Technical Awards, there are limited common design characteristics between qualifications, and significantly varying

cohorts as well, which means it would be inappropriate for us to mandate a single technical approach to setting and maintaining standards.

- 3.11.6 Therefore, we do not intend to impose any particular approach to standard setting. However, we think it is important that awarding organisations make qualification and assessment design choices that are influenced by the need to ensure standards. We will require awarding organisations to ensure their approach to the setting and maintenance of standards, promoting consistent standards within each qualification over time and supporting comparability between qualifications in similar subject areas.
- 3.11.7 We expect that awarding organisations should take into account an appropriate range of evidence – both qualitative and quantitative, as set out in the QLCs – and we would expect them, in their assessment strategy, to explain the rationale for their approach to standard setting, including the evidence and the methods to be used.
- 3.11.8 We mentioned in our consultation that we already have a programme of work under way looking into the use of additional evidence in awarding and its role in improved standard setting and maintenance. This was noted by several awarding organisations and is, understandably, of great interest to them. We saw support for this work through the responses, and we will continue to engage with awarding organisations as the work progresses.

3.12 Other requirements for qualifications approved for performance table lists

What we proposed

Data collection

- 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.

Event notifications

- To introduce a requirement that an awarding organisation must make it clear to us when an event notification relates to a Technical Award.

Withdrawal of qualifications from the Performance Table Qualification QLCs

- 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, to explain the circumstances for this and to request that the QLCs no longer apply.
- That we introduce specific requirements relating to the withdrawal, including that we will determine the date from when the rules will be disapplied.

Responses received

Data collection

- 3.12.1 There was very little disagreement with this proposal and the tone of responses generally showed appreciation for why we would require particular data and why we might issue notices. The one concern raised about our data collection proposal was that it might increase burden on awarding organisations.

Event notifications

- 3.12.2 There were no concerns raised about this proposal, although awarding organisation responses did ask that we make clear our expectations in terms of the administrative arrangements for indicating that an event notification is about a Technical Award.

Withdrawal of qualifications from the Performance Table Qualification QLCs

- 3.12.3 The main theme of responses here was around ensuring sufficient timescales and clear communication for withdrawing Technical Awards, so that stakeholders are clear when this will happen and that potential alternatives can be sourced for students. There was also concern that two similar versions of a qualification, one on a performance table and one not, might be able to run concurrently, leading to confusion.

Our decision

We have decided that:

- **Data collection:** we will not put in place a QLC about data collection.
- **Event notifications:** awarding organisations must make it clear to us when an event notification they make relates to a Technical Award.
- **Withdrawal of qualifications from the QLCs:** we will put in place requirements to manage the withdrawal of qualifications from the QLCs, and that awarding organisations must tell us when one of their qualifications is proposed to be removed from a performance table list, explain the circumstances for this and request that the QLCs no longer apply.

Data collection

- 3.12.4 While we note the agreement from respondents in relation to data collection, we have decided not to introduce the proposed condition specifically for Technical Awards. We are instead looking more generally at our data collection requirements across all regulated qualifications and are intending to address the issues raised in the consultation as part of a wider piece of work.
- 3.12.5 However, we have decided to introduce a section on data collection into the Assessment Strategy Requirements to require awarding organisations to demonstrate in their assessment strategies what systems and procedures

they have in place to ensure that data they may be required to provide to us can be provided within a reasonable time.

Event notifications

3.12.6 We have decided to require awarding organisations to make it clear to us when an event notification relates to a Technical Award. This is needed largely because we do not have a qualification ‘type’ for Technical Awards but it is important to us that we are able to gather all relevant data about activity relating to these qualifications. We will produce supporting materials for awarding organisations about how best to identify their Technical Award event notifications and we will communicate with relevant awarding organisations about this in due course.

Withdrawal of qualifications from the Performance Table Qualification QLCs

3.12.7 We proposed to have specific QLCs relating to the withdrawal of performance table qualifications from performance table lists, in order to ensure that any such withdrawal is managed appropriately. For example, we think it is important that the rules can continue to apply to protect students for as long as there are some taking the qualifications as Technical Awards.

3.12.8 We have therefore decided to adopt the proposals as consulted on. In circumstances where a qualification is withdrawn from performance tables, we will communicate clearly with the relevant awarding organisation about our expectations around the management of withdrawal.

3.13 Potential additional requirements for qualifications approved for performance table lists

What we asked

Reviews of Marking, Moderation and Appeals (RoMMA)

- 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 for Technical Awards.

Branding

- 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.

Responses received

RoMMA

3.13.1 Responses to this proposal were positive, and pointed to the benefits of ensuring consistent approaches for centres. There was, however, caution around the burden it might introduce for some awarding organisations.

Branding

3.13.2 On the whole, responses to this proposal were supportive, as branding was seen as potentially helping to support awareness and promote confidence in Technical Awards. However, there was concern about managing the use of the brand with qualifications coming on and off performance table lists, potentially on an annual basis, and also around whether it would create confusion in terms of older Technical Awards that would not be branded the same way but would essentially be very similar qualifications.

Our decision

We have decided that:

- We will look in more detail at the potential introduction of requirements for the review of marking, moderation and appeals for Technical Awards.
- We will not look to introduce rules around branding of Technical Awards at this time.

RoMMA

3.13.3 We have decided that we will look in more detail at the potential introduction of requirements for the review of marking, moderation and appeals for Technical Awards. This will include understanding the impact of introducing such requirements on other qualifications, and considering how such a process might be implemented across the wide range of awarding organisations that offer Technical Awards. We will communicate with awarding organisations further about this work in due course.

Branding

3.13.4 We have decided that while branding might bring additional value to the qualifications, there are a number of challenges around the introduction of this proposal. For example, the use of branding might well be taken to indicate a level of consistency between Technical Awards which is currently not present – for example, in terms of the content and assessment design between the qualifications available in any one year, and also between the qualifications included on performance tables from year to year. We won't therefore introduce a rule on branding at this time.

3.14 Assurance of awarding organisation design choices

What we proposed

- To require awarding organisations to develop an assessment strategy for each qualification they want to put forward for review.

Responses received

- 3.14.1 Most respondents agreed with the proposal to require awarding organisations to develop assessment strategies (although one awarding organisation strongly disagreed). However, there was a notable level of disagreement with our assessment of the potential impact of requiring assessment strategies.
- 3.14.2 Respondents recognised the value of assessment strategies, suggesting they provide clarity and consistency, and support the review process. In our discussions with awarding organisations, the focus on validity rather than an approach more akin to a compliance checklist was also appreciated.
- 3.14.3 Awarding organisations clearly saw assessment strategies as significant undertakings requiring much information and it was suggested in several responses that we had under-estimated the impact of developing them, particularly within our proposed timescales. Some respondents said that producing an assessment strategy retrospectively for qualifications already in delivery was potentially an unnecessary burden. However, in our discussions with several awarding organisations, they did note that assessment strategies could be used to understand design decisions taken as well as to demonstrate how the qualification is performing.
- 3.14.4 There was a level of concern that the short timescale might lead to poorer quality assessment strategies, which might then lead to qualifications not being put on performance tables – not because of issues with the qualification, but with the way the qualification has been written about in the assessment strategy.

Our decision

We have decided that:

- Awarding organisations must develop an assessment strategy for each qualification they want to put forward for consideration to be included as a Technical Award in DfE's Key Stage 4 performance tables list.

- 3.14.5 In our view, assessment strategies play an important role in helping us to understand an awarding organisation's qualification and assessment design decisions. They also play an important role for awarding organisations in demonstrating to us the validity of their qualifications, the coherence of their decisions with the general purposes of Technical Awards, their mitigation and management of risks arising from their design decisions and their ability to comply with our QLCs and General Conditions of Recognition.
- 3.14.6 We recognise that there is a burden associated with requiring assessment strategies, especially in view of the timelines. (This is further reflected in our regulatory impact assessment in section 5.) In response we have already been engaging with awarding organisations on the principles of drafting assessment strategies ahead of and during the consultation period. We will continue to provide support both ahead of submission and during

the review process. We have set out our requirements in such a way as to allow flexibility in the presentation of assessment strategies so that, for example, awarding organisations can signpost to existing documentation rather than creating new documents.

- 3.14.7 We are seeking to support awarding organisations as they develop their assessment strategies, and will continue to engage through events and one-to-one meetings. In order to not be overly prescriptive and create additional administrative burden, we are not specifying the exact materials that have to be submitted for the assessment strategy review process, nor the exact format or design of the assessment strategy, and we are also not requiring the creation of new materials where existing ones exist. We will also build in suitable feedback opportunities during the assessment strategy review process.
- 3.14.8 With all this in mind, we have decided that we will require awarding organisations to develop an assessment strategy for each qualification that they intend to submit to DfE’s Technical Awards approvals process.

3.15 Qualification Level Conditions, requirements and guidance

What we proposed

- We provided a draft set of QLCs, requirements and guidance for review.

Responses received

- 3.15.1 A small number of respondents noted that the QLCs appeared to be in line with the proposals throughout the document, although there were aspects where further clarity was recommended.
- 3.15.2 Other respondents said that it was unclear from the QLCs alone whether they would apply to other performance table qualifications and that the link between the QLCs and DfE’s Technical Guidance was unclear.
- 3.15.3 Several comments were received about the data collection QLC, stating that much of the detail in that requirement was already covered by the General Conditions of Recognition, and that some of the data required might place considerable burden on awarding organisations.

Our decision

We have decided that:

- We will publish QLCs, requirements and guidance for performance table qualifications.

- 3.15.4 We have updated our QLCs, requirements and guidance in line with the decisions we have taken about our proposals, as explained here. We have also reviewed the QLCs, requirements and guidance for clarity, and made small adjustments to wording where we think this enhances understanding.
- 3.15.5 With regard to their application, our QLCs are currently designed to apply

to the qualifications listed as Technical Awards on the 2023 Key Stage 4 performance tables onwards. DfE will publish Technical Guidance that apply to these qualifications alongside our QLCs; the two sets of requirements are designed to be read in conjunction and have been developed to align with each other.

4 Equalities impact assessment

- 4.1.1 Ofqual is a public body and so the public sector equality duty in the Equality Act 2010 applies to us. We explained in our consultation how this duty interacts with our statutory objectives and other duties.
- 4.1.2 In the consultation, we set out where we considered our proposals might affect people who share a protected characteristic⁹. Some of our requirements for assessment by examination, including the use of a written test, having two set dates to sit the assessment, and the proposed terminal assessment rule, were areas we identified that might impact persons who share protected characteristics.
- 4.1.3 We acknowledge 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 people who share a protected characteristic in comparison to the use of a written test.
- 4.1.4 We also recognise that by requiring two set dates for the assessment by examination, this might mean that in some years religious occasions could coincide with assessment dates. We note that the potential impact on students who are, for example, celebrating a festival or observing a fast will vary – particularly where the timing of such religious occasions may coincide with the requirement to take a terminal assessment.
- 4.1.5 We asked respondents to comment on the potential issues we identified and on our assessment of their potential impact. We also asked if there were any potential impacts (positive or negative) on students who share protected characteristics that we had not identified, and if there were any additional steps we could take to mitigate any negative impact resulting from our proposals.

Responses

- 4.1.6 We asked a number of questions in our consultation about potential impact. Many responses identified that there would be impacts on students as a consequence of our proposals, but did not signify whether there might be impacts on particular groups of people who might share a protected characteristic. Where responses did identify that there might be an impact on a person with protected characteristics, for example someone with a

⁹ 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.

- disability, often the responses did not elaborate on what the specific impact might be. Those that did elaborate are included in the points below.
- 4.1.7 This was particularly the case with responses to our proposal to include a terminal assessment rule. As a result, during the time we were considering the consultation responses we approached members of our Access Consultation Forum (ACF)¹⁰ and asked them to provide further views on potential impact.
- 4.1.8 Most views were on the same theme, which was that one potential consequence of the terminal assessment rule would be to increase student stress by requiring them to potentially take another exam in the summer exam series when they are also taking GCSEs. This echoed feedback we had received in the consultation. ACF members noted that students with SEND can be particularly susceptible to mental health issues, which could be exacerbated by the terminal rule if more exams have to be taken in the summer.
- 4.1.9 Others noted potential impacts on students with disorders such as ADHD, for whom protracted periods of examination can be particularly challenging. One respondent voiced concern about the impact of assessments taken over time, in that for some students it can feel as if there is no respite from the pressure of assessment. Another respondent noted that the combination of the proposal for assessment by examination to be in the form of a written test, and for it to be taken as a terminal assessment, might create accessibility issues for some students that cannot be easily addressed through the application of access arrangements.
- 4.1.10 Several respondents suggested that awarding organisations needed to ensure that their accessibility arrangements are suitably effective in light of the changes to the design of Technical Awards.
- 4.1.11 In response to the question about our equality impact assessment, few comments were received. One said that students with SEND are more likely to take Technical Awards, which makes it important that they are able to access qualifications that enable them to make progress appropriate to their needs and abilities. The importance of having suitable arrangements in place to mitigate the impact on students who share protected characteristics was highlighted.

Our decision

- 4.1.12 We have considered the potential impacts in light of our post-consultation decisions. We did not identify any additional equalities impacts to the ones set out above.
- 4.1.13 Our decision that the assessment by examination does not have to be in the form of a written test may alleviate some concerns, although it is worth noting that in many current Technical Awards the external assessments take the form of a written test, and we think it is unlikely that awarding organisations would change this.
- 4.1.14 We acknowledge that the introduction of a terminal rule may have a more

¹⁰ An Ofqual-led group where representatives with a relevant interest discuss with us about the accessibility of regulated qualifications and assessments.

significant impact on students who share a protected characteristic. There is a risk that this requirement might contribute to adverse effects on the mental health of students.

- 4.1.15 We have had to balance this potential impact with the intention to regulate these qualifications more tightly. One of the key issues with current Technical Awards has been that they have been more open to criticism as their current design allows for weaker controls of standards and so may command less public confidence.
- 4.1.16 It should be noted that we considered additional controls for maintaining standards, such as introducing a must-pass requirement, or limitations on resit and retake opportunities. However, in our decision to only introduce a terminal rule, we have sought to strike the optimum balance between increasing the validity of these qualifications whilst minimising the possible impact on all students, including those with protected characteristics.
- 4.1.17 Furthermore, the terminal rule should create a more level playing field for students in comparison to current practice where some achieve marks contributing up to 40% of their overall qualification as early as the second term in their course of study, while others might not take the assessment until the end of year 11. In our view, creating a fairer, more consistent approach for all students will also impact positively on those students with protected characteristics.
- 4.1.18 We have, therefore, decided that we will adopt the proposals as explained in this decisions document, and that we will continue to engage with ACF members, school and college representative bodies, and individual centres to monitor the impact of our decisions.

5 Regulatory impact assessment

- 5.1.1 In our consultation we recognised that some of our proposals may have a regulatory impact. We asked respondents if they would comment on our assessment of the impact, and to provide detail around any costs or savings associated with our proposals. We also asked for views on whether there was anything in our proposals that would prevent innovation by awarding organisations offering these qualifications.

Responses

- 5.1.2 Throughout this consultation analysis we have noted feedback from awarding organisations about regulatory impact. Key themes were that:
- any required changes might be challenging to deliver in the proposed short timescales
 - that some proposals might prompt changes to qualification design (such as the terminal assessment proposal and the written test proposal)
 - that some proposals might require awarding organisations to make

changes to their systems and processes (for example, to support numerical marking of non-exam assessments, to implement moderation, to introduce set dates for assessment)

- that the requirement to produce an assessment strategy for each qualification is an additional burden not previously required for Technical Awards
- that there would be additional costs associated with making changes to qualifications, their ongoing delivery under our new rules and with writing assessment strategies

5.1.3 In asking specifically about regulatory impact, respondents raised the same issues as above. Some respondents suggested a risk that this might lead some awarding organisations to choose to not submit qualifications to the new process, risking a reduction in the number of Technical Awards available. No responses suggested any additional information that we should include in our regulatory impact assessments.

5.1.4 With regard to potential impact on innovation, several respondents suggested that the combination of rules (terminal rule for simultaneously sat assessments by examination, which should be in the form of a written test) could restrict innovations that awarding organisations might be able to make. It was queried whether the rules might restrict future use of evidence types, such as online presentations or digital simulations.

Considerations

5.1.5 Our proposals during this consultation process have been focused on strengthening the maintenance of standards in Technical Awards that are included on performance tables, and on addressing concerns with the reliability and validity of those qualifications. We were aware that the current requirements in our rules and in DfE's Technical Guidance appeared to overlap or create challenges for awarding organisations to design qualifications that ensure standards and validity. Our proposals are intended to align the requirements for awarding organisations, which we believe will reduce the regulatory impacts associated with developing these qualifications.

5.1.6 It should be noted that awarding organisations can 'opt in' to this regulatory framework. We are not imposing these rules on awarding organisations. If they have already been delivering performance table qualifications in accordance with DfE's Technical Guidance, then they have already been subject to a set of similar requirements.

Assessment strategies

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

5.1.8 While we recognise that there will be some burden for awarding organisations in developing assessment strategies, much of the strategy will simply set out in writing matters that should have already been

- considered when developing and designing the qualification.
- 5.1.9 When we considered a similar requirement in the reform of Functional Skills qualifications in maths and English and asked for 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.
- 5.1.10 The awarding organisations who responded to our consultation on Functional Skills in maths and English estimated that the costs to them would be, variably, below £1,000, over £40,000, or between £2,500 and £8,400. Despite the breadth of those responses, and the high costs identified by some awarding organisations, we came to the conclusion that the burden was reasonable. 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. In our view, these considerations are also important for Technical Award qualifications.
- 5.1.11 The Functional Skills consultation was based on a programme of reform, which is not the case here. Therefore, the changes awarding organisations will need to make to their qualification designs will be fewer as a result of our decisions than they were for Functional Skills. Any costs incurred in connection with the development of assessment strategies for Technical Awards are likely, therefore, to be smaller for awarding organisations. The likely reduction of the economic burden lends greater weight to our view that the burden is necessary.

Designing the qualification

- 5.1.12 Until 2018¹¹, awarding organisations submitted their qualifications for review by DfE against DfE's Technical Guidance. We have designed our QLCs to ensure that many of the requirements from the current Technical Guidance are incorporated into our regulatory framework. Therefore, we do not consider that our proposed requirements will prompt any significant changes to existing assessment design.
- 5.1.13 However, where concerns were raised about the impact of our proposals on assessment design, we have considered these carefully when making our decisions and reacted accordingly. For example, some awarding organisation respondents to the consultation noted that the proposed written test requirement for assessments by examination would impact on them as they would have to develop new assessments in a short space of time if they were not granted an exemption. We responded to this, and other concerns raised about this proposal, by deciding not to require the assessment by examination to be in the form of a written test, thus allowing greater flexibility for awarding organisations in relation to their assessment

¹¹ This is when DfE's performance tables moratorium was put in place. For more detail see: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/844403/Key_s tage_four_qualifications_and_discount_codes_2014_to_2021_performance_tables.xlsx

- design.
- 5.1.14 Some respondents also said that requiring two set dates for assessment by examination or two submission windows for non-exam assessment could cause issues or additional burden for them – for example, undertaking moderation more than once a year, in line with the submission windows, might not be manageable. We listened to and reflected on this feedback and adjusted our proposal to only require ‘up to’ two set dates or submission windows. We have therefore listened and reduced the impact identified by respondents.
- 5.1.15 We have already reflected on the impact of our decision to include a terminal assessment rule and the responses relating to regulatory impact where awarding organisations currently do not have this approach to assessment delivery. However, we believe that this is a necessary control that will improve the validity of these qualifications and that the benefits of our approach outweigh the identified impacts.
- 5.1.16 Whilst we have produced some requirements that differ to those contained in the current Technical Guidance, we have sought to allow awarding organisations to take a flexible, innovative approach wherever possible. For example, we have not proposed any single approach to setting and maintaining standards.
- 5.1.17 One respondent queried whether the rules might restrict future use of evidence types, such as online presentations or digital simulations. We do not consider that our requirements will impact on innovation or assessment design in this way. We no longer have a written test requirement and awarding organisations may, where appropriate, apply for an exemption to the simultaneous sitting requirement. With this flexibility in place, we do not consider that there are any restrictions on the use of evidence types as described.

Impact on schools and students

- 5.1.18 We have been mindful of the potential impact our proposals might have on centres that deliver Technical Awards. We received a number of consultation responses from schools and teachers, and their representative bodies, and additionally engaged with more schools and representatives post-consultation.
- 5.1.19 In relation to schools and students, the following concerns were raised:
- schools having to make changes to established teaching and delivery practices
 - added administrative burden for schools – for example in managing the delivery of more exams during the GCSE exam period, and with regard to administrative tasks such as applications for access arrangements
 - not allowing awarding organisations to provide detail about setting specified levels of attainment could restrict school planning and the support they might provide to students

- awarding organisations might pass the costs of any changes they have to make on to centres by increasing fees
 - added pressure felt by students and risk of impact on mental health
 - risk of disengaging certain groups of students
- 5.1.20 In several cases, the concerns may be alleviated somewhat by the decisions we have taken, including: to not require the assessment by examination to be in the form of a written test; to not require exactly two set dates for assessment by examination; and exactly two dates for submission of non-exam assessment outcomes, and; to permit the publication of some detail around how specified levels of attainment will be set.
- 5.1.21 We recognise the potential impact on some students that might be caused by the implementation of the terminal assessment rule, as well as the potential for it to affect schools' approaches to teaching and delivering assessments. We have weighed up such impacts against our commitment to strengthen our regulation of these qualifications and the risk that some of these qualifications currently do not have sufficiently strong controls designed in, and that this potentially undermines the maintenance of standards. We will monitor the impact of our rules as we implement them.

Timescales

- 5.1.22 We recognise that the timescales for implementing our approach are short and that this will impose a burden on awarding organisations. However, timelines are largely dictated by the date that performance tables must be published, which means that there is little room for flexibility. To counter the impact, we have sought to provide as much support to awarding organisations as possible, both before and during the consultation period. We will continue to provide support as awarding organisations engage with the process for the 2023 performance table lists. We are therefore of the view that this impact is a necessary one.

Our decision

- 5.1.23 As we have considered our position post-consultation, we have tried to find a balance between allowing flexibility where appropriate while ensuring that we, along with awarding organisations, can have sufficient control of standards in Technical Awards. We also recognise that the impact will vary depending on the current designs and controls that awarding organisations have in place for existing Technical Awards. Some of the changes we have made to our proposals (for example, removing the written test requirement) and the exemptions we are allowing awarding organisations to apply for should mitigate some of the regulatory impact that might be felt by awarding organisations.
- 5.1.24 We recognise that awarding organisations will incur some costs from our decisions, in particular our requirement for the provision of an assessment strategy for each qualification submitted for review. We have decided to provide a range of support to awarding organisations to help the development of assessment strategies, as we see the use of assessment strategies as the most effective approach to being able to conduct suitably

detailed reviews as part of DfE’s approvals process.

- 5.1.25 We received limited information from awarding organisations around the costs of these proposals which makes it difficult to estimate their financial impact. This is not a reform programme and we have sought to consider why any burden imposed through the introduction of our review process and QLCs is necessary. We need to be able to determine whether the approach an awarding organisation takes to meeting our rules and designing Technical Awards is likely to produce qualifications that are fit for purpose, meet our rules and give confidence to DfE that they should be included on performance tables.

6 Implementation

6.1.1 We have published the following documents alongside our decisions:

- Performance Table Qualification Qualification Level Conditions and Requirements¹²
- Performance Table Qualification Qualification Level Guidance¹²
- Analysis of consultation responses¹³

6.2 How our rules will come into effect

6.2.1 Our QLCs will apply to qualifications that are included in the DfE’s final 2023 Key Stage 4 performance table list. It is anticipated that the final list will be available in early 2021. The rules come into force from their date of publication and will take effect when the final Key Stage 4 performance tables lists for 2023 are published by DfE.

¹² <https://www.gov.uk/guidance/ofqual-handbook-performance-table-qualifications>

¹³ <https://www.gov.uk/government/consultations/regulating-performance-table-qualifications>



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