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Consultation outcome

Decisions: Regulating level 1 and 2 qualifications designed to lead to employment

Updated 22 May 2023



Introduction

Background

The Department for Education (DfE) is conducting a review of post-16 qualifications at level 2 and below (L2B). The aim of the review, [as set out in DfE's consultation response](#), is to:

“...ensure that all qualifications available within the new landscape are high quality and have a clear purpose, giving students the knowledge and skills to achieve positive outcomes, whether they are progressing to further study, on to an apprenticeship, traineeship or supported internship, or into employment”.

In the future, L2B qualifications approved for funding by DfE will need to meet any additional regulatory requirements introduced by Ofqual and, in the case of technical qualifications (which will only exist at level 2 and above), will also need to be approved by the Institute for Apprenticeships and Technical Education (IfATE). Ofqual will provide feedback on technical qualifications to IfATE, and DfE will base funding decisions on those qualifications that IfATE has approved.

Ofqual's proposed approach to regulating level 1 and 2 qualifications designed to lead to employment is intended to work in conjunction with DfE's new funding approvals process. It builds on the arrangements put in place for reformed level 3 qualifications.

For level 2 technical qualifications, Ofqual consulted on introducing a limited number of additional regulatory requirements which took account of the respective roles of IfATE and Ofqual in the approvals process for these qualifications. They were:

- to require awarding organisations to develop, follow, and keep under review an assessment strategy
- to require awarding organisations, following a review by Ofqual, to comply with any requirements, and to have regard to any guidance specified by Ofqual in relation to the qualification
- to require awarding organisations to inform Ofqual when approval for public funding is withdrawn, to allow Ofqual to decide when the conditions, requirements and guidance for these qualifications will cease to apply and to require awarding organisations to comply with any additional requirements Ofqual specifies for qualifications for which approval for public funding has been withdrawn

For level 1 qualifications that are prerequisites to employment, Ofqual proposed not to introduce any additional requirements and to regulate them through the General Conditions of Recognition (GCR) only.

The consultation set out both the proposed regulatory approach and the draft conditions and requirements, which would be used to implement the approach.

This was done to give awarding organisations as much time as possible to develop qualifications to meet the DfE's intended first teach date of September 2025 for the first wave of qualifications in the new landscape. It was also intended to enable schools, colleges and other training providers to familiarise themselves with any changes to qualifications in advance of teaching the first reformed qualifications.

Consultation

The consultation was in 3 parts:

- in part 1, Ofqual consulted on its proposed regulatory approach to level 2 qualifications designed to lead to skilled employment
- in part 2, Ofqual consulted on its proposed regulatory approach to level 1 qualifications, which are prerequisites to employment
- in part 3, Ofqual consulted on the draft Conditions and requirements that would implement the regulatory approach to level 2 qualifications designed to lead to skilled employment covered in part 1

The consultation also sought views on the equalities and regulatory impacts of the proposals, as well as their impact on the ability of awarding organisations to innovate.

This document sets out Ofqual's decisions following this consultation. In reaching these decisions, Ofqual has 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 qualifications landscape

Summary of decisions

Part 1 - proposed regulatory approach for level 2 qualifications designed to lead to skilled employment

Ofqual has decided to implement the regulatory approach to these qualifications as proposed in the consultation. This means the introduction of new requirements relating to assessment strategies, Ofqual review of qualifications, and what happens when funding approval for a qualification is withdrawn.

Part 2 - proposed regulatory approach for level 1 qualifications that are prerequisites to employment

Ofqual has decided to implement the regulatory approach to these qualifications as proposed in the consultation. This means regulating these qualifications through the General Conditions of Recognition only.

Part 3 – proposed Qualification Level Conditions for level 2 qualifications designed to lead to skilled employment

Ofqual has decided to implement the proposed Qualification Level Conditions (QLCs) and requirements as consulted on.

This means that for these qualifications, Ofqual will implement the following QLCs and associated requirements:

- interpretation and definitions (Condition TOQ1)
- assessment strategies and associated requirements (Condition TOQ2 and associated requirements)

- qualification reviews (Condition TOQ3)
- withdrawal of approval for public funding (Condition TOQ4)

Details

Part 1 – Proposed regulatory approach to level 2 qualifications designed to lead to skilled employment

Respondents were asked to provide comments on the proposed regulatory approach to these qualifications, which included the introduction of new requirements relating to assessment strategies, to Ofqual's review of qualifications, and what happens when funding approval for a qualification is withdrawn.

Assessment Strategies

What Ofqual proposed

Ofqual proposed to require awarding organisations to develop, follow and keep under review an assessment strategy for each level 2 qualification designed to lead to skilled employment. This means that for each qualification, an awarding organisation will be expected to justify and provide a rationale for the approach to design, delivery and assessment. The proposed assessment strategy requirements, therefore, cover the key aspects of the qualification lifecycle, namely the design, development, delivery and award of these qualifications.

This is the same approach that has been put in place for level 3 technical occupation and alternative academic qualifications.

Respondents were asked to what extent they agreed or disagreed with the proposal, and to provide any comments.

Responses received

Most respondents agreed with the proposal. Awarding organisations generally agreed with this proposal, with one noting that this is now the common approach for many types of regulated qualification. Several awarding organisations, however, also referred to the increased burden this requirement could place on them.

Some respondents said that they would like further clarity on how the process of approving assessment strategies would work. Some respondents also asked for further clarity on, or expressed concerns regarding, the timescales for approval, and whether an assessment strategy would be required for each qualification. It was also suggested that Ofqual should provide a template assessment strategy document.

Decision

Ofqual has decided to put in place the requirement that awarding organisations should develop, follow, and keep under review an assessment strategy for each level 2 qualification designed to lead to skilled employment.

Setting assessment strategy requirements ensures Ofqual has the necessary

information to regulate effectively and to hold awarding organisations to account. They will be used in the review of qualifications to inform the feedback Ofqual provides to IfATE as part of the approvals process, as well as forming an important part of ongoing regulation.

To minimise the burden on awarding organisations, Ofqual has set the requirements for assessment strategies with the intention that a single set of requirements will meet the needs of both Ofqual and IfATE in the review process. The detailed requirements that specify the information awarding organisations would be expected to include in an assessment strategy are provided in the relevant Qualification Level Conditions (Condition TOQ2 and the associated requirements). This should provide clarity on Ofqual's expectations while providing sufficient flexibility for awarding organisations to incorporate their existing documentation should they wish to do so.

Ofqual has not specified a template that awarding organisations will be expected to use, and awarding organisations will be able to provide assessment strategies in any format that meets all of the requirements. This includes providing one assessment strategy document that covers multiple qualifications.

Ofqual review as part of the qualification approvals process

What Ofqual proposed

As part of DfE's funding approvals process, Ofqual will provide feedback to IfATE, based on a review of awarding organisations' approaches and their qualifications. This feedback will include any changes Ofqual considers necessary for awarding organisations to address any shortcomings, some of which it may not be possible to address until the qualifications are in delivery.

Ofqual proposed that, following a review by Ofqual, an awarding organisation must comply with any requirements, and have regard to any guidance, specified to it by Ofqual in relation to the qualification. This requirement will enable Ofqual to effectively monitor qualifications in delivery and hold awarding organisations to account.

This is the same approach that has been put in place for level 3 technical occupation and alternative academic qualifications.

Respondents were asked to what extent they agreed or disagreed with this proposal, and to provide any comments.

Responses received

Most respondents agreed with the proposal, including most awarding organisations. Some awarding organisations that agreed with the proposal said that they would expect to comply with what Ofqual, as the regulator, requested of them. Other awarding organisations said they would welcome the opportunity to discuss with Ofqual any proposed requirements, ahead of the qualifications going live. Concerns were also raised regarding the impact of managing conflicting Ofqual and IfATE feedback on their ability to get qualifications ready in a timely manner.

Several respondents, a mix of awarding organisations and representative bodies, raised concerns regarding the impact of this proposal on the timescales for introduction of reformed qualifications. Several respondents mentioned the burden this requirement could place on awarding organisations if changes had to be made to qualifications before delivery, though this is not the intention of the proposal.

Where respondents disagreed with the proposal, it was on the basis that it was not

clear when awarding organisations would be expected to comply with any requests from Ofqual, and whether that would be within an awarding organisation's normal review and continuous improvement process. Further clarity was also sought on what sorts of issues might be covered by this proposal.

Decision

Ofqual has decided to put in place the requirement that, following a review by Ofqual, an awarding organisation must comply with any requirements, and have regard to any guidance, specified to it by Ofqual in relation to a level 2 qualification designed to lead to skilled employment.

This requirement only relates to issues identified during the approval process, reflecting Ofqual's role as the regulator of these qualifications and IfATE's statutory role in the approvals process. It will complement IfATE's approval functions and provide an effective regulatory tool for Ofqual to manage in the delivery of those qualifications approved by IfATE. This will be done by ensuring that issues identified during the approval process are fully addressed.

This requirement provides clarity for awarding organisations that issues identified during the approval stage that cannot be fully resolved in advance of IfATE's approval decision must still be addressed. This is important as some issues relating to qualification and assessment design may not be able to be fully resolved ahead of delivery and may need to be monitored in delivery. Ofqual does not intend to publish a list of these issues as they will be specific to each awarding organisation's qualifications. As these issues would be monitored in delivery, there would be no impact on the timescale for the approval and introduction of a qualification.

Ofqual will work with DfE and IfATE to ensure that feedback given to awarding organisations during the funding approval process is consistent.

Withdrawal of approval for public funding

What Ofqual proposed

The additional requirements set out above relating to assessment strategy requirements and Ofqual review would only apply to qualifications for which an awarding organisation has, or is seeking approval for, public funding.

In light of this, Ofqual proposed to require awarding organisations to inform Ofqual when one of their qualifications ceases to be approved for public funding, to explain the circumstances for this, and to request that any additional requirements cease to apply. To ensure the interests of students taking the qualification on a funded basis are protected should a qualification have approval for public funding withdrawn, Ofqual would then be able to specify additional requirements, for example, to determine the date from when the rules will be disappplied.

This is the same approach that has been put in place for level 3 technical occupation and alternative academic qualifications.

Respondents were asked to what extent they agreed or disagreed with this proposal and to provide any comments.

Responses received

Responses to this question were mixed, with around two-fifths of respondents agreeing with the proposal, around a third disagreeing, and the rest neither agreeing nor disagreeing.

All respondents that strongly disagreed or disagreed with the proposal (most of them

awarding organisations) suggested that Ofqual could get the information about withdrawal of funding from DfE. Some respondents that did agree with the proposal also made this suggestion.

Several respondents suggested that following withdrawal of public funding, a qualification should stay on the Ofqual register of approved qualifications. An awarding organisation suggested that any conventions relating to titling could lead to confusion for users of qualifications that have had their funding withdrawn.

Decision

Ofqual has decided to put in place a requirement for awarding organisations to inform Ofqual when approval for public funding of one of their qualifications is withdrawn, to explain the circumstances for this, and to request any additional requirements cease to apply. This requirement will allow Ofqual to specify requirements, where necessary, to protect the interests of students.

Ofqual has considered the feedback from respondents that DfE could notify Ofqual about the withdrawal of public funding from a qualification, instead of the responsibility lying with awarding organisations. However, this feedback does not take into account the wider purpose of the requirement, which is to protect the interests of students taking the qualification at the time of funding withdrawal. A report on the withdrawal of funding approval from DfE would not by itself provide Ofqual with the further information needed about the students taking the qualification or the awarding organisation's future plans for the qualification. The notification from the awarding organisation would be the starting point for this information to be shared with Ofqual to inform decisions about when the additional requirements would cease to apply to the qualification.

Ofqual will ensure the process in place for such notifications minimises the regulatory burden on awarding organisations as far as possible. The process is outlined in the Condition through which this requirement will be enacted (TOQ4). Ofqual will communicate in writing any requirements specified as part of any decision to disapply the QLCs for a qualification that has had its public funding approval withdrawn.

The publicly funded status of a qualification does not affect its status as an Ofqual-approved and regulated qualification. Where a qualification has had its public funding approval withdrawn, it will continue to be regulated through the General Conditions of Recognition after these QLCs have ceased to apply. The process for managing the withdrawal of a qualification from the Ofqual register is set out in [General Condition D6](#).

Ofqual did not propose to introduce any new requirements relating to titling for these qualifications. IfATE will set expectations on titling, including what it will expect to happen when it withdraws its approval of a qualification as a technical qualification.

Part 2 – Proposed regulatory approach to level 1 qualifications which are prerequisites to employment

What Ofqual proposed

Ofqual proposed to regulate these qualifications through the General Conditions of Recognition (GCR) only. In line with this proposal, DfE has agreed that Ofqual will not

be providing feedback to DfE on these qualifications as part of the funding approvals process.

Taking this approach would not preclude Ofqual from introducing additional controls or taking other regulatory action, whether specific to individual qualifications or across the group, to safeguard the interests of students or to address any risks to the validity of any of these qualifications identified in the future.

Respondents were asked to provide comments on the proposal.

Responses received

Most respondents were supportive of the proposal to regulate through the GCR only and not to introduce any additional requirements.

Several respondents referred to the ministerial steer as the reason for their support, as no common issues had been identified by DfE that would need to be addressed by additional Ofqual controls. Others suggested that the current approach to regulating these qualifications works well and that regulating through the GCR will enable awarding organisations to be flexible in developing qualifications that meet students' and employers' needs.

Some respondents suggested that more clarity was needed on which qualifications were included in this group. More clarity was also sought on the type of additional controls Ofqual could introduce in the future.

One respondent, an awarding organisation, was not supportive of the proposal on the basis that it would mean a disparity in how level 1 and level 2 qualifications are regulated.

Decision

Ofqual has decided not to put in place additional controls for this group of qualifications and to continue to regulate them solely through the GCR.

The GCR already include a range of controls to ensure qualifications have appropriate stakeholder support, appropriate assessment methods and a clear objective. These controls are sufficient to ensure these qualifications continue to meet the needs of the sectors that use them and the students that take them.

The lack of common issues with this group of qualifications means that it would not be appropriate to introduce a common set of additional controls and that regulating through the GCR is proportionate. It would not be proportionate to introduce similar assessment strategy requirements for these qualifications to those proposed for level 2 qualifications designed to lead to skilled employment. The requirement relating to Ofqual review of qualifications that has been proposed for level 2 qualifications designed to lead to skilled employment could not be applied to these qualifications as Ofqual will not be reviewing them up front as part of the new funding approvals process.

Should any common or qualification-specific issues be identified later, Ofqual could introduce additional controls at that point to resolve any issues and retain employer and student confidence in the qualification(s). The nature of those additional controls would depend on the issue(s) that needed to be addressed at that time.

DfE will determine which qualifications in this group will be eligible for public funding.

Part 3 - Proposed Qualification Level Conditions for level 2 qualifications designed to lead to skilled employment

Respondents were asked to provide comments on the drafting of the proposed Conditions and requirements related to the following, which would apply to level 2 qualifications designed to lead to skilled employment:

- **interpretation and definitions** (Condition TOQ1) – to set out how the Conditions should be interpreted, to specify the qualifications covered by these requirements and to define certain relevant terms
- **assessment strategies** (Condition TOQ2) – 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 reviews** (Condition TOQ3) – to require an awarding organisation to comply with any requirements and have regard to any guidance specified by Ofqual following a review of a qualification
- **withdrawal of approval for public funding** (Condition TOQ4) – 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

Interpretations and definitions (Condition TOQ1)

What Ofqual proposed

Ofqual proposed to put in place a Condition (TOQ1) covering interpretations and definitions:

- setting out how the Conditions should be interpreted as part of Ofqual's regulatory framework
- specifying the qualifications covered by these requirements
- defining the terms used in these Conditions

Responses received

Some respondents to this question commented on the drafting of the Condition itself. Respondents requested clarification on:

- the title of the proposed QLCs, to distinguish them from any future conditions which might be introduced for qualifications designed to lead to further study
- whether this condition would continue to apply in cases of withdrawal of public funding
- the definition of Technical Occupation Qualifications across the respective sets of level 2 and level 3 QLCs

Other respondents did not comment on the drafting of the Condition itself but made more general comments. Respondents:

- requested that the QLCs are clear and transparent and that they align to the General Conditions of Recognition (GCR)
- suggested that all Technical Occupation Qualification QLCs could be included in one set of requirements covering all qualification levels

Decision

Ofqual has decided to implement Condition TOQ1 as drafted and consulted upon.

In response to the specific points raised by respondents that are set out above:

- all technical qualifications are based on employer-led occupational standards and are designed to lead to employment, not to further study, and any sets of QLCs introduced in future for qualifications designed to lead to further academic or technical study will be titled appropriately
- in line with TOQ4 (the QLC through which withdrawal of public funding will be managed), Ofqual will determine the date from which TOQ1 ceases to apply following notification of the withdrawal of funding approval from a qualification
- a common definition for level 2 and level 3 Technical Occupation Qualifications is not appropriate as the definition of level 3 Technical Occupation Qualifications takes into account the existence of Technical Qualifications within T Levels, which do not exist at level 2
- Ofqual's General Conditions of Recognition will continue to apply to qualifications subject to these QLCs, as well as the additional requirements set out in this consultation
- a decision on whether, and how, to collate the different sets of QLCs introduced as a result of the Qualifications Review has not yet been taken. Ofqual will consider how best to publish the QLCs to ensure clarity and aid navigability for readers, and will publish any proposals in due course

Assessment strategies (Condition TOQ2)

What Ofqual proposed

Ofqual proposed to put in place a Condition (TOQ2) covering assessment strategies that would require an awarding organisation to:

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

Respondents were also asked to comment on the draft assessment strategy requirements.

Responses received

Most respondents that expressed a view on the drafting of Condition TOQ2 were supportive, with some welcoming the consistency of the wording with similar conditions that have been introduced for other groups of qualifications.

Some respondents did not comment on the drafting of the Condition itself but raised other queries in relation to assessment strategies. Respondents asked:

- what would need to be included in the assessment strategy
- whether every individual qualification would need a separate assessment strategy or whether one document could cover multiple qualifications
- what the assessment strategy requirements would be for 'non-technical' qualifications at level 2

Respondents were also asked for views on the proposed detailed requirements relating to assessment strategies. Most respondents that provided a view were supportive of the proposed requirements. They said that they are drafted clearly and are consistent with those introduced for other qualifications, particularly for level 3 Technical Occupation Qualifications.

Some respondents did not comment on the drafting of the proposed requirements but provided more general comments - some repeating points made earlier in the consultation. Respondents commented on:

- the additional burden the assessment strategy requirements will place on awarding organisations
- the need for assessment to be manageable for the students who take these qualifications and to reflect the needs of employers
- the difficulty of knowing what Ofqual would find acceptable, given it has not chosen to set assessment requirements, for example, relating to the percentage of assessment done by examination, alongside the requirement for an assessment strategy

One respondent provided a comment relating to the role of sector body criteria in the qualification development and approvals process, which was outside the scope of this consultation.

Decision

Ofqual has decided to implement Condition TOQ2 and the associated assessment strategy requirements as drafted and consulted upon.

As explained in the consultation, Ofqual will not specify additional requirements relating to assessment design. Ofqual's role will be to review submissions and provide feedback to IfATE. Ofqual will then monitor IfATE-approved qualifications in delivery. IfATE will determine through its approvals process whether the assessment is appropriate to meet the knowledge, skills and behaviours specified for a given qualification. The assessment strategy will need to explain why the awarding organisation's chosen approach is appropriate to meet any assessment-related requirements specified by IfATE.

In response to the other points raised by respondents:

- the assessment strategy requirements clearly set out what an awarding organisation will be expected to include in an assessment strategy - as explained in part 1, one assessment strategy document could cover multiple qualifications
- this consultation focused only on qualifications designed to lead to employment - draft assessment strategy requirements for qualifications designed to support progress to T Levels and for other qualifications designed to support progress to further study were included in the relevant consultations

Ofqual review of these qualifications (Condition TOQ3)

What Ofqual proposed

Ofqual proposed to put in place a Condition (TOQ3) covering the review of level 2 qualifications designed to lead to skilled employment by Ofqual that would require an awarding organisation to:

- comply with any requirements and have regard to any guidance specified by Ofqual following a review of a level 2 qualification designed to lead to skilled employment

Responses received

Where respondents provided a view on the drafting of Condition TOQ3, they were mostly supportive. Respondents noted that the drafting of the Condition is consistent with that previously introduced for level 3 Technical Occupation Qualifications.

Some respondents did not comment on the drafting of the Condition itself but made other comments in relation to the proposal, some of which were repeating comments which had been made earlier. Respondents commented on:

- the need for awarding organisations to comply with Ofqual's requirements
- the need for a transparent process for awarding organisations to appeal against any requirements Ofqual specifies
- the need for flexibility with regard to timeframes for awarding organisations to make any required changes
- the need for clear guidance on how changes made following the review would impact IfATE approval of the qualification
- the possibility that a process requiring qualifications to be submitted to both Ofqual and IfATE would not enable qualifications to be developed quickly enough to meet emerging employer demands
- the need for clarity on what would trigger a review of a qualification and how long an awarding organisation would have to make any changes.
- the burden this requirement would place on awarding organisations

Decision

Ofqual has decided to implement Condition TOQ3 as drafted and consulted upon.

In response to the specific points raised by respondents set out above:

- as set out in part 1, this requirement is designed to complement IfATE's approval functions and provide an effective regulatory tool for Ofqual to manage in delivery those qualifications approved by IfATE, by ensuring that issues identified during the approval process are fully addressed
- the timeframe within which an awarding organisation will be expected to make a change in response to an Ofqual review will be clearly set out in the feedback given by Ofqual
- the approvals process and timeline for approvals have been set out by DfE and IfATE

Withdrawal of approval for public funding (Condition TOQ4)

What Ofqual proposed

Ofqual proposed to put in place a Condition (TOQ4) covering withdrawal of approval for public funding from qualifications that would:

- require an awarding organisation to promptly notify Ofqual where a qualification will, or is likely to, cease to be approved for public funding, and the circumstances for

this

- permit Ofqual to determine whether and when the QLCs should cease to apply
- require an awarding organisation to comply with any requirements communicated to it by Ofqual in relation to this

Responses received

Most of the respondents did not comment on the wording of the draft Condition itself. Many respondents repeated comments made earlier in their responses to part 1, questioning why awarding organisations should need to notify Ofqual of withdrawal of public funding from a qualification when DfE or ESFA could supply the information instead.

Where respondents did comment on the Condition, they welcomed its similarity to the equivalent Condition previously introduced for level 3 Technical Occupation Qualifications.

Respondents also asked for greater clarity on what “promptly” and “likely to” mean in the context of TOQ4.1(a), suggesting that awarding organisations could interpret the condition differently and create inconsistencies in the market as a result.

Other comments raised by respondents related to:

- the need for qualifications to remain on the Ofqual register and to be subject to Ofqual regulation in cases where public funding is withdrawn
- how the condition would apply in areas of England where funding decisions are devolved, such as Mayoral Combined Authorities

Decision

Ofqual has decided to implement Condition TOQ4 as drafted and consulted upon.

In response to the specific points raised by respondents that are set out above:

- the terms “promptly” and “likely to” are considered to be appropriate as each case of public funding withdrawal may be different
- as explained in part 1, qualifications do not have to be publicly funded to be included on the Ofqual register
- in the draft Conditions on which Ofqual consulted, the qualifications to which this Condition would apply are defined as those that are approved for public funding, after a specified date, by the Secretary of State as a Technical Occupation Qualification

Equalities impact assessment

Ofqual is a public body, which means it is bound by the public sector equality duty in the Equality Act 2010. The consultation set out the identified impacts on equalities that would arise from the proposed regulatory approach. The equalities impacts identified related to:

- assessment strategies, where a positive equalities impact was identified - the act of developing an assessment strategy will require awarding organisations to consider in detail their approach and Ofqual will be able to use it to hold awarding organisations to account
- Ofqual review of qualifications, where a positive equalities impact was identified - it will be possible through the review to identify issues with an awarding organisation’s approach and require these to be addressed, including where they are aspects that need consideration once in delivery

Respondents were asked:

- if there were any further equalities impacts (positive or negative) on students arising from the proposed regulatory approach to level 1 and 2 qualifications designed to lead to employment, and to separate them by protected characteristic where possible
- if there were any ways in which Ofqual could mitigate potential negative impacts on particular groups of students

Responses received

No additional equalities impacts were identified by respondents beyond those originally identified in the consultation. Many of the comments provided referred to students sharing a particular protected characteristic, without providing specific examples of what the impact would be on those students or how it could be mitigated.

One respondent suggested it would be difficult to comment fully on the equalities impacts of the proposals without knowing which qualifications would be affected by the new funding approvals process. Several respondents also made comments relating to DfE policy decisions on withdrawal of public funding from qualifications, such as entry-level qualifications, which were outside of the scope of this consultation.

Some respondents suggested potential mitigations of equalities impacts arising from the proposals. This included permitting qualifications to have a modular structure, with no requirement for summative assessment, to meet the needs of students with SEND.

Decision

Ofqual has considered its proposals in light of the responses received. No additional equalities impacts were identified and Ofqual intends to implement the proposals as consulted upon.

Ofqual will continue to monitor any equalities impacts as the qualifications are developed and delivered. As part of the IfATE approvals process, Ofqual will review awarding organisations' approaches, identify any issues and require them to be addressed where necessary.

In response to the specific points raised by respondents that are set out above, Ofqual has not proposed to introduce additional controls related to assessment design or to qualification structure. IfATE has set out [its expectations of awarding organisations in these areas](#).

Regulatory impact assessment

The consultation set out Ofqual's assessment of the regulatory impact of the proposals.

The regulatory impacts identified related to:

- assessment strategies, which awarding organisations will be required to develop, follow and keep under review

- Ofqual reviews, where awarding organisations will be required to address any requirements or guidance issued by Ofqual following a review

Respondents were asked:

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

Responses received

Several respondents identified potential regulatory impacts that they felt Ofqual had not considered in the consultation. Some of the impacts were broader than those related to Ofqual's specific proposals. These included:

- the potential impact of licences to practise in certain professions, with those requirements also needing to be covered by the relevant qualifications
- the impact of revisions to occupational standards on the timescales for qualification development and the currency of live qualifications which are no longer aligned to the relevant standard
- the need for clarity on the impact of funding withdrawal on the titles of qualifications, and the need for guidance to provide that clarity
- the potential for the requirement to produce an assessment strategy to lead to Ofqual focusing its review on the quality of explanation given by awarding organisations, rather than on the substance of their assessment approaches
- the greater burden that Ofqual's proposed regulatory approach to these qualifications will place on smaller awarding organisations

Several respondents suggested that there would be additional costs arising from the proposed regulatory approach, but most did not identify any specific costs. Where they did, respondents identified additional costs related to the requirement for awarding organisations to produce and maintain an assessment strategy for each qualification. One mitigation suggested for this was to enable awarding organisations to produce one overarching assessment strategy for all their qualifications, with appendices for each individual qualification. Another potential mitigation was to enable awarding organisation to prepare in advance the additional information beyond the assessment strategy that IfATE requires as part of its approvals process.

Several respondents suggested that it would be important to ensure that any additional costs to awarding organisations were not passed on to training providers. One respondent suggested that fee-paying adults would be likely to face higher fees because of costs being passed on to them.

No respondents suggested there was additional information that Ofqual should consider, but did make other points relating to the implementation of the new funding approval process, including:

- the need for a clear timeframe for the submission of reformed qualifications and assessment strategies
- the need for clarity on whether the approvals process will vary between the different levels of technical qualifications

- the need for providers to familiarise themselves with new qualifications ahead of delivery

Respondents also sought clarification on Ofqual's decision not to introduce a new regulatory qualification type or to require awarding organisations to extend their scope of recognition to offer these qualifications.

Several respondents raised issues which they felt would have an impact on awarding organisations' ability to innovate. These included:

- concern about the timescales for qualification development and approval, with a suggested mitigation that Ofqual should provide a clear timetable for submissions which is agreed with awarding organisations
- the additional regulatory burden arising from the proposals, including the requirement to notify Ofqual when public funding is withdrawn from a qualification, repeating points made in response to previous questions

Decision

Ofqual recognises that meeting Ofqual, IfATE and DfE requirements may result in changes to the design, delivery and award of some qualifications. Some changes may have a cost and resource impact, but the extent of that impact will vary across awarding organisations. Ofqual considered this issue as the proposals were developed. Ofqual has sought to minimise any additional burden on awarding organisations as far as possible by only introducing additional QLCs where necessary to regulate these qualifications effectively in delivery and to support the funding approvals process.

Ofqual has decided not to introduce a new regulatory qualification type for these qualifications. This is because the additional QLCs will only apply to qualifications which have been approved by IfATE and approved by DfE for public funding. There is also a risk that defining these qualifications as a single regulatory qualification type could suggest a greater level of similarity than could actually be the case for these qualifications.

In relation to the specific points raised relating to regulatory impact that are set out above:

- licences to practise and issues relating to alignment with occupational standards are matters for IfATE to consider in its role approving these qualifications
- Ofqual has not proposed to introduce any new requirements on titling relating to these qualifications - Ofqual's [General Condition E2](#) includes requirements that qualifications have titles that reflect their content and that are not misleading to users
- IfATE has set out its titling expectations in its approvals criteria - where qualifications are not approved by IfATE, awarding organisations will not be able to use the titles specified by IfATE

In relation to other concerns raised by respondents:

- [DfE has published the timeline](#) setting out when awarding organisations will be able to submit qualifications for approval and how the approvals and appeals processes will operate
- Ofqual has only proposed Conditions and requirements where necessary to enable us to provide feedback to IfATE and to regulate these qualifications effectively in delivery

Next steps

The [final Conditions and requirements](#) were published at the same time as this decisions document and will come into effect at 11am on Monday 22 May.

DfE has published [guidance on qualification funding approval](#), and [IfATE has published information on its approvals process](#).

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