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[Department  
for Education](#)

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Open consultation

# Ensuring the resilience of the qualifications system

Published 10 May 2023

**Applies to England**

# Proposals at a glance

Exams and formal assessments went ahead in 2022 for the first time since the coronavirus (COVID-19) pandemic and are expected to continue, as normal, from now on. This has been widely welcomed as exams and other formal assessments remain the best and fairest way of assessing what students know, understand and can do.

The government does not expect to be in the situation again where exams do not go ahead. However, it remains good public policy to have contingency arrangements, even for extremely unlikely scenarios.

For the 2023 exam series, resilience arrangements have been put in place. Ofqual provided guidance for schools and colleges on how to gather evidence of student performance in GCSE, AS, A level, Project Qualifications and Advanced Extension Award in maths that could be used to determine a grade in the unlikely event that exams and assessment are not able to go ahead as planned. The arrangements for 2023 were a step down from the arrangements of 2021 and 2022, and were designed to minimise burden on schools and colleges.

This consultation is split into 2 parts. Part 1 of the consultation seeks views on the proposal that long-term resilience arrangements be in place for GCSE, AS and A level, Project qualifications and AEA in maths, and on specific guidance for gathering evidence of student performance to support resilience in the exam system for these specific qualifications. As with arrangements in 2023, the proposals seek to minimise the burden on schools and colleges, and students, through the use of existing internal assessment arrangements as far as possible.

The document also invites views on proposals to require all awarding organisations to consider whether it is necessary to have resilience arrangements in place for their qualifications, and, where necessary, provide guidance to centres [\[footnote 1\]](#) on gathering evidence of student performance to support resilience. Given the wide variety of Vocational and Technical Qualifications (VTQs), the proposed resilience arrangements would not be appropriate for all.

For VTQs used alongside or instead of GCSEs, AS and A levels for progression to further or higher study, however, the proposal is that similar arrangements should be put in place. This would include Technical Qualifications within T Levels. We do not propose to develop common guidance for these qualifications as any guidance would need to take into account the design of each qualification. We do, however, note that awarding organisations should consider the proposed guidance for general qualifications and can draw on it or reproduce it wherever appropriate.

For other VTQs, which assess occupational or professional competence, proficiency, or act as a licence to practise, these resilience arrangements would not apply.

Part 1 of the document has been prepared jointly by the Department for Education and Ofqual given their respective responsibilities in this area. Any analysis of responses to this part of the consultation will be undertaken jointly.

Part 2 seeks views on the regulatory changes that would be required to put these proposals in place. Part 2 has been produced solely by Ofqual as the regulator of exams and assessments in England, in line with its responsibilities. Responses to Part 2 of this consultation will be analysed only by Ofqual, and Ofqual will make all decisions in relation to these matters.

## 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 Advanced Extension Award (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
- awarding organisations
- those who use qualifications to make selection decisions: further and higher education institutions and employers

## Duration

This consultation will open on 10 May at 11 am and close on 2 August at 11:45 pm. As most of this timeline falls within term time, it should allow stakeholders who operate on term-time contracts sufficient time to respond. Equally, the decision to end the consultation early in the school summer holidays will enable stakeholders, such as membership bodies, to seek views from their members before responding, and will provide sufficient time for students and others to respond once the exam series has ended.

## Responding to this consultation

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

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

## Introduction

Part 1 of this document is a joint consultation by the Department for Education (DfE) and Ofqual. We are seeking views on putting in place exam resilience arrangements for the long-term to facilitate the gathering of evidence of student performance by centres, which would enable grades to be awarded in the unlikely event that exams cannot go ahead as planned.

In Part 2 of the consultation Ofqual outlines the proposed regulatory approach to put into effect the proposals outlined in Part 1.

For GCSEs, AS and A levels, Project Qualifications, and AEA in maths, we propose to provide guidance for schools, colleges and other exam centres about the collection and retention of evidence of student performance.

For VTQs used alongside or instead of GCSEs, AS and A levels for progression to further or higher study, we propose that similar arrangements should be put in place, but these would need to be set by awarding organisations to allow the arrangements to reflect the design of their qualifications. We propose that it should be for awarding organisations to determine if and/or what such guidance might be, noting the need for them to take into account the proposed approach for GCSEs and A levels. This

would include Technical Qualifications within T Levels. For other VTQs, which assess occupational or professional competence, proficiency, or act as a licence to practise, these resilience arrangements would not apply.

The DfE is responsible for the subject content that is taught and assessed for qualifications, including GCSE, AS and A levels, and for policy for qualifications (including whether the government considers that exams can safely or fairly go ahead as planned). DfE policy is that exams and other formal assessments are to go ahead if at all possible. 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 in relation to proposals in Part 1 of this consultation. 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.

Summer 2022 saw a welcome return to the well-established method of assessment of exams and other formal assessments. For summer 2022 there were contingency arrangements in place for GCSE, AS and A levels, Project Qualifications and AEA for the unlikely event that exams could not go ahead as planned. We publicly consulted on arrangements and confirmed them in November 2021. [Guidance was provided to schools and colleges on how to gather evidence of student performance](#) that could be used to determine a Teacher Assessed Grade in the unlikely event that exams did not go ahead.

In November 2022, following a joint public consultation, resilience arrangements were put in place for qualifications due to be taken in summer 2023. [Guidance was again provided on how to gather evidence of student performance](#), though this was designed to reduce burden on schools and colleges, and students, compared to previous contingency arrangements.

VTQs are generally modular and have a high proportion of internal assessment. For most VTQs therefore there would, as things stand, be sufficient evidence of student performance available which could be used to determine grades in the event of significant disruption, without schools and colleges collecting additional evidence as has been proposed for GCSEs and A levels.

There are, however, a small number of VTQs which are assessed in a similar way to GCSEs, AS and A levels. This is either because they comprise linear assessments, or because students taking modular qualifications (where assessments could be taken throughout the course) choose to take assessments in a linear fashion at the end. When publishing decisions for resilience arrangements in 2023, Ofqual was clear awarding organisations offering these types of VTQs were expected to take account of the guidance issued for GCSEs and A levels and to set out any specific expectations they had in relation to resilience arrangements for their qualifications. The proposals in this consultation seek to formalise this approach for the long-term.

The consultation on resilience arrangements for 2023 asked for initial views on whether the proposed guidance for GCSE, AS and A levels, Project Qualifications and AEA in maths should be adopted in the longer term. [Our analysis showed](#) over two-thirds of respondents supported guidance being in place for the longer term.

It is important to note that the context in which long-term arrangements are being considered now is very different from that during the peak of the pandemic. Exams in 2022 went ahead and they are fully expected to go ahead from now on. The

unprecedented impact on schools and exams during the pandemic has, however, shown that it is good public policy to have contingency arrangements in place.

The resilience arrangements proposed in this consultation are designed only for scenarios in which exams cannot take place as planned on a national level; they are not designed for use in relation to less serious or localised disruption. Government policy is that exams and other formal assessments are to go ahead if at all possible. Exams and other formal assessments give students the fairest chance to show what they know, understand and can do because the rules are the same for everyone.

The proposals seek to give certainty to schools, colleges, and students in the long-term. We have reflected on feedback on the arrangements in 2023, which have informed our proposals.

## Consultation details

This consultation consists of 2 parts:

- in part 1 Ofqual and the Department for Education are jointly seeking views on the proposals for future resilience arrangements for exams. This includes proposed guidance for gathering evidence of student attainment in GCSEs, AS and A levels, Project Qualifications, and AEA in maths;
- in part 2 Ofqual is independently seeking views on the specific Qualification Level Conditions (QLCs) needed to implement the proposals described in part 1.

## Part 1: Ofqual and the Department for Education's Proposed Guidance for Future Resilience Arrangements

### Proposals

Although the government has been clear that it does not expect to be in the situation again where exams do not go ahead, it has also been clear that good public policy means having a contingency, even for extremely unlikely scenarios. As for summer 2023, we consider grades determined by teachers and subject to exam board quality assurance to be the most appropriate way to award GCSEs, AS and A levels, AEA and Project qualifications if public examinations cannot go ahead. We refer to this as using Teacher Assessed Grades (TAGs). We therefore propose that TAGs will be awarded in the extremely unlikely event that exams cannot go ahead as planned in any future year.

More details would only be provided on the process for determining, quality assuring and appealing TAGs in the event that national qualifications cannot be assessed through public examinations. 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.

For those VTQs used alongside or instead of GCSEs, AS and A levels for progression to further or higher study, we consider that the most appropriate way to award these qualifications if exams did not go ahead would be through the use of alternative evidence, such as TAGs. This would include both the Core Exam and

Occupational Specialism components of the Technical Qualification in T Levels. For other VTQs, which assess occupational or professional competence, proficiency, or act as a licence to practise, we do not consider it would be safe to award these qualifications using alternative evidence and instead would expect exams and other assessments to continue where possible or with appropriate adaptations.

Should, for any reason, the government consider that national qualifications should not be assessed through public examinations or formal assessments, Ofqual would look to consult on the reintroduction of TAGs for relevant VTQs.

For GCSEs, AS and A levels, Project qualifications and AEA in maths, we propose an approach to gathering evidence of student performance that seeks to ensure the experience for students is broadly consistent. It 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. This approach is very similar to that adopted for 2023, with minimal changes to further reduce possible burden. Under this proposal, students should again understand that this guidance is about collection and retention of evidence in the unlikely event exams do not take place. It should be clear to them that when exams take place, TAGs will not be used to award a grade.

Most schools and colleges have robust internal assessment approaches in place to monitor pupil progress. The majority of schools and colleges were able to use these existing arrangements to gather evidence of student performance to support resilience in the exam system in 2023. We expect that schools and colleges will be able to continue to use their existing arrangements for the ongoing arrangements proposed.

VTQs are generally modular and have a high proportion of internal assessment. This means that it is more likely that there would already be evidence available which could be used to determine grades, should exams and formal assessments not go ahead. There are, however, a small number of VTQs which are assessed in a similar way to GCSEs and A levels and for which resilience arrangements might be necessary.

The proposal is, therefore, to require all awarding organisations to consider whether it is necessary to have resilience arrangements in place for their particular qualifications, and, where necessary, for those awarding organisations to issue guidance to schools and colleges on collecting evidence of student performance.

Recognising the diverse range of VTQs, any guidance would need to be written by individual awarding organisations so that it reflected the design of their qualifications. We propose, however, that awarding organisations should consider the proposed guidance for general qualifications and should draw on it or reproduce it wherever appropriate. More detail on how Ofqual proposes to require awarding organisations to do this can be found in part 2 of this consultation.

If there was such an event like the pandemic again with such severe and catastrophic consequences, the government expects that a national approach would likely be the most appropriate.

### **Question 1.1**

Do you agree that, for the future (on a long-term basis), guidance should be provided to support schools and colleges in gathering evidence of student performance should exams not be able to go ahead as planned?

Please add any comments to explain your response.

### **Question 1.2**

Do you agree that awarding organisations offering VTQs should consider if it is

necessary and appropriate to have resilience arrangements in place, and if so, provide necessary guidance to centres?

Please add any comments to explain your response.

## **Proposed Guidance for GCSE, AS and A levels, Project Qualifications and AEA in Maths**

Guidance on gathering evidence to support resilience arrangements was in place for summer 2023, and we are seeking views on the long-term adoption of similar guidance. Guidance is proposed for GCSE, AS and A levels, Project Qualifications and AEA in maths as these qualifications form a large group where guidance is needed due to the nature of assessment. It would, therefore, not be appropriate in such a case for each awarding organisation to produce different guidance. For VTQ qualifications, the diverse nature of qualifications means that each would need to be considered on a case-by-case basis. We would, however, expect awarding organisations to consider this guidance, and, where appropriate for their particular qualifications, they may replicate all or part of this guidance.

This guidance is designed to ensure the minimum level of burden for schools and colleges, teachers, and students. As with guidance for summer 2023, 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 students 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 Department for Education and Ofqual are aware that schools and colleges carefully consider the balance of teaching with the number of mock assessments, so that students have enough teaching and revision time to prepare for their exams. We are, however, aware that a small number of schools and colleges created a large number of new and additional mock exams and assessments in 2023 for the purpose of gathering evidence. There is no need to complete multiple sets of mock exams for the purpose of collecting evidence as one full set of mock exams, completed under exam conditions according to the guidance below, is likely to provide sufficient evidence to enable TAGs in the unlikely event exams are cancelled.

The proposed guidance is set out at Annex A of this document.

In answering the questions about the guidance proposed for 2024 and beyond, you may wish to use any knowledge and experience of implementing the 2023 guidance to inform your responses where appropriate.

### **Question 1.3**

Do you agree that this proposed guidance for 2024 and beyond would help schools and colleges to collect and retain evidence in a proportionate way in line with their existing arrangements to help determine TAGs if exams do not go ahead in the future?

Please add any comments to explain your response.

#### **Question 1.4**

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 1.5**

To what extent do you agree or disagree that the guidance in Annex A 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 1.6**

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.

## **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 1.7**

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

#### **Question 1.8**

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

## **Part 2: Ofqual Proposals on Conditions and statutory guidance**

In this section of the consultation Ofqual outlines the regulatory approach that would be taken to put into effect the proposals outlined in Part 1 of this consultation. As noted, the proposals in Part 2 relate to matters that are solely within the remit of Ofqual. An analysis of responses provided to this part of the consultation will be undertaken solely by Ofqual, and any decision pertaining to these matters will also be solely made by Ofqual.

The proposals relate to the General Conditions of Recognition, Qualification Level Conditions and statutory guidance that would be put in place to implement the policy proposals outlined in Part 1.



# Proposed changes to the General Conditions of Recognition and statutory guidance

In Part 1 of this consultation it is proposed that all awarding organisations be required to consider whether it is necessary and appropriate to have resilience arrangements in place, and where appropriate, produce the required guidance.

In order to implement such a requirement, Ofqual proposes putting in place a new General Condition C2.6.

The proposed wording of this Condition is:

C2.6 In respect of a qualification which it makes available, an awarding organisation must:

(a) consider whether it is appropriate for a Centre to gather evidence throughout the academic year of the level of attainment of each Learner so as to support resilience in awarding that qualification should normal assessments for it be disrupted; and

(b) where it does consider such evidence gathering to be appropriate, provide guidance to the Centre in relation to that evidence.

Ofqual also proposes to add new wording to the statutory guidance under Condition C2. The proposed addition to the statutory guidance is:

## Resilience arrangements

In accordance with Condition C2.6, an awarding organisation must consider whether it is appropriate for a Centre to gather evidence throughout the academic year of the level of attainment of each Learner so as to support resilience in awarding that qualification should normal assessments for it be disrupted. Where it does consider such evidence gathering to be appropriate, it must provide guidance to the Centre in relation to that evidence. This could include the nature of the evidence, when it is gathered etc. Evidence gathering by a Centre is likely to be appropriate where:

- other suitable evidence on which to base a grade is unlikely to be available because of the approach taken to assessment (for example, where the qualification does not normally include non-exam assessment, or it follows an academic year cycle (over 1 or 2 years) and there are limited assessment opportunities);
- a Learner needs to rely on the qualification for immediate progression; and
- the qualification does not attest to the achievement of occupational or professional competence, provide a licence to practice, or similar.

Under Condition GCSE 4.8, Condition GCE 4.3, Condition Project 1.2 and Condition AEA 4.3 in respect of GCSE, GCE, Project and Advanced Extension Awards qualifications that an awarding organisation makes available, it must draw the attention of its Centres to guidance on gathering evidence of Learner performance for Learners entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications.

Where an awarding organisation offers VTQs that have a similar assessment structure and are used in similar ways to general qualifications covered by that guidance, it should have regard to the approach that is being taken for such general qualifications to ensure that its Learners are not unduly advantaged or disadvantaged in comparison to Learners taking those general qualifications.

When producing guidance for its Centres, an awarding organisation may wish to replicate, in whole or part, the guidance for Centres offering general qualifications. When doing so, an awarding organisation will need to tailor that guidance in order to ensure that it is relevant to its own qualification, including considering if anything

additional needs to be included in the guidance to reflect factors specific to its qualification.

### **Question 2.1**

Do you have any comments on the drafting of ConditionC2.6?

### **Question 2.2**

Do you have any comments on the drafting of the addition to statutory Guidance for ConditionC2?

## **Proposed changes to the Qualification Level Conditions for GCSE, AS, A level, Project Qualifications and Advanced Extension Award in maths**

Should guidance for GCSE, AS, A level, Project Qualifications and AEA in maths be introduced in the long-term, Ofqual would seek to require awarding organisations to make centres aware of the guidance, and any changes to the Ofqual produced specific guidance for centres offering these qualifications (see Part 1 and Annex A).

To do so, Ofqual proposes to make the following changes to the different sets of Qualification Level Conditions that relate to these qualifications.

### **ConditionGCSE 4.8**

ConditionGCSE 4.8 currently provides:

4.8 In respect of a GCSE Qualification which it makes available, an awarding organisation must take all reasonable steps promptly to ensure that –

(a) the attention of each Centre with which it has an agreement is drawn to the document published by Ofqual, and updated from time to time, entitled '[Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system in 2023.](#)', and

(b) each such Centre is notified of any updates to that document.

The document ConditionGCSE4.8(a) currently refers to will be redundant following the conclusion of the summer 2023 exam series and will be replaced by a new document. Should policy proposals in Part 1 of this document be implemented, Ofqual proposes to revise the wording of this Condition as follows:

4.8 In complying with its obligation under ConditionC2.6 in respect of a GCSE Qualification which it makes available, an awarding organisation must take all reasonable steps promptly to ensure that –

(a) the attention of each Centre with which it has an agreement is drawn to the document published by Ofqual, and updated from time to time, entitled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system.', and

(b) each such Centre is notified of any updates to that document.

The revised Condition would link to the revised guidance document, titled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system.' once published.

### **Question 2.3**

Do you have any comments on our proposal to amend ConditionGCSE4.8?

## **ConditionGCE4.3**

ConditionGCE4.3 currently provides:

4.3 In respect of a GCE Qualification which it makes available, an awarding organisation must take all reasonable steps promptly to ensure that –

(a) the attention of each Centre with which it has an agreement is drawn to the document published by Ofqual, and updated from time to time, entitled '[Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advance Extension Award and Project qualifications to support resilience in the exam system in 2023](#)' and

(b) each such Centre is notified of any updates to that document.

The document ConditionGCE4.3(a) currently refers to will be redundant following the conclusion of the summer 2023 exam series. Should policy proposals in Part 1 of this document be implemented, Ofqual proposes to revise the wording of this Condition as follows:

4.3 In complying with its obligation under ConditionC2.6 in respect of a GCE Qualification which it makes available, an awarding organisation must take all reasonable steps promptly to ensure that –

(a) the attention of each Centre with which it has an agreement is drawn to the document published by Ofqual, and updated from time to time, entitled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advance Extension Award and Project qualifications to support resilience in the exam system' and

(b) each such Centre is notified of any updates to that document.

The revised Condition would link to the revised guidance document, titled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system.' once published.

### **Question 2.4**

Do you have any comments on our proposal to amend ConditionGCE4.3?

## **ConditionProject1.2**

Ofqual proposes to introduce a Condition to the Qualification Level Conditions for

Project Qualifications, to require awarding organisations to make centres aware of the resilience guidance, and any subsequent changes to the guidance. The proposed Condition is ConditionProject1.2. Ofqual also proposes to change the title of ConditionProject1 from 'Compliance with content and assessment requirements' to 'Content and assessment'.

The proposed drafting of ConditionProject1.2 is:

1.2 In complying with its obligation under ConditionC2.6 in respect of a Project Qualification which it makes available, an awarding organisation must take all reasonable steps promptly to ensure that –

(a) the attention of each Centre with which it has an agreement is drawn to the document published by Ofqual, and updated from time to time, entitled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system.', and

(b) each such Centre is notified of any updates to that document.

The Condition would link to the revised guidance document, titled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system.' once published.

### **Question 2.5**

Do you have any comments on the changes to the title of ConditionProject1 and the drafting of ConditionProject1.2?

## **ConditionAEA4.3**

Ofqual proposes to introduce a Condition to the Qualification Level Conditions for Advanced Extension Award in maths, to require awarding organisations to make centres aware of the resilience guidance, and any subsequent changes to the guidance. The proposed Condition is ConditionAEA4.3.

The proposed drafting of ConditionAEA4.3 is:

4.3 In complying with its obligation under ConditionC2.6 in respect of an AEA Qualification which it makes available, an awarding organisation must take all reasonable steps promptly to ensure that –

(a) the attention of each Centre with which it has an agreement is drawn to the document published by Ofqual, and updated from time to time, entitled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system.', and

(b) each such Centre is notified of any updates to that document.

The Condition would link to the revised guidance document, titled 'Guidance for schools, colleges and other exam centres on gathering evidence of student performance for students entering GCSEs, AS and A levels, the Advanced Extension Award and Project qualifications to support resilience in the exam system.' once published.

## Question 2.6

Do you have any comments on the drafting of Condition AEA4.3?

# Equality Impact Assessment

This equality impact assessment considers the impact of proposals in both Part 1 and Part 2 of this document. This has therefore been developed jointly between Ofqual and the Department for Education.

Ofqual and the Department for Education have considered the potential impact on students who share protected characteristics. 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 2024 and beyond, 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.

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. 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 2024 and beyond 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 also possible that the guidance to ensure a set of mock exams are completed in exam conditions could place additional demand and burden on schools and colleges when facilitating private candidates. It is, however, an individual choice for private candidates as to whether they wish to undertake a set of mock exams in order to have alternative evidence of their performance.

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.

It is possible, if schools do not follow the guidance cautioning against over-assessment, that these proposals could have an adverse effect on some students' mental well-being if they are over-assessed. Over-assessment could lead to reduced teaching and study time and additional exam-related anxiety. We have reflected on feedback in this regard and have ensured the guidance is clear that schools should not over-assess and should respond to the resilience requirements proportionately.

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 is determined exams will not take place.

### **Question 3.1**

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 3.2**

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 3.3**

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

## **Regulatory Impact Assessment**

This regulatory impact assessment considers the impact of proposals in both Part 1 and Part 2 of this document. This has therefore been developed jointly between Ofqual and the Department for Education.

As set out above, the government is firmly committed to exams going ahead in England in future years.

If, as expected, exams go ahead as planned in 2024 and beyond then alternative assessment evidence will not be needed to determine grades for all students.

The Department for Education and Ofqual 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 Ofqual proposes 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.

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**

This guidance is very similar to that issued for 2023 arrangements, and so we expect financial and administrative burdens associated with familiarisation with the guidance provided here would be limited, except where there are changes following consultation.

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 some costs associated with securely storing assessments.

Most of these costs and burdens (including those for reasonable adjustments and marking) are experienced in a normal year as part of existing internal assessment processes and the provision of good quality teaching and learning. Some, however, such as making copies of assessments so that students may have access to them for teaching and learning purposes, will be in addition to business as usual. This has been raised as a concern by some stakeholders in their feedback to us about the 2023 arrangements. We consider these are unavoidable, but digital storage can be used alternatively as appropriate. The aim of this guidance is to minimise burden

through centres aligning the process of gathering evidence as close as possible with existing assessment processes. We would, however, also welcome views on how this burden could be reduced, whilst ensuring evidence is retained in line with this guidance.

It is possible that some centres may also incur costs associated with dealing with some queries from parents and carers in relation to the arrangements in place for gathering evidence. This issue is likely to reduce, however, as the arrangements become embedded.

#### **Question 4.1**

Do you believe resilience arrangements in place for 2023 increased the burden on schools, colleges and staff over and above business as usual?

#### **Question 4.2**

Do you believe the proposed resilience arrangements for 2024 and beyond will increase burden on schools, colleges and staff over and above business as usual?

## **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.

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.

Feedback from students to Ofqual during school visits about the impact of the 2023 resilience arrangements has been varied. Some students reflected that the arrangements have proven beneficial by ensuring they have experience of formal assessments, thus helping them to better prepare for their exams in the summer. Others have raised concerns that, whilst exams are unlikely to be cancelled again, the possibility that their mock exams could be used to award their final grades causes greater anxiety when sitting these mock exams.

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

#### **Question 4.3**

Do you believe resilience arrangements in place for 2023 had an overall positive, neutral or negative impact on students?

#### **Question 4.4**

Do you believe the proposed resilience arrangements for 2024 and beyond will have a positive, neutral or negative impact on students?

## **Impact on exam boards and awarding organisations**

For exam boards and awarding organisations offering GCSE, AS and A level, Project qualifications and AEA in maths, the costs related to the gathering of evidence are



limited. The guidance developed by Ofqual would apply in these cases. There may, however, be direct costs involved in making centres aware of any guidance published.

For all awarding organisations offering VTQs, there would be a minimal cost involved in considering whether it would be desirable to provide guidance to centres on gathering evidence of student performance to support resilience in the exam system. For awarding organisations where they deem guidance is desirable there would then be a cost involved in developing guidance. This may be the case in particular for awarding organisations offering vocational and technical qualifications which are assessed in a linear fashion, similar to general qualifications, given the consideration of whether the guidance applies to them may be a new area of work compared to previous years. Whilst it is envisaged that for many they could use the guidance developed by Ofqual as a basis, there would still be a cost involved in ensuring that this is appropriate and relevant for the specific qualifications offered. There would also be a cost in making centres aware of any guidance published.

For all awarding organisations there would be a range of costs and savings should resilience arrangements need to be invoked, though these would only be realised should exams not go ahead as planned, which is unlikely.

In addition, for all exam boards and awarding organisations 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**

By proposing alternative arrangements, we are ensuring that, even if exams are unable to proceed as planned, students can receive grades in time to be able to progress to further education (FE) or higher education (HE).

This is also positive for FE and HE sectors and employers, as they can be reassured that students are able to progress as planned in future years.

## **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 4.5**

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

Please give details of any additional burdens.

#### **Question 4.6**

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 4.7**

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

#### **Question 4.8**

Are there any examples of best practice for evidence retention which reduce financial and administrative costs which you are able to share with us?

## **Annex A – Proposed guidance on collecting evidence of student performance to ensure resilience in the qualifications system for GCSE, AS and A levels, Project Qualifications and AEA in maths**

This guidance is for centres delivering GCSE, AS and A levels, Project Qualifications and the AEA in maths to provide resilience in the exam system in the unlikely event that exams are cancelled nationally. It asks that schools and colleges ensure that students sit mock exams in exam conditions before their formal exams, and to retain their papers. One full set of mocks for this purpose should be sufficient. By doing this, schools and colleges will ensure that they have alternative evidence of student performance to enable alternative methods of awarding grades, such as TAGs.

### **The scope of assessments**

Centres should plan assessment opportunities to gather evidence of student performance 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. Assessments should therefore normally take place in the final year of study.

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 the vast majority of cases, where schools and colleges follow their existing internal assessment arrangements, they will have sufficient evidence.

In the past 3 years we have seen some examples of schools introducing additional assessments for the purpose of gathering evidence of student performance, 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. Providing mock exams are completed in line with this guidance, one full set should be sufficient for the purposes of gathering evidence.

Centres might choose to carry out other assessments across the year that are not for the purpose of evidence collection.

## **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
- should be supervised during the assessment, though centres do not have to use external invigilation
- should be assessed under timed conditions equivalent to those under which they would expect to complete the assessment (or part of an assessment) during their exam

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, 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. Where this is not possible, centres should seek to ensure that students are not able to predict the materials they are going to be assessed on.

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. It is likely that this is in line with existing mock exam arrangements for most schools.

## **Student awareness**

It should be made clear to students that it is expected that exams and formal assessments will go ahead as planned. Students should be made aware that any assessment evidence collected and retained under this guidance would be used to determine grades only in the unlikely situation that exams and formal assessment could not go ahead. Students should also be told, where possible, before taking any assessment, whether their performance in the assessment 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. This could be, 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 for schools and colleges on how to take this into account when determining TAGs would be provided on this if exams cannot proceed as expected.

## **Reasonable adjustments for disabled students**

The same reasonable adjustments that could be made for disabled students taking exams in the summer should, where possible, be applied to the assessments. It is likely that, for many schools, this is in line with their normal mock exam arrangements. 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 of 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 these 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 of 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 qualification grade unless Ofqual sets 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 from 2023 onwards. 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. Student work can be retained digitally or physically. Students may be given copies, or the original work, where this would support their study.

## **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. Teachers 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 2024 and beyond, 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.

In the unlikely event that the government did consider that national exams could not take place in the future, 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.

## **Annex B – 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 and Technical Education (IfATE) where the consultation is part of work involving those organisations. We may need to share responses with them to ensure that our approach aligns with the wider process. 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, [www.gov.uk/ofqual](http://www.gov.uk/ofqual). 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 at [ico.org.uk](http://ico.org.uk), 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 C – 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 learners, employers and institutions within the higher education sector, and

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

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

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

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

## **The Equality Act 2010**

As a public body, we are subject to the public sector equality duty.<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. Any reference to centres includes schools, colleges and other exam centres. [↩](#)

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