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Closed consultation

Consultation on regulating alternative academic and alternative technical

qualifications at level 3

Published 30 June 2022

Applies to England

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Proposals at a glance

This consultation sets out Ofqual’s proposed Conditions, requirements and statutory guidance for regulating alternative academic qualifications and alternative technical qualifications [\[footnote 1\]](#), operating in conjunction with the Institute for Apprenticeships and Technical Education (IfATE) and the Department for Education (‘The Department’). These qualifications will be part of the future level 3 landscape, as part of the Department’s ‘Review of post-16 qualifications at level 3 in England’, alongside A levels, T Levels and Apprenticeships [\[footnote 2\]](#).

The Conditions, requirements and statutory guidance set out are those that are proposed to implement [the policy decisions Ofqual has announced alongside this consultation](#). In addition to the proposed Conditions, requirements and statutory guidance, the consultation also seeks views on proposed approaches in a small number of areas.

The consultation seeks views on:

- grading scales – to ensure the results of alternative academic qualifications are clear and understood by users, Ofqual proposes to put in place statutory guidance about what an awarding organisation should consider when determining its approach to the grading scale it uses for a

qualification (for example how many grades there should be and what these grades should be called)

- titling – to ensure the future landscape is navigable for users, the consultation seeks views on the approach to titling for alternative academic and alternative technical qualifications. It proposes a bespoke Condition which would require the titles of these qualifications to include specific information, including that required by the Department and IfATE, in respect of alternative academic and alternative technical qualifications

The consultation seeks views in these areas on both the proposed approach, and the wording of the proposed Conditions, requirements and statutory guidance needed to implement the approach.

The consultation also seeks views on the proposed Conditions, requirements and statutory guidance proposed to implement the decisions announced alongside this consultation. The consultation seeks views on:

- proposed Conditions relating to:
 - content
 - assessment strategies and the associated requirements for alternative academic and alternative technical qualifications
 - purposes, and the proposed requirements which specify the general purposes for these qualifications
 - assessment, and the associated requirements relating to Assessment by Examination and non-exam assessment
 - standard setting, and the associated statutory guidance on the types of evidence to be considered
 - qualification reviews
 - withdrawal of approval for public funding
 - interpretation and definitions

In these areas, we are seeking views on the specific wording of the Conditions, requirements and statutory guidance rather than the overall approach. We have already announced [our proposed approach following our previous consultation](#).

Audience

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

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

Consultation arrangements

Duration

This consultation will be open for 6 weeks starting on Thursday 30 June and ending on Wednesday 10 August at 23:45.

Respond

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

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

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

Introduction

Ofqual is the independent regulator for qualifications in England. Ofqual's statutory objectives

include securing the standards of, and promoting public confidence in, regulated qualifications. Ofqual's rules, which awarding organisations must follow, are designed to achieve this. Ofqual monitors their approaches to make sure they meet these rules and takes action if they do not. Ofqual's regulation ensures quality and fairness for students and apprentices; clarity, effectiveness and efficiency in the qualifications market; and contributes to shaping the future of assessment and qualifications.

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

As part of this review, the government's Review of Post-16 Qualifications at level 3 in England, [Ofqual received a ministerial steer, in February 2022](#). This set out the government's intentions to simplify the current system, to ensure a future landscape that:

- is clearer to navigate for students and other users of qualifications
- is populated by high-quality provision for which there is a clear necessity
- ensures students are better equipped to progress to their intended destinations

The steer set out that provision at this level must be strengthened in comparison to the approaches currently in place, and the roles and responsibilities for future academic and technical provision at level 3, between Ofqual, Department for Education (the Department) and the Institute for Apprenticeships & Technical Education (IfATE).

To strengthen this provision, Ofqual consulted, between 24 February and 20 April, on its proposed approach for regulating these qualifications. These proposals included strengthened controls in key areas relating to the design, development, delivery and award of qualifications.

The proposed controls focussed on bringing greater awarding organisation control to areas key to ensuring quality. This includes:

- the proportion of exam and non-exam assessment
- the availability of assessments
- approaches to setting and marking assessments
- coverage of content
- the grading scales used
- clarity on the purposes of the qualifications

We have announced [our decisions on our proposed regulatory approach](#) alongside this consultation.

Ofqual is now consulting on the detail of the specific rules and guidance needed to implement this approach. This consultation explains what these rules and guidance are intended to achieve and provides the draft wording for comment. In 2 areas this consultation also seeks views to help further refine the approach, alongside the [proposed Conditions and statutory guidance](#) needed to enable the preferred approach.

At the same time as this consultation, IfATE is consulting on its [proposed approvals criteria for alternative technical qualifications](#). As some of Ofqual's proposals will apply to both alternative academic and alternative technical qualifications, you may wish to consider these proposals alongside those being made by IfATE.

Consultation details

This consultation consists of 2 parts:

- in part 1 Ofqual is seeking views on the proposed approach to grading scales and qualification titling. We are also seeking views on our associated Conditions and statutory guidance used to implement these proposals. These are proposals on which Ofqual sought views in its previous consultation but did not propose a specific approach
- in part 2 Ofqual is seeking views on the specific Conditions and statutory guidance needed to implement those aspects of our proposals on which we have published decisions alongside this consultation. We are not seeking views on the overall approaches, or the decisions already taken, for the areas covered in part 2

Part 1 – Proposals for regulating alternative academic and alternative technical qualifications

Grading scales – alternative academic

Background

The grading scales used for qualifications are key to help students and other users of qualifications understand and interpret the results of their assessments. They communicate important information about a student's level of attainment to an employer or education providers. The grades awarded help students to provide evidence to employers or education providers to help them progress to the next stage of their lives.

It is crucial that qualifications have grading scales that signal to users of these qualifications what results mean. This is so they can be relied on to indicate the level of attainment a student has demonstrated. For existing qualifications, a range of grading scales are used. These can vary in terms of the number of grades used, and the names of these grades. By way of context, the current range of grading scales used in existing level 3 applied general qualifications (many of which will be part of the alternative academic part of the future landscape) are:

- A*/A/B/C/D/E
- A/B/C/D/E
- P/M/D
- P/M/D/D*
- Pass/High Pass/Merit/High Merit/Distinction
- PP/MP/MM/DM/DD/DD/DD*
- PPP/MPP/MMP/MMM/DMM/DDM/DDD/DDD/DDD/DDD

The table below shows how common these approaches are, based on the number of qualifications that use them, and the number of certifications that used each scale in the 2020-21 academic year.

Table 1: Grading scales used for qualifications appearing in the 2021 Applied General performance table

Ofqual Register Grading Scale	Number of qualifications	Certificates in England, 2020 to 2021 academic year
A*/A/B/C/D/E	8	23,446
A/B/C/D/E	4	15,194
A:E total	12	38,640
Other (likely P/M/D based on spec.)	1	215
P/M/D/D*	84	131,589
Pass/Merit/Distinction	2	1,717
PP/PM/MM/MD/DD/DD/DD*	21	14,932
PPP/PPM/PMM/MMM/MMD/MDD/DDD/DDD/DDD/DDD	17	22,072
PMD total	125	170,525

Grand total	137	209,165
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Note: the Ofqual Register Grading Scale is based on [information provided on Ofqual's Register](#).

It is clear from this that, while most grading scales are variations on either a lettered (A-E) grading scale, or pass/merit/distinction grading scale, a range of approaches within this are used, both in terms of the number of grades used, and names of those grades. This can make it difficult for a user to understand what a grade in one qualification represents, compared to the grades in another. For example, it may not be clear to a user that in one qualification 'A' is the highest grade, and yet in another similar qualification, 'A' is the second highest grade, with an 'A*' above it. This can make the landscape hard to understand and navigate for users. Ofqual's view is that it would be beneficial for there to be a smaller number of common grading scales in future, which we explain further below.

It is important for there to be a sufficient number of grades to support appropriate differentiation between students' levels of attainment and to meet the uses to which the qualifications are put. It is also important that any differences between grades are meaningful and reflect the nature of what is assessed in the qualification. The precise number of grades that is appropriate for a qualification will depend on factors such as:

- the nature of the content being assessed
- the needs of those who use the results
- what achievement of the qualification is intended to attest to
- the size and structure of the qualification and the assessment design

In addition to the design considerations outlined above, it is also important that students, and other users of qualifications understand the grading scales that are used. Where an awarding organisation offers a suite of qualifications, for example, there are clear benefits to users in terms of understanding their results, if consistent approaches to grading scales are adopted. Similarly, if more than one awarding organisation offers qualifications which are generally considered to be alternatives to one another, then consistent approaches to the grading scales used to report results can help students and other users to understand and interpret their results.

In our consultation, there were mixed views about what features of grading scales users consider to be the most important. Some considered that flexibility for awarding organisations was important to ensure grading scales fully reflect the nature of the qualification and assessment. Others felt that simplicity was the most important feature, so that there were not a wide variety of different approaches, and that users of qualifications could understand the scales used and make comparisons between them. While respondents considered it important to be able to draw comparisons between qualifications, they also commented on the extent to which such

comparisons are meaningful. It is possible that a grade with the same name could mean different things in different qualifications. It wouldn't always follow, for example, that a merit grade in one qualification could be assumed to mean the same as a merit grade in another.

Ofqual's view is that ultimately, the use of a small number of common grade scales is the best way to ensure the future landscape is navigable and can be understood by students and other users of qualifications. This needs to be balanced with recognising that while there are some similarities between qualifications covered by these proposals, they do not share common content or assessment structures. Therefore, some legitimate variation in approaches is likely to exist. We also recognise that moving to, or mandating such an approach, might be disruptive in the short term. This has the potential to drive wider scale changes to the qualifications covered by these proposals than might be deliverable and manageable within the timescales for these qualifications to be approved for funding ahead of being taught from September 2025.

Proposal

Ofqual's view, taking account of the factors set out above, is that setting out clear expectations about what awarding organisations should consider, through statutory guidance to which awarding organisations are required to have regard, strikes an appropriate balance for the time being. It will balance seeking to bring about a degree of consistency in approaches, while allowing flexibility where appropriate so as not to negatively affect the design of qualifications. The statutory guidance will set an expectation that awarding organisations must consider the same factors when determining their approach. This includes considering adopting consistent approaches across similar qualifications. It will set an expectation for awarding organisations to gather evidence to support their approaches and how these benefit users, and to justify the approaches they take.

We see this statutory guidance as a first step towards more consistent approaches across qualifications, with a smaller number of different grading scales being used in future.

Ofqual proposes to put in place a Condition relating to specified levels of attainment (ATQ6) that:

- requires awarding organisations to ensure that, in setting out the specified levels of attainment, it complies with any requirements and has regard to any guidance published by Ofqual
- permits awarding organisations to apply for an exemption from requirements or guidance for which Ofqual has stated it will accept such applications. (However, at present, Ofqual has not stated that it will accept any such exemption application for this Condition)

Under this Condition, Ofqual proposes to publish statutory guidance for alternative academic qualifications. This guidance will set out:

- the relevant General Conditions awarding organisations should consider when determining their approach
- that in designing its overall approach, an awarding organisation should consider what the grades

are intended to indicate in terms of Learners' attainment, and on that basis, how many grades to use and what those grades will be called

- the principles to which an awarding organisation should have regard when designing its approach, and
- examples of considerations for an awarding organisation when seeking to meet these principles

The statutory guidance will not suggest the use of any particular grading scale. This is because we recognise there are legitimate reasons for taking different approaches between qualifications. The statutory guidance will, however, signal an expectation that as part of the factors it considers when determining its approach, an awarding organisation should consider grading scales that are used currently, either in its own qualifications or in other similar qualifications made available by other awarding organisations, and consider the benefit to users of taking the same, or a similar approach in its qualifications.

The statutory guidance will also set out the expectation that awarding organisations should gather evidence in relation to its grading approach (for example from past and current students, and from employers and providers who rely on these grades) and amend its approach where this evidence suggests an alternative approach would be more appropriate, for example moving to using a grading scale that is more consistent with those used elsewhere.

The statutory guidance will not apply to alternative technical qualifications. For these qualifications, IfATE intends to set out its expectations in this area, as part of the proposals on which it is now consulting.

Question 1

To what extent do you agree or disagree with the proposed approach to specifying statutory guidance relating to awarding organisations' approaches to grading and grading scales?

Proposed statutory guidance

To implement this approach, we propose to put in place a Condition (Condition ATQ6) requiring awarding organisations to comply with any requirements and have regard to any statutory guidance that we publish from time to time. We also propose to put in place statutory guidance under this Condition for alternative academic qualifications, which will set out:

- the relevant General Conditions awarding organisations should consider when determining their approach

that in designing its overall approach, an awarding organisation should consider what the grades are intended to indicate in terms of students' attainment, and on that basis, how many grades to use and what those grades will be called

- that an awarding organisation should have regard to a set of principles, which relate to the grading scale being appropriate to: what is being assessed; the design and structure of qualification; and what information about students the grades are meant to convey. These will also cover the need to consider the need for grades to be understood by users and for awarding organisations to consider approaches in use both by it, and by other awarding organisations
- examples of considerations for an awarding organisation when seeking to meet these principles, for example what the purpose of the qualification is, how qualifications results are used and how many grades are needed to do this
- the need to gather evidence to ensure that its approach to grading meets the needs of users

Question 2

Do you have any comments on the drafting of our proposed Condition (ATQ6) and statutory guidance on specified levels of attainment (grading scales)?

Titling

Background

The title helps students and other users identify a qualification. The use of the term GCE in a title, for example, helps to identify a particular type of qualification. Similarly, for apprenticeship end-point assessments, the inclusion of the title of the relevant apprenticeship standard helps identify those end-point assessments designed against the same apprenticeship standard.

Ofqual sets requirements for all qualifications it regulates, setting out how qualifications must be titled under the General Conditions. General Condition E2 requires that the title of a qualification includes:

- the name of the awarding organisation
- the level of the qualification
- the type of qualification (where applicable)
- an indication of the content of the qualification
- any endorsement that applies to that qualification (for example, if a student has studied options leading to a particular qualification)

There is also statutory guidance on how specific terms, such as award, certificate and diploma

should be used as part of qualification titles to help indicate their size.

In order to clarify the future landscape and help students and other users to navigate and identify these qualifications, we sought views on the approach to ensuring these qualifications are identifiable through their titles

Most respondents to the consultation said it would be helpful for these qualifications to be identifiable through their titles. While respondents made suggestions about what information could be conveyed through the title, no single approach was preferred, as long as it was clear and made the qualifications identifiable.

Based on this feedback, Ofqual has considered how best to secure this through the regulatory framework we will put in place. We considered how we can achieve clarity through our framework and how our requirements interact with requirements set by the Department or IfATE. In particular, any Ofqual requirements will need to allow for any particular naming conventions, or specific information relating to approval status which may be required. In determining our approach, we have also sought to balance the benefits of consistent approaches in relation to navigability, against the risk of titling approaches that may suggest a greater degree of commonality between these qualifications than is actually the case, which could mislead users.

Proposal

Ofqual has decided to put in place a bespoke Condition for alternative academic and alternative technical qualifications (Condition ATQ4). This requirement will incorporate the requirements in relation to qualification titling set by the Department and IfATE. As a result of setting a bespoke requirement, Ofqual will disapply General Condition E2.1, which sets requirements on qualification titling. This is because the new bespoke Condition will replace this.

For alternative academic qualifications, Ofqual's proposed Condition on qualification titling will require that the title of an alternative academic qualification includes:

- the awarding organisation name
- the level of the qualification
- the type of the qualification (where the qualification has a type) [\[footnote 3\]](#)
- any collective name(s) given to these qualifications by the Department
- a concise indication of the content
- an indication of the size of the qualification (through specifying the Total Qualification Time for the qualification rather than using the terms award, certificate and diploma as set out in the current guidance to Condition E2.1)
- any endorsement

The proposed requirements would not prevent an awarding organisation from using brand names

for their qualifications in the titles. Awarding organisations would continue to be required, under Condition E2.4 (which will not be disapplied) to ensure their titles are not misleading. This will prevent any collective name for this group of qualifications being used in any other qualification titles, as this would be misleading.

For alternative technical qualifications, the Condition will require that the following are included as part of the title:

- the awarding organisation name
- the level of the qualification
- a concise indication of the content which will include: the occupation or specialist job role alignment and the level of competence delivered in the qualification

IfATE is also considering how the IfATE brand might be best used within qualification titles as a marker of high-quality within the skills system. It is currently consulting on this. This would not replace any brand names used by awarding organisations, which IfATE intends would still be permitted within qualification titles. Subject to IfATE's decision following consultation, Ofqual will consider how to reflect any such requirements as part of the final Conditions.

The proposed approach will set clear expectations which will help ensure clarity in the future landscape, while reflecting the respective roles of Ofqual, the Department and IfATE in this area.

Question 3

To what extent do you agree or disagree with the proposed approach to setting out, through a bespoke Condition, titling requirements which reflect Department and IfATE expectations for alternative academic and alternative technical qualifications respectively?

Question 4

To what extent do you agree or disagree with our proposal to disapply General Condition E2.1 in respect of alternative academic and alternative technical qualifications?

To implement this approach, we propose to put in place a Condition which will set out:

- that General Condition E2.1 (Requirements on qualification titling) does not apply in respect of alternative academic and alternative technical qualifications
- the requirements to be included in the titles of an alternative academic qualification
- the requirements to be included in the title of an alternative technical qualification

- specific information not to be included in the titles of an alternative academic or alternative technical qualification

Question 5

Do you have any comments on the drafting of our proposed Condition on titling?

Part 2 – Proposed Conditions, requirements and statutory guidance

Alongside this consultation we are publishing 2 draft regulatory documents that set out:

- Qualification level Conditions and requirements (including assessment strategy requirements) for level 3 alternative academic and alternative technical qualifications
- Qualification level guidance for level 3 alternative academic and alternative technical qualifications

These set out the proposed specific Conditions, requirements and statutory guidance to give effect to [the decisions we have announced alongside this consultation](#) and to the proposals covered in part 1 of this consultation.

Content

Proposal

We propose to put in place a Condition (Condition ATQ9) relating to content for alternative academic qualifications.

The proposed Condition will require an awarding organisation to ensure that the knowledge, skills and understanding assessed as part of the qualification are appropriate in relation to:

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

Question 6

Do you have any comments on the drafting of proposed Condition ATQ9 (relating to content)?

Assessment strategies

As [set out in the decisions](#), Ofqual and IfATE have agreed to put in place a single set of assessment strategy requirements, set by Ofqual, which will meet the needs of both organisations.

The [proposed Condition below and associated requirements](#) explain what these will cover.

Proposal

To put in place a Condition covering assessment strategies (Condition ATQ2) that require an awarding organisation to:

- establish and maintain an assessment strategy for each qualification that complies with any requirements and has regard to any guidance published by Ofqual
- set out how it will ensure compliance on an ongoing basis with all relevant Conditions of Recognition in respect of the assessments for a qualification
- ensure that all assessments are designed, set, delivered, and marked in compliance with its assessment strategy
- keep its assessment strategy under review and revise it where necessary, including to comply with any requirements specified by Ofqual and promptly notify Ofqual of any revisions it makes to it
- if requested by Ofqual, review its assessment strategy to ensure that it complies with any requirements that Ofqual has communicated to it
- demonstrate to Ofqual's satisfaction, if requested, that it has complied with its assessment strategy for a particular assessment or provide an explanation to Ofqual why it has not complied
- ensure any recommendations that Ofqual has made have been actioned

Under this Condition, we propose to specify requirements for alternative academic and alternative technical qualifications. The proposed requirements for each will cover the following aspects:

- qualification purpose – the purpose of the qualifications
- content – the structure, qualification size, demand and optional content
- assessment design – the assessment structure, development, question and task validity, approach to content coverage, assessment methods, centre adaptation, controls, generating outcomes and optional assessment
- assessment delivery – modes of assessment delivery, assessment availability, security, centre feedback
- marking or assessing performance and standardisation – approach to marking or assessing

performance, monitoring, assessor standardisation, Centre Assessment Standards Scrutiny, centre training and monitoring

- attainment and reporting – specified levels of attainment, aggregation, reviews or appeals
- standard setting and maintenance – approach, evidence, modes of assessment
- qualification monitoring – approach, availability of data, reviewing the assessment approach

Under each of these sections, the requirements will include key questions for awarding organisations to consider, explain the importance of a particular aspect, and refer to the relevant Conditions. The specific questions will be tailored for alternative academic and alternative technical qualifications, focussing on those aspects to be considered in each.

Question 7

Do you have any comments on the drafting of proposed Condition ATQ2 and the requirements relating to assessment strategies for (a) alternative academic qualifications and (b) alternative technical qualifications?

Purposes

Proposal

To put in place a Condition covering qualification purposes (Condition ATQ8) for alternative academic qualifications that are or will be made available. Under these Conditions an awarding organisation must ensure each qualification it makes available or proposes to make available:

- meets the general purposes published by Ofqual for these qualifications on an ongoing basis
- has one or more specific purposes which are consistent with the general purposes
- during the design stage, if there are any trade-offs to be made between the general purposes, priority of compliance must be given to the general purposes higher up the hierarchy, whilst ensuring secure compliance with all the purposes to the greatest extent possible

This Condition will also disapply General Conditions E1.1 and E1.2 in respect of alternative academic qualifications.

Under this Condition, we propose to specify the following general purposes which an awarding organisation must meet:

- Providing Users of the qualification with reliable evidence to differentiate between Learners' attainment in relation to the knowledge, skills and understanding assessed as part of the qualification and, in particular, supporting decisions regarding the selection of Learners for

further study (General Purpose A).

- Providing an engaging course of learning for, while being accessible to, both Learners in full-time education and those studying part-time (General Purpose B).
- Providing Learners with knowledge and understanding of theoretical content, and the skills required to apply it in a range of contexts, preparing them for progression into higher education (General Purpose C).
- Providing a basis for schools and colleges to be held accountable for the performance of their Learners (General Purpose D).
- Either –
 - is likely to be the sole element of a Learner's programme of study or the majority qualification that forms the core element of a Learner's programme of study (General Purpose E(i)), or
 - forms a substantial part of a Learner's programme of study, typically delivered alongside a number of other qualifications in the case of a full-time Learner (General Purpose E(ii)).

Question 8

Do you have any comments on the drafting of proposed Condition ATQ8 and the proposed general purposes for alternative academic qualifications?

Assessment

Proposal

To put in place a Condition covering assessment (Condition ATQ5) that requires an awarding organisation to:

- comply with any requirements and have regard to any guidance published by Ofqual in relation to assessments which it makes available or proposes to make available
- permit awarding organisations to apply for an exemption from those aspects of the assessment requirements against which Ofqual specifies that it will accept such applications

Under this Condition, to put in place assessment requirements for alternative academic qualifications which cover:

- Assessment by Examination
 - the proportion of Assessment by Examination
 - the availability of Assessment by Examination
 - those aspects of the requirements against which an awarding organisation may apply for an exemption

- Non-exam assessment
 - the setting of non-exam assessments
 - the submission of marks by centres to awarding organisations for non-exam assessments
 - retaking non-exam assessments
- Marking of assessments
 - the marking of Assessment by Examination
 - the marking of non-exam assessment

Question 9

Do you have any comments on the drafting of proposed Condition ATQ5 and the requirements relating to assessment?

Standard setting

Proposal

To put in place a Condition covering standard setting (Condition ATQ10) for alternative academic qualifications. These will require awarding organisations to:

- comply with any requirements, and have regard to any guidance on an ongoing basis in relation to promoting consistency between the measurement of Learners' levels of attainment in that qualification and similar qualifications of other awarding organisations, and the setting of specified levels of attainment
- ensure they have regard to a range of qualitative and quantitative evidence, which should include evidence of:
 - the level of demand of the assessments for that qualification
 - the level of attainment demonstrated in those assessments by an appropriately representative sample of Learners
 - where available, the level of attainment demonstrated by Learners taking that qualification in a prior assessment or prior qualification, whether or not that qualification was a regulated qualification
 - the level of attainment demonstrated by Learners who have previously been awarded the qualification
- keep records of the evidence used in setting the specified levels of attainment and the rationale for the selection and the significance it has attributed to that evidence

We propose to put in place statutory guidance against this Condition setting out the evidence that may be taken into account when setting specified levels of attainment.

This will include, for example:

- question papers
- senior assessor input
- technical information about assessment performance
- samples of student work
- information about entry patterns
- archive student work
- inter-awarding organisation evidence
- pertinent material from similar qualifications
- information on students' performance in previous assessments
- marking guides

Question 10

Do you have any comments on the drafting of proposed Condition ATQ10 (relating to standard setting)?

Question 11

Do you have any comments on the drafting of our proposed statutory guidance on standard setting?

Academic and Technical qualification reviews

Proposal

To put in place a Condition covering reviews of alternative academic and alternative technical qualifications by Ofqual (Condition ATQ3) that will require an awarding organisation to:

- comply with any requirements and have regard to any guidance specified by Ofqual following a review of an alternative academic or alternative technical qualification

Question 12

Do you have any comments on the drafting of proposed Condition ATQ3 (relating to reviews of alternative academic and alternative technical qualifications by Ofqual)?

Withdrawal of approval for public funding

Proposal

To put in place a Condition covering withdrawal of approval for public funding from qualifications (Condition ATQ7) that:

- requires an awarding organisation to promptly notify Ofqual where a qualification will or is likely to cease to be approved for public funding and the circumstances for this
- permits Ofqual to determine whether and when the qualification level Conditions should cease to apply
- requires awarding organisations to comply with any requirements communicated to it by Ofqual in relation to this

Question 13

Do you have any comments on proposed Condition ATQ7 (relating to the withdrawal of approval for public funding)?

Interpretations and definitions

Proposal

To put in place a Condition (ATQ1):

- setting out how the Conditions and guidance should be interpreted as part of Ofqual's regulatory framework
- specifying the qualifications covered by these requirements. These will be specified as:
 - **Alternative Academic Qualification** – A qualification – that is approved by the Secretary of State for Education on or after [DATE] for public funding as an [Alternative Academic Qualification], to which an awarding organisation has assigned Level 3 under Condition E9.1, and that is not – a qualification to which any Qualification Level Conditions other than the Alternative Academic and Alternative Technical Qualification Level Conditions apply, an International Baccalaureate diploma, a performing arts graded examination, or a core maths qualification.
 - **Alternative Technical Qualification** – A qualification – that is approved by the Secretary of State for Education on or after [DATE] for public funding as a technical qualification, to which an awarding organisation has assigned Level 3 under Condition E9.1, that is not a Technical Qualification, and that falls within one of the following categories as defined by the Institute for

Apprenticeships and Technical Education.

- To define the following terms used in these conditions:
 - **Alternative Academic and Alternative Technical Qualification** – An Alternative Academic Qualification or Alternative Technical Qualification, as the case may be.
 - **Alternative Academic and Alternative Technical Qualification Level Condition** – A Condition of Recognition that applies to an Alternative Academic and Alternative Technical Qualification, except where that Condition has been disapplied under Condition ATQ7.2, and which uses the numbering format 'ATQn.n', where 'n' denotes a number.

Question 14

Do you have any comments on the drafting of proposed Condition ATQ1 (relating to interpretation and definition)?

Equalities impact assessment

Ofqual is a public body, and therefore the public sector equality duty in the Equality Act 2010 applies. Within this consultation, the impacts on students (positive and negative) were considered in relation to the proposals, including on those on students who share a particular protected characteristic [\[footnote 4\]](#) and reasons such as their socio-economic background.

We set out in our previous consultation those [impacts we had identified](#) and encouraged respondents to provide views on those impacts we identified, and how these might be mitigated. We also sought views on whether there were any impacts we have not identified, and how these might be mitigated. In the decisions published alongside this consultation, we set out the impacts identified by respondents, and our decisions in relation to these.

As we are largely implementing and building upon the approach on which we previously consulted, we have not identified any additional equalities impacts arising from our proposals and the specific Conditions, requirements and statutory guidance we are now proposing to put in place to implement the policy approach. We summarise below those impacts identified following our previous consultation and welcome views on these. We also welcome views on any further equalities impacts we have not identified, and any suggestions for how these might be mitigated.

Content and assessment design

To ensure that content is appropriate, for alternative academic qualifications, we will require awarding organisations ensure the knowledge, skills and understanding assessed are appropriate for: the qualification's purpose, level, design of assessment, and size. An awarding organisation must explain its approach through its assessment strategy.

It is expected, that when designing content to meet this requirement, an awarding organisation takes account of the needs of students, including those with particular protected characteristics, to ensure that they are not disadvantaged as a result of sharing that particular protected characteristic.

Assessment by Examination

It is possible that the requirements of Assessment by Examination for these qualifications may adversely impact students with some disabilities, or with medical conditions such as anxiety. In particular, the potential for the minimum requirement of 40% Assessment by Examination and for these to be available in up to 2 series in each academic year. These were identified as potentially having a negative impact on some students, including students from disadvantaged backgrounds and students with disabilities or long-term medical conditions.

Ofqual has set out in its decisions the rationale for the proposed approach. It is recognised that these proposals may disadvantage some students. The approach being put in place is intended to balance several competing factors, including the steer that approaches must be strengthened compared with those currently in place. Unfortunately, it is not possible, while meeting the intention for these qualifications to be strengthened, to fully mitigate this disadvantage. Awarding organisations will seek to mitigate this as far as is possible, and are required to do so, by the obligations set out in the General Conditions and in wider equalities legislation. We would welcome views however on whether there are any further steps that could be taken in this area.

Non-exam assessment

Non-exam assessment may disadvantage some students, if they do not have access, either at their centres, or at home, to the equipment or resources needed to complete the assessment. For example, students from lower socio-economic backgrounds. It could also affect students who do not have the necessary support, for example, disabled students who require reasonable adjustments.

As part of Condition E4 (Ensuring an assessment is fit for purpose and can be delivered), an awarding organisation is required, in designing assessments, to allow centres to develop cost-effective arrangements for their delivery, using only the resources which would be reasonably expected to be required or which are provided by the awarding organisation. Awarding organisations will be expected to also take account of this when designing their assessments.

Assessment strategies

It is proposed that awarding organisations should develop and comply with an assessment strategy, setting out their approach to designing qualifications. Through its assessment strategy, an awarding organisation will need to explain its overall approach to the design, development and delivery of its qualifications. This will include ensuring that it meets the equalities requirements that apply through the General Conditions. This will enable Ofqual to review awarding organisations' approaches, and to take action where these approaches do not meet the requirements of the General Conditions or are not being followed. It is considered that this will have a positive equalities impact.

Question 15

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

Question 16

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

Question 17

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

Regulatory impact assessment

In our previous consultation we set out our assessment of the regulatory impact of our proposals.

In the consultation, Ofqual acknowledged that some of the proposals may have a cost and resource impact on awarding organisations and sought views on what these would be. The consultation also sought views on whether there were additional impacts that had not been identified and how these might be minimised. The consultation sought views on any costs, benefits or savings that had not been identified and on the impact on innovation of the proposals.

Several of the proposals will necessitate changes in current approaches to the design, delivery and award of some qualifications. It is acknowledged that some changes may have a cost and resource impact on awarding organisations. The impact will vary depending on the current designs and controls awarding organisations have in place for existing qualifications. Awarding organisations will incur some costs from these proposals, in particular, the requirement for the provision of an assessment strategy for each qualification submitted for review. While we have tried to minimise the extent of any additional burden as far as is possible, new regulatory requirements as a result of the enhanced controls proposed will inevitably have a regulatory impact. This is considered by Ofqual to be proportionate to the intended aims.

Several impacts identified by respondents to our consultation related to the potential burden caused by the overall landscape. This included how Ofqual and IfATE will work together to minimise any regulatory burden in relation to alternative technical qualifications. Ofqual will continue to work closely with the Department and IfATE to align requirements where possible to ensure these concerns are addressed.

As we are largely implementing and building upon the approach on which we previously consulted, we have not identified any additional regulatory impacts arising from our proposals and the specific conditions, requirements and statutory guidance we are now proposing to put in place to implement the policy approach. We summarise below those impacts identified following our previous consultation, and welcome views on these. We also welcome views on whether there are further impacts that we have not identified, and any suggestions for how these might be mitigated.

Assessment by Examination

Respondents to the previous consultation raised concerns that the increased weighting of Assessment by Examination could increase the number of requests for reasonable adjustments. We do not have any evidence that this would be the case. However, we acknowledge there could be an increased regulatory burden for awarding organisations and centres. This would come from having to resource, for example, the production of more modified papers or the provision of a scribe for longer periods or more frequently if there are more examination components. This will depend to some extent on the decisions taken by awarding organisations about the design and structure of their qualifications. We would welcome further information on any specific impacts in this area.

Additionally, there were some concerns about the impact of any changes to qualifications that are needed to ensure a minimum of 40% Assessment by Examination in these qualifications.

While there is a potential effect of the proposed regulatory requirements, this is proportionate to seeking to meet the expectation for strengthened regulation of these qualifications.

Assessment strategies

Awarding organisations will need to consider and address issues that relate to the design, development and delivery of these qualifications in an assessment strategy. While there will be some additional requirements for development and submission of assessment strategies, we consider that the impact of the requirements will be limited to the degree that awarding organisations are setting out things they should have already considered in the development and design of their qualifications.

Concerns were raised through Ofqual's previous consultation about the potential for requirements to be duplicated between Ofqual and IfATE in relation to alternative technical qualifications. Ofqual and IfATE have worked together closely as the requirements for assessment strategies have been developed and have decided that assessment strategy requirements will be set through Ofqual's regulatory framework, and that these will incorporate the requirements IfATE has for the purposes of the approval of alternative technical qualifications. By having a single set of assessment strategy requirements for alternative technical qualifications, this should help to minimise the concerns about burden in this area.

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

Several respondents to Ofqual's consultation were concerned about the potential burden of having to notify Ofqual where funding approval for a qualification is withdrawn by the Department. They commend that this had the potential to be burdensome and that Ofqual could obtain this information from elsewhere.

Ofqual set out in its decisions that, while we note the concerns about requiring to notify Ofqual, this is an important part of the overall process. The Conditions we have proposed require an awarding organisation to notify Ofqual when it becomes aware that funding may be withdrawn. This allows Ofqual to specify any requirements relating to that notification. We consider this process to be necessary to clarify the point at which any additional requirements will cease to apply.

While the requirement to notify Ofqual will be implemented, we will consider the mechanism for doing this to prevent the actual notification aspect of this requirement being overly burdensome.

Question 18

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

Question 19

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

Question 20

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

Question 21

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

Annex A: Consultation responses and your data

Why we collect your personal data

As part of our consultation process, you are not required to provide your name or any personal information that will identify you. However, we are aware that some respondents would like to provide contact information. If you or your organisation are happy to provide personal data, with regard to this consultation, please complete the details below. We would like to hear as many views as possible and ensure that we are reaching as many people as possible. In order for us to monitor this, understand views of different groups and take steps to reach specific groups, we may ask for sensitive data such as ethnicity and disability to understand the reach of this consultation and views

of specific groups. You do not have to provide this information and it is entirely optional.

If there is any part of your response that you wish to remain confidential, please indicate at the appropriate point in the survey.

Where you have requested that your response or any part remains confidential, we will not include your details in any published list of respondents. However, we may quote from the response anonymously to illustrate the kind of feedback we have received.

Your data

Your personal data:

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

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

Your rights: access, rectification and erasure

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

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

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

Freedom of Information Act and your response

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

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

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

How we will use your response

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

Sharing your response

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

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

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

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

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

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

How long will we keep your personal data?

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

Our legal basis for processing your personal data

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

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

This privacy notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual). The relevant data protection regime that applies to our processing is the UK GDPR [\[footnote 5\]](#) and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this privacy notice carefully as it contains important information about our processing of consultation responses and your rights.

How to contact us

If you have any questions about this privacy notice, how we handle your personal data, or want to exercise any of your rights, please contact our data protection officer at dp.requests@ofqual.gov.uk

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,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF

Tel: 0303 123 1113

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1. The terms alternative academic and alternative technical are used to refer to the qualifications covered by these proposals. The names of these qualifications will be confirmed by the Department and IfATE, and will be reflected in our final regulatory framework when it is published. [↩](#)
 2. There are additional academic qualifications which form part of the Department's review, but which are not currently in scope of these proposals. For example, the International Baccalaureate Diploma and Extended Project Qualifications. These are described further in the Background section of this consultation. [↩](#)
 3. This would only be required where the qualification has a type. Ofqual does not currently propose that these qualifications have a specific type, however. [↩](#)
 4. The protected characteristics under the Equality Act 2010 are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation. [↩](#)
 5. 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. [↪](#)

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