

CONSULTATION

Arrangements for the assessment and awarding of vocational, technical and other general qualifications: 2021 to 2022



Department
for Education

ofqual

Contents

Foreword	3
Proposals at a glance	5
Audience	5
<i>Duration</i>	6
<i>Respond</i>	6
Introduction	7
Consultation details	8
<i>Part A - Arrangements for academic year 2021 to 2022</i>	8
<i>Part B – Regulatory arrangements for academic year 2021 to 2022</i>	21
<i>Equalities Impact Assessment</i>	29
<i>Regulatory Impact Assessment</i>	34
Annex A: Your data	38
<i>The identity of the data controller and contact details of our Data Protection Officer</i>	35
<i>How to contact us</i>	35
<i>Our legal basis for processing your personal data</i>	35
<i>How we will use your response</i>	35
<i>How long will we keep your personal data</i>	36
<i>Your data</i>	36
Annex B - Ofqual’s objectives and duties	42
<i>The Apprenticeship, Skills, Children and Learning Act 2009</i>	42
<i>The Equality Act 2010</i>	43

In this consultation, the Department for Education (the Department) has written Part A (arrangements for academic year 2021 to 2022) and Ofqual has written Part B (regulatory arrangements for academic year 2021 to 2022). This division reflects the key roles and responsibilities of the 2 organisations.

The 2 parts of the consultation are linked – the policy position in Part A informs the approach taken in Part B.

Foreword

The government's intention is that exams and assessments will take place in the academic year 2021 to 2022. This is because assessments and exams continue to be the fairest way for students to evidence what they know, all other things being equal.

We recognise that the impact of what has been experienced since March 2020 must not be ignored and students and teachers are at the heart of our considerations.

When undertaking a qualification, a student is setting out on a journey of development, with an aim of gaining skills or improving what they know and can do. The impact of the pandemic, and the measures needed to manage it, mean that many students – whether they are studying at college, in the community, through a training provider, or as part of their employment – have not had the tuition or education they might otherwise have expected. Other aspects of their lives may also have been disrupted.

The period since March 2020 has also been challenging for the teachers and trainers who support students, and for the colleges, training providers and employers who facilitate and administer their qualifications. They have demonstrated great commitment, resilience and flexibility as they have worked to ensure that their students are awarded the grades they deserve. These challenges, and the efforts required to address them, must also be borne in mind when considering the approach to assessing and awarding qualifications in 2021 to 2022.

Awarding organisations have also had to respond to the range of issues and challenges arising from the pandemic. They have worked with employers and providers to deliver and certificate qualifications that have met both their and students' needs. Awarding organisations have adapted qualifications where appropriate. Many have increased their provision of remote invigilation and remote assessment, and have adopted new models of quality assurance.

We know that there is a need for clarity on the approach to assessing and awarding qualifications in the academic year 2021 to 2022 in line with the government's intention.

In this joint consultation we set out the arrangements for assessing and awarding VTQs and other general qualifications in the academic year 2021 to 2022. These proposals are made in the context of the coronavirus (COVID-19) pandemic, which has resulted in disruption to education during the current (2020 to 2021) and previous (2019 to 2020) academic years. [Arrangements for GCSEs, AS and A levels are being consulted on](#) in parallel.

In Part A of this consultation, the Department sets out its policy position and the scope of adaptations to assessments and qualifications that may be necessary to address the ongoing impact of the pandemic in the academic year 2021 to 2022. The Department is consulting on the equalities impacts of this policy.

In Part B of this consultation, Ofqual sets out the changes to its regulatory arrangements to implement the Department's policy position, as set out in Part A of this consultation. Ofqual is consulting on the impact of changing the categorisation of qualifications in its regulatory framework and on minor updates to the drafting of that framework to reflect the context of academic year 2021 to 2022. This will permit awarding organisations to continue to make adaptations to their qualifications and assessments.

Ofqual and the Department want to hear the views of students of all types of assessments and external exams, their employers, parents and carers, their teachers and trainers, college and school leaders and others who have an interest, including further and higher education providers.

We look forward to your views.

Proposals at a glance

The government's intention is that exams and assessments for vocational and technical qualifications (VTQs) and other general qualifications will go ahead in the academic year 2021 to 2022.

The government recognises, however, that students who will be taking exams and assessments have experienced significant disruption to their education and that these students may also need continued support in the face of any further disruption.

This is a joint consultation by the Department for Education (the Department) and Ofqual. It sets out the scope of the adaptations to assessments and qualifications that the Department considers may be necessary and appropriate to address the ongoing impact of the coronavirus (COVID-19) pandemic. It also sets out the small number of changes necessary to Ofqual's regulatory arrangements to permit awarding organisations to make those adaptations.

Audience

This consultation is open to anyone who may wish to make representations but may be of particular interest to:

- students and apprentices who are expecting to sit assessments and/or be awarded a vocational or technical qualification, or other general qualification, in 2021 and 2022
- the family, parents or carers of these students
- teachers, tutors, exam staff and other representatives from schools, colleges, training providers, apprenticeship providers, and other places where the relevant qualifications are delivered
- the awarding organisations regulated by Ofqual, and their representative bodies
- higher education institutions, further education colleges and training providers that may be making offers to students for future academic years
- education representative bodies
- employers who might be receiving job applications from students taking these qualifications, or who might already employ these students
- professional bodies, regulators and industry groups

Duration

This consultation will be open for 2 weeks starting on 12 July 2021 and ending on 26 July 2021 at 23:45. We have set the length of this consultation so that decisions can be announced before the start of the next academic year, giving students, teachers and awarding organisations time to adapt their qualifications and assessments for 2021 to 2022 academic year.

Respond

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

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

Introduction

We recognise that schools, colleges, training providers and their students, together with awarding organisations, are currently focused on teaching, delivering exams and assessments, and progressing teacher-assessed grades (TAGs). We know there is a need for clarity on the approach to assessing and awarding qualifications in line with the government's intention that exams and assessments for vocational and technical qualifications (VTQs) and other general qualifications will go ahead in the academic year 2021 to 2022.

In Part A of this consultation, the Department for Education (the Department) sets out its policy position and scope of adaptations to assessments and qualifications that may be necessary to address the ongoing impact of the coronavirus (COVID-19) pandemic in the academic year 2021 to 2022. The Department is consulting on the equalities impacts of this policy.

In Part B of this consultation, Ofqual sets out the changes to its regulatory arrangements to implement the Department's policy position, as set out in Part A of this consultation.

In March 2021, in response to the ongoing impact of the pandemic and the government's decision that it was not viable for some exams and assessments to take place, Ofqual introduced the [VTQ Contingency Regulatory Framework \(VCRF\)](#). The VCRF included provisions targeted at 2 groups of qualifications:

- for Category A qualifications, assessments were expected to continue but awarding organisations were permitted to make adaptations to their assessments and qualifications to take account of the ongoing impact of the pandemic, where they could do so without undermining the validity and reliability of the qualifications
- for Category B qualifications, awarding organisations were permitted to award results using alternative evidence, including TAGs, where exams and assessments did not take place

By including the 2 separate categories permitting different approaches, Ofqual's intention was that the VCRF would be sufficiently flexible to enable it to regulate qualifications beyond summer 2021 without requiring major changes to the provisions within the regulatory framework.

Now that the Department has set out the policy position that exams and assessments will take place in the academic year 2021 to 2022, Ofqual is changing the categorisation of qualifications and is moving all qualifications to Category A. This will permit awarding organisations to make adaptations to their assessments and qualifications but not to award results using alternative evidence, including

TAGs. Ofqual is consulting on the impact of that change and on minor updates to the drafting of the VCRF to reflect the context of academic year 2021 to 2022.

It should be noted that, although Ofqual is withdrawing the designation of Category B qualifications for the academic year 2021 to 2022, the Category B conditions, requirements and guidance will be retained within the VCRF. Consequently, if, at any point it is decided that it is not viable for exams and assessments to take place, Ofqual would be able to reintroduce Category B qualifications and to permit the awarding of results using alternative evidence such as teacher judgement, following further consultation.

We will consider responses to the consultation carefully and are aiming to announce our decisions in early August. These adaptations will apply for students taking exams and assessments in the academic year 2021 to 2022 only, and it is our firm intention that exams and assessments will return to normal in the academic year 2022 to 2023.

Consultation details

Part A – arrangements for academic year 2021 to 2022

This section of the consultation document has been written by the Department for Education.

Introduction

Throughout 2020 to 2021, awarding organisations made changes to their qualifications (adaptations) in response to the impact of the coronavirus (COVID-19) pandemic.

These changes were made to:

- free up teaching time
- take account of public health restrictions that could have had an impact on the way the assessments could be conducted

These adaptations included, but were not limited to:

- reduction in number of internal assessments, whilst ensuring all content is taught
- reduction of hours of work experience or work placement
- longer and more assessment windows

- social distancing adaptations (for example, professional discussion in place of certain practical activities)
- greater flexibility in invigilation rules (for example, to allow subject teachers to invigilate their own subject)

Due to the ongoing impact of the pandemic and the consequent disruption to education, on 4 January 2021, the Department confirmed that it was no longer viable for exams to go ahead for some vocational and technical qualifications (VTQs) and other general qualifications and consulted on the alternative arrangements for awarding. Exams and assessments for VTQs that required assessment to demonstrate occupational or professional competency, or to confer a 'licence to practise' continued to take place wherever possible, where they could be delivered in line with Public Health England (PHE) measures. Those qualifications which had a mixed purpose (such as Functional Skills and ESOL qualifications) continued where the assessments could be delivered in line with PHE measures, in-person or remotely. For these exams and assessments, awarding organisations continued to apply adaptations where necessary. The government consultation and response is online: [Regulatory arrangements for the awarding of vocational and technical and other general qualifications in 2020 to 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/regulatory-arrangements-for-the-awarding-of-vocational-and-technical-and-other-general-qualifications-in-2020-to-2021)

We recognise the effort that schools, colleges and awarding organisations have made in delivering teaching, exams, assessments, and TAGs for academic year 2020 to 2021. We know that we now need to provide certainty on the approach for the academic year 2021 to 2022.

This consultation sets out the Department's policy position on exams and assessments in 2021 to 2022, as well as the adaptations that will be permitted to VTQs approved for inclusion in performance tables (PTQs). It asks a question about the equalities impact assessment of this policy position. This is followed with Part B of the consultation setting out further detail on the regulatory arrangements that Ofqual intend to put in place to allow for various types of adaptation to be made to VTQs.

Departmental policy position on VTQ adaptations in 2021 to 2022

The government is committed to ensuring exams and assessments go ahead in the academic year 2021 to 2022. However, we recognise that students who will be taking exams and assessments in 2021 to 2022 have had significant disruption to their education since March 2020, and we will continue to support students in the face of any further disruption.

To help support students' education recovery and progression to the next stage in their studies and careers, we need to ensure that teaching time in 2021 to 2022 is maximised and that qualifications are resilient to any further potential COVID-related disruption.

Some stakeholders are reporting that the greatest impact of missed education so far can be seen in practical subjects (such as construction, engineering, motor vehicle, catering and hospitality, health and social care, and hair and beauty) as online delivery and accessing facilities and the workplace for assessment is most challenging in these areas.

The government has committed to a long-term education recovery plan. The government is investing over £3 billion in a package of measures to support education recovery, including tutoring, summer schools and mental health support, as well as further training and development for teachers. This package sits alongside the ongoing successful rollout of the vaccination programme, the ending of class and year group bubbles (from 19 July), the ending of legal requirements to self-isolate for contacts of a positive case for everyone aged under 18 (from 16 August) and significant improvements in the ability of schools and colleges to deliver remote education where necessary.

A student's study programme often contains additional hours spent on mathematics and/or English alongside the taught hours for their VTQ. There will also be hours assigned for work placements, tutorials, project work and for multiple internal assessments. This means that for many students, finding sufficient additional time in their timetables for activities to support education recovery will be challenging.

As many VTQs are used for progression to further study, employment, or to demonstrate occupational competency, the government believes that all content should be taught, as far as is feasible, so that students are as well-prepared as possible for progression to the next stage of their education, training or employment. There has, however, been significant disruption to students' and other learners' education since March 2020, which will be carried into the upcoming academic year. This means that it may be necessary and appropriate for adaptations to be made to assessments to recognise the disruption to teaching and learning, and to free up time to focus on catch up and teaching the remaining qualification content, to support education recovery.

As reflected in Ofqual's regulatory arrangements when agreeing the approach for awarding VTQs and other general qualifications in the summer of 2020 and summer of 2021, a one-size-fits-all approach is not suitable for VTQs. The variety in assessment structures and delivery within the VTQ landscape will mean that awarding organisations will need to take decisions regarding the most appropriate approach to awarding based on the detail of their qualifications.

Ofqual's regulatory arrangements require awarding organisations to design and implement adaptations which are appropriate for their qualifications. The principles contained within Ofqual's framework help to promote consistency of approach and we will look to Ofqual to ensure consistency.

We also expect awarding organisations to consider whether making some adaptations now will make their VTQs more resilient to any further disruption as a result of a changing public health situation, so that as many exams and assessments can continue, even in light of further disruption to education.

For qualifications where the exams and assessments are used to demonstrate occupational competency, it is important that there is consistency in the approach to adaptations taken across awarding organisations for similar qualifications, which are supported by employers and relevant industry bodies, to ensure that occupational and professional standards are maintained.

Additionally, VTQ students and other learners should not be advantaged or disadvantaged in comparison to their peers taking other VTQs and/or general qualifications. There should be a consistent approach across different awarding organisations for similar qualifications, where possible and appropriate. For other qualifications used alongside or instead of GCSEs, AS and A levels to support progression to further or higher study, awarding organisations should have reference to the suite of adaptations that are permitted to VTQs approved for inclusion in 2022 performance tables, as set out below, where appropriate.

We expect awarding organisations to be clear in their communications to centres, and minimise any additional burdens on centres, where possible.

VTQs approved for inclusion in 2022 performance tables (performance table qualifications)

Principles for performance table qualifications

VTQs currently approved by the Department for inclusion in 2022 performance tables must continue to comply with the definitions and characteristics contained within the 2020 Technical Guidance for their specific category of performance tables qualification, unless an adaptation has been previously agreed with the Department since the publication of the 2020 Technical Guidance. For ease of reference, these are the definitions and characteristics contained within Sections 2 and 3 of the 2020 Technical Guidance (based on the guidance published in November 2017) – see [‘14 to 19 qualifications technical guide: 2020 performance tables’](#).

Adaptations already approved by the Department to qualifications included in 2020, 2021 and 2022 performance tables will be allowed to continue during the academic year 2021 to 2022. Any additional adaptations proposed by awarding organisations

to their PTQs for delivery in 2021 to 2022 should only be those of the type set out below under the heading 'Permitted adaptations under the Technical Guidance' and must be submitted to the Department for approval before they are shared with centres and implemented. Details of the Department's approvals process for PTQs being delivered in 2021 to 2022 will be sent to the relevant awarding organisations in due course.

Scope

The arrangements outlined under the headings 'Permitted adaptations under the Technical Guidance' and 'Functional Skills qualifications' are for VTQs approved for inclusion in 2022 performance tables as Technical Awards, Technical Certificates, Tech Levels or Applied General qualifications.

The scope of the adaptations for 2022 performance tables qualifications includes all students who will be taking assessments for these qualifications in the academic year 2021 to 2022. However, it should not be assumed that any adaptations to assessments will continue in 2022 to 2023; it is our firm intention that exams and assessments will return to normal in the academic year 2022 to 2023. For the avoidance of doubt, a student who has received a result from an adapted assessment in 2021 to 2022 will be able to carry this result forward into 2022 to 2023 and beyond.

Permitted adaptations under the Technical Guidance

Adaptations should ensure that parity is maintained where possible with qualifications at the same level that are leading to similar progression opportunities. This is to ensure that students and other learners taking VTQs are neither advantaged nor disadvantaged in comparison with their peers taking general qualifications (for example, GCSEs, AS or A levels).

Assessments may be adapted, but we expect to see the minimum thresholds stated within the Technical Guidance maintained for the amount of external assessment within the qualification. Assessments can be streamlined (for example, to reduce duplication of testing of a particular skill or section of knowledge, or to amalgamate two assessments into one).

As in the 2020 to 2021 academic year, we will permit up to two retake opportunities for external assessments for all four categories of performance table VTQs (i.e., for Applied General, Tech Level, Technical Certificate and Technical Award). Assessment opportunities where students have received results based on teacher-assessed grades (TAGs) and centre assessment grades (CAGs) do not count towards these retake opportunities.

As permitted in 2020 to 2021, we will permit a reduction in the number of internal assessments but awarding organisations should ensure that any adaptations maintain the validity of the qualification. We expect all of the content of the qualification to be taught where feasible. We expect that the reduction in the internal assessments of the qualification should be kept to a minimum.

The Department recognises that the methodology used for aggregating final results may need adaptation if the number of internal assessments reduces within the qualification, and awarding organisations are currently discussing possible approaches with Ofqual. However, we expect any revisions to grading to be compliant with the criteria for grading set out in the 2020 Technical Guidance. For the avoidance of doubt, a student who has received a CAG or a TAG in either 2019 to 2020 or 2020 to 2021 will be able to carry this result forward.

We will permit awarding organisations to roll over any internal assessments (both the task and any evidence generated) into the academic year 2021 to 2022 for any students who was working towards them in 2020 to 2021 but was unable to complete them due to public health restrictions. This will only apply where the task was intended to be used solely in the academic year 2020 to 2021. This is to minimise the disruption for students who might be part-way through doing them but who were not able to receive a TAG. This flexibility will not apply to students starting internal assessments in academic year 2021 to 2022.

Synoptic assessment¹ is a characteristic in its own right and must remain a feature of performance tables qualifications. Synoptic assessment may be adapted, in line with the scope outlined above, but must still remain within the qualification, in some form, for the qualification to remain approved for inclusion in performance tables.

Where assessments have been streamlined, the number of guided learning hours should remain broadly unaltered for each qualification, as any hours gained from streamlining assessment are to be used for education recovery and learning. However, we expect an awarding organisation to alert the Department (at technical.education@education.gov.uk) if they believe that the number of taught hours, either in person or online, for students and other learners would lessen significantly under their proposed adaptations.

In relation to employer involvement, we understand that there may be parts of industry where employer involvement may not be possible to such an extent in 2021 to 2022 compared to what is set out in the 2020 Technical Guidance, because of any public health restrictions. Awarding organisations and centres should seek credible alternatives in order to satisfy the Employer Involvement criterion, to make sure students and other learners continue to have the opportunity to acquire the skills and knowledge that they would normally acquire through these activities. Awarding organisations should inform DfE (at technical.education@education.gov.uk) if it appears at a future date that circumstances are preventing credible alternatives to be found for particular sector subject areas.

Functional Skills qualifications

As with other vocational and technical qualifications, we expect all Functional Skills qualifications (FSQs) exams and assessments to go ahead in 2021 to 2022, and the full subject content to be taught across all levels. Given their small size and focus on assessing underpinning skills and knowledge, the exams and assessments are not structured in a way that permits a reduction of content or streamlining of assessments.

Our expectation is that awarding organisations will continue to put in place adaptations relating to the delivery of FSQ exams and assessments where necessary, as they did in 2020 to 2021. Examples of adaptations for 2020 to 2021 academic year included, but were not limited to:

- changes to invigilation arrangements, including remote invigilation and remote assessment of the speaking, listening and communicating component

¹ A form of assessment which requires a candidate to demonstrate that they can identify and use effectively, in an integrated way, an appropriate selection of skills, techniques, concepts, theories and knowledge from across the whole vocational area, which are relevant to a key task.

- additional flexibility for exam dates and windows for assessments.
- additional guidance about the distribution and collection of papers, for example collation of scripts after learners have left exam rooms, quarantining papers before and after use, and extended timescales to return scripts after exams
- adaptations to guidance for individuals involved in examination delivery, for example invigilators, readers and/or scribes

T Levels

The Department's policy for T Level assessments in 2021 to 2022, in line with other VTQs, is that exams and assessments should go ahead.

Our expectation is that any adaptations to the scope of content or streamlining of assessments would be most suited to the Core assessments (most likely taken by 1st year students next summer), and that the ability to adapt the content of Occupational Specialism (OS) assessments (taken by 2nd year students next summer) will be very limited given they test whether a student is sufficiently competent to enter work in relevant occupations.

Students will be embarking on either the Core or the OS in September, either of which will be a new phase of learning for them with new content so the impact of lost education from the previous year may be less significant than for other 16 to 19 programmes. It is not clear at this stage, therefore, that adaptations to the content of T Level assessments will be necessary in 2021 to 2022.

However, should there be further significant disruption to learning, we may permit adaptations to content and/or delivery of assessment, where appropriate. Should adaptations be required these will be communicated to providers at the first available opportunity and will follow the principles and guidelines used for other VTQs.

If further disruption means adaptations to the conduct and delivery of assessments are required, these will need to be agreed by the Institute for Apprenticeships and Technical Education and Ofqual and will need to be tailored to each T Level as the design of the assessments varies. Adaptations may include for example:

- changes to arrangements for the conditions under which assessments are taken
- additional flexibility for exam dates and windows for assessments
- additional guidance about the distribution and collection of papers, for example collation of scripts after learners have left exam rooms, quarantining papers before and after use, and extended timescales to return scripts after exams

- adaptations to guidance for individuals involved in assessment delivery, for example invigilators, readers and/or scribes

Monitoring the public health situation and contingency planning

There is, of course, continued uncertainty about the path of the pandemic, including whether further disruption may occur over the course of the 2021 to 2022 academic year. Even if some public health restrictions were to be needed over the next academic year, we believe it will be possible for students to take exams safely, but we need to have plans in place for the unlikely event that that is not possible. There also remains a small risk that there is further disruption to education during the next academic year which is so extensive that, even with remote education in place and the adaptations proposed, going ahead with exams would not be the fairest approach for students.

The Department and Ofqual will work together to develop contingency plans for scenarios where exams or assessments cannot be held for any reason, either locally or nationally, or where individual students are unable to sit exams due to illness or self-isolation. It will be essential that any contingency approach delivers grades that support students to progress and does not detract from high quality teaching and preparation for exams and assessments. Should we conclude that additional arrangements are required, for example permitting the awarding of results using alternative evidence such as teacher judgement, we will ask Ofqual to consider putting in place any relevant regulatory arrangements within its remit. Contingency arrangements are considered further in Part B of this consultation.

The Department will also continue to work with the sector and Ofqual to monitor the ongoing impact of COVID-19 and ensure there is continued alignment between VTQs and GCSEs, AS and A levels, to mitigate any disadvantage or advantage between the 2 cohorts.

Equalities considerations

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

1. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In developing our policy position, we have sought to ensure that the approach does not unfairly disadvantage students and other learners, including on the basis of sharing a protected characteristic, those who receive SEN support and those from disadvantaged backgrounds. We are unable to predict all the adaptations awarding organisations may make under the VCRF. Therefore, we have considered whether any of the permitted adaptations to performance tables, primarily those set out under the heading 'Permitted adaptations under the Technical Guidance', might have an impact on students and other learners (positively or negatively). We set these considerations out below and seek views on this.

While it is not possible to completely remove all identified negative impacts, we are keen to understand whether respondents agree with the impacts we have identified, whether there are other impacts that we have not identified, and, whether there are ways to mitigate these impacts.

Characteristics of the VTQ cohort

We know that generally learners with protected characteristics, particularly those with disabilities, are more likely to take vocational and technical qualifications.

At level 3, in 2020 to 2021, a higher proportion of enrolments on non-A level qualifications were learners who identified as having a learning difficulty or disability (LLDD), than those studying A levels and level 3 qualifications more generally (19% of enrolments on Applied General qualifications (AGQs) and 23% on Tech Levels, compared to 16% for A levels and 17% for all level 3 qualifications).

Furthermore, learners at level 3 are more likely to be female than male, and that is particularly the case for Applied General qualifications (AGQs), Tech Levels and Access to HE qualifications². There are some differences in terms of ethnicity. Amongst learners at level 3, those studying Tech Levels were disproportionately from white backgrounds. Those studying AGQs and Access to HE qualifications were less likely to be white than those studying at level 3 in general (67%, 71% and 77% respectively). Proportionally, slightly more enrolments on AGQs were from Black and Asian learners than on all level 3 qualifications (8% and 14% of enrolments on AGQs were from Black and Asian learners respectively, compared to 5% and 10% on all level 3 qualifications). However, this is not the case for Tech Levels or Access to HE qualifications.

² These qualifications are not regulated by Ofqual

At lower levels (level 2 and below), learners are more likely to be adult learners than those studying at level 3. This is also the case for Functional Skills qualifications (FSQs) where only 28% of enrolments on FSQs were from learners aged 16 to 19.

20% of enrolments on level 2 qualifications identified as having a learning difficulty or disability, increasing to 27% of enrolments on level 1 and 29% of enrolments on entry-level qualifications. 21% of learners on FSQs identified as having a learning difficulty or disability. Amongst learners at lower levels, including FSQs, the majority of learners were white, except for entry level qualifications, where the majority of learners come from BAME or unknown backgrounds (specifically from Asian, black and other backgrounds)

Impacts on individuals with protected characteristics

All students who were preparing to take VTQs next year will have been affected by the pandemic. Most will have been directly affected by the closure of schools and colleges. Students who were studying independently, for example because they are home educated, might have been less directly affected by these closures, but they will, nevertheless, have been affected by changes to routine aspects of their lives.

There is no doubt that the disruption to some students' education will have been more severe than others. Some students will have had the opportunity – and will have chosen – to engage in a full programme of remote learning facilitated by their school or college. Others will have not had such a full opportunity, in particular some VTQs require access to specialist equipment that cannot be accessed remotely.

Those students whose education might have been and might continue to be most badly disrupted include students:

- with caring responsibilities, including adult learners with childcare responsibilities
- whose homes are not conducive to study
- without devices at home (for example computers)
- with limited or no access to the internet
- without access to specialist equipment or software
- with SEND who have not been able to access their normal learning support
- who might be particularly vulnerable to COVID-19 and were required to shield longer than other learners
- from Gypsy Roma and Traveller communities
- from BAME communities whose families might have been affected by COVID-19 or who themselves felt particularly vulnerable to the virus

- whose first language is not English
- in lower socio-economic groups

The government's planned measures to make up for missed education will target some such students. Additionally, the permitted adaptations are intended to assist in minimising any differential education experiences of all students but cannot fully address the differential education experiences.

In proposing changes to exam and assessment arrangements for PTQs, we have taken care to consider how any changes might have an impact on SEND students who will have reasonable adjustments when taking their exams and assessments. We consider that the adaptations made by awarding organisations should not affect the accessibility of these qualifications. For example, if awarding organisations change the mode of assessment, they will need to continue to ensure that reasonable adjustments are readily available, for example the provision of extra time. However, some students and other learners with protected characteristics may be disadvantaged if an awarding organisation decides to conduct some of their assessments remotely. This could be because they do not have access to IT equipment to access remote assessments, specialist equipment or software needed to complete remote assessments, or access to reliable internet connectivity, for example in rural locations. Some students and other learners could also be disadvantaged if their school or college does not provide necessary equipment or resources.

Some could argue that these adaptations do not go far enough. However, we need to also ensure that students and other learners are able to progress to the next stage of their lives. Going further, and reducing the content taught, could risk their ability to progress. There are health and safety risks to the general public in, for example, reducing content of qualifications which allow a learner to demonstrate occupational competence.

There are concerns that VTQ students may be disadvantaged, particularly those demonstrating protected characteristics, compared to their counterparts taking GCSEs, AS and A levels, if the standard set for GCSE, AS and A levels is more generous than the standard for VTQs. The Department is clear that awarding organisations should ensure that VTQ students are not disadvantaged compared to their peers, as far as possible, particularly for those VTQs most similar to GCSEs, AS and A levels. Nevertheless, the Department will continue to work with Ofqual to monitor this, particularly in light of the grades awarded in Summer 2021 for both VTQs and GCSEs, AS and A levels.

Question 1

Are there any other equalities impacts that we have not identified and should consider?

Question 2

Do you have views on how any potential negative impacts on particular groups of students could be mitigated?

Part B – regulatory arrangements for academic year 2021 to 2022

This section of the consultation document has been written by Ofqual.

Changes to the categorisation of qualifications

Qualification categories in the VCRF

When we [introduced the VCRF](#) in March 2021, we included conditions, requirements and guidance addressing 2 categories of qualifications.

Qualifications in Category A of the VCRF were those VTQs where we permitted awarding organisations to only issue results on the basis of evidence from exams and other assessments. These were those qualifications which assess occupational or professional competency, proficiency, or act as a licence to practise, where it would not be safe to award these qualifications using alternative evidence. It also included performing arts graded examinations which assess proficiency.

For these qualifications, as far as has been possible in 2021, awarding organisations have continued to make exams and other assessments available to learners, remotely or in person where it is safe to do so. We permitted awarding organisations to carry forward the [adaptations already made under the Extended ERF](#) in autumn 2020 or to make further adaptations where this could be done without undermining the validity and reliability of the qualifications. In some cases, however, even with adaptations, where it was not possible for exams and assessments to take place, then awarding organisations have been permitted to delay them.

Qualifications in Category B of the VCRF were those VTQs and other general qualifications where we permitted awarding organisations to issue results using alternative evidence, including TAGs. These arrangements were permitted because exams and/or internal assessments had not taken place, and/or when students could not safely access the assessments. Qualifications in this category were those which are used for progression to further or higher study or into employment, where the issuing of results to students needed to be prioritised. It included those qualifications used alongside or instead of GCSEs, AS and A levels, where we expected awarding organisations to award results in a similar way to those qualifications, examples of which are Applied Generals, Technical Awards and Tech Levels. Awarding organisations were also permitted to make adaptations to assessments and qualifications in Category B.

In addition, within Category B, we also included those qualifications which were important for progression to further or higher study or employment, but which are different from GCSEs, AS and A levels in their characteristics and delivery; examples

include Functional Skills Qualifications and ESOL Skills for Life. For these qualifications, we expected awarding organisations to make exams and assessments available to students in person, where it was safe to do so, or remotely. However, where students were ready to sit exams or assessments for these qualifications but could not do so, then we permitted awarding organisations to issue results based on alternative evidence, such as TAGs.

For Category B qualifications, we said that any student expecting to sit an assessment between 1 August 2020 and 31 August 2021 could be eligible to receive a result based on alternative evidence or TAGs.

Changing our approach to the categorisation of qualifications for the academic year 2021 to 2022

As set out in Part A of this consultation, the Department's intention is that exams and assessments for VTQs and other general qualifications will go ahead in the academic year 2021 to 2022.

The government recognises, however, that students who will be taking exams and assessments have experienced significant disruption to their education and that these students will also need continued support in the face of any further disruption.

As such, the Department has confirmed in Part A that it may be appropriate for adaptations to be made to some assessments and qualifications to take account of the disruption to teaching and learning, to free up time to focus on education recovery activities and teaching, including any remaining qualification content. In Part A of this consultation document the Department has also set out its expectations around the scope of adaptations for different groups of qualifications – performance table qualifications, FSQs and T-Levels.

In light of the government's intention, we have decided that all Category B qualifications will now fall under Category A of the VCRF. This means that awarding organisations will only be permitted to issue results on the basis of evidence from exams and other assessments. Results cannot be awarded based on TAGs. Awarding organisations will be permitted to continue with any adaptations they have already made to their qualifications under the VCRF or to make further adaptations where this can be done without undermining the validity and reliability of the qualifications, to address the ongoing impact of the pandemic.

To achieve this change in classification, we propose to issue a notice to awarding organisations to withdraw the designation of Category B qualifications from 1 September 2021. We will also make minor drafting changes to the VCRF Conditions to reflect this change (VCR1.3 and the Interpretations and Definitions section of the revised VCRF accompanying this consultation).

This change in categorisation will not adversely affect students currently taking qualifications which fall under Category B. Awarding organisations will still be required to allow the progress of appeals for students whose results are based on alternative evidence, including TAGs, and to allow for the determination of results for any students eligible for a result based on alternative evidence or TAG but who did not receive one in summer 2021. Any students who are not expecting to complete their qualification this summer (sometimes described as mid-flight or non-certificating learners) but who receive any results for component or units of their qualification based on alternative evidence, including a TAG, will still be able to carry those results forward when they certificate.

The change in categorisation will also not have any implications for qualifications already falling under Category A. Awarding organisations will continue to be permitted to make those adaptations to assessments and qualifications, where this can be done without undermining the validity and reliability of those qualifications.

Although we are withdrawing the designation of Category B qualifications, we will retain the Category B conditions, requirements and guidance within the VCRF. This again allows us to future-proof our regulatory framework. If there is a change in government policy in response to a worsening public health situation, and it is decided that it is not viable for exams and assessments to take place at any point in the future, we would be able, following a further consultation, to reintroduce Category B qualifications and to permit the awarding of results using alternative evidence such as teacher judgement. We are therefore not making any substantive changes to the VCRF where it refers to Category B. We are, however, taking this opportunity to correct minor typographical errors in Table 1 of the Guidance on the determination of results for Category B Qualifications (see 'Table 1: sources of information' in the revised VCRF Guidance accompanying this consultation).

Question 3

Do you have any comments on the impact of our decision to withdraw the designation of Category B qualifications at this time and to move all qualifications under Category A?

Changes to the VCRF

Requirements and guidance in relation to adaptations

The VCRF includes requirements and statutory guidance with which awarding organisations must comply or have regard to when deciding whether and how to make adaptations to their assessments and qualifications.

Within the requirements, we have also set out the following guiding principles to steer awarding organisations' approach to adaptation.

The principles in relation to Category A Qualifications

An awarding organisation must take all reasonable steps to comply with the principles below when complying with Condition VCR2 in relation to a Category A Qualification.

Principle A1 – As far as possible and without prejudice to the other principles, an awarding organisation must seek to ensure that the Adaptations which it makes to a qualification assist with mitigating the impact on teaching, learning or assessments caused by the coronavirus (COVID-19) pandemic on Learners taking that qualification.

Principle A2 – An awarding organisation must seek to ensure that, where it makes any Adaptations to its qualifications in accordance with the VCR Conditions, the Validity and Reliability of those qualifications is maintained.

Principle A3 – An awarding organisation must seek to maintain standards, as far as possible, within the same qualification in line with previous years, and across similar qualifications made available by the awarding organisation and by other awarding organisations.

Principle A4 – An awarding organisation must seek to ensure, as far as possible, that the Adaptations which it makes to a qualification do not serve to advantage or disadvantage Learners taking that qualification against their peers taking similar VTQs or, where relevant, general qualifications not covered by the VCR Conditions.

We have reviewed these requirements, guiding principles and statutory guidance and have concluded that we do not need to make substantial changes to take account of the context of academic year 2021 to 2022.

We consider that they already sufficiently address the Department's expectations:

- around the need for consistency of approach to adaptation across awarding organisations

- around the need for awarding organisations to take into account manageability for their centres and to communicate with them in a clear and timely manner
- that VTQ students should not be advantaged or disadvantaged in comparison to their peers taking other VTQs and/or GCSEs, AS and A levels

The statutory guidance on adaptations is not prescriptive in its approach. We consider that awarding organisations are best placed to make judgements about what adaptations would be appropriate without undermining the validity and reliability of their qualifications and we do not propose to change this. We do however expect awarding organisations to take account of the views of employers and other stakeholders when developing their approach to adaptations, including taking account of the Department's technical guidance for performance table qualifications.

The conditions, requirements and guidance in the VCRF already require awarding organisations to work together, where relevant, to develop consistent approaches to adaptations for similar qualifications and take account of manageability for their centres. As noted above, Principle A4 addresses the need for VTQ students not to be disadvantaged in comparison to their peers taking other VTQS and/or GCSEs, AS and A levels.

Therefore, we are only proposing to make the following minor drafting changes to the Guidance in relation to the adaptation of vocational and technical qualifications:

- to update the introductory section to reflect the context of academic year 2021 to 2022 (see 'Context' in the revised VCRF Guidance accompanying this consultation)
- to update our guidance on delaying or rescheduling assessments to reflect the current policy position that exams and assessments will take place (see 'Additional factors' in the revised VCRF Guidance accompanying this consultation)
- to recognise that awarding organisations may already have taken steps to develop their understanding of their centres we have updated and retitled the guidance related to this (see 'Improving understanding of Centres and Learners' in the revised VCRF Guidance accompanying this consultation)

Question 4

Do you have any comments on the proposed changes to the drafting of the statutory guidance on adaptation in the revised VCRF?

Arrangements for appeals

General Condition of Recognition I1 requires awarding organisations to establish, maintain and comply with an appeals process in relation to all the qualifications they make available.

In the context of the VCRF, we included statutory guidance on compliance with Condition I1 expecting awarding organisations to give students, for those qualifications most closely aligned to GCSEs, AS and A levels, the right to access an appeal on the same basis as those set out for GCSEs, AS and A levels where possible and appropriate.

As explained earlier, although we are withdrawing the classification of Category B qualifications at this time, awarding organisations must permit the progress of appeals for students where they have received results on the basis of alternative evidence, including TAGs³.

Under General Condition H6.3(a) an awarding organisation is required to correct any incorrect result which it discovers through its appeals process. In Condition VCR7.3 we effectively disapplied General Condition H6.3(a) by allowing awarding organisations to use the guidance in the General Conditions to decide whether or not it is appropriate to correct an incorrect result discovered during an appeal. This was a significant change to allow awarding organisations greater flexibility due to the complexities of 2020 to 2021. The same approach was taken under the General Qualifications Alternative Awarding Framework. In the context of exams and assessments taking place in academic year 2021 to 2022, we consider that Condition VCR7.3 is no longer necessary. We are proposing to remove this discretion by disapplying Condition VCR7.3 in a notice. This means that, as in any year where appeals are processed under General Condition H6.3, if an incorrect result is discovered during an appeal, it must be corrected, whether that be up or down.

In Condition VCR7.1, we also took account of the particular situation which applies to Technical Qualifications (TQs) within T Levels. In relation to T Levels, we have disapplied Condition TQ1.1(c) of the qualification-level conditions for Technical Qualifications. This is to make it clear that Condition I1 applies to these qualifications under the VCRF.

³ To confirm, any students who received a centre assessment grade in summer 2020 already have similar arrangements. When we closed the Extended Extraordinary Regulatory Framework, we kept some limited provision in place. This was so that:

- students who last year received calculated results (or who have deferred calculated results) will still be able to carry them forward into their qualification result this summer and beyond
- any appeal against a result issued under the ERF can continue

We have proposed a drafting amendment to Condition VCR7.1 so that it applies only to a qualification that is designated as a Category B qualification. The effect is that Condition VCR7.1 will remain in place only for any appeals stemming from qualifications that fell within Category B before the designation was removed. From 1 September 2021, Condition TQ1.1(c) would, therefore, no longer be disapplied under the VCRF.

Question 5

Do you have any comments on the proposed changes to arrangements for appeals in the revised VCRF?

Changes to the statutory guidance on remote invigilation

The statutory guidance on remote invigilation in the VCRF was drafted in 2020, when we introduced our first extraordinary regulatory framework in response to the onset of the pandemic. The guidance sets out the factors to which an awarding organisation should have regard, as part of their consideration to introduce remote invigilation as an adaptation.

Since then we have worked with awarding organisations to develop a shared understanding of the term remote invigilation and the related term of remote assessment. This is another adaptation to the delivery of assessments introduced by awarding organisations in response to the pandemic.

We have therefore decided to update the statutory guidance on adaptation to include these definitions and to make some further minor adaptations to the wording for consistency.

These changes will not have any practical implications for awarding organisations or centres around the delivery of assessments using remote assessment or remote invigilation but will provide greater clarity and consistency.

Question 6

Do you have any comments on the proposed changes to the guidance on remote invigilation and the introduction of guidance on remote assessment in the revised VCRF?

Awarding organisation record keeping of decisions

Condition VCR5 requires awarding organisations to maintain a record of the decisions they have made around the adaptation of qualifications in Category A and to make that record available to Ofqual on request.

We do not propose to make any changes to this Condition. However, we wish to remind awarding organisations that they will need to update their record keeping to reflect the withdrawal of the Category B classification and the move of all qualifications into Category A. They must also ensure that their record keeping reflects any adaptations already agreed with the Department.

We will take a targeted and risk-based approach to the monitoring of these records.

Monitoring the public health situation and contingency planning

In Part A of this consultation document, the Department committed to considering the need for contingency plans in the event of further disruption as a result of the pandemic.

We explained earlier (under the heading, 'Changing our approach to the categorisation of qualifications for the academic year 2021 to 2022') that we have retained the provisions for Category B qualifications to allow us to future-proof the VCRF. If there is a change in government policy in response to a worsening public health situation, and it is decided that it is not viable for exams and assessments to take place at any point in the future, we would be able to reintroduce the designation of Category B qualifications. This would permit awarding organisations to issue results based on alternative evidence, including the use of teacher judgement.

In order to inform our contingency planning, we want to understand how arrangements this year could be improved upon should TAGs form part of the approach for VTQs in 2022. We recognise that there are lessons to be learnt from the process and now that TAGs have been submitted to awarding organisations we are interested in your views on potential improvements to the process, should we need to do something similar next summer. [Teachers can send their views on the TAG process](#) and there is a separate [survey for students to give their views on TAGs](#).

We accept however that should there be further disruption but not a national lockdown, for example extended regional lockdowns, that it may be necessary to consider further adaptations to take account of differential learning loss⁴.

As stated in the VCRF statutory guidance on compliance with General Condition G7 (Arrangements for Special Consideration), special consideration does not apply where students have missed teaching and learning as consequence of the pandemic. It applies when students have temporarily experienced an illness or injury or some other event outside their control which means that they cannot access assessments as normal. We are considering whether it may be necessary and appropriate to introduce additional arrangements to address differential learning loss arising from regional disruption. Should we conclude that this is the case, we will consult later in 2021. In developing our approach, we will seek alignment with arrangements for GCSEs, AS and A levels where appropriate, so that VTQ students are not advantaged or disadvantaged compared to their peers.

Question 7

What factors do you think we may need to consider in developing any contingency plans?

Equalities impact assessment

As a public body, we are subject to the public sector equality duty. Annex B sets out how this duty interacts with our statutory objectives and other duties.

Awarding organisations are required to comply with equalities legislation, and our existing General Conditions of Recognition reinforce this in relation to the qualifications they make available. They are required to monitor their qualifications to identify features which may disadvantage a group of students who may share a protected characteristic⁵, and this applies to the design, delivery and award of their qualifications.

Although we are withdrawing the Category B qualification classification at this time and making minor amendments to the drafting, we are retaining the VCRF. In our

⁴ Learning loss is an overall reduction in the level of attainment that a learner achieves by the end of their course of study (for example, lower attainment in GCSE maths) attributable to both direct and indirect impacts from COVID-19. There will be many varied causes of learning loss and learners affected differently by these different causes.

⁵ For the purposes of the public sector equality duty, the 'protected characteristics' are: disability, race, age, religion or belief, pregnancy or maternity, sex, sexual orientation, and gender reassignment

previous consultations on the VRCF we set out our assessment of the equalities impacts of the framework and we consider these impacts again below. We have not identified any additional equalities impacts arising from the decision to move all Category B qualifications into Category A and the amended conditions, requirements and statutory guidance we are proposing to put in place. We would welcome views on this and, if there are further equalities impacts that we have not identified, how these might be mitigated.

Differing impacts on particular groups of students and socio-economic factors

The impact of the pandemic has affected different students in different ways. Even students for whom their circumstances appear the same, could have been affected to differing extents in terms of having missed teaching and learning, or their preparedness or ability to take assessments. While this will impact all students, some students who shared particular protected characteristics (disabled and BAME students) may experience those disadvantages to a greater extent than other students.

Some students could also be affected as a result of socio-economic factors. Some students who share particular protected characteristics (disabled and BAME students), are more likely to be from more disadvantaged backgrounds, for example due to not having the same access to equipment and resources as those from other backgrounds. Students who share particular protected characteristics (disabled and BAME students) may be more likely to be affected by such factors.

We developed the VRCF to ensure that as far as possible, students are not disadvantaged, including as a result of sharing a protected characteristic. Given the overall impact of the disruption, and the fact that it has been experienced differently by different students, it is unlikely that any alternative arrangements for awarding will fully mitigate these disadvantages. We sought to ensure though, as far as is possible, that the alternative arrangements for awarding do not make them worse. The framework is flexible and allows, but does not require, assessments to be adapted to allow as many students as possible to receive a result. It remains possible that for qualifications signifying occupational competence, where these are unable to proceed, in their normal or adapted form, some students may be delayed in receiving a result.

Mental health

We know from our previous consultations that many people are concerned about the potential impact of arrangements for assessment and awarding VTQs on students' mental health. These concerns relate both to the arrangements themselves, and the

lack of certainty over what the arrangements will be in the future. It is possible that while these impacts will apply to many students, it could be greater on disabled students with conditions such as autistic spectrum disorders.

It is unlikely we can directly address the impact on students' mental health through our regulation. We are however aiming to reduce the impact where we can. We are doing this by allowing awarding organisations to take flexible approaches to the adaptation of assessments. The arrangements set out in this consultation will enable awarding organisations to provide clarity to those due to take their assessments in academic year 2021 to 2022. We require awarding organisations to communicate with their centres clearly and in a timely manner and we will continue to provide relevant information as soon as we can.

Access to equipment

We have previously identified the impact that a lack of access to equipment and resources may have, along with the potential absence of support needed to use these resources. This may impact disabled students to a greater extent, who may rely on additional support as part of their normal way of working.

As we have set out in our previous impact assessment, we cannot, through our regulation, ensure that students have access to the necessary equipment. But we do set requirements on awarding organisations to ensure that assessments are fit for purpose and can be delivered. Awarding organisations must also ensure that in making any adaptations to assessments, it minimises bias as far as is possible to ensure that an assessment does not produce unreasonably adverse outcomes for students who share a protected characteristic. We monitor awarding organisations to ensure they meet our requirements.

Nature of assessment

It is possible that students taking some types of assessments, in particular practical assessments, or those taking assessments in settings other than centres, such as workplaces could be disadvantaged. The students taking qualifications covered by these proposals are more likely to share protected characteristics (disabled students, BAME students) so could be disproportionately affected.

We have previously set out that our arrangements are intended to be flexible, so that awarding organisations can determine the most appropriate approach for their qualifications and assessments. An awarding organisation will be expected to consider when deciding its approach, how assessments are normally taken, and any arrangements that need to be in place to allow them to be taken in alternative ways. There will be some qualifications, such as some which are intended to signal occupational competence, for which an adaptation is not possible, therefore students

may be delayed in receiving a result. Disabled students who cannot take an adapted assessment as a result of their disability, despite adaptations being accessible for other students, may be disadvantaged to a greater extent.

Race

Many of the qualifications covered by these proposals were more likely to be taken by BAME students, meaning any disadvantage could disproportionately affect BAME students. Additionally, BAME students have been disproportionately affected by the pandemic, so may have experienced the other disadvantages identified to a greater extent.

We are retaining requirements relating to equalities considerations, that awarding organisations must ensure that, in any approach to adaptations, they minimise bias as far as is possible. This means that they will need to ensure that the assessment does not produce unreasonably adverse outcomes for students who share a protected characteristic. We will also continue to remind awarding organisations of the other obligations that they must meet relating to equalities considerations under the General Conditions.

Special educational needs and disabilities

We have previously identified concerns that students with special educational needs or disabilities could be disadvantaged. In particular, we have identified concerns in relation to students with disabilities, including those with autistic spectrum disorders, who may suffer from greater anxiety and find it more difficult to access adapted assessments as a result, and deaf students, who may struggle to access some adapted assessments. SEND students may also find it more difficult to access remote assessments. Students who require reasonable adjustments may also be disadvantaged if these adjustments were not available for adapted assessments, or if they required different reasonable adjustments as a result of any adaptations to assessments.

Awarding organisations are required under Ofqual's General Conditions and by wider equalities legislation, to make reasonable adjustments. We also require awarding organisations to take account of equalities considerations when deciding how, or whether, to adapt assessments. The VCRF allows awarding organisations to be flexible in their approaches, to take account of these needs.

Question 8

Are there any potential positive or negative equality impacts arising from our decision to withdraw the Category B qualification classification at this time and our proposed changes to the drafting of the VCRF, apart from those we have explored? If yes, what are they and how might they be mitigated?

Regulatory impact assessment

In our previous consultations on the VCRF we set out our assessment of the regulatory impact of our proposals. As already noted, although we are withdrawing the Category B qualification classification at this time and making minor amendments to the drafting, we are retaining the VCRF.

In our previous consultations on the VRCF we set out our assessment of the regulatory impacts of the framework and we consider these impacts again below. We have not identified any additional regulatory impacts arising from decision to move all Category B qualifications into Category A and the minor amendments to the conditions, requirement and statutory guidance we are proposing to put in place.

Our assessment of the impact following our previous consultations suggested that while there may be some savings, overall there is likely to be an increased burden as a result of implementing these arrangements. We would welcome views on this however, and if there are further regulatory impacts that we have not identified, how these might be mitigated.

To help assess the impact, we are also asking questions about the cost of implementing our proposals. These questions are intended to give respondents the opportunity to submit further detail about the regulatory impact of the proposal and are based more around specific cost categories, and any wider impact from our proposal including an impact on fees. We would encourage you to respond to these questions if possible, to help provide a clear picture of the potential impacts.

Direct delivery costs

The VCRF builds on the arrangements previously in place. Awarding organisations will however need to consider whether to put in place adaptations to reflect the context of academic year 2021 to 2022. There will therefore be an additional burden on these organisations of meeting these requirements. In addition, if, as a result of meeting the requirements of the VCRF, awarding organisations decide to put in place adaptations to their qualifications, there is likely also to be a cost to centres of familiarising themselves with, and implementing, any new awarding organisation requirements.

There will be costs involved in delivering results under these arrangements, and of communicating requirements to centres, supporting centre activities and managing continued increased volumes of enquiries from centres and students.

There may also be costs associated with investment in IT and systems technology needed to deliver adapted assessments including specialist hardware or software and training in how to use these.

There are likely to be direct costs to centres of delivering adapted assessments, including administrative burdens of familiarisation, delivery and supporting students.

Provision of equipment and administration costs

There is likely to be a cost relating to the provision of equipment and resources required for the delivery of adapted or remote assessments. These included costs for awarding organisations of developing and delivering adapted assessments, including developing new approaches, implementing new invigilation approaches, communicating changes with centres, and monitoring and quality assuring the delivery of remote or adapted assessments. Centres, teachers and students are likely also to experience similar costs as part of teaching and learning, to ensure students are sufficiently prepared to take assessments. There are also likely to be administrative costs associated with the proposed approach, such as photocopying and printing of any additional assessment materials.

We expect awarding organisations to ensure that their approaches are manageable to deliver. The burden imposed by any particular adaptation on an awarding organisation, its centres and students will be something which the awarding organisation considers as part of deciding whether that adaptation is appropriate to implement.

Consistency of approach for qualification delivery

Teachers and centres may experience additional costs and burden if they are required to follow different arrangements from different awarding organisations. Many centres deliver qualifications from multiple awarding organisations, therefore the greater the consistency between the arrangements, the lower the potential burden on centres.

The VCRF aims to balance the need for flexibility to recognise the wide range of VTQs and the settings in which they are taken, with the need, as far as possible, to minimise the burden on centres, and ensure consistent and fair approaches. We provide statutory guidance on factors to be considered by awarding organisations when determining their approach.

Cost savings

It is possible that there will be some continued savings as a result of adaptations. Some of the activities carried out under the VCRF will be in place of activities that are no longer happening, and the alternative approach may be cheaper to implement (for example, remote assessments replace paper-based exams).

Potential impact on qualification fees

It is possible that alternative approaches may impact on the fees paid by centres to awarding organisations, if for example any savings in delivering assessments in alternative ways were passed on to centres. At this stage, we do not know whether this will be the case. Awarding organisations are required to publish information about their fees for purchasers or potential purchasers. It is possible that the changes required by this consultation may impact on fees that have already been paid, or may be paid in the future, for example passing on any savings in delivering assessments. While such changes may not be clear at this stage, we are seeking further information about the potential impact on fees in this impact assessment.

Innovation and growth

The Deregulation Act 2015 imposes a duty on any person exercising a regulatory function to have regard for the desirability of promoting economic growth (the Growth Duty). We must exercise our regulatory activity in a way that ensures that any action taken is proportionate and only taken when needed. Growth Duty sits alongside our duty to avoid imposing unnecessary burden, as required under the ASCL Act 2009, as well as our statutory duties relating to equalities and the Business Impact Target.

We consider our proposals for adaptation are proportionate and necessary to manage the longer-term impacts of the pandemic. However, it may also be that adaptations to assessments encourage innovation and investments which yield for awarding organisations in the longer term.

Estimated costs and savings

We encourage respondents to share with us as much information as possible about the likely costs and administrative burdens, as well as any savings or benefits, of the proposals set out in this consultation, so that we may consider this information when reaching our decisions. We encourage anyone who responds to this consultation to tell us if they think there is something we could do differently that would still achieve the same aim but would reduce costs and administrative burden.

Question 9

Are there any regulatory impacts arising from our decision to withdraw the Category B qualification classification at this time and move all qualifications into Category A, apart from those we have explored? If yes, what are they and how might they be mitigated?

Question 10

What new activities do you expect to carry out as a result of your proposed approach to adaptations and what additional costs will you incur across the range of qualifications you offer? Please give monetised values for these additional costs where possible, covering, for example, direct delivery; people and staff; equipment and administration.

Question 11

What savings do you expect to make as a result of your proposed approach to adaptations? Please give monetised values where possible for any savings you may realise, compared with a normal qualification year and also compared with qualification delivery in academic year 2020 to 2021.

Question 12

Are there any other regulatory impacts, costs or benefits associated with the implementation of your proposed approach to adaptations? If yes, what are they?

Question 13

Do you anticipate any overall impact on qualification fees as a result of your proposed approach to adaptation? If so, what do you expect these might be?

Annex A: Your data

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

This Privacy Notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual) and Department for Education (DfE). The relevant data protection regime that applies to our processing is the UK GDPR⁶ and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this Privacy Notice carefully as it contains important information about our processing of consultation responses and your rights.

How to contact us

If you have any questions about this Privacy Notice, how we handle your personal data, or want to exercise any of your rights, please contact:

Data Protection Officer at dp.requests@ofqual.gov.uk

Our legal basis for processing your personal data

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

Why we are collecting your personal data

As part of this consultation process you are not required to provide your name or any personal information that will identify you. However, we are aware that some respondents would like to provide contact information. If you or your organisation are

⁶ Please note that as of 1st January 2021, data protection laws in the UK have changed. The General Data Protection Regulation (EU) 2016/679(GDPR) no longer applies to the UK. However, the UK has incorporated GDPR into domestic law subject to minor technical changes. The Data Protection, Privacy and Electronic Communications (Amendment etc.) EU exit Regulations (DPPEC) came into force in the UK on 1st January 2021. This consolidates and amends the GDPR and UK Data Protection Act 2018 to create the new UK GDPR.

happy to provide personal data, with regard to this consultation, please complete the details below. We would like to hear as many views as possible and ensure that we are reaching as many people as possible. In order for us to monitor this, understand views of different groups and take steps to reach specific groups, we are asking for sensitive data such as ethnicity and disability to understand the reach of this consultation and views of specific groups. You do not have to provide this information and it is entirely optional.

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

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

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

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

How we will use your response

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

Sharing your response

This is a joint consultation undertaken by Ofqual and the Department for Education (DfE). Ofqual will lead the consultation and collect the responses. Therefore, your consultation response will be shared with DfE as this forms part of work involving both organisations. We need to share responses with them to ensure that our approach aligns with the wider process. Where we share data, we ensure that adequate safeguards are in place to ensure that your rights and freedoms are not affected. You can [read details of how DfE processes personal data](#).

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

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

Following the end of the consultation, we will publish an analysis of responses on [our website](#). We will not include personal details in the responses that we publish.

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

How long we will keep your personal data

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

Your data

Your personal data:

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

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

Your rights: access, rectification and erasure

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

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

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

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

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

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

Annex B – Ofqual’s objectives and duties

The Apprenticeship, Skills, Children and Learning Act 2009

We have five statutory objectives, which are set out in the Apprenticeship, Skills, Children and Learning Act 2009.

1. **The qualification standards objective**, which is to secure that the qualifications we regulate:
 - a. give a reliable indication of knowledge, skills and understanding; and
 - b. indicate:
 - c. a consistent level of attainment (including over time) between comparable regulated qualifications; and
 - d. 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.

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. 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 performance table qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications.

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 performance table qualifications, 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.



© Crown Copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated.

To view this licence, visit

www.nationalarchives.gov.uk/doc/open-government-licence/

or write to

Information Policy Team, The National Archives, Kew, London TW9 4DU

Published by:

ofqual

Earlsdon Park
53-55 Butts Road
Coventry
CV1 3BH

0300 303 3344

public.enquiries@ofqual.gov.uk

www.gov.uk/ofqual