

Regulatory Strategy Statement



We are the independent qualifications regulator for England and (for vocational qualifications only) Northern Ireland. We regulate so that qualifications are sufficiently valid and trusted. We make clear and considered judgements for the benefit of those who study, and rely on, regulated qualifications.

The government decides the National Curriculum for primary and secondary schools, the qualifications that can be offered, and the accountability framework by which schools are evaluated. Government departments in England and Northern Ireland also determine funding for certain vocational qualifications and apprenticeships delivered in colleges and by employers and training providers. Many qualifications that we regulate are bought and used privately, with no government involvement or funding.

Purpose of this document

This document explains our regulatory approach, including our expectations of awarding organisations and the tools and methodologies that assure us that they are offering valid qualifications. It also sets out what we are likely to do if they are not.

The wider education and training system

Qualifications are a key component of a wider education and training system. We work with other parts of government – such as the Department for Education; the Department for Business, Innovation and Skills; the Department for Employment and Learning; and the Skills Funding Agency – to make sure that each of our respective roles is clearly understood.

Qualifications measure what a student knows and/or can do. Good qualifications support high-quality teaching and help achieve curriculum aims. They are relied on by employers, education providers and others when making recruitment and admissions decisions. Qualifications can also be put to other uses – for example, to measure the performance of schools and colleges, or to enable the release of public funds for education and training. We regulate recognising the pressures on validity that this brings.

In making decisions, we consider both the validity of an individual qualification and the potential impact on the wider education and training system.

Regulating for validity across the life cycle of a qualification

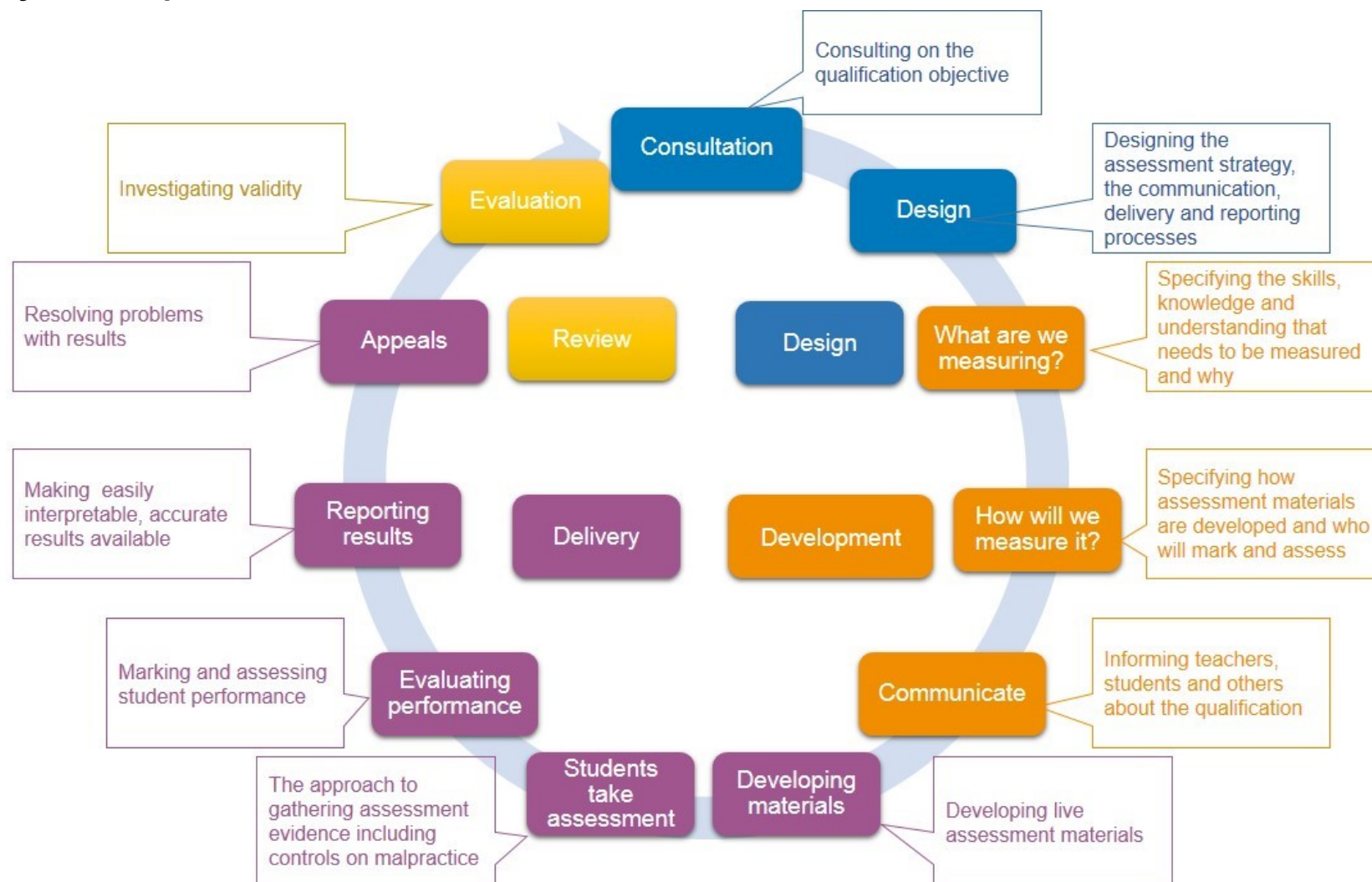
Awarding organisations are responsible for the validity of their qualifications. We recognise that they also need to consider broader educational, societal and cost impacts as they design and review qualifications. The qualifications they provide should be sufficiently valid, operating well in the wider educational and training system.

Validity is the degree to which a qualification measures what needs to be measured by implementing an assessment procedure. Assessment can take many forms, including written exams or observation and assessment of performance in a specific task.

Validity is a matter of degree. The important thing is that a qualification must assess the right skills and knowledge sufficiently well, enabling assessment results to be interpreted and used appropriately, and allowing people to be confident that those results can be relied upon.

For each stage in the life cycle of a qualification, awarding organisations should be able to explain the systems and approaches that make sure that their qualifications are sufficiently valid. By life cycle we mean the progress of the qualification from its design, through to delivery of exams and other forms of assessment, and subsequent review. This is illustrated below.

The life cycle of a qualification



Summarising our approach

We follow good regulatory practice, in particular the Better Regulation Executive's five principles of good regulation¹ and the six Penalties Principles and seven characteristics set out in the Macrory report *Regulatory Justice: Making Sanctions Effective*.²

We regulate so that:

- Qualifications are sufficiently valid and support good educational and training outcomes.
- Employers, universities and others that rely on qualifications are confident that they are designed to meet their needs and are responsive to them.
- Teachers, students and employers are properly informed about qualifications and understand any changes to them.
- Teachers, students and other stakeholders have accessible information about qualifications, enabling them to make informed choices.
- New qualifications are introduced with adequate lead time, enabling schools and colleges to be ready to teach them.
- The needs of people who share protected characteristics are appropriately and fairly met.
- Qualifications that are insufficiently valid are improved or withdrawn.
- Qualifications are good value.

We regulate by:

- exercising controls over entry into the regulated market;
- setting regulatory requirements that are evidence-based, and imposing proportionate additional requirements only where it is necessary to do so;

¹ To ensure that regulations are necessary, fair, effective, affordable and enjoy a broad degree of public confidence, in 1997 the Better Regulation Task Force set out five principles that any policy intervention and its enforcement should meet: proportionality, accountability, consistency, transparency and targeting.

² *Regulatory Justice: Making Sanctions Effective* (November 2006):
<http://webarchive.nationalarchives.gov.uk/20121212135622/http://www.bis.gov.uk/files/file44593.pdf>

- producing guidance that assists awarding organisations to understand and comply with our requirements;
- taking a risk-based approach to prioritise our work, using data, intelligence and expertise, and engaging with others to address emerging risks;
- checking that our requirements are being met, by, for example, auditing awarding organisations, and by evaluating the actual performance of qualifications;
- investigating potential breaches of our requirements and taking proportionate regulatory action if we find something wrong;
- reviewing and where necessary amending our approach to ensure that it is effective over time.

How we gain assurance

The collective aim of our regulation is a qualifications system where all awarding organisations provide high-quality, sufficiently valid qualifications. We best achieve this by setting clear and transparent rules that all those competing in the market must meet and by taking appropriate and proportionate regulatory action where we find non-compliance.

We use a range of tools to gain assurance about whether awarding organisations are meeting our requirements and therefore delivering sufficiently valid qualifications.

Recognition

To offer regulated qualifications, organisations must be recognised to provide regulated qualifications. We need to be satisfied that applicants can provide valid qualifications and that they have the expertise, governance, controls and financial capacity to do so.

We set requirements that apply to all awarding organisations and all regulated qualifications (the *General Conditions of Recognition*³). Many of these rules impose validity-related requirements.

There are also additional rules that apply to:

- qualifications of a particular type (for example, all GCSEs);
- individual qualifications (for example, functional skills, A level music).

³ www.gov.uk/government/publications/general-conditions-of-recognition

Once recognised, all awarding organisations must continue to meet our requirements. They must keep their approach to the design, development, delivery and award of qualifications under review and make an annual statement about how they have assured themselves that their qualifications are sufficiently valid.

We sometimes place additional requirements on awarding organisations when we recognise them. For example, we might choose to use a special condition to make sure that an awarding organisation acts on the commitments they made at recognition, enabling us to take action quickly if they do not.

More information about recognition can be found on our website.⁴ Our Register⁵ provides information about all regulated qualifications.

Statutory guidance

We publish guidance⁶ to help awarding organisations understand and comply with our requirements. Our guidance sets out positive and negative indicators of compliance.

We develop guidance in consultation with awarding organisations and other stakeholders. This guidance also takes into account the good and bad practice we find as a result of our audit, investigation and evaluation activities.

We keep our guidance under review and update it as required.

Accreditation

We sometimes set an accreditation requirement for individual qualifications (or types of qualification). This enables us to review a qualification against our requirements before it is awarded.

Whether we set an accreditation requirement depends on several factors. For example, for GCSEs, AS and A levels, a number of exam boards compete to offer the same high-stakes qualification. Before they are taught, these qualifications must be checked to ensure that they meet the curriculum requirements and design rules.

We may sometimes require some or all qualifications from any particular awarding organisation to be submitted for accreditation – for example, when an organisation has only recently been recognised, or if we have other specific concerns about an organisation or a particular qualification.

⁴ www.gov.uk/apply-to-have-your-qualifications-regulated

⁵ <http://register.ofqual.gov.uk>

⁶ www.gov.uk/government/publications/guidance-to-the-general-conditions-of-recognition

More detail on accreditation is provided on our website.⁷

Oversight of awarding

We oversee the awarding of GCSE, AS and A levels to ensure that standards are maintained over time and between exam boards. We compare exam boards' results before they are issued and may require them to make changes where we are not confident that the results are consistent and fair. We also undertake some sample checks that grades have been awarded in accordance with their own procedures.

Risk framework

Our risk framework allows us to identify risks to the provision of valid qualifications. Risks can arise from an organisation's governance, financial structure, internal processes, people and systems. They might also be as a result of external factors – for example, competition between awarding organisations or changes in the amount of government funding available for education and training. Individual qualifications may be subject to particular risks – for example, malpractice – because of their high-stakes uses.

The key elements of our overall risk framework are as follows:

- **A qualification portfolio analysis** – this is an assessment of the potential impact on students and others if something goes wrong. It takes into account both the volumes and types of different qualification that each awarding organisation delivers. The higher the potential impact, the more actively we regulate. It informs, for example, the frequency of our audit and other assurance and compliance activity across the life cycle of the qualification.
- **Risk assessments** – these are assessments made against defined risk indicators and are used to target compliance activity.
- **Risk intelligence** – we evaluate and interpret information received from a range of sources including government agencies, whistle-blowers and awarding organisations.
- **Market and systemic risk analysis** – we undertake market and other analysis to help assess current or emerging risks. This could relate to a particular issue or type of qualification involving a number of organisations within a sector or market.
- **Audit, research and investigation outcomes** – the outcomes of our compliance activity are used to inform our future risk assessments.

⁷ www.gov.uk/accreditation-requirement

These different elements inform our judgement about where to target regulatory compliance activity. Awarding organisations with the highest risk are subject to stronger scrutiny. All organisations have some form of scrutiny, but it is progressively less intense for lower-risk organisations.

We undertake random checks as well as risk-based compliance work, which means that any awarding organisation could be scrutinised at any time. This also helps us evaluate the effectiveness of our risk framework, improving it where necessary.

We also respond to events and incidents as they arise. We aim to deal quickly and decisively with emerging issues to determine whether there is non-compliance, taking action as appropriate.

Compliance tools

Our compliance tools include the following:

- **Annual statement of compliance** – awarding organisations must make an annual statement of compliance with the Conditions of Recognition.
- **Audit** – we audit to gather evidence about how well an awarding organisation’s systems, processes and controls are meeting our regulatory requirements.
- **Technical evaluation** – we use appropriate research and evaluation methods to assess and make expert judgements about how well awarding organisations apply their processes so that qualifications are sufficiently valid.
- **Investigation** – we may investigate where there is information that leads to a suspicion of non-compliance with our Conditions of Recognition.

We use these tools in combination to gather evidence about an awarding organisation’s compliance. For example, the outcome of a technical evaluation may indicate process failings in an awarding organisation, which may lead to a process audit or an investigation.

If we determine that there has been a breach of our requirements, we will decide what regulatory action to take.

In some cases we will review our regulatory requirements to see if they can be improved. When we propose to change requirements, we consult awarding organisations and the public.

Taking regulatory action

Where we find sufficient evidence of non-compliance, we take appropriate and proportionate regulatory action. Our actions are used to bring awarding organisations

into compliance, as well as to deter other awarding organisations from similar breaches.

We have a range of ways to achieve this, including:

- agreeing corrective action;
- accepting a formal undertaking to take particular actions;
- making qualifications subject to an accreditation requirement;
- placing specific requirements on an awarding organisation using a special condition of recognition;
- directing an awarding organisation;
- fining;
- withdrawing recognition, in full or in respect of specific qualifications or a type of qualification.

More detail on *Taking Regulatory Action* is provided on our website.⁸

Evaluating our approach

We will develop a set of indicators to measure:

- the improvements that awarding organisations have made to the validity of their qualifications;
- how we have taken regulatory action when necessary;
- the views of stakeholders, which we collect by using and improving both our existing public confidence survey and a new stakeholder survey, as well as informal feedback.

We also evaluate the impact of our regulations and remove them if they are no longer proportionate. We explain our approach to regulatory burden in our *Statement on Regulatory Burden*.⁹

⁸ www.gov.uk/government/collections/regulatory-actions-and-interventions-by-ofqual

⁹ www.gov.uk/government/publications/regulatory-burden-statement