

CONSULTATION

# Regulating academic and technical qualifications at level 3

Proposed regulatory approach for alternative academic and alternative technical qualifications at level 3 in England

**ofqual**

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# Foreword

A strong qualifications system benefits individuals, awarding organisations and employers. It is important that students can access high-quality qualifications and assessments – that is, those which are designed and delivered in a way that enables those taking them to demonstrate fully their knowledge, skills and understanding, and that employers and other users recognise as being high quality. High-quality qualifications should have a clear purpose, and be designed so that their content and assessments reflect that purpose.

Independent regulation plays an important role in ensuring that qualifications do this. As the independent regulator, Ofqual regulates on behalf of students to make sure qualifications and assessments are good quality and, in particular, that they are fit for purpose, and designed and assessed well.

The government is currently reviewing the qualifications that are available to post-16 learners at level 3. It has set out its intention to strengthen this provision, setting expectations which will ensure that qualifications available as alternatives to A levels and T Levels are high quality, and recognised as such, to enable students taking these to move into their chosen destination of further study or skilled employment. Qualifications at level 3 would have to meet these expectations for approval for public funding, both for 16-19 and for adult learners.

Ofqual's experts have worked closely with the Department for Education (the Department) and the Institute for Apprenticeships and Technical Education (the Institute) to develop a proposed approach to regulating these qualifications. The proposed approach seeks to meet the needs of students, employers, education institutions and awarding organisations by ensuring high-quality qualifications that can be held in the same regard as A levels and T Levels. It seeks to balance this with the need to ensure these qualifications also provide genuine alternatives for those students for whom an A level or T Level is not the most appropriate choice.

The level of change and disruption that any new requirements could cause is a further factor that has been considered as these proposals have been developed, recognising that there are some features of existing qualifications that students and other users value. The proposals aim to balance the potential benefits of changes against any disruption they may cause, to reduce the extent of any additional burden, and to maintain those features of existing qualifications which are valued and work effectively.

This consultation sets out how Ofqual proposes to regulate academic and technical qualifications in the new landscape, including those which will serve as alternatives to A levels and T Levels. For the purpose of this consultation, these are referred to as 'alternative academic' and 'alternative technical' qualifications. The Department

and the Institute will confirm in due course what these qualifications will be known as and how they may be categorised. The proposed approach builds on and strengthens the approaches required by Ofqual's General Conditions of Recognition. The strengthened controls proposed reflect those which help ensure high-quality qualifications, by setting expectations in key areas of assessment delivery that can affect quality, and which have been used successfully in Ofqual's regulation of A levels and T Levels.

For alternative technical qualifications, the Institute will be responsible for approvals, and will consult on its criteria and requirements for this later in the year. Ofqual's proposed approach for regulating alternative technical qualifications is designed to work alongside the requirements the Institute intends to put in place. Ofqual and the Institute are working closely to ensure there is a coherent approach that, where possible, minimises the burden on those in the system.

The new regulatory approach is intended to be in place later this year. This takes account of the importance of balancing the need for appropriate development time with the need for specifications to be available to students and centres so that informed choices can be made. Once we have analysed the responses to this consultation, which focuses on the principles and aims of our approach, we will consult on the details of the new rules and guidance that we seek to put in place.

Thank you for your interest in this consultation and for any response you may submit. It is crucial that we hear from as wide as possible a range of respondents regarding how our proposals would affect them.

## Proposals at a glance

This consultation sets out Ofqual's proposed approach to regulating alternative academic qualifications and alternative technical qualifications, operating in conjunction with the Institute and the Department. These qualifications will be part of the future level 3 landscape, as part of the Department's 'Review of post-16 qualifications at level 3 in England', alongside A levels, T Levels and Apprenticeships<sup>1</sup>. These groups of qualifications are explained in more detail later in this document, but in summary:

- alternative academic qualifications are those which have the primary purpose of evidencing students' attainment in relation to their course of study, with a view to supporting informed decisions and choices about further study
- alternative technical qualifications are those which have the primary purpose of identifying students that have attained the knowledge, skills and behaviours linked to competence in a given occupation

The Department and the Institute will confirm in due course what these qualifications will be known as and how they may be categorised.

Ofqual will regulate both alternative academic and alternative technical qualifications against the General Conditions of Recognition. These are the rules that apply to all Ofqual-regulated qualifications and the awarding organisations offering them. They set requirements relating to the design, development, delivery and award of qualifications, which all awarding organisations must meet.

Ofqual proposes to put in place a range of additional regulatory requirements on which we are seeking views through this consultation. Some of these will apply to both alternative academic and alternative technical qualifications.

Where the proposed regulatory requirements relate to alternative technical qualifications, Ofqual and the Institute will work together to ensure alignment of expectations. The Institute will lead the approval of alternative technical qualifications, by ensuring that they meet employer needs through alignment with employer-led occupational standards. The Institute will consult later in the year on approvals criteria it proposes to put in place, and Ofqual's proposed requirements would apply alongside these.

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<sup>1</sup> There are additional academic qualifications which form part of the Department's review, but which are not currently in scope of these proposals, such as the International Baccalaureate Diploma and Extended Project Qualifications. These are described further in the Background section of this consultation.

For alternative academic qualifications, it is proposed, additionally, to put in place requirements to strengthen the regulation of these qualifications and bring greater awarding organisation control to those areas of qualification design and delivery that are key to ensuring quality.

Qualifications would have to meet these expectations in order for approval for public funding, both for 16-19 and for adult learners.

This consultation sets out Ofqual's proposed regulatory approaches for both alternative academic and alternative technical qualifications, which are summarised below.

For **both alternative academic and alternative technical** qualifications:

- **set requirements to ensure the assessment of content is appropriate to the knowledge, skills and understanding being assessed. This should be explained through the assessment strategy** to ensure valid assessment of the content covered, and support expectations of students and other users in relation to the degree of consistency they may expect between qualifications covering similar content. It should reflect the difference between alternative technical qualifications (where this relates to alignment with the employer-led occupational standards published by the Institute) and alternative academic qualifications (for which there is no nationally-set subject content)
- **seek views on considerations in relation to the grading scales used in these qualifications** to meet the ministerial steer that the future landscape should be clearer to navigate for students and other users of qualifications
- **seek views on whether qualifications should be identifiable through specific titling requirements** to understand the extent to which titling approaches may help students and other users to identify qualifications, and therefore improve navigability
- **seek views relating to any particular considerations for assessor judgements in directly graded assessments** to help ensure the standards of those assessments that are directly graded by assessors
- **require an awarding organisation to develop and adhere to an assessment strategy setting out its approach to the design, development, delivery and award of these qualifications.** This will help Ofqual to understand an awarding organisation's qualification and assessment design decisions. This will help secure the initial quality of qualifications, support their effective regulation, and promote their continuous improvement by awarding organisations

- **require that, following a review by Ofqual of a qualification, an awarding organisation must comply with any requirements or have regard to any guidance provided by Ofqual in relation to that review.** This will ensure that any issues identified with qualifications as part of the approval process are addressed, so that students can have confidence in the rigour and currency of the qualifications they are taking
- **require awarding organisations to notify Ofqual where approval for public funding for one of these qualifications is withdrawn** to ensure that awarding organisations take steps to protect the interests of students already partway through a qualification

Additionally, for **alternative academic** qualifications:

- **specify the general purposes which awarding organisations must design their qualifications to meet and, as a consequence, disapply the related General Conditions (E1.1 & E1.2 – Qualifications having an objective).** This will support the Department's policy intent of there being an increased level of clarity about the purpose of each qualification and the intended destination point for students
- **for Assessment by Examination, require that:**
  - **the minimum percentage of a qualification that must be assessed through an Assessment by Examination is 40%** to reflect that the purpose of these qualifications is to support progression to further study and that their content is likely to be conducive to this type of assessment
  - **they are marked by the awarding organisation** to provide awarding organisations with a high level of control and promote confidence in the quality of these qualifications
  - **they are available in up to two assessment series on set dates in each academic year** so that frequency of formal assessment does not negatively impact on teaching and learning and to support standard setting, by maximising the amount of evidence that is available when this takes place
- **for non-exam assessment, require that:**
  - **these are set by awarding organisations** to provide a high degree of control for awarding organisations to ensure that tasks and assessments are valid and comparable
  - **the submission of marks or grades to awarding organisations may happen no more than twice in an academic year** so that frequency of formal assessment does not negatively impact on

teaching and learning and to support standard setting, by maximising the amount of evidence that is available when this takes place

- **awarding organisations consider new or amended evidence where a student is retaking the assessment** so that where students retake assessments, arrangements are manageable, and students have appropriate opportunity to demonstrate their knowledge, skills and understanding
- **awarding organisations mark or grade assessments themselves, or permit centres to do this, or use a combination of these approaches** so that arrangements are manageable and support valid assessment, based on the nature of the task and the assessment evidence generated
- **set requirements relating to awarding organisations' approaches to setting standards** so that standards are set and maintained appropriately and consistently and to meet the ministerial steer to explore further how best to secure grading standards in these academic qualifications going forward

Additionally, for **alternative technical** qualifications

- **to seek views on Ofqual's proposed approach to regulating these** to help ensure high-quality qualifications and with a view to how Ofqual and the Institute work together to avoid imposing any unnecessary regulatory burden

## Audience

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

- awarding organisations and their representative bodies, particularly those that deliver (or want to deliver) alternative academic and alternative technical qualifications that would fit into the groups to be regulated by the proposed arrangements
- schools, colleges and training providers, and their representative bodies – particularly those that deliver (or want to deliver) alternative academic and alternative technical qualifications that would fit into the groups to be regulated by the proposed arrangements
- students
- employers

# Consultation arrangements

## Duration

This consultation will be open for 8 weeks starting on 24 February and ending on 20 April at 23:45.

## Respond

Please respond to this consultation by using one of the following methods:

- [complete the online response](#)
- email your response to [consultations@ofqual.gov.uk](mailto:consultations@ofqual.gov.uk). Please include the consultation title in the subject line of the email and make clear who you are and in what capacity you are responding

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

# 1. Introduction

## Background

Ofqual is the independent regulator for qualifications in England. Ofqual's statutory objectives include: securing the standards of, and promoting public confidence in, regulated qualifications. Ofqual's rules, which awarding organisations must follow, are designed to achieve this. We monitor their approaches to make sure they are meeting the rules and take action if they are not. Ofqual's regulation seeks to ensure quality and fairness for students and apprentices; clarity, effectiveness and efficiency in the qualifications market; and contributes to shaping the future of assessment and qualifications.

The Department set out in July 2021, following its consultation on the 'Review of post-16 qualifications at level 3 in England'<sup>2</sup>, its proposals to transform the qualifications landscape at level 3. The Department intends to streamline the overall level 3 qualifications landscape, and improve the quality of those qualifications that will be available, to both 16- to 19-year-old students and adults in the future, so that more people can get the skills they need to get good jobs and the knowledge they need to progress in education. While A levels and T Levels are intended by the Department to be the main academic and technical qualification offers at level 3 respectively, there are students whose intended employment and learning destinations may not be best served by A levels and T Levels and who therefore need access to high-quality alternative qualifications.

The Department set out how publicly funded qualifications at level 3 should be overseen in future. It said:

'Ofqual, the Institute, and ESFA will be implementing a new approvals process, establishing an approach which is coherent and ensures funded level 3 qualifications have a distinct purpose, are truly necessary in the new simplified system, support meaningful progression, and are high quality.

For technical qualifications, the Institute will lead an approvals process, setting criteria for the various technical qualification categories. For academic qualifications, ESFA will set criteria to ensure all qualifications approved for funding are necessary alongside A Levels.

Ofqual will provide advice about quality to both organisations. The ESFA will continue to have overall responsibility for funding decisions, based on its own

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<sup>2</sup> [Reforms to post-16 qualifications at level 3 in England.](#)

criteria, and for technical qualifications, will only fund those that have been approved by the Institute.’

The roles set out by the Department reflect the different responsibilities of Ofqual, the Institute, and the Department. They also reflect the differences in the fundamental purposes of academic qualifications, which support progression to further study, and technical qualifications, which support progression into employment.

With respect to approvals, Ofqual, the Institute and the Department will work together to ensure a streamlined process, which minimises burden on awarding organisations as far as possible, while also ensuring that each organisation involved in the approvals process is able to carry out its role effectively. The Department has published further information about the approvals process on its website.<sup>3</sup>

## Strengthening alternative academic and alternative technical qualifications at level 3

In January 2022, the Secretary of State wrote to Ofqual setting out the intention that alternative level 3 provision must be strengthened in comparison to the approaches currently in place. His steer set out that:

‘A fundamental feature of the proposals is there being an improved level of clarity about the purpose of each qualification and their intended destination points for students. In particular, this relates to whether a qualification is intended primarily to support progression to further study or into skilled employment.’

In recent years, Ofqual’s regulation of VTQs has been strengthened, to ensure they reliably and validly assess the knowledge and skills that students should be able to develop by studying these qualifications. In particular, in 2019 new Qualification Level Conditions and guidance were introduced for qualifications approved by the Department for key stage 4 performance tables<sup>4</sup>.

Ofqual’s regulation of these qualifications was strengthened as they play a key part in many young people’s lives, 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 them. We said when we published the Qualification Level Conditions for these qualifications that we would consider whether to extend them to cover other

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<sup>3</sup> [Review of post-16 qualifications at level 3 in England: Approvals process for academic and technical qualification.](#)

<sup>4</sup> [Ofqual Handbook: Performance Table Qualifications.](#)

qualifications on performance tables and consult if so. While this consultation does not propose to apply the Qualification Level Conditions for key stage 4 performance tables to alternative academic and alternative technical qualifications at level 3, they have been used as a basis on which to develop the proposed approach.

On this basis, and taking account of the minister's steer, this consultation sets out Ofqual's proposed regulatory approach for both alternative academic and alternative technical qualifications at level 3 in the future. Qualifications would have to meet these expectations for approval for public funding, both for 16- to 19-year-olds and for adult learners.

This consultation uses the terms 'alternative academic' and 'alternative technical' qualifications to describe those qualifications covered by these proposals. The Department and the Institute will confirm in due course what these qualifications will be known as and how they may be categorised.

In relation to alternative technical qualifications, the Institute will consult on its proposed criteria for approvals. The Institute's consultation will take place later this year, after this Ofqual consultation has concluded.

## Ofqual's role and aims in regulating approved alternative academic and alternative technical qualifications at level 3

Ofqual will be responsible for regulating the qualifications that are available once they are in delivery and for recognising the awarding organisations which deliver them. Ofqual will also provide input into the processes relating to the approval of technical qualifications (led by the Institute) and the approval for public funding of both alternative academic and alternative technical qualifications.

This consultation sets out Ofqual's proposed approach to regulating these qualifications. Alternative academic and alternative technical qualifications would have to meet Ofqual's proposed requirements as part of seeking approval for public funding. This approach will help ensure that, where awarding organisations seek approval for public funding for qualifications in the future landscape, those qualifications are high quality, and meet, on an ongoing basis, the needs of students and other users of these qualifications.

Ofqual's responsibility is to regulate approved qualifications to ensure they are high quality and that assessments are valid. This is done on an ongoing basis through regulation against Ofqual's Conditions. In addition, Ofqual will provide feedback based on these regulatory requirements to the Department and the Institute, to help

inform decisions about the overall quality of these qualifications in relation to approval for public funding. Ofqual does not decide which qualifications are approved for public funding; this responsibility rests with the Department.

Through Ofqual's regulation, the aim is to ensure that qualifications are high quality, and that assessments are valid. High-quality qualifications are those which are designed and delivered in a way that enables those taking them to demonstrate fully their knowledge, skills and understanding, and that employers and other users recognise as being high quality. The General Conditions set requirements relating to the design, development, delivery and award of qualifications to ensure this. We know that some aspects of qualification design are particularly important when it comes to ensuring high-quality qualifications. For example, ensuring the assessments are appropriate to the content being assessed, ensuring a suitable level of awarding organisation control over areas such as setting and marking assessments, and the overall approach to the design of qualifications and assessments, have a significant impact on the quality of qualifications.

For some qualifications, such as A levels and T Levels, additional regulatory requirements covering these areas are in place. To ensure these alternative academic and alternative technical qualifications are of a similar high quality to qualifications such as A levels and T Levels, it is necessary to put in place controls in these key areas.

It is recognised though that these qualifications are not intended to be identical to A levels and T Levels, and the controls need to reflect this. Additionally, different oversight arrangements exist for these qualifications between Ofqual, the Department and the Institute than for A levels and T Levels. It is therefore proposed to put in place controls that focus on those areas that are important for ensuring quality, but that reflect the specific uses to which these qualifications are put. We are also mindful of the potential disruption any new requirements could cause. We are seeking to minimise this disruption while also strengthening those aspects that will have the most impact on improving the quality of these qualifications to ensure they are valid and reliable.

These proposals are intended to allow awarding organisations to design and develop qualifications that meet the needs of students and other users, whilst allowing Ofqual to regulate them more rigorously. By setting these proposed requirements, Ofqual will be able to monitor compliance and quality, using its powers where necessary to rectify any identified non-compliances.

## Alternative academic qualifications

The Department intends that students will be able to take alternative academic qualifications where there is a clear need for skills and knowledge that A levels and T

Levels cannot provide. These qualifications would have a primary purpose of evidencing students' attainment in relation to their course of study, with a view to supporting informed decisions and choices about further study and supporting entry to higher education. As such, these qualifications are likely to incorporate a significant assessment of knowledge and understanding, but with an emphasis also on the ability to apply this in various contexts.

The Department intends for A levels to be the main academic option available for 16- to 19-year-olds. In addition, it intends for there to be two categories of alternative academic qualification:

- **qualifications with an emphasis on practical or applied knowledge designed to complement A level study** that would support progression to an aligned subject in higher education. These will typically be taken alongside two A levels
- **qualifications in subject areas with high levels of practical or performance-based content that is not available through A levels**, and that would typically represent a student's whole study programme. These large qualifications will be in subject areas where no T Level exists and where A levels do not offer the best preparation for specialist higher education

The Department also intends that some further broad groups of qualifications continue to be available. While such qualifications will continue, it is not proposed in this consultation to apply to these groups the proposed regulatory approach set out for alternative academic qualifications. These qualification groups are:

- **alternative, high-quality programmes:** such as the International Baccalaureate Diploma
- **small qualifications that offer additional and complementary skills to support progression to higher education:** Extended Project qualifications, Advanced Extension Awards, Performing Arts Graded Examinations and Core Maths qualifications.

In the Secretary of State's steer, Ofqual has been asked to consider how it can help ensure the quality and consistency of this part of the future qualifications landscape, and how its range of regulatory powers can most appropriately be deployed to realise this aim. The steer sets out that the potential for use as part of performance table measures is an important purpose of these qualifications when considering the approach to their regulation. The steer also asks Ofqual to explore further how best to secure grading standards in these alternative academic qualifications.

## Alternative technical qualifications

Technical qualifications are described as those that have the primary purpose of identifying students that have attained the knowledge, skills and behaviours that represent competence in a given occupation. They are aligned with employer-led occupational standards published by the Institute.

In the technical part of the landscape, the Department intends for T Levels to be the main classroom-based option for 16- to 19-year-olds. As T Levels are rolled out, funding approval for technical qualifications (and some academic qualifications) that overlap with them is being removed for 16- to 19-year-olds. Alongside T Levels, a range of other qualifications is also proposed to be available for 16- to 19-year-olds. These do not constitute direct alternatives to T Levels in that they comprise:

- **Technical qualifications enabling entry into occupations** ('occupational-entry qualifications') that are not served by T Levels. These will deliver occupational competence in occupations suitable for 16- to 19-year-olds which are not covered by T Levels<sup>5</sup>. Like T Levels, these qualifications will be aligned to employer-led occupational standards.
- **Specialist qualifications** that build on and go beyond an occupational standard, enabling students to develop more specialist knowledge and skills than could be acquired through a T Level or occupational-entry qualification alone, helping to protect the skills supply in more specialist industries and adding value to the T Level offer.

In addition to these qualifications available for 16- to 19-year-olds, the Department intends that there will be additional qualifications available to meet the needs of adults specifically, who may require a broader range of technical qualifications than 16- to 19-year-olds, given their more varied backgrounds in terms of skills and experience. These additional qualifications will include:

- **Technical qualifications, of a smaller size to T Levels, that enable entry into occupations that are already served by T Levels.** These qualifications will ensure adults' differing needs, circumstances, and motivations for study are accommodated by recognising that they may not necessarily need to study as broad a qualification as a T Level.
- **Technical qualifications enabling entry into occupations without employer-led occupational standards.** These are qualifications in

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<sup>5</sup> In this context, this would mean that the learner has achieved as many outcomes of the standard as can reasonably be expected in an educational setting, and can perform at a level needed for entry into the relevant occupation.

occupations that are valuable to employers, but where an employer-led occupational standard has not been developed.

- **Qualifications which focus on a range of cross-sectoral skills.** These are skills that are transferrable across multiple occupations and offer a discrete set of knowledge and skills that is valuable in its own right.
- **Specialist qualifications** which are available only to 19+ students due to safety restrictions or legislation affecting those aged 16 to 19 which prevent that age group from taking such qualifications

For qualifications in the technical route, Ofqual has been asked to consider its role in helping ensure further the quality of these qualifications which, in particular, includes how it works with the Institute<sup>6</sup> to secure this. Ofqual has been asked to consider how the diverse needs of students, employers and centres can be accommodated in the regulatory approach while also supporting the aim for high-quality qualifications.

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<sup>6</sup> Technical qualifications will need to be approved by the Institute in order for approval for public funding. Ofqual will provide feedback to the Institute during this approval process.

## 2. Ofqual's proposed regulatory approach for level 3 alternative academic and alternative technical qualifications

### Proposed regulatory approach

Ofqual regulates all qualifications and the awarding organisations who deliver them against the General Conditions of Recognition. These cover the design, development, delivery and award of qualifications. Ofqual's starting point for securing high-quality qualifications is therefore through regulation against the General Conditions.

The Secretary of State's steer sets out:

'My desire is for these changes to reflect a meaningful improvement in the quality of these qualifications, ensuring students receive the best possible preparation whether they are progressing to higher education or into skilled employment.

In parallel we must take due account of the disruption and uncertainty that may arise for schools and colleges throughout this process, particularly as we build to the first introduction of reformed qualifications from 2024 to 25. Providers have seen a number of changes to the qualifications they deliver in recent years and it is important that we maintain the balance between those critical imperatives of improving quality and minimising disruption as we take forward these vital reforms.'

There are some aspects of qualification and assessment design that can have a significant impact on the quality of qualifications. In particular, where qualifications share similar purposes and are intended to assess content in similar ways, putting in place additional controls can be an important way to ensure the quality and validity of the qualifications. This is an approach Ofqual has taken for qualifications such as A levels and T Levels, where some aspects of qualification and assessment design were identified as being particularly important to ensure these are high quality, given the purposes to which they are put. The exact nature of any additional controls can vary based on the purpose of the qualifications. Additionally, it is the combination of controls, rather than any one single control, that can help secure the quality of qualifications.

For alternative academic and alternative technical qualifications, an important way to secure the quality of these qualifications is to set controls focusing on key areas, to

require awarding organisations to explain and justify their approaches, and to hold them to account against these. It is proposed that these justifications should be provided through an assessment strategy. This is a document where awarding organisations will be required to set out their approach to, and rationale for, all aspects of the design, development, delivery and award of their qualifications. The proposals in relation to assessment strategies are explained in more detail later in this section.

There is a need to ensure these qualifications are similarly high quality to A levels and T Levels, and that they also offer genuine alternatives to them. Therefore, it is not proposed to apply the same requirements as for A level and T Levels but, instead, to adopt a similar approach to that used to strengthen the regulation of key stage 4 performance table qualifications. This approach strengthened key areas of Ofqual's regulation to ensure high-quality qualifications, while allowing sufficient flexibility for awarding organisations to design high-quality qualifications. While it is not proposed to apply existing key stage 4 performance table Qualification Level Conditions to alternative academic and alternative technical qualifications at level 3, these proposals adopt a similar approach, tailored to these qualifications.

In developing the proposed approach, we have considered and sought to balance:

- the particular threats to validity caused by accountability pressures, which could lead to centres prioritising performance against these measures over valid assessment if not managed effectively. The Secretary of State's steer notes an intention in the future landscape to minimise the separation between those qualifications that attract public funding and those qualifications that can count in performance tables
- the degree of change to existing qualifications that may be necessary, but that can also realistically be delivered and implemented by centres
- the qualifications in question being a broad grouping, rather than a single qualification type and, in particular, not having common subject content, assessment methodologies or grading structures
- consideration of those aspects of qualification design for which there is a benefit to students, schools, colleges and other users in there being a degree of commonality in terms of the approaches taken.

Many of the controls proposed are common across both alternative academic and alternative technical qualifications, albeit the precise detail needs to reflect the different purposes of these qualifications, as well as any differences in the way they are designed and delivered. These common proposals are set out in this section.

Additionally, there are some areas of qualification design which are necessarily different between alternative academic and alternative technical qualifications, and

therefore require more tailored approaches. Additional specific controls for alternative academic and alternative technical qualifications are set out in the sections that follow.

## Qualification content

The way in which content is assessed is an important factor in ensuring that assessments are valid and that qualifications are high quality. A high-quality qualification will have a clear purpose, be designed so that its content reflects that purpose, and be assessed in a way that allows students to demonstrate knowledge, understanding and skills in relation to the content. Some qualifications, such as A levels and T Levels, have centrally set content which awarding organisations must design and deliver their qualifications to assess effectively.

Alternative academic qualifications will not have common prescribed content, while alternative technical qualifications will be designed against employer-led occupational standards that have been published by the Institute<sup>7</sup>. It is important for both that the content covered, and the way it is assessed, are appropriate if these qualifications are to be considered high quality. Additionally, although these qualifications are not a single 'type' and not intended to be comparable to one another in the way that qualifications such as A levels and T Levels are, there are still likely to be expectations from users in terms of approaches to similar content and assessment between qualifications.

### **Proposal**

To ensure these qualifications are considered as high-quality alternatives to A levels and T Levels, it is Ofqual's contention that it is important to signal some key expectations about how an awarding organisation determines the content to be covered by its qualifications. It is also important that it ensures this is validly assessed to ensure results accurately reflect students' attainment in relation to the content.

Ofqual's General Conditions include requirements for what an awarding organisation must ensure in this regard: for example, that assessments are fit for purpose, at the right level, and at an appropriate level of demand. It is proposed that awarding organisations must explain their approaches to assessment of content through assessment strategies.

For alternative technical qualifications, an awarding organisation's approach in its assessment strategy should set out how it has designed and developed its

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<sup>7</sup> Except in relation to those qualifications taken by adults for which an employer-led standard has not been developed.

assessment against the relevant employer-led occupational standard published by the Institute, as well as the rationale for its design choices, and how it has balanced any competing factors.

For alternative academic qualifications, Ofqual proposes to put in place an additional requirement relating to content coverage setting out key expectations, in the absence of nationally set subject content, relating to the content that will be assessed. It is proposed that Ofqual will require awarding organisations to explain in their assessment strategy how they ensure that the knowledge, skills and understanding that will be assessed as part of the qualification are appropriate in relation to:

- the qualification's purpose
- the level of the qualification
- the design of the assessment to be taken for the qualification
- the size of the qualification.

By taking this approach, it will be possible to ensure that awarding organisations are assessing content appropriately, and to hold them to account for doing so. This in turn will lead to high-quality qualifications that benefit students and other users. The expectations proposed will ensure that content is assessed in such a way as to give students confidence that the qualifications they choose will lead to their desired outcomes.

## **Question 1**

To what extent do you agree or disagree with the proposed approach to the coverage of content for alternative academic and alternative technical qualifications?

## Grading scales

The grading scales used for qualifications are important to help students and other users of qualifications understand and interpret the results of their assessments. Ofqual requires, for all qualifications it regulates, an awarding organisation to set out the specified levels of attainment (grading scales) for its qualification in its specification. An awarding organisation must design its qualifications to ensure that students who demonstrate the necessary knowledge and skills for a particular grade, achieve that grade.

It is important that qualifications have grading scales that signal to users of these qualifications what results mean, so that they can be relied on as an indicator of the

level of attainment a student has demonstrated. For existing qualifications, a range of grading scales are used. These can vary in terms of the names given to each of the grades (for example pass, merit, distinction vs A, B, C, D, E) or by the number of grades available within the scale (for example pass, merit, distinction vs pass, merit, distinction, distinction\*).

It is important for there to be a sufficient number of grades to support appropriate differentiation between students' levels of attainment and to meet the uses to which the qualifications are put. It is also important that any differences between grades are meaningful and reflect the nature of what is assessed in the qualification. The precise number of grades that is appropriate for a qualification will depend on factors such as the nature of the content being assessed, the needs of those who use the results, what achievement of the qualification is intended to attest to, and the size of the qualification.

### **Proposal**

For the qualifications covered by these proposals, there are a number of approaches that could be taken, depending on what is considered to be the most important aspect of what grades are intended to signal. Presented below are approaches that could be taken. These are provided as examples only – the exact nature of any approach would need to take account of a range of factors, which could differ between alternative academic and alternative technical qualifications, given their different purposes. For example, an alternative academic qualification may require one approach to meet the needs of students seeking to progress to further study. An alternative technical qualification on the other hand may require a different approach, to meet the needs of employers who rely on the grades, or to meet any requirements set by the Institute. Ofqual and the Institute will consider these factors as the approaches are finalised following consultation.

One option could be to require a single grading scale for alternative academic qualifications and alternative technical qualifications (for example A\* to E). While this would have benefits in terms of ensuring a greater degree of commonality in terms of grades available, there is a risk that a fixed grading scale may not be appropriate in all cases – that is, across a range of qualifications that, while common in some respects, are necessarily designed differently in others. It is also not clear what single grading scale would be the most appropriate.

A second approach could be to prescribe a fixed number of grading scales, and for awarding organisations to determine from these, which is most appropriate (for example A\* to E or pass, merit, distinction). An awarding organisation may choose one approach for alternative academic qualifications, and another for alternative technical qualifications, for example. Such an approach would have benefits in bringing a degree of commonality to grading scales used, while allowing greater

flexibility to choose the most appropriate one. It may however still result in awarding organisations having to choose a grading scale that is not appropriate for their qualification, if the options available did not reflect the design or purpose of their qualification. It could also lead to awarding organisations having to design assessments to fit in with a particular grading scale, rather than prioritising the validity of the assessment.

A third approach would be to require awarding organisations to determine the most appropriate grading scale, with no restrictions on the approaches they may take. This would allow awarding organisations to design assessments in the most valid way and determine the most appropriate scale. There is a risk from such an approach however that different awarding organisations could come to different decisions for similar qualifications, and that this could lead to proliferation in the number of grading scales available.

An alternative approach that builds on this would be to allow awarding organisations to determine their approach, but to put in place parameters within which they must operate, by specifying a minimum and maximum numbers of grades they are permitted to use. This approach would be likely to prevent further proliferation of the number of grades beyond what currently exists, while ensuring awarding organisations determine the most appropriate approach for the qualifications and assessments. However, it would not prevent different awarding organisations from taking different approaches as long as they fell within the defined parameters.

It would be expected in all cases that an awarding organisation explains and justifies its approach as part of its assessment strategy.

Each of these approaches has advantages and disadvantages, and different users of qualifications are likely to have views on what grading scales they prefer. It is also possible that the approaches may legitimately differ between alternative academic and alternative technical qualifications, both given their different purposes and on the basis of any requirements set by the Institute. We are therefore seeking views on whether there are certain aspects of grading scales that are considered more or less important than others.

## **Question 2**

Which of the following aspects do you consider to be the most important in relation to the use of grading scales for alternative academic and alternative technical qualifications:

- a) simplicity of approach for users (e.g. through the use of a common/small number of grading scales)

- b) flexibility for awarding organisations to determine approaches which best suit their qualifications
- c) ability to compare grades for the same qualifications between years (for example through the continued use of existing approaches)

## Assessor judgements in directly graded assessments

Where qualifications include directly graded, outcome-based assessments, awarding organisations may typically have lower levels of direct control over the standards applied, as these are determined upfront by individual assessors and are applied at the point of assessment, rather than there being a post-hoc awarding process.

The absence of numerical marks means that assessor judgements cannot be adjusted statistically in instances where this may be necessary. This can lead to a greater emphasis on upfront standardisation and different approaches to monitoring assessors' marking and adjusting this where required.

The General Conditions set a number of requirements in relation to the marking of assessments. These cover the marking itself, requiring awarding organisations to ensure that, as far as possible, the criteria against which performance will be differentiated are understood by assessors, accurately applied and applied consistently.

The General Conditions set requirements relating to the assessor, requiring awarding organisations to identify, monitor and manage conflicts of interest, and to ensure that any part of the assessment is not undertaken by any person who has a personal interest in the result of the assessment. The General Conditions require an awarding organisation to ensure that its workforce is appropriately competent.

### **Proposal**

While the General Conditions set requirements that, when taken together, require awarding organisations to ensure that marking is accurate and consistent, Ofqual is considering, for these qualifications, whether to set additional requirements relating to directly graded assessments. This is because the judgements made by these assessors will have a direct impact on the outcomes for students and the standards set in these qualifications, as greater responsibility for the standard may reside with 'frontline' assessors' judgements of outcomes (rather than through post-hoc processes, over which, in the case of alternative academic qualifications, we propose to set controls).

Given the need to ensure these qualifications are similarly high quality to A levels and T Levels where there are specific controls in this area, such controls might also be appropriate for these qualifications. These controls could include, for example, measures such as particular expectations for the training and monitoring of assessors. At this point, this consultation is seeking views on the overall approach. Any specific requirements will be considered based on consultation responses. The approach taken may also differ, if necessary, between alternative academic and alternative technical qualifications. Different approaches may be taken, for example, to reflect any requirements put in place by the Institute. The Institute plans to consult on its requirements for alternative technical qualifications later in the year, and Ofqual and the Institute will consider the approaches taken as these proposals are finalised, taking account of responses to this consultation as appropriate.

Views on whether additional controls would support setting and maintaining grading standards in such assessments are welcomed.

### **Question 3**

Are there any additional controls you think are necessary to secure standards in directly graded assessments?

## Titling

The title is an important way in which qualifications can be identified by students and other users. The use of the term GCE in a title, for example, helps to identify a particular type of qualification. Similarly, for apprenticeship end-point assessments, the inclusion of the title of the relevant apprenticeship standard helps identify those end-point assessments that have been designed against the same apprenticeship standard.

Ofqual sets requirements for all qualifications it regulates, about how qualifications must be titled under the General Conditions. General Condition E2 requires that the title of a qualification includes: the name of the awarding organisation; the level of the qualification; the type of qualification; an indication of the content of the qualification; and any endorsement that applies to that qualification (for example, if a student has studied options leading to a particular qualification). There is also statutory guidance on how specific terms, such as award, certificate and diploma should be used as part of qualification titles to help indicate their size.

### **Proposal**

Ofqual is considering whether there would be a benefit to users in setting more specific titling expectations than those in the General Conditions. This would help to identify those qualifications that have been approved for delivery. It is proposed that

such requirements will help provide clarity, and will reflect any naming conventions set out by the Department and the Institute for alternative academic and alternative technical qualifications. It is possible that such requirements may differ between alternative academic and alternative technical qualifications, reflecting any requirements in this area that may also be set by the Institute.

It is not proposed that these qualifications will be defined as a specific regulatory type (in the way that A levels, for example, are a single type of qualification), given that this group of qualifications will consist of a range of qualifications. To do so may suggest a greater degree of commonality across these qualifications than is likely to be the case. But it is possible, for example, to set expectations for the use of specific terms or titling conventions to reflect that a given qualification has been approved (and to ensure that such terms are not used in qualifications that have not been approved). This would have a benefit of making clear to users the difference between approved and other qualifications.

Specific titling conventions do however have the potential to cause confusion. There is a risk, for example, that a common titling convention could suggest a greater level of similarity between qualifications than is actually the case (in the way that defining qualifications as a single regulatory type could also have).

To provide the most value to users of qualifications, Ofqual considers it would be beneficial to put in place requirements relating to the titling of these qualifications. However, we would welcome views on this, including on how best to indicate this in the title, and on any alternative approaches to consider.

#### **Question 4**

Do you have any comments on the approach to ensuring that these qualifications are identifiable to users through the use of titles?

## Assessment strategies

In relation to a number of our proposals, it is proposed that awarding organisations must explain or justify to Ofqual the approaches they intend to take. It is proposed that these explanations are set out in a document, called an assessment strategy, created to explain an awarding organisation's overall approach to the assessment of a qualification.

Assessment strategies play an important role in helping Ofqual to understand an awarding organisation's qualification and assessment design decisions and provide a detailed basis against which to regulate individual qualifications in delivery. They are also used by the Institute and Ofqual as part of the approvals processes where

awarding organisations are seeking approval for public funding for their qualifications.

Awarding organisations can use their assessment strategies to demonstrate the validity of their qualifications and the coherence of their decisions with the purpose of these qualifications. Assessment strategies are required in a number of qualifications, including A levels and T Levels. Awarding organisations are expected to keep their approaches under review on an ongoing basis and, as such, an assessment strategy should be kept up to date to reflect any changes to an awarding organisation's approach.

This consultation sets out some specific aspects that should be included in an assessment strategy. However, it would be expected that an assessment strategy would provide a comprehensive picture of an awarding organisation's approach to the design, development, delivery and award of their qualifications, and how they use evidence throughout the qualification lifecycle to promote continuous improvement.

### **Proposal**

Ofqual proposes to require an awarding organisation to develop, follow, and keep under review, an assessment strategy explaining its approach. They should use these to present to Ofqual explanations, justifications and supporting evidence for the decisions they have taken, and to identify the risks and impacts of those decisions. Evidence may take the form of relevant research and examples from live or sample assessment materials, including test items, tasks and mark schemes.

Ofqual proposes to require assessment strategies for both alternative academic and alternative technical qualifications as these are an important part of Ofqual's regulatory approach for qualifications it regulates. It is expected that an assessment strategy (or related information) would also be required by the Institute as part of its approvals process for alternative technical qualifications. While as far as is possible it is desirable not to duplicate requirements between Ofqual and the Institute, assessment strategies form a vital part of Ofqual's regulatory approach.

Although this has the potential to cause burden for awarding organisations, Ofqual and the Institute will work together to minimise the extent of this, and expect a single document will cover the requirements of both organisations. This would support the intention for a streamlined process, whereby awarding organisations submit materials that can be used by the Department, the Institute and Ofqual to fulfil their respective roles in the approval process. This will help ensure that, as intended, there is no unnecessary burden imposed, and reduce the likelihood of there being a conflict between any requirements the Institute sets and those that Ofqual sets.

There is a risk that if Ofqual was not to require provision of an assessment strategy, it could affect ongoing regulation of these qualifications, potentially leading to

differences in how Ofqual takes action between alternative academic and alternative technical qualifications. There is also the potential that not requiring this could lead to Ofqual having to request information from awarding organisations at a later date, which could have been included upfront as part of an assessment strategy.

In relation to assessment strategies, it is proposed to require awarding organisations to:

- establish and maintain an assessment strategy for these qualifications
- ensure their assessment strategy sets out how they will comply, on an ongoing basis, with all the requirements that apply
- design, set, deliver and mark all assessments in line with their assessment strategy
- keep their assessment strategies under review, and notify us of any changes to them
- review their assessment strategy when we ask them to, and make any changes we request
- if we ask them to, show how they have complied with their assessment strategy (or explain why not) and follow any instructions we give them about complying with their assessment strategy.

Ofqual proposes that the assessment strategy should cover key aspects of the qualification lifecycle, covering the design, development, delivery and award of these qualifications. The detail of these areas will be set out as part of any subsequent consultation on the Conditions and guidance. However, in summary, they would be expected to cover aspects such as:

- qualification purposes
- content domain
- assessment design
- assessment delivery
- marking and standardisation
- attainment and reporting
- standard setting and maintenance
- qualification monitoring
- how its approach is kept under review

It is not proposed to set requirements as to how the assessment strategy should be structured, but instead to set out what it should cover, with awarding organisations afforded flexibility in how they present this information.

### **Question 5**

To what extent do you agree or disagree with the proposed approach to require awarding organisations to produce and comply with an assessment strategy for these qualifications? Please provide any comments.

### **Question 6**

Do you have any views on the proposed content for assessment strategies that is set out?

## Ofqual review as part of approvals processes

The Department will make decisions about approval for public funding for both alternative academic and alternative technical qualifications covered by these proposals. The Institute will approve alternative technical qualifications, confirming they are designed to deliver the knowledge, skills and behaviours needed by employers.

As part of these processes, Ofqual will provide feedback to the Department in relation to alternative academic qualifications, and to the Institute for alternative technical qualifications, based on a review of awarding organisations' approaches, and their qualifications. This will include any changes Ofqual considers it necessary for awarding organisations to make to address any shortcomings.

It is expected that the review processes will be used to decide how confident Ofqual is that each qualification will meet its proposed rules on an ongoing basis. This will be based on information provided as part of qualification submissions, including the assessment strategies developed by awarding organisations. Where relevant, the review process will also include consideration of any applications for exemption, in those cases where the regulations permit this. It is important that all exemptions have a sound basis, focused on maximising assessment validity.

Once qualifications are approved for public funding, it is proposed that, in addition to the General Conditions, any relevant Qualification Level Conditions will apply, on an ongoing basis.

### **Proposal**

To support the approval processes led by the Department and the Institute, it is proposed that, following a review by Ofqual, an awarding organisation must comply with any requirements, and have regard to any guidance, specified to it by Ofqual in relation to the qualification. This is the same approach that exists for key stage 4 performance table qualifications, and provides clarity to awarding organisations about the possible outcomes of an Ofqual review, as well as ensuring that any expectations set following such a review are implemented.

### **Question 7**

To what extent do you agree or disagree with the proposal to set a requirement for awarding organisations to comply with any requirements or have regard to any guidance specified by Ofqual in relation to a review of one of these qualifications? Please provide any comments.

## Disapplication of Ofqual requirements where approval for alternative academic and alternative technical qualifications is removed

The requirements we propose will only apply to alternative academic and alternative technical qualifications for which an awarding organisation has, or is seeking approval for, public funding.

When a qualification ceases being approved for public funding, Ofqual may determine a date from which any additional rules will no longer apply. Decisions about which qualifications are approved for public funding in the future landscape will not be taken by Ofqual – they will continue to lie with the Department.

It is possible that the status of a qualification could change. If approval for public funding were withdrawn, but the awarding organisation continued to make a version of the qualification available despite it no longer being approved for public funding, the qualification could revert from being regulated against any additional requirements, to being regulated solely against the General Conditions. If this were to happen, it would be important that Ofqual is able to ensure the interests of students are protected during the period of any transition between the qualification being subject to the additional requirements, and it being subject solely to the General Conditions. It would not be desirable, for example, for an awarding organisation to make changes to a qualification that could negatively affect a student already partway through their programme of study, such as making design changes

which would not have been permitted while it was an approved qualification, and for which a student is not prepared when they take the assessment.

### **Proposal**

To protect the interests of students, Ofqual proposes to take a similar approach to that which was taken for key stage 4 performance table qualifications. Awarding organisations will be required to inform Ofqual when one of their qualifications ceases to be approved for public funding, and to explain the circumstances for this and to request that any additional requirements cease to apply.

Ofqual may then specify additional requirements, for example, to determine the date from when the rules will be disapplied. This will ensure clarity for all with an interest in these qualifications, as it will be possible to ensure the rules continue to apply and to protect students for as long as there are some taking the qualifications as approved qualifications.

### **Question 8**

To what extent do you agree or disagree with the proposal to set requirements relating to the removal of approval for public funding for these qualifications? Please provide any comments.

### **3. Additional proposals relating to level 3 alternative academic qualifications**

While many of the proposals set out relate to both alternative academic and alternative technical qualifications, there are differences in the design and purposes between these groups, which necessarily require a more tailored approach to ensure the qualifications are high quality.

The exact nature of additional controls can vary based on the purpose of the qualifications. Additionally, it is the combination of controls, rather than any one single control, that can help secure the quality of qualifications. But there are key areas which are important in ensuring the quality of these type of qualifications. These include:

- having a clearly articulated purpose, which a qualification is designed to meet
- controls around the nature of the assessment, for example, how much of the assessment for a qualification is through Assessment by Examination<sup>8</sup> and how much is through other means, and how often assessments are available
- the methods through which content is assessed
- the level of control an awarding organisation has over the setting and marking of assessments
- the controls awarding organisations have in place with centres, particularly where centres deliver and mark aspects of assessments on their behalf
- the way in which standards for a qualification are set and maintained

We set out in this section some specific requirements which relate to alternative academic qualifications.

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<sup>8</sup> Assessment by Examination is defined as an assessment which is - (a) set by an awarding organisation, (b) designed to be taken simultaneously by all relevant Learners at a time determined by the awarding organisation, and (c) taken under conditions specified by the awarding organisation (including conditions relating to the supervision of Learners during the assessment and the duration of the assessment). The proposals which relate to Assessment by Examination are explained later in this section.

## Qualification purpose

Decisions taken about the design of qualifications and their assessments should reflect a qualification's purpose. High-quality qualifications have a clear purpose and are designed to meet that purpose. A well-defined purpose should ensure that users are clear about what a qualification should equip students to do and to what use(s) the results of the qualification will be put.

The Department has set out its intentions that a fundamental feature of their proposals is there being an increased level of clarity about the purpose of each qualification and the intended destination point for students. In particular, this relates to whether a qualification is intended primarily to support progression to further study or entry into employment.

In relation to alternative academic qualifications, the Department has set out that these qualifications will need to prepare students well for future study, particularly with respect to higher education. In contrast, for alternative technical qualifications, the Department has set out that these should have the primary purpose of identifying students that have attained the knowledge, skills and behaviours that represent a specific level of competence in a given occupation.

### Proposal

To ensure that qualifications are designed with a clear purpose in mind, Ofqual proposes to set out the general purposes for alternative academic qualifications. Setting out the purpose is an approach also taken through the qualification level Conditions for A levels, T Levels and key stage 4 performance table qualifications.

Ofqual proposes to require awarding organisations to explain the specific purposes of each of their qualifications, ensuring that they are in line with the general purposes, and to explain how their qualification will fulfil those purposes. It is proposed to require awarding organisations to do this through their assessment strategy. This should ensure that the qualification purpose is embedded in the design decisions made by the awarding organisation.

Ofqual proposes that for alternative academic qualifications, the general purposes of these qualifications should be that the qualification will:

- **General purpose A: provide users with reliable evidence to differentiate between students' attainment in relation to the knowledge, skills and understanding assessed as part of the qualification and, in particular, supporting selection for further study.** When used for selection, being able to reliably differentiate between students of all abilities is important to ensure the qualifications can be put to this use.

- **General purpose B: provide an engaging course of learning for, and be accessible to, both students in full-time education and those studying part-time.** The Department intends that these qualifications are available to students of all ages and, therefore, consideration must be given to how the qualification structure operates for students in these different circumstances (for example adult students may be more likely to take these qualifications on a part-time basis around work than 16- to 19-year-old students).
- **General purpose C: provide students with knowledge and understanding of theoretical content and the skills required to apply it in a range of contexts preparing them for progression into Higher Education.** For a qualification to support students to progress to further study it is important that they are equipped with sufficient underlying knowledge and understanding of the relevant subject area. However, central to this type of qualification is the ability to apply that learning. An appropriate balance between these elements must, therefore, be struck in the content and assessments making up the qualification.
- **General purpose D: provide a basis for schools and colleges to be held accountable for the performance of their students.** Qualifications featuring on school or college performance tables can expose those qualifications to pressures that put at risk the reliability of the assessments, where centres focus on meeting the performance measure above ensuring the reliability of the assessment. This may particularly be the case where a significant proportion of that assessment is assessed or marked by the school or college so can be marked in such a way as to ensure the centre's results meet the relevant performance measure. It is important that the design of the qualification and the processes that support it are sufficiently robust to withstand these pressures.
- **General purpose E(i): likely to be the sole or majority qualification that forms the core element of a student's programme of study**  
or
- **General purpose E(ii): form a substantial part of a student's programme of study, typically delivered alongside other qualifications in the case of full-time students.** When designing a qualification, it is important to consider how it is likely to make up or contribute to a 16- to 19-year-old student's wider study programme, including the size and manageability of that qualification.

While all the purposes should be met as far as possible, there might be points in the design process where an awarding organisation may have to make a trade-off between the purposes. For example, there may be a particular design feature that supports the engagement of students through flexibility in the nature of the assessment (General Purpose B), which may be in tension, however, with the need to differentiate fairly and reliably between students (General Purpose A). This may particularly be the case if the design is also more vulnerable to the pressures associated with inclusion on performance tables (General Purpose D).

In instances where design trade-offs are required, it is proposed that the general purposes (A to E) should be prioritised according to the order in which they are set out. This means General purpose A – the effectiveness of a qualification to effectively differentiate between different levels of attainment – would be given the highest priority, with the others met to the greatest extent possible, prioritised in the order set out.

### **Question 9**

Do you have any comments on the proposed purposes set out for alternative academic qualifications?

### **Question 10**

To what extent do you agree or disagree that, where it is not possible to fully meet all the purposes specified, an awarding organisation should prioritise them in the order (A to E) in which they are specified? Please provide any comments.

### **Proposal**

As it is proposed to introduce requirements setting out the purpose of these qualifications, we propose to disapply General Conditions E1.1 and E1.2<sup>9</sup> which require qualifications to have an objective in respect of qualifications covered by these proposals. This is because the purposes we propose to set would replace those objectives referred to in the General Conditions, so disapplying this Condition ensures there is no conflict or duplication between these purposes and our General Conditions.

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<sup>9</sup> The relevant General Conditions can be found in the [Ofqual Handbook: General Conditions of Recognition](#).

## Question 11

To what extent do you agree or disagree with the proposal to disapply General Conditions E1.1 and E1.2 in respect of these qualifications? Please provide any comments.

## Assessment

The Secretary of State has set out his intention that alternative academic qualifications must be strengthened in comparison to the approaches currently in place. One way in which it is possible to strengthen qualifications is through setting controls that apply to key aspects of the design of assessments for those qualifications. In particular, the Department has set out its intention that qualifications must incorporate a significant assessment of knowledge and understanding, but with an emphasis also on the ability to apply this in various contexts (rather than one particular setting).

The exact nature of any controls needs to support the purposes of the qualification. The controls need to be sufficient to ensure that qualifications are of appropriate quality, while being flexible enough so that awarding organisations can design approaches that meet the needs of students and other users of qualifications. They also need to be manageable for those taking and delivering assessments. The controls need to recognise the different types of assessment that are necessary to ensure qualifications meet their purposes and that it is the combination of controls applied, rather than any one individual control, that will ensure the quality of the qualification.

## Assessment by Examination

### Assessment by Examination weighting

Assessment by Examination is a feature of many qualifications. Ofqual's regulatory framework, states that:

Assessment by Examination is defined as an assessment which is -

- (a) set by an awarding organisation,
- (b) designed to be taken simultaneously by all relevant Learners at a time determined by the awarding organisation, and

(c) taken under conditions specified by the awarding organisation (including conditions relating to the supervision of Learners during the assessment and the duration of the assessment).

While many Assessments by Examination take the form of a written test, this is not a requirement. Some practical assessments or performance assessments may also meet this definition – if they were set by the awarding organisation, and were taken at the same time by all students, and under controls specified by the awarding organisation.

Assessments by Examination provide awarding organisations with a high degree of control over the setting of an assessment and the conditions under which it is taken. This is reflected by the fact that many existing alternative academic qualifications already include exam assessment. In its technical guidance<sup>10</sup> for performance table qualifications, the Department currently sets out minimum requirements for the amount of external assessment, which it describes as

‘a form of assessment in which question papers, assignments and tasks are specified by the awarding organisation, then taken under specified conditions (including details of supervision and duration) and marking or assessment judgements are made by the awarding organisation).’

The Department currently requires external assessment to comprise at least 40% of an Applied General qualification (which are similar to many of the level 3 alternative academic qualifications likely to be covered by these proposals) and at least 30% of a Tech Level qualification.

In his steer, the Secretary of State has set out that he believes alternative academic qualifications must incorporate a significant assessment of knowledge and understanding, but with an emphasis also on the ability to apply this in various contexts. In light of this, our view is that it will continue to be important for a proportion of the content in alternative academic qualifications to be assessed through an examination set by the awarding organisation.

## **Proposal**

Ofqual proposes to set a minimum requirement for the proportion of Assessment by Examination that must be included in alternative academic qualifications. Setting expectations for the minimum percentage for Assessment by Examination is an approach taken in A levels and T Levels, as well as key stage 4 performance table qualifications.

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<sup>10</sup> [Technical and applied qualifications for 14 to 19 year olds](#).

It is proposed that an awarding organisation must ensure that a qualification is designed such that a minimum of 40% of the contribution to the overall qualification grade is through Assessment by Examination. This will mean a high level of awarding organisation control over a significant proportion of the qualification, while still allowing assessment through alternative forms where appropriate. The use of alternative forms will reflect the nature of the knowledge and understanding being assessed and that to be considered a genuine alternative to A levels and T Levels, it may be appropriate, based on the content, for approaches between those qualifications and alternative academic qualifications to vary, to ensure valid assessment.

While it is proposed that 40% is the minimum proportion of Assessment by Examination, the exact percentage may be higher than this. Where the most valid way of assessing the content is through Assessment by Examination, an awarding organisation should reflect this in its assessment design, which could mean the percentage of Assessment by Examination would be higher than 40%. An awarding organisation would be expected to explain its approach to the proportion of Assessment by Examination through its assessment strategy.

### **Question 12**

To what extent do you agree or disagree with the proposal that a minimum of 40% of the contribution to the overall qualification is through Assessment by Examination? Please provide any comments.

## **Assessment by Examination marking**

In addition to being set by the awarding organisation, most Assessments by Examination are also marked by the awarding organisation. While this is the case, it is not explicitly required under the definition.

### **Proposal**

For these qualifications, given their potential purpose of providing a basis for schools and colleges to be held accountable for the performance of their students, it is appropriate to require that, in all cases, such assessments are marked by the awarding organisation.

This will ensure a high level of control for awarding organisations, which will promote consistency and fairness for students. It will help manage the risks that could be present if centres were permitted to mark such assessments, given any potential use for accountability purposes.

### **Question 13**

To what extent do you agree or disagree with the proposal to require that only awarding organisations will be permitted to mark Assessments by Examination? Please provide any comments.

## Assessment by Examination availability

In relation to Assessment by Examination, an important control that awarding organisations have is the availability of the assessments. In some qualifications, assessments are available frequently, or on-demand; in others, they are available in set windows, or on set dates. Different approaches to assessment availability may suit different qualifications.

For these qualifications, there is a risk that excessively frequent formal assessment could negatively affect teaching and learning and is not in the best interests of students. Excessively frequent assessment opportunities may be disruptive to centres and can lead to students being entered for assessments before they are ready, with the knowledge that additional opportunities are available throughout the year.

In addition to the risks posed by frequent assessment opportunities, there are also benefits to awarding organisations arising from allowing less frequent assessment opportunities. Having a greater amount of student work to consider together helps awarding organisations to set and maintain standards for individual assessments effectively.

While it is important to limit the number of times that assessments are made available, there is also value in assessments being available on more than one occasion each year. Having a range of assessment opportunities supports different approaches to teaching and delivery, provides opportunities for students who genuinely need to retake an assessment to do so, and can also help to accommodate students who may for some reason have missed an assessment opportunity (for example, due to illness or another reason outside of their control).

### **Proposal**

Ofqual's proposal is that awarding organisations should be required to provide up to two assessment series on set dates during which students can complete the Assessment(s) by Examination in each academic year. It is proposed that awarding organisations should determine these dates (as opposed to Ofqual specifying them), which would mean awarding organisations could take into account their specific qualifications and the needs of their centres and students.

This would have some benefits for awarding organisations and centres (for example, taking account of centres for whom students start courses at different times of the year). But it could also have a negative impact if different awarding organisations set

different dates, leading to centres having to manage multiple assessment series where they work with more than one awarding organisation. Views on this proposed approach are welcomed, including on whether Ofqual should specify when these assessment series should be, and if they were to be specified, when in the academic year they should be specified.

#### **Question 14**

To what extent do you agree or disagree with the proposal to require awarding organisations to provide up to two opportunities on set dates for students to take Assessment by Examination in each academic year? Please provide any comments.

#### **Question 15**

Should Ofqual specify the dates or windows for these opportunities for Assessment by Examination to take place? If so, when should these be?

## **Exemptions**

As described earlier, one of the requirements of an Assessment by Examination is that they are designed to be taken simultaneously by all relevant students at a time determined by the awarding organisation. There may be assessments for which assessing all students at the same time may not lead to a valid assessment of individual students, for example, where the Assessment by Examination is in a form other than a written exam, such as a performance, but which otherwise meets the requirements of an Assessment by Examination.

#### **Proposal**

Ofqual's proposal is that awarding organisations should be allowed to apply for an exemption from the requirement for all students to sit Assessment by Examination simultaneously. Where it does, it may also apply for an exemption from the limit of two assessment series on set dates. Awarding organisations would be expected to explain their approach as part of their assessment strategy.

#### **Question 16**

To what extent do you agree or disagree with the proposal to allow exemptions from the requirement for all students to sit Assessment by Examination simultaneously and the limit of two assessment series on

set dates, where an alternative approach would provide for more valid approaches to assessment? Please provide any comments.

## Non-exam assessment

While Assessment by Examination can provide the highest level of control for awarding organisations, in some cases, alternative forms of assessment may be the most valid way of assessing the content being covered. These assessments are referred to as non-exam assessment. These could be assessments that are practical in nature, and not necessarily taken on set dates by all students at the same time. The exact nature of these assessments can vary, but they often allow for particular knowledge, understanding or skills to be assessed in a more valid way than would be the case if they were assessed by examination (for example, some practical skills).

It is important, in ensuring that these alternative qualifications are high quality, that they also offer genuine alternatives to A levels and T Levels and assess content in the most valid way. Both A levels and T Levels allow for non-exam assessment where this is appropriate to the content being assessed. Ofqual's proposal is that, similarly, non-exam assessment should also be permitted in alternative academic qualifications where it is the most valid approach for the content being covered.

Non-exam assessments can present greater risks to the validity of assessments however, as they are delivered and often marked in centres, and awarding organisations may not have the same type of control over a non-exam assessment at the point of delivery as for an Assessment by Examination. Where non-exam assessment is permitted in A levels and T Levels, as well as key stage 4 performance table qualifications, awarding organisations are required by Ofqual to put in place robust controls to ensure their quality.

Some of these controls exist in the General Conditions. Since 2019, we have put in place requirements that awarding organisations must meet where any assessment is marked by a centre. These requirements are known as Centre Assessment Standards Scrutiny (CASS)<sup>11</sup> and require awarding organisations to have in place approaches for monitoring centre marking of assessment and taking action where centres are not found to be marking in line with the awarding organisation's required standard. There are minimum requirements set that an awarding organisation's approach must meet. Awarding organisations are required to explain and justify their approaches in a CASS strategy.

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<sup>11</sup> [Ofqual Handbook: General Conditions of Recognition](#) (Condition H2)

The CASS requirements cover assessments which are marked by centres. In addition to these requirements, some additional controls are proposed, covering other important aspects of the delivery of non-exam assessments, which are set out below.

Ofqual's proposal is to require, through the assessment strategy, that awarding organisations explain their choices around the design of non-exam assessments, in relation to the content being assessed and to the purposes of the qualification. These explanations should identify any risks to validity in the approach and how they would be managed. We set out below the controls we propose for non-exam assessments.

## Setting non-exam assessments

The setting of non-exam assessments is a key area in which an awarding organisation can ensure the validity of its assessments. Awarding organisation-set assessments provide the highest level of control for awarding organisations over the quality of their assessments at the point of design. Typically, the greater level of control an awarding organisation has over this aspect of an assessment, the more effectively it can ensure that tasks and assessments are valid. By setting the tasks, awarding organisations are also better placed to ensure that they are comparable between centres, which is important for reliability and fairness. In cases where centres have a large degree of control over task setting – which may be the case for some existing qualifications – it is more challenging for awarding organisations to ensure that the related requirements are appropriate and comparable, both within and across centres.

In setting tasks, it is important that they enable students to demonstrate what they know, understand and can do. For this reason, while retaining control of the overall task-setting to ensure it appropriately assesses the relevant content, awarding organisations may also set parameters within which centres can tailor a task. This could allow an awarding organisation to set the same overall task for students (for example, a performance of an instrument) but tailored to the way in which the student has studied the qualification (for example, by performing on the specific instrument they are studying).

### **Proposal**

To ensure a high level of control around the non-exam assessment, Ofqual's proposal is that an awarding organisation should set the assessment or assessments, specifying centrally key aspects including: the student work required; the size of the assessment; the content to be covered; and the characteristics that will enable assessors to differentiate between students' levels of attainment.

It is important for students that centres are able to tailor tasks to the specific way in which the student has studied the qualification, as in the example above of students who perform their task using different instruments to one another. We have considered whether it is necessary to restrict the extent of the changes awarding organisations may permit centres to make to non-exam assessment tasks and whether additional controls are needed, beyond those that exist in the General Conditions, are needed. The General Conditions already include requirements relating to the design, development and delivery of assessments, which ensure that awarding organisations set non-exam assessment tasks that are appropriate.

Awarding organisations are expected to have oversight of such changes, with any specific parameters within which a task can be tailored incorporated in the design of the tasks they set. Where awarding organisations allow such approaches, they must have in place appropriate controls over the extent to which any changes are made, to ensure that it is the awarding organisation that still retains overall responsibility for the setting of non-exam assessment tasks. Awarding organisations should explain their approach to task setting as part of their assessment strategy.

### **Question 17**

To what extent do you agree or disagree that awarding organisations should set non-exam assessments? Please provide any comments.

## **Non-exam assessment availability**

Similar to Assessment by Examination, the availability of non-exam assessment is an important area which can impact the overall quality of a qualification. It can impact on teaching and learning and an awarding organisation's ability to set and maintain standards. This is because the amount of evidence available to the awarding organisation for setting standards will be greater where more students have completed the assessments at any given point.

Availability of non-exam assessments also needs to be considered in the context that they may take place over a longer time period than examined assessments (rather than on a specified date). They may also rely on the availability of specific equipment or resources, particularly where they are assessing skills or practical tasks.

### **Proposal**

Ofqual's proposal is to put in place controls for how often an awarding organisation may permit centres to submit outcomes for non-exam assessment. It is proposed that this should be limited to two windows in each academic year. It is not proposed for Ofqual to specify when these should be, although we would welcome views on

this, including whether any submission windows should align with any dates for Assessment by Examination availability.

This proposal recognises the varying nature of assessment methods that can be used to deliver non-exam assessment. The approach proposed is likely to reduce the likelihood of ongoing formal assessment, providing more time for teaching and learning to take place, and for students to focus on developing their skills, rather than on taking assessments. It will also increase the amount of evidence available at the same time to awarding organisations for the purpose of standard setting. It is not proposed to specify when these windows should be as it is important that an awarding organisation can design its approach so that it is appropriate to the qualification it is delivering.

An awarding organisation should be able to show in its assessment strategy how it intends to manage any risks that arise from its choices around assessment availability.

### **Question 18**

To what extent do you agree or disagree that awarding organisations should limit centres' submission of non-exam assessment outcomes to two windows in each academic year? Please provide any comments.

### **Question 19**

Do you think that Ofqual should require windows for the submission of non-exam assessment marks to align with the availability of Assessment by Examination?

## **Retaking non-exam assessment**

It is important to allow students to retake their non-exam assessments, but we are mindful of the potential burden that could be caused for students retaking, depending on whether they are required to take an entirely different task, or whether they are allowed to resubmit updated evidence.

### **Proposal**

To ensure retake arrangements are flexible and can meet the needs of students, Ofqual proposes to set a requirement to explicitly allow, for students retaking non-exam assessment, awarding organisations to consider both new evidence (which may be produced for a new task) or a revised version of evidence which has previously been submitted (which may be submitted against the task against which this was previously attempted).

An awarding organisation will be expected to explain its approach, including how it requires new evidence to be produced where reasonable, or permits reworked evidence where a requirement for new evidence would be unreasonable, as part of its assessment strategy. An awarding organisation must explain the controls it has in place to mitigate any risks that might arise from the particular assessment retake or resubmission arrangements it puts in place. Limits on the number of retakes are not being proposed – the proposal for there to be two dates per year for the submission of non-exam assessment marks will limit repeated formal assessment.

## **Question 20**

To what extent do you agree or disagree with the proposed approach to retaking non-exam assessments? Please provide any comments.

## **Marking and assessing performance in non-exam assessments**

Marking or assessing performance in an assessment is a key area which can affect the validity of assessments. The highest level of control is for awarding organisations to directly mark or assess a student's performance in their assessment. In many assessments, this is the most valid approach.

There can be legitimate reasons, however, why alternative approaches might be taken; for example relating to the manageability of this approach or the nature of the assessment. For non-exam assessments, such alternative approaches would typically be to permit centres to mark or assess students, with awarding organisations monitoring to make sure that centres are carrying this out appropriately. This is an approach which is permitted in some A levels and T Levels, subject to there being suitable controls in place between awarding organisations and centres.

As described earlier, Ofqual sets controls relating to centre-marked assessments through the General Conditions relating to Centre Assessment Standards Scrutiny. These apply to any assessment which is marked by a centre and require awarding organisations to have in place approaches for monitoring centre marking, and for identifying and taking action where issues are identified.

In some qualifications, these controls are known as Moderation. This is the approach used in A levels and T Levels. Moderation takes place before results are issued and can take forms that allow awarding organisations to make fine adjustments to a centre's marking based on reviewing a sample of the centre's marking. Moderation of this type is typically used in sessional qualifications, where marking is numerically

based (as opposed to a judgement of performance against specified criteria). For key stage 4 performance table qualifications, non-exam assessments are required by Ofqual to be numerically marked and also Moderated. The same approach is not being proposed for alternative academic qualifications, as Ofqual considers that there is a greater likelihood of non-exam assessments being directly graded by assessors based on the level of attainment and specific outcomes demonstrated by students. Requiring these assessments to be numerically marked would not necessarily improve the validity of the assessments or the overall quality of the qualifications and could potentially lead to less valid qualifications and require significant change to implement.

For qualifications where Moderation is not required, this could be because the nature of the assessment means that Moderation may not be the most appropriate form of control. This could be the case, for example, where assessments are not numerically marked, which would not allow for the fine adjustment of marks, that many Moderation approaches use, before results are issued. For these other forms of controls, awarding organisations are required to have in place an approach that allows them to monitor and identify any issues with centre marking, and take action as appropriate to correct any errors, and to ensure that the causes of such errors are addressed to prevent them reoccurring.

Both of these approaches require awarding organisations to monitor, identify and address any issues with centre marking with the most appropriate approach, depending on the nature of the qualification.

### **Proposal**

Ofqual's proposal is that awarding organisations may mark non-exam assessments themselves. In some instances, however, the nature of the assessment may mean this may not be the most appropriate approach, for example, where assessment evidence is performance-based. In such instances, centres may be best placed to mark assessments. It is also possible, that in some cases, it may be prohibitively expensive for awarding organisations to mark assessments themselves, if, for example this would require assessors to observe every student in every centre.

It is therefore proposed that, where necessary, awarding organisations may permit centres to mark assessments, or to use a combination of awarding organisation and centre marking. Where awarding organisations allow centres to mark assessments, they will be required to have appropriate controls in place, through the Centre Assessment Standards Scrutiny requirements. Awarding organisations will be required to determine the most appropriate form for this, which will depend on the qualification in question. They will be required to ensure their approach is appropriate for the qualification and to meet the CASS requirements in the General Conditions. This could be through Moderation (though this is not being required), or

through other forms of CASS, depending on the specific qualification and assessment.

Through their assessment strategies, awarding organisations must explain the risks related to centre marking or grading of non-exam assessments that they have identified, and demonstrate that effective controls will be in place to mitigate the risks.

### **Question 21**

To what extent do you agree or disagree that non-exam assessments should be marked or assessed by one of: the awarding organisation, a Centre, or a combination of these approaches? Please provide any comments.

## Setting standards

### Standard setting

Setting and maintaining grading standards in a qualification is a critical responsibility for an awarding organisation. Any approach to setting standards is impacted by an awarding organisation's choice of qualification and assessment design, and so these design choices should be influenced by the need to maintain standards.

In GCSE and A level qualifications, there is a long history of using predictions based on cohort-level prior attainment as a source of evidence when setting and maintaining standards. Some awarding organisations have used similar approaches in some VTQs.

In recent years, Ofqual has conducted research into the potential role of prior attainment-based statistical predictions in the maintenance of grading standards in individual assessments within Applied General and Tech Level qualifications. The work suggests these approaches have potential to support the maintenance and comparability of grading standards in qualifications of this type. However, the technical evidence base is not sufficiently extensive or compelling to propose that this should be required of all awarding organisations at the current time. Ofqual intends to continue research in this area and may look to modify expectations on awarding organisations in this regard should the evidence suggest it is beneficial and necessary to do so.

With these alternative academic qualifications, there are limited common design characteristics between the qualifications, which means there is not a single technical approach to setting and maintaining standards. Awarding organisations are

already, and will continue to be, subject to the requirements of the General Conditions in relation to setting specified levels of attainment. They are required, for example, under Condition H3 (Monitoring the specified levels of attainment for a qualification) to review the standards set: in the qualification previously; for similar qualifications it makes available; and for similar qualifications offered by other awarding organisations. There are, however, some fundamental elements in standard setting that could be required in these qualifications, such as the way in which qualitative and quantitative evidence is used in setting standards. Currently, awarding organisations may take different approaches to this and the approach taken may impact on the effectiveness with which standards are set and maintained over time.

### **Proposal**

Ofqual's proposal is to require awarding organisations to ensure their approach to the setting and maintenance of standards promotes consistent standards within each qualification over time and supports, where possible, comparability between qualifications in similar subject areas. To do this, awarding organisations should take into account an appropriate range of evidence – both qualitative and quantitative – and would be expected to be able to explain the rationale for their approach, including the evidence and the methods to be used. The evidence should enable awarding organisations to reflect the level of demand of the specific assessment, be based on consideration of an appropriately representative sample of student work and the standards set in previous years.

Awarding organisations should explain their approach and rationale through their assessment strategy. This approach is similar to that which was implemented for key stage 4 performance table qualifications.

### **Question 22**

To what extent do you agree or disagree with the proposed approach to setting standards in these qualifications? Please provide any comments.

## **Nested qualifications**

Some existing qualifications have a “nested” structure. This means that a number of different sizes of related qualifications share individual assessments. Different numbers and combinations of those assessments are then used to contribute results towards the achievement of each individual qualification. These qualifications offer students and centres flexibility regarding the size, timing and title of the qualification they receive at the end of the course of study. They do however also present risks, including in relation to the maintenance of standards, and the difficulty for awarding

organisations of identifying which students are taking assessments as part of particular qualifications.

In his steer, the Secretary of State has set out that variations and flexibilities in approach are important and that these qualifications must offer genuine alternatives to students and that, as such, he is content that existing approaches to qualification design and delivery proceed where these have particular benefits for students and their centres. The steer also notes, however, that improving quality within this is key, and that the mitigation of attendant risks should be considered as part of the regulatory approach.

### **Proposal**

Ofqual has considered whether any additional design requirements are necessary to manage potential risks associated with nested approaches. While these approaches may be referred to as nested approaches, there is no single definition for what constitutes a nested qualification. The General Conditions allow for a variety of approaches to be taken, including those structures that include nested approaches, and approaches in which nesting is not a feature. Awarding organisations are required, through the General Conditions, to design valid assessments, and to identify and manage any risks associated with their approach.

Additionally, the Department intends that in the future landscape there will be less variation in the size of alternative academic qualifications. Broadly speaking, they will need to be equivalent in size either to 1 A level, or to a whole study programme (that is, around 3 A levels). This limitation on the size of qualifications is likely to reduce automatically the extent to which qualifications use nested approaches. Given this, it is not proposed to put in place any additional design requirements specifically related to nested approaches to qualification design. It is proposed though to require awarding organisations to provide an assessment strategy, in which they must explain the rationale for their approach to the design, development, delivery and award of these qualifications. This would include how the qualification structure supports learner and centre needs, while also ensuring the awarding organisation is able to set and maintain standards effectively.

### **Question 23**

To what extent do you agree or disagree with the proposed approach to nested qualifications? Please provide any comments.

## 4. Additional proposals relating to level 3 alternative technical qualifications

This consultation sets out a number of proposals which will apply to both alternative academic and alternative technical qualifications. The Institute will lead the approval of alternative technical qualifications and will also be setting requirements. It intends to consult on these later this year.

For alternative technical qualifications the Secretary of State's steer sets out:

'I would like Ofqual to consider its role in helping further ensure the quality of these alternative technical qualifications. Particularly important in this context will be how Ofqual and the Institute continue to work together. The Skills and Post-16 Education Bill sets out expectations in this regard, consolidating the approaches you have been taking successfully to date in developing the overarching framework for assurance of technical qualifications, with each organisation drawing on its unique expertise and powers, so that employers and students are rightly at the heart of the qualifications landscape.'

This steer has been considered as the proposed regulatory approach has been developed. In particular, consideration has been given to the way in which Ofqual and the Institute currently work together in the oversight of qualifications in which both organisations have a responsibility. Such joint approaches already exist for a number of qualifications, including apprenticeship End Point Assessments, Technical Qualifications that form a part of T Levels, and Higher Technical Qualifications. For these qualifications, Ofqual and the Institute have developed approaches which make the most effective use of the relevant expertise, powers and objectives of each organisation. Where this is the case, both organisations have been mindful, as far as is possible, not to impose any unnecessary regulatory burden, either in terms of requirements set, or regulatory activities undertaken. This has meant, for example, where the Institute already sets requirements for a particular qualification, or specific aspects of a qualification, Ofqual has sought not to duplicate these in its own requirements.

As noted above, the intention is for a streamlined process, whereby an awarding organisation submits materials, which can then be used by the Department, the Institute and Ofqual to fulfil their respective roles in the approval process.

### **Proposal**

For alternative technical qualifications, Ofqual's proposal is to take a similar regulatory approach to that described above where Ofqual and the Institute both have responsibility for aspects of qualification oversight. It is expected that the

Institute will put in place requirements covering alignment of qualification content to employer-led occupational standards published by the Institute, to ensure that the knowledge, skills and behaviours developed by students and the competencies to which the qualification attests are those most valued by employers. It is also likely the Institute will set requirements relating to the application of the most appropriate assessment methods for the knowledge, skills and behaviours from the occupational standard. The Institute intends to consult on its requirements later this year.

It has already been set out in this consultation, that it is proposed that an awarding organisation must provide an assessment strategy, explaining its approach to the design, development, delivery and award of alternative technical qualifications. This will set out its approach to these qualifications, and its rationale for this approach, and how this relates to the employer-led standard the qualification has been designed against.

It is not proposed, at this stage, to set additional design requirements for alternative technical qualifications. This approach recognises that the nature of alternative technical qualifications may mean that a wider variety of approaches is required than for alternative academic qualifications. Ofqual will keep this approach under review, working with the Institute, as it consults on and puts in place its requirements.

## **Question 24**

Do you have any comments on Ofqual's proposals in relation to its approach to regulating alternative technical qualifications?

## 5. Impact assessments

### Equality impact assessment

Ofqual is a public body, and therefore the public sector equality duty in the Equality Act 2010 applies. Within this consultation, the impacts on students (positive and negative) have been considered in relation to the proposals, including on those on students who share a particular protected characteristic<sup>12</sup> and reasons such as their socio-economic background. We set out below those areas where we have identified potential impacts and would welcome your views on those impacts we have identified, and any suggestions for how these might be mitigated. We would also welcome views on whether there are any impacts we have not identified, and how these might be mitigated.

The equality impacts identified relate to the proposals in this consultation which Ofqual plans to put in place to regulate these qualifications. The impacts identified do not relate to the overall government policy for the review of post-16 qualifications at level 3 and below. The Department published a separate impact assessment on its overall approach, which [is available on its website](#)

We set out our impact assessment below.

### Qualification purpose

It is proposed that one of the purposes for alternative academic qualifications should be to:

provide an engaging course of learning for, and be accessible to, both students in full-time education and those studying part-time;

Awarding organisations will be required to develop the specific purposes for their qualifications based on this general purpose. Awarding organisations will be expected to ensure that alternative academic qualifications are designed with this purpose in mind, so they are accessible to students, including those with particular protected characteristics. It is possible that these qualifications may provide an alternative (non-standard) route to further study and employment for many students

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<sup>12</sup> The protected characteristics under the Equality Act 2010 are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

that may have particular protected characteristics, for example disabled students who may take these as an alternative to A levels or T Levels.

In designing qualifications, awarding organisations will have to continue to meet, on an ongoing basis, the obligations imposed under the General Conditions, as well as their wider equalities obligations under the 2010 Equality Act. In particular, Condition D2 (Accessibility of qualifications) requires that awarding organisations ensure they comply with the requirements of equalities law and monitor qualifications for any feature which could disadvantage a group of students who share a particular characteristic and where these cannot be justified, remove them.

## Content and assessment design

It is proposed that an awarding organisation must explain its approach to assessing content through its assessment strategy. In relation to alternative academic qualifications, it is proposed that an awarding organisation must ensure that the knowledge, skills and understanding assessed are appropriate in relation to: the qualification's purpose, level, design of assessment, and size. For alternative technical qualifications, it will need to explain its approach to the content set out in the relevant employer-led occupational standard.

When designing the content for a qualification, and the approach to assessing it, it is expected that an awarding organisation takes account of the needs of students, including those with particular protected characteristics, to ensure that they are not disadvantaged as a result of sharing that particular protected characteristic. Under Condition E4 (Ensuring an assessment is fit for purpose and can be delivered) awarding organisations must, in designing an assessment, ensure that it permits Reasonable Adjustments to be made, while minimising the need for them.

## Assessment by Examination

It is proposed that for alternative academic qualifications, a minimum of 40% of the contribution to the overall qualification should be available through Assessment by Examination, available on up to twice each academic year, on set dates.

It is possible that the requirements of Assessment by Examination for these qualifications may adversely impact students with some disabilities, or with medical conditions such as anxiety. The use of alternative assessment arrangements, such as controlled assessment in place of examinations, is sometimes seen as having a more positive impact on some persons who share a particular protected characteristic, for example, disabled students, in comparison to Assessment by Examination. The General Conditions place requirements on awarding organisations

in relation to Reasonable Adjustments, and these requirements will continue to apply.

By requiring up to two set dates for Assessment by Examination, in some years religious occasions may coincide with assessment dates which could potentially impact on students who are, for example, celebrating a festival or observing a fast. Unfortunately, there is always a risk that some students will be disadvantaged at whatever time an examination is offered for assessment, or whatever approach to assessment is used. However, in terms of the availability – it is proposed for there to be up to two assessment dates in each academic year – students and centres may be able to select a date to meet their needs where available.

## Non-exam assessment

It is proposed that non-exam assessments in alternative academic qualifications are set by awarding organisations, may be marked by awarding organisations or centres, that awarding organisations must require centres to submit marks no more than twice in each academic year, and that awarding organisations may choose to accept new or amended evidence for students retaking assessments.

Non-exam assessment may disadvantage some students, if they do not have access, either at their centres, or at home, to the equipment or resources needed to complete the assessment, for example, for students from lower socio-economic backgrounds. It could also affect students who do not have the necessary support, for example, disabled students who require reasonable adjustments. As part of Condition E4 (Ensuring an assessment is fit for purpose and can be delivered), an awarding organisation is required, in designing assessments, to allow centres to develop cost-effective arrangements for their delivery, using only the resources which would be reasonably expected to be required or which are provided by the awarding organisation. Awarding organisations will be expected to also take account of this when designing their assessments.

We have not identified any other equalities impacts in relation to our proposals for non-exam assessments.

## Grading and standard setting

It is proposed to set requirements relating to the nature of the evidence that awarding organisations should use when setting standards for these qualifications. Awarding organisations will be expected to refer to a range of evidence, and to take account of the impacts on students with particular protected characteristics of the approaches they take.

No equalities impacts of our proposals in this area have been identified.

## Assessment strategies and Ofqual review

It is proposed that awarding organisations should develop and comply with an assessment strategy, setting out their approach to designing qualifications. It is also proposed that where Ofqual has reviewed a qualification, an awarding organisation must comply with any requirements or follow any guidance provided by Ofqual, as a result of that review.

Through its assessment strategy, an awarding organisation will need to explain its overall approach to the design, development and delivery of its qualifications. This will include ensuring that it meets the equalities requirements that apply through the General Conditions. This will enable Ofqual to review awarding organisations' approaches, and to take action where these approaches do not meet the requirements of the General Conditions, or are not being followed.

This will have a positive equalities impact. The act of developing an assessment strategy will require awarding organisations to consider in detail their approach. Ofqual will be able to challenge and hold awarding organisations to account where they are not meeting their equalities obligations through ongoing regulatory activities. Additionally, through Ofqual's review, it will be possible to identify issues with an awarding organisation's approach and require these to be corrected.

## Other requirements

A number of other requirements for these qualifications have been proposed, including in relation to titling, and the withdrawal of approval for funding from these qualifications. We have not identified any equalities impacts as a result of these proposals.

### **Question 25**

Are there any other potential impacts (positive or negative) on learners who share protected characteristics that have not been identified?

### **Question 26**

Are there any additional steps that could be taken to mitigate any negative impact, resulting from the proposals, on learners who share a protected characteristic?

### **Question 27**

Do you have any other comments on the impacts of the proposals on learners who share a protected characteristic?

## Regulatory impact assessment

In developing these proposals, we have tried to find a balance between allowing flexibility where appropriate while ensuring that Ofqual, along with awarding organisations, can have sufficient control of standards in these qualifications.

Several of the proposals will necessitate changes in current approaches to the design, delivery and award of some qualifications. It is acknowledged that some changes may have a cost and resource impact on awarding organisations. Ofqual does not currently hold sufficient information as to what the costs may be to awarding organisations if some or all the proposals are implemented. Responses from this consultation will be used to inform subsequent decisions.

The impact will vary depending on the current designs and controls that awarding organisations have in place for existing qualifications. Awarding organisations will incur some costs from these proposals, in particular, the requirement for the provision of an assessment strategy for each qualification submitted for review. While we have tried to minimise the extent of any additional burden as far as is possible, new regulatory requirements as a result of the enhanced controls proposed will inevitably have a regulatory impact. This is considered by Ofqual to be proportionate to the intended aims, but we would welcome views on this, including if there are ways in which the extent of any additional required activity could be minimised.

The potential effect of any requirements has been a factor in the proposal not to put in place the same level of additional design requirements for alternative technical qualifications, as proposed for alternative academic qualifications. The level of change that would be required to meet such requirements could be potentially burdensome on awarding organisations. In addition, imposing additional controls to those which the Institute intends to put in place could be disproportionate, so such controls are not proposed.

## Content

It is proposed that an awarding organisation must explain its approach to assessment of content as part of its assessment strategy. These are steps an awarding organisation should be taking as part of its approach to the design, development and delivery of all qualifications it offers. The proposed requirements for alternative academic qualifications will provide clarity on Ofqual's expectations and ensure awarding organisations can be held to account for this. The same

requirements are not being proposed for alternative technical qualifications, as these will be based on the employer-led occupational standards, although will require the approach to be explained through an assessment strategy.

The direct impact of these proposals, however, should be minimal to awarding organisations in the design of qualifications that enable students to develop knowledge and skills and understanding.

## Assessment by Examination

The requirement that for alternative academic qualifications, at least 40% of the contribution to the overall qualification must be made available through Assessment by Examination will have an impact where existing qualifications are designed with a lower percentage of Assessment by Examination currently. While many existing qualifications may already meet this requirement, it is possible that some awarding organisations may have to change their assessment model to meet this requirement.

While there is a potential effect of the proposed regulatory requirements, this is proportionate to seeking to deliver the policy intent that “these qualifications must incorporate a significant assessment of knowledge and understanding” and to provide assessments by awarding organisations with a high degree of control over the assessment which will help meet the expectation for strengthened regulation of these qualifications.

The requirement that Assessment by Examination is marked by the awarding organisation is unlikely to impose any additional burden, as the majority of these types of assessment are already marked by awarding organisations. The extent of any impact of this proposal will therefore be minimal.

## Non-exam assessment

The proposals around the design and delivery of non-exam assessments in alternative academic qualifications may create some new required regulatory activity for awarding organisations. However, this should be minimal as we are not proposing any significant changes to the non-exam assessment approaches that may already be in place.

## Grading and standard setting

A single approach to setting and maintaining standards is not being proposed, however, the proposals do include expectations around the evidence that should be used by awarding organisations. These proposals should not lead to significant changes in approach to standard setting by awarding organisations. However, there

may be some additional requirements for awarding organisations in terms of the need to promote consistency of standards where this has not previously been considered between relevant awarding organisations.

Overall, these proposals are considered by Ofqual to be necessary to ensure clarity and coherence around what we expect, and to ensure consistency of standards as far as possible.

## Assessment strategies and Ofqual review

The proposal to require awarding organisations to develop an assessment strategy for both alternative academic and alternative technical qualifications is intended to give Ofqual confidence that qualifications are fit for purpose.

Awarding organisations will need to consider and address issues that relate to the design, development and delivery of these qualifications in an assessment strategy. While there will be some additional requirements for development and submission of assessment strategies, we consider that the impact of the requirements will be limited to the degree that awarding organisations are setting out things they should have already considered in the development and design of their qualifications. It is also recognised that the potential costs and level of additional activity required will be impacted by aspects such as the previous experience of the awarding organisation and how they interpret Ofqual's requirements.

The requirement to provide an assessment strategy to Ofqual for alternative technical qualifications is in addition to the likely provision of similar information the Institute may require. While this has the potential to cause some additional burden, this is considered by Ofqual to be necessary for the ongoing regulation of these qualifications. Many of the requirements set for assessment strategies by Ofqual are likely to be similar to those set by the Institute, and we will work with the Institute to minimise the extent of any duplication or burden. A single assessment strategy may be able to meet both purposes which will help minimise any additional burden. In addition, setting these requirements up-front will help minimise the extent to which further information about an awarding organisation's approach may need to be requested at a later point.

## Other requirements

No further regulatory impacts have been identified as a result of these proposals. In some places we are seeking views on the most effective approach to secure the intended outcomes, for example, on whether or not titling requirements should be used to help identify these qualifications. We would invite respondents to consider the potential burden of these proposals when commenting on these approaches.

### **Question 28**

Are there any regulatory impacts that have not been identified arising from the proposals? If yes, what are the impacts and are there any additional steps that could be taken to minimise the regulatory impact of the proposals?

### **Question 29**

Are there any costs, savings or other benefits associated with the proposals which have not been identified? Please provide estimated figures where possible.

### **Question 30**

Is there any additional information that should be considered when evaluating the costs and benefits of the proposals?

Ofqual has a duty under the Apprenticeships, Skills, Children and Learning Act 2009 to have regard to the desirability of facilitating innovation relating to the provision of regulated qualifications. We have committed to surveying awarding organisations' views of the impact of our regulatory requirements on innovation and to consider any revisions required in response.

The regulatory approach proposed for these qualifications will allow awarding organisations to take innovative approaches to the design and delivery of these qualifications. We would, however, welcome views on whether there is anything in our proposals that would prevent innovation by awarding organisations wanting to offer qualifications in scope of these proposals.

### **Question 31**

Do you have any comments on the impact of the proposals on innovation by awarding organisations?

# Annex A: Consultation responses and your data

## Why we collect your personal data

As part of our 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 may ask 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 at the appropriate point in the survey.**

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.

## 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: access, rectification and 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 below. You can also find out [more about Ofqual's privacy information](#).

## Freedom of Information Act and your response

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 including members 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

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships & Technical Education (IFATE) where the consultation is part of work involving those organisations. We may need to share responses with them to ensure that our approach aligns with the wider process. Where possible, if we share a response, we will not include any personal data (if you have provided any). Where we have received a response to the consultation from an organisation, we will provide the DfE and IFATE with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Where we share data, we ensure that adequate safeguards are in place to ensure that your rights and freedoms are not affected.

We use Citizen Space, which is part of Delib Limited, to collect consultation responses and they act as our data processor. You can view [Citizen Space's privacy notice](#).

Your response will also be shared internally within Ofqual in order to analyse the responses and shape our policies and regulatory activity. 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](#). 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?

Unless otherwise stated, Ofqual will keep your personal data (if provided) for a period of 2 years after the consultation closing date.

## 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.

## 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). The relevant data protection regime that applies to our processing is the UK GDPR<sup>13</sup> 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 our data protection officer at [dp.requests@ofqual.gov.uk](mailto:dp.requests@ofqual.gov.uk)

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.

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<sup>13</sup> Please note that as of 1st January 2021, data protection laws in the UK have changed. The General Data Protection Regulation (EU) 2016/679(GDPR) no longer applies to the UK. However, the UK has incorporated GDPR into domestic law subject to minor technical changes. The Data Protection, Privacy and Electronic Communications (Amendment etc.) EU exit Regulations (DPPEC) came into force in the UK on 1st January 2021. This consolidates and amends the GDPR and UK Data Protection Act 2018 to create the new UK GDPR.

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,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF  
Tel: 0303 123 1113



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