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Consultation outcome

Decisions - regulating Level 2 and below Progression Qualifications

Updated 30 November 2023

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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”.

DfE has set out which qualifications will be funded in the new qualifications landscape. This includes 5 groups of Progression Qualifications:

- T Level Foundation Qualifications (Level 2)
- Other Entry level, Level 1 and Level 2 Progression Qualifications:
 - Level 2 Technical Progression Qualifications
 - Level 2 Academic Progression Qualifications
 - Level 1 Progression Qualifications
 - Entry level Progression Qualifications

These qualifications are expected to be primarily taken by young people as part of a one-year study programme, alongside other components including English and maths. They may also be taken by adults outside of a study programme.

Ofqual's approach to regulating these qualifications has been designed to strengthen its regulation of them in delivery. It will work in conjunction with the funding approvals process being put in place by DfE. Ofqual will provide feedback to DfE as part of that funding approval process and DfE will decide which qualifications are eligible for public funding.

Ofqual consulted upon its [draft conditions, requirements and guidance for these qualifications](#), between July and September 2023. This document sets out Ofqual's decisions following this consultation.

Consultation

The consultation sought views on Ofqual's draft conditions, requirements and guidance for all 5 groups of Progression Qualifications. This included asking for views on the equalities and regulatory impacts, 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
- the respective roles and responsibilities of Ofqual and DfE in the future qualifications landscape

Summary of decisions

Ofqual has decided to implement the proposed conditions, requirements and statutory guidance largely as consulted on. There have been some minor drafting changes to improve the clarity and consistency of the wording, but with no changes to the overall meaning.

For T Level Foundation Qualifications, Ofqual has decided to put in place conditions, requirements and guidance in relation to:

- interpretations and definitions (PQ1)
- purposes (PQ7)
- assessment strategies (PQ2)
- assessment (PQ4)
- specified levels of attainment (PQ5)
- standard setting (PQ8)
- Ofqual review of qualifications (PQ3)
- managing the withdrawal of approval for public funding (PQ6)

For the other 4 groups of Qualifications (Level 2 Technical Progression Qualifications, Level 2 Academic Progression Qualifications, Level 1 Progression Qualifications, Entry level Progression Qualifications), Ofqual has decided to put in place conditions, requirements and guidance in relation to:

- interpretations and definitions (PQ1)
- purposes (PQ7)
- assessment strategies (PQ2)
- specified levels of attainment (PQ5)
- Ofqual review of qualifications (PQ3)
- managing the withdrawal of approval for public funding (PQ6)

Details

Respondents were asked to comment on the drafting of proposed conditions, requirements and guidance relating to the following:

- interpretation and definitions
- purposes
- assessment strategies
- assessment
- specified levels of attainment
- standard setting
- Ofqual reviews
- management of the withdrawal of approval for public funding

In these areas, Ofqual sought views on the specific wording of the draft conditions, requirements and guidance, rather than on the policy approach, which had previously been consulted upon.

Interpretation and definitions (Condition PQ1)

This Condition applies to all 5 groups of Progression Qualifications.

What Ofqual proposed

Ofqual proposed to put in place Condition PQ1 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 definitions in the Condition. Respondents questioned:

- why there was no reference to 'technical' in the titles proposed for Entry Level and Level 1 Progression qualifications
- which qualifications would fit into which qualification groups, suggesting that it was difficult to comment on the proposed Condition without knowing this
- whether using the term Progression Qualifications (Other) in the regulatory framework document suggested that the 'other' progression qualifications were not valued in their own right

Some respondents made more general comments about the overall regulatory approach, on

which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led us to reconsider its previously announced decisions.

Decision

Ofqual has decided to put in place Condition PQ1, relating to interpretations and definitions.

Ofqual has considered the feedback and has not identified any need to make changes to the proposed Condition following consultation.

The definitions reflect the titles of the qualification groups which are determined by DfE. As outlined in the [Skills for Jobs white paper](#), DfE's view is that technical education covers provision from Level 2 to higher education (Level 6), and so it would not be appropriate to include 'technical' in the group titles for Entry level and Level 1 Progression qualifications.

Further information regarding the sectors and subjects for the qualification groups can be found in the updated [Guide to the post-16 qualifications landscape at level 3 and below](#), which was published in November 2023.

Ofqual decided to publish a single regulatory framework for all 5 groups of Progression qualifications to minimise the regulatory burden on awarding organisations. To make it easier for awarding organisations to identify which Conditions apply to which groups of qualifications, Ofqual is using Progression Qualifications (Other) as a collective term for Level 2 Academic Progression qualifications, Level 2 Technical Progression qualifications, Level 1 Progression qualifications and Entry level qualifications. This is because the same Conditions apply to all 4 groups of qualifications. By doing this, there is less repetition in the regulatory framework which should aid navigability. The collective term 'Progression Qualifications (Other)' is not expected to be used outside Ofqual's regulatory framework.

The final version of the conditions, requirements and statutory guidance is included in the [Qualification Level Conditions for Progression Qualifications](#) published alongside these decisions.

Progression Qualification purposes (Condition PQ7)

This Condition applies to all 5 groups of Progression Qualifications.

What Ofqual proposed

Ofqual proposed to put in place Condition PQ7, requiring an awarding organisation to ensure that each Progression Qualification it makes available or proposes to make available:

- meets the general purposes published by Ofqual for the relevant group of qualifications on an ongoing basis
- has one or more specific purposes which are consistent with the general purposes for the relevant group of qualifications and prioritised in the order they are set out

Ofqual also specified the general purposes for each group of Progression Qualifications.

To ensure there is no conflict or duplication between these general purposes and Ofqual's General Conditions, the Condition also sets out that General Conditions E1.1 and E1.2 (Qualifications having an objective and support) would be disapplied in respect of each group of Progression Qualifications.

Respondents were also asked to comment on the draft sets of purpose statements that were proposed for each group of Progression Qualifications.

Responses received

Some respondents to these questions commented on the drafting of the Condition. Respondents:

- noted and welcomed the similarity of Condition PQ7 to others introduced previously during the Post-16 Qualifications Review
- said that Condition PQ7 would ensure Progression Qualifications were developed with a clear purpose and aligned with the needs of students and employers
- suggested Condition PQ7.3 could be split into 2 points – one point covering how the general purposes are prioritised and one covering compliance with the general purposes – to make it easier for awarding organisations to read and comply with

Some respondents commented on the drafting of the purpose statements. These respondents:

- noted that drafting changes made to the purposes for T Level Foundation Qualifications brought their purposes in line with those for other qualifications
- suggested that the general purposes would not lead to the development of qualifications that would provide students with flexible progression opportunities or provide centres with flexible and manageable qualifications to deliver
- suggested that T Level Foundation Qualifications Purpose A should be reworded to include reference to National Technical Outcomes
- said that T Level Foundation Qualifications Purpose B should be reworded to clearly reflect the fact that the T Level Transition Programme provides opportunities for the development of skills as well as their demonstration
- suggested that the purposes for the Level 1 Progression Qualifications should include employability skills, and personal and social development, alongside opportunities to progress to further study
- noted that the purposes for Level 1 and Entry Level Progression Qualifications refer to students, whereas those at Level 2 refer to learners
- suggested that differentiating attainment is a qualification characteristic rather than a qualification purpose

It was suggested that it was difficult to comment on the general purposes without knowing exactly which qualifications were intended to be included in which group.

Some respondents made more general comments about the overall regulatory approach, on which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led us to reconsider its previously

announced decisions.

Decision

Ofqual has decided to put in place Condition PQ7, relating to general purposes, with a minor change to the drafting so that all of the general purposes refer to 'Learners'.

Ofqual's view is that the drafting of the general purposes provides clarity for awarding organisations to design appropriate qualifications that support progression to higher levels of study, in line with DfE's objectives.

Ofqual has tried to ensure as much consistency as possible across all of the general purposes for the 5 groups of Progression Qualifications. Ofqual considers that specific qualification information, including references to the qualification content, is more appropriately set out in the assessment strategy requirements and in DfE's funding approval criteria, rather than the purpose statements.

For consistency and alignment with Ofqual's defined terms, all of the general purposes have been updated and now refer to 'Learners'.

The final version of Condition PQ7 is included in the [Qualification Level Conditions for Progression Qualifications](#) published alongside this decisions document.

Assessment strategies (Condition PQ2)

This Condition applies to all 5 groups of Progression Qualifications.

What Ofqual proposed

Ofqual proposed to put in place Condition PQ2 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 to comply with any requirements specified by Ofqual and promptly notify Ofqual of any revisions it makes to it
- if requested by Ofqual, review its assessment strategy to ensure that it complies with any requirements that Ofqual has communicated to it
- demonstrate to Ofqual's satisfaction, if requested, that it has complied with its assessment strategy for a particular assessment or provide an explanation to Ofqual as to why it has not complied
- ensure any recommendations that Ofqual has made have been actioned

Ofqual also set out the associated assessment strategy requirements for the T Level Foundation

Qualifications and the assessment strategy requirements for the Other Progression Qualifications.

Responses received

Some respondents commented on the drafting of the Condition and associated requirements.

Respondents:

- welcomed the similarity of the assessment strategy requirements with those implemented for other reformed qualifications
- suggested that it would be helpful for Ofqual to include links to the relevant Conditions in the assessment strategy requirements
- said that the assessment strategy requirements would enable Ofqual to identify where awarding organisations' approaches to qualification design are flawed
- said that assessment strategy requirements should be proportionate to the level of the qualifications and should take into account the characteristics of the students taking a qualification

Some respondents made more general comments about the overall regulatory approach, on which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led us to reconsider its previously announced decisions.

Decision

Ofqual has decided to put in place Condition PQ2 and the associated assessment strategy requirements.

Ofqual has not identified any need to make changes to the drafting of the Condition or requirements.

Ofqual has worked to ensure that the assessment strategy requirements are tailored to the different groups of Progression Qualifications, while maintaining as much consistency in the structure and content as possible with other assessment strategy requirements introduced as part of the post-16 qualifications reviews.

Ofqual has considered the feedback that it would be helpful for Ofqual to include links to the relevant Conditions in the assessment strategy requirements. Although the change has not been reflected in the final documents that are being published alongside this decisions document, Ofqual may do this in future.

The final version of the conditions, requirements and statutory guidance is included in the [Qualification Level Conditions for Progression Qualifications](#) published alongside these decisions.

Assessments (Condition PQ4)

This Condition applies to T Level Foundation Qualifications only.

What Ofqual proposed

Ofqual proposed:

- to put in place Condition PQ4 that requires an awarding organisation to comply with any requirements and have regard to any guidance published by Ofqual in relation to assessments which it makes available or proposes to make available
- to put in place statutory guidance on assessments for T Level Foundation Qualifications which sets out the considerations awarding organisations should take into account when designing assessments for these qualifications

Responses received

Respondents said that the proposed Condition was clearly drafted.

Commenting on the guidance, respondents:

- said that the consideration that assessment contexts should 'vary over time so that they are not predictable' was too vague and would be open to interpretation
- said that the consideration that 'a case study approach' could be used was too vague and risked being misinterpreted by awarding organisations
- suggested a minor drafting amendment to the guidance to replace 'ensure' with 'secure'
- said that the guidance was too prescriptive and did not give awarding organisations enough flexibility to design appropriate assessments
- suggested that the guidance should:
 - address the challenges of assessing students with special educational needs and disabilities (SEND)
 - provide enough detail on how to assess the National Technical Outcomes (NTOs)
 - provide further guidance on grading beyond the expectation of achievement of a pass grade
- suggested the draft guidance did not clarify whether students would be required to pass all assessments to achieve pass grades or whether compensatory approaches would be permitted

Some respondents made more general comments about the overall regulatory approach, on which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led Ofqual to reconsider its previously announced decisions.

Decision

Ofqual has decided to put in place Condition PQ4 and the associated guidance related to assessment for T Level Foundation Qualifications.

Ofqual has not identified any need to make changes to the drafting of the Condition and associated guidance.

Ofqual considers that the guidance is comprehensive and clearly sets factors that should be considered when designing their assessments for T Level Foundation Qualifications. By putting in place guidance rather than specifying requirements, Ofqual is enabling awarding organisations

to make design decisions around assessment approaches appropriate to the relevant National Technical Outcomes. Awarding organisations will need to explain these design decisions in their assessment strategy.

The consideration regarding the 'use of context' in the guidance sets out that the assessment should vary over time so that they are not predictable. Ofqual does not propose to specify how frequently assessment contexts or tasks should vary. This would depend on the specific assessment, what is being assessed and how, and could not be mandated generically for all the qualifications. Ofqual will, however, expect awarding organisations to explain and justify their approach in their assessment strategy.

The 'emphasis on overall performance' consideration in the guidance, has been drafted to signal that a compensatory approach to assessment would be considered appropriate for these qualifications. The reference to a pass grade in this consideration is to explain the expectation that achievement of a pass grade should be based on a student's overall performance across the qualification content, with strengths and weaknesses in performance permitted to balance each other out.

All awarding organisations are required to ensure an appropriate approach to reasonable adjustments in order to comply with Ofqual's General Conditions of Recognition. It is therefore not necessary to refer specifically to assessments for students with SEND in the context of this guidance.

Awarding organisations should refer to the guidance on assessment that Ofqual has published alongside the information that DfE has published on the National Technical Outcomes when deciding the appropriate assessment approaches for these qualifications.

Specified levels of attainment (Condition PQ5)

This Condition applies to all 5 groups of Progression Qualifications. The associated requirements apply to T Level Foundation Qualifications only. The associated guidance applies to the other 4 groups of Progression Qualifications.

What Ofqual proposed

Ofqual proposed to put in place Condition PQ5 that requires an awarding organisation to:

- use a common grading scale for T Level Foundation Qualifications of the following grades: Pass, Merit and Distinction, with an appropriate result issued to students who do not meet the criteria to be awarded a specific level of attainment, for example, 'unclassified', 'not achieved' or an equivalent term
- have regard to statutory guidance on grading for the other 4 groups of Progression Qualifications

The statutory guidance covers:

- what an awarding organisation should consider when determining its overall approach to grading scales

- the principles awarding organisations should consider when developing the grading scale for each qualification
- what awarding organisations should consider when developing the grading scale for each qualification

Responses received

Respondents that commented on the drafting of the Condition:

- said that it would be useful to understand the exemptions Ofqual would accept as stated in proposed Condition PQ5.2
- said that the proposed Condition did not specify how specified levels of attainment should be set
- asked whether standards should be aligned with the National Curriculum and other qualifications and how standards should be communicated to students and other stakeholders

Respondents that commented on the drafting of the guidance:

- said that the principles and considerations in the guidance were appropriate to the level of study
- felt that more guidance on grading approaches for Level 2 qualifications was needed in order to ensure alignment in grading approaches and to enable comparability between qualifications
- said that they would welcome the proposed additional statutory guidance from Ofqual on Level 1 and Entry Level Progression Qualifications

Some respondents made more general comments about the overall regulatory approach, on which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led Ofqual to reconsider its previously announced decisions.

Decision

Ofqual has decided to put in place Condition PQ5 and associated guidance on specified levels of attainment.

Ofqual has not identified any need to make changes to the drafting of the Condition and associated guidance.

Ofqual has no current plans to accept applications for an exemption from PQ5.1. PQ5.2 has been included so that Ofqual may accept such applications in the future, without needing to amend this Condition.

The general purposes for the Progression Qualifications do not prioritise comparability between awarding organisations and with other qualifications such as GCSE.

The precise way in which an awarding organisation will determine their approach to grading for these qualifications will be dependent on the decisions that they have made around assessment design and approach to awarding.

Condition PQ5 and the associated guidance were drafted to give flexibility to awarding organisations to choose the most appropriate grading scale for their qualifications. The guidance sets out what an awarding organisation should consider when determining its overall approach to grading scales and principles awarding organisations should consider when developing the grading scale for each qualification.

Ofqual will therefore not issue further guidance on how specified levels of attainment should be set.

Standard setting (Condition PQ8)

This Condition applies to the T Level Foundation Qualifications.

What Ofqual proposed

Ofqual proposed to put in place Condition PQ8 for T Level Foundation Qualification that requires an awarding organisation to:

- explain their approach to standard setting and to the maintenance of standards over time within their qualification in an assessment strategy
- ensure that, where grading is separate from the marking process, awarding organisations provide a full explanation of the technical methods used, including analysis and evidence

Responses received

Respondents:

- noted that the drafting of the Condition was consistent with what is already in place for other regulated qualifications
- said that it was not clear from the drafting of the Condition that it would only apply in cases where grading is separate from the marking process, and suggested that it should be made explicit if this is the case
- wanted to understand what information they would need to submit to Ofqual to show that they were complying with the standard setting Condition
- suggested that the proposed Condition did not specify how awarding organisations should weight the different types of evidence they had, which could lead to inconsistencies in the ways that specified levels of attainment were set

Some respondents made more general comments about the overall regulatory approach, on which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led us to reconsider our previously announced decisions.

Decision

Ofqual has decided to put in place Condition PQ8 in relation to standard setting for T Level

Foundation Qualifications (Level 2) with a minor change to the drafting.

In light of the feedback, Ofqual has made a minor change to the wording of Condition PQ8.2 to reflect that it only applies where standards are determined through an awarding process, separate to marking.

Ofqual has also considered whether to provide guidance on the records that awarding organisations should maintain or on the weighting of the different types of evidence used to set standards. Ofqual will not routinely collect information from awarding organisations on the evidence they use to set standards. Awarding organisations will need to develop their approach in line with their assessment design decisions and explain this in their assessment strategy.

Ofqual review (Condition PQ3)

This Condition applies to all 5 groups of Progression Qualifications.

What Ofqual proposed

Ofqual proposed to put in place Condition PQ3 that requires an awarding organisation to:

- comply with any requirements and consider any guidance specified by Ofqual following a review of the Progression Qualifications

Responses received

Respondents said that the drafting of this Condition would provide clarity to awarding organisations about the outcome of an Ofqual review and would help to maintain the quality of Progression Qualifications.

Some respondents made more general comments about the overall regulatory approach, on which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led Ofqual to reconsider its previously announced decisions.

Decision

Ofqual has decided to put in place Condition PQ3 in relation to Ofqual review of qualifications.

Ofqual has not identified any need to make changes to the drafting of the Condition following the consultation.

Managing the withdrawal of approval for public funding (Condition PQ6)

This Condition applies to all 5 groups of Progression Qualifications.

What Ofqual proposed

Ofqual proposed to put in place Condition PQ6 that:

- requires an awarding organisation to promptly notify Ofqual when a qualification will, or is likely to, no longer be approved for public funding, and the circumstances for this
- permits Ofqual to determine whether and when the Conditions, requirements and guidance should cease to apply
- requires an awarding organisation to comply with any requirements communicated to it by Ofqual in relation to this

Responses received

Respondents:

- said that PQ6.3 was vague and did not set out under what conditions Ofqual would decide that the additional Progression Qualifications Conditions, requirements and guidance would continue to apply to a given qualification where public funding had been withdrawn
- suggested that guidance was needed on how much detail an awarding organisation would need to supply to explain why funding was being removed and under which circumstances they would need to contact Ofqual
- said that it was unclear whether notification would need to be provided as soon as an awarding organisation is alerted to potential withdrawal of public funding from a qualification, or once funding withdrawal had been confirmed
- said that as notification of funding withdrawal to an awarding organisation can be variable in timescale, it could impact the ability to 'promptly notify' Ofqual as specified under the proposed Condition

Some respondents made more general comments about the overall regulatory approach, on which Ofqual has already consulted, or about DfE's post-16 policy, rather than on the drafting of the conditions, requirements and statutory guidance. Respondents who commented on already-agreed policy did not raise any new issues or risks which have led Ofqual to reconsider its previously announced decisions.

Decision

Ofqual has decided to put in place Condition PQ6 in relation to the withdrawal of approval for public funding.

Ofqual has not identified any need to make changes to the drafting of the Condition. Ofqual's view is that the drafting of this Condition should remain consistent with the Condition implemented for other qualifications in scope of the Post-16 Qualifications Review.

Ofqual has considered the suggestion that the Condition should provide further detail on when and in how much detail an awarding organisation would need to explain why funding was being withdrawn. Further guidance will be issued to awarding organisations on how the Condition should be implemented once the qualifications are in delivery.

Equalities impact assessment

Ofqual is a public body, and therefore the public sector equality duty in the Equality Act 2010 applies.

In the policy consultations for these qualifications, Ofqual set out the possible equality impacts on students who share a protected characteristic arising from the proposals.

Ofqual identified a positive equality impact arising from the proposals:

- to require awarding organisations to develop, maintain and keep under review an assessment strategy (including explaining how they have designed and developed T Level Foundation Qualifications against the NTOs)
- to require an awarding organisation, following a review by Ofqual, to comply with any requirements, and to consider any guidance, specified to it by Ofqual in relation to the qualification

These proposals will enable Ofqual to have appropriate oversight of awarding organisations' approaches and challenge them where necessary.

As the proposed conditions, requirements and guidance set out in this consultation were intended to implement the policy approach on which Ofqual previously consulted, Ofqual did not identify any additional equality impacts.

Respondents were asked:

- if there were any other potential impacts (positive or negative) on students who share protected characteristics that Ofqual had not identified
- if there were any additional steps that could be taken to mitigate any negative impacts
- to provide any other comments on the equality impact on students who share a protected characteristic

Responses received

Some respondents identified equality impacts related to DfE's post-16 policy, which was not in scope of this consultation.

Other equalities impacts identified by respondents were that:

- the proposed requirements relating to assessment strategies, Ofqual reviews of qualifications, and reasonable adjustments and special considerations could have positive equalities impacts
- Ofqual could provide a full equalities impact on its requirements

Decision

Ofqual carries out an equality impact assessment at all stages of the policy development and consultation process.

Awarding organisations must continue to meet their existing equalities obligations and Ofqual's proposed regulatory approach provides awarding organisations with the flexibility to balance equality impacts with other considerations as part of the design of these qualifications.

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

Ofqual will continue to monitor any equality impacts as the qualifications are developed and delivered. As part of the funding approvals process, Ofqual will review qualifications to provide feedback to DfE. This will provide an opportunity to consider awarding organisations' approaches and challenge them where necessary.

In this way, Ofqual's conditions, requirements and guidance will help to protect the interests of students taking a Progression Qualifications.

Regulatory impact assessment

In the policy consultations for these qualifications, Ofqual set out its assessment of the regulatory impact of the proposals.

The regulatory impacts Ofqual identified were that:

- the assessment strategy and Ofqual review proposals had the potential to cause some limited, additional burden for awarding organisations
- the proposal to disapply General Conditions E1.1 and E1.2 (Qualifications having an objective and support) could reduce the regulatory burden of the proposal to adopt general purposes for these qualifications
- there may be a regulatory impact arising from the proposal to require awarding organisations to notify Ofqual when one of their qualifications ceases to be approved for public funding
- the proposal to require awarding organisations to explain in their assessment strategy how they have designed and developed their T Level Foundation Qualifications against DfE's NTOs, is likely to necessitate significant changes in current approaches to the design and development of similar qualifications
- the statutory guidance on assessment for the T Level Foundation Qualifications is also likely to necessitate significant changes in current approaches to the design and delivery of existing qualifications in this space
- the impact of the proposal to require awarding organisations to use a common (Pass, Merit, Distinction) grading scale for T Level Foundation Qualifications will depend on current approaches that awarding organisations have in place for existing qualifications
- further consideration of standard setting for the T Level Foundation Qualifications may be required by awarding organisations as a result of the standard setting proposals
- the proposal to require awarding organisations to have regard to statutory guidance when determining the grading scales to use for their Level 2 Technical Progression Qualifications, Level 2 Academic Progression Qualifications, Level 1 Progression Qualifications and Entry

level Progression Qualifications may present an additional regulatory burden for awarding organisations

As the proposed conditions, requirements and guidance set out in this consultation were intended to implement the policy approach on which Ofqual previously consulted, Ofqual did not identify any additional regulatory impacts.

Respondents were asked:

- if there were any additional regulatory impacts that Ofqual had not identified arising from the drafting of the conditions, requirements and guidance and, if so, what they were and what additional steps Ofqual could take to minimise the regulatory impact of the proposals
- if there were any costs, savings or other benefits 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 organisation

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 proposed conditions, requirements and guidance. These included:

- responding to DfE's timescales for implementation of the post-16 reform and the impact on awarding organisation resources
- uncertainty about how Ofqual's requirements would be interpreted and implemented
- the cumulative burden on colleges of running formal assessments across multiple levels and subjects, with a suggested mitigation that Level 1 and 2 Progression Qualification assessments should not be held on the same days as GCSE English and Maths assessments
- the need for qualifications to have multiple potential destinations as colleges would be unable to run multiple qualifications with different purposes in the same subject
- uncertainty about how the requirements would relate to policies in other parts of the United Kingdom

One respondent, a large awarding organisation, suggested that the qualification development work was likely to be costly, along with additional internal costs, plus the cost and time associated with supporting providers, teaching staff and students.

Respondents also identified additional costs:

- for colleges, related to the requirement for any additional formal assessments
- for awarding organisations, as a result of a more prescribed approach to developing the qualifications
- for students, related to the potential for awarding organisations to charge higher fees for their qualifications to cover the costs of complying with the new requirements

No respondents identified additional information Ofqual should consider, but respondents did make other comments relating to the proposals, including:

- that as much should be retained from existing qualifications as possible where those qualifications were performing well and enabling students to achieve positive outcomes
- that student progression could be put at risk if centres were not able to offer all groups of Level 2 Progression qualifications
- the prospect of the proposals having a different impact on different types of awarding organisations, for example on larger and smaller awarding organisations

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

- if Ofqual were to be overly prescriptive in the types of assessment that it accepted
- awarding organisations taking a more risk-averse approach to innovation due to concerns about the costs and liabilities associated with developing new and innovative Progression Qualifications
- that the requirements being set could prevent awarding organisations following up on ideas for new qualifications and drive down innovation and risk
- that the minimum number of guided learning hours determined by DfE could limit some innovation and student progression, particularly for Level 2 subjects in public services and creative industries and at Level 1 and Entry Level
- whether smaller awarding organisations would have the capacity to innovate within the proposed regulatory framework

It was also suggested that awarding organisations should work together to share innovative approaches.

Decision

While a degree of regulatory impact is unavoidable if Ofqual is to strengthen its regulatory approach to the Progression Qualifications, in line with the Minister's steer, Ofqual has been mindful of the potential impact of its regulatory approach to these qualifications.

Ofqual considered the concerns raised by respondents when it took decisions on its policy approach following the first consultation.

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

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

Ofqual's view is that the conditions, requirements and statutory guidance being put in place for the Progression Qualifications achieve an appropriate balance between these competing considerations of strengthening their regulation, and minimising disruption while bringing about the necessary improvements.

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

Next steps

Alongside this decisions document, Ofqual has also published a [more detailed analysis](#) of the responses received to this consultation.

The final conditions, requirements and guidance for the Entry level, Level 1 and Level 2 Progression qualifications were also published alongside these documents and will come into effect at 9:30am on 30 November 2023.

DfE has now published its approval criteria for these qualifications. Further details about the process for awarding organisations to seek funding approval from DfE for their qualifications [is available here](#).

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