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Consultation outcome

Regulating alternative academic and alternative technical qualifications at level

3: consultation decisions

Updated 10 January 2023

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Introduction

Background

Ofqual consulted, between 30 June and 10 August 2022, on its proposed Conditions, requirements and statutory guidance for regulating alternative academic qualifications and alternative technical qualifications at level 3. Following the Department for Education's ['Review of post-16 qualifications at level 3 in England'](#), these qualifications will be part of the future level 3 landscape, alongside A levels, T Levels and Apprenticeships.

Ofqual's approach to regulating these qualifications has been designed to work in conjunction with the approvals processes being put in place by:

- the Department for Education (DfE), which will make decisions about approval for public funding for both alternative academic and alternative technical qualifications
- the Institute for Apprenticeships and Technical Education (IfATE), which will make approval decisions for alternative technical qualifications against its criteria

Both alternative academic and alternative technical qualifications will need to meet the relevant Ofqual regulations. As part of the funding approval process, Ofqual will provide feedback, as applicable, to DfE and IfATE. While awarding organisations that develop these qualifications will need to submit their qualifications for approval, those awarding organisations that are already

recognised to deliver qualifications at level 3 in the relevant sector subject area will not be expected to apply to Ofqual to extend their scope of recognition.

All of the information relating to the approvals process can be found on the [Single Access Point \(SAP\)](#). This webpage contains information on the steps and processes awarding organisations will need to understand and follow to submit level 3 qualifications as part of the 2025 to 2026 funding approval process. As part of the approvals process awarding organisations will make submissions through the SAP in line with DfE's timeline.

Consultation

The consultation was in 2 parts.

In part 1 Ofqual consulted on:

- a proposal to introduce a Condition and statutory guidance in relation to specified levels of attainment (grading scales) for alternative academic qualifications only
- a proposal to introduce a bespoke Condition, replacing the existing General Condition on titling, which would require the titles of these qualifications to include specific information, including that required by DfE and IfATE, in relation to alternative academic and alternative technical qualifications respectively

In these areas, Ofqual sought views on both the proposals, and on the wording of the proposed Conditions, requirements and statutory guidance needed to implement these proposals.

In part 2 Ofqual sought views on the drafting of the Conditions, requirements and statutory guidance needed to implement the policy decisions taken following its previous [consultation on the regulation of alternative academic and alternative technical qualifications](#).

The consultation also sought views on the equalities and regulatory impacts of the proposals.

This document sets out Ofqual's decisions following this consultation. In reaching these decisions, we have considered:

- the consultation responses received
- views of stakeholders expressed at events held during the consultation period
- the respective roles and responsibilities of Ofqual, IfATE and DfE in the future level 3 landscape

In our consultation we used the terms alternative academic and alternative technical as a placeholder while the DfE and IfATE considered whether to introduce collective terms for these

qualifications. The DfE has now confirmed that 'alternative academic qualifications' will be the collective term used in the future landscape. IfATE have confirmed that they will not use the collective term alternative technical qualifications and that the qualifications will be approved under the following categories:

- i. Level 3 occupational entry technical qualifications (16-19 and adult)
- ii. Level 3 occupational entry technical qualifications (adult only)
- iii. Level 3 additional specialist technical qualifications (16-19 and adult)
- vi. Level 3 occupational progression technical qualifications (16-19 and adult)
- v. Level 3 cross-cutting function technical qualifications (16-19 and adult)
- vi. Level 3 employer-proposed technical qualifications (adult only)

For the purposes of this document, where we are reporting our decisions, and for our regulatory framework, to avoid listing all 6 groups each time, we will refer to these qualifications as 'technical occupation qualifications'.

Summary of decisions

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

Ofqual has decided:

- to put in place the Condition (ATQ5) and the statutory guidance on which we consulted, relating to awarding organisations' approaches to grading scales (the number of grades and the names of those grades) for alternative academic qualifications, with some minor drafting changes to improve clarity, but which do not alter the overall meaning
- not to set a specific requirement in relation to titling for alternative academic or technical occupation qualifications and, as a consequence, not to disapply General Condition E2.1 (Requirements on qualification titling)

Part 2 – Proposed Conditions, requirements and statutory guidance

Ofqual has decided to implement the proposed Conditions, requirements and statutory guidance as consulted on, subject to some minor drafting changes to improve the clarity of the wording, but with no substantive changes to the overall meaning.

As a result of the decision not to set a specific titling Condition (ATQ4), the numbering of subsequent Conditions in the final version of the Qualification Level Conditions has been amended. Where we refer to the proposed Conditions on which we consulted, the original number is used. Where we refer to the final Conditions that we have decided to implement and which will appear in our Qualification Level Conditions, we have used the updated numbering.

For both alternative academic and technical occupation qualifications, we have decided to put in place Conditions and requirements in relation to:

- assessment strategies and the associated requirements (Condition ATQ2 and associated requirements)
- qualification reviews (Condition ATQ3)
- withdrawal of approval for public funding (Condition ATQ6)
- interpretation and definitions (Condition ATQ1)

For alternative academic qualifications only, we have decided to put in place Conditions, requirements and statutory guidance in relation to:

- content (Condition ATQ8)
- purposes (Condition ATQ7 and associated requirements)
- assessment (Condition ATQ4 and associated requirements relating to Assessment by Examination, non-exam assessment, and the marking of assessments)
- standard setting (Condition ATQ9 and associated statutory guidance)

In relation to the equalities and regulatory impact assessments, Ofqual has decided that the impacts raised would not lead us to change our proposals at this stage, but we will continue to monitor these impacts as the qualifications are developed and delivered.

Details

Navigate to a specific section

- [Part 1 – Proposals for regulating alternative academic and alternative technical qualifications](#)
- [Part 2 – Proposed Conditions, requirements and statutory guidances](#)

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

In part 1 Ofqual sought views on the proposed approaches to grading scales and qualification titling. Ofqual had consulted more openly on titling and grading in the previous consultation and then sought views on detailed proposals in the technical consultation.

Ofqual also sought views on the associated Conditions and statutory guidance used to implement these proposals.

Grading scales – alternative academic qualifications

What Ofqual proposed

To ensure the results of alternative academic qualifications are clear and understood by users, Ofqual proposed to put in place statutory guidance about what an awarding organisation should consider when determining its approaches to grading and the grading scale it uses for a qualification (for example, how many grades there should be and what these grades should be called). The proposed statutory guidance did not suggest the use of any particular grading scale but was intended to set an expectation that awarding organisations must consider the same factors when determining their approach. The guidance would not apply to alternative technical qualifications, as IfATE will set out its own expectations in this area.

Ofqual proposed to put in place a Condition relating to specified levels of attainment (Condition 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 proposed to publish statutory guidance for alternative academic qualifications. This guidance sets out:

- the relevant General Conditions of Recognition (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

- 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

Respondents were asked:

- to what extent they agreed or disagreed with the proposed approach to specifying statutory guidance relating to awarding organisations' approaches to grading and grading scales
- to provide comments on the drafting of the proposed Condition and statutory guidance

Responses received

Most respondents agreed with the proposed approach to specifying statutory guidance in relation to grading scales. Many of the comments emphasised the need to allow flexibility to use the most appropriate grading scale for the qualification and respondents were satisfied that the proposed guidance allowed for this. Respondents also recognised the benefits of limiting the number of different grading scales, while noting that it would not be appropriate to go as far as specifying a single approach (which was not what we had proposed). Many respondents also commented on the importance of grading scales being understood by employers, higher education institutions and other users. Respondents felt the proposed guidance was a positive step towards a more navigable landscape.

A small number of respondents commented on the timing of any changes awarding organisations might make in response to the guidance. Given the statutory guidance does not propose a single grading scale but signals the intention to move towards fewer different grading scales, respondents said that it was not clear when this would happen.

Among the small number of respondents who disagreed with the approach (mainly awarding organisations and their representative groups), there was a view that the existing approaches to grading were appropriate. These respondents suggested that making any changes to grading scales would cause unnecessary financial and administrative burdens for awarding organisations and centres.

In relation to the drafting of the guidance, respondents thought that it set out clear expectations for how they should approach grading, which they found helpful. We received a small number of minor suggestions for how we could make some of the wording clearer, for example:

- to make it clearer that the guidance could potentially apply to both the design of new qualifications, and review of existing qualifications
- to make it clearer that there may be reasons (for example, commercial sensitivity) why an awarding organisation cannot always have regard to other awarding organisations' approaches,

as the information required to do so may not be publicly available

- a request to change the drafting from “ensure its approach meets the needs of users” to “consider the needs of users” to reflect that an awarding organisation cannot fully control this, and that different users may have different needs

One respondent suggested that the guidance could set out more clearly any expectations of how the principles in the guidance should be applied. The respondent also suggested that any intended hierarchy of these principles is made clear, in the event that not all could be fully met.

Some respondents said that the expectations set out could apply to all qualifications, not just those within the scope of this guidance.

Decision

Ofqual has decided to put in place Condition ATQ5, relating to specified levels of attainment, and to publish statutory guidance under this Condition for alternative academic qualifications.

There was overall support for the proposed approach, and Ofqual has not identified any need to make changes to the proposal following consultation.

Ofqual has considered the query about the order in which the principles in the guidance should be prioritised by awarding organisations when determining their approach, in the event that an awarding organisation is unable to fully meet them all.

The guidance as drafted in the consultation did not explicitly suggest a priority order other than that the final principle, in relation to being consistent with other awarding organisations' approaches, would be the lowest priority. Ofqual considers that it will generally be possible for awarding organisations to meet all of the principles for designing its approach to grading, as we do not think it is likely that they will be in tension with each other. As such, we do not consider it necessary to specify a hierarchy for the order in which they must be met.

In the final version of the statutory guidance we have made clear that Ofqual's expectation is that all of the principles should be met to the greatest extent possible. We will not specify a priority order. This is because the order would depend on an awarding organisation's overall approach and, in particular, any design decisions made in order to meet the general purposes.

Although we will not set a priority order, we think there is a logical order in which awarding organisations may tend to consider the principles. We have therefore decided to change the order in which the principles are presented, so that it reflects the order in which they might often be considered. This reordering is purely presentational and the expectation is that all principles should be met.

Ofqual has also considered the suggestions to improve clarity and will reflect these in the final

version of the guidance.

Ofqual has introduced this guidance for alternative academic qualifications at level 3, rather than for all qualifications through guidance on the General Conditions, as one of the policy aims of the Post-16 Qualifications Review is to achieve a more navigable landscape for this specific group of qualifications.

As we said in the consultation, 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.

With regard to timing, while this guidance is intended to signal a move towards there being fewer grading scales, it is not intended to set a target for the number of grading scales that might exist, or a date by when any such reduction might be achieved. The precise details of what the future landscape might look like will depend on awarding organisations' decisions having had regard to this guidance and the evidence they gather about the extent to which their approaches meet the needs of students and other users.

Titling

What Ofqual proposed

To ensure the future landscape is navigable for users, the consultation sought views on the approach to titling for alternative academic and alternative technical qualifications (Condition ATQ4). It proposed a bespoke Condition which would require the titles of these qualifications to include specific information, including that required by DfE and IfATE, in relation to alternative academic and alternative technical qualifications respectively. As a result of setting a bespoke Condition, Ofqual also proposed to disapply General Condition E2.1, which sets requirements on qualification titling. This is because the new bespoke Condition would replace it.

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

- the awarding organisation name
- the level of the qualification
- the type of the qualification (where the qualification has a type)
- any collective name(s) given to these qualifications by the DfE
- a concise indication of the content
- an indication of the size of the qualification through specifying the Total Qualification Time (TQT) for the qualification

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 we had not proposed to disapply) to ensure their titles are not misleading.

For alternative technical qualifications, the Condition proposed would 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
- a reference to IfATE, subject to IfATE's decisions following its own consultation

The proposed approach was intended to set clear expectations to help ensure clarity in the future landscape, while reflecting the respective roles of Ofqual, DfE and IfATE in this area.

Respondents were asked:

- to what extent they agreed or disagreed with the proposal to set out, through a bespoke Condition, titling requirements which reflect DfE's and IfATE's expectations for alternative academic and alternative technical qualifications respectively
- to what extent they agreed or disagreed with the proposal to disapply General Condition E2.1 in respect of alternative academic and alternative technical qualifications
- to provide any comments on the drafting of the proposed Condition on titling

Responses received

Many respondents to the consultation commented that there should be clear and consistent titling approaches that are easy for users to understand. There was strong support for any approach that delivered this, including using existing, well-understood awarding organisation brand names. Across both alternative academic and alternative technical qualifications, respondents expressed a preference for titling requirements to be simple and concise and not to specify requirements beyond the General Conditions, which were felt to provide sufficient clarity.

Although our proposals did not include suggestions for the collective names for these qualifications, this being an area for DfE and IfATE to decide, many respondents did comment on this. Some respondents expressed the view that 'alternative' (which we used as a placeholder in lieu of DfE and IfATE decisions on the collective names for these qualifications) should not be used in titles. Respondents thought this would suggest that these qualifications were of a lower quality than A levels or T Levels (which these qualifications are meant to be seen as alternatives to).

With regard to the proposal itself, respondents did not think the proposed approach necessarily delivered the clarity intended. They commented that the specific elements (such as those expected to be included in the DfE and IfATE requirements) were, in many cases, unnecessary and could lead to long and unwieldy titles. They felt that this could lead to a landscape that was less, rather than more, navigable, as each qualification title would contain several variable elements, leading to ever-more specific titles. The impact of this would also be seen on certificates, where the titles which respondents said may be unwieldy, would also appear.

Some respondents expressed concern about the proposal to include a reference to size in titles for alternative academic qualifications, particularly if expressed as TQT. They said that many users would not use or understand TQT. Respondents felt more general indications (such as award, certificate or diploma) would be clearer if size were to be included.

Decision

Ofqual has decided not to put in place a bespoke Condition incorporating the titling and naming requirements of DfE (in respect of alternative academic qualifications) and IfATE (in respect of technical occupation qualifications). As a result, Ofqual will not disapply General Condition E2.1 (Requirements on qualification titling).

Ofqual recognises the concerns raised by respondents, particularly the risk that overly-specific approaches to titling create a less rather than more navigable landscape. Since the consultation concluded, we have held further discussions with DfE and IfATE about their intentions in this area. Our understanding now is that they are both likely to specify titling requirements for alternative academic and technical occupation qualifications as part of their respective approval processes.

Having considered the approach to titling in light of the consultation responses, and the positions of DfE and IfATE, Ofqual's view is that these approaches could be accommodated within the requirements of the existing General Conditions, beyond which it is not necessary for us to go.

The General Conditions (Condition E2 – Requirements on qualification titling) require, for all qualifications we regulate, that qualification titles include:

- the name of the awarding organisation
- the level of the qualification
- the type of qualification, where the qualification has a type (which these qualifications do not)
- a concise indication of the content of the qualification
- any Endorsement known at the time the qualification is submitted to the Register

Condition E2 also requires that awarding organisations:

- ensure that the title on the Register reflects the knowledge, skills and understanding which will be assessed as part of the qualification

- take all reasonable steps to ensure that the title allows Users of qualifications to identify similar units or qualifications which it makes available or are made available by other awarding organisations
- ensures that the titles of qualifications are not misleading to Users of qualifications

Ofqual has decided, therefore, not to implement a bespoke condition and to require alternative academic and technical occupation qualifications to comply with Condition E2. Any collective terms specified by the DfE and IfATE would be permitted under this Condition.

We consider that this approach is likely to help to support a navigable landscape, recognising the concerns raised by respondents about the potential complexity caused by setting overly prescriptive requirements in this area.

Part 2-Proposed Conditions, requirements and statutory guidance

In part 2 Ofqual sought views on the drafting of the Conditions, requirements and statutory guidance needed to implement the policy decisions taken following its [previous consultation](#).

Ofqual did not seek views on the proposals themselves, or the decisions already taken, for the areas covered in part 2.

What Ofqual proposed

Respondents were asked to provide comments on the drafting of the proposed Conditions, requirements and statutory guidance related to:

- **content** for alternative academic qualifications (Condition ATQ9) – to ensure that the knowledge, skills and understanding assessed as part of the qualification are appropriate
- **assessment strategies** for alternative academic and alternative technical qualifications (Condition ATQ2 and associated requirements) – to require an awarding organisation to establish, maintain, comply with and keep under review an assessment strategy that complies with Ofqual's requirements, for each qualification
- **qualification purposes** for alternative academic qualifications (Condition ATQ8 and associated requirements) – to require an awarding organisation to design qualifications to meet the general purposes specified by Ofqual and to disapply General Conditions E1.1 and E1.2 (Qualifications to have an objective) in respect of alternative academic qualifications
- **assessment** for alternative academic qualifications (Condition ATQ5 and associated requirements) – to require an awarding organisation to comply with Ofqual's assessment requirements, which cover Assessment by Examination and non-exam assessment, retaking assessments and marking of assessments

- **standard setting** for alternative academic qualifications (Condition ATQ10 and associated statutory guidance) – to require an awarding organisation to comply with Ofqual’s requirements for setting specified levels of attainment, consider a range of qualitative and quantitative evidence, keep records of its approach and have regard to Ofqual’s guidance for what evidence should be considered
- **qualification reviews** for alternative academic and alternative technical qualifications (Condition ATQ3) – to 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
- **withdrawal of approval for public funding** from alternative academic and alternative technical qualifications (Condition ATQ7) – to require an awarding organisation to notify Ofqual where a qualification will, or is likely to cease to be, approved for public funding and comply with any requirements communicated to it by Ofqual in relation to this
- **interpretation and definitions** (Condition ATQ1) – to set out how the Conditions and guidance should be interpreted, to specify the qualifications covered by these requirements and to define certain relevant terms

Responses received

Overall respondents indicated that the drafting of the remaining Conditions, requirements and statutory guidance was appropriate and reflected the policy decisions Ofqual has made. We received a small number of minor suggestions for how we could make some of the drafting clearer without changing the meaning. These are summarised in [the analysis document](#) and have not been repeated here.

Some respondents commented on the already-agreed policy, rather than on the drafting of the Conditions, requirements and statutory guidance.

Respondents also requested clarification on:

- the status of a requirement (as opposed to Conditions and statutory guidance) in Ofqual’s regulatory framework
- whether the reference to ‘deadlines’ in the assessment requirements was correct, or if it should refer to ‘windows’ in relation to non-exam assessments
- the qualifications to which the Conditions apply, specifically whether the Extended Project Qualification (EPQ) or Technical Qualifications that are part of T Levels are subject to these Conditions (ATQ1: Interpretation and Definitions)
- how awarding organisations would be expected to gather evidence of prior attainment of prior qualifications in relation to standard setting
- how frequently reviews of alternative academic and alternative technical qualifications might be undertaken by Ofqual and whether the General Conditions already allowed for reviews to take place

- whether the Condition should also refer to the scenario where an Awarding Organisation chooses to withdraw a qualification, in relation to the withdrawal of approval of public funding

Decision

We considered the feedback on the drafting of the Conditions, requirements and statutory guidance, and have made some changes to the wording where we agreed it would be helpful to do so in [the final versions](#). To help ensure clarity, we have also made some minor amendments to wording in our assessment strategy requirements for technical occupation qualifications, to ensure these align with IfATE's approvals criteria for these qualifications.

Respondents who commented on already-agreed policy did not raise any new issues or risks which would lead us to reconsider our previously announced decisions.

In relation to the specific queries set out above:

- 'Requirement' is a standard term used throughout the General Conditions of Recognition and other Ofqual regulatory frameworks. An awarding organisation must comply with a requirement in the same way it must comply with a Condition. A requirement is usually more detailed than a Condition and is typically used where we want to explain something in a more narrative format to make sure it is clearly understood.
- In relation to the reference to deadlines for non-exam assessments in the assessment requirements, we have decided to retain the term 'dates' as consulted on. This is because the requirement refers to the specific deadline dates by which marks must be submitted, but it does not prevent the use of windows for the taking of the assessment itself.
- In relation to the qualifications subject to these requirements, neither the Extended Project Qualification (EPQ) nor Technical Qualifications which are a part of T Levels will be subject to these Conditions. The Conditions as drafted in the consultation set this out by stating that they do not apply to qualifications which are already subject to other Qualification Level Conditions (which is the case for both). In relation to Technical Qualifications, we have additionally amended the drafting to clarify that a Technical Occupation Qualification is a qualification that is not a Technical Qualification within a T Level.
- In relation to the evidence of prior attainment collected as part of standard setting, the statutory guidance we have published gives examples of the evidence that may be used. Ofqual's view is that it is for awarding organisations to determine how they collect that evidence and therefore we have decided not to provide more detail in the guidance.
- In relation to Ofqual reviews, this Condition will support Ofqual's role in the integrated approval process. The Condition refers to a specific process not covered elsewhere in Ofqual's regulatory framework. It seeks to provide clarity to awarding organisations that issues identified during the approval stage, which cannot be fully resolved in advance of approval, must still be addressed. Our intention is that such reviews will take place initially as part of Ofqual's role in the integrated approvals process. We will provide information to awarding organisations about how and when

such reviews will take place.

- In relation to the withdrawal of public funding, and the scenario where an awarding organisation chooses to withdraw a qualification, Ofqual notes that there is already an obligation under General Condition D6.3 for an awarding organisation to inform Ofqual where it believes it likely that it will withdraw a qualification. Condition ATQ6 relates only to the funding of the qualification, and it is not necessarily the case that the removal of funding will lead to the withdrawal of the qualification. We have decided, therefore, that it is not necessary to amend Condition ATQ6 as these Conditions set different obligations on awarding organisations and refer to different processes.

The [final version of the Conditions, requirements and statutory guidance](#) are published alongside these decisions.

Equalities impact assessment

Ofqual is a public body, which means we are bound by the public sector equality duty in the Equality Act 2010.

[Ofqual set out in its first consultation those impacts we had identified arising from our proposals and how they might be mitigated](#). We also sought views on whether there were any impacts we have not identified, and how these might be mitigated. As we were largely implementing and building upon the proposals on which we previously consulted, we did not identify any additional equalities impacts in this second consultation.

The equalities impacts identified related to:

- content assessment and design (alternative academic and alternative technical qualifications)
- Assessment by Examination (alternative academic qualifications)
- non-exam assessment (alternative academic qualifications)
- assessment strategies (alternative academic and alternative technical qualifications)

Respondents were asked:

- if there were any other potential impacts (positive or negative) on students who share protected characteristics that Ofqual had not identified
- if there were any additional steps that could be taken to mitigate any negative impacts resulting from the proposals

to provide any other comments on the impacts of the proposals on students who share a protected

characteristic

Responses received

Many respondents agreed that Ofqual had identified all the potential impacts on students who share protected characteristics and that there were no additional steps that could be taken to mitigate any negative impacts resulting from the proposals.

Among those who disagreed, concerns were raised about the potential disadvantage to students from lower socio-economic backgrounds, who they thought may be more likely to take the affected qualifications if they are unable to access A levels and T Levels. Respondents thought that the introduction of the proposed Conditions, requirements and statutory guidance, particularly in relation to assessment, would mean that the qualifications these students currently take as alternatives to A levels and T Levels will be different or cease to exist in their current form. Respondents said that students from these backgrounds might disproportionately include those from ethnic minorities or those with SEND.

Respondents had mixed views on whether the minimum of 40% for Assessment by Examination would be fair to disadvantaged students, or be a disadvantage for those with protected characteristics, with some stating that the minimum should be higher and others stating that 40% would be too high.

Respondents were keen that potential equalities impacts are monitored following the implementation of the new Conditions, requirements and statutory guidance and the (re)development of qualifications to meet these requirements.

Decision

The impacts raised by respondents related to the approach to assessment, which was confirmed following our first consultation. As explained in the first consultation, the Secretary of State's steer was that alternative academic qualifications must be strengthened in comparison to the approaches currently in place. The DfE currently requires external assessment to comprise at least 40% of an Applied General qualification (which are similar to many of the level 3 alternative academic qualifications likely to be covered by these proposals). It would not be appropriate to reduce this weighting for the new, strengthened alternative academic qualifications.

While Ofqual recognised the concerns raised, the proposed Conditions, requirements and statutory guidance are intended to strike a balance. This balance is achieved by allowing flexibility for awarding organisations to consider equalities impacts as part of the design of their qualifications and only imposing the requirements needed to secure the aims of [the steer letter to Ofqual from the Secretary of State](#).

The existing equalities obligations under the General Conditions will continue to apply to these

qualifications. Awarding organisations will be required to explain their approaches to design, development, delivery and award of qualifications, including how they have taken into consideration the needs of students with protected characteristics, as part of their assessment strategy.

Ofqual will continue to monitor any equalities impacts as the qualifications are developed and delivered. As part of the integrated approvals process, Ofqual will review qualifications which will give us the opportunity to consider awarding organisations' approaches and challenge them where necessary.

Regulatory impact assessment

Ofqual set out in its first consultation its assessment of the regulatory impact of its proposals. While we have tried to minimise the extent of any additional burden as far as is possible, new regulatory requirements because of the enhanced controls proposed will inevitably have a regulatory impact. Ofqual sought to put in place Conditions, requirements and statutory guidance that are proportionate to the intended aims of the Post-16 Qualifications Review.

As we were largely implementing and building upon the proposals on which we previously consulted, we did not identify any additional equalities impacts in this second consultation.

The regulatory impacts identified related to:

- Assessment by Examination (alternative academic qualifications)
- assessment strategies (alternative academic and alternative technical qualifications)
- disapplication of Ofqual requirements where DfE funding approval is removed (alternative academic and alternative technical qualifications)

Respondents were asked:

- if there are any regulatory impacts that Ofqual had not identified arising from the proposals. If yes, what are the impacts and are there any additional steps Ofqual could take to minimise the regulatory impact of the proposals
- if there are any costs, savings or other benefits associated with the proposals which Ofqual had not identified, and to provide estimated figures where possible
- if there is any additional information Ofqual should consider when evaluating the costs and benefits of the proposals
- for any comments on the impact of our proposals on innovation by awarding organisations

Responses received

Respondents largely commented on the regulatory impacts already identified as part of the regulatory impact assessment, rather than identifying any new impacts. These included:

- the potential burden on awarding organisations caused by the introduction of new regulatory requirements and the work needed to ensure that qualifications meet these. Some respondents thought these burdens would be disproportionately felt by smaller awarding organisations
- the potential burden of providing an assessment strategy, particularly if some of the information has previously been provided to Ofqual in relation to other qualifications
- the potential for burden on centres who need to familiarise themselves with the changes, and for other users, such as students and employers, who need to get used to new qualifications
- the potential burden of assessment, particularly if the amount of Assessment by Examination increased from what exists currently, leading to the potential for additional reasonable adjustment requests, and running of examination series in centres
- the potential burden of Ofqual reviews, depending on how often they took place and any controls awarding organisations put in place to assure themselves of the effectiveness of qualifications outside of formal Ofqual review
- the difficulty of collaboration between awarding organisations unless it is managed by Ofqual or IfATE

Respondents also commented on the impact the proposals might have on innovation, such as:

- that the need to meet new regulatory requirements would reduce the resource available for existing awarding organisations to innovate, and present a barrier to entry for new awarding organisations, limiting innovation and competition
- that the proposals would hinder awarding organisations' ability to take managed risks and to react to changing economic and societal developments
- that requiring a minimum of 40% of the total assessment for a qualification to be through Assessment by Examination could limit innovative assessment practices
- the risk of regulatory requirements being too inflexible to allow for new developments and innovations
- the need to ensure that any new regulatory requirements do not limit the possibility for awarding organisations to use technology to innovate, for example the use of on-screen marking or on-demand assessment approaches

Decision

Ofqual's approach throughout has been mindful of the potential impact of our regulatory approach. A degree of regulatory impact is unavoidable if we are to strengthen our regulatory approach in line with the Secretary of State's steer. The extent of this has formed an important part of our decision making and we considered the concerns raised by respondents when we took decisions on our policy approach.

In relation to concerns raised about the burden of producing assessment strategies, Ofqual recognises the potential burden for awarding organisations of doing this, particularly where this evidence does not currently exist in the form of an assessment strategy document. However, Ofqual's view is that any regulated awarding organisation should consider the aspects of design, development and award of qualifications covered by the assessment strategy requirements as part of its business-as-usual processes, and so any burden should be limited to collating this information to provide it to Ofqual.

In relation to concerns raised about increased regulatory burden caused by the level of change and potential for disruption that any new Conditions, requirements and statutory guidance may cause, Ofqual recognises that several proposals may require changes in current approaches to the design, delivery and award of some qualifications. Some changes may have a cost and resource impact on awarding organisations. Ofqual considered this issue as the proposals were developed and sought to minimise any additional burden as far as possible. New regulatory requirements arising from the enhanced controls proposed will, however, inevitably have some regulatory impact. Ofqual believes this impact is proportionate to the changes that are necessary to meet the Ministerial steer we have been given.

In relation to concerns about the impact on awarding organisations' ability to innovate, Ofqual has only put Conditions, requirements and statutory guidance in place where this is necessary to strengthen controls around assessment. We do not consider that these controls would necessarily limit innovation although we recognise that there will be an impact on resources.

In relation to concerns that the increased weighting of Assessment by Examination would lead to an increase in the number of requests for reasonable adjustments, Ofqual does not have any evidence that this would be the case. We acknowledge, however, that there could be an increased burden for awarding organisations and centres in 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. The resource required will depend to some extent on the decisions taken by awarding organisations about the design and structure of their qualifications.

In relation to the potential burden of Ofqual reviews, as explained in the previous section, our intention is that such reviews will take place initially as part of Ofqual's role in the integrated approvals process. We will provide information to awarding organisations about how and when such reviews will take place.

We think the Conditions, requirements and statutory guidance we are putting in place achieve a balance between these competing considerations of strengthening our regulation, and minimising disruption while bringing about the necessary improvements.

Ofqual will continue to monitor any regulatory impacts as the qualifications are developed and delivered.

Next steps

The final [Conditions, requirements and guidance](#) were published alongside this decisions document and will come into effect at 11am on 10 January 2023.

Awarding organisations intending to submit level 3 alternative academic and technical occupation qualifications for approval should refer to the [Single Access Point \(SAP\)](#). This webpage contains information on the steps and processes awarding organisations will need to understand and follow to submit level 3 alternative academic and technical occupation qualifications as part of the 2025 to 2026 funding approval process. The SAP also summarises the roles and responsibilities of IfATE, Ofqual and the DfE in the approval process.

Ofqual is working with the DfE and IfATE to consider whether the approaches we have decided to implement at level 3 could be applied to some groups of qualifications at level 2 and below and will be consulting on its proposals for these qualifications in due course.

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