

# Implementation of Technical Qualifications

Consultation on rules and guidance for Technical Qualifications



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## 1. Introduction

- 1.1 In July 2016, the government published the report of the Independent Panel on Technical Education and the Post-16 Skills Plan<sup>1</sup> setting out its plans for reforming the technical education system. One significant aspect of this was the introduction of the T Level reform programme. The government set out its T Level action plan<sup>2</sup> in October 2017 and consulted on the Implementation of T Level programmes<sup>3</sup> in November 2017. It announced its decisions<sup>4</sup> following this consultation in May 2018.
- 1.2 T Levels will be level 3 classroom-based technical study programmes which will mainly be studied at an education or training provider. T Levels will consist of:
- a Technical Qualification
  - a T Level industry placement
  - maths and English (set at level 2, to align with requirements for level 3 apprenticeships)
  - any other occupation-specific requirements/qualifications, as set out by the relevant T Level panel eg licence to practise
  - any further employability, enrichment and pastoral (EEP) provision (as required in all study programmes)
- 1.3 We consulted on our proposed approach to regulating the new Technical Qualifications, which form a part of the T Level study programme, between July and August 2018.<sup>5</sup> We have now confirmed our approach to regulating new Technical Qualifications.

### About this consultation

- 1.4 This consultation builds on the decisions we have taken following our previous consultation:

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<sup>1</sup> & <sup>2</sup> The Post-16 Skills Plan and T Level action plan are available at: [www.gov.uk/government/publications/post-16-skills-plan-and-independent-report-on-technical-education](http://www.gov.uk/government/publications/post-16-skills-plan-and-independent-report-on-technical-education)

<sup>3</sup> <https://consult.education.gov.uk/technical-education/implementation-of-t-level-programmes/>

<sup>4</sup> [www.gov.uk/government/consultations/implementation-of-t-level-programmes](http://www.gov.uk/government/consultations/implementation-of-t-level-programmes)

<sup>5</sup> [www.gov.uk/government/consultations/ofquals-approach-to-regulating-technical-qualifications](http://www.gov.uk/government/consultations/ofquals-approach-to-regulating-technical-qualifications)

- In Part 1 we explain our detailed proposals for regulating new Technical Qualifications
- In Part 2 we consult on the draft Conditions and Guidance we are proposing to put in place to regulate new Technical Qualifications. These rules will sit alongside our existing rules and guidance for all qualifications

1.5 We would like your views on our detailed proposals and draft rules and guidance.

## Overview of the proposals set out in this document

### Part 1 - Proposals for regulating new Technical Qualifications

- [Qualification purpose](#)
- [Assessment strategies and outline content](#)
- [Assessment structure](#)
- [Assessment objectives](#)
- [Controls on taking assessments](#)
- [Assessment availability and retakes](#)
- [Setting and marking assessments](#)
- [Prior learning](#)
- [Grading](#)
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- [Results and certification](#)
- [Reviewing and appealing results](#)
- [General Conditions](#)

### Part 2 – Our proposed rules and guidance

[Structure of our proposed rules and guidance](#)

[Regulatory impact assessment](#)

[Equality analysis](#)

# **Part 1 – Proposals for regulating new Technical Qualifications**

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## 2. Regulating new Technical Qualifications

### Qualification purpose

#### **Our decision:**

to implement our proposal to put in place a qualification purpose for Technical Qualifications

2.1 We will include the qualification purpose below in the introduction to our qualification level Conditions for Technical Qualifications.

- to provide reliable evidence of learners' attainment in relation to:
  - the core knowledge and skills for the relevant T Level route and pathway;
  - the knowledge, skills and behaviours required for at least one Occupational Specialism relevant to the qualification
- to indicate where learners would be able to take up an occupational role by ensuring the minimum pass grade standard for Occupational Specialisms attests to this, meets employer expectations, and is as close to full occupational competence as possible for the course of study
- to enable users<sup>6</sup> to accurately identify and differentiate learners' levels of attainment
- along with other performance indicators that form part of a T Level, to provide (where required) a basis for accountability measures at age 18

2.2 As set out in our decisions document, we are not making the purpose statement a Condition, but instead are intending to include it as a part of the introductory section to the document. This means that all of our Conditions and guidance will need to be read in the context of the qualification purpose.

### Assessment strategies and outline content

#### Assessment strategies

#### **Our decisions:**

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<sup>6</sup> Persons who have a legitimate interest in the qualification or type of qualification made available by the awarding organisation, which may include – (a) Learners and Learners' representatives, (b) Centres, (c) Teachers, (d) employers and employers' representatives, (e) further and higher education establishments, (f) schools, (g) government departments and agencies, and (h) professional bodies.

- all awarding organisations will produce an assessment strategy document that explains their overall approach to assessment for new Technical Qualifications
- we will set rules around what assessment strategies must include

2.3 We are proposing to set a Condition (TQ3 – Assessment Strategies) which requires awarding organisations to:

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

2.4 We are proposing to set detailed assessment strategy requirements for new Technical Qualifications in line with our above Condition, which will require awarding organisations to include information and evidence covering their approach to assessment design; assessment development and delivery; centres; and standard setting and maintenance.

2.5 For full details of the requirements we are setting, we recommend that you read the detailed requirements set out in the annexes to this consultation.

### **Outline content**

#### **Our decision:**

to require awarding organisations to explain their approach to covering outline content as part of their assessment strategy

2.6 In line with this decision, and as part of our assessment strategy requirements (see above), we are proposing to require awarding organisations to explain their approach to coverage of subject content, including:

- how the Outline Content has been covered overall and in each assessment
- how the Outline Content has been expanded where necessary
- mapping of specification content coverage in specimen assessment materials
- approach to assessment of content over time
- how Learners' interests will be protected if there are changes to content
- rationale for any inclusion of content that is not in line with the Outline Content.

### Question 1

Do you have any comments on our proposed assessment strategy Condition and requirements?

## Assessment structure

### Our decisions:

We will:

- require awarding organisations to assess Technical Qualifications through a Core and Occupational Specialism(s)
- require core knowledge and understanding and core skills to be assessed separately
- set guidance around the weighting of the core skills project within the Core at between 25 and 40%
- require awarding organisations to specify combinations of Occupational Specialisms that may, or may not, be taken in combination
- require Occupational Specialisms to be assessed separately to one another
- provide guidance that performance outcomes in Occupational Specialisms should be assessed together where possible
- set requirements and guidance on the titling of Technical Qualifications and Occupational Specialisms
- set requirements that Technical Qualifications should be assessed in the smallest number of assessments possible whilst remaining manageable

2.7 In line with the above decisions, we are proposing to put in place the following Conditions:



- TQ6 Assessment – a Condition on assessment which requires an awarding organisation to comply with any requirements and have regard to any guidance which are published by Ofqual
- TQ4 Qualification titling – a Condition which requires awarding organisations to ensure that the title of the Technical Qualification on the Ofqual Register complies with any requirements published by the Institute for Apprenticeships (the Institute)

2.8 We are proposing to set assessment requirements under our proposed Condition (TQ6) on assessment which will cover:

- assessment structure
- number of assessments

2.9 We have also proposed an assessment requirement which makes clear that awarding organisations will need to take a mark-based approach to designing their assessments. This is a consequence of a number of decisions taken elsewhere, particularly in relation to the moderation of centre assessments and setting of grade boundaries, which necessitate assessments using a mark-based approach.

2.10 We propose to set qualification level guidance on assessments for Technical Qualifications which will cover:

- weighting of core assessments

2.11 For the purpose of our Conditions, requirements and guidance, we refer to core knowledge and understanding assessments as the core examination and to core skills as the core project.

## **Assessment objectives**

### **Our decision so far:**

To put in place guidance on assessment objectives for both the core examination and core project

2.12 In line with the above decision, we are proposing to introduce a Condition (TQ2 Assessment objectives) which allows us to set requirements and/or guidance on assessment objectives. We set out below the guidance we intend to introduce in line with this Condition.

## **Core examination**

2.13 We are proposing to set guidance on assessment objectives for the core examination. The assessment objective guidance sets out the broad ways in which we expect the content to be assessed (covered in separate assessment objectives).

2.14 The proposed guidance goes on to set an expectation that there is a reasonable balance between the three assessment objectives (set out in Table 1 below). Awarding organisations are then required to explain their approach to the assessment objectives for the core examination in their assessment strategies.

**Table 1: Assessment objectives for core examination**

	Objective
<b>AO1</b>	Demonstrate knowledge and understanding of the content
<b>AO2</b>	Apply knowledge and understanding of the content to different situations and contexts
<b>AO3</b>	Analyse and evaluate information and issues related to the content

### Question 2

Do you have any comments on our proposed assessment objective guidance for the core examination?

### Core project

2.15 For the core project, the government's technical annex<sup>7</sup> sets out that learners will be required to:

- plan their approach to meeting the brief
- apply core knowledge and skills as appropriate
- select relevant techniques and resources to meet the brief
- use maths, English and digital skills as appropriate

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<sup>7</sup> [www.gov.uk/government/consultations/implementation-of-t-level-programmes](http://www.gov.uk/government/consultations/implementation-of-t-level-programmes)

- realise a project outcome and review how well the outcome meets the brief

2.16 We are proposing to introduce guidance that sets an expectation that awarding organisations should:

- set an assessment objective in relation to each of the above requirements
- in setting those requirements:
  - ensure that the assessment objective relating to core knowledge and skills is drafted in such a way as to be specific to the relevant outline content; and
  - weight the assessment objectives so that the assessment objective relating to the application of knowledge and skills is worth at least 50% of the marks with a reasonable balance between the remaining assessment objectives

### Question 3

Do you have any comments on our proposed assessment objective guidance for the core project?

## Controls on taking assessments

### **Our decision:**

We will put in place assessment controls for core skills project and Occupational Specialism assessments

2.17 In line with our decision above, we are proposing to introduce assessment requirements under our proposed Condition on assessment (TQ6) which relate to controls around assessments. These will require awarding organisations to design their assessments for the core skills project and Occupational Specialism assessments in such a way that:

- the evidence required to be produced by students enables the awarding organisation to assess the extent to which the student has met all of the assessment criteria
- the conditions under which the assessment is taken ensure that the evidence generated by each Learner can be Authenticated

2.18 Awarding organisations will have to explain the approach they intend to take in their assessment strategies.

#### Question 4

Do you have any suggestions for further requirements or guidance on the controls around assessments, in addition to those set out?

### Assessment availability and retakes

#### Our decisions:

We will:

- require an awarding organisation to provide a minimum of one assessment series for the Core and the Occupational Specialisms (either in a single series, or a separate series for each)
- allow, but not require, a maximum of one additional assessment series for the Core and the Occupational Specialisms (either in a single series, or a separate series for each)
- allow each assessment series to be used both for students sitting assessments for the first time and those retaking assessments
- not specify when in the year these assessment series should take place. It will be for an awarding organisation to determine, based on the requirements of the particular Technical Qualification, and to explain its approach to assessment scheduling as part of its assessment strategy
- set a requirement that the core examination and core project should be assessed together in the same series and the whole of each Occupational Specialism should be assessed together in the same series
- require that a student wishing to retake an assessment must retake all associated assessments for that part of the Technical Qualification (the whole of core knowledge and understanding, and/or the whole of core skills, and/or the whole of an Occupational Specialism)
- require that where an awarding organisation ceases to make a Technical Qualification available, it must ensure that arrangements are in place to allow students to retake their assessments

2.19 In order to reflect the decisions we have taken around assessment availability and retakes, we are proposing to set assessment requirements under our proposed Condition on assessment (TQ6) which will cover:

- timing of assessments
- retakes

### Setting and marking assessments

#### Our decisions:

- to require that assessments for core knowledge and understanding examination is assessed through Assessment by Examination<sup>8</sup> and is marked by the awarding organisation
- to require that the core skills project and Occupational Specialism assessments are set by the awarding organisation (with employer input as appropriate)
- for core skills projects and Occupational Specialisms, awarding organisation marking is to be the starting point, but exceptionally centre marking will be permitted where this is necessary to ensure the validity and/or manageability of the relevant assessment
- for those circumstances where centre marking is permitted, to provide guidance on what moderation controls are likely to be appropriate

2.20 In order to reflect the decisions we have taken around setting and marking assessments, we are proposing to:

- set assessment requirements under our proposed Condition on assessment (TQ6)
- introduce guidance on moderation where an assessment is marked by a centre – the proposed guidance explains the purpose of moderation, and sets out expectations around the moderation process that awarding organisations will need to design. Awarding organisations will need to explain their approach to moderation within their assessment strategy

## Prior learning

### **Our decision so far:**

We will put in place a requirement for an awarding organisation to recognise prior learning in Technical Qualifications, where this is possible

2.21 In order to reflect the decision above, we are proposing to put in place the following Condition:

- TQ7 Recognition of prior learning - a Condition which requires an awarding organisation to establish, maintain and comply with a policy for the recognition of prior learning in relation to the technical qualification

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<sup>8</sup> An assessment which is - (a) set by an awarding organisation, (b) designed to be taken simultaneously by all relevant Learners at a time determined by the awarding organisation, and (c) taken under conditions specified by the awarding organisation (including conditions relating to the supervision of Learners during the assessment and the duration of the assessment).

2.22 This will make clear to qualification users whether it is possible to transfer some prior attainment or learning from one Technical Qualification to another. Under our General Condition E10 (Recognition of Prior Learning) which will also apply to new Technical Qualifications, awarding organisations will be required to publish this policy.

2.23 We are also proposing to put in place qualification level guidance for Technical Qualifications which will make clear that, in setting their policy on recognition of prior learning, we expect the awarding organisation to follow any requirements set by the Institute.

## Grading

### **Our decisions:**

We will put in place:

- requirements for the Core to be graded on a scale of A\* to E plus unclassified
- requirements for Occupational Specialisms to be graded on a scale of Pass/Merit/Distinction, plus unclassified
- guidance for Occupational Specialisms regarding how assessment design must take into account this grading model

2.24 In order to reflect the decisions set out above, we are proposing to put in place the following:

- TQ8 Standard setting – one part of this proposed Condition requires awarding organisations to ensure that the specification for each Technical qualification sets out specified levels of attainment which comply with any requirements which we may publish

2.25 We are also proposing to set requirements under the above proposed Condition which will require:

- for the Core, a 6-point grading scale from A\* to E
- for the assessment of each Occupational Specialism, a 3-point grading scale made up of Distinction, Merit and Pass
- a result of 'unclassified' to be issued to a learner who does not meet the relevant criteria to be awarded at least a grade E for the Core or a Pass for an Occupational Specialism

## Setting and maintaining grade standards

### **Our decisions:**

#### **Core**

- awarding organisations will need to design their assessments to differentiate across the full range of available grades (A\* to E)
- A/B and E/U are designated as 'key' grade boundaries
- the remaining boundaries would be calculated arithmetically, by dividing equally the number of marks between the A/B and E/U boundaries. (The A\*/A boundary would be set at the same number of marks above the A/B boundary as the B/C is below the A/B boundary)
- awarding organisations will report an overall grade
- we will set rules around the types of evidence we would expect to use in setting standards
- in setting the standards at these key grades in the first year, we might expect awarding organisations to rely more heavily, but not exclusively, on qualitative evidence
- in subsequent years, we might expect that awarding organisations will be able to use more quantitative evidence to guide senior examiners in their recommendations

#### **Our decisions:**

##### **Occupational Specialism**

- if there are multiple assessments within a given Occupational Specialism, the marks from all assessments will be combined
- Pass and Distinction would be 'key' grade boundaries
- Merit would be set arithmetically, by dividing the mark gap between Pass and Distinction
- in setting the standard for this Pass grade, we expect that awarding organisations will use similar types of evidence as for the Core, which will include employer input into standard-setting
- awarding organisations must produce descriptions of performance for the Pass and Distinction grades
- we would also expect awarding organisations to produce exemplification materials, to indicate expectations to schools, colleges, students, parents and others, and for use in standard setting

2.26 In order to reflect the decisions above, we are proposing to put in place a Condition (TQ8 Standard setting) which:

- requires an awarding organisation to comply with any requirements and have regard to any guidance Ofqual produces in relation to the setting of specified levels of attainment and promotion of consistency between qualifications

- requires an awarding organisation to have regard to an appropriate range of qualitative and quantitative evidence in setting the specified levels of attainment (and then goes on to describe what an appropriate range of evidence will need to include)
- requires an awarding organisation to maintain records of the evidence to which it has had regard in setting the specified levels of attainment, and its rationale for use of that evidence

2.27 In addition to the Condition, we propose to introduce requirements around standard setting which:

- sets out the key grade boundaries for the Core and Occupational Specialisms
- sets out the arithmetic grade boundaries for the Core and Occupational Specialisms
- sets out a requirement for grade descriptors to be issued for key grade boundaries in the Core and Occupational Specialism
- sets out provision for awarding approaches in the first year to be different to those taken over time
- sets out a requirement for exemplification materials to be produced for the Occupational Specialism.

2.28 We also propose to introduce guidance on standard setting which:

- sets out examples of evidence that we would expect an awarding organisation may use in setting the specified levels of attainment for a Technical Qualification
- sets out an expectation that in the first year of awarding a Technical Qualification, an awarding organisation might place greater weight on qualitative evidence than in subsequent years, though not to the exclusion of relevant quantitative evidence where available.

### **Question 5**

Do you have any comments on our proposed Conditions, requirements and guidance on setting and maintaining grade standards?

## **Results and certification**

### **Our decisions:**



- To provide guidance against General Condition H6 (Issuing results). The guidance to include:
  - the expectation that the results issued to a student will provide sufficient detail to inform decisions about whether they wish to request a review of marking or to retake an assessment
  - that such a statement of results is not a certificate
  - the expectation that in England results must be issued to the Institute /Education and Skills Funding Agency
- disapply Conditions I3 and I4 so that awarding organisations are not required to issue a certificate for a Technical Qualification taken in England on the basis that a statement of achievement will be implemented.

2.29 To give effect to the above decisions, we have developed:

- guidance against Condition H6
- TQ1 Disapplication of certain General Conditions of Recognition applying to Technical Qualifications – which sets out that in respect of students assessed in England, General Conditions I3 (The design and content of certificates) and I4 (Issuing certificates and replacement certificates) do not apply.

2.30 We have also produced some guidance to awarding organisations issuing certificates outside England, about the inclusion, on certificates, of a reference to the Occupational Specialism(s) completed as part of the Technical Qualification.

## Reviewing and appealing results

### **Our decisions so far:**

To put in place detailed requirements for awarding organisations in relation to reviews of marking, moderation and appeals

2.31 We proposed in our policy consultation to disapply our General Condition I1 (Appeals process) and replace it with detailed regulations for the review of the marking and, if necessary, moderation of Technical Qualifications and for appeals against these reviews. We said that our rules will be based on the requirements that currently apply to GCSE, AS, A level and Project qualifications.

2.32 As we said at the time, we believe similar requirements to those found in these qualifications should be applied to Technical Qualifications because:

- schools and colleges are familiar with them because of their experience of offering GCSEs and A levels
- the requirements have been informed by extensive research and consultation, and designed specifically to address poor and unfair practice in the review and appeal of marking we found in GCSEs, AS and A levels, where reviews sometimes resulted in grade changes in cases where there were not errors in original marking
- these qualifications will be high stakes for the students who take them and it is important that a review and appeal system is in place which functions effectively and consistently across different Technical Qualifications

2.33 We set out in our policy consultation our high level expectations for reviews of marking, moderation and appeals in Technical Qualifications. The Conditions and guidance on which we are consulting are designed to reflect these.

### **Conditions**

2.34 The majority of our proposed Conditions related to reviews of marking and appeals are very similar to those currently in place for GCSE, AS, A level and Project qualifications. However, in our proposals for Conditions for Technical Qualifications we have made a small number of changes to those requirements which are designed make the Conditions easier to follow, to address issues that we have identified in the use of these Conditions by the exam boards and to reduce unnecessary regulatory burdens. They include changes to remove requirements on exam boards to publish data that is already published by us, and to revise the language used throughout the Conditions where we think our expectations can be set out more clearly.

2.35 In addition, in our policy consultation we said:

We have proposed that Technical Qualifications will be marked by awarding organisations. As such, we do not expect students' work to be marked by their school or college with that work then checked, through a process known as moderation, by an awarding organisation. As such, we do not plan to introduce a requirement for awarding organisations to allow for reviews of their moderation decisions.

2.36 We did, however, set out in that consultation what such arrangements would look like if our position on this issue was to change as a result of the consultation. As set out above, we have decided not to prohibit centre marking in all cases in relation to the core skills project and Occupational Specialism.

This is subject to an awarding organisation putting suitable controls, including in relation to moderation, in place. In light of this, we have proposed Conditions which specify requirements relating to the review of moderation outcomes and the opportunity to seek an appeal of these review of moderation decisions.

- 2.37 As for reviews of marking, in general, the Conditions are the same as those already in place for GCSE, AS, A level and Project qualifications. In the same way, we have made a small number of changes which make the Conditions easier to follow, to reduce unnecessary regulatory burdens and to address issues that we have identified in the use of these Conditions by the exam boards. In particular, we have proposed a slightly different set of rules for reviewing the marking of centre-marked assessments than that currently in place for these other qualifications.
- 2.38 Our current rules for these qualifications require exam boards to make sure their centres allow students to request a review of the marking the centre has carried out prior to the centre then submitting marks to the exam board. This is a requirement we propose to retain. However, this process has been operationalised in these qualifications by exam boards requiring centres to judge whether the marking of an individual student is consistent with the rest of the marking of the centre – as any more widespread issue with the centre's marking will be addressed by the moderation process. The requirements we propose are in line with this current practice.
- 2.39 We plan to consult on making similar changes to the Conditions in place for GCSE, AS, A level and Project qualifications to reflect the changes we are proposing here in due course.
- 2.40 There are a large number of Conditions relating to reviews of marking, moderation and appeals. We summarise them very briefly here.
- TQ9 – to ensure that in line with our expectations for assessors carrying out reviews of marking, those conducting initial marking have appropriate competence and have no personal interest in the outcome of the marking
  - TQ10 – to ensure that in line with our expectations for assessors carrying out reviews of moderation, those conducting initial moderation have appropriate competence and have no personal interest in the outcome of the moderation
  - TQ11 Reviews of marking of centre marked assessments – sets out how awarding organisations should require Centres to allow Learners to request a review of their centre marked assessment

- TQ12 Notification of moderation outcome – requires the awarding organisation to let the Centre know the outcome of moderation with enough time for the Centre to decide whether to review the outcome
- TQ13 Review of moderation – sets our requirements for how an awarding organisation should conduct reviews of moderation
- TQ14 Making marked assessment materials available to learners – requires an awarding organisation to have in place a process for Learners to request and receive a copy of their marked assessment material
- TQ15 Administrative error review – sets our requirements for how an awarding organisation should conduct Administrative Error Reviews
- TQ16 Review of marking of marked assessment material – sets our requirements for how an awarding organisation should conduct reviews of marked assessment material
- TQ17 Appeals process for Technical Qualifications - sets our requirements for how an awarding organisation should conduct the appeals process to challenge review of marking or moderation decisions
- TQ18 Centre decisions relating to Review and Appeal Arrangements – requires an awarding organisation to ensure that Centres take all reasonable steps to provide Learners with the opportunity to decide whether to make a request under TQ14-TQ17, and appeal a Centre's decision should they decide not make a request
- TQ19 Target performance in relation to Review and Appeal Arrangements – requires an awarding organisation to publish target time periods for how long a review or appeal will take, and to report to Ofqual the number of times each year it fails to meet these targets
- TQ20 Review and Appeal Arrangements and certificates – requires awarding organisations to have in place a process for revoking incorrect certificates and issuing accurate replacements
- TQ21 Discovery of failure in assessment processes – requires awarding organisations to take steps to correct the results of all affected Learners if it identifies a failure in its assessment process which has led to errors
- TQ22 Publication of Review and Appeal Arrangements – requires awarding organisations to publish details of its review and appeal arrangements

## Question 6

Do you have any comments on the details of any of our proposals for Conditions for the review of marking, moderation and appeals of Technical Qualifications? Please refer to specific Conditions in your answer.

### Guidance

- 2.41 We have also proposed detailed guidance for some areas of our Conditions for reviews of marking, reviews of moderation and appeals. Again, they are based on the guidance we currently have in place for GCSE, AS, A level and Project qualifications.
- 2.42 We propose to publish guidance in relation to how an awarding organisation should approach –
- a review of Moderation under Condition TQ13
  - an Administrative Error Review under Condition TQ15
  - a review of marking of Marked Assessment Materials under Condition TQ16, and
  - an appeal in relation to Moderation or marking under Condition TQ17.2
  - the discovery of failure in assessment processes under Condition TQ21.
- 2.43 In addition, we propose to have guidance on how an awarding organisation should make a substantive determination as to whether or not a Marking Error exists. This guidance relates primarily to arrangements for arrangements:
- for the review of the marking undertaken by the awarding organisation (Condition TQ16)
  - for the appeal of the result of an assessment following a review (Condition TQ17)
- 2.44 As for the proposed Conditions, we have proposed a small number of changes to our existing guidance, which reflects issues we have identified in the operation of the review and appeal process in GCSE, AS, A level qualifications. In particular our proposed guidance has been extended to cover in greater detail aspects of the appeals process, for example, how an awarding organisation treats expert evidence from its own examiners, how they assess 'personal interest' and how and why they describe the reasons for the success or failure of an appeal.

2.45 We have also proposed additional guidance, to that already in place for GCSE, AS, A level or Project qualifications, for if awarding organisations discover, through a review or appeal, that there has been a failure in an assessment process that may have affected other students.

2.46 As for the Conditions set out above, where we have proposed changes to the guidance already in place for GCSE, AS, A level and Project qualifications we plan to consult on making similar changes for these qualifications in due course.

#### Question 7

Do you have any comments on the details of our proposed guidance for how an awarding organisation should approach Condition TQ13, Condition TQ15, Condition TQ16 or Condition TQ17.2?

#### Question 8

Do you have any comments on the specific wording or details of our proposed guidance for how an awarding organisation should make a substantive determination as to whether or not a Marking Error exists?

#### Question 9

Do you think any other Conditions between TQ9 and TQ22 require guidance? If so, please describe what issues and areas the guidance should address.

### General Conditions

#### Our decisions:

- to dis-apply General Condition E1 (Qualifications having an objective and support)
- to dis-apply General Condition E7 (Total Qualification Time) and replace it with a Technical Qualification-specific Condition to ensure that the TQT values assigned by awarding organisations reflect any requirements set by the Institute
- to put in place Technical Qualification-specific guidance against General Condition D3 (Reviewing approach)

2.47 In line with the above decisions we have developed:

- TQ1 Disapplication of certain General Conditions of Recognition applying to Technical Qualifications – a Condition which dis-applies General Conditions E1 and E7

- guidance against General Condition D3 which confirmed that as part of their review of the Technical Qualification under General Condition D3, an awarding organisation should have regard to the outcomes of any review of the Outline Content by the Institute as well as any feedback from the Institute or Ofqual on the Technical Qualification itself

### **Interpretation and definitions**

2.48 We propose to introduce a Condition (TQ23 Interpretation and Definitions) which explains how to interpret the Technical Qualification specific Conditions and Guidance alongside the General Conditions, and provides a number of defined terms.

2.49 Our Technical Qualification specific requirements will apply in addition to those imposed by the General Conditions of Recognition, unless we specify otherwise. Where there is any inconsistency between the General Conditions and the Technical Qualification specific Conditions, the Technical Qualification specific requirements will prevail.

### **References to Institute for Apprenticeships**

2.50 In our proposed Conditions and guidance, we refer to the Institute for Apprenticeships. The Institute is due to change to the 'Institute for Apprenticeships and Technical Education' when certain amendments to the Apprenticeships Skills, Children and Learning Act, made by the Technical and Further Education Act 2017, are brought into force. We propose to amend any references to the Institute for Apprenticeships accordingly when the name change is made.

2.51 If in future, other terms are amended, we will update our requirements accordingly.

## **Part 2 – Our proposed rules and guidance**

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### 3. Our proposed rules and guidance

3.1 Alongside this consultation, we are [publishing](#) two draft documents that set out, respectively:

- our rules for new Technical Qualifications
- our guidance for new Technical Qualifications

#### Structure of our proposed rules

3.2 Our rules begin with a set of high level Conditions:

- TQ1 – Disapplication of certain General Conditions of Recognition applying to Technical Qualifications
- TQ2 – Assessment objectives
- TQ3 – Assessment strategies
- TQ4 – Qualification titling
- TQ5 – Total Qualification Time
- TQ6 – Assessment
- TQ7 – Recognition of prior learning
- TQ8 – Standard setting
- TQ9 – Marking arrangements
- TQ10 – Moderation arrangements
- TQ11 – Review of marking of Centre-marked assessments
- TQ12 – Notification of Moderation outcome
- TQ13 – Review of Moderation
- TQ14 – Making Marked Assessment Materials available to Learners
- TQ15 – Administrative Error Review
- TQ16 – Review of marking of Marked Assessment Material
- TQ17 – Appeals process for Technical Qualifications

- TQ18 – Relevant Centre decisions relating to Review and Appeal Arrangements
- TQ19 – Target performance in relation to Review and Appeal Arrangements
- TQ20 – Review and Appeal Arrangements and certificates
- TQ21 – Discovery of failure in assessment processes
- TQ22 – Publication of Review and Appeal Arrangements
- TQ23 – Interpretations and Definitions

3.3 These Conditions are supported by more detailed requirements:

- assessment requirements
- standard setting requirements
- assessment strategy requirements

### **Structure of our proposed guidance**

3.4 We have also proposed guidance covering:

- guidance on Condition D3 Reviewing approach
- guidance on Condition H2 Moderation where an assessment is marked by a Centre and Condition TQ10 Moderation arrangements
- guidance on Condition H6 Issuing results
- guidance on Conditions I3 The design and content of certificates and I4 Issuing certificates and replacement certificates
- guidance on assessment objectives
- guidance on assessments
- guidance on recognition of prior learning
- guidance on standard setting for Technical Qualifications
- guidance on the general conduct of reviews and appeals
- guidance on considering Marking Errors on a review or appeal

- guidance on Condition TQ21 Discovery of failure in assessment processes

**Question 10**

Do you have any comments on our proposed rules for new Technical Qualifications?

**Question 11**

Do you have any comments on our proposed guidance for new Technical Qualifications?

## 4. Regulatory impact assessment

- 4.1 We have already published our regulatory impact assessment as part of our decisions document<sup>9</sup> on the key policy decisions we have taken for new Technical Qualifications. We do not repeat our earlier assessment here.
- 4.2 We have not identified any regulatory impacts in addition to those previously identified that relate to our proposals around implementing the detailed Conditions and Guidance set out in this consultation.
- 4.3 We do, however, invite respondents to comment on any regulatory impacts we have not identified, and whether there are additional measures we can take to ensure the regulatory impact of our proposals is manageable and justifiable.

### Question 12

Are there any regulatory impacts that we have not identified arising from our proposals?

### Question 13

Are there any additional steps we could take to minimise the regulatory impact of our proposals?

### Question 14

Are there any costs or benefits associated with our proposals which we have not identified?

### Question 15

Is there any additional information we should consider when evaluating the costs and benefits of our proposals?

- 4.4 We have a duty under the Apprenticeships, Skills, Children and Learning Act<sup>10</sup> to have regard to the desirability of facilitating innovation in connection with the provision of regulated qualifications. We have committed, in our Corporate Plan, to survey awarding organisations' views of the impact of our regulatory requirements on innovation and consider any revisions required in response.

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<sup>9</sup> [www.gov.uk/government/consultations/ofquals-approach-to-regulating-technical-qualifications](http://www.gov.uk/government/consultations/ofquals-approach-to-regulating-technical-qualifications)

<sup>10</sup> [www.legislation.gov.uk/ukpga/2009/22/section/129](http://www.legislation.gov.uk/ukpga/2009/22/section/129)

- 4.5 We do not believe that our proposed Conditions and guidance will prohibit innovation. In developing our proposals, we have considered the issues raised by respondents to our policy consultation, where some respondents raised concerns that the approach to assessment, in particular to only allowing one assessment series a year, and requiring awarding organisation marking in all cases, could stifle innovation. We have sought to only put in place those requirements which are necessary, and do not believe these would prevent innovative approaches being taken. Additionally, in many areas, our requirements would allow for more than one approach to be taken to securing compliance against them.

#### **Question 16**

Do you have any comments on any ways in which our proposals will prevent innovation by awarding organisations?

## 5. Equality analysis

- 5.1 Ofqual is a public body, so the public sector equality duty in the Equality Act 2010 applies to us. We explain in Appendix A how this duty interacts with our statutory objectives and other duties.
- 5.2 We have previously considered the impact of our decisions around our policy approach<sup>11</sup> on people who share protected characteristics.<sup>12</sup> We do not repeat here the impacts and evidence we considered at the policy consultation stage.
- 5.3 We have not identified any additional equalities impacts in addition to those previously identified which relate to our proposals around implementing the detailed Conditions and Guidance set out in this consultation.
- 5.4 We do, however, invite respondents to comment on any regulatory impacts we have not identified, and whether there are additional measures we can take to ensure the regulatory impact of our proposals is manageable and justifiable.

### Question 17

We have not identified any proposals which could impact (positively or negatively) on learners who share a protected characteristic. Are there any potential impacts that we have not identified?

### Question 18

Are there any additional steps we could take to mitigate any negative impact, resulting from our proposals, on learners who share a protected characteristic?

### Question 19

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

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<sup>11</sup> [www.gov.uk/government/consultations/ofquals-approach-to-regulating-technical-qualifications](http://www.gov.uk/government/consultations/ofquals-approach-to-regulating-technical-qualifications)

<sup>12</sup> The term 'protected characteristics' is defined in the Equality Act 2010. Here, it means sex, disability, racial group, age, religion or belief, pregnancy or maternity, sexual orientation and gender reassignment.

## Responding to the consultation

You can answer as many of the consultation questions as you like. You do **not** have to answer all of the questions, unless you wish to do so.

Please respond to this consultation in one of three ways:

[complete the online response](#) (click 'Respond online' on the consultation homepage)

download the response form from the [consultation homepage](#) and either:

- email your response to [consultations@ofqual.gov.uk](mailto:consultations@ofqual.gov.uk) – please include the consultation title (*Implementation of Technical Qualifications*) in the subject line of the email and make clear who you are and in what capacity you are responding
- post your response to: Implementation of Technical Qualifications, Ofqual, Spring Place, Herald Avenue, Coventry, CV5 6UB, making clear who you are and in what capacity you are responding

Our Privacy Notice for respondents to this consultation can be found in the response form.<sup>13</sup>

Please respond by 23:45 on Sunday 28 October 2018

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<sup>13</sup> [www.gov.uk/government/consultations/implementation-of-technical-qualifications](http://www.gov.uk/government/consultations/implementation-of-technical-qualifications)

## Appendix A: Ofqual's objectives and duties

### The Apprenticeship, Skills, Children and Learning Act 2009

Ofqual has five statutory objectives, set out in the Apprenticeship, Skills, Children and Learning Act 2009;<sup>14</sup>

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

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<sup>14</sup> [www.legislation.gov.uk/ukpga/2009/22/section/128](http://www.legislation.gov.uk/ukpga/2009/22/section/128)



- 5) **The efficiency objective**, which is to secure that regulated qualifications are provided efficiently, and that any relevant sums payable to a body awarding or authenticating a qualification represent value for money.

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

We also have a duty under the Apprenticeship, Skills, Children and Learning Act 2009 to have regard to the reasonable requirements of relevant learners, including those with special educational needs and disabilities, of employers and of the higher education sector, and to aspects of government policy when so directed by the Secretary of State.

### **The Equality Act 2010**

As a public body, we are subject to the public sector equality duty.<sup>15</sup> This duty requires us to have due regard to the need to:

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

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

When we decide whether such adjustments should not be made, we must have regard to:

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

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<sup>15</sup> Equality Act 2010, s.149. [www.legislation.gov.uk/ukpga/2010/15/section/149](http://www.legislation.gov.uk/ukpga/2010/15/section/149)

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

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

It is not always possible for us to regulate so that qualifications give a reliable indication of knowledge, skills and understanding *and* advance equality between people who share a protected characteristic and those who do not. We must review all the available evidence and actively consider all the available options before coming to a final, justifiable decision.

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

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

In setting the overall framework within which awarding organisations will design, assess and award reformed FSQs, we want to understand the possible impacts of the proposals on learners who share a protected characteristic.

The protected characteristics under the Equality Act 2010 are:

Age

Disability

Gender reassignment

Marriage and civil partnerships

Pregnancy and maternity

Race

Religion or belief

Sex

Sexual orientation.

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

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