Analysis of consultation responses for Ofqual

- From Transition to Transformation;

- Economic Regulation and Fee Capping Powers; and

- Complaints and Appeals for Regulated Qualifications.

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1 Management summary

1.1 Introduction

1.1.1 On the 1st April 2010 the Office of the Qualifications and Examinations Regulation (Ofqual) became the independent regulator of qualification, examinations and assessments in England and of vocational qualifications in Northern Ireland. With duties and powers granted by the Apprenticeships, Skills, Children and Learning Act 2009, Ofqual has been working to define how it will regulate. A strategic overview of its general principles and ways of working were laid out in its first major consultation *Regulating for Confidence in Standards* (December 2009).

1.1.2 The broad proposals put forward in that document and the responses received from stakeholder have informed the development of Ofqual's approach so that a new set of more detailed proposals were put forward in October 2010. Three public consultations were launched:

Consultation document	Purpose
From Transition to Transformation: Strategic Regulation of Awarding Organisations and Qualifications	Covering a wide range of subjects, this document built upon the previous main consultation to present more detailed views on how Ofqual would regulate awarding organisations and secure standards of regulated qualifications.
Economic Regulation and the Fee Capping Process	With a statutory objective to ensure that regulated qualifications are provided efficiently and are value for money, Ofqual set out its proposals.
Complaints and Appeals for Regulated Qualifications	With authority to investigate complaints about regulated qualifications, this consultation addressed how Ofqual proposes to handle and investigate complaints and appeals.

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1.1.3   Stakeholders were encouraged to study the consultation documents and provide comments via web based, e-mail or paper methods. The consultation was held open for over three months (20th October 2010 to 31st January 2011) and was supported by a series of events to which stakeholders were invited and encouraged to participate by responding.

1.1.4   Ofqual developed sets of open and closed questions that provided a structured method of responding to the three documents. YouGov was commissioned to independently collate and analyse the consultation responses. This document provides a summary of the responses received and follows the structure of the questionnaires that were developed for each consultation. It begins below with summaries of stakeholder sentiment for each of the three documents. A detailed analysis of comments by question is presented in Sections Two to Four. A full list of those individuals and organisations that responded to the consultations is provided in Section Five.

1.2   From Transition to Transformation

1.2.1   Broadly speaking, most of the conditions laid out in the '*From Transition to Transformation*' consultation were welcomed and accepted, but there were many areas of concern especially from awarding organisations. There were calls for clarification of phrases and language used, as well as concerns around timescales, bureaucracy and costs.

Conditions on governance, management, quality assurance, resources and co-operation with regulators

1.2.2   Most welcomed the proposed conditions in this section, especially the idea of generic conditions. There were significant caveats, however. Concerns were raised over the amount of detail Ofqual will require in both the accounts and data that awarding organisations supply, especially due to the possibly commercially sensitive nature of the data requested. There was also wide concern over the use of the term '*from time to time*' and more information was wanted in terms of frequency and lead in time for data requests. There was also a request for more information as to what defined a conflict of interest.

1.2.3 Two other concerns were raised over company structures. Firstly that the awarding activities of professional bodies and so the governance structure was not set up in a way to comply with Ofqual's requests. Secondly, there were concerns that in larger organisations there would not be one person with enough knowledge to be classed as an Accountable Officer, as many of the functions called for were typically split between departments.

1.2.4 The second half of this section covered the requirement for an annual confirmation of compliance with the recognition conditions. Again there was broad agreement here but only with a number of caveats that needed to be addressed. These included further discussions about the governance structures of organisations, but also a concern over the resources needed for self-assessment. Lastly, there were concerns here about the transparency and consistency of Ofqual's guidance and advice based on past experience.

Conditions on compliance with requirements for units and qualifications

1.2.5 Stakeholders – specifically awarding organisations – were split in their agreement about these conditions. The biggest concern was about the onus placed on awarding organisations to know which units were compliant with regulatory requirements and which were not. There were suggestions that the role of informing awarding organisations about the compliance status of units should rest with Ofqual. There were also concerns about the role of Sector Skills Councils in the creation of units and qualifications.

Qualifications Criteria

1.2.6 There was broad agreement with the proposals, specifically because they could bring greater flexibility within the system. This also raised some issues, namely that the changes should not be too drastic. There were worries that there might be a move away from the credit based system that is well understood by employers.

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Qualifications Framework

1.2.7   Again, almost all agreed with proposal to introduce a single framework for regulated qualifications. Particular advantages for such a system were perceived to include an easier comparison between general and vocational qualifications, as well as the potential to be able to compare this framework with others within the UK and Europe. Concerns arose that there might be significant disruption to existing qualifications resulting to a move to one framework. Lastly, awarding organisations were keen to be involved in the development of a single framework for regulated qualifications. .

Conditions requiring a clear definition of learning outcomes

1.2.8   Despite broad agreement with these proposals (only three of eighty organisations disagreed), there were concerns with some of the details. Firstly, Sector Skills Councils were worried that the principles may not be applicable with some NQF qualifications – especially those built around the National Occupational Standards.

1.2.9   Other issues included the fear that changes to titling conventions may cause confusion for employers and whether awarding organisations would be obliged to provide exams in Irish and Welsh or whether this would be optional. There was also uncertainty over the benefits of the language the assessments were taken in (if not a UK language) being published on the qualification certificate.

Conditions on assessment techniques

1.2.10 There was some significant disagreement with the conditions on assessment techniques. Agreement (although almost universal outside of awarding organisations) often came with the explanation that these are the minimum standards they would expect and that many rules covered things already in place. Concerns included the interpretation of the conditions and whether they could imply a significant increase of demand placed on awarding organisations and centres. There was also a concern that the conditions could mean a greater level of prescription over assessments and less room to introduce flexible, innovative ways of assessing.

Conditions on safeguarding standards

1.2.11 Stakeholders other than awarding organisations were in agreement with these proposals. Awarding organisations agreed in principle but had some strong reservations. These included the scope of comparison called for (as this had implications on both resources and cost), the bureaucracy and burden that may be placed upon awarding organisations and centres and the transparency with which these conditions would be monitored by the regulator.

Use of the accreditation requirement

1.2.12 Just over half agreed with these proposals, with a significant minority disagreeing. Issues included confusion over the language used amongst the wider community (most assume that all official qualifications were accredited), the triggers that would be used to initiate the accreditation process and whether Ofqual would have a detailed enough subject knowledge in order to understand the specific content of a qualification. Sector Skills Councils were keen to have a role in deciding which qualifications should be subject to an accreditation requirement.

Conditions to secure fairness for learners

1.2.13 Awarding organisations were particularly split over these conditions. Much concern was raised about the data collection condition and it took three forms. Firstly, that it would be a significant burden on centres and awarding organisations. Secondly, that it would be a pointless exercise as only partial data could be collected and, thirdly, that it may contravene the Data Protection Act 1998. Other stakeholders, including disability organisations tended to agree with the proposals.

1.2.14 There was less discussion over the other outlined conditions, however opinion did seem to be split over whether hyperlinking fees would be helpful to stakeholders or damaging towards the quality of qualifications (with organisations tempted to choose the cheapest rather than looking at quality or appropriateness).

Conditions to address the needs of qualification users

1.2.15 Whilst there was broad agreement with these conditions, some concerns were raised by awarding organisations with the amount of responsibility they could take. This was due to the role that Sector Skills Councils play in the development of units and qualifications. There was also a concern that the involvement of Sector Skills Councils sometimes led to units being too standardised and not quite meeting the employer demand. In some cases this had led to the creation of more qualifications to fill the gap. Sector Skills Councils themselves were concerned that their role was not outlined in detail.

1.2.16 Whilst there was call from some Colleges / HEIs for Ofqual to limit the number of qualifications, there were also arguments that the number signified healthy competition. Lastly there was discussion of the practicalities of progression routes here. Some awarding organisations stated that there is a problem of reaching the top level of a skill in particular and having nowhere to advance. Others felt that some value came from the learning itself.

Recognition criteria

1.2.17 A large minority of awarding organisation disagreed with proposals around recognition criteria, whilst the agreement of other stakeholders was almost universal. Concerns focused on their ability to meet such criteria, whilst also implying that robust systems and processes may not signify anything about the quality or innovation of awards. Other issues concerned the transparency of the process and the ability of Ofqual to measure effectively. Some awarding organisations raised their worries about the commercially sensitive nature of some information requested.

1.2.18 There were some positive reactions to the proposals, particularly the idea of more face-to-face measurement.

Review of recognition applications

1.2.19 A large number of stakeholders neither agreed nor disagreed with the proposals. The most significant issues were around conflicts of interest within a competitive market – awarding organisations being keen to know, and have a chance to raise concerns about, who would be on a review panel. There was also some suggestion that given an open and transparent process, peer review would not be necessary.

1.2.20 With regards to using external reviewers with relevant knowledge and experience contributing to the process, just over half of awarding organisations disagreed, with mixed feelings from other stakeholders. Concerns raised here included the expense of inducting such independent reviewers into the subtleties of the recognition process, the independence of such reviewers and whether anything would be added to the process by their involvement.

Overall conditions of recognition and guidance

1.2.21 The majority of stakeholders agreed with the first part of these proposals and thought that the general conditions were both reasonable and broad enough to cover what was needed. The issues raised included fears of individual interpretation of requirements by Ofqual staff (much of this concern arising from previous experience). Linked with this, there was a call for an independent review process of regulatory decisions.

1.2.22 With regards to the supporting guidance, the majority agreed that this would help awarding organisations to understand how compliant behaviour could be demonstrated. There was again, however, great concern over the consistency of interpretation of these guidelines by Ofqual evaluators and a worry that their presence may make conditions too prescriptive – a plurality of ways in which evidence is produced would be welcomed.

Transition to Transformation – 12 months to comply fully

1.2.23 Most agreed that a 12 month period was sufficient time to comply with the conditions of recognition. Some asked for a longer period of time, others were concerned that this time period was too long if there were gaps in the conditions that required action. Many others were unsure at this stage and needed clarification about full implications of some conditions.

Equality impact assessment – appointing a senior officer with responsibility for equality and inclusion

1.2.24 Whilst a large number agreed with the appointment of a senior officer with responsibility, amongst other things, for securing equality and diversity, a significant minority did not. Objections included the feeling that awarding organisations should be legally compliant in this regard at all levels and that the appointment of a senior officer would not necessarily ensure this. Again it was believed that this may cause unnecessary burden in the collection of information. Others, believing this role to be separate of that of the Accountable Officer, felt there could be significant overlap between the two roles.

Equality impact assessment – conditions to 'secure fairness for learners'

1.2.25 Whilst the majority of other stakeholders agreed with the 13 conditions directed at securing fairness for learners, just over half of all awarding organisations neither agreed nor disagreed. The biggest concern here was with condition G2 – that awarding organisations should collect sufficient data for monitoring any potential disadvantages with features of its regulated qualifications or units. This reflected earlier discussed potential problems of being burdensome, disproportionate, unachievable, expensive and, perhaps, in breach of the Data Protection Act.

1.2.26 Opinion was split across all organisations as to whether it was reasonable or not to specify which particular equality groups Ofqual would have an interest in at this stage. Concerns focused on the lead-in time that organisations would need in order to comply.

Equality impact assessment – clearly defining the knowledge, skills and understanding required (languages)

1.2.27 Again, the majority of stakeholders agreed with the language requirements outlined. The only disagreement came from awarding organisations who were concerned that learners may need the outlined languages in order to fulfil their roles and that this area was not defined strongly enough in the consultation document. There was also issue of the cost of potentially having to translate qualifications. Additional clarification for the role of British Sign Language and the statutory duty towards Irish were called for here.

Equality impact assessment – recognition criteria that would promote equality

1.2.28 The majority of stakeholders – both awarding organisations and others, agreed that the third recognition criteria would facilitate the promotion of equality to all learners. Despite the large amount of endorsement for these conditions, there were repeats of concerns around the potential for a burdensome process and the costs of data collection.

1.2.29 Whilst the majority agreed that indicators or typical evidence of how the requirements should be met are appropriate, a small number disagreed. Many questioned the need for encouragement of diverse and alternative evidence of compliance.

1.3 Economic Regulation and Fee Capping Powers

Defining value for money

1.3.1 There was significant disagreement from awarding organisations with the definition put forward for 'value for money[1].' Although few other stakeholders disagreed, a number remained neutral in their response. Those that disagreed felt that the definition was too narrow in its focus on efficiency. Elements such as quality, reputation and customer service were also considered to be important. There was a concern that 'cost-reflective pricing' might exclude the significant costs of innovation or prevent the generation of profits / surpluses in the future.

1.3.2 There was particular concern about whether the definition might threaten the use of cross-subsidisation. Many defended the benefits of cross-subsidisation and felt that the consultation underestimated how important and widespread it was.

[1] See Section 3.1 for the definition in full.

Approach to securing efficiency

1.3.3   There was broad agreement with Ofqual's outline approach to securing efficiency at the levels of awarding organisation and the system as whole. Although most awarding organisations were supportive, their preference was for Ofqual to pursue economic regulatory activities at the system or market rather than micro (awarding organisation) level. They welcomed Ofqual's recognition that the actions of 'other market participants' have an impact on efficiency and pointed to the significant investments made for policies and initiatives such as the introduction of the Qualifications and Credit Framework (QCF). Other stakeholders requested more detail on the timescales for tackling inefficiency if and when found.

Economic regulation criteria

1.3.4   Awarding organisation opinion was divided on whether the proposed economic regulation criteria and conditions were acceptable. Other stakeholders tended to agree with the criteria. Disagreement for many was due to a lack of detail at this early stage. A number of conditions could not be meaningfully commented upon before seeing the guidance on pricing principles and (mentioned most frequently) Ofqual's requirements for awarding organisations to provide data.

1.3.5   Of particular concern to awarding organisations that are also professional bodies was the definition of 'organisation' and 'governing body.' It was expected that Ofqual would recognise the distinction and would only request financial data that related to their qualifications business and not the organisation as a whole.

Stock-take exercises

1.3.6   Few stakeholders disagreed with the proposed use of stock-take exercises but it was recognised that the suggestions were at an early stage of development. Awarding organisations were keen to ensure that stock-takes were part of Ofqual's programme of research and not a form of audit. There were concerns about the volume and frequency of stock-takes and the potential burden for participants. Innovation was widely welcomed as a good subject choice for a stock-take. A few awarding organisations had concerned about how much they might be able to share on that subject given their position in a competitive market place.

Indicators of inefficiency

1.3.7   Most awarding organisations disagreed with the proposed indicator of inefficiency. The majority of other stakeholders agreed but a few were also neutral or disagreed. Where awarding organisations did agree was in the inclusion of 'system level risk' indicators that were widely seen to acknowledge the external influences on the market place. Those that disagreed pointed to the total number of indicators and believed that the administrative burden would be significant. They felt that a number of indicators required more definition and a few questioned whether the universal application of indicators across the diverse range of vocational qualifications and awarding organisations would be meaningful.

Fee-capping

1.3.8   Whilst many welcomed the proposal for a 'fee capping process,' most if not all awarding organisations were keen for Ofqual to use such a measure as a last resort, as it had proposed. Objections from awarding organisations and other stakeholders focused around the expected length of time that the investigation process might take (which was read as being well over a year) and the damage to reputation and financial performance that could result. There was concern that a subject organisation would not have the 'right to reply' at the start of the process before a public announcement is made.

1.3.9   Others requested more detail about how an investigation might be triggered and whether consumers might have a role in that decision making.

1.4   Complaints and Appeals for Regulated Qualifications

The scope of an independent appeals body

1.4.1   The majority supported Ofqual's proposal that the scope of an independent appeals body should be extended to cover all qualifications. There was a preference among awarding organisations for the extension of the remit to be delivered through a newly constituted organisation and not simply an expansion of the Examination Appeals Board (EAB). Another issue frequently raised was how and where an appeal to the independent body would tie in with existing awarding organisation complaints and appeals processes. Those who supported the proposal believed it to be positive step towards equality of qualifications.

Reasonable adjustments

1.4.2   Few disagreed that the independent body should consider appeals relating to reasonable adjustments. The only difficulties envisaged were that the independent body would need to have the specialist knowledge to investigate and that there may be issues of practicality given the nature of vocational qualifications, for example in making visits to the workplace to assess what is reasonable. Other stakeholders raised the issue of timing and hoped that appeals could be held before a grade is awarded rather than making adjustments after the event.

Investigating malpractice

1.4.3   There was little disagreement with the proposal that Ofqual (and not the independent appeals body) should investigate malpractice once an awarding organisation's procedures have been exhausted. Nearly all supported this because when an issue had the potential to threaten confidence in the qualifications system it was felt to be right and proper that Ofqual, as the regulator, take the lead in investigating.

Centres and candidates taking appeals to the independent body

1.4.4   The majority agreed that both centres and learners should have the ability to take a case to the independent appeals body. Some supported this because it was a continuation of current practice; others believed that centres would best represent learners rather than the individual entering the process alone. Reassurance was again required from awarding organisations that their internal appeals processes should be exhausted before a centre or learner takes their appeal to the independent body.

Ofqual and the independent appeals body

1.4.5   Very few disagreed that Ofqual should oversee the running of the independent appeals body. Those who supported the proposal did so because it was felt that Ofqual was ideally positioned to do so as the regulator, that it represented continuation of current practice and that it would make financial sense to do so. One reservation concerned whether the appeals body's impartiality would be questioned if an appeals case involved Ofqual directly.

Board and panellists

1.4.6   There was more disagreement (among awarding organisations) with the idea that the appeals body should have a board and panellists. Some of this lack of agreement stemmed from a lack of clarity between the roles of 'board member' and 'panellist.' Many were keen to reiterate their belief that the independent body be freshly constituted and members who are suitably qualified and representative of the new wider qualifications remit recruited to a pool of panellists. Others were keen for there not to be a standing board, but rather that each hearing draws upon a pool of panel members with the right capabilities for each specific hearing.

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Three-country scope

1.4.7   The majority welcomed and supported the commitment to a three country scope, although ideally they would like to have seen Scotland included as well. Whilst recognising the challenges of the different systems, those with operations in all four countries urged Ofqual to pursue as much standardisation as possible. Those who disagreed were concerned that the wide countries scope might overload the appeals system. Some stakeholders were disappointed that international students would not be covered, but a few awarding organisations agreed, citing the practical and cost issues of doing so.

Fee charging

1.4.8   Again the vast majority of stakeholders agreed that no party should be charged a fee by the independent appeals body. Those who supported the proposal felt that it encouraged equality and fairness. Those that disagreed felt that a small fee may be necessary to discourage frivolous or vexatious appeals; however Ofqual could monitor the workload of cases and decide where a fee is required at a later date.

Having regard to the findings

1.4.9   Awarding organisations were divided over whether they 'must have regard' to the findings of an independent appeals body. Other stakeholders were supportive of the proposal, feeling that the independent body needed to compel compliance in order to demonstrate its full purpose. Most of those that disagreed would be prepared to accept the proposal if Ofqual's definition of 'have regard to' did not mean that it was 'binding.' Awarding organisations were more comfortable with appeals decisions being a 'recommendation to reconsider.'

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Precedents

1.4.10 The majority of awarding organisations disagreed with the proposal that appeals hearing decisions form a precedent that would be applied to all. Most other stakeholders agreed with the suggested approach, again because it was necessary in order to fulfil the potential of the appeals body to improve qualifications. Those that disagreed did so because they felt that the wide range of vocational qualifications and types of awarding organisation meant that precedents could not be meaningfully applied, as might be possible in the more standardised field of general qualifications.

1.5 Profile of consultation respondents

1.5.1 One hundred and eight organisations or individuals responded to the *Transition to Transformation* consultation. The *Economic Regulation and Fee-Capping Process* document attracted 68 responses and 67 submitted a response to the *Complaints and Appeals for Regulated Qualifications* consultation. The depth and coverage of responses varied depending on their areas of interest and not all submitted responses to the closed scale questions provided as part of the consultation. The number that did so is recorded in a table at the beginning of each specific question in the following sections of the report. Many who completed the closed question survey provided free formed open text comments.

1.5.2 The responding stakeholders were categorised and the report makes reference to the resulting sub-groups in the data tables and open text comments.

Figure 1: Responses by stakeholder categories

	Transition to Transformation	Economic Regulation and the Fee-Capping Process	Complaints and Appeals for Regulated Qualifications
Awarding organisations	63	52	47
School / College / HE institutions	7	4	8
Government bodies	9	2	1
Sector Skills Councils	7		

	Transition to Transformation	Economic Regulation and the Fee-Capping Process	Complaints and Appeals for Regulated Qualifications
Teaching body / unions	5	3	3
Disability organisations	5	2	3
Subject bodies	4	3	1
Commercial organisations	3		1
Individuals	3		1
Training providers	2	1	
Other		1	2
Total	**108**	**68**	**67**

1.5.3   Many awarding organisations responding to the survey repeated all or some of the Federation of Awarding Bodies' submissions to all three consultations. In many cases the individual awarding organisation contributed additional text to the standard combined response. Likewise the Joint Council for Qualifications submitted a combined response, in addition to individual responses from members. There was also a combined submission to the *Transition to Transformation* consultation from the Alliance of Sector Skills Councils.

1.5.4   The closed questions are presented in tables with the frequencies of responses against each answer. The tables use the stakeholder categorisation set out above to present the findings cross-tabulated with stakeholder category. It is potentially misleading in a consultation with this number of responses to display the results as percentages so simple frequency counts have been used.

2 From Transition to Transformation

2.1 Questions A and B – Conditions on governance, management, quality assurance, resources and co-operation with the regulators

Figure 2: Do you agree that these conditions should be placed on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	2	33	8	10		**53**
College / HE	2	3		1		**6**
Government body	2	2				**4**
Sector Skills Council	2	1		1		**4**
Teaching body / union	2	2				**4**
Subject body	1	1				**2**
Disability organisation	2	1		1		**4**
Commercial	1					**1**
Individual	2	1				**3**
Training provider		1		1		**2**
Total	**16**	**45**	**8**	**14**		**83**

2.1.1 There was broad agreement with the conditions proposed for awarding organisations. Stakeholders were generally, and especially in the case of awarding organisations themselves, likely to state agreement with the proposals rather than strongly agreeing.

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2.1.2 Most broadly welcomed the proposed conditions on awarding organisations. They also generally welcomed the proposal to apply common conditions to all awarding organisations – one training centre explained that they were expected to meet different standards by different awarding organisations currently, and that common regulatory requirements might encourage all awarding organisations to ask training providers to meet similar requirements.

2.1.3 Although there was broad agreement, there were many caveats. These covered a wide range of issues, some requiring further definition and others expressing concerns from experience.

2.1.4 The biggest concerns raised were around the proposals calling for more information to be provided by awarding organisations to Ofqual. This covered both account information and data requests. Taking accounting requirements first, awarding organisations were unsure how much detail would be needed – whether it would have to be more detailed than that which they are required to publish within charity / company law. If this were the case, the problem of commercial sensitivity was raised here.

2.1.5 Concerns around the production of internal data overlapped in terms of sensitivity, but focused mainly on the bureaucracy, resource and expense of such requests. Many thought they would need to understand more about the type of data and lead time they would be given for its production. They also pointed out that this may affect their costs as new systems may be required to produce such data. As such, knowing the data required in advance would be essential in order to avoid constant system changes. As well as the production of the data, much concern was raised over the use of the phrase "*from time to time*" within the proposals[2]. The frequency of data requests was an area where further definition is called for.

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[2] A13 - "*Make available to the regulators, in a format and at such frequency as the regulators may determine, information as specified from time to time including information on qualifications registered and awarded, fees, other charges, revenues and costs.*" (Transition to Transformation, p.61, Ofqual)

"We have reservations about agreeing to this [A13] as it is written. It could have significant and unmanageable implications for awarding organisations, particularly smaller ones. 'In a format and at such frequency as the regulators may determine' gives free licence to the regulators."

(Awarding organisation)

2.1.6   There were a couple of other points about which stakeholders would like to know more. Conflict of interest was a frequently mentioned point. A number were unsure both of what was classed as a conflict of interest in this case and the implications it had – especially where awarding organisations held a dual role (such as that of a professional body and an awarding organisation). Others were concerned about the implications for those that publish their own learning or revision materials, although it is worth noting that one organisation wholly welcomed new guidelines here.

2.1.7   The last two calls for detail related to the proposals for awarding organisations themselves. Firstly, there was a question over what constituted a 'significant change' within an organisation which then needed reporting to Ofqual. Secondly, and seemingly more of an issue, there were questions over the proposals surrounding the governance structures of awarding organisations. As with the problems around conflict of interest, it was important to note that qualifications are only a small part of the remit of many awarding organisations. This implies in some cases that their governance structure does not explicitly cover a depth of knowledge within the governance level – that the awarding function is held at more of an operational level.

2.1.8   This tied in with concerns that some larger awarding organisations had around the concept of one accountable officer. In a larger organisation, they argue, many of the areas the officer would have to be accountable for would be held by a number of different posts. The implication being that for one person to be expected to have the knowledge to be accountable for all aspects of the awarding function was unrealistic. Other organisations, however, agreed with the idea of a single accountable officer and a few suggested this may be their Chief Executive.

"The appointment of an Accountable Officer, answerable to the regulator in relation to quality and standards as a condition of recognition, is welcomed".

(College / HEI)

2.1.9 Moving away from problems with the level of detail of explanation, another was raised in relation to past experience with individuals and agencies working for or on behalf of Ofqual. Some stakeholders reported having had problems in the past demonstrating they met regulatory requirements – with some individuals demanding different evidence of compliance than others. In that sense, concerns were raised about the expansion of the requirements proposed within this section.

"Our experience in relation to other awarding organisations in the same performing arts sector, is one of different and often very detailed expectations of individual Ofqual reviewers / monitors / auditors in relation to Supplementary Recognition for the QCF even where identical procedures have been submitted."

(Awarding organisation)

2.1.10 The last point of note concerned equality and diversity. A few organisations (especially those working within this field) welcomed the proposals but suggested more could have been added about ensuring equality.

Figure 3: Do you agree that an awarding organisation's governing body should be required each year to confirm whether or not the organisation is complying with the full suite of recognition conditions?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation	4	32	2	11	2	1	**52**
College / HE	2	3		1			**6**
Government body	2	2					**4**
Sector Skills Council	2	2					**4**
Teaching body / union	3	1					**4**
Subject body	1		1				**2**
Disability organisation	2	2					**4**
Commercial	1						**1**
Individual	2	1					**3**
Training provider		2					**2**
Total	**19**	**45**	**3**	**12**	**2**	**1**	**82**

2.1.11 The majority were in agreement with the proposals for an annual statement of compliance with the full suite of recognition conditions. There was disagreement from some awarding organisations, although the majority were still in agreement. Again, there were notable caveats with the statement of compliance. The most significant of these was the definition of a governing body. It was felt that in organisations where the awarding function is not the primary concern, a statement of compliance from a governing body would be meaningless and that as such a statement should come from those involved in the awarding side of the organisation.

> *"If this is the body responsible for the operation of the awarding organisation then an annual declaration is meaningful. If this declaration were to rest elsewhere then it risks being a mere formality and therefore meaningless"*

(Awarding organisation)

2.1.12 The other major point of debate concerned self-assessment. A number of awarding organisations asked that this should not duplicate their existing self-assessment duties but instead should overlap or replace those currently in existence. There was also some concern here that requirements may have significant resource implications.

> *"[We] agree that an awarding organisation should be required each year to confirm whether or not the organisation is complying with the full suite of recognition conditions provided: i) the evidence requirements are not onerous; and ii) the evidence requirements complement any self-assessment reporting requirements in place and do not duplicate the work involved"*

(Awarding organisation)

2.1.13 Some non-awarding organisation stakeholders were keen to emphasise the importance of evidence collecting and monitoring by Ofqual. As well as agreeing with the principle, some took it further and suggested that greater transparency was needed, possibly with the publishing of compliance data.

> *"Self-declaration needs to be supported by provision to the regulator of appropriate evidence of compliance"*

(Government body / agency)

2.1.14 Some awarding organisations, however, suggested that with greater self-assessment and declarations of compliance, a 'softer' regulation approach should be taken. There was some dissent from the opinions given above. Some organisations called for a declaration to be less frequent due to the relatively rare nature of changes in larger organisations, and another that it would simply add to the existing level of paperwork.

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2.2 Question C - Conditions on compliance with requirements for units and qualifications

Figure 4: Do you agree that these conditions should be placed on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	1	23	5	23	1	**53**
College / HE	1	4		1		**6**
Government body	2	2				**4**
Sector Skills Council	2	2				**4**
Teaching body / union	2	3				**5**
Subject body		2				**2**
Disability organisation		3		1		**4**
Individual	2		1			**3**
Training provider		1		1		**2**
Total	**10**	**40**	**6**	**26**	**1**	**83**

2.2.1 Awarding organisations were split nearly in half as to whether they agreed or disagreed with the proposals in Section C. It was suggested that it will be a condition of recognition that a...

> *"Awarding organisation ...*
>
> ▪ *Makes sure its qualifications and units meet any published regulatory requirements including relevant criteria, whether or not an accreditation requirement applies;*

> ▪   *Makes sure its qualifications and units meet the requirements of the qualifications and/or credit framework to which they are referenced;*
>
> ▪   *Makes sure any units or rules of combination developed by a body other than itself, and that it uses in its own awards, meet the relevant regulatory requirements;*
>
> ▪   *Submits accurate and timely information to allow for the award of composite qualifications; and*
>
> ▪   *It submits accurate and timely information to allow for the award of a composite qualification."*

(Transition to Transformation, p.16, Ofqual)

2.2.2   Twenty-four agreed with the conditions and the same number disagreed. However, a clear majority of other stakeholders, including Sector Skills Councils, agreed with the proposals. Sector Skills Councils were a topic of much discussion in this section. There were both calls for increased regulation of Sector Skills Councils and even that they should not be taking part in the regulation or supply of qualifications from some parties. However Sector Skills Councils themselves were keen to point out the importance of the role they played:

> *"It is important that Sector Skills Councils, who have sectoral representation of employers be key to any development of qualifications for their sector"*

(Sector Skills Council)

2.2.3   The biggest concern from awarding organisations was the onus placed upon them to know which units were and were not compliant. They felt that it is the role of the regulator to communicate the compliance (or non-compliance) of a unit and to police this, rather than to expect awarding organisations to compare units with others that they did not own or create.

> *"Condition B3[3] is reasonable if it is actually saying that an*
> *Awarding organisation should not knowingly use a non-compliant unit or*
> *RoC; but it would not be reasonable for the regulators to require AOs to*
> *assume responsibility for the compliance of units or RoCs which it does*
> *not own."*

(Awarding organisation)

2.2.4   Supporting statements varied, with the majority merely endorsing the proposals, but one or two going further than this:

> *"The application of the relevant regulatory requirements in*
> *respect of units and qualifications should give HE providers confidence*
> *in the units and qualifications".*

(College / HEI)

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[3] Condition B3 - *Make sure any units or rules of combination developed by a body other than itself that it uses in its own awards meet the relevant regulatory requirements.*(Ibid, p.62).

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2.3   Question D – Qualifications criteria

Figure 5: Do you agree that we should revise the way that qualification criteria are developed and presented?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation	3	37	8	2	2	1	**53**
College / HE		6					**6**
Government body	2	1	1				**4**
Sector Skills Council		2	1		1		**4**
Teaching body / union	2	1		1			**4**
Subject body	1		1				**2**
Disability organisation		1	3				**4**
Individual	2		1				**3**
Training provider		1					**1**
Total	**10**	**49**	**15**	**3**	**3**	**1**	**81**

2.3.1   There was a broad agreement with proposals. Forty awarding organisations agreed. It should be noted that two also strongly disagreed along with one sector skills council.

2.3.2   Endorsement of the proposals was on the basis of the greater flexibility within the systems and for less prescriptive rules. Many awarding organisations saw this as an opportunity to revisit the way qualifications are grouped:

> *"These categories do not necessarily need to perpetuate the*
> *current regulatory groupings – indeed there is an opportunity to think*
> *more radically about what constitutes the key differentiators between*
> *qualifications."*

(Awarding organisations)

2.3.3   There was wide concern, however, from others that any changes should not be drastic in nature, given the recent move over to the QCF framework and the costs incurred by many organisations.

> *"We've just spent all of that time and money redeveloping*
> *everything to meet the requirements of the QCF which has been done at*
> *significant cost in terms of systems and process developments and*
> *considerable confusion to centres and learners"*

(Awarding organisation)

2.3.4   The other major concern was the perceived move away from the credit based system which stakeholders argued helped employers understand the value of qualifications.

> *"We regret the underlying policy shift which is reversing the*
> *direction of travel to a fully credit based framework as we feel that this*
> *will dilute the full benefits of transferability, avoidance of duplication and*
> *enhanced opportunities for progression"*

(Awarding organisation)

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2.4 Question E – Qualifications framework

Figure 6: Do you agree with our proposal to require all regulated qualifications to be referenced to one qualifications framework within which awarding organisations choosing to offer credit-based qualifications follow specific design rules?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	3	41	3	4	2	**53**
College / HE		6				**6**
Government body	2	1	1			**4**
Sector Skills Council		2	1			**3**
Teaching body / union	2		1			**3**
Subject body		2				**2**
Disability organisation		3	1			**4**
Individual	1		1	1		**3**
Training provider		1	1			**2**
Total	**8**	**56**	**9**	**5**	**2**	**80**

2.4.1 Agreement among stakeholders was almost universal. Awarding organisations were slightly more cautious, however, with six of 53 disagreeing with the proposal to require all regulated qualifications to be referenced to one qualifications framework.

2.4.2 There was broad agreement that a framework in which academic and vocational qualifications could be compared was a good thing. It should be noted that there were a couple of dissenters – one argued that vocational qualifications should not be given as much importance when looking at HE entrance criteria.

> *"A single framework would be clearer to learners, and would*
> *provide more flexibility to awarding organisations"*

(College / HEI)

2.4.3   Some were also hopeful that the system could allow for great comparability with others such as the European Qualifications Framework, Higher Education qualifications and those offered in Scotland mentioned. Indeed, one called for there to be one framework that covered the UK as a whole in order to allow for greater transferability between the nations.

2.4.4   There was also a lot of discussion as to the flexibility of the system. Many hailed flexibility as a good thing generally and some argued that the system needs to be flexible enough to allow all kinds of qualifications, even those where credit is difficult to establish (such as those relating to the performing arts). This flexibility was also seen as a necessary for disabled students. One awarding organisation argued that their whole suite of qualifications would not be recognised by such a framework, however, as they do not allow other awarding organisations to use the units involved.

2.4.5   Concerns ranged across several areas. Firstly, there was the position of a single framework based around the QCF and the NQF. For example, one was concerned that this may allow for abuse of the system:

> *"We would not wish to see this as an opportunity for awarding*
> *organisations to place Sector-based vocational qualifications on the*
> *NQF and thereby circumventing the few safeguards that the QCF*
> *confirms on these qualifications for employers and learners"*

(Sector Skills Council)

2.4.6   The last concern raised is one repeated in other sections – that the creation of a single framework should not cause significant disruption to any stakeholders (awarding organisations, learners, centre etc).

2.4.7   Lastly in this section, there was a call for awarding organisations to be involved with the development of frameworks as they were in the Credit and Qualification Framework Wales (CQFW). This sentiment was shared by a large number of awarding organisations.

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2.5 Question F – Conditions requiring a clear definition of learning outcomes

Figure 7: Do you agree that we should place these conditions on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	4	46	1	1	1	**53**
College / HE	1	5				**6**
Government body	2	2				**4**
Sector Skills Council	1	2		1		**4**
Teaching body / union	3	1				**4**
Subject body		1	1			**2**
Disability organisation		2	2			**4**
Individual	1	1	1			**3**
Training provider	1	1				**2**
Total	**13**	**61**	**5**	**2**	**1**	**82**

2.5.1 There was strong agreement with the conditions requiring a clear definition of learning outcomes. Seventy-four of 82 organisations agreed and only three disagreed.

2.5.2 Looking firstly to areas of broad agreement, the learning outcomes were agreed to be sensible, some pointed out that this was already common practice, whilst others were concerned about the need to regulate at all. Although agreement here was broad, it was not universal. Sector Skills Councils in particular felt that these principles may not be applicable with some qualifications, specifically those that are based on National Occupational Standard (NOS).

> *"Until the issue about what must be included in a single*
> *framework [is resolved] then the issue of using the term 'learning*
> *outcomes' remains controversial"*

(Sector Skills Council)

2.5.3 Some clarification over terminology was also called for here, with some claiming that the proposals seemed to relate more to vocational qualifications than they did to general qualifications.

2.5.4 There was also a concern over changes to naming conventions both now and in the past. One explained that business could suffer as a result with employers confused where a long standing qualification's title changes.

2.5.5 There was more controversy over the conditions related to the language in which assessments of certain work-place qualifications could be taken. Firstly there was some confusion as to whether awarding organisations would be required to provide their exams in Welsh or Irish if requested, with some assuming that this would be at the awarding organisation's discretion and others that it would be mandatory. If the latter, concerns were raised over the costs of such proposals and some feared that there may be a requirement to provide qualifications in languages other than those mentioned above.

2.5.6 Secondly, there were a few concerns as to having the assessment language displayed on the qualification certificate itself:

> *"We can see no benefit to the end user to display the language*
> *used in the assessment, indeed it might even be seen as*
> *discriminatory".*

(Awarding organisation)

2.5.7 Other comments about this section included an appreciation of flexibility for graded analysis that these changes would bring and a call for more involvement for Sector Skills Councils.

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2.6 Question G - Conditions on assessment techniques

Figure 8: Do you agree that we should place these conditions on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation	3	32	6	11		**1**	**53**
College / HE	1	4	1				**6**
Government body	2	2					**4**
Sector Skills Council	2	2					**4**
Teaching body / union	2	2					**4**
Subject body	1	1					**2**
Disability organisation		1	3				**4**
Individual	2	1					**3**
Training provider		1		1			**2**
Total	**13**	**46**	**10**	**12**		**1**	**82**

2.6.1 Although the majority of awarding organisations agreed with the proposed conditions on assessment techniques, a sizeable minority (11 of 53) disagreed. Almost all other stakeholders were in agreement, with the exception of disability organisations (three out of four neither agreed nor disagreed) and training providers (one of two disagreed).

2.6.2 Those who agreed with the conditions (whether with caveats or not) stated that requirements covered requirements already in place for awarding organisations. Non-awarding organisations were also keen to point out that these conditions represented the minimum they expected of awarding organisations:

*"These appear to be the minimum requirements that one would
expect to find in order to inculcate and maintain confidence in the
system"*

(Teaching body / union)

2.6.3   As with previous sections of this consultation, there was a concern amongst awarding organisations and centres as to whether interpretation of the proposals could result in a significant increase on demands of both themselves and centres.

*"...would like to see an addition to this section which imposes a
condition to ensure that assessments are manageable for the centre".*

(Teaching body / union)

2.6.4   Linked to this, there were concerns as to the implications these proposals may have on the assessments of vocational qualifications more generally and there was some debate as to whether these proposals were focusing on the process of assessment too heavily (as opposed to the assessment itself) or vice versa. One provider argued that the proposals made testing too prescriptive and that this would lead to students being 'coached' to pass standardised exam types, rather than awarding organisations being encouraged to be innovative in their assessments.

2.6.5   This creativity was applauded by other organisations here too, with disability organisations claiming it crucial for disabled students to be catered for in the most appropriate ways.

2.7 Question H – Conditions on safeguarding standards

Figure 9: Do you agree that we should place these conditions on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	3	23	12	14		**52**
College / HE	1	5				**6**
Government body	2	2				**4**
Sector Skills Council	2	2				**4**
Teaching body / union	2	2				**4**
Subject body	1	1				**2**
Disability organisation		1	3			**4**
Individual	2	1				**3**
Training provider		1	1			**2**
Total	**13**	**38**	**16**	**14**		**81**

2.7.1 As seen from the table above, awarding organisation opinion was split – half (26 of 52) agreed, with three strongly agreeing. Fourteen disagreed however and 12 neither agreed nor disagreed. Of others none disagreed and College / HE providers, Government bodies / agencies, Sector Skills Councils, teaching bodies and subject bodies all agreed.

2.7.2 Agreement from stakeholders (excluding awarding) organisations was enthusiastic, as seen from this quote from one Sector Skills Council:

> *"If there was an overarching standard which is vital it is this one."*

(Sector Skills Council)

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2.7.3   Awarding organisations also agreed in principle that they are accountable for the standards of qualifications and that this was the focus of their activity. They held some serious reservations over some of the details of these proposals, however.

2.7.4   Firstly there was the issue of comparability. Awarding organisations were unsure as to how wide the comparisons of qualifications are supposed to be, and the exact nature of those they are supposed to compare with. Questions were asked as to whether the comparison was between qualifications within their own organisation or those outside, whether they were expected to compare qualifications of the same level, or the same subject matter and whether they had to compare between general and vocational qualifications. Not only was it important to understand for compliance, but there were cost implications dependent on the result:

> *"Does 'comparable qualifications' explicitly mean different qualifications or the same qualifications delivered by other awarding organisations? Does it just mean those on the RITS[4] or others too? Further clarity required as there are increased cost implications the wider the monitoring needs to be."*

(Awarding organisation)

2.7.5   It should be noted that a government body / agency supported the concept of comparison, arguing it should *"form a central aspect of the application and monitoring of these conditions."*

2.7.6   Bureaucracy and burden was again a reason for objecting to some of the conditions laid out in Section H for both awarding organisations and, they argued, centres. This related to the need for centres and awarding organisations to collect and collate assessment evidence, and the retention of sample assessments and portfolios. This was felt to be a particular problem for some vocational qualifications:

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[4] Regulatory Information Technology System

"We would like to highlight that is perhaps simpler to retain
assessment evidence / sample assessments where the method used is
an exam. However, this will not always be possible or practical where
the assessment evidence is some form of practical or competence-
based activity where there is not necessarily a physical output from the
learner"

(Awarding organisation)

2.7.7   Other concerns were raised over the monitoring of these conditions by the regulator. One awarding organisation called for there to be transparent, appropriate and consistent regulatory criteria in the absence of a code of practice.

2.7.8   In cases where particular units had to be delivered by a third party, awarding organisations felt they could only influence but could not control the consistency of quality due to potential conflicts of interest.

2.7.9   Lastly for this section, there was some debate over the roles of awarding organisations and Sector Skills Councils. One awarding organisation noted that Sector Skills Councils were not held accountable for their influence over qualification design; whereas one Sector Skills Council argued that it was unclear who provides an assessment strategy for vocational qualifications falling within their footprint.

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2.8 Question I – Use of the accreditation requirement

Figure 10: Do you agree with the approach we will use to determine which qualifications should be subject to an accreditation requirement?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation		24	15	12	1	**52**
College / HE		5	1			**6**
Government body	2	2				**4**
Sector Skills Council		3			1	**4**
Teaching body / union	1	2		1		**4**
Subject body		1	1			**2**
Disability organisation		2	2			**4**
Individual	2		1			**3**
Training provider		1	1			**2**
Total	**5**	**40**	**21**	**13**	**2**	**81**

2.8.1 Although just over half (45 of 81) of all agreed to the proposal that ...

> *"We will make some qualifications or descriptions of qualifications subject to an accreditation requirement. We may require all the qualifications offered by a particular awarding organisation to be accredited. This means we will check that the qualification complies with the accreditation criteria. If the qualification does not meet the criteria it cannot be made available to learners nor be entered onto the Register."*

> (Transition to Transformation, p.25-26, Ofqual)

2.8.2 A significant minority did not agree, with 21 neither agreeing nor disagreeing and 15 disagreeing. One quarter (13 of 52) of awarding organisations disagreed and a further 15 neither agreed nor disagreed. Also one Sector Skills Council strongly disagreed.

2.8.3 A number agreed with the principle of the measures and also that new qualifications should be subject to accreditation. There were also other factors which it was suggested could trigger accreditation, these included:

- Significant changes in a qualification;

- Number of complaints received by an awarding organisation about a qualification;

- Number of candidates registered or certified; and

- Any concerns raised by agencies such as the YPLA or local authorities.

2.8.4 There were also calls from Sector Skills Councils that they should have a role in deciding qualifications that needed accreditation. One awarding organisation agreed with Sector Skills Council involvement, taking it further by suggesting that they should work with Ofqual as their qualifications will be likely to need accreditation due to their vocational nature.

2.8.5 Other factors that might influence accreditation included specific capabilities of awarding organisations. For example, international awarding organisations have 'global' disaster recovery plans which may help to manage external risk. Another concern was the rumour that if an awarding organisation's qualifications repeatedly failed to meet the regulatory requirements the organisation might be regarded as higher risk.

2.8.6 Not all stakeholders were happy with the definitions given and wanted further clarification of the conditions within which qualifications would need accreditation. In addition, some wanted reassurance that such criteria would be published:

> *"As long as there is clear, published guidance up front so that we*
> *have the opportunity to fulfil the requirements"*

> (Awarding organisation)

2.8.7   Some thought that Ofqual would possibly not have the detailed subject knowledge in order to understand / judge the content of specific qualifications. Another went further and was concerned about the arbitrary powers that were being given to a regulator:

> *"As it stands it is not apparent that this is anything more than an*
> *attempt to give the regulator 'special powers' to use at whim"*

(Awarding organisation)

2.8.8   Some thought these powers did not go far enough, however. One government body / agency labelled these powers as being a 'light touch' and felt they did not do enough to protect learners.

2.8.9   Lastly in this section of the consultation document, there was some concern over the language used and the confusion that this may cause the sector and wider general public. It was argued that the public assume all qualifications existing on the NQF / QCF are accredited and that actually having the 'accredited' label attached to a qualification that has gone through the accreditation process may lead to a misconception that this qualification is in fact of a higher vale than one without the label.

> *"This could result in confusion for learners and users (particularly*
> *those outside the UK) who could assume that an accredited qualification*
> *is in some way superior to ones which have not been put through the*
> *process"*

(College / HEI)

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2.9 Question J - Conditions to secure fairness for learners

Figure 11: Do you agree that we should place these conditions on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	1	18	17	16	1	**53**
College / HE	1	4	1			**6**
Government body	2	2				**4**
Sector Skills Council	2	2				**4**
Teaching body / union	3	1				**4**
Subject body		2				**2**
Disability organisation	2	1	1			**4**
Commercial	1					**1**
Individual	2	1				**3**
Training provider	1		1			**2**
Total	**15**	**31**	**20**	**16**	**1**	**83**

2.9.1 While 19 awarding organisations agreed with the proposals, 17 did not and a further 17 neither agreed nor disagreed. No other stakeholders disagreed – indeed 14 of 30 strongly agreed, including three out of four teaching bodies / unions and two of four Sector Skills Councils:

"This is an area that awarding organisations should be doing as
part of their role and should be able to monitor take up of units and
qualifications by different groups to ensure none are disadvantaged"

(Sector Skills Council)

2.9.2   Most of the objections raised by awarding organisations regarded the data collection conditions, namely that an awarding organisation must "*collect and analyse sufficient data to enable it to monitor whether any features of its regulated qualifications or units disadvantage particular groups of learners[5]*". Here there were three main objections - firstly that this would be an unfair burden on centres, secondly that the collection could end up being pointless and thirdly that there are some potentially serious data protection issues. Each of these will be addressed in turn.

2.9.3   Looking firstly at the burden on centres, many awarding organisations have stated that it would be centres that would have to collect this information, being the primary point of contact with the learners. This raises a few issues – an extra financial and administrative burden on the centres and also an inability for awarding organisations to assure the quality of the data.

"This information would have to be gathered by the centres that
deliver the qualifications and if this is not a legal requirement for them,
then this would be an unacceptable additional administrative burden for
the centre"

(Awarding organisation)

2.9.4   The next objection, linked to the quality of the data, related to the amount of data that centres will be able to collect, given its sensitive nature:

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[5] Ibid, p.33.

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"Individuals have the right not to disclose sensitive information,
for example, gender reassignment, pregnancy, maternity, religion or
belief, sexual orientation, political opinion, those with dependents. It is
therefore debatable whether awarding organisations will be able to
collect reliable data and it is also unclear whether the data would be
useful in monitoring to potential disadvantage to particular groups"

(Awarding organisation)

2.9.5   Lastly, there were serious concerns about the implications under the Data Protection Act 1998. Although this was raised by several awarding organisations, one was particularly concerned about this:

"...[Organisation] will not compromise its responsibilities under
the Data Protection Act 1998. Compromising our responsibilities would
include any attempt to seek to obtain, to store and to manipulate, at
Ofqual's request, information from centres that is irrelevant to the
successful day-to-day operations of an awarding organisation, and in
particular sensitive personal information relating to individual candidates"

(Awarding organisation)

2.9.6   One did suggest that if such information was necessary it should only be collected once. It suggested that in order to prevent duplication, such information could be stored within the Individual Learner Record (ILR).

2.9.7   Despite the objections of awarding organisations above, disability organisations were generally in favour. One went further to suggest that the strength of importance placed by Ofqual within this section was not repeated in other sections of the consultation, but should have been. They also felt that more should be done for disabled students by awarding organisations, specifically that more considered alternatives should be made with e-learning modules and that mathematic / scientific exam papers should rely less heavily on the interpretation of diagrams.

2.10 Question K – Conditions to address the needs of qualification users

Figure 12: Do you agree that we should place these conditions on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	3	35	5	8	1	**52**
College / HE	1	4	1			**6**
Government body	3	1				**4**
Sector Skills Council	1	2			1	**4**
Teaching body / union	3	1				**4**
Subject body		1		1		**2**
Disability organisation		4				**4**
Individual	1		1			**2**
Training provider		1		1		**2**
Total	**12**	**49**	**7**	**10**	**2**	**80**

2.10.1 The majority (61 of 80) agreed with the conditions set out to meet the needs of qualification users (higher education, employers, the professions, finance and learners). This included the majority of awarding organisations (38 of 52). Disagreement came from nine awarding organisations, a Sector Skills Council, a teaching body / union and one individual.

2.10.2 Sector Skills Councils were the topic of much of the discussion. Many awarding organisations felt that they may be unable to take full responsibility to meet the conditions because of the role that Sector Skills Councils currently play. As one awarding organisation explained:

*"Some Sector Skills Councils develop units which AOs are
required to use and, as a consequence, AOs are not in total control."*

(Awarding organisation)

2.10.3 With regards to the conditions around a qualification being fit for purpose.

*"It will be a condition of recognition that each awarding
organisation: Develops units and qualifications that are fit for purpose
and records the rationale and justification for their development."*

(Transition to Transformation, p.35, Ofqual)

2.10.4 There was a general concern that this was, in a number of cases, outside the awarding
organisation's control. Additionally, some awarding organisations found that Sector Skills
Councils did not have the depth of knowledge or the resources to be able to develop a
specific unit and instead would supplement it with a more standard unit. They argued that
this can lead to qualifications which do not quite meet employer demands, hence a large
number of qualifications being developed without the demand to support them. This led to
another concern raised by an awarding organisation - what would happen where there was
market demand for a qualification but no Sector Skills Council to consult over the
development of the qualification?

2.10.5 Sector Skills Councils had their own concerns. Some were worried that their role was not
outlined within the conditions and therefore may be made obsolete in this regard. There
was also a call for stronger involvement:

*"The demonstration of support of employers via the relevant
Sector Skills Council needs to be firmer. Vocational qualifications,
specifically those for registration and regulation of the workforce should
not be accredited without Sector Skills Council approval"*

(Sector Skills Council)

2.10.6 Further debate focused on the number of qualifications. There were calls from some Colleges / HEIs for Ofqual to help restrict the number of qualifications that exist. Some awarding organisations were concerned about this prospect, however, arguing that the current level of competition is healthy and necessary.

2.10.7 Whilst many agreed that the advice of a wide range of industry employers and sector influencers over the potential progression paths of a qualification was useful, there was concern from some that universal approval should not necessarily be sought.

2.10.8 A few brought up the practicalities of progression routes at this stage. It was noted that not all learning was for the purpose of progression and that some of the value came in the learning 'for learning's sake'. It was also noted that progression is not always possible – sometimes a ceiling is reached, and others that progression can be both horizontal – broadening the general knowledge base – as well as vertical.

"It is unrealistic to stipulate that every unit and / or qualification
should have a progression opportunity. Regardless of any progression
route that a learner takes, there will naturally be some point where they
reach the end of that route"

(Awarding organisation)

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2.11 Question L – Recognition criteria

Figure 13: Do you agree that by applying the recognition criteria we will distinguish between organisations that are fit to be recognised as awarding organisations and those that are not?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation		33	5	14	1	**53**
College / HE	1	5				**6**
Government body	2	2				**4**
Sector Skills Council		4				**4**
Teaching body / union	2	2				**4**
Subject body			2			**2**
Disability organisation		4				**4**
Individual	2	1				**3**
Training provider		1	1			**2**
Total	**7**	**52**	**8**	**14**	**1**	**82**

2.11.1 Agreement was almost universal, with the exception of awarding organisations. Although the majority of them agreed, a sizeable minority (15 of 53) did not. Despite the degree of approval, there were some general and some specific concerns. Starting with the general concerns, a number of awarding organisations felt that although the ability for an organisation to pass the recognition criteria would imply that they have robust processes and systems, it would not indicate anything about the quality or innovation of their awards.

> *"All this will do is distinguish between organisations that meet the regulatory criteria and those that don't. It seems dangerous to automatically assume an ability to meet the recognition criteria means that an organisation is fit to be recognised as an awarding organisation. Further oversight will still be needed."*

(Awarding organisation)

2.11.2 Some of the concerns with the recognition criteria were similar to those raised in other sections of the consultation. Stakeholders were concerned that the process should be both measurable and transparent to avoid any arbitrary interpretation from individual investigators and that commercially sensitive information should not be requested.

2.11.3 It was also noted that it would be unfair to label organisations as unfit if they cannot afford to put in place the requirements necessary to fulfil the recognition criteria. Additionally, questions were asked over whether existing awarding organisations would have to undertake such a process if they were to work in new fields and one called for a more continuous review process.

2.11.4 The last thematic area of concern within this section was again with regard to Sector Skills Councils. One used Sector Skills Councils that act as awarding organisations as an example of a conflict of interest that was known about and argued that more should be done to address the issue. Another awarding organisation was concerned that Sector Skills Councils would be forced to promote the qualifications of an organisation if they had successfully passed the recognition criteria, even if they did not see them as fit to provide. Lastly, one Sector Skills Council called for Sector Skills Councils to have a place on the recognition panel.

2.11.5 Some stakeholders were positively enthusiastic about these conditions, including one response from a recently created awarding organisation:

> *"As a newly formed awarding organisation [we] would have welcomed more face-to-face interaction as we undertook the process"*

(Awarding organisation)

2.11.6 This reflected the feeling from many of those that agreed with the proposals, that a move away from desk-based measurement was generally a welcomed idea.

2.12 Question M and N – Review of recognition applications

Figure 14: Do you agree that peer reviewers should contribute to the scrutiny of evidence submitted in support of a recognition application?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		10	23	19	1		**53**
College / HE	1		2	1		1	**5**
Government body	1	2	1				**4**
Sector Skills Council	1	1	1		1		**4**
Teaching body / union	3		1				**4**
Subject body			2				**2**
Disability organisation		2	2				**4**
Individual	1	1	1				**3**
Training provider			2				**2**
Total	**7**	**16**	**35**	**20**	**2**	**1**	**81**

2.12.1 Stakeholders were split around the idea of peer review for recognition criteria:

> *"A panel will decide whether or not the applicant meets the criteria, based on the evidence before it. We are considering whether we should involve in the scrutiny of evidence reviewers drawn from the awarding organisation sector (to allow for an element of peer review)."*
>
> (Transition to Transformation, p.38, Ofqual)

![YouGov logo — What the world thinks]

2.12.2 A total of 35 stakeholders neither agreed nor disagreed, with 23 agreeing and 22 disagreeing. Only ten of 53 awarding organisations agreed. The biggest concern raised was one of conflict of interest – it was argued that in a competitive market the information required would be commercially sensitive. Unlike in many areas of consultation, this concern was not raised only by awarding organisations, but by government agencies and Sector Skills Councils alike:

"There are many risks associated with this approach; most
notably in terms of conflicts of interest and competitive advantage which
Ofqual would need to review and satisfy itself that it would not interfere
with or distort the market"

(Government body)

2.12.3 There were some suggestions as to how to address these issues whilst maintaining the peer review idea. These included notifying awarding organisations as to who would be on the panel in order to allow them to raise legitimate concerns, and ensuring the panel was impartial (another concern) by only inviting independent reviewers such as those retired from the industry or a body such as the Federation of Awarding Bodies.

2.12.4 It was suggested by some (including some Sector Skills Councils) that Sector Skills Councils should be on this reviewing panel as the voice of the employer. One awarding organisation did argue against this, however, feeling that they may have their own conflicts of interest here:

"Sector Skills Councils would have a vested interest in the
outcomes and should not be included"

(Awarding organisation)

2.12.5 There were also suggestions that there should not be a peer review process at all, that criteria were defined and given an open and transparent process, Ofqual should be the sole judge of whether organisations were meeting the set criteria. Conversely, some organisations fully endorsed the peer review process as it was outlined:

"Peer and independent review are positive methodologies for

developing greater insight from both within the awarding organisation

sector and beyond"

(Awarding organisation)

Figure 15: Do you agree that reviewers with relevant knowledge and experiences gained outside of the awarding organisation sector should contribute to the scrutiny of evidence submitted in support of a recognition application?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		10	16	23	4		**53**
College / HE	2	2		1		1	**6**
Government body	1	2			1		**4**
Sector Skills Council	1	2			1		**4**
Teaching body / union	2	2					**4**
Subject body			2				**2**
Disability organisation		3		1			**4**
Individual		1		1	1		**3**
Training provider		1		1			**2**
Total	**6**	**23**	**18**	**27**	**6**	**1**	**81**

2.12.6 Just over half (27 of 53) of awarding organisations disagreed with proposals to use external reviewers in the recognition application process:

> *"We are also considering whether to involve as reviewers, people*
> *who have relevant skills and expertise from outside the awarding*
> *organisation sector."*

(Transition to Transformation, p.38, Ofqual)

2.12.7 A further ten neither agreed nor disagreed and ten agreed. Feelings were also mixed within other sectors, although they were generally more positive. Nineteen of 28 organisations agreed whereas six disagreed.

2.12.8 Although there was an added call for clarity over what defines *'relevant knowledge and experiences'* for the criteria for external reviewers, the concerns with regards Section N remain similar to that seen in Section M, namely a concern about both the transparency and openness of the process and of potential conflicts of interest.

> *"The proposal raises concerns about the equal treatment of*
> *awarding organisation in the process, and how Ofqual would ensure*
> *fairness in the reviewing process"*

(Awarding organisation)

2.12.9 There was also debate over whether external expertise could add anything to the decisions – some arguing that there is enough knowledge currently within the sector, others that external experiences could add a different insight to the decisions made.

2.12.10 Other concerns were raised as to the cost of the process, with time and resource being needed for induction into the process, and the validity of decisions made if there was not complete understanding.

2.12.11 As mentioned, some stakeholders did fully endorse these proposals, however, and others made some suggestions as to the type of candidates that could be used within the role – Sector Skills Councils put themselves forward, as did those in the HE and College sectors. It was also mentioned that bodies such as the Equalities and Human Rights Commission could prove useful to such a process.

2.13 Questions O and P – Overall conditions or recognition and guidance

Figure 16: Do you agree that the general conditions set out a reasonable set of requirements for all awarding organisations to meet?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		31	7	13		1	**52**
College / HE		6					**6**
Government body	1	2	1				**4**
Sector Skills Council		4					**4**
Teaching body / union	2	2					**4**
Subject body		1	1				**2**
Disability organisation		3	1				**4**
Individual	1	2					**3**
Training provider		1		1			**2**
Total	**4**	**52**	**10**	**14**		**1**	**81**

2.13.1 The majority (31 of 53) of awarding organisations agreed with the general conditions. This was reflected (although to a slightly stronger extent) within the other stakeholders, where 21 of 29 agreed.

2.13.2 Generally speaking, stakeholders thought that the general conditions were both reasonable and broad enough to cover what is needed. Many repeated their calls for clarification or their concerns about certain aspects as covered previously in this document, whereas others fully endorsed the conditions:

*"We feel that the proposals achieve the necessary balance in
making standards and requirements clear whilst not being overly
prescriptive"*

(Teaching body / union)

2.13.3 The most often raised concern was that of the consistency and transparency of interpretation by Ofqual. Many fears arose from poor past experiences, both of individual interpretation by different Ofqual representatives and of an inconsistent interpretation of the guidelines. There was suggestion that this could be helped by putting all guidelines and rules into one single document being careful to make it obvious which were mandatory conditions and which not. Other called for more information on the guidelines and criteria for judging the conditions:

*"We would also welcome clarity of the mechanism and criteria
that Ofqual will use to evaluate whether or not an AO is complying with
the conditions."*

(Awarding organisation)

2.13.4 Linked with this, there was a call for an independent appeals process for decisions that had been made:

*"We are alarmed that there is still no appeals process available
for awarding organisations to appeal against a decision, initially within
Ofqual and ultimately to an independent body"*

(Awarding organisation)

2.13.5 Other queries raised included whether the same process would apply to all awarding organisations, regardless of size, and whether there would be enough flexibility for innovation within this approach.

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Figure 17: Do you agree that the supporting guidance, set out in Annex 2, will help an awarding organisation understand the behaviours that would indicate compliance with the conditions?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation	1	35	11	4		1	**52**
College / HE		6					**6**
Government body	1	3					**4**
Sector Skills Council		3					**3**
Teaching body / union	2	2					**4**
Subject body		1	1				**2**
Disability organisation		3	1				**4**
Commercial			1				**1**
Individual	1	1		1			**3**
Training provider		2					**2**
Total	**5**	**56**	**14**	**5**		**1**	**81**

2.13.6 The majority (61 of 81) agreed that the supporting guidance will help an awarding organisation to understand compliant behaviour. Only five disagreed, four of these being awarding organisations and one individual.

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2.13.7 Whilst there was a large degree of agreement over the guidelines produced, there were some concerns from awarding organisations and other stakeholders. Once again, some of these are reflected in specific points made to the previous parts of the consultation but outside of these there is one universal theme, that of interpretation. Awarding organisations were welcoming of the guidelines in giving them an idea of where they should be. There are, however, concerns that previously guidelines have been interpreted differently by individuals working for or on behalf of Ofqual, and something that was considered guidance has become quite prescriptive. Awarding organisations asked whether they could produce evidence in ways other than those given as examples.

*"Helpful to have guidance that is not too prescriptive, though
there is a danger that this may then be interpreted differently when it
comes to evaluation and monitoring"*

(Awarding organisation)

2.13.8 With this in mind, others suggested that some of the conditions may be expanded or explained in a fuller way in order to prevent any misinterpretation.

*"Whilst we acknowledge that evidence is not prescriptive, it feels
like awarding organisations would be expected to produce 'typical
evidence' when requested. Therefore we think it'd be useful to get some
clarity on what you are really looking for and so will enable Ofqual staff
to interpret them consistently"*

(Awarding organisation)

2.14 Question Q – Transition to transformation: 12 months to comply

Figure 18: Do you agree that it is reasonable to allow each awarding organisation a period of 12 months to make sure it is complying fully with the conditions of recognition?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation	3	30	13	6		1	**53**
College / HE		6					**6**
Government body	2	1	1				**4**
Sector Skills Council	1	2		1			**4**
Teaching body / union	1	3					**4**
Subject body		1	1				**2**
Disability organisation		3	1				**4**
Commercial					1		**1**
Individual		1				1	**2**
Training provider		2					**2**
Total	**7**	**49**	**16**	**7**	**1**	**2**	**81**

2.14.1 Ofqual proposed a 12 month period to allow awarding organisations to ensure that they are compliant with the conditions to be imposed.

"Following this consultation we will finalise, in light of feedback, the full suite of general recognition conditions to which all awarding organisations will be subject. We appreciate that each awarding organisation will need to undertake a thorough review of its policies and practices and make changes to the way it works before its board or governing body can make a declaration that it is fully compliant with the conditions. We plan to allow each awarding organisation a period of 12 months from the time the conditions are published in final form to undertake its review, make such changes as are necessary and for its governing body to make the required declaration of compliance."

(Transition to Transformation, p.47, Ofqual)

2.14.2 The majority of stakeholders agreed that the twelve month period to comply was reasonable. This included 23 of 39 bodies that were not awarding organisations and 33 of 53 awarding organisations. The most significant levels of disagreement and neutrality came from awarding organisations.

2.14.3 Many agreed, but with a few caveats. The most common of these, typically coming from awarding organisations themselves, was that Ofqual would need to respond to the concerns and clarifications raised elsewhere in this consultation before knowing whether a 12 month period in which to comply was reasonable. In particular, one awarding organisation asked that the risk assessment criteria and the proposed declaration of compliance were made available before accepting the proposed time period.

"Once the final set of conditions of recognition have been published it would be possible to make a decision over the feasibility of meeting those conditions within a 12 month period."

(Awarding organisation)

2.14.4 Some awarding organisations disagreed because they wanted a longer time frame, one suggested that 18 to 24 months was more reasonable given the amount of clarification needed. Others, including a government agency and a Sector Skills Council were concerned that too much damage could be done within 12 months and the period should be shorter.

2.14.5 Due to the clarifications, some just did not know what time period would be necessary. There was also a suggestion that introducing a time period at all was too rigid and that either each case should be judged individually (due to the differences between changes that awarding organisations will have to make) or that there could be possibilities for extensions and that the timetables could be staggered, with different conditions having different deadlines.

2.14.6 Finally, awarding organisations wanted to be part of the process and be able to feed back on the practicalities of the conditions as they are rolled out.

"[We] want to work with Ofqual during this period to support
consistency of interpretation, the identification of any issues and
solutions to those issues"

(Awarding organisation)

2.15 Equality impact assessment - Question R – appointing a senior officer with responsibility for securing equality and inclusion

Figure 19: Do you agree that the requirement on awarding organisations to appoint a senior officer with, amongst other things, responsibility to the regulator for securing equality and inclusion is appropriate?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation	4	17	7	19	1	2	**50**
College / HE	1	3		2			**6**
Government body	2	2					**4**
Sector Skills Council	1	3					**4**
Teaching body / union	3						**3**
Subject body			2				**2**
Disability organisation	3			1			**4**
Individual	2						**2**
Training provider		1		1			**2**
Total	**16**	**26**	**9**	**23**	**1**	**2**	**77**

2.15.1 The overall picture across all stakeholders showed that most agreed with the requirement on awarding organisations to appoint a senior officer who will have responsibility for securing equality and inclusion. Over half (42) of the 77 stakeholders agreed with the idea, nine felt neither strongly for it or against it and 24 stakeholders disagreed with the idea.

2.15.2 Many stakeholders agreed that ensuring equality and diversity should really be an integral part of qualification development and that it is the responsibility of the awarding organisation to ensure that it is legally compliant in this regard. They felt that the appointment of an individual to undertake this task is not really the best way forward:

> *'The appointment of a member of staff however senior will not ensure equality and inclusion; ensuring that the awarding organisation has considered and put into action the best way to meet this agenda is more likely to do so'.*

(Awarding Organisation)

2.15.3 There were also concerns around the effects of such a 'self-evaluating process' and how this will impact and possibly hinder Ofqual's ability to maintain standards.

> *'...is particularly concerned that an approach that relies disproportionately on self-evaluation and reporting by awarding organisations can arise as a direct result of concerns about the sufficiency of the resources available to the regulator in order to allow it to discharge its functions'.*

(Teaching body/ Union)

2.15.4 While there were concerns around the negative impacts of self-evaluation, as mentioned above, some awarding organisations saw it as an opportunity to identify possible risks, improvements that could be made and highlight areas in which they achieve. Other stakeholders did not go into detail as to why the appointment of a senior officer is a good idea but simply confirmed that it was. Some agreed that although having someone responsible for securing equality and inclusion is important, it would be more effective if the role was carried out by a range of staff rather than one person:

'It's our opinion that this role is more effectively carried out by a range of staff across the company – ensuring that due regard is placed on all systems, process and procedures which is much more effective than having a single person responsible'.

(Awarding Organisation)

2.15.5 The concern around one person holding such a role went deeper and included the relevant knowledge and ability an individual had to conduct the job well. They would need to have operational knowledge in addition to expertise in the equality field. Awarding organisations believed that it would be better to appoint a staff member with responsibility for equality as it relates to the awarding function rather than having an organisation-wide remit.

2.15.6 For a few the concern was less around the purpose of the senior officer but more about the potential burden it would create on awarding organisations to collect information which they felt was disproportionate. However, the concerns were not just around whether it is a good or bad idea, but more around the overlap such a role will bring. There was confusion here with many stakeholders believing this to be a separate role from the Accountable Officer mentioned previously.

2.15.7 Given this, many felt that the role is unnecessary as the responsibilities were already covered by Accountable Officers and that if the two did exist the overlap would be so great that it would be likely that they would end up being the same person. Concerns were also around clarity of what the role will exactly entail and whether it is actually better for an Accountable Officer to simply broaden their current role rather than appointing a new member of staff.

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2.16 Equality impact assessment - Questions S and T – Conditions to 'secure fairness for learners.'

Figure 20: Do you agree that the 13 specific conditions directed at 'securing fairness for learners' to be reasonable requirements to place on awarding organisations which will facilitate the promotion of equality for all learners?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	1	14	26	9		**50**
College / HE	1	4		1		**6**
Government body	2	2				**4**
Sector Skills Council	1	3				**4**
Teaching body / union	2	2				**4**
Subject body		2				**2**
Disability organisation		2	2			**4**
Individual	2					**2**
Training provider		1	1			**2**
Total	**9**	**30**	**29**	**10**		**78**

2.16.1 Just over half (26 of 50) of awarding organisations neither agreed nor disagreed that the 13 specific conditions will facilitate the promotion of equality for all learners. A further 15 agreed and nine disagreed. The majority of other stakeholders (24 of 28) agreed.

2.16.2 There was a tendency for organisations to agree with 12 of the 13 conditions. There was a large number of awarding organisations, however, which disagreed with condition 2[6] around data collection. The reasons for disagreement were covered in depth in Section J of the consultation (and this report) and, in summary, were that the condition is disproportionate and unachievable, being both expensive and potentially unworkable given the Data Protection Act.

Figure 21: Do you agree that it is reasonable at this stage not to specify which particular equality groups should be identified for the collection of data?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation	3	20	5	20	2		**50**
College / HE		2		4			**6**
Government body	1	2				1	**4**
Sector Skills Council		2			1		**3**
Teaching body / union	1	3					**4**
Subject body			1	1			**2**
Disability organisation		1	1	2			**4**
Individual	2						**2**
Training provider		1		1			**2**
Total	**7**	**31**	**7**	**28**	**3**	**1**	**77**

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[6] Condition 2 – *collect and analyse sufficient data to enable it to monitor whether any features of its regulated qualifications or units disadvantage particular groups of learners.* (Ibid, p.89)

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2.16.3 Opinion among awarding organisations was split as to whether it was reasonable for Ofqual not to specify which equality groups they would be interested in at this stage. Whilst 23 agreed that it was reasonable, 22 disagreed. Of the other stakeholders, 15 agreed and nine disagreed.

2.16.4 There remained some concern with the data collection condition discussed previously. In addition, awarding organisations stated that they needed to be given sufficient lead in time to develop the systems required to collect the data. There was also a concern that awarding organisations may be left to 'guess' what was wanted by Ofqual and face difficulties later.

"If the regulator wants data collected then it needs to clearly be taken at this stage to specify what data is required so that awarding organisations can advise on its feasibility and make preparations for its collection"

(Awarding organisation)

"Ofqual needs to ensure that awarding organisations are given appropriate notice regarding data collection and are mindful of the potential resource implications for awarding organisations"

(Awarding organisation)

2.16.5 There was also a suggestion here that there could be a trial period concerning certain equality groups in order to evaluate the outcomes and make necessary adjustments.

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2.17 Equality impact assessment - Question U – Clearly defining the knowledge, skills and understanding required (languages)

Figure 22: Do you agree that the language condition is a reasonable requirement to place on awarding organisations which will facilitate the promotion of equality for all learners?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		34	8	6	1	1	**50**
College / HE		6					**6**
Government body	2	2					**4**
Sector Skills Council	1	3					**4**
Teaching body / union	2	2					**4**
Subject body			2				**2**
Disability organisation		2	2				**4**
Individual	2						**2**
Training provider		2					**2**
Total	**7**	**51**	**12**	**6**	**1**	**1**	**78**

2.17.1 Overall, 58 of 78 stakeholders agreed with the language condition:

> *"A further condition is placed on each awarding organisation to 'provide assessments in English, Welsh or Irish for units or qualifications designed for the workplace and only offer assessments in other languages where proficiency in English, Welsh or Irish is not required for learners to properly carry out the role that is supported by the qualification.' For these purposes, British Sign Language (BSL) and Irish Sign Language (ISL) can be used as a reasonable adjustment where appropriate."*

(Transition to Transformation: Equality Impact Assessment, p.91, Ofqual)

2.17.2 The only disagreement came from a few awarding organisations (seven of 50 disagreed and eight neither agreed nor disagreed). Others were more likely to strongly agree – seven of 28 doing so and in all, 24 of 28 organisations other than awarding organisations agreed.

2.17.3 Again there were many points of clarification called for by awarding organisations and a few concerns. Firstly there was the question of whether these conditions applied only to workplace qualifications. If so, a question was raised as to whether there would ever be cases where English / Irish or Welsh was not needed in order for learners to carry out the qualified role efficiently. There was also a suggestion that this could apply to general qualifications too – one awarding organisation asking why GCSE Mathematics could not be completed in Polish for example.

2.17.4 Other calls for clarification included the implications for British Sign Language and a number of organisations wanted to understand the rationale for, and implications of, the conditions. There was also a call for more clarification of the position of foreign nationals taking qualifications regulated by Ofqual.

*"We would welcome further discussion about the detailed
language requirements in Conditions C4[7] and C5[8] in order to fully
understand the rationale and implementation requirements of these
conditions"*

(Awarding organisation)

2.17.5 There were some potential problems raised by stakeholders in relation to these conditions too. One organisation pointed out that these conditions would stop it being economically viable for them to offer their qualification overseas in English as they currently do. Another talked of the large cost burden that might result:

*"This is likely to place a considerable and unworkable burden on
awarding organisations and could considerably increase awarding body
costs – which will have to be passed on to the learners"*

(Awarding organisation)

2.17.6 Other concerns included the potentially discriminatory nature of publishing on the certificate the language in which the qualification was taken, and that such requirements may slow down the accreditation process. One awarding organisation raised the problem that translation into Irish was not a statutory requirement as with Welsh (with the Welsh Language Act) and so this point should be revised.

2.17.7 Others suggested that these conditions should be used appropriately and proportionately and that Sector Skills Councils (as the voice of the sector and employer) should drive these conditions forward.

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[7] Condition C4 - *With the exception of foreign language units or qualifications, or units or qualifications designed for the workplace, only provide units, qualifications and assessments that are: in English in England; in welsh or English, or in Welsh and English, in Wales; and in English or English and Irish in Northern Ireland.* (Ibid, p65)
[8] Condition C5 – *For units or qualifications designed for the workplace provide assessments in English, Welsh or Irish and only offer assessments in other languages where proficiency in English, Welsh or Irish is not required for learners properly to carry out the role that is supported by the qualification.* (Ibid, p66)

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2.18 Equality impact assessment - Questions V and W – Recognition criteria to promote equality for learners

Figure 23: Do you agree that the third recognition criterion (Annex 2) is a reasonable requirement to place on awarding organisations which will facilitate the promotion of equality for all learners?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		32	8		1	6	**47**
College / HE		6					**6**
Government body	2	2					**4**
Sector Skills Council	1	3					**4**
Teaching body / union		2					**2**
Subject body		2					**2**
Disability organisation		3					**3**
Individual		1	1				**2**
Training provider		2					**2**
Total	**3**	**53**	**9**		**1**	**6**	**72**

2.18.1 Thirty-two of 47 awarding organisations agreed with this criterion.

> *'The organisation's operational approach to qualifications development, assessment and awarding will ensure that qualifications and assessments are valid, reliable, manageable and secure, reflect the needs of diverse learners, and that standards are maintained between comparable qualifications including over time.'*

(Transition to Transformation: Equality Impact Assessment, p.92, Ofqual)

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2.18.2 However, twenty-four of 25 other stakeholders agreed or strongly agreed. Although there was a strong level of endorsement for this section of the consultation, there were some concerns. Many echoed earlier worries about the process and costs of data collection. Others included a concern that awarding organisations do not (in the main) directly deliver or assess qualifications and so they would be reliant on the centres they use and whether comparative standards could be assessed:

"There is a need for greater clarity about the expectations in relation to standards being 'maintained between comparable qualifications, including over time' for vocational qualifications."

(Awarding organisation)

2.18.3 It was suggested by one disability organisation that an additional requirement should be added ensuring that awarding organisations consult with disability and other groups.

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Figure 24: Do you agree that the 'indicators' or 'typical evidence' of how the requirements may be met are appropriate?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		34	7	4	1	2	**48**
College / HE		6					**6**
Government body	2	2					**4**
Sector Skills Council	1	3					**4**
Teaching body / union		2					**2**
Subject body		1	1				**2**
Disability organisation		2	1				**3**
Individual	2						**2**
Training provider		1	1				**2**
Total	**5**	**51**	**10**	**4**	**1**	**2**	**73**

2.18.4 A majority of awarding organisations (34 of 48) agreed that the indicators, or typical evidence of how requirements should be met, were appropriate.

> *"The indicators and typical evidence cited that an organisation*
> *meets the 'diverse learners' criterion are:*

- *Qualification development is informed by an understanding of good practice and needs of learners;*
- *Surveys of learners, employees and higher education (if applicable);*
- *Impact assessment used to identify any barriers to access to the qualification;*

- *Policies and practices on considering requests for reasonable adjustments."*

(Transition to Transformation: Equality Impact Assessment, p.92, Ofqual)

2.18.5 Additionally, 22 of 25 other stakeholders agreed. Awarding organisations were the only stakeholders to disagree (five did so). There were a large number of comments in agreement, but many were also mindful that responses should be encouraged to be diverse and that the provision of alternatives should be accepted.

"It is safe to assume that this response will differ across AOs and that there will be differences in the way that this is interpreted"

(Awarding organisation)

2.18.6 There was also a call for a review of the indicators after a given period of time, rather than allowing them to continue unchecked:

"We would suggest this 'guidance' is reviewed and revised by Ofqual, with awarding organisations and Sector Skills Council representatives through the Alliance of Sector Skills Councils, after it has been used for, say, two years".

(Sector Skills Council)

3 Economic regulation and the fee-capping process

3.1 Question A – Value for money

Figure 25: Do you agree with the definition of value for money, as set out in section 4.2 and summarised in Box 3 that we are proposing to apply in undertaking our regulatory functions?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	Total
Awarding organisation	1	3	3	34	3	1	**45**
College / HE		1	2	1			**4**
Government body		2					**2**
Teaching body / union	1	1					**2**
Subject body			2				**2**
Disability organisation		1	1				**2**
Training provider				1		1	**2**
Total	**2**	**8**	**8**	**36**	**3**	**2**	**59**

3.1.1 There was a substantial degree of disagreement from awarding organisations when they considered the definition of value for money, as summarised in the consultation document:

> "For an individual qualification, or particular aspect of qualification provision, to offer value for money it must:
>
> ▪ Be fit for purpose and be of a sufficient standard and quality to meet
> the needs of purchasers and end users;

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- *To be provided by awarding organisations as efficiently as possible and be purchased as efficiently as possible on the demand side[9], such that it reaches purchasers in the most effective way*
- *Have a fee level that is appropriately cost reflective*

In order for a particular fee level for an individual qualification or associated services, or for a package of products and services, to be appropriately cost reflective:

- *Awarding organisations should have the opportunity through the fees they charge to recover the efficient costs, including the opportunity cost of capital, of this provision[10]*
- *In certain cases, where it is necessary to secure desired regulatory outcomes, fees may exceed or be set below the efficient costs of provision for the purposes of cross-subsidisation between charges.[11]"*

(Consultation on Economic Regulation and the Fee-Capping Process, p.24, Ofqual)

3.1.2 Only four of the 45 responding agreed and 37 disagreed. On balance, opinion was more positive among other stakeholders, but a fair number remained neutral.

3.1.3 Those who disagreed felt that the definition of value for money was considered to be too limited, with a focus on simply efficiency and 'cost-reflective pricing.' On the latter element there was a belief that the full range of costs should not just include running costs but those associated with development and innovation of new qualifications and the administrative requirements of regulation. There was concern that the definition may imply that Ofqual would not allow profits / surpluses in the future. A couple requested that Ofqual detail the process by which it would develop 'cost-reflective pricing.'

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[9] *For example, using an appropriate procurement process or within the applicable legislative framework*
[10] *Should we need to determine the efficient costs of provision for the purposes of a fee-capping exercise, we will develop a suitable cost mode in conjunction with the awarding organisations in question*
[11] *In our publication on pricing principles we will set out in more detail our principles on cross-subsidisation, including specifying when it will be considered necessary to secure desired outcomes.*

"What does 'appropriately cost reflective' mean? Critical, sector specific qualifications in a small market are going to be more expensive per capita to develop and implement than mass market qualifications. How will this be reflected in value for money?"

(Awarding organisation)

3.1.4   Other elements of value for money were considered to include: enhanced quality, customer service, the relevance and recognition of a qualification to a particular industry and reputation of the awarding organisation. By way of illustration, one awarding organisation made the point that the vocational qualifications market has many long-term contractual relationships and customer-supplier linkages (between, for example, employers and professional bodies) in which "*the registration and certification of learners is only a small part of a much wider quality assurance service.*"

3.1.5   Indeed some believed that one definition of value for money could not be considered relevant or meaningful to consumers and other stakeholders across the full range of vocational qualifications and types of awarding organisations. Small awarding organisations were particularly keen to emphasise these extra aspects of value for money as crucial to their offering.

3.1.6   A government body also identified additional drivers in the system that might affect value for money. A specific example was provided of awarding organisation increasing the Guided Learning Hours (GLH) of a qualification following its accreditation.

3.1.7   Although Ofqual had recognised that there were potential benefits to cross-subsidisation, the issue and the potential handling of it provoked a significant volume of comments from awarding organisations. Some felt that the consultation document implied that cross-subsidisation was unusual and only applied in certain circumstances, whereas in practice it is felt to be fundamental to the business models of many awarding organisations and an important strategic option.

3.1.8   Many supported it as a method by which otherwise loss-making niche qualifications or specific learning provision (such as in minority languages) could be offered. Professional bodies were particularly concerned about Ofqual's intentions, because they ...

"have to manage their qualification offer, including the financial aspects, to meet their charitable objects. In many cases this would require an element of cross-subsidisation."

(Awarding organisation)

3.1.9 It was considered normal and fair that awarding organisations run surpluses that subsidise new qualifications through development and the early years. Many also pointed out that Sector Skills Councils expect awarding organisations to provide a full range of qualifications and not just those that make a surplus.

3.1.10 Disability organisations that disagreed were concerned that the aspiration for qualifications to be of '*sufficient standard and quality*' was too low and might exclude a commitment to accessibility. Another disability organisation felt that higher costs for some qualifications were acceptable if that was required to provide allow universal access.

3.1.11 Other specific feedback included:

- Concern that any 'willingness to pay' assessment would be unworkable in the case of general qualifications (given the limited drivers on the demand side whereby schools and college have to pay the fees) and choice is more associated with which awarding organisation provides the prospect of the '*best outcome*.'

- Recognition that sometimes efficiencies that benefit awarding organisations, can result in higher costs for consumers. The example was given of a switch to providing documents online rather than paper by mail. This has the effect of cutting costs for the awarding organisation but raising administrative costs of consumers.

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3.2 Question B – Approach to securing efficiency

Figure 26: Do you agree with our approach to securing efficiency, as set out in section 4.3, which is built on the idea of promoting efficiency at the awarding organisation level, encouraging efficiency at the system level and remedying inefficiency where we find this occurs?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		17	18	7	2	1	**45**
College / HE		3		1			**4**
Government body		1	1				**2**
Teaching body / union	1	1					**2**
Subject body		1			1		**2**
Disability organisation		2					**2**
Training provider		1	1				**2**
Total	**1**	**26**	**20**	**8**	**3**	**1**	**59**

3.2.1 Although relatively few awarding organisations disagreed with the proposal a substantial number were neutral and overall less than half were in agreement. Most other stakeholders agreed with the outline approach in Section 4.3 of the consultation document.

> *"Our approach to securing the efficient provision of regulated qualifications is built on:*
>
> ▪ *Promoting efficiency at the microeconomic level within individual awarding organisations;*
>
> ▪ *Incentivising efficiency at the macroeconomic level within the system;*

> ▪ *Remedying inefficiency when this occurs.*
>
> *Our efficiency objective under the Act requires us to secure the efficient provision of regulated qualifications. Therefore a key part of our approach to economic regulation is to promote productive, allocative and dynamic efficiency within each awarding organisation.*
>
> *However, our approach is not restricted to the promotion of supply-side efficiency. We acknowledge that effective purchasing choices on the demand side are also necessary to secure value for money at the individual qualification level. Wherever possible we will also seek to encourage efficiency at the system level. We will also seek to remedy inefficiency where we find it exists."*

(Consultation on Economic Regulation and the Fee-Capping Process, p.27, Ofqual)

3.2.2   There was a good degree of support for Ofqual reviewing the system and taking action at the macro level, and less support for lower level intervention for example, in particular qualifications or awarding organisations.

> *"I believe that Ofqual needs to stand back from the process and reflect on the purpose and value of qualifications, and the factors that influence costs in the system. If Ofqual focuses on the minutiae of awarding body arrangements, they are likely to overlook the bigger picture."*

(Awarding organisation)

3.2.3   Where Ofqual takes action at the level of operators, many believed that the non-economic conditions and monitoring regime to be set would be sufficient without microeconomic intervention. The general statement of principle – a commitment to the promotion of efficiency – was difficult to argue against at this stage. Disagreement may follow when more details are published about how Ofqual might seek to achieve this.

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3.2.4   The fact that Ofqual had recognised that the '*actions of other market participants ... will also impact on the efficiency of qualifications provision*' was warmly welcomed by awarding organisations. Many discussed the time and investment they had made to adjust to the requirements of new policies or initiatives, such as Functional Skills, Diplomas and the Qualifications and Credit Framework (QCF). Whilst for some professional bodies the actions of other government organisations (for example the Financial Services Authority) can also have a bearing on their activities and decision making.

3.2.5   Indeed some suggested that the definition of efficiency was too narrowly focused on cost and prices and did not reflect the public and social good of qualifications, nor the external influences mentioned above.

3.2.6   A government body requested that Ofqual include more about the timeframe for actions on tackling inefficiency once it has been identified. Maintaining a focus on timeframe would help to ensure that market issues are not allowed to drift. Another government stakeholder asked for Ofqual to consider making a division in the reporting of efficiency between publicly and privately funded qualifications.

3.2.7   Other specific comments of note included:

■   A request that '*incentivising* efficiency' needed clarification and was perhaps an inappropriate word in the context;

■   Concerns that assessing the efficiency of smaller awarding organisations is likely to be substantially different from reviewing their larger counterparts and to require different indicators; and

■   A request for a method by which consumers (such as schools and colleges) can express an opinion on the performance of awarding organisations.

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3.3 Question C – Economic regulation criteria

Figure 27: Do you agree that we should place the economic regulation recognition criteria and conditions, summarised in Table 1[12] and set out in full in Annex B, on awarding organisations?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	**Total**
Awarding organisation		16	9	17	2	1	**45**
College / HE		3		1			**4**
Government body		2					**2**
Teaching body / union	1	1					**2**
Subject body		1					**1**
Disability organisation		2					**2**
Training provider		2					**2**
Total	**1**	**27**	**9**	**18**	**2**	**1**	**58**

3.3.1 On balance more stakeholders agreed with the application of the criteria than disagreed, however opinion was fairly divided. Sixteen awarding organisations agreed, compared to 19 that disagreed. With the exception of one college / HEI, all other stakeholders agreed with the proposals.

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[12] *Consultation on Economic Regulation and the Fee-Capping Process,* p.31-32, Ofqual

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3.3.2 For many this division of opinion stemmed from the proposal being at an early stage and that they could not really comment on some of the criteria without seeing more detail. This specifically meant Ofqual's guidance on pricing principles (important for condition F5[13]) which is due for circulation in December of this year, and the detailed requirements for data provision (condition A13[14]), about which a consultation is expected soon (in March of this year).

3.3.3 The requirements for management information and specifically financial data were a cause of significant concern amongst awarding organisations. Many felt that the administrative burdens may be substantial – especially coming in after the demands of the Qualifications and Credit Framework and in the context of requests from other organisations such as the Sector Skills Council. Some awarding organisations had invested in new IT or financial systems and may need to do so again, in addition to the staff time and effort necessary to meet Ofqual's data requirements. Indeed the consultation made reference to '*appropriate management accounting and reporting systems*' being required. The frequency and timing of the data requirements was also of significant interest. In particular, the suggestion that data collection might be required '*as specified from time to time*' was considered worrying.

3.3.4 A related concern for some was how the requirements for information might account for the status of those awarding organisations for which qualifications are just one element of their activities. Indeed many felt that the definitions of 'organisation' and 'governing bodies' would be vital to the interpretation of the criteria. It was hoped that Ofqual would require information relating to qualifications only and not the complete financial records of the professional body.

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[13] Condition F5 – "*Open and transparent fees, including requirements in relation to: pricing structures; advance publication of fees; and public availability of fee lists.*" (Ibid, p.31)
[14] Condition A13 – "*Data provision to Ofqual.*" (Ibid, p.32)

3.3.5   Many noted that whilst Criteria 6 (Intention to operate efficiently and provide regulated units and qualifications that offer value for money) focused on efficiency it might not identify those organisations developing new and innovative qualifications. One awarding organisation believed that it might be interpreted as '*cheap is better,*' others pointed to a lack of discussion of effectiveness, quality and standards within the criteria. Disability organisations would have welcomed reference to accessibility within the criteria, around the phrasing of qualifications being '*fit for purpose*' specifically.

3.3.6   Other notable points were:

- One awarding organisation believed that the requirements around invoicing and payment terms (condition F3[15]) were disproportionate;

- Another requested guidance on what are considered to be 'significant price increases' (condition A9[16]);

- How might 'fair' be defined (conditions F2[17] and F3); and

- One organisation requested more detail about how Ofqual would store and protect commercially sensitive data and whether it could be released in the event of a Freedom of Information request.

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[15] Condition F3 –"*Fair invoicing for purchasers with relevant payment terms*" (Ibid, p.32)
[16] Condition A9 – "*Notification of issues to Ofqual, in relation to: changes in governance and business models; significant cost drivers; and connected activities.*" (Ibid)
[17] Condition F2 – "*Fair packaging of products and services.*" (Ibid)

3.4 Question D – Stock-take exercises

Figure 28: Do you think stock-take exercises, as set out in section 6.3, will be useful in helping us to encourage the efficiency of the qualifications system?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know	Total
Awarding organisation	3	27	9	4	2		**45**
College / HE	1	1	1	1			**4**
Government body	1	1					**2**
Teaching body / union	1	1					**2**
Subject body		1					**1**
Disability organisation	1	1					**2**
Training provider		1				1	**2**
Total	**7**	**33**	**10**	**5**	**2**	**1**	**58**

3.4.1 Very few stakeholders disagreed with the proposed use of stock-take exercises. Thirty out of 45 awarding organisations agreed, nine were neutral and six disagreed. Opinion amongst further education colleges and HEIs was divided, but all other stakeholders agreed. Many could see the potential benefits of stock-takes as part of Ofqual's package of research to inform its economic regulation duties. There was recognition that the stock-take proposal was in the early stage of development and that more detail about what might be involved would be welcomed.

"It would be helpful to have a better indication as to who is involved, how often it is anticipated that such exercises should occur and what the output would be."

(Awarding organisation)

3.4.2 A few felt it would be important to ensure that stock-takes were designed and carried out as research and did not constitute a form of audit. As such the suggested focus on innovation as an early subject was welcomed by nearly all stakeholders. However, concerns were raised that qualification development took place in a competitive market place and that there might be a limit to how much could be shared as part of a stock-take process.

> *"Innovation seems a suitable area for a stock-take exercise. Care should be taken over definitions in relation to, for example what is a 'successful innovation.' More emphasis perhaps needs to be given to the benefits of innovations especially in terms of outcomes for learners."*

(Government body)

3.4.3 Some worried about where a comprehensive programme of stock takes could be considered to offer value for money, particularly because such work might have to be outsourced to consultants. Without seeing more detail about how they might work, some were concerned about the burden that might be placed on awarding organisations who participated. A couple suggested that simpler alternatives like information sharing forums or ad-hoc industry working groups might be considered instead.

3.4.4 Those who disagreed with the proposal believed that if awarding organisations were required to deliver qualifications efficiently in the proposed Recognition Criteria, this would ensure (alongside the normal action of market forces) that they pursued value for money, without the need for extra regulatory activity.

3.4.5 There was a request that stock-takes should be applied universally and, in their subject matter, be representative of issues that affect both large and small awarding organisations.

3.4.6 Away from awarding organisations, one government body welcomed the stock-take proposal and commented that Ofqual should ensure that they are timely, short and focused. Another urged Ofqual to ensure that the findings are acted upon. Disability organisations wanted Ofqual to include accessibility as a subject for stock takes.

3.5 Question E – Indicators of inefficiency

Figure 29: Do you agree that the indicators of inefficiency, as set out in Tables 2 and 3, are suitable for helping us to identify where there may be a risk of inefficiency in the qualifications sector?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	1	8	8	25	3	**45**
College / HE		2	1	1		**4**
Government body		2				**2**
Teaching body / union	1	1				**2**
Subject body		1				**1**
Disability organisation			2			**2**
Training provider		1		1		**2**
Total	**2**	**15**	**11**	**27**	**3**	**58**

3.5.1 The majority of awarding organisations disagreed with the suitability of the indicators of inefficiency. Only nine out of 45 agreed and there were some other stakeholders who remained neutral or disagreed.

3.5.2 As set out previously, awarding organisations felt that Ofqual's economic regulation activity should operate at the level of the market as a whole, rather than the operators. Monitoring the functioning of the market …

> *"would suggest the need for indicators of efficiency in the market*
> *which would probably relate to the outcomes of the activity of awarding*
> *organisations and others. These [proposed] indicators of efficiency focus*
> *on the processes and practice of individual awarding organisations*
> *which may contribute to but will not alone lead to an efficient operation of*
> *the qualifications market."*

(Awarding organisation)

3.5.3   That said there was wide acceptance among awarding organisations of the 'system level risk' indicators[18] because these reflected the external influences that affect their operations and provide the wider context needed to understand the marketplace.

3.5.4   The proposed number of indicators (20) led a few of those who objected generally to make a specific point about the administrative burden of collecting data, although more were concerned about interpretation. Again, whilst recognising that the proposals were at an early stage, many comments were made about how some of the indicators would be defined and whether universal interpretation was possible across the diverse qualifications field. The terms of most concern for interpretation and requiring greater definition were:

- What might constitute '*excessively complex* pricing structures?[19]';

- What would be considered to be '*significant* fee or costs increases?[20]';

- What would the significant risk of inefficiency have to be in order to trigger an efficiency study?; and

- What would be considered to be '*significant*' increases in volumes (of re-sits, transfers and '*non-standard entries, including late entries*')?

---

[18] Particularly cost indicators – *"Evidence of regulatory burden and / or unnecessary costs driven by public policy or regulations"* and outcome indicators – *"evidence of distortionary incentives on awarding organisations and / or purchasers as a result of policies or regulations."* (Ibid, p.41)
[19] Fee indicators – *"Lack of fee transparency, including excessively complex pricing structures*." (Ibid)
[20] Fee indicators –*"Significant fee increases without evidence of corresponding exogenous cost drivers or sound justification that the fee increases are necessary to secure desired outcomes*." (Ibid)

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3.5.5   One awarding organisation was concerned that Ofqual might interpret the definition of 'restrictive practices' to include the requirement of professional bodies for learners to be members of the organisation.

3.5.6   There was a request to separate out 'barriers to entry' from the 'concentration of firms' in one of the indicators[21]. A viewpoint shared by others who agreed that the one did not necessarily lead to the other. Related to this, a few stakeholders wished to ensure that any monitoring system recognised that detriment would not necessarily be present simply because the efficiency indicators suggested an issue. For example, '*a high concentration ratio could reflect high quality standards as opposed to inefficiency.*'

3.5.7   Indeed a few felt that the indicators did not place enough focus on quality and standards. Suggestions were made for others, including …

   ■   Disproportionate numbers of complaints and appeals;

   ■   High rates of market entry (may indicate low standards); and

   ■   Large numbers of competing qualification (may lead to consumer confusion and declining standards).

3.5.8   A disability organisation was keen to see a reference to meeting the needs of 'all learners, including those with disabilities' in the outcome indicator: '*evidence that desired outcomes are not being secured in particular segments or the system as a whole*[22].'

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[21] Outcome indicators – *"A high concentration rate of firms within a particular segment of the sector and evidence of potential barriers to entry*." (Ibid, p.42)
[22] Ibid

3.6 Question F and G – Other comments

QF. Do you have any comments on our proposed fee-capping process, as set out in Annex A?

3.6.1 Whilst many welcomed the proposal for a fee-capping process most, if not all, awarding organisations were keen for Ofqual to use such a measure as a last resort. Some felt that other proposed methods of economic regulation would be sufficient and a few believed that the conditions and proposals contained within *Transition to Transformation* were sufficient.

3.6.2 Objections to the process rather than the principle included concerns about the time period of fee-capping reviews. Having read the proposals many predicted a process that would take over a year and given Ofqual's stated intention to publicly announce the commencement of a review, there was significant concern among awarding organisations about reputational damage and commercial disadvantage during this period of investigation.

> *"Publicly announcing the intention to commence a detailed study could be very destructive to the reputation of an awarding organisation. If the organisation is exonerated some 15 months later the damage to their reputation and loss of public and centre confidence could have severe financial and academic consequences for them."*

(Awarding organisation)

3.6.3 Other stakeholders including government bodies and colleges were also concerned about the length of time an investigation might take, because of how it might affect their curriculum planning or decision making as consumers of qualifications.

3.6.4 Of further concern to awarding organisations was a perceived lack of opportunity for the organisation in question to '*have a right to reply*' before a public announcement is made at the start of the process. Indeed one awarding organisation questioned the lack of explanation (in these admittedly early proposals) of what the investigated organisation's rights to 'due process' might be during the review period. This, coupled with the potential business impact of a lengthy process, led many to question how the proposals could be considered as '*fair and proportionate*.'

3.6.5 One college pointed out that the proposals did not contain a route by which consumers could provide evidence that might begin a fee-capping process.

"In A7[23] you talk of how you will monitor the situation but there is
no mention of how a customer who is not content that a particular
qualification or fee gives value for money, can set in action this review
process."

(College / HEI)

3.6.6 Other stakeholders requested clarity on how an investigation might begin and who would be involved in that decision. The importance of having a stronger and clearer definition of value for money was emphasised in relation to how a fee-capping investigation might be triggered.

3.6.7 A few awarding organisations rejected the proposal outright arguing that Ofqual has assumed that the market is inefficient without presenting evidence to support this. They believe that competition within the market place would drive out over-priced qualifications without the need for fee-capping. They criticised the focus on fees rather than an assessment of quality, innovation and outcomes or an understanding of the cost drivers of qualifications such as the investment required for research and development.

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[23] Condition A7 - *"To ensure we are aware of market developments we will monitor, using publicly available information and other information available to us, developments in qualification offerings, including their fee levels." (Ibid, p.53)*

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3.6.8 Other issues raised included cross-subsidisation which one organisation urged Ofqual to monitor strictly to avoid distortion of fees. There was concern about capping the fees of small awarding organisations because their exposure to just a limited range of qualifications, as opposed to the larger supplier, would have a potentially disproportionate affect on their finances.

3.6.9 To allow an awarding organisation that has been subject to a fee-capping decision just one month to request a review of that decision was considered insufficient and two months was suggested as an alternative.

3.6.10 Another issue raised was the suggestion that Ofqual's right to set a multi-year cap ought to be subject to a process of re-review at the beginning of each year.

QG. Do you have any other comments on our consultation?

3.6.11 There was a wide range of other comments about Ofqual's proposals for economic regulation. In addition to many specific points, there were a few general views shared by more than one stakeholder:

■ Some awarding organisations believed that the consultation document showed an insufficient understanding of the vocational qualifications market place;

■ Some of that misunderstanding was a failure to sufficiently recognise external influences and distortions such as 'variations in public funding', changes in public policy and regulatory regimes across the UK and the lack of consumer choice.

■ Some felt that there was insufficient appreciation of the range of awarding organisation business models, from private profit making companies to charities and professional bodies with many non-qualification areas of activity. They believed that the consultation proposals too often presented a 'one size fits all' approach to economic regulation.

- That the consultation implied that there was inefficiency and excessive fees without the evidence base to support this – a number of recent reviews and reports were mentioned, all of which it was felt had failed to identify significant issues with the market.

3.6.12 Disability bodies requested a more explicit commitment to 'universal design' of qualifications and general accessibility for learners as a "*fundamental part of efficiency and cost effectiveness.*"

3.6.13 One college requested that more data be available to allow them to assess comparative success rates between boards. There was also a call for greater standardisation of procedures and practices between boards.

3.6.14 Where there was agreement with the proposal, awarding organisations recognised that Ofqual has the duty to act as an economic regulator. If those powers were to be used rarely with caution and, most typically, as a last resort, then most would be supportive. There was a belief that this consultation on the regulatory options was necessary but that the tone of the document often raised concerns about how 'heavy handed' Ofqual might be in practice. How the monitoring of the market would be from the 'bottom-up' rather than a 'top-down' review and how readily fee-capping (believed to be the most extreme option available) could be pursued.

4 Complaints and appeals for regulated qualifications

4.1 Question A – An independent appeals body

Figure 30: Do you agree that the scope of an independent appeals body should be extended to include all qualifications that we regulate whether graded/levelled or pass/fail?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	3	29	1	9	3	**45**
College / HE	4	2		1		**7**
Government body	2	1				**3**
Teaching body / union	2					**2**
Subject body		1				**1**
Disability organisation		3				**3**
Individual	1					**1**
Training provider		1				**1**
Total	**12**	**37**	**1**	**10**	**3**	**63**

4.1.1 The majority of stakeholders offered support for the proposal that the scope of the independent appeals body should be extended[24]. This included all but 12 of the awarding organisations responding and most other stakeholders.

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[24] The EAB currently only considers appeals about GSCE, A-Level and Diplomas and it only does so for grading decisions and not the pass/fail format of vocational qualifications.

4.1.2   Some of those who disagreed felt that although the principle was sound, the specifics of implementation were potentially concerning. Many believed that the extension of the remit should not be delivered through a simple extension of the Examinations Appeals Board's (EAB) powers. Instead the changes should trigger the creation of a new body. This was due, in part, to concerns about whether the EAB possessed the capacity and expertise required to handle appeals for occupational qualifications in particular. The particular difference highlighted was the wider mix of examination methods, including workplace assessment. A couple mentioned how important it would be that the new body's membership reflected its wider scope.

4.1.3   Also of concern was how and where the independent body's work would fit with the existing awarding organisation complaints and appeals processes. Some of these contained levels at which an independent review already takes place. Many awarding organisations felt that their existing processes meant that an independent appeals body was not required. Others that there would be a need to consider whether their existing appeals processes continued without reform to accommodate an independent body and the importance of ensuring that the independent body's remit was designed to complement their processes. For example, what might the 'specific criteria' be that would allow a complainant to access the independent body? Not to consider these issues might lead to duplication (in terms of independent review) and increased bureaucracy, as another level of appeal is added.

4.1.4   Some of those that agreed made reference to the statement that such a change would make about the equality of qualifications. Others outlined the importance of extending the cover to offer learners that security of an independent final appeal.

> *"Given that the appeals process takes place in-house it leads to problems of transparency, honesty, fairness and justice."*
>
> (College / HEI)

4.2 Question B – Reasonable adjustments

Figure 31: Do you agree that an independent appeals body should consider appeals relating to reasonable adjustments? We would welcome comments on the quality of service required for diverse learners.

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Total
Awarding organisation	2	36	1	4	2	**45**
College / HE	3	3	1			**7**
Government body	1	1	1			**3**
Teaching body / union	2					**2**
Subject body		1				**1**
Disability organisation	2	1				**3**
Individual			1			**1**
Training provider		1				**1**
Total	**10**	**43**	**4**	**4**	**2**	**63**

4.2.1 There was little disagreement with Ofqual's proposals on reasonable adjustments. Only a small number of awarding organisations were not in agreement. The main caveat for their support was whether the independent body had the specialist knowledge for the context of vocational qualifications as distinct from examinations. For example, a case review might require a visit to a workplace in order to determine what might be a reasonable adjustment. Many felt that the practical difficulties would be considerable and Ofqual should ensure there was the evidence base (within current complaints data) to justify such a measure.

4.2.2 Those awarding organisations that disagreed did so because they felt their existing processes made sufficient provision for reasonable adjustments and because they disagreed with the need to have an independent body at all.

4.2.3 Ensuring that the independent body had access to qualified specialists would be crucial in guaranteeing fairness for all learners, because ...

> *"there is a danger of assumptions being made about the nature*
> *and implications of the reasonable adjustments that might be required."*

(Disability organisation)

4.2.4 This disability organisation and other stakeholders raised the question of timings, particularly whether appeals about reasonable adjustments might ideally be heard before a grade is awarded[25], rather than relying on adjustments after the event.

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[25] Currently the EAB only considers the application of reasonable adjustments once the grade has been awarded.

4.3   Question C – Investigating malpractice

Figure 32: The regulators continue to investigate malpractice once the awarding organisation's procedures have been exhausted. This falls within the definition of complaints and it is therefore not necessary to remit this work to an independent appeals body. Do you agree?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	7	33	4	1		**45**
College / HE	3	2		1		**7**
Government body	1	1		1		**3**
Teaching body / union	1	1				**2**
Subject body				1		**1**
Disability organisation		3				**3**
Individual		1				**1**
Training provider		1				**1**
Total	**12**	**42**	**4**	**3**	**2**	**63**

4.3.1   Again there was substantial agreement with Ofqual's proposal to retain jurisdiction over malpractice complaints[26]. On this point just one awarding organisation disagreed, as did one other government organisation and two colleges / HEIs.

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[26] Current practice is that the EAB does not consider matters arising from findings of malpractice and that any investigations are handled by the regulator.

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4.3.2 Most believed that because awarding organisations malpractice decisions affected the integrity of examinations or assessment it had the potential fundamentally to affect the industry and public confidence and was therefore a matter for the regulator to pursue. Some believed that the proposal was sensible because it meant a continuation of the current arrangements with protections in place and with no evidence to suggest change was needed.

4.4 Question D – Centre / Private candidate choice

Figure 33: Do you agree that a centre or private candidate can decide whether an appeal should be taken to the independent appeals body?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	3	32	3	6	1	**45**
College / HE	5	1	1			**7**
Government body	1	2				**3**
Teaching body / union	1	1				**2**
Subject body		1				**1**
Disability organisation	1	2				**3**
Individual	1					**1**
Training provider		1				**1**
Total	**12**	**40**	**4**	**6**	**1**	**63**

4.4.1 The majority of stakeholders agreed with the proposal, with the exception of seven awarding organisations. The current practice is that appeals are made by centres or private (external) candidates but not generally by learners.

4.4.2   Again, a small number of organisations disagreed not with the particular proposal, but had outright opposition to an independent appeals body to the extent that they would reject any proposals about its remit.

4.4.3   Agreement derived from an appreciation that it reflected current practice which had many perceived benefits for learners. Principally in that a centre can make representations on behalf of a learner more effectively than they might be able to on their own. It was noted though that the extension of the independent body's remit into vocational qualifications would require the definition of a 'private individual' to be updated.

4.4.4   From an equality standpoint it was considered essential that a private individual should also retain the right to appeal on their own if necessary.

4.4.5   The main reservations related to the process of appeals referral. Typical appeals processes have a number of internal levels or stages before independent and external review takes place. Awarding organisations were keen to ensure that individuals and centres exhaust (properly constituted) internal processes before taking an appeal to the independent body, which would represent the final stage.

"There needs to be a clear process where the appellant is required to make use of a coherent appeals process beginning with the centre / awarding body (which will vary according to the different vocational and assessment arrangements) with the independent appeals body being the last resort."

(Awarding organisation)

4.5 Question E – Ofqual's role

Figure 34: Do you agree that we should oversee the running of an independent appeals body?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	5	36	2	2		**45**
College / HE	4	2			1	**7**
Government body	2		1			**3**
Teaching body / union	1	1				**2**
Subject body		1				**1**
Disability organisation		3				**3**
Individual	1					**1**
Training provider		1				**1**
Total	**13**	**44**	**3**	**2**	**1**	**63**

4.5.1 There was very little disagreement with the proposition that Ofqual should oversee the running of the independent appeals body. The only disagreement was on the basis of rejecting the need for such a body at all. The main reason for supporting Ofqual's role in providing oversight was that its status as an independent regulator meant that it is ideally positioned to do. Furthermore, it was felt that it makes sense from a cost efficiency standpoint and maintains an effective status quo, with many respecting the current effectiveness and impartiality of the EAB.

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4.5.2   There were only a few observations about the proposed arrangement. These related to ensuring impartiality, perhaps where a particular case involves Ofqual. Concerns about this could be addressed by ensuring that Ofqual does not appoint all of the members of the body.

4.6   Question F – Independent board and panellists

Figure 35: Do you agree that an independent appeals body should have a board and panellists who are involved in the hearings?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Total
Awarding organisation	2	14	18	11		**45**
College / HE	5	1		1		**7**
Government body	1	2				**3**
Teaching body / union	1		1			**2**
Subject body		1				**1**
Disability organisation		2	1			**3**
Individual	1					**1**
Training provider			1			**1**
Total	**10**	**20**	**21**	**12**		**63**

4.6.1   There was less support for the idea that the independent body should have a board and panellists who are involved in hearings. The current arrangements are that ...

> *"Appeals are heard by two panel members sitting with one EAB Board member. EAB Board members are involved with each individual hearing. This is in contrast to, for example, the Board of the Office of the Independent Adjudicator for Higher Education where Board members oversee the process and do not, therefore, get involved with individual hearings.*
>
> *An independent appeals body would need to have appointments made to it, daily fees set and so on. Currently Ofqual oversees this for the EAB. We would continue with this role for an independent appeals body."*

(Complaints and Appeals for Regulated Qualifications, p.17, Ofqual)

4.6.2   Only 16 awarding organisations agreed although many stopped short of disagreeing entirely. There was strong encouragement from colleges and higher education institutions. Generally, awarding organisation opinion built upon the earlier expressed view that the independent body should be created as new, rather than simply expanding the EAB.

> *"It is important that any appeals body should be freshly constituted with a new remit, membership and organisation to clearly signal that this is not merely an extension of the general qualification's process to vocational qualifications without any significant changes."*

(Awarding organisation)

4.6.3   Those who agreed in general, often because of the consistency that this would provide or because the EAB has been operating in this manner, had a few concerns about particular issues. They believed that rather than a standing board and panel who attend all meetings, a new pool of qualified panellists should be created that represent the expanded remit of the body. Each panel would then be convened as and when required, Ofqual would then select members from the pool according to the experience and expertise requirements of the hearing and a different Chair could be chosen each time. Alternatively, the Chair could always be a board member (given the skills and experience required to fill that role) with panellists selected from that wide pool.

4.6.4 Some stakeholders did not understand the role distinction between panellist and board member. There was a request for clarity on the further definition of 'panellist' and 'board' either because they appeared to be interchangeable, might represent a layer of bureaucracy or give the misleading impression that there are two levels of appeals body member.

4.7 Question G – Three-country scope

Figure 36: DCELLS, CCEA and Ofqual wish to continue the agreed current three-country geographical scope of the appeals mechanism. Is the three-country scope sufficient?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation		28	9	7	1	**45**
College / HE	2	2	1	1	1	**7**
Government body		1		2		**3**
Teaching body / union	1		1			**2**
Subject body				1		**1**
Disability organisation		1	1	1		**3**
Individual		1				**1**
Training provider		1				**1**
Total	**3**	**34**	**12**	**12**	**2**	**63**

4.7.1 Over half of those responding agreed with the three-country scope discussed in the consultation document[27], but there was a significant minority that disagreed. Unlike previous consultation questions, there were objections from some disability bodies, other government agencies and further and higher education institutions.

4.7.2 Many welcomed the commitment to consistency and working together which would apply across England, Wales and Northern Ireland. Ideally they would like to see the Scottish Qualifications Authority (SQA) included because many awarding organisations operate across all four nations. They recognise that the differences in the regulatory approach are significant but would like Ofqual to move towards a common appeals process with SQA as well.

4.7.3 A couple of those who responded positively expressed concerns that the system might become unsustainable and unworkable given the number of learners and qualifications that fell within the scope. They believed that any fees charged would certainly have to be forfeited if the appeal was not upheld.

4.7.4 Another more widespread concern related to international students. Some stakeholders were disappointed that international learners would not benefit from access to the independent body.

> *"If the [independent body] was introduced it would seem that*
> *candidates studying for qualifications would receive unequal treatment ...*
> *this could present problems to organisations because candidates have*
> *different rights of appeal depending on their country of residence."*

(Awarding organisation)

4.7.5 Their exclusion was felt to be particularly concerning given the trend for more vocational qualifications offered abroad with centres overseas. Similarly to the case of Scotland, Ofqual was urged to consider how international learners might be covered in the future.

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[27] Under the current system, an appeal can only be referred to the EAB by or on behalf of learners in England, Wales and Northern Ireland.

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4.7.6 Others disagreed and felt that they should be excluded for reasons of cost and practicality related to attending appeal hearings amongst others. If the scope extended beyond the three countries, it was felt that appeals would still have to be held in the UK and at the cost of the learners.

4.8 Question H – Fee charging

Figure 37: Do you agree that any parties involved in appeals should not be charged a fee by an independent appeals body?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	2	29	7	7		**45**
College / HE	3		2	1		**6**
Government body	1		1	1		**3**
Teaching body / union	2					**2**
Subject body			1			**1**
Disability organisation		3				**3**
Individual		1				**1**
Training provider		1				**1**
Total	**8**	**34**	**11**	**9**		**62**

4.8.1 Most agreed that a fee should not be charged for taking a case to the independent appeals body[28]. Again, some awarding organisations were neutral or disagreed, as did a few other government organisations and further or higher education institutions.

[28] Current practice is for learners to not be charged a fee and the EAB reimburses travel expenses.

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4.8.2   Many could see the advantages of not charging a fee, in that to do so might discourage learners from pursuing their case and encourage equality and fairness. However, to not charge a fee at a time when the scope of the independent body's remit extends to vocational qualifications, might result in an unmanageable number of cases. The prevailing view was that Ofqual should monitor the number of appeals and reserve the right to charge a small fee should this occur.

4.8.3   Those that disagreed believed that a small fee should be charged at a level that was not discouraging to learners and centres. Only a couple of responding organisations stakeholders put forward a value based on their existing appeals structure (both charged centres £150). All agreed that any fees would be returnable in the event that the appeal was upheld. Explaining the need for charging, many referred to vexatious complainants or frivolous types of complaints. In addition, one believed that without a charge ...

"The appeals decisions of awarding organisations become
effectively meaningless, as we believe that very high proportions of
appeals would be later relayed to the independent panel"

(Awarding organisation)

4.8.4   A disability organisation recognised that trivial complaints should be excluded and suggested that early screening of complaints could help to ensure that a free of charge process is not abused.

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4.9 Question I – Having regard to the findings

Figure 38: Do you agree that we should build into our general conditions of recognition a requirement that awarding organisations must have regard to any findings of an independent appeals body?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Total
Awarding organisation	1	11	19	13	1	**45**
College / HE	5	2				**7**
Government body	2	1				**3**
Teaching body / union	2					**2**
Subject body		1		1		**1**
Disability organisation	2		1			**3**
Individual	1					**1**
Training provider			1			**1**
Total	**13**	**15**	**21**	**13**	**1**	**63**

4.9.1 Many awarding organisations disagreed that it should be a recognition condition that awarding organisations have regard to the findings of an independent appeals body. There was strong support from other stakeholders such as further and higher education institutions, government agencies and teaching bodies.

4.9.2 The main reason for support was that without that power, the whole existence of the independent body would be questioned; its purpose would become uncertain or at least limited, unable to fulfil the potential it has. A few suggested that it needed to use the powers to demonstrate its effectiveness. A number of awarding organisations specifically believed that it was good practice for all those affected to take note of the outcomes of appeals:

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"We believe this should be a natural part of any awarding organisation's overall appeals process and assurance regarding fitness to purpose."

(Awarding organisations)

4.9.3   Further discussion related to the definition of 'have regard to.' Most, if not all, were content to support the proposals as long as 'have regard to' was not the same as 'binding.' As with current EAB practice where the judgements are non-binding[29], the organisation would take the decision and advice (which might be a 'recommendation to reconsider') very seriously. One organisation stated that an upheld appeal would always mean that they would review the case again, but there was resistance amongst some awarding organisations to the idea of a judgment being binding.

4.9.4   Others felt that the current sanctions 'lacked value.' Building upon a position already established, many commented that the extension of the appeals body remit should not simply mean an extension of the EAB's range of potential remedies and sanctions. Instead a newly constituted independent body should adopt a range of measures that is representative of its wider scope.

4.9.5   One awarding organisation with international learners expressed concern that having to 'have regard to' a judgement in one country may result in unequal treatment of its learners across borders. They believed that their internal complaints and appeals processes provided equality already.

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[29] Under current practice the EAB requests that the awarding organisation reconsiders the case and does not have the power to make grading decisions. It does publish a summary of all appeals.

4.10 Question J – Findings as a precedent

Figure 39: Do you agree that findings against a particular awarding organisation should not be limited to that awarding organisation but should be regarded as a precedent that all awarding organisations should observe (where appropriate)?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	**Total**
Awarding organisation	1	5	1	29	9	**45**
College / HE	4	2		1		**7**
Government body	1	1		1		**3**
Teaching body / union	1	1				**2**
Subject body			1			**1**
Disability organisation	2			1		**3**
Individual		1				**1**
Training provider				1		**1**
Total	**9**	**10**	**2**	**33**	**9**	**63**

4.10.1 Most awarding organisations disagreed (only six agreed) with the proposal that appeal findings should be taken as a precedent to be applied to all. Whilst most other stakeholders did agree there were some that did not, including a disability organisation, government body and a college or HEI.

4.10.2 Disability organisations welcomed the consistency that precedents would provide and advocated clear dissemination of appeal hearing findings.

*"Ensuring consistency of provision between awarding bodies is
important, especially in the area of reasonable adjustments where there
is often scope for interpretation."*

(Disability organisation)

4.10.3 Awarding organisations disagreed on the basis that the wide range of organisations and qualifications in the vocational field made the application of precedents unworkable. The proposals seemed to assume that findings would be relevant to all organisations. Many felt that precedents are (and have been under the EAB) possible in the field of general qualifications because of the degree of standardisation in that market. Their proposed alternative would see Ofqual disseminating the findings to share best practice and then incorporating the lessons learned into updated guidance materials and Codes of Practice.

*"Not sure this would be possible with the wide range of
vocational qualifications. Awarding organisations should be made aware
of general findings which may or may not be sufficient to warrant
Ofqual's revising general conditions of recognition."*

(Awarding organisation)

4.10.4 A few others questioned the fairness of a decision made about one awarding organisation being applied to all without the opportunity for others to appeal against that.

4.10.5 One government body stakeholder believed that in the past the general sharing of findings with awarding organisations had been a positive method of engaging with them on range of matters related to the case. Others advocated the use of findings as a precedent because not to do so would limit the value of the independent appeal body. This echoed this groupd of stakeholder's earlier sentiments that the independent body should fully use all of the methods available to it in order for it to be effective.

4.11 Question K – Other comments

4.11.1 Most other comments from awarding organisations expressed a concern that the proposals derived from EAB's current procedures and practices. They believed that many of the proposals in the consultation represented a worryingly simple extension of those processes and policies. This was felt to be unsuitable for the widely varying field of vocational qualifications and existing complaints and appeals processes and policies of awarding organisations.

> *"They appear to be solely based on current EAB practice which
> is applicable for externally set and marked examinations (GCEs and
> GCSEs) but not to the very different assessment, quality assurance and
> associated appeals procedures associated with vocational
> qualifications."*

(Awarding organisation)

4.11.2 Repeating earlier sentiment, one awarding organisation asked for the newly constituted independent appeals body to have a more detailed remit developed in consultation with awarding organisations.

4.11.3 There was a degree of confusion for some between the use of the words 'complaint' and 'appeals' within the document. At different points in the consultation it appeared to some that the terms were being used interchangeably. Again, it was stressed that any independent appeals body should be formulated and placed within current complaints and appeals processes. As such, the internal complaints and appeals processes of awarding organisations should be exhausted before the independent body is brought in to act as the final arbiter.

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5   List of consultation respondents

5.1.1   The following organisations and individuals responded to the three consultations.

	Transition to Transformation	Economic Regulation	Complaints and Appeals
A4e Northern Ireland	✔		
AAT	✔	✔	✔
ABC Awards	✔	✔	✔
Accredited Skills for Industry	✔		
Active IQ	✔	✔	✔
Advisory Committee on Mathematics Education	✔		
Agored Cymru	✔		✔
Alliance of Sector Skills Councils	✔		
Amateur Swimming Association Awarding body	✔	✔	✔
AQA	✔	✔	✔
Ascentis	✔	✔	✔
ASCL	✔	✔	✔
ASDAN	✔	✔	✔
Asset Skills	✔		
Association of Colleges	✔	✔	
BATOD	✔	✔	✔
BCS - Chartered Institute of IT	✔	✔	✔
BECTA	✔		
BIIAB	✔	✔	✔
Bill McGinnis, Northern Ireland Advisor on Employment and Skills	✔		
British Institute of Facilities Management	✔	✔	✔
Business, Innovation & Skills (BIS)	✔	✔	✔
CACHE	✔	✔	✔
CAFRE	✔		
Cambridge Assessment		✔	
Cambridge ESOL	✔	✔	✔
Carmel College			✔
Carol Pillinger	✔		
CBAC / WJEC	✔	✔	
CFA Institute	✔		

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	Transition to Transformation	Economic Regulation	Complaints and Appeals
Chartered Institute for Securities & Investments	✔	✔	
Chartered Institute of Environmental Health	✔	✔	✔
Chartered Institute of Housing	✔	✔	✔
Chartered Institute of Logistics & Transport	✔	✔	✔
Chartered Institute of Marketing	✔	✔	
Chartered Institute of Purchasing and Supply	✔	✔	✔
Chartered Insurance Institute	✔	✔	✔
Chartered Management Institute	✔	✔	✔
Chartered Quality Institute	✔		✔
City & Guilds / Institute of Leadership and Management	✔	✔	✔
Council for Curriculum, Examinations and Assessment			✔
Department for Employment & Learning, Northern Ireland	✔		
Disability Action	✔		
EAL Awards	✔	✔	✔
Edexcel / Pearson	✔	✔	✔
EDI Plc	✔	✔	
Engineering Construction Industry Training Board	✔	✔	✔
English Speaking Board (International) Ltd	✔	✔	✔
Equestrian Qualifications Ltd	✔	✔	✔
ETC Awards	✔	✔	
Examination Appeals Board			✔
Examination Officers Association		✔	✔
Federation of Awarding Bodies	✔	✔	✔
GoSkills	✔		
GQA	✔	✔	✔
Grantham College			✔
Highfield Awarding Body for Compliance	✔	✔	✔
Hill Dickinson			✔
IFS School of Finance	✔	✔	✔
Imperial Society of Teachers of Dancing	✔		✔
Institute of Administrative Management	✔	✔	✔
Institute of Credit Management	✔	✔	✔
Institute of Legal Executive	✔	✔	✔

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	Transition to Transformation	Economic Regulation	Complaints and Appeals
Institute of Sales & Marketing Management	✔	✔	✔
Instructus		✔	
International Baccalaureate	✔	✔	✔
ITEC	✔	✔	✔
Joint Council for Qualifications			✔
Kendal College		✔	
LAMDA	✔	✔	✔
Lantra		✔	
Lantra Awards	✔	✔	✔
Leicester Grammar			✔
Liverpool Community College		✔	
Loughview Training Services		✔	
Manchester Grammar			✔
Mathematics in Education and Industry	✔	✔	
McDonald's Restaurants Ltd	✔		
Michael Batten			✔
NAHT	✔		
NASUWT	✔	✔	✔
National Federation of Property Professionals	✔	✔	
National Open College Network	✔	✔	
NCC education	✔	✔	✔
NCFE	✔	✔	✔
NEBOSH	✔	✔	✔
Nicola Bowman	✔		
North West Centre for Learning and Development	✔		
North West Regional College, Northern Ireland	✔		
OCR	✔	✔	✔
Open College Network, Northern Ireland	✔	✔	
Oxford University Press	✔		
PAA / VQ set	✔	✔	✔
Queens University Belfast	✔		
Questionmark	✔		
Rockschool	✔		
Royal Academy of Dance	✔	✔	✔
Royal National Institute for the Blind	✔	✔	✔

	Transition to Transformation	Economic Regulation	Complaints and Appeals
SCORE	✔		
Signature	✔		✔
Skill	✔		
Skills for Care and Development	✔		
Skills for Logistics	✔		
Skills Funding Agency	✔		
Skillset	✔		
Skillsfirst Awards	✔		
Skillsmart Retail	✔		
SPA	✔	✔	✔
Specialist Schools and Academies Trust	✔		
SQA	✔	✔	✔
St John Ambulance	✔		
Swimming Teachers Association	✔	✔	✔
Thames Valley University	✔		
The Centre for Applied Learning	✔		
The Counseling & Psychotherapy Central Awarding Body	✔	✔	✔
The Information Authority	✔		
Training & Development Agency	✔		
Trinity College, London	✔		
UAL Awarding body	✔		
UCAC			✔
UCAS	✔		
Victoria College Examinations	✔		
Waste Management Industry Training and Advisory Board	✔		
Watford Grammar School for Boys			✔
Young People's Learning Agency	✔	✔	

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