

## Cookies on GOV.UK

We use some essential cookies to make this website work.

We'd like to set additional cookies to understand how you use GOV.UK, remember your settings and improve government services.

We also use cookies set by other sites to help us deliver content from their services.

[Accept additional cookies](#)

[Reject additional cookies](#)

[View cookies](#)

 **GOV.UK**

▼ Topics

▼ Government activity



[Home](#) > [Education, training and skills](#) > [School curriculum](#) > [Exam regulation and administration](#)  
> [Ensuring the resilience of the qualifications system in 2023: GCSE, AS, A level, Project and AEA](#)



[Department  
for Education](#)

[Ofqual](#)

Closed consultation

# Ensuring the resilience of the qualifications system in 2023: GCSE, AS, A level, Project and AEA

Published 29 September 2022

**Applies to England**

[Contents](#)

[Proposals at a glance](#)

[Introduction](#)

[Consultation details](#)

[Equality Impact Assessment](#)

[Regulatory Impact Assessment](#)

[Annex A - Your data](#)

[Annex B: Ofqual's role, objectives and duties](#)

 [Print this page](#)

## Proposals at a glance

We welcomed the return of exams and other formal assessments in summer 2022, for the first time since 2019. Exams and other formal assessments are the best and fairest way of assessing what students know and can do. That's why it was so important that we got back to students taking them in 2022, and that this continues next year.

The national closure of schools or cancellation of exams – necessitating the use of alternative assessment arrangements – is now very unlikely. The government does not expect to ever be in the situation again where exams do not go ahead, but good public policy means having contingency, even for extremely unlikely scenarios.

It is important to learn lessons from the past 3 years. We have taken into account

feedback received on the arrangements in place in 2022 and we propose to put in place arrangements which will build resilience in the exam system next year. We know that most schools and colleges have robust and effective assessment activities in place to monitor students' progress and prepare them for exams, such as mock exams, and these are well established.

This document, prepared jointly by the Department for Education (DfE) and Ofqual, invites views on guidance to schools and colleges about gathering assessment evidence to support resilience in the exams system in the unlikely event it is necessary to use that evidence to inform Teacher Assessed Grades (TAGs). It is designed to allow schools and colleges to determine arrangements to gather evidence that align with their normal arrangements for preparing students for exams.

The proposals in this consultation apply to GCSEs, AS, A levels, Project Qualifications and the Advanced Extension Award (AEA) in mathematics.

## **Audience**

This consultation is likely to be of interest to:

- students, including private candidates, who are expecting to take GCSE, AS, A level, Project, and AEA qualifications and their parents and carers
- teachers of these qualifications
- school Trusts, Trust executives, trustees and governors
- school and college leaders and heads of other types of exam centre
- stakeholder representative organisations, including unions
- exams officers
- exam boards
- those who use qualifications to make selection decisions: further and higher education institutions and employers

## **Duration**

This consultation will open on 29 September and close on 20 October at 11:45 pm.

## **Responding to this consultation**

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

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

## **Introduction**

This is a joint consultation by the Department for Education (DfE) and Ofqual on guidance for schools, colleges and other exam centres. It proposes that schools, colleges and exam centres should build collecting and retaining evidence of student performance into their normal arrangements for preparing students to take exams, to support resilience in the exam system. It applies to GCSE, AS, A level, Project and AEA qualifications in England.

The DfE is responsible for its policy for qualifications (including whether the government considers that exams can safely or fairly go ahead as planned) and the subject content that is taught and assessed. Ofqual is responsible for the assessment arrangements and is therefore responsible for setting regulations to implement alternative arrangements, if required. Given both organisations have responsibilities related to these proposals, we are consulting jointly on this issue. These responsibilities will be reflected in the decisions taken following the consultation.

## **Background to this consultation**

In 2020 and 2021 national exams did not take place because of the extraordinary circumstances of the coronavirus (COVID-19) pandemic, and alternative arrangements to determine and award grades to students were put in place.

In summer 2022 we saw a welcome return to the well-established method of assessment of exams and other formal assessments. However, given the uncertainty about the path of the pandemic at the start of the 2021 to 22 academic year, Ofqual and DfE jointly consulted on and agreed contingency arrangements for 2022. Following that consultation, Ofqual provided centres with guidance on how to gather evidence, which would have been used by teachers to determine grades should exams not have been able to go ahead in 2022. In summer 2022, exams went ahead as planned, with some adaptations.

There is not the expectation that there will ever be a situation again where the government considers exams should not go ahead, but we have learnt the importance of having resilience in the system in case exams cannot take place because of exceptional circumstances.

Schools and colleges already have in place established assessment arrangements that allow them to prepare students for the experience of sitting formal exams and support them to identify any areas that require further study and revision. In formulating these proposals, we have considered the processes by which many schools and colleges gathered assessment evidence before the pandemic, through mock exams for example, and reflected on the impact of the guidance we issued last year.

This consultation seeks views on how centres should gather and retain evidence from students so that it can be used both to support students' revision and exam preparedness and could be used as a basis to determine students' grades in the unlikely event that formal exams and assessments do not go ahead as planned. It invites views on whether the guidance proposed will minimise the burden on centres and students, and if it will support centres to provide the best possible preparation for students for their exams.

## **Consultation details**

### **Proposals**

As for summer 2022, we consider the most appropriate way to award GCSEs, AS and A levels, AEA and Project qualifications in summer 2023, if government considers that national qualifications should not be assessed through public examinations, would be for grades in these qualifications to be determined by

teachers and subject to exam board quality assurance. We refer to this as using Teacher Assessed Grades (TAGs). Therefore, we propose that, as proposed in 2022, TAGs will be awarded if exams cannot go ahead as planned.

We propose that, should exams not go ahead, more detail would be provided on the process for determining, quality assuring and appealing TAGs should such a decision be taken. We plan that any decision to cancel exams would lead to the use of TAGs for GCSE, AS, A level, project and AEA qualifications, regardless of the precise weighting that the specific qualification has of exam and non-exam assessment.

Against the background set out above, we are seeking views on how the process of gathering evidence, which could in exceptional circumstances be drawn on by teachers to determine grades, could be improved and streamlined. In particular, we have proposed an approach that seeks to ensure the experience for students is broadly consistent but also seeks the minimum possible burden for students, teachers, schools and colleges and allows schools and colleges to put in place arrangements that they judge will best support students' preparation for exams. Students should understand that this guidance is about collection and retention of evidence in the unlikely event exams do not take place. When exams take place, TAGs will not be used to award a grade.

The proposals in this document apply to GCSE, AS and A level, Project and AEA grades awarded in England in summer 2023. Our approach throughout the pandemic for VTQs has been to place decision-making in the hands of the awarding organisations through the Vocational and Technical Qualifications Contingency Regulatory Framework (VCRF), recognising that no single approach will be appropriate for such a diverse range of qualifications. VTQs are generally modular and have a high proportion of internal assessment. This means that it is more likely that there will be evidence available which could be used to determine grades.

There are a small number of VTQs which are assessed in a similar way to GCSEs and A levels. We would expect awarding organisations offering those qualifications to take account of the outcomes of this consultation. We will continue to work with those awarding organisations as we did in academic year 2021 to 2022 to ensure that appropriate arrangements are in place. The VCRF remains in force until Ofqual publishes a notice bringing it to a close. Awarding organisations would be able to reintroduce adaptations during academic year 2022 to 23 in response to a worsening pandemic. Should exams and formal assessments no longer be considered viable, the provisions which permit the use of TAGs could be brought back into force, following a short consultation.

In 2021, the government's decision that it was no longer fair for exams to go ahead was applied at a national level across England. If there was such an event like the pandemic again with such severe and catastrophic consequences, the government is clear that a national approach would again be the most appropriate, rather than local or regional approaches. We believe that it would not be acceptable or command public confidence to have different approaches to awarding grades for the same qualifications running in different locations. It would not be possible to align, reliably and at scale, the standards of grades awarded to some students who had taken exams with grades determined by teachers.

## **Proposed Guidance**

We are consulting on guidance to inform the way teachers collect and store assessment evidence to support alternative assessment arrangements, in the unlikely event it is needed, in 2023.

This guidance is designed to ensure the minimum level of burden for schools and

colleges, teachers, and students. This guidance has been scaled back from previous arrangements in light of the experience of schools and colleges. The focus is to enable teachers to gather evidence in line with their existing assessment processes and in ways that they judge will best support students in preparing to take their exams.

We do not expect the majority of schools and colleges will need to run new or additional assessments beyond those they already run in a normal year to check pupils are making good progress and help them prepare for exams – typically including a series of assessments used by most schools often described as ‘mocks’ or something similar. This is in line with keeping these resilience arrangements proportionate and realistic, given it is extremely unlikely they will be invoked.

It should also reassure students that not every piece of their work throughout their course of study could be used to determine a grade, in the unlikely event that national exams cannot take place as planned. Assessing students in line with the proposed guidance will support students preparing for formal exams.

The guidance proposed in this consultation covers the steps schools, colleges and teachers should take in the coming months so that students have sufficient evidence in place on which TAGs could be based.

The proposed guidance would apply to all subjects and exam boards and is set out in this document.

## **Guidance on collecting evidence of student performance in academic year 2022 to 2023**

### **The scope of assessments**

Centres should plan assessment opportunities in line with their usual assessment approaches, unless they conclude that there is any reason to vary them to make sure they have collected appropriate evidence. Evidence gathered should be sufficient that schools and colleges feel confident that, taken together, the evidence is an appropriate assessment of the knowledge, understanding and skills of the student. Teachers should plan so that the evidence gathered for students assesses them on a wide range of content, similar to that which they will expect in their summer exams, and across the assessment objectives for the qualification. They should plan both the assessment opportunities, and when they take place, in ways they judge will best support their students in preparing for their exams.

The total assessment time should not normally exceed the total time students would spend taking exams for the relevant qualification, plus any time spent on non-exam assessment. Teachers should guard against over-assessment and normally would not need to spend longer on these assessments than they would on their existing assessment arrangements. In both 2021 and 2022 we saw examples of over-assessment for this purpose, which we consider to be unnecessary and counter to supporting students as they prepare for their exams. We are keen that students benefit from the opportunities they are given to prepare for their exams, and certainly are not adversely affected by taking too many assessments.

### **The conditions under which students should be assessed**

Teachers should assess their students to provide them with opportunities to demonstrate their knowledge and understanding in ways that cover the assessment objectives for the qualification.

Students taking GCSEs, AS and A levels and the Advanced Extension Award

should be assessed under exam-like conditions wherever possible. For example, students:

- should not know the questions in the assessment beforehand
- should work independently and without assistance (other than as required for a reasonable adjustment)
- should not have access to books or revision notes and the assessment should be timed and supervised

This will both help to ensure that the work is authentic and, given that this reflects the conditions under which formal exams would be taken, it will prepare students for exams in the summer. This is also likely to align closely with existing assessment arrangements in many schools and colleges. Noting the need to minimise burden and the impact on resources, these controls could be provided within a classroom rather than exam hall setting.

Wherever possible, a centre should either assess all of its students who are taking a particular qualification using the same material at the same time or using different materials at different times.

Reasonable adjustments must be made for disabled students, in accordance with Equalities Law, and as explained in this document.

### **The assessment materials**

The assessments should be as useful as possible for students preparing to take summer exams. Assessments should, therefore, be similar to full or parts of the exam papers they are preparing to take next summer and should be based on exam board materials as far as possible.

### **Student awareness**

It should be made clear to students that it is expected that exams and formal assessments will go ahead as planned, and that any assessment evidence collected and retained under this guidance would be for use in the unlikely situation that they could not. However, students should be told, where possible, before taking any assessment, whether their performance would be used as part of evidence to determine a grade for them if exams cannot go ahead as planned.

In exceptional circumstances, it might be necessary for assessments that were not taken in line with this guidance to be used as evidence to inform a grade should exams not go ahead as planned, for example where a student misses the centre's planned assessments because of serious illness. In such cases the student might not have been told in advance of taking the assessment that their performance might be used as evidence. Guidance would be provided on this if exams cannot proceed as intended.

### **Reasonable adjustments for disabled students**

The same reasonable adjustments that will be made for disabled students taking exams in the summer should, where possible, be applied to the assessments. Records should be made of the adjustments and the reasons for them. The centre should record the reason why any reasonable adjustment was not made.

If a student's need for a reasonable adjustment is only identified after an assessment has taken place, their teacher should record the reason for this late identification and where possible allow the student to take a different, but equivalent, assessment with the reasonable adjustment in place.

### **Special consideration for students whose performance is affected by an event outside their control**

If a teacher is satisfied that a student's performance in one or more of the assessments was affected by an event that was outside of the student's control at the time of, or immediately before, the assessment, such as illness or family bereavement, the teacher should mark the assessment as normal, but record the issues so that it could be taken into account when determining a grade should that be necessary.

Centres should make sure students know they need to tell their teachers before, or immediately after, the assessment of any events outside their control that might have affected their performance in an assessment.

### **Marking**

Teachers should mark the assessments in line with published exam board mark schemes and guidance where appropriate. Centres should support teachers to mark work for the same qualification to the same standard.

As these arrangements are intended to support the existing internal assessment process, students should be given feedback, which could include marks or comments. Students should not, however, repeat assessments with the same questions following such feedback for the purpose of evidence collection.

Teachers may tell the student the grade at which their performance in the assessment indicates they have performed. Teachers must make it clear to their students that any grade used to indicate the level at which the student has performed is not an indication of what their final grade would be if it became necessary to award a qualification using the evidence. It will not be possible for a teacher to determine a final grade unless we set specific guidance on this, which we will only do if exams do not go ahead.

Teachers should take into account the different approaches to grading in autumn 2020 and 2021 and summer 2022, and the greater leniency in grade boundaries as a result, when using these grade boundaries to provide an indicative grade for students. Where students are towards the lower range of the given grade boundary, it is likely more appropriate for them to judge the student to be performing at the lower grade given the return to pre-pandemic grading standards this year. This will also support teachers where the assessment undertaken also informs decisions on predicted grades, be that for use internally or for external use such as UCAS predictions.

### **Retention of the work**

Student work, either the original or a copy, must always be retained by the centre. Students may be given copies, or the original work, if this would support their learning.

### **Disruption to the assessments**

Where significant disruption to education, for example illness, or a major incident such as a fire or flood, means assessments cannot be completed for all or some of their students in line with this guidance, centres should take reasonable steps to collect evidence of each student's knowledge and understanding in ways that align as far as possible with this guidance. Centres should be prepared to explain the exceptional reasons why they have not been able to gather evidence in line with this guidance for all or some of their students if exams could not take place. Centres are not expected to deviate from the guidance to accommodate minor disruptions to a student's education.

### **Project qualifications**

Students taking Project qualifications do not take exams in any year. Teachers do not, therefore, need to carry out any additional assessment of students taking

Project qualifications in case exams cannot take place. They should encourage and support students to complete their Project assessments as usual.

### **Private candidates**

Private candidates are typically home educated or students who are re-taking a qualification having left the school or college where they originally studied. They may be studying with a distance learning provider, tutor, parent, or without any such support.

In normal years, when exams take place, private candidates register with a centre which arranges for the candidate to take their exams alongside the centre's students. As we expect exams to take place in 2023, centres are encouraged to allow private candidates to register with them in the usual way.

Some private candidates might want centres to assess them during the academic year, alongside the centre's students, in line with this guidance. Centres may agree to do so, although they would need to make sure the assessments only covered content the private candidate had studied. Alternatively, private candidates could be assessed only in the unlikely event it is confirmed that exams will not take place as intended, in which case they would be assessed in a compressed period.

If Government considers that national exams cannot take place, the DfE would again explore ways to encourage centres to work with private candidates and to provide affordable opportunities for private candidates to work with centres.

### **Question 1**

Do you agree that this proposed guidance is helpful in guiding schools and colleges to collect and retain evidence in a proportionate way in line with their existing arrangements to help determine TAGs in the unlikely event exams do not go ahead as planned?

Please add any comments to explain your response.

### **Question 2**

To what extent do you agree or disagree that the guidance set out minimises any additional burden on students beyond the existing assessment arrangements, such as mock exams, in place in centres?

Please add any comments to explain your response.

### **Question 3**

To what extent do you agree or disagree that the guidance set out above would minimise any additional teacher workload beyond existing assessment arrangements, such as mock exams, in place in centres?

Please add any comments to explain your response.



#### **Question 4**

Are there any parts of the guidance which you think could be improved? Please be specific about which part of the guidance you are referring to and how it might be improved.

#### **Longer-term perspectives**

We need to confirm arrangements for 2023 now to give certainty to schools and colleges, and students. Therefore, the intention is that such arrangements, as outlined in this consultation, are in place for 2023. The approach is to build resilience into the exam system should exams not go ahead for any reason. Therefore, we intend to reflect on any decisions made following this consultation and consider how well any arrangements in place this year have worked towards the end of the spring term.

We then plan to consult again in the summer term on any possible proposals for the longer-term. We are therefore seeking initial views now on whether such guidance should be in place for future years, which we can then consider later in the academic year alongside any reflections on 2023.

#### **Question 5a**

Should guidance remain in place beyond 2023 to support the award of grades should exams not be able to go ahead as planned for any reason in future years?

#### **Question 5b**

Please add any comments you have on the use of guidance to build resilience in the exam system beyond 2023.

#### **Arrangements for private candidates**

In the event of exams not going ahead for any reason, private candidates would need to make arrangements with a centre to complete the required assessments, for the specifications they have studied, in supervised conditions. We propose recommending to private candidates that they discuss these arrangements with centres and take them into account when choosing the centre(s) with which they wish to register to take their exams.

#### **Question 6**

To what extent do you agree or disagree that this would be the best approach for private candidates?

#### **Question 7**

Please add any comments you have on the proposed approach, and/or any views you have on alternative approaches.

# Equality Impact Assessment

We have considered the potential impact on students who share protected characteristics [\[footnote 1\]](#) We have considered this impact in the context of our public sector equality duty in section 149(1) of the Equality Act 2010. This requires us to have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it Annex B sets out how this duty interacts with Ofqual's statutory objectives and other duties.

Exam boards are required to comply with equalities legislation, and Ofqual's existing General Conditions of Recognition reinforce this in relation to the qualifications awarding organisations make available. Awarding organisations are required to monitor their qualifications to identify features which may disadvantage a group of learners who may share a protected characteristic; this applies to the design, delivery and award of their qualifications.

In developing these proposals for summer 2023, we have sought to not unfairly disadvantage students, including on the basis of sharing a protected characteristic. We have considered whether any of the proposals in this consultation might impact (positively or negatively) on students who share particular protected characteristics. We set these considerations out below, in addition to the impacts we have identified in the relevant sections throughout this consultation.

While it is not possible completely to remove all identified negative impacts, we are keen to understand whether respondents agree with the impacts we have identified, whether there are other impacts that we have not identified, and whether there are ways to mitigate these impacts. We would therefore encourage you to read and respond to this section.

Disabled students, including disabled private candidates, would have to be given reasonable adjustments when taking any assessments that provide evidence of the standard at which they are performing. We do not consider this would be problematic, at least not if the assessments were taken within the school or college or other exam centre. The student's school or college would know how the student normally works and make any such adjustments as were necessary to reflect the student's normal way of working. Disabled private candidates would need to discuss their needs with the exam centre making their entry for the qualification.

If the assessments had to be taken in another venue, including at the student's home, some types of reasonable adjustment could be readily made, for example the provision of extra time, or putting the assessment into a larger font. Other types of adjustment could be more difficult to make, for example if the student would normally dictate their work to a scribe or required specialist equipment or software to complete remote assessments. We expect that centres will do all they can to ensure that reasonable adjustments are provided. We welcome any evidence about how the guidance could be improved in this respect.

The proposed arrangements for summer 2023 should be accessible to students who are being educated in alternative forms of provision, such as hospital schools,

notwithstanding the issues identified above. We are aware that some students who study outside a school or college (private candidates) do so for reasons of SEND (special education needs and disability) or illness. We would therefore welcome evidence on any disproportionate or negative impact our proposals might have on private candidates with particular protected characteristics.

Similarly, gathering relevant evidence could be more difficult where a student has poor attendance and/or a shorter history at the school or college. For example, evidence from data on school absences suggests that this is particularly a concern for Gypsy, Roma and Traveller groups, who are likely to move schools more often, and in general struggle to maintain sustainable links with schools. We welcome evidence on how best to mitigate any disadvantage of our proposed arrangements for these groups of students.

It is important that assessments are as accessible and inclusive as possible, so that students are not prevented from demonstrating what they know and can do. We would welcome respondents' views on how schools and colleges could be supported to make any school or college-set assessments as accessible as possible.

While mental well-being is not a protected characteristic, we know that the impact of the pandemic on students' mental health and well-being is a common concern. We expect that our proposed arrangements will be of some benefit to students' mental health and well-being, as the proposals offer some certainty about how students will be assessed in the unlikely event that exams are cancelled.

We also believe that providing clarity on the scope and nature of the evidence on which grades should be based (if exams do not go ahead as planned) should help to reduce the risk of over-assessment, as well as students' anxiety that every piece of work they do might inform their grade. Some students may find the assessments used to gather evidence helpful preparation for their formal exams and assessments.

We do, however, acknowledge that the necessary flexibility of our proposals means that students will not be entirely certain of the full detail of how they would be assessed until such a time as it determined exams will not take place.

#### **Question 8**

Do you believe the proposed arrangements (any or all) would have a positive impact on particular groups of students because of their protected characteristics?

#### **Question 9**

Do you believe the proposed arrangements (any or all) would have a negative impact on particular groups of students because of their protected characteristics?

#### **Question 10**

Do you have any comments on the impact of the arrangements on particular groups of students because of their protected characteristics?

# Regulatory Impact Assessment

As set out above, the government is firmly committed to GCSE, AS and A level exams going ahead in England in the academic year 2022 to 2023.

If, as expected, exams go ahead as planned in 2023 then alternative assessment evidence will not be needed to determine grades for all students.

We think a detailed assessment of the costs and savings associated with hypothetical alternative arrangements for determining grades should exams not go ahead as planned is inappropriate at this time. That said, we recognise it is important to understand the likely impacts of the proposals we are consulting on, particularly the guidance we propose to put in place.

There are also some elements of our proposals that will have at least some regulatory impact even if alternative arrangements are not needed.

When consulting on proposed contingency arrangements for 2022, we outlined, as part of the consultation, some of the proposed costs and benefits should they arrangements be invoked. Given that we expect the possibility of needing to invoke alternative arrangements is reduced in comparison to 2022, we do not intend to outline all such costs and benefits. We will focus on the impact of arrangements in place to gather evidence, noting that we are aware that having to use this evidence to determine grades would give rise to further costs and benefits.

## Impact on schools and colleges

We expect there would be one-off, direct costs and administrative burdens associated with familiarisation with the guidance provided by Ofqual. Schools and colleges may need to provide additional training to staff on how to develop assessments in line with the guidance.

As it is recommended that reasonable adjustments are in place where students sit assessments under the guidance presented in this document, this may place some burden on facilities available for schools, for example where separate rooms are required. This could have a potential opportunity cost with space being unavailable for use with other students.

There will also be one-off, direct costs and administrative burdens associated with the marking and quality assurance of such teacher assessments. There may also be limited costs associated with securely storing assessments.

Some of these costs and burdens, however, are experienced in a normal year as part of existing internal assessment processes and the provision of good quality teaching and learning. The aim of the guidance is to minimise burden through centres aligning the process of gathering evidence as close as possible with existing assessment processes, so these costs and burdens are expected to be low.

Centres may also incur costs associated with dealing with a greater number of queries from parents and carers in relation to the arrangements in place for gathering evidence.

Others, such as familiarisation with the guidance and training of staff may be reduced as there are similarities in approach between those arrangements in place during the last 2 years.

## **Impact on students**

The proposed arrangements are designed to ensure students are not disadvantaged if it proves necessary to cancel exams, and that disruption to their planned progression is minimised.

We would expect the proposed arrangements to ensure that all students, including private candidates, can continue with their studies and will receive grades.

As the intention is to align any arrangements for gathering evidence as closely as possible to the assessment arrangements already in place any additional burden on students of having arrangements in place should be minimised.

Some private candidates may incur costs in addition to expected exam entry costs should they wish to ask a centre to gather evidence for them whilst the intention remains for exams to go ahead.

## **Impact on exam boards**

The proposed arrangements would apply to GCSE, AS and A level, Project and AEA qualifications regulated by Ofqual.

While there would be a range of costs and savings to exam boards should alternative arrangements be invoked, those related to the gathering of evidence are limited.

There may be direct costs involved in making centres aware of any guidance published. In addition, there may be increased costs involved with dealing with any queries from school and college staff, students, and their parents or carers.

## **Impact on the further and higher education sectors and employers**

There would be significant negative impacts on the further education (FE) and higher education (HE) sectors and employers if students were not able to progress as planned in 2023.

That is why we are proposing alternative arrangements which would ensure – even if exams are unable to proceed as planned – students can receive grades in time to be able to progress to FE or HE.

## **Innovation and growth**

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

At this stage, we consider that the proposed arrangements set out in this consultation are – if needed – likely to be proportionate and necessary to achieve our aims. We will of course revisit that question should it prove necessary to determine that exams cannot go ahead.

### **Question 11**

Are there additional burdens associated with the delivery of the proposed arrangements on which we are consulting that we have not identified above? If yes, what are they?

### **Question 12**

What additional costs do you expect you would incur through implementing the proposed arrangements on which we are consulting? What costs would you save?

Please distinguish in your response between those costs or savings that relate to preparing to put the proposed arrangements in place, from those that would only be realised if the arrangements were required.

### **Question 13**

Do you have any views on how we could reduce burden and costs while achieving the same aims?

## **Annex A - Your data**

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

This Privacy Notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual). We are a 'controller' for the purposes of the General Data Protection Regulation (EU) 2016/679 and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this Privacy Notice carefully as it contains important information about our processing of consultation responses and your rights.

### **How to contact us**

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

Data Protection Officer at [dprequests@ofqual.gov.uk](mailto:dprequests@ofqual.gov.uk) or write to us at:

Data Protection Officer,  
Ofqual,  
Earlsdon Park,  
53-55 Butts Road,  
Coventry,  
CV1 3BH

As part of this consultation process you are not required to provide your name or any personal information that will identify you however, we are aware that some respondents may be happy to be contacted by Ofqual in relation to their response. If you or your organisation are happy to be contacted with regard to this consultation, please give your consent by providing your name and contact details in your response.

## **Our legal basis for processing your personal data**

For this consultation, we are relying upon your consent for processing personal data. You may withdraw your consent at any time by contacting us using the details above.

## **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.

## **Sharing your response**

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships (IFA) 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. 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 IFA with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Following the end of the consultation, we will publish a summary of responses and may publish copies of responses on [our website](#). We will not include personal details.

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

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 or including member 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, but we cannot guarantee that confidentiality can be maintained in all circumstances.

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 long will we keep your personal data

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

### Your data

Your personal data:

- will not be sent outside of the European Economic Area
- 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, e.g., access, rectification, erasure

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

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

If you would like to exercise your rights, please contact us using the details set out above.

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](#), or telephone 0303 123 1113.

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

If there is any part of your response that you wish to remain confidential, please indicate so in your response.

## Annex B: Ofqual's role, objectives and duties



# The Apprenticeship, Skills, Children and Learning Act 2009

Ofqual has five statutory objectives, set out in the Apprenticeship, Skills, Children and Learning Act 2009:

1.) **The qualification standards objective**, which is to secure that the qualifications we regulate:

a) give a reliable indication of knowledge, skills and understanding; and b) indicate:

i) a consistent level of attainment (including over time) between comparable regulated qualifications; and

ii) a consistent level of attainment (but not over time) between qualifications we regulate and comparable qualifications (including those awarded outside of the UK) that we do not regulate

2.) **The assessment standards objective**, which is to promote the development and implementation of regulated assessment arrangements which:

a) give a reliable indication of achievement, and

b) indicate a consistent level of attainment (including over time) between comparable assessments

3.) **The public confidence objective**, which is to promote public confidence in regulated qualifications and regulated assessment arrangements

4.) **The awareness objective**, which is to promote awareness and understanding of:

a) the range of regulated qualifications available,

b) the benefits of regulated qualifications to Students, employers and institutions within the higher education sector, and

c) the benefits of recognition to bodies awarding or authenticating qualifications

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

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

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

## The Equality Act 2010

As a public body, we are subject to the public sector equality duty.<sup>10</sup> This duty requires us to have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

(a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities;

(b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred;

(c) the need to maintain public confidence in the qualification.

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

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

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

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

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

In setting our proposed requirements, we want to understand the possible impacts of the proposals on learners who share a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage and civil partnerships
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

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

1. For the purposes of the public sector equality duty, the 'protected characteristics' are disability, racial group, age, religion or believe, pregnancy or maternity, sex, sexual orientation, gender reassignment.[↩](#)

[↑ Back to top](#)

#### Is this page useful?

Yes

No

Report a problem with this page

## Topics

[Benefits](#)

[Births, death, marriages and care](#)

[Business and self-employed](#)

[Childcare and parenting](#)

[Citizenship and living in the UK](#)

[Cost of living support](#)

[Crime, justice and the law](#)

[Disabled people](#)

[Driving and transport](#)

[Education and learning](#)

[Employing people](#)

[Environment and countryside](#)

[Housing and local services](#)

[Money and tax](#)

[Passports, travel and living abroad](#)

[Visas and immigration](#)

[Working, jobs and pensions](#)

## Government activity

[Departments](#)

[News](#)

[Guidance and regulation](#)

[Research and statistics](#)

[Policy papers and consultations](#)

[Transparency](#)

[How government works](#)

[Get involved](#)

