

CONSULTATION

Consultation on how GCSE, AS and A level grades should be awarded in summer 2021



Department
for Education

ofqual

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Foreword

Government decided that schools and colleges must close to most, to limit the spread of the Covid-19 virus. Exam year students had already experienced disruption to their learning during the 19/20 academic year and many students faced more disruption during the autumn term due to the need to self-isolate. With the loss of at least a further 6 weeks' face-to-face teaching and uncertainty about when face-to-face teaching might resume the government considers that exams cannot be held in a way which is, and which is perceived to be, fair.

Although government has taken significant steps to improve the remote learning offer and many schools are providing high-quality learning, it is nevertheless likely that schools' and colleges' ability to teach the entire curriculum and provide the usual exam preparation support will be impacted. We also recognise that the impact of the pandemic varies between regions, between schools and colleges within a region, and from student to student according to their personal circumstances.

We know that students are disappointed. Their interests are at the centre of our considerations, so the results they receive through the alternative approach must be credible and meaningful.

Through this joint consultation, Ofqual and the Department for Education (DfE) want to hear the views of students who were due to take their exams, their parents and carers, their teachers, school and college leaders and others who have an interest, including further and higher education providers, and employers. The consultation covers general and vocational qualifications, with this document focusing on the former.

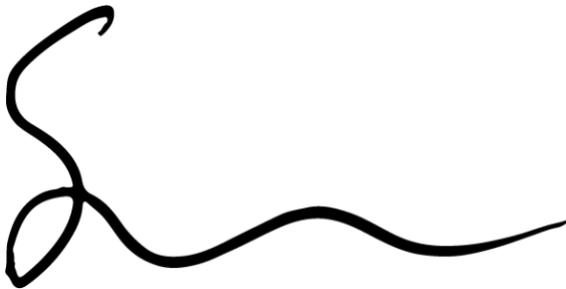
Students need grades to continue to the next stage of their education or training, or into employment. Grades must reflect what a student knows, understands and can do, and they must be widely understood and respected. In place of exams in summer 2021 we propose that a student's grade in a subject will be based on their teacher's assessment of the standard at which they are performing.

We will work with the exam boards who will provide training and guidance for teachers to support their assessments and the assurance process schools and colleges will use. Our proposed approach aims to minimise teachers' workload because we know that schools and colleges are under tremendous pressure. We want to ensure the final approach balances the desire for flexibility with the need to make sure grades are valid and consistent.

We also want to make sure that, wherever possible, all students, including those who are studying independently or who are home educated, will get a grade at the same time as other students, so they have an equal opportunity to progress. And we will make sure all students have the opportunity to appeal their grade.

We believe the approach set out in this consultation will mean that students can continue to be taught for as much of the rest of the academic year as possible, to have the best chance to catch up on any education they have missed.

We look forward to your views.



Simon Lebus

Chief Regulator, Ofqual



Rt Hon Gavin Williamson CBE MP

Secretary of State for Education

Proposals at a glance

We propose that in summer 2021 a student's grade in each subject will be based on their teachers' assessment of the standard at which the student is performing. In the absence of exams, teachers are best placed to assess the standard at which their student is performing. This consultation seeks views on our proposal, including how teachers should be supported to make their assessments fairly and consistently.

We propose that all students who do not believe their grade reflects the evidence of the standard at which they were performing can appeal.

And we propose that students who are not studying within a school or college, for example because they are home educated, must be able to be issued with a grade too. We are seeking views on the options that would enable them to do so.

Audience

This consultation is open to anyone who wants to respond but will be of most interest to students who had been expecting to take their GCSE, AS or A level exams this summer, their parents and carers, their teachers, school and college leaders, exams officers and those who use the qualifications to make selection decisions, such as further and higher education institutions and employers. The consultation will also be of interest to organisations that understand and represent the interests of students, teachers, exams officers and to the exam boards themselves. There is a connected and complementary consultation on [the arrangements for vocational, technical and other qualifications](#). That consultation includes questions about other qualifications that are taken alongside or instead of GCSEs and A levels, such as core maths qualifications.

As part of this consultation, we will also invite a range of people, including students, teachers, parents and carers, and representatives of schools and colleges, further and higher education, employers and exam boards to talk directly to us about their views on the proposed arrangements.

Consultation arrangements

Duration

This consultation will be open for two weeks starting on Friday 15 January and ending on Friday 29 January at 23:45.

Respond

Please respond to this consultation by completing the online response form on the [webpage for this consultation](#).

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

Introduction

This joint consultation, by Ofqual and the Department for Education (DfE), invites your views on the alternative arrangements by which students will be awarded GCSE, AS and A level grades in summer 2021.

Following this consultation, the Secretary of State will set out for Ofqual in a direction¹ the way he wishes students to be assessed by teachers and how he wishes for the teacher's assessment to determine the student's grade. Ofqual will have regard to this direction as it puts in place the arrangements through which it will regulate the exam boards who will continue to issue the qualifications.²

Consultation details

This section sets out:

1. The overview of our proposals
2. What the grades will mean
3. When teachers should assess the standard at which students are performing
4. How teachers should determine the grades they submit to exam boards
5. The assessment period
6. The conditions under which students should be assessed
7. Supporting teachers
8. Internal quality assurance
9. External quality assurance
10. How students could appeal their grade
11. Private candidates
12. Whether Ofqual should prohibit the taking of GCSE, AS and A level exams in England, the UK and elsewhere in the world

¹ Under the provisions of the Apprenticeship, Skills Children and Learning Act 2009 in performing its functions Ofqual must have regard to such aspects of government policy as the Secretary of State may direct, the Secretary of State must publish any such direction.

² Ofqual regulates the exam boards who award GCSEs, AS and A levels to students in England. These qualifications can also be taken by students in other countries and in other parts of the UK. The exam boards, that are responsible for awarding the qualifications, are recognised by Ofqual to do so.

13. How the proposed arrangements for 2021 differ from those used in a normal year and those used in 2020

1 Overview of our proposals

We propose that in summer 2021 a student's grade in each subject will be based on their teachers' assessment of the standard at which the student is performing. In the absence of exams, our view is that teachers, once provided with the necessary guidance and training, are best placed to assess the evidence of the standard at which their student is performing. This consultation seeks views on our proposals, including how to support teachers to make their assessments fairly and consistently.

We propose that the final assessment will be made towards the end of the academic year, at about the time students would have taken their exams.

To help teachers make objective decisions we propose that exam boards should provide guidance and training, and make available a set of papers, which teachers use with their students as part of their assessment. This consultation seeks views on whether such papers should be provided and, if so, what form they should take (could they, for example, use materials from previous past papers), when they should be made available, and whether their use should be mandated. We propose that, where it is part of the qualification's existing specification, teachers will continue to assess any non-exam assessment that a student has undertaken in a subject.

We propose that teachers should draw on a range of broader evidence of a student's work in making their final assessment. Students who are studying independently (for example, those who are home educated) must also be given an opportunity to demonstrate the standard at which they can perform. We are seeking views on whether those students who are typically entered as private candidates for qualifications should be assessed using the papers provided or whether they should take exams in their more typical form and, if the latter, when their exams should take place.

We propose that all students should be able to appeal their grade.

We are seeking views on the timeline for the proposed arrangements. In summary we propose that:

- students would continue with their education during this academic year
- students would be assessed by their teachers in a period beginning in May into early June
- teachers would submit grades to the exam boards by mid-June

- external quality assurance by the exam boards would be ongoing throughout June
- results would be issued to students once the QA process is complete, most likely in early July
- student appeals could be submitted immediately following the issue of results and would first be considered by schools and colleges

We provide below more detail of the proposed arrangements, on which we seek your views.

2 What the grades will mean

Qualification grades indicate what a person who holds the qualification knows, understands and can do, and to what standard. That is their purpose. People who use qualifications, for example to make selection decisions, need to be able to rely on the grades. For qualification grades to be meaningful, a person who holds a qualification with a higher grade must have shown that their knowledge, understanding or skills are at a higher standard than a person who holds a qualification with a lower grade.

Students who were expecting to take exams this summer will want to be confident their grades are still meaningful and serve their usual purpose. The grades in 2021 will be determined by teachers and then, following quality assurance, the results will be issued by the exam boards, who remain accountable for the results. The exam boards will record the grades on certificates in the same way as in previous years.³

We do not believe that teachers should be asked to decide the grade a student might have achieved had the pandemic not occurred. That would put them in an impossible position, as they would be required to imagine a situation that had not happened. It would also mean that those who use the grades would not know whether the grade indicated what a student knew, understood or could do or, rather, what they might have known, understood or could have done, had things been different. However, we know that there has been differential learning loss, as some students have suffered more disruption to their learning than others.

We do not propose to ask teachers what grade a student might have received if they had been able to take their exams – which is what teachers were asked in 2020. The

³ The only exception is GCSE modern foreign languages where the spoken language component will be a separate endorsement on the certificate for 2021

disruption to the 2021 cohort's education would make it more difficult for teachers to make such a judgement this year.

We propose grades this year should be based on teachers' assessments of the evidence of the standard at which their students are performing; it should indicate their demonstrated knowledge, understanding and skills. This is important given that the grades will be indistinguishable from grades issued by exam boards in other years. The exam boards that will issue the results need to be confident the grades are justifiable. Teachers should assess students on the areas of content they have covered and can demonstrate their ability, while ensuring sufficient breadth of content coverage so as not to limit progression.

Question:

1. To what extent do you agree or disagree that the grades awarded to students in 2021 should reflect the standard at which they are performing?

3 When teachers should assess the standard at which students are performing

Given students' education has been disrupted by the pandemic, their interests will be best served if they engage fully with their education for the remainder of the academic year, if they are taught for as long as possible and if they cover as much of the curriculum as possible. This will help them move successfully to the next stage of their lives, whether in further or higher education, an apprenticeship or employment. We therefore propose that the final assessment of a student's performance should be as late in the academic year as practicable.

Feedback from students suggests they want to know whether their work informs the grade they receive before they do the work. The counter view is that some students would not want work they have done earlier in the course to be excluded from their teacher's assessment if it provided evidence to support a higher grade. We therefore think it is important to gather views on whether and, if so, to what extent, work done earlier in the year should be taken into account by a student's teacher in assessing their grade.

Some subjects are normally assessed using both exam and non-exam assessments; qualifications in art and design are assessed using non-exam assessment alone. Students this year should be given time to complete their non-exam assessments, to contribute to the evidence teachers use to determine the grade the student should

receive. We propose that the exam boards should provide guidance on adjustments that could be made to the way non-exam assessments are completed, to account for current circumstances.

For these reasons, we propose that teachers should make final assessments of the standard of their students' performance during late May and early June. If the assessments were undertaken earlier, perhaps in April, then students would unnecessarily miss out on more of their education. If they were assessed later, perhaps in July, this would delay the release of results, as there would be insufficient time for teachers to assess their students and for the necessary internal and external quality assurance measures to be taken. This could in turn delay students' progression at the start of the next academic year.

Questions:

2. To what extent do you agree or disagree that the alternative approach to awarding grades in summer 2021 should seek to encourage students to continue to engage with their education for the remainder of the academic year?
3. When would you prefer that teachers make their final assessment of their students' performance?
4. To what extent do you agree or disagree that teachers should be able to use evidence of the standard of a student's performance from throughout their course?
5. Should there be any limit on the period from which previous work could be drawn?
6. If you answered 'yes', what should that limit be?
7. Do you have any comments on when students should be assessed?

4 How teachers should determine the grades they submit to exam boards

We propose that teachers should only take evidence-based decisions about the grade they recommend their students be issued. A breadth of evidence should inform a teacher's assessment of their student's deserved grade.

4.1 The use of exam board papers

We propose that teachers should assess their students objectively. To support them we propose the exam boards could provide guidance and training, along with papers which teachers could use to assess their students. The exam boards might work jointly on the guidance and training where appropriate. The consultation seeks views on the role of these papers in informing a teacher's assessment of a student's grade.

Provision of papers by exam boards would support consistency within and between schools and colleges. The teacher, through the marking of the papers, could consider the evidence of the student's work and use that to inform their assessment of the grade deserved. The exam boards could also sample teachers' marking as part of the external quality assurance arrangements and to seek to ensure this was comparable across different types of school and college, wherever students are studying. The use of exam board papers could also help with appeals.

We propose that the exam boards should use in their papers, questions that are similar in style and format to those in normal exam papers. This means that the sorts of questions used will be familiar to students, who typically use past papers to help them prepare for their exams. The exam boards might use a combination of questions from past papers and new questions to develop their papers.

The nature of the papers set by the exam boards will need to be appropriate for the subject. Students must be given opportunities to show what they can do. For example, a student who was working towards a high grade in GCSE mathematics must be given the opportunity to show they could perform to a standard associated with that grade. Similarly, a student who is working at a lower grade standard must have access to material which reflects that fact. For some subjects, such as GCSE English language, the same papers would be suitable for all students to take.

If, following this consultation, we decide that the exam boards should provide papers for schools and colleges to use (either on a compulsory or optional basis), the exam boards would need to develop those papers and then provide information on the topics that would be included within them.

We propose that the set of papers provided by the exam boards should cover a reasonable proportion of the content and that teachers should also have some choice of the topics on which their students could answer questions. The set of papers could allow teachers the ability to choose from a set of shorter papers, based on topics, to allow teachers options to take account of content that has not been fully taught due to the disruption. In that scenario, multiple papers might be chosen to ensure sufficient coverage of what is assessed.

The papers taken by each student will have to cover a similar proportion of the content, to avoid disadvantaging a student who has to show how they can perform

across a wider range of topics against one who has to show how they can perform in just a couple of topics. If the topics covered by the teacher's assessment are too narrow, students will have less opportunity to show the standard to which they can perform. They would also not have demonstrated the breadth of knowledge they hold, which risks halting their ability to progress successfully with further study. We are seeking feedback on the minimum breadth of subject content a teacher must assess a student on. The exact approach would have to be tailored for each subject with details confirmed by the exam boards following this consultation.

We propose that the exam boards should provide guidance on how teachers should take account of other evidence of the standard at which the student was working and of factors that might have affected their performance in the papers. In all cases we propose that teachers should record the evidence on which they base their decision for each student. This will be essential if students choose to appeal. It will also be needed by the exam boards for quality assurance arrangements.

Questions:

8. To what extent do you agree or disagree that the exam boards should provide a set of papers to support teachers in assessing their students' work?
9. Do you think the use of the papers provided by the exam boards should be compulsory or optional, for GCSEs, AS and A levels?
10. To what extent do you agree or disagree that any papers provided by the exam boards should include questions that are of a type that is familiar to students?
11. To what extent do you agree or disagree that if teachers use exam board papers they should have choice about the topics covered in the questions their students answer, for example through choice of which papers they use with their students from the set of papers provided?
12. To what extent do you agree or disagree that teachers should be required to assess (either by use of the exam board papers or via other evidence) a certain minimum proportion of the overall subject content, for each subject?
13. To what extent do you agree or disagree that teachers should mark any papers their students are asked to complete?
14. Do you have any comments on the use of exam board papers?

4.2 Subjects with non-exam assessment and separately reported results and grades

In subjects with existing non-exam assessments, we propose teachers should take account of the standard of the student's non-exam assessment in their final assessment.

In some subjects, students will not have completed their non-exam assessments because of the disruption caused by the pandemic. Teachers will need to take this into account when deciding on the relative weight they give to the paper and the non-exam assessment. We believe that students should not be penalised if they have been unable to complete their non-exam assessment for reasons beyond their control. Teachers would therefore need to assess the evidence that was available for the students. The exam boards could provide guidance on this, including on any changes to the conditions under which the assessments should be taken. The weighting used by the teacher would need to be recorded, to support the exam boards' quality assurance and any appeal by the student.

Art and design GCSE, AS and A levels are assessed by non-exam assessment only. For 2021, students' grades were to be based on their portfolio. We propose that the student's portfolio – whether or not it is complete at the time of the assessment – should be the sole evidence teachers use to decide on the grade the student should be awarded. As with other subjects, we believe that students should not be penalised if, for reasons beyond their control, they have been unable to complete their portfolio.

We propose that while teachers should mark non-exam assessments, the exam boards should not be required to moderate their marking this year.

In GCSE English language qualifications students are assessed on their spoken language skills by their teachers and receive a grade that is separately reported alongside the main qualification grade. This is also the approach for GCSE modern foreign languages in 2021. In A level sciences (biology, chemistry, physics and geology), teachers assess students on their practical skills and students receive a result that is separately reported alongside the main qualification grade. We propose that students who are awarded a grade in 2021 in these qualifications will also receive an accompanying grade or result for the separately reported elements. We propose that teachers should use any evidence they have of the student's performance collected at the point of the award of a grade to determine the separately reported grade or result.

Questions:

15. To what extent do you agree or disagree that teachers should take account of a student's performance in any non-exam assessment where that has been completed in full for a subject?
16. To what extent do you agree or disagree that teachers should take account of a student's performance in any non-exam assessment where that has been completed in part for a subject?
17. To what extent do you agree or disagree that teachers should mark their students' non-exam assessments?
18. To what extent do you agree or disagree that the marking of non-exam assessments should not be moderated by the exam boards this year?
19. Do you have any comments on the use of non-exam assessment and separately reported results and grades?

4.3 Other performance evidence

We propose that teachers should be able to take other evidence of a student's performance into account when deciding on the grade to be submitted to the exam board.

If teachers do not use the exam board set papers, or even where they do, they should use additional ways to assess students and to gather evidence of the standard at which their students are performing. The exam boards would provide guidance on how they could do this.

We propose that where teachers devise their own assessment materials, they should be comparable in demand to the papers provided by the exam boards. Any assessment must allow students to demonstrate the standard at which they can perform.

We propose that any teacher devised assessments used to support the final assessment should be used at the same time as the exam board papers would be taken, to avoid any students being unfairly advantaged or disadvantaged by the timing of when they are assessed. Teacher devised assessments should be supported by mark schemes, in order to support consistent marking within a school or college and any appeals.

We propose that the exam boards should provide guidance for each subject on the relative use of different forms of performance evidence.

We propose that other sources of performance evidence could include:

- formal tests
- mock examination results
- substantial candidate work (which relates to the qualification specification, and where the school or college are confident it was completed without support / external support)

In line with our proposal that the approach should encourage students to continue with their education for as long as possible and that students may prefer to know, before they undertake any work, whether it will be taken into account for their final grade, we propose that, in the majority of circumstances, greater weight should be given to evidence of a student's performance that is closer to the time of the final assessment.

We are also aware that it may be more difficult to draw on wider evidence for students whose education has been most disrupted and ask you bear this in mind when answering the questions here and in the equality impact assessment section.

Questions:

20. To what extent do you agree or disagree that a breadth of evidence should inform teachers' judgements?
21. To what extent do you agree or disagree that the provision of training and guidance from exam boards should support teachers to reach their assessment of a student's deserved grade?
22. To what extent do you agree or disagree that teachers should be able to take into account other performance evidence for a student before submitting a grade?
23. To what extent do you agree or disagree that performance evidence from closer to the time of the final assessment, should carry more weight in determining a student's final grade?
24. Do you have any comments on the use of other performance evidence?

5 The assessment period

If schools and colleges use exam board provided papers or create their own, we propose they should be used by teachers within a set period of time. If students who are completing the papers do so at different times there is a risk that students taking the papers later in the window might be at an advantage, particularly if the content of the papers is leaked.

This risk could be reduced by:

- (a) the exam boards creating a menu of papers from which teachers would choose. The papers could be deliberately published shortly before the assessment window opened, although students would not know which one(s) they would be required to complete
- (b) all students completing the papers for a particular subject within a certain time frame—and we are seeking views on how long that should be

It is important to consider what would happen if the course of the pandemic is such that papers cannot safely be sat within a school or college (see the next section).

Following this consultation, the exam boards will seek views from schools and colleges on the dates between which the papers for each subject can be used by teachers. We propose that, in the interests of fairness and consistency, students assessed with and without the use of the exam board papers should be assessed as late as possible in the academic year.

Questions

- 25. To what extent do you agree or disagree that all students should be assessed within a given time period for each subject – whether or not their school or college must or is using exam board papers?
- 26. To what extent do you agree or disagree that exam boards should publish all of their papers shortly before the assessments in order to manage the risk of some students being advantaged through papers being leaked?
- 27. Do you have any comments about the assessment period for the use of exam board papers or teacher devised assessments?

6 The conditions under which students should be assessed

We expect that students' performance will be assessed within their school or college – we are hopeful that the course of the pandemic will make this possible in line with public health guidance in place at the time. However, even if this is possible for most students, it might not be possible for all. We therefore propose that, if the pandemic makes it essential, where papers are to be used in the final assessment, the papers could be completed at an alternative venue, including a student's home, where that is an option.

If any evidence used to determine a final assessment was not completed under the supervision of a teacher (either directly or remotely), the student (and anyone supervising them) would be required to make an appropriate declaration that they had not received unauthorised assistance.

For any paper it had set, an exam board would specify the time that a student should be given to complete it and whether they should have access to any materials, such as a calculator. Usual provisions for disabled students to have reasonable adjustments would be made.

Questions

28. To what extent do you agree or disagree that the assessments should, if possible, be taken within the student's school or college?
29. To what extent do you agree or disagree that if the pandemic makes it necessary a student should be able to take their assessments at an alternative venue, including at home?
30. Do you have any comments on the conditions under which students should be assessed?

7 Supporting teachers

We propose that the exam boards should provide support materials and training to help teachers objectively and consistently assess their students' performance. This would likely cover exemplars where possible to guide teachers as they assess their students, guidance on how to conduct the assessments, information on other

performance evidence that could be taken into account, and best practice on avoiding bias and discrimination. The guidance would likely also cover how teachers should consider the impact on a student's performance at the time of their assessment of any events outside of their control (such as the impact on their performance of illness or family bereavement).

The exam boards should check that school and college senior leaders know what is expected of them and their teachers and that they have put in place appropriate arrangements to support their teachers to fulfil their role.

We propose that during the consultation period the exam boards should seek views from their schools and colleges on the support materials and training they would most value and that, where appropriate, the exam boards should work together to provide this.

Question:

31. To what extent do you agree or disagree that the exam boards should provide support and information to schools and colleges to help them meet the assessment requirements?

8 Internal quality assurance

We propose that the exam boards should provide support and information for schools and colleges on the requirements for assessing their students. Their aim will be to secure as much consistency as possible about the standard of performance required for each grade in a subject, both between students in a school or college and between schools and colleges. They might build on the support and information they provide to support the marking of non-exam assessments.

Schools and colleges, working independently or as part of a group, would agree on their approach to assessment (within any choices available) and in line with exam board requirements, including on how other performance evidence would be used. They would put in place internal standardisation arrangements, and a procedure for heads of department and then the head of centre would agree and sign off the grades submitted by their teachers. The evidence used to inform teacher grades would need to be retained, both to support the exam boards' external quality assurance and in case of an appeal by a student. We propose that a key part of the internal quality assurance arrangements should be a declaration by the head of the school or college confirming that the exam boards' requirements had been met, that they support the grades submitted for their school or college and that all teachers

who had assessed students had regard to the guidance and support materials that had been provided.

Questions

32. To what extent do you agree or disagree that the exam boards should set requirements for school and college internal quality assurance arrangements and should provide guidance on these requirements to support centres?
33. To what extent do you agree or disagree that the head of a school or college should make a declaration to the exam board confirming its requirements had been followed and teachers had regard to the guidance and support materials provided?
34. Do you have any comments about internal quality assurance?

9 External quality assurance

We propose that the exam boards should quality assure the approach taken by each school and college and that the exam boards should work together, where appropriate, to make sure their approaches are both consistent and do not impose unnecessary burden on schools and colleges.

The role of exam boards is to verify that schools are complying with the published guidance, prior to the awarding of grades. The exam boards should ensure that all school and college senior leaders know what is expected of them and their teachers and that they have put in place appropriate arrangements to support their teachers to fulfil their role.

We propose that the exam boards should require assurance about the internal quality assurance arrangements all schools or colleges have used. Exam boards should also sample, at subject level, the evidence on which the submitted grades were based.

If an exam board found that a school or college had not used appropriate quality assurance arrangements or that the exam board's requirements had not otherwise been followed, the exam board should not issue a result for the affected students until the exam board was satisfied there was evidence to support the submitted grade(s). If an exam board found that the evidence of a student's performance did not support the grade a teacher submitted it would require the head of the school or

college to investigate and make any necessary changes to the grade before finally submitting to the board.

Grades would only change, in this process, as a result of human intervention. The exam board should not issue a result until it is satisfied with the outcome of the investigation. The exam board would need to decide on the extent of the investigation – whether it covered some or all students taking a subject, for example. Where robust investigation indicates that guidance has not been followed, or malpractice is found, exam boards reserve the right to alter grades. Ofqual requires exam boards to take all reasonable steps to prevent malpractice, to investigate malpractice where it is suspected and to take action against those responsible (students and/or staff) which is proportionate to the gravity and scope of the malpractice.⁴

We propose that the exam boards should engage with every school or college to consider the approach it is taking. All schools and colleges, regardless of cohort size, geography, demographic or centre type could be subject to further checks. We would also expect the exam boards to target some of their quality assurance activities. They might, for example, spend more time with a new school or college verifying that compliant processes are in place, or give greater attention to a school or college whose internal quality assurance arrangements appear to be less robust, or scrutinise the evidence to support grades that, overall, appear to be unusually high or unusually low.

We propose that the exam boards could only change submitted grades after a review of the evidence and following discussion with the school or college.

⁴ Exam boards can seek the support from others where that is necessary to make sure appropriate action is taken, for example by referring a matter to the Teacher Regulation Agency.

Questions

35. To what extent do you agree or disagree that the exam boards should quality assure how schools and colleges are determining grades?
36. To what extent do you agree or disagree that the exam boards should quality assure the overall approach for all schools and colleges?
37. To what extent do you agree or disagree that the exam boards should sample, at subject level, the evidence on which the submitted grades were based?
38. To what extent do you agree or disagree that the exam boards should target their more in-depth quality assurance activities?
39. To what extent do you agree or disagree that exam boards could only change a student's grade after a review of the evidence and discussion with the school or college?
40. Do you have any comments about external quality assurance?

10 How students could appeal their grade

In any year some students are disappointed with the grades they receive. In a normal year, when exams have been taken, a student's school or college can ask for the marking of an exam to be reviewed for any marking errors. Once the review of marking is complete, a school or college can appeal to the exam board on the grounds that the exam board did not follow the correct procedure when awarding a grade.

In a normal year, students who have taken a non-exam assessment marked by their teacher, can ask for that marking to be reviewed. The review is undertaken by the school or college. Students are told the teacher's mark before it is submitted to the exam board, so they can decide whether to ask for a review.

In both cases – for exams and non-exam assessments – the original mark must not be changed unless a marking error has been made. For many assessments it is not possible to say what is a 'right' mark for a student's work. This is because markers must exercise their academic judgement when giving the mark. It is often the case that 2 trained markers could give slightly different marks for the same answer and that both marks would be legitimate. In this case if the original mark given can be supported it should stand.

We propose that teachers should not tell students the grade they have submitted to the exam boards on their behalf. However, we propose that once results have been issued a student who believes their teacher has made an error when they assessed their performance in 2021 should be able to appeal to their school or college on that basis. The review would encompass both a review of the marking of any papers provided by the exam board or the school or college itself, the marking of any non-exam assessment, as well as a review of the other evidence used by the teacher to arrive at the overall grade.

We propose that the appeal should be considered by a competent person appointed by the school or college, who had not been involved with the original assessment – this could be another teacher in the school or college or a teacher from another school or college.

If an error was found it would be corrected. The outcome of the teacher assessment could be adjusted up or down as necessary to correct the error. However, in line with normal practice, the outcome of the teacher assessment should only be changed if the person undertaking the appeal found that the outcome was not legitimate – that the outcome could not have been arrived at by a person who was reasonably exercising their academic judgement.⁵

We propose that a student should also be able to appeal further to the exam board. This would not be an appeal on the merits of the teacher assessment of the school or college's appeal decision. Rather an appeal to the exam board would be on the grounds that the school or college had not acted in line with the exam board's procedural requirements, either when assessing the standard at which the student was performing or when considering the student's appeal. A student could not appeal to the exam board on the basis that either the teacher assessment or the appeal decision was not a reasonable exercise of academic judgment where the correct procedure had been followed.

If the exam board upheld the appeal, it would require the school or college to reconsider the grade it recommended for a student. We propose that students could not appeal to the exam board until they had the outcome of their appeal to the school or college.

The exam boards would decide whether to charge a separate fee for appeals made to them. We recognise this will be a difficult process for schools, colleges and exam boards to manage and that it will place additional pressures on teachers at the end of the most challenging of years. However, we do not believe the arrangements will command the confidence of students unless there is provision for them to appeal their grades or the process by which they were assessed.

⁵ See the Ofqual guidance on marking errors in the qualification level guidance for [GCSEs](#) and [GCEs](#).

To relieve pressure on the appeals process, we are seeking views on whether results day(s) in 2021 should be brought forward as this could be of benefit to students, schools and colleges and further and higher education providers. Students should only be issued with their result once external quality assurance by the exam boards has been completed. If there is an appetite for results to be brought forward we will consider the interaction between the timing of students receiving their results and the results becoming formal for the purpose of university admissions, working with the further and higher education sector to ensure no delay to existing admissions timelines. We propose that the exam boards should publish information for use by schools and colleges on how to deal with appeals.

Questions

41. To what extent do you agree or disagree that students should not be told the grade their teacher has submitted before results day?
42. To what extent do you agree or disagree that students should be able to appeal their grade on the grounds that their teacher made an error when assessing the student's performance?
43. To what extent do you agree or disagree that the school or college should consider the appeal?
44. To what extent do you agree or disagree that the appeal should normally be considered by a competent person within the student's school or college who was not involved with the original assessment?
45. To what extent do you agree or disagree that a school or college should be able to appoint a competent person from outside of the school or college to consider the appeal?
46. To what extent do you agree or disagree that a grade should only be changed if it is found not to represent a legitimate exercise of academic judgement?
47. To what extent do you agree or disagree that a student should be able to appeal to the exam board on the grounds that the school or college did not

follow the exam board's requirements when it assessed the student's performance?

48. To what extent do you agree or disagree that a student should be able to appeal to the exam board on the grounds that the school or college did not properly consider the student's appeal?
49. To what extent do you agree or disagree that we should seek to bring forward results day(s), in order for appeals to begin earlier?
50. To what extent do you agree or disagree that if results day(s) are brought forward, we should seek to decouple when a student is informed of their results, and universities are informed of their formal result for the purpose of admissions decisions?
51. To what extent do you agree or disagree that the exam boards should provide information for schools and colleges on how they should handle appeals?
52. Do you have any comments on the proposed appeal arrangements?

11 Private candidates

We want to build into the approach opportunities for private candidates (for example students studying independently, and home educated students) to be awarded grades in summer 2021. We believe there are 4 possible approaches:

- (a) for private candidates to complete the papers set by the exam boards for use in schools and colleges. The exam boards would mark the papers (and any completed non-exam assessment) and issue a grade to the private candidate based on their performance.
- (b) for private candidates to work with a school or college willing to assess the standard at which they are performing – using the same type of evidence the school and college is considering for its students.
- (c) for the exam boards to run normal exams for private candidates to take in the summer of 2021 – appropriate venues would need to be provided.
- (d) for the exam boards to run normal exams for private candidates to take in the autumn of 2021 – appropriate venues would need to be provided.

We wish to be confident that there will be a route available for all private candidates to receive a grade. We recognise that, given the pressures on schools and colleges created by the pandemic, and the potential public health considerations, schools and colleges might be reluctant to make entries for and then assess private candidates this year. We also wish to manage the costs to private candidates.

We know of some private candidates who were unable to receive a grade in summer 2020 and who did not take the exams in the autumn who are particularly concerned about how the arrangements will work for them. For these students, and others, any further delay could have significant consequences for their progression.

We are interested to know which of these options private candidates, in particular, would prefer were put in place.

Private candidates will also need to be able to appeal their grade. The route for the appeal would need to align with the way their grade was determined.

Questions:

53. To what extent do you agree or disagree that private candidates should be able to complete the papers set by exam boards, with them marked by the exam boards?
54. To what extent do you agree or disagree that private candidates should be able to work with a school or college to produce the same type of evidence as the school or college's other students?
55. To what extent do you agree or disagree that exam boards should run normal exams for private candidates in summer 2021?
56. To what extent do you agree or disagree that exam boards should run normal exams for private candidates in autumn 2021?
57. Do you have any comments on the options for how grades should be made available to private candidates?
58. If the preferred option for private candidates is an exam series, should any other students be permitted to enter to also sit an exam?

12 Whether Ofqual should prohibit the taking of GCSE, AS and A level exams in England, the UK and elsewhere in the world

Government policy is that GCSE, AS and A level exams should not take place in England in summer 2021. We need to decide whether the exam boards should be prohibited from offering exams in England, in other parts of the UK and elsewhere in the world.

A dual system, whereby some students in other countries took GCSE, AS and A level exams, but students' grades in England were determined by teacher assessment, might give rise to concerns that there were 2 types of grades awarded – one based on a student's performance in exams and one based on teacher assessment. However, if it is possible for exams to be safely taken in at least some countries, and as exams are the best way to assess student performance, it might be appropriate to allow them to be taken by students who will not otherwise be able to be issued with a grade. Exams might also be the best route for private candidates in England.

Questions

59. Should the exam boards be prohibited from offering GCSE, AS and A level exams in any country in 2021?
60. If you answered no, which students should be allowed to enter for them?

13 How the proposed arrangements for 2021 differ from those used in a normal year and those used in 2020

Students who had been expecting to take exams will wish to understand how our proposed approach will be different to that of a normal year. The table below summarises the normal arrangements and the proposed alternative arrangements for 2021.

Aspect	Normal year	Proposed approach for 2021	Comments
Exams	<p>Students take 'unseen exams' – neither they nor their teachers know beforehand the topics to be covered by the questions.</p> <p>All students take the same exam papers.</p> <p>The exams are taken under tightly controlled conditions.</p> <p>The exams are marked by the exam boards.</p>	<p>There will be no exams (except perhaps in the case of private candidates).</p>	<p>The experience should be less daunting for students. The exact arrangements will be decided following the consultation and will have to take account of any public health restrictions in place at the time.</p>
Non-exam assessment	<p>Non-exam assessments are used in some subjects. They are usually marked by teachers and the marking is moderated by the exam boards. The relative weighting of the exam(s) and non-exam assessment is prescribed.</p>	<p>We propose that non-exam assessment is completed where possible, although the conditions under which they are taken might have to be relaxed.</p> <p>We propose that the exam boards do not moderate teacher marking.</p> <p>Teachers should be able to reduce the normal weight given to non-exam assessment, if a student has had difficulties completing it.</p>	<p>In some subjects non-exam assessments do not require any specialist equipment and can be undertaken when students are not in school or college. Non-exam assessments will be more difficult to complete in other subjects.</p>
Evidence of a student's performance	<p>The only evidence taken into account when a student's grade is set is their performance in their exams and non-exam assessments.</p>	<p>We propose that teachers will be able to take into account other evidence of a student's performance. We propose the exam boards should provide guidance on the relative weighting of the different forms of evidence.</p> <p>This may include the use of papers set by the exam boards, evidence from non-exam assessment or other performance evidence. It may also include student performance in papers prepared by teachers.</p>	<p>The proposals will allow teachers to make a holistic, evidence-based assessment of the grade each student should receive.</p>

Appeals	Schools and colleges can ask for the marking of an exam to be reviewed, after results have been issued. Students can ask their school or college to review a teacher's marking of their non-exam assessment before the mark is submitted for moderation.	We propose that students should be able to appeal on the ground that the grade is not supported by the evidence of their performance or followed the correct approach. We are looking at the timing of results day to increase the time available for the appeals process.	If this proposal is taken forward it will allow a number of appeals to be resolved before results are issued.
Setting standards	The exam boards set grade boundaries. In this way they maintain standards year on year, between schools and colleges and between exam boards.	As exams have been cancelled, exam boards will not be able to set grade boundaries. Teachers will instead submit to the exam board the grade they think a student's performance deserves based on the standard of the student's work, and in line with the training and guidance provided for assessment.	Standards will be protected to a degree if teachers take evidence-based decisions in line with the exam boards' requirements. The usual assurances of comparability between years, between individual students, between schools and colleges and between exam boards will not be possible.

This is the second year in which the government has taken the difficult decision that, because of the coronavirus (COVID-19) pandemic, GCSE, AS and A level exams cannot take place fairly.

The timing of the decision and the context in which it was taken are different this year. Our proposed approach to awarding grades in 2021 is also different, taking into account the current context and the lessons learned from 2020.

We summarise the key differences between the approach taken in 2020 and the proposed approach to 2021 below.

Aspect	2020	Proposals for 2021	Comment
Student work	Centre assessment grades were informed by work students had already completed at the point exams were cancelled.	Submitted grades to be based on teachers' assessment of the standard at which their students are performing,	When exams were cancelled in 2020, in most subjects students had covered the majority of the curriculum. Schools and colleges were not experienced providers of remote education. In 2021 the

		undertaken towards the end of the academic year. A breadth of evidence should inform teachers' judgements, including the use of either exam board papers, non-exam assessment, as well as evidence from previous work.	decision to cancel exams has been taken earlier. A key priority for 2021 is that students remain engaged with their education for as long as possible.
The nature of the school or college decision	Schools and colleges were asked to decide on the grade a student would most likely have received had the exams taken place. They were also asked to put their students into a rank order for each subject.	Schools and colleges to assess the standard at which students are performing and submit a grade that reflects that standard. They will not be required to put their students into a rank order.	In 2020 schools and colleges could use a range of information to decide on the grade a student would most likely have received had the exams taken place, as their students' experience would have been similar to that of previous years. Students in 2021 have had a different educational experience because of the disruption caused by the coronavirus (COVID-19) pandemic. It would be harder for a school or college to judge what grade a student would be likely to have received had the exams taken place.
Quality assuring the grades	In 2020 we intended that the exam boards would standardise the centre assessment grades using data about the prior performance of students in the school or college and the grades awarded to students in the school or college in recent years. This proved to be unacceptable to the public and the planned approach was not used.	We propose that the exam boards quality assure the submitted grades by checking that schools and colleges are following their requirements and by sampling the evidence on which submitted grades are based. They will also provide support and guidance to schools and colleges to help them make appropriate and consistent assessment decisions.	The 2020 approach did not command public confidence. In 2021, with greater notice of the cancellation of exams, the exam boards will be able to engage more closely with schools and colleges as they quality assure their submitted grades. A student's grade would be based on evidence of their performance alone – not that of other students.

		Changes to teachers' grades should be the exception and will only be if the grade could not legitimately have been given based on the evidence. Grades will only be changed as a result of human judgement, not by an algorithm.	
Private candidates	In 2020 grades were based on work that had already been undertaken before the exams were cancelled. This made it difficult for some private candidates who did not have a relationship with a school or college to obtain a grade. Some private candidates had to wait to sit an exam in the autumn.	Private candidates should be able to obtain a grade. We are seeking views on 4 approaches that would enable private candidates to be issued with grades: (a) private candidates take papers set and marked by the exam boards (b) private candidates' performance is assessed by a school or college (c) private candidates take an exam in summer 2021 (d) private candidates take an exam in autumn 2021 The proposed approaches for 2021 should make it easier for private candidates to obtain a grade.	We will decide on the best approach for private candidates once we have considered the responses to the consultation and sought views from representatives of private candidates.
Appeals	Centre assessment grades were made on a centre's judgment of the grade a student would most likely have achieved had they taken their exams. The evidence to be used to	All students will be able to appeal. Basing the grades on an assessment of the student's performance towards the end of the academic year means there will be evidence	While we recognise the proposed appeal arrangements would place additional burden on teachers and on exam boards, we believe these are necessary to secure confidence in the arrangements.

	<p>inform this judgment could not be specified as only evidence that already existed could be used. The process to be followed by schools and colleges was also not prescribed. This meant that students could not appeal against their centre assessment grades as there was no basis on which they could appeal the judgment.</p>	<p>that could be considered in an appeal.</p>	
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Equality impact assessment

Before making these proposals, we have considered the likely impact on persons who share particular protected characteristics, in order to enable us to comply with the public sector equality duty in section 149(1) of the Equality Act 2010. This requires us to have due regard to the need to:

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

Annex B sets out how this duty interacts with Ofqual’s statutory objectives and other duties. Awarding organisations are required to comply with equalities legislation, and Ofqual’s existing General Conditions of Recognition reinforce this in relation to the qualifications awarding organisations make available. Awarding organisations are required to monitor their qualifications to identify features which may disadvantage a group of learners who may share a protected characteristic; this applies to the design, delivery and award of their qualifications.

Cancelling exams and replacing them with teacher assessment that will draw on a range of evidence of a student’s performance is likely to have relative advantages and disadvantages for different groups of those who share particular protected characteristics. We welcome evidence on the possibility that the proposed

arrangements may lead to indirect discrimination, and the extent to which they have the potential to advance equality of opportunity and foster good relations.

In developing these proposed arrangements, we have sought to not unfairly disadvantage learners, including on the basis of sharing a protected characteristic. We have considered whether any of the proposals in this consultation might impact (positively or negatively) on learners who share particular protected characteristics. We set these considerations out below, in addition to the impacts we have identified in the relevant sections throughout this consultation. We welcome further evidence on those areas we have identified but also on any that we have not, so that we can take all evidence into account.

While it is not possible completely to remove all identified negative impacts, we are keen to understand whether respondents agree with the impacts we have identified, whether there are other impacts that we have not identified, and whether there are ways to mitigate these impacts. We would therefore encourage you to read and respond to this section.

Disabled students would have to be given reasonable adjustments when taking any assessments that provide evidence of the standards to which they are performing. We do not consider this would be problematic, at least not if the assessments were undertaken within the school or college. The student's school or college would know how the student normally works and make any such adjustments as were necessary to reflect the student's normal way of working. Reasonable adjustments should also be made for private candidates, according to the way they will be assessed.

If the assessments had to be taken in another venue, including at the student's home, some types of reasonable adjustment could be readily made, for example the provision of extra time, or putting the assessment into a larger font. Other types of adjustment could be more difficult to make, for example if the student would normally dictate their work to a scribe or required specialist equipment or software to complete remote assessments. We welcome respondents' views on the best way to ensure students receive the reasonable adjustments they need.

We cannot ignore the risk of unconscious bias towards those with one or more particular protected characteristics when assessments are not exam based. Though we did not find this in our analysis of last year's outcomes, we would welcome any further evidence of when and how such bias occurs and any best practice to reduce the risk.

The proposed approach to awarding grades in summer 2021 should be accessible to students who are being educated in alternative forms of provision, such as hospital schools, notwithstanding the issues identified above.

We are seeking views on how private candidates might best be issued with a grade that reflects the standard of their performance. We are aware that a proportion of

students who study outside a school or college (private candidates) do so for reasons of SEND or illness. We would therefore welcome evidence on any disproportionate positive or negative impact our proposals might have on private candidates with particular protected characteristics.

Similarly, teacher assessments could be more difficult to make and/or limited in their usefulness where a student has poor attendance and/or a shorter history at the school and so less interaction with the teacher. For example, evidence suggests that this is particularly a concern for Gypsy, Roma, and Traveller groups, who are likely to move schools more often, and in general struggle to maintain sustainable links with schools⁶. We welcome evidence on how best to mitigate any disadvantage of our proposals for these groups of students.

When Ofqual consulted last year on the changes it then proposed to the assessment of GCSEs, AS and A levels in 2021, respondents emphasised that assessments should be as accessible and inclusive as possible, so that students were not prevented from demonstrating what they know and can do. Consequently, Ofqual shared with the exam boards the current draft of its proposed new statutory guidance on producing accessible and inclusive assessments. With summer 2021 exams now cancelled, Ofqual will highlight to exam boards that their duties to make their assessments accessible would extend to any papers that they produce as part of the revised arrangements. We would welcome respondents' views on how schools and colleges could be supported to make any school or college-set assessments as accessible as possible.

Our proposals seek to ensure alignment as far as is possible between the arrangements for GQs and VTQs such that there is no advantage or disadvantage for any group of students that may arise due to differences in approach⁷. Our starting point is that we will seek to minimise the likelihood of this risk materialising as far as is possible. However, it may not be possible to fully mitigate in all circumstances. We will consider this as we finalise the approach for GQs and VTQs.

We will need to take care to make sure all students, regardless of their protected characteristics or wider circumstances, have access to information about the arrangements, including how to appeal. This information must be available to students directly, including those who do not have an established relationship with a school or college, such as private candidates and some Gypsy, Roma and Traveller students. We will work with our extensive stakeholder networks to ensure that key

⁶ [Absence from school data](#)

⁷ [Exceptional arrangements for assessment and grading in 2020](#) (Ofqual consultation)

information is communicated to – and accessible for – all student groups. We will publish information for students, in different formats, and provide an enquiries service to support this.

Questions

61. Do you believe the proposed arrangements (any or all) would have a positive impact on particular groups of students because of their protected characteristics?
62. If you have answered 'yes' please explain your reason for each proposed arrangement you have in mind.
63. Do you believe the proposed arrangements (any or all) would have a negative impact on particular groups of students because of their protected characteristics?
64. If you have answered 'yes' please explain your reason and suggest how the negative impact could be removed or reduced for each proposed arrangement you have in mind.

Regulatory Impact Assessment

Following the cancellation of exams, we are proposing alternative arrangements that will enable results based on teacher assessment to be issued to GCSE, AS and A level students in summer 2021 to enable them to progress to further study or employment. In this section we consider the activities resulting from the proposals that we expect may give rise to additional costs and burdens, as well as any activities that may not take place and could therefore deliver savings.

Impact on schools and colleges

We expect there would be one-off, direct costs and administrative burdens to schools and colleges associated with the following activities:

- familiarisation with information and guidance from exam boards on teacher assessment and submitted grades
- communication and training from senior leaders to teaching staff on teacher assessment and submitted grades
- marking and quality assurance of teacher assessments and submitted grades

- amendments to centre systems to enable the required information to be gathered and submitted to exam boards in a format specified by them
- managing high volumes of enquiries from candidates and parents
- managing potentially high volumes of appeals

Schools and colleges will be delivering the alternative arrangements in place of, and not in addition to, the usual range of activity required to deliver summer exams in their centre including, for example, secure handling of exam papers and scripts, invigilation of exams and dealing with any cases of possible malpractice and maladministration arising in usual exam delivery.

We acknowledge that the burden of delivering the revised arrangements could be greater and more challenging for both exam boards and centres where staff availability is affected by the coronavirus (COVID-19) and centres are closed for normal teaching. We also acknowledge the exceptional impact of the coronavirus (COVID-19) pandemic on the workload of teachers and their colleagues.

Impact on students

Students taking the relevant qualifications are directly affected by the proposed arrangements. We are focused on making sure they are not disadvantaged and that disruption to their planned progression is minimised. While students will not be taking exams as they had expected, the proposed arrangements will ensure that all students, including private candidates, continue with studies and will receive grades as expected in August. Private candidates may incur costs in addition to expected exam entry costs if, for example, centres who are able to assess them are limited and students need to pay for travel or accommodation.

Impact on exam boards

The proposed arrangements apply to GCSE, AS and A level qualifications regulated by Ofqual and provided by AQA, OCR, Pearson and WJEC Eduqas. We expect the scale of impact will vary across each organisation according to the range of subjects offered and number of entries. We expect there would be one-off, direct costs and administrative burdens to these organisations associated with the following activities:

- familiarisation with guidance published by Ofqual on the approach to submitting grades
- familiarisation with any new or revised general and qualification level conditions
- information and training to centres to inform teacher assessments, quality assurance and submission of grades to exam boards
- guidance on reasonable adjustments and special consideration in the context of teacher assessments
- if and where required, development of papers in each subject and provision of training and mark schemes to support teacher marking

- development and delivery of processes and systems for the collation of grades submitted by centres
- preventing, detecting and investigating any malpractice or maladministration relating to the provision of submitted grades
- external quality assurance of submitted grades
- issuing of results in accordance with new arrangements
- managing increased volumes of enquiries from centres and candidates
- familiarisation with, and delivery of, the revised appeal arrangements agreed post consultation
- assessment of changed costs – both decreasing and increasing – and determining appropriate fees

We will develop the approaches agreed post consultation in collaboration with exam boards and organisations representing teachers and students with the aim of putting in place arrangements that are both manageable and appropriate. We plan to publish information for schools and colleges which should help to reduce the burden on exam boards of communicating the revised arrangements – though we think it likely that many schools and colleges and students will nevertheless want to make contact to discuss their individual circumstances.

We acknowledge that these activities are not in addition to usual arrangements for delivery of exams in the summer, rather, they are in place of those arrangements.

The range of activities that exam boards would usually be undertaking that they will not be doing, or will be doing in a different way, this summer, may include:

- printing, delivery, collection and scanning of exam papers and scripts
- marking of scripts - including examiner recruitment, standardisation, and quality assurance arrangements
- identification and investigation of malpractice and maladministration arising in usual exam delivery arrangements.
- moderation of non-exam assessments

Costs associated with some of these activities may already be contractually committed and so may not be recoverable in full or in part.

We have set out options that will enable private candidates to receive grades. If, following consultation, we decide that it is appropriate for such students to sit assessments provided by exam boards and marked directly by the exam boards, the exam boards will incur the marking costs. If we decide that these students should sit exams rather than a form of teacher assessment, then exam boards will incur development and delivery costs, in addition to marking costs.

Impact on the FE and HE sectors and employers

There would be significant negative impacts on the FE and HE sectors and employers if students were not able to progress as planned in 2021. However, our

proposed arrangements aim to ensure that students receive grades in time to be able to progress to FE or HE, with the possibility of earlier results dates so that appeals can begin to be dealt with before FE and HE decisions are made.

Innovation and growth

The Deregulation Act 2015 imposes a duty on any person exercising a regulatory function to have regard for the desirability of promoting economic growth (the Growth Duty). Ofqual must exercise its regulatory activity in a way that ensures that any action taken is proportionate and only taken when needed. The Growth Duty sits alongside Ofqual's duty to avoid imposing unnecessary burden, as required under the ASCL Act 2009, as well as its statutory duties relating to equality and the Business Impact Target. We consider the proposals for these exceptional, one-off awarding arrangements are proportionate and necessary to achieve our aims.

Estimated costs and savings

Given the timescales, we have not sought to estimate the likely costs and savings of these one-off arrangements. We do, though, encourage respondents to share with us as much information as possible about the likely costs and administrative burdens, as well as any savings or benefits of the proposals set out in this consultation, so that we may consider this information when reaching our decisions. We encourage anyone who responds to this consultation to tell us if they think there is something we could do differently that would still achieve the same aim but would reduce costs and administrative burden.

Questions:

65. Are there additional burdens associated with the delivery of the proposed arrangements on which we are consulting that we have not identified above? If yes, what are they?
66. What additional costs do you expect you would incur through implementing the proposed arrangements on which we are consulting?
67. What costs would you save?
68. We would welcome your views on how we could reduce burden and costs while achieving the same aims.

Annex A: Your data

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

This Privacy Notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual) and Department for Education (DfE). The relevant data protection regime that applies to our processing is the UK GDPR and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this Privacy Notice carefully as it contains important information about our processing of consultation responses and your rights.

How to contact us

If you have any questions about this Privacy Notice, how we handle your personal data, or want to exercise any of your rights, please contact:
Data Protection Officer at dp.requests@ofqual.gov.uk

Our legal basis for processing your personal data

Where you provide personal data for this consultation, we are relying upon the public task basis as set out in Article 6 (1) (e) of UK GDPR to process personal data which allows processing of personal data when this is necessary for the performance of our public tasks. We will consult where there is a statutory duty to consult or where there is a legitimate expectation that a process of consultation will take place. Where you provide special category data, we process sensitive personal data such as ethnicity and disability, we rely on Article 9(2) (g) of UK GDPR as processing is necessary for reasons of substantial public interest.

Why we are collecting your personal data

As part of this consultation process you are not required to provide your name or any personal information that will identify you. However, we are aware that some respondents would like to provide contact information. If you or your organisation are happy to provide personal data, with regard to this consultation, please complete the details below. We would like to hear as many views as possible and ensure that we are reaching as many people as possible. In order for us to monitor this, understand views of different groups and take steps to reach specific groups, we are asking for sensitive data such as ethnicity and disability to understand the reach of this consultation and views of specific groups. You do not have to provide this information and it is entirely optional.

If there is any part of your response that you wish to remain confidential, please indicate below. Where you have requested that your response or any part remains confidential, we will not include your details in any published list of respondents, however, we may quote from the response anonymously in order to illustrate the kind of feedback we have received.

Please note that information in response to this consultation may be subject to release to the public or other parties in accordance with access to information law, primarily the Freedom of Information Act 2000 (FOIA). We have obligations to disclose information to particular recipients or including member of the public in certain circumstances. Your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance requests for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response and assess this in accordance with applicable data protection rules.

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

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

How we will use your response

We will use your response to help us shape our policies and regulatory activity. If you provide your personal details we may contact you in relation to your response. We will analyse all responses and produce reports of consultation responses. In the course of analysis, we will where possible avoid using your name and contact details. We will only process the body of your response but we are aware that in some cases, this may contain information that could identify you.

Sharing your response

This is a joint consultation undertaken by Ofqual and the Department for Education (DfE). Ofqual will lead the consultation and collect the responses. Therefore, your consultation response will be shared with DfE as this forms part of work involving both organisations. We need to share responses with them to ensure that our approach aligns with the wider process. Where we share data, we ensure that

adequate safeguards are in place to ensure that your rights and freedoms are not affected. You can find details of how DfE processes personal data [here](#).

We use SmartSurvey to collect consultation responses and they act as our data processor. You can view SmartSurvey's privacy notice at <https://www.smartsurvey.co.uk/privacy-policy>

Your response will also be shared internally within Ofqual in order to analyse the responses. We use third party software to produce analysis reports, which may require hosting of data outside the UK, specifically the US. Please note that limited personal information is shared. All personal contact information is removed during this process. Where we transfer any personal data outside the UK, we make sure that appropriate safeguards are in place to ensure that the personal data is protected and kept secure.

Following the end of the consultation, we will publish an analysis of responses on our website, www.gov.uk/ofqual. We will not include personal details in the responses that we publish.

We may also publish an annex to the analysis listing all organisations that responded, but will not include personal names or other contact details.

How long will we keep your personal data

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

Your data

Your personal data:

- will not be sent outside of the UK unless there are appropriate safeguards in place to protect your personal data
- will not be used for any automated decision making
- will be kept secure

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

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

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

- access personal data relating to you

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

If you would like to exercise your rights, please contact us using the details set out above. You can also find further details about Ofqual's privacy information [here](#).

We will respond to any rights that you exercise within a month of receiving your request, unless the request is particularly complex, in which case we will respond within 3 months.

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

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

Annex B – Ofqual’s role, objectives and duties

The Apprenticeship, Skills, Children and Learning Act 2009

Ofqual has five statutory objectives, set out in the Apprenticeship, Skills, Children and Learning Act 2009;

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

Ofqual must therefore regulate so that qualifications properly differentiate between Students who have demonstrated that they have the knowledge, skills and understanding required to attain the qualification and those who have not.

Ofqual also has a duty under the Apprenticeship, Skills, Children and Learning Act 2009 to have regard to the reasonable requirements of relevant Students, including

those with special educational needs and disabilities, of employers and of the higher education sector, and to aspects of government policy when so directed by the Secretary of State.

The Equality Act 2010

As a public body, we are subject to the public sector equality duty. This duty requires Ofqual to have due regard in the exercise of its functions to the need to:

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

The awarding organisations that design, deliver and award qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications, except where Ofqual has specified that such adjustments should not be made.

When Ofqual decides whether such adjustments should not be made, it must have regard to:

- a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities
- b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred
- c) the need to maintain public confidence in the qualification

Ofqual is subject to a number of duties and it must aim to achieve a number of objectives. These different duties and objectives can, sometimes conflict with each other. For example, if Ofqual regulates to secure that a qualification gives a reliable indication of a student's knowledge, skills and understanding, a student who has not been able to demonstrate the required knowledge, skills and/or understanding will not be awarded the qualification.

A person may find it more difficult, or impossible, to demonstrate the required knowledge, skills and/or understanding because they have a protected characteristic. This could put them at a disadvantage relative to others who have been awarded the qualification.

It is not always possible for Ofqual to regulate so that qualifications give a reliable indication of knowledge, skills and understanding and advance equality of opportunity between people who share a protected characteristic and those who do

not. Ofqual must review all the available evidence and actively consider all the available options before coming to a final, justifiable decision.

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

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

In setting our proposed requirements, we want to understand the possible impacts of the proposals on students who share a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage and civil partnerships
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

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



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