

CONSULTATION

# Alternative arrangements for the award of VTQs and other general qualifications in 2021

Approach to awarding qualifications where exams do not take place



Department  
for Education

**ofqual**

# Contents

<b>Foreword</b> .....	<b>3</b>
<b>Proposals at a glance</b> .....	<b>5</b>
<b>Audience</b> .....	<b>6</b>
<b>Consultation arrangements</b> .....	<b>7</b>
Duration .....	7
Respond .....	7
<b>Part A – Policy Overview</b> .....	<b>8</b>
Overview of policy proposals .....	8
<b>Part B – Approach to awarding VTQs and Other General qualifications</b> .....	<b>22</b>
Overall approach .....	22
<b>Equalities Impact Assessment</b> .....	<b>41</b>
<b>Regulatory Impact Assessment</b> .....	<b>53</b>
<b>Annex A: Your data</b> .....	<b>61</b>
<b>Annex B: Ofqual’s objectives and duties</b> .....	<b>65</b>
The Apprenticeship, Skills, Children and Learning Act 2009 .....	65
The Equality Act 2010.....	66

For this consultation, the Department for Education (the Department) is the author of Part A (scope, policy intent, equalities considerations) and Ofqual is the author of Part B (alternative arrangements, equalities impact assessment, regulatory impact assessment); this division reflects the key roles and responsibilities of the two organisations. The two parts of the consultation are necessarily linked as the policy position reflected for consultation in Part A informs the approach taken in Part B.

## Foreword

The impact of the pandemic means that, in line with the approach set out for GCSEs, AS and A levels, it is the Department's policy position that external exams for many vocational, technical and other general qualifications should not take place as planned. Some learners may also not be able to complete other forms of assessment because of the disruption arising from the pandemic. We know that learners may be disappointed that they may not have the opportunity to demonstrate what they have learnt through the assessments they were expecting to take this year. Their interests are at the centre of our considerations, so the results they receive through the alternative approach are credible and meaningful.

Through this joint consultation, Ofqual and the Department for Education want to hear the views of students and other learners who were due to take their assessments and external exams, their parents and carers, their teachers, school and college leaders and others who have an interest, including further and higher education providers, and employers. The consultation covers GCSEs, AS and A levels, as well as Vocational and Technical qualifications, and other general qualifications. This document focuses on the latter.

Ofqual will put regulatory arrangements in place to enable learners to get results and progress, taking account of the diversity of Vocational and Technical Qualifications (VTQs) and other general qualifications. Ofqual's proposals seek to ensure coherence as far as is possible between the arrangements for GCSE, AS and A level, and Vocational and Technical Qualifications and other general qualifications, where this is needed, such that there is no advantage or disadvantage.


The VTQ landscape is extremely diverse. Qualifications differ in their purpose; the extent to which they are knowledge based or designed to denote competency; the settings in which they are taken; the age, stage and circumstances of learners; the assessment structure and method, the size of qualifications and length of course of study. For many VTQs, internal and external assessment occurs throughout the year and adaptations have already been made to mitigate the impacts of disruption on teaching, learning and assessment, as well as responding to public health measures in response to the coronavirus (COVID-19) pandemic.

The approach set out in this consultation seeks to ensure that where assessment has already been completed, this should be taken into account when awarding a result, and aims to maximise the opportunities for students and other learners to continue to develop their knowledge and skills and catch up on any lost learning for the remainder of this academic year. An important principle is that internal assessment should continue remotely wherever possible, whilst recognising that not all internal assessment can be completed by all students and other learners because of the disruption caused by the coronavirus (COVID-19) pandemic.

The consultation seeks input on which qualifications should be subject to alternative arrangements, taking as a starting point those which received calculated results in 2020. It also sets out proposals for how the arrangements should apply. These arrangements may need to be different in some cases to those put in place last year to take account of the different circumstances. It will take time for us to work with awarding organisations to develop the regulatory arrangements so that they can issue results.

We believe the approach set out in this consultation will mean that students and other learners can continue to be taught for as much of the rest of the academic year as possible, to have the best chance to catch up on any education they missed.

We look forward to your views.



Simon Lebus

Chief Regulator, Ofqual



Rt Hon Gavin Williamson CBE MP

Secretary of State for Education

## Proposals at a glance

The impact of the coronavirus (COVID-19) pandemic has led the Department to reach the policy view that it is not viable for external exams to go ahead for some Vocational and Technical Qualifications (VTQs) and other general qualifications.

In Part A of this consultation, the Department for Education (the Department) is asking for views on which qualifications fall in scope of the Department's policy.

The Department's view is that the qualifications which fall in scope of the proposed policy should be those which received a calculated result in summer 2020 because those qualifications were most similar to GCSE, AS and A levels and were used to support progression to further study or into employment.

For qualifications that require a practical assessment to demonstrate occupational competency or are a licence to practise, the Department's proposed policy position is that assessments should continue to take place wherever possible, subject to public health guidance.

This consultation explores issues relating to some assessments that have to be delayed where there is no way to deliver the assessment safely, or for practical assessments where students and other learners have not received enough learning to reach occupational competency and so are not ready to take the assessment. In these cases, the assessment will need to wait until it can practically be conducted, and the student is ready.

Part B sets out proposals for how Ofqual could implement the Department's proposed policy, as set out in Part A of this consultation. Ofqual is consulting on the alternative regulatory arrangements we need to put in place so that awarding organisations can issue results to learners when exams and other assessments do not take place. These alternative regulatory arrangements will help students and other learners taking external exams this summer to progress to the next stage of their education.

Under Ofqual's existing regulatory arrangements – The Extended Extraordinary Regulatory Framework (Extended ERF) which it introduced in October 2020 - awarding organisations have the flexibility to adapt their assessments and qualifications to mitigate against the disruption the pandemic has caused.

Ofqual is now proposing to issue a revised version of the Extended ERF. This would allow awarding organisations to continue to offer adapted assessments for those qualifications in scope, and award qualifications where exams have not taken place and learners have not been able to complete all other assessments.

For qualifications that demonstrate occupational competency or act as a licence to practise, Ofqual proposes the approach and provisions in the Extended ERF continue to remain appropriate and the new alternative regulatory arrangements should not apply. This is necessary to ensure that employers can have confidence in the knowledge, skills and understanding of learners achieving these qualifications and are competent to operate in the workplace.

The proposed new alternative regulatory arrangements would:

- permit awarding organisations to develop an approach to awarding qualifications in scope of the Department's proposed policy on the basis of incomplete assessment evidence. As part of their approach awarding organisations should consider their minimum evidential requirement for awarding these qualifications to ensure sufficient validity and reliability. They should also consider where they need additional assessment evidence from teachers and what form this should take. For qualifications most similar to GCSEs, AS and A levels we would expect awarding organisations to use similar approaches to assessment and awarding. These approaches are currently being consulted on in parallel with this consultation.
- expect awarding organisations to be mindful of the burden their approach places on centres and learners, and to provide clear and timely advice and guidance
- require awarding organisations to issue certificates (where appropriate) as normal and to not refer on the certificate to a result having been determined under the alternative regulatory arrangements
- require awarding organisations to include private learners in their arrangements as far as possible
- permit awarding organisations to take the same approach for qualifications taken in international markets, provided that this does not undermine the validity of the qualifications. We would also expect awarding organisations to consider and address the risks around malpractice and the particular needs of the international market.

## Audience

This consultation is open to anyone who may wish to make representations but may be of particular interest to:

- learners and apprentices who are expecting to sit assessments and/or be awarded a vocational or technical qualification, or other general qualification, in 2021

- the family, parents or carers of these learners
- teachers, tutors, exam staff and other representatives from schools, colleges, training providers, apprenticeship providers, and other places where the relevant qualifications are delivered
- the awarding organisations we regulate, and their representative bodies
- higher education institutions, further education colleges and training providers that may be making offers to learners for future academic years
- education representative bodies
- employers who might be receiving job applications from learners taking these qualifications, or who might already employ these learners
- professional bodies, regulators and industry groups

## Consultation arrangements

### Duration

This consultation will be open for two weeks starting on 15 January 2021 and ending on 29 January 2021 at 23:45.

### Respond

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

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

## Part A – Policy Overview

This part of the consultation sets out the Department's proposed policy position.

### Overview of policy proposals

- As already announced, written exams scheduled for February and March are no longer considered viable to go ahead.
- From April onwards, written exams for Vocational and Technical qualifications that are taken instead of, or alongside, GCSEs, AS and A levels should not take place. Alternative arrangements will be put in place to award these results.
- For other general qualifications that are not GCSEs, AS or A levels, such as Core Maths, Pre-U and the International Baccalaureate, the awarding approach should be similar to GCSEs, AS and A levels
- Practical exams and assessments which are required to demonstrate occupational competence for employment and apprenticeships should continue to take place throughout the academic year where they can be delivered in line with public health guidelines, including remotely. Where they cannot be delivered safely, they should be delayed.
- 'On-demand' assessments of shorter, focused qualifications such as Functional Skills that can be delivered in line with public health guidelines, including remotely, should be permitted to continue to proceed. For learners who cannot access assessments, alternative arrangements should be put in place to award results.
- For the T Level core component, the core exams should not go ahead this summer, but students should still have the option to take the employer-set project. Students should be able to take the core exams in the second year of their T Level course.
- Internal assessment should continue to go ahead remotely, where relevant, for all learners where possible.
- Apprenticeship End-Point Assessment, Access to HE qualifications and International GCSE qualifications are out of scope for this consultation.



## Policy proposals in detail

1. On 4 January 2021, the Government decided that schools and colleges must close to most, to limit the spread of the coronavirus (COVID-19) pandemic.
2. On 5 January, the Secretary of State for Education announced that the January external exams and assessments of Vocational and Technical qualifications can continue where schools, colleges and other FE providers judge it is right to do so. This was in recognition of the fact that students, other learners and staff have worked hard to prepare for the January external exams and were ready to take them and that these external exams could proceed safely in January as providers had been implementing protective measures to ensure they could be conducted in line with public health measures. The Secretary of State also confirmed that the Department and Ofqual will work together to ensure that all students and other learners will be able to progress fairly, irrespective of whether they sat an external examination in January.
3. Students and other learners taking exams and assessments had already experienced disruption to their learning during the 19/20 academic year and many students and other learners faced more disruption during the autumn term due to the need to self-isolate. With the loss of at least a further six weeks face-to-face teaching and uncertainty about when face-to-face learning might resume the government considers that most exams cannot be held in a way which is, and which is perceived to be, fair. Although government has taken significant steps to improve the remote learning offer and many schools are providing high-quality learning it is nevertheless likely that schools and colleges' ability to teach the entire curriculum and provide the usual exam preparation support will be impacted. We also recognise that the impact of the pandemic varies between regions, between schools and colleges within a region, and from student to student according to their personal circumstances.
4. Due to the ongoing impact of the pandemic and the consequent disruption to education, the Department's position is that it is no longer viable for the external sessional written exams for vocational and technical qualifications (VTQs), including many BTECs, scheduled for February and March, to continue to go ahead. Therefore, on 13 January, the Secretary of State wrote to Ofqual setting out that this is the Department's policy, and the Department's expectation that these exams do not proceed<sup>1</sup>. This

---

<sup>1</sup> [Letter from Gavin Williamson to Simon Lebus](#), 13 January 2021

consultation proposes that external written exams for qualifications that are taken instead or alongside GCSEs, AS and A levels, including other general qualifications that are not GCSEs, AS and A levels, scheduled for April onwards also do not go ahead. It seeks views on this and on the alternative arrangements that should be put in place to award results in the absence of exams.

5. Some VTQs require a student to demonstrate technical, occupational proficiency in order to enter directly into employment, or are needed to complete an apprenticeship. Some VTQs, such as Functional Skills, have 'on-demand' shorter assessments. Where these can be delivered in line with public health measures, including remotely, the Department's policy position is that they should be permitted to continue to proceed. This is to ensure that students and other learners can continue to progress fairly and acknowledges that providers have been implementing protective measures and adapting assessments such as moving to remote assessment.
6. Part B of this consultation sets out proposals for alternative arrangements for learners who were unable to take an exam in the academic year 2021.
7. It is the Department's expectation that results will be awarded in a timely way in order for students and other learners to progress to their next stage.

## The VTQ landscape

8. The vocational and technical qualification landscape is complex. There are approximately 12,500 vocational and technical qualifications, across all education levels, approved for funding, with 11,400 of these qualifications at level 3 and below. Some of these qualifications validate technical, professional or occupational skills and knowledge, while others are designed to enable to students and other learners to progress to further study. The landscape at levels 4 and 5 includes qualifications such as BTEC HNDs and HNCs provided by national awarding organisations and regulated by Ofqual, as well as foundation degrees and other qualifications awarded by higher education providers regulated by the Office for Students (OfS). Students and other learners taking these qualifications cover a considerable age range and access their learning opportunities through a variety of settings including schools, colleges and training providers, and through full-time or part-time study as well as learning in work.
9. As established when agreeing the approach for awarding VTQs and other general qualifications in the summer of 2020, a one-size-fits-all approach is not suitable for VTQs. The variety in assessment structures and delivery

not just within VTQs, but in different centres, will mean that awarding organisations will need to take decisions regarding the most appropriate approach to awarding based on the detail of their qualifications. However, in doing this, they should seek as far as possible to ensure a consistent approach across different AOs and qualifications. They should also ensure results are based on sufficiently robust evidence.

## Proposed qualifications in scope for alternative arrangements in 2021

10. Many vocational and technical qualifications and other general qualifications are used for progression to further study instead of, or alongside, GCSEs, AS and A levels. Last year, these qualifications, such as many BTECs and Cambridge Nationals and Cambridge Technicals, and other general qualifications such as the IB, received calculated results so that students and other learners could progress to the next stage of their lives.
11. We recognise that the ongoing impact of the pandemic, including the move in January to remote learning for most students, will not have impacted students and other learners taking VTQs, including vocational subjects at levels 4/5, and other general qualifications used for progression, in exactly the same way as students taking GCSE, AS and A levels. This is due to the variety of learning and assessment used across the VTQ landscape (remote, practical or paper based assessment), the content and practical nature of VTQ as well as the modular nature of some qualifications. However, as a consequence of the government's decision that schools must close to most students to limit the spread of the coronavirus (COVID-19) pandemic, a guarantee that all students will be able to sit all their exams fairly this summer, including some VTQ exams, cannot be given. We also want to ensure that students and other learners taking these qualifications are not advantaged or disadvantaged in comparison to their peers taking GCSEs, AS and A levels. We want students and other learners to be able to be awarded a qualification and access the same progression opportunities. Given the disruption to learning, and to ensure fairness and consistency for students and other learners taking Vocational and Technical qualifications with their peers taking GCSE, AS and A level qualifications, we have already announced that external written exams scheduled for February and March are no longer viable and we consider that the external assessments for many of these qualifications are also no longer viable as originally envisaged for April onwards this academic year.

12. The qualifications in scope for alternative assessment arrangements are likely to closely align to those qualifications where calculated results were made available last year. This will include most qualifications approved for inclusion on performance tables, including Applied General Qualifications such as BTECs and Cambridge Technicals.

### **Question 1:**

Are there any other written exams due to take place from April onwards this academic year, that should be in scope and therefore not go ahead?

13. There are other general qualifications that are not GCSEs, AS and A levels for which it is proposed alternative arrangements are applied. This includes Extended Project Qualifications, Advanced Extension Awards, the International Baccalaureate, Pre-U, and Core Maths. The structure and assessment methods for these qualifications mean they are similar to GCSEs, AS and A levels.

### **Question 2:**

Do you agree that written exams for other general qualifications that are not GCSEs, AS or A levels due to take place from April onwards this academic year, should be subject to alternative arrangements similar to that taken for GCSEs, AS and A levels, as addressed in part B of this consultation?

14. Functional Skills qualifications (FSQs) provide students and other learners with the literacy and numeracy skills needed to progress into higher levels of learning and employment. In summer 2020, many students and other learners received calculated results for FSQs whilst others continued to take assessments as normal where this was possible, and we propose adopting a similar position this year.
15. These qualifications are often taken on demand, with more frequent external examination and assessment opportunities throughout the year, and we do not see a strong rationale for preventing these assessments from continuing where they can be delivered in line with public health

guidelines. A number of awarding organisations have recently invested in remote assessment solutions for FSQs. Therefore, the Department proposes that remote assessments should be taken by FSQ learners where these assessments can continue and learners are able to access them. For students and other learners who are unable to access FSQ assessments, an alternative method of awarding these qualifications may be needed to ensure these learners can progress.

### **Question 3:**

Do you agree assessments for Functional Skills qualifications should be permitted to go ahead where they can be delivered in line with public health measures, including remotely, from April onwards, and otherwise be awarded through alternative arrangements set by Ofqual?

## **T Levels – core component assessment**

16. T Level technical qualifications should align with the requirements for other VTQs. This means that core exams scheduled for the summer should not go ahead. As these are entirely new qualifications, based on new content and assessment standards, there may be challenges in any alternative means of generating assessment evidence, such as providers assessing student performance in order to award core component grades. As the first T Level students aren't due to complete their courses until summer 2022, students would have further opportunities to take the core exams in the second year.
17. The other part of the core component assessment, the employer-set project, is more practical and so we think students should still have the option to take this assessment in the summer. Overall, core component grades would only be awarded once students have taken the core exams.
18. We will continue to work closely with the Institute for Apprenticeships and Technical Education, Ofqual, awarding organisations and education providers themselves to ensure students are not disadvantaged.

### **Question 4:**

Do you agree that T Level core component exams should not go ahead this summer and should be taken in the second year, but that students should still have the option to take the employer-set project?

## Proposed qualifications not in scope of alternative awarding arrangements

19. There are a number of qualifications which enable students and other learners to directly enter into employment, where a demonstration of practical or technical skills is needed to award the qualification. These may be standalone qualifications, part of an apprenticeship, or required to enter into a particular profession.
20. Whilst we recognise that these students and other learners will also face disruption to their education as a result of the new public health measures announced on 4 January, there would be wider economic and societal impacts if students and other learners were not appropriately qualified. For example, there could be health and safety implications that would arise if learners are unable to demonstrate, with certainty, their ability to fit a boiler or wire buildings appropriately. For these reasons, it is not possible to award these qualifications through alternative arrangements.
21. Awarding organisations have already adapted their qualifications to account for disruption and public health guidance. This means that qualifications used to assess proficiency of a skill required for learners to directly enter into employment are better placed to continue than last year. For example, we know that level 3 accountancy qualifications can be adapted with employer-set projects and remote presentations replacing work experience at employers' premises; a Level 3 engineering qualification could be adapted by having a practical assessment replaced by a professional discussion conducted remotely.
22. In line with the decision on February and March assessments, for these, and other qualifications not in scope, assessments should continue wherever possible, subject to public health guidance, so that students and other learners are able to progress to the next stage of their lives. However, we recognise that that schools' and colleges' ability to teach the entire curriculum and provide the usual exam preparation support will be impacted and that VTQ students and other learners will have experienced some disruption to their learning. Therefore, where students and other learners would prefer to, or need to, defer their assessment, they will be able to do so.

### **Question 5a:**

Do you agree that practical exams required for employment and apprenticeships should continue to go ahead throughout the academic year, where they can be delivered in line with public health measures, or otherwise will need to be delayed?

### **Question 5b:**

If you do not agree, which practical, occupational competence exams do you think should not go ahead?

## **Level 4 and 5 qualifications**

23. At level 4 and 5 the mix of qualifications is different to level 3 and below, and external examination is not the norm. Nonetheless the same broad issues and considerations apply to level 4 and 5 qualifications, and the same principles and approaches should be followed. In particular, many level 4 and 5 qualifications are occupational in nature. With these, as at lower levels, practical exams are critical to ensuring the requisite level of competency is achieved (as set out in para 18-21) and we propose they should therefore continue where they can be delivered in line with public health principles.
24. At level 4 and 5 the market cuts across the HE and FE sectors. Many qualifications at this level are delivered by HEIs regulated by OfS, and in these cases HEIs decide their examination arrangements autonomously. We would expect HEIs to apply similar considerations to their exams.

### **Question 6:**

What, if any, important differences of approach do you think need to be taken to exams for Ofqual-regulated level 4-5 qualifications?

## Principles for assessment approach for proposed qualifications in scope of alternative awarding arrangements

25. The approach to awarding GCSEs, AS and A levels is currently being consulted on in parallel. In recognition of the fact that VTQ students and other learners will also have experienced disruption, and to seek to ensure VTQ students and other learners are not advantaged or disadvantaged compared to their peers, we want the approach in VTQs to be as consistent with General Qualifications as possible, particularly where qualifications are designed, delivered, and assessed in a similar way and support students and other learners to progress to similar destinations. For some VTQs and other general qualifications, this would therefore require some form of teacher assessment to replace exams for the qualifications in scope of alternative awarding arrangements, in line with the proposals for GCSE, AS and A levels.
26. We know that for many Vocational and Technical qualifications, internal and non-exam external assessment occurs throughout the year<sup>2</sup>. Awarding organisations have been working to adapt their assessments to mitigate the impacts of disruption on teaching, learning and assessment, as well as responding to public health measures such as social distancing. The Department's view is that internal assessment should be taken into account when determining a result. We also recognise the importance of ongoing access to education and learning throughout the remainder of the 2020/21 academic year, with schools, colleges and other FE providers providing education and learning remotely. As part of this remote delivery, we expect that internal assessment should continue to take place for these qualifications wherever possible. However, we acknowledge that the level of disruption suffered might mean that not all internal assessment can be completed by all students and other learners. As set out in Part B, this consultation considers what arrangements need to be put in place, to ensure that, as far as possible, all learners are able to access a result that reflects their achievement and are not disadvantaged.

---

<sup>2</sup> Internal assessment is a form of assessment in which the assessment is set by the awarding organisation, but is marked, or assessment judgements, are made by the teacher/centre.



### **Question 7:**

Are there any qualifications in scope of alternative awarding arrangements where a form of teacher assessment is not appropriate?

### **Question 8:**

Do you agree that internal assessment should continue, where relevant, for all students and other learners where possible?

## Qualifications not in scope of this consultation

27. Access to HE qualifications are out of scope of these arrangements, with the Quality Assurance Agency for Higher Education (QAA) having confirmed the arrangements for these qualifications<sup>3</sup>.
28. Apprenticeship End Point Assessments are not covered in this consultation, because the Institute for Apprenticeships and Technical Education have confirmed the arrangements for these.
29. International GCSE qualifications are also not covered in this consultation as they are not regulated.

## Equalities considerations

30. Before making these proposals, we have considered the likely impact on persons who share particular protected characteristics, in order to enable us to comply with the 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; and
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

---

<sup>3</sup> [Arrangements for the Award and Assessment of the Access to HE Diploma 2020-2021](#)

31. In developing our policy proposals, we have sought to ensure that the approach does not unfairly disadvantage students and other learners, including on the basis of sharing a protected characteristic, those who receive SEN support and those from disadvantaged backgrounds. We have considered whether any of the proposals in this consultation might impact students and other learners (positively or negatively). We set these considerations out below and seek views on this.
32. While it is not possible to completely 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.

## Characteristics of the VTQ cohort

33. We know that generally learners with protected characteristics, particularly those with disabilities and adult learners, are more likely to take vocational and technical qualifications. At level 3, learners studying non-A level qualifications are significantly more likely to have received SEN support at age 15 although receiving SEN support does not always mean as person has a disability there is overlap between SEN support and the protected characteristic of disability. Learners are also more likely to be male. Although not a protected characteristic, learners are significantly more likely to be from a disadvantaged background, as measured by the Income Deprivation Against Children Index (IDACI) and have received Free School Meals (FSM) at age 15. There are some differences in terms of ethnicity as well, where learners are less likely to be from Asian backgrounds, and more likely to be white<sup>4</sup>.
34. At lower levels (e.g. level 1 and entry level), learners are more likely to have received some SEN support at age 15, or be recorded as having learning difficulties or disabilities. They are also more likely to be adult learners than those studying at level 3, and specifically those studying A levels. Amongst adult learners at lower levels, they were also more likely to come from BAME backgrounds (specifically from Asian and black backgrounds), although it is not possible to make the same assertion for 16-19 year olds, due to a high rate of unknown data<sup>5</sup>.

---

<sup>4</sup> [Department for Education, Review of post-16 qualifications at level 3 in England: Second Stage Impact Assessment, 2020.](#)

<sup>5</sup> [Ad-Hoc Notice: Qualifications at level 3 and below: Contextual Information](#)

## Impacts on individuals with protected characteristics

35. It is possible that some learners may be disadvantaged if they have not been able to complete any internal assessment because of their protected characteristic(s). If, for example, a disabled learner had been required to shield for longer than other learners, or if a disabled learner did not have access to the reasonable adjustments required to complete internal assessment remotely, then these learners may be disadvantaged. We do not, however, consider that it would be appropriate to disadvantage those learners who have been able to and continue to be able to complete internal assessment, on the basis of some learners being unable to. Furthermore, as set out in Part B the arrangements being consulted on seek to award reliable results fairly in the absence of all assessments being completed.
36. Furthermore, we know that awarding organisations have been making adaptations to their qualifications throughout the year. Some of these changes include scheduling more assessment windows and allowing more time to complete assessments. For assessments to demonstrate occupational competence, disabled learners would have to be given reasonable adjustments when taking any assessments that provide evidence of the standards to which they are performing. We do not consider this would be problematic, at least not if the assessments were undertaken within the school or college. Schools, colleges and other providers would know how the student normally works and make any such adjustments as were necessary to reflect the student's normal way of working. This should help to mitigate against the risk that some groups are disadvantaged.
37. If the assessments had to be taken in another venue, including at the learner's home, some types of reasonable adjustment could be readily made, for example the provision of extra time, or putting the assessment into a large font. Other types of adjustment could be more difficult to make, for example if the student would normally dictate their work to a scribe. Not all students' and other learners' home environments would be suitable for assessments to take place. Provision might therefore need to be made, exceptionally, for students and other learners to be awarded a qualification based on other evidence.
38. Where assessments take place remotely, it is possible that some students and other learners with protected characteristics could be disadvantaged as a result of being unable to access, or to use equipment. This could be

through lack of IT equipment to access remote assessments, specialist equipment or software needed to complete remote assessments, or access to reliable internet connectivity, for example in rural locations. Some students and other learners could also be disadvantaged if their school or college does not provide necessary equipment or resources. As part of the process to agree the alternative arrangements following this consultation, consideration will be given as to how to mitigate this impact as much as possible.

39. A disabled student's school or college would have to make provision for reasonable adjustments, making sure they were as effective as they could be in the context of any public health restrictions caused by the pandemic. We welcome respondents' views on the best way to ensure students receive the reasonable adjustments they need.
40. We will work with Ofqual to seek to ensure all students, regardless of their protected characteristics or wider circumstances, have access to information about the arrangements, including how to appeal. This information must be available to students directly, including those who do not have an established relationship with a school or college, such as private candidates and some Gypsy, Roma and Traveller students. We will work with our extensive stakeholder networks to ensure that key information is communicated to – and accessible for – all student groups. We will publish student guides, in different formats, and provide an enquiries service to support this.

## Impacts on VTQ students as compared to students taking GCSEs, AS and A levels

41. Part B of this consultation sets out the proposed principles for the alternative arrangements. This includes Principle 2 of the Extended ERF, that an awarding organisation must seek to ensure, as far as possible, that the adaptations which it makes to a qualification do not serve to advantage or disadvantage students and other learners taking that qualification against their peers taking general qualifications not covered by the Extended ERF. The extent to which it is possible for awarding organisations to meet this principle will depend on the approach that is implemented for general qualifications not covered by the Extended ERF.
42. Our proposals set out that VTQs and other general qualifications that are taken alongside or instead of GCSEs, AS and A levels should be subject to similar arrangements to GCSEs, AS and A levels. They also propose that

assessments that are practical and needed for occupational competency should go ahead where they can do safely. This does mean some students would be able to take exams whilst others do not. However, it is the current view of the Department that those practical assessments are necessary for students and other learners to progress and cannot be delivered through alternative arrangements in the same way other VTQs and other general qualifications, that are more similar to GCSEs, AS and A levels, can.

43. There is a risk that if written exams for other general qualifications continue, there would not be fairness between students taking those qualifications and students taking GCSEs, AS and A levels subject to alternative arrangements. Some other general qualifications that are similar to GCSEs, AS and A levels are typically more likely to be taken in independent schools. In order to mitigate this, our proposed policy as set out in paragraphs 10-13 of this consultation is that other general qualifications that are closely aligned to GCSEs, AS and A levels in their design, should be subject to the same arrangements as GCSEs, AS and A levels.
44. Given the different delivery and assessment structures across VTQs and other general qualifications, and as compared to GCSEs, AS and A levels, the alternative arrangements that are agreed through consultation may not be exactly the same for VTQs and other general qualifications as for GCSEs, AS and A levels. However, as set out part B, the intention is that no student should be advantaged or disadvantaged as compared to their peers taking a similar qualification.

### **Question 9:**

Do you agree with the impacts we have identified and are there any other impacts, including equalities impacts, of the policy set out in Part A that should be considered?

## Part B – Approach to awarding VTQs and Other General qualifications

This part of the consultation sets out proposals for how Ofqual will implement the Department's policy. This includes asking for views on what should happen if the Department decides to adopt the policy proposals set out above following this consultation. This means that references below to qualifications in scope means the qualifications proposed to be in scope as set out in Part A.

### Overall approach

#### Background

45. In October, in line with the Department's policy at that time that assessments should take place, we introduced the Extended Extraordinary Regulatory Framework (Extended ERF). The Extended ERF gives awarding organisations the flexibility to adapt their assessments and qualifications in ways that may not be compliant with our usual rules, the General Conditions of Recognition, where it is appropriate for them to do so. This was because we recognised that although assessments would be continuing, learners may have experienced disruption to teaching, learning and assessment because of the coronavirus (COVID-19) pandemic.
46. Under the Extended ERF, awarding organisations are permitted to make a range of adaptations to free-up time for teaching and learning and to make the delivery of assessments as manageable and flexible as possible and in line with public health guidance. Awarding organisations were also required to build resilience and so safeguard against any future disruption. The Extended ERF applies to all Ofqual regulated qualifications apart from GCSEs, AS and A levels and apprenticeship end-point assessments, and does not differentiate on the basis of level, assessment design and delivery, or eligibility for public funding.
47. The Department's policy position is that it is not viable for external exams to go ahead for some vocational and technical qualifications (VTQs) and other general qualifications. There are questions in Part A of this document about which qualifications fall in scope of the new policy position.

## Alternative regulatory arrangements

48. In light of the Department's policy position, we have reflected on whether the Extended ERF remains appropriate or whether there is a need to develop and consult on alternative regulatory arrangements for those qualifications identified by the Department as being in scope, to permit awarding organisations to award qualifications when exams don't take place.
49. We have concluded that the approach and provisions within the Extended ERF remain broadly appropriate for the qualifications likely to be in scope but that we need to add to them to permit awarding organisations to award these qualifications when exams and assessments do not take place.
50. For all other qualifications which the Department does not identify as in scope, namely occupational and licence to practise qualifications, we consider that the approach and provisions in the Extended ERF remain appropriate and that the new alternative regulatory arrangements will not apply to these qualifications.

### **Question 10:**

To what extent do you agree/disagree that the alternative regulatory arrangements should only apply to the qualifications identified in Part A of this document?

51. Consistent with the approach agreed when we introduced the Extended ERF, our starting point is that we cannot prescribe a single approach and that we will develop regulatory arrangements which enable awarding organisations to take decisions regarding the most appropriate approach to awarding based on their qualification design and delivery. This is also the approach we took when we introduced the Extraordinary Regulatory Framework (ERF) in summer 2020 in response to the cancellation of assessments when the coronavirus (COVID-19) pandemic started.
52. We propose to develop guiding principles to underpin awarding organisations' decisions. We will put in place arrangements to support the development of consistent approaches across different awarding organisations, and qualifications, as far as possible.

## Learners in scope of the alternative regulatory arrangements

53. As explained in Part A of this document, the Department's proposal is that the qualifications in scope of the alternative regulatory arrangements are likely to closely align to those qualifications where calculated results<sup>6</sup> were made available last year. The Department, working with Ofqual, will confirm the qualifications in scope of this approach following this consultation.
54. Consistent with our approach in the ERF and the Extended ERF, we propose that the alternative regulatory arrangements apply to all learners expecting to sit exams or assessments for these qualifications, whether or not they are planning to certificate in summer 2021, given learners will have experienced the same disruption to learning the academic year whether or not they are certificating this year.

### **Question 11:**

To what extent, do you agree/disagree that the alternative regulatory arrangements should apply to all learners expecting to sit exams or assessments in the academic year 2020/2021 for the qualifications identified as in scope in Part A of this consultation?

## Consistency with GCSEs, AS and A levels

55. The Department has stated that the approach taken in VTQs and other general qualifications should ensure coherence with that taken in relation to GCSEs, AS and A levels, as far as possible, particularly where qualifications in scope are designed, delivered, and assessed in a similar way.
56. The Department and Ofqual propose that in summer 2021 a student's grade in each subject at GCSE, AS and A level should be based on their teachers' assessment of the standard at which the student is performing. The final assessment should be made towards the end of the academic year, at about the time students would have been expecting to take exams. To help teachers to make objective and consistent decisions about the

---

<sup>6</sup> In line with the ministerial direction issued in April 2020 for those qualifications which supported progression to further and higher study and to employment, we permitted awarding organisations to issue calculated results to learners where assessments did not take place.



standard at which a student is performing, and in turn, the grade with which they should be issued, we propose that exam boards should make available short papers which teachers could give to their students as part of their assessment. We are seeking views on whether such papers should be provided and, if so, whether their use should be mandatory or whether teachers should be able to devise their own papers. Teachers would also assess any non-exam assessments a student has completed in a subject and can draw on broader evidence of a student's work. Teachers would be provided with guidance and training to help them with their assessments.

57. The Department considers that some form of teacher assessment is likely to be the most appropriate way to replace exams for VTQs and other general qualifications so that they can be awarded. We consider later in this document what additional assessment evidence might be appropriate for these qualifications and to what extent the approach proposed for GCSEs, AS and A levels would be appropriate for all qualifications proposed in Part A.
58. For those qualifications most similar to GCSEs, AS and A levels in terms of assessment design and use, such as Pre-U, AEA, Core maths and the International Baccalaureate, most of which currently fall under the Extended ERF, the Department has proposed that these qualifications should follow the approach proposed for GCSEs, AS and A levels.
59. This could be achieved through setting an expectation in our alternative VTQ regulatory arrangements that the similar approach is followed for these qualifications. This would leave the awarding organisations some discretion on the exact approach to manage the circumstances they face. Alternatively, these qualifications could be included within the General Qualifications regulatory arrangements requiring exactly the same approach to be taken as is taken in relation to GCSEs, AS and A levels.

### **Question 12:**

Should other general qualifications such as Pre-U, AEA, Core maths and the International Baccalaureate be included under the measures proposed for GCSEs, AS and A levels or under the alternative arrangements for awarding VTQs we propose to put in place?

## January exams

60. The Department has stated that January external exams and other assessments for VTQs can continue where schools, colleges and other FE providers judge it is right to do so. Some learners may not, however, have been able to sit these exams and assessments as planned, including those intending to certificate in January 2021.
61. The alternative regulatory arrangements we put in place will seek to ensure that these learners are not disadvantaged and can receive results, irrespective of whether they sat an external examination in January. For learners intending to certificate in January 2021, there is provision within our regulatory framework for them to receive a result through the application of Special Consideration. Our General Condition of Recognition G7 (Special Consideration) requires awarding organisations to have in place arrangements to give Special Consideration to learners where they have temporarily experienced an illness or injury, or some other event outside of their control, which has had, or is reasonably likely to have had, a material effect on their ability to take an assessment or to demonstrate their level of attainment in an assessment.
62. For learners not intending to certificate in January 2021, we will work closely with awarding organisations to ensure arrangements put in place are as fair as possible, including in relation to learners also intending to take the same exams later in the year. We have set up technical working groups with the awarding organisations which will meet in parallel with this consultation to develop these arrangements.

### **Question 13:**

For learners expecting to sit assessments in January, are there any particular factors that would need to be taken into account in the development of the alternative regulatory arrangements to seek to ensure fairness?

## Assessment design

63. Unlike GCSE, AS and A levels, for most VTQs in scope for the alternative regulatory arrangements, exams taken during the course of study are not the sole or even the primary means of assessing the qualification.

Assessment is often modular and does not only take place at the end of the course of study, and for some qualifications, the award is primarily based on internal assessment. Internal assessment covers awarding organisation or centre set tasks or assignments marked by centres and quality assured by the awarding organisation<sup>7</sup>.

64. The Department is consulting on the policy position that where internal assessment has already been completed by learners, this is to be taken into account when awarding results, and that internal assessment should continue as far as possible during 2021.
65. Therefore, for qualifications which are primarily assessed through modular, internal assessment, it will not be appropriate to adopt exactly the same approach as that proposed for GCSEs, AS and A levels to replace exams. We discuss this further later in the document (paragraph 72 onwards).

## Assessment by exam

66. In our Qualification level Conditions for GCSEs, AS and A levels, assessment by examination is defined as an assessment which is -
  - (a) set by an awarding organisation,
  - (b) designed to be taken simultaneously by all relevant learners at a time determined by the awarding organisation, and
  - (c) taken under conditions specified by the awarding organisation (including conditions relating to the supervision of Learners during the assessment and the duration of the assessment).
67. There is no standard definition of assessment by examination in the context of VTQs. What could be considered exams in the context of VTQs is likely to be wider than those covered by the GCSE, AS and A level frameworks. For example, many exams in VTQs are not taken simultaneously by learners on a specific date/time and take place over a defined period during an assessment window. Some awarding organisations might describe any assessment which is marked by them as an examination.
68. We think that it would be helpful in our alternative regulatory arrangements to clarify, or provide examples of, exams which are not considered viable.

---

<sup>7</sup> In the context of GCSE, AS and A levels, where there is a regulatory definition of assessment by exam, internal assessment is called non-exam assessment.

For example, we think that exams that are available on-demand and on-line would be viable, whereas paper-based, written exams might not be.

#### **Question 14:**

Do you have any comments on how exams could be defined for qualifications in scope of the alternative regulatory arrangements?

### **Internal assessment**

69. As set out in Part A, the Department has also acknowledged that, even though their proposal that internal assessments should go ahead as far as possible for in scope qualifications, learners have and will continue to experience disruption to teaching, learning and assessment. This may mean that some learners are not able to complete all their assessments before the end of their course of study.
70. We agree with this proposal and therefore propose, for in scope qualifications, to permit awarding organisations to make awards where not all internal assessments have been completed as well as where exams have not taken place. This is so learners can receive results and progress to the next stage of their lives.
71. Our alternative regulatory arrangements will seek to ensure that awarding organisations are only able to do this where this can be done without undermining the validity and reliability of the award of the qualification, in line with any requirements and guidance that we put in place.

#### **Question 15:**

To what extent do you agree/disagree with our proposal to permit awarding organisations to make awards when not all internal assessments have been completed in qualifications in scope of the new regulatory arrangements?

## A principles-based approach

72. As explained earlier, we do not consider that it is appropriate or possible to prescribe a single approach for all qualifications and that awarding organisations are best placed to determine approaches for their qualifications and how to award qualifications based on incomplete evidence because learners have not been able to complete their assessments, whether exams or internal assessments. As with our previous frameworks, we consider that this should be guided by a set of principles.
73. We included the following guiding principles within the Extended ERF:
- Principle 1** – As far as possible and without prejudice to the other principles, an awarding organisation must seek to ensure that the adaptations which it makes to a qualification assist with mitigating the impact on teaching, learning or assessments caused by the coronavirus (COVID-19) pandemic for learners taking that qualification
- Principle 2** – An awarding organisation must seek to ensure, as far as possible, that the adaptations which it makes to a qualification do not serve to advantage or disadvantage learners taking that qualification against their peers taking general qualifications not covered by the Extended ERF
- Principle 3** – An awarding organisation must seek to ensure that, where it makes any adaptations to its qualifications in accordance with the Extended ERF, the validity and reliability of those qualifications is sufficiently maintained
- Principle 4** – An awarding organisation must seek to maintain standards, as far as possible, within the same qualification in line with previous years, and across similar qualifications made available by the awarding organisation and by other awarding organisations
74. We consider that these principles remain broadly appropriate in the new context where exams do not take place but other assessments continue with the existing adaptations in place, or indeed with further adaptations to streamline assessment. We recognise that there are particular issues related to Principles 2 and 4 which we discuss below.
75. However, as explained earlier, we do think that we need to make additional provision within our regulatory arrangements for the award of qualifications in scope where exams do not take place and/or where learners are unable to complete internal assessments because of disruption to teaching, learning and assessment.

76. We are considering therefore whether to add a further principle which states that, whilst complying with these principles, awarding organisations making available qualifications which are in scope of the alternative regulatory arrangements, must seek to issue results to as many learners as possible who are taking that qualification.
77. This would mirror the approach we took in the ERF last summer and would give awarding organisations greater flexibility to prioritise the issue of results for qualifications in scope when deciding on their approach to awarding qualifications where there is incomplete evidence.

### **Question 16:**

Do you have any comments on what should be the guiding principles for awarding organisations for the award of qualifications where exams do not take place and/or where learners cannot complete all internal assessments?

## **Principle 2**

78. We recognise that the proposed approach to assessment for GCSEs, AS and A levels means that it will be difficult for awarding organisations to know whether the alternative arrangements they might put in place to award in scope qualifications will advantage or disadvantage their learners compared to their peers taking those qualifications. This may be because exam boards have less control over the grading standards for GCSEs, AS and A level awarded in summer 2021 because of the proposed new approach to assessment or for wider reasons.
79. We therefore welcome views on how Principle 2 might be applied for qualifications in scope of the alternative regulatory arrangements in the new context.

### **Question 17:**

Do you have any comments on how Principle 2 might apply for in scope qualifications in light of the new approach to assessment proposed for GCSEs, AS and A levels?

## **Principle 4**

80. We consider that Principle 4 in the Extended ERF as currently drafted provides sufficient flexibility for awarding organisations to maintain standards in the new context because it recognises that they maintain standards as far as possible but would welcome views on this point.

### **Question 18:**

Do you have any comments on whether Principle 4 is still appropriate for in scope qualifications, awarded where exams do not take place and/or all internal assessments cannot be completed?

## **Arrangements for awarding qualifications where exams do not take place and/or learners cannot complete all internal assessments**

81. Awarding organisations must ensure that assessments lead to the award of qualifications that are a valid and reliable indication of knowledge, skills and understanding that they attest to.
82. For in scope qualifications, assessment evidence will be incomplete because exams have not taken place and/or because not all internal assessments have been completed. In line with Principle 3 in the Extended ERF, awarding organisations would be expected to ensure that the validity and reliability of qualifications is sufficiently maintained.
83. In developing their approach to awarding on the basis of incomplete evidence, awarding organisations will need to determine the minimum evidential requirement for the valid and reliable award of each of their qualifications. In many cases, additional assessment evidence from teachers will be essential to enable the award of a qualification, but this

may not be necessary for a qualification where sufficient teacher marked internal assessment is already (or will be) available.

84. In the Extended ERF, we developed guidance to help awarding organisations to structure their decisions around approaches to adaptations and to support the development of consistent approaches across awarding organisations. We think that in our alternative regulatory arrangements it might be helpful to provide similar guidance to awarding organisations to help them develop their approach to awarding on the basis of incomplete evidence.
85. We think that a possible process for awarding organisations to go through would be to:
- identify the proportion of missing assessment evidence
  - determine whether the knowledge, skills and understanding (KSU) for the missing assessment evidence are or are not evidenced elsewhere
    - if the KSU and understanding are evidenced elsewhere, decide whether there is a need to replace the missing assessment evidence or if there is sufficient minimum evidence from other assessments (including a partially completed assessments) upon which to award a qualification grade
    - if the KSU is not sufficiently evidenced elsewhere, to the decide what approach is appropriate to replace the missing assessment evidence taking account of the significance of the missing KSU is to the overall qualification construct and the extent to which its assessment is necessary to the validity of a qualification grade
  - in developing their approach, consider whether it is necessary to cover all missing KSU or whether it would be sufficient to sample it, as well as the levels of controls that would be necessary around the generation of any missing assessment evidence.
86. Where it was found to be necessary to request additional assessment evidence from teachers, we would want to remain coherent with the approach for GCSEs, AS and A levels as far as possible for qualifications assessed in similar ways.
87. Depending upon the consideration of paragraphs 85 and 86. The approach to gathering additional evidence could take the form of one or more of the following examples:
- a portfolio of learner work
  - learner achievement on an awarding organisation or centre designed standardised task



- and, as mentioned earlier, in the case of internal assessment, partially completed units or assessments
88. Consistent with our principles-based approach, we consider that awarding organisations are best placed to decide on their minimum evidential requirement and the approach they should take where they need assessment evidence or additional assessment evidence from teachers in light of the assessment design of their qualifications.
  89. In developing their approaches, we also expect awarding organisations to take account of the need for consistency with similar qualifications, and of the need for manageability for centres and learners as well as themselves. We will also expect awarding organisations to comply with other guidance for example any guidance issued by the Department for VTQs appearing on performance tables.
  90. The approach developed by awarding organisations should not place more burden on centres and students than the original assessment. The need to promote ongoing engagement with learning during the lockdown and when centres reopen should also be considered.
  91. In the section on regulatory oversight and record keeping we set out the arrangements we propose to put in place to seek to ensure that awarding organisations take consistent approaches where appropriate.
  92. Some learners certificating in summer 2021 will be carrying forward calculated results from summer 2020. These results should be recognised and considered in any minimum evidential requirement.
  93. We do not propose to prescribe arrangements for marking and quality assuring any additional assessment evidence. We would allow awarding organisations to determine whether the additional evidence is collected and judged by the awarding organisation, or whether it is judged by the centre and quality assured by the awarding organisation. In either case, we would require awarding organisations to provide a strong rationale and put in place sufficiently robust methods of quality assurance.

### **Question 19:**

Do you have any comments on our proposed approach to arrangements for awarding in scope qualifications where exams do not take place and/or learners are unable to complete all internal assessments?

## Learner eligibility

94. We propose awarding organisations to put in place arrangements to authenticate eligibility of candidates or claims for the award of in scope qualifications.
95. We recognise that the timing of this lockdown may mean that not all learners will have formally registered to take assessments in the way that many had by March 2020. However, under the Extended ERF, in recognition of the unpredictability of the pandemic and the need to build resilience, we said that we expected awarding organisations to take steps to ensure that they understood which learners are expecting to take their assessments in 2020/21.
96. We think that the exact method for authenticating the eligibility of learners should be determined by the awarding organisation and will be based on approaches that were successful last summer, for example the use of Head of Centre declarations.

### **Question 20:**

Do you have any comments on the arrangements that should be put in place to authenticate the eligibility of candidates or claims for the award of in scope qualifications?

## Guidance to teachers and learners

97. It will be very important that teachers and learners understand what is expected of them when the new arrangements come into place. As noted earlier, we propose to require awarding organisations to take account of manageability and the burden on teachers and learners when develop their approach. We will require awarding organisations to provide clear and timely guidance to teachers on the assessment approaches to be implemented, the records that they should maintain, and on the nature of any centre-base quality assurance, where moderation of centre marking will take place.

## **Question 21:**

Do you have any comments on the guidance that should be put in place to support teachers and learners to implement the new arrangements?

### **Special Consideration**

98. General Condition of Recognition G7 (Special Consideration) requires awarding organisations to have in place arrangements to give Special Consideration to learners where they have temporarily experienced an illness or injury, or some other event outside of their control, which has had, or is reasonably likely to have had, a material effect on their ability to take an assessment or to demonstrate their level of attainment in an assessment.
99. Special Consideration could include, but is not limited to, awarding additional marks where a learner has been able to take an assessment but where their performance has been affected by an illness, injury or other exceptional event outside of their control; awarding a qualification to a learner who has not completed all of the assessments but who has completed the minimum amount of assessment evidence for that qualification; or allowing an alternative assessment opportunity for a learner at a later date.
100. We do not expect awarding organisations to provide Special Consideration where this would alter or prevent the qualification from providing a reliable indication of the knowledge, understanding and skills being measured, or where this would unfairly advantage or disadvantage learners.
101. In the Extended ERF, we included additional guidance on the application of Special Consideration. We clarified that where learners have missed teaching and learning as a consequence of public health guidance, adaptations to qualifications and assessments should be considered, rather than Special Consideration. We said that if further disruption occurs on a localised basis and assessments cannot take place, awarding organisations should consider whether they can adapt or further adapt their qualifications or assessments before considering whether Special Consideration applies.
102. We also said that where Special Consideration is available to learners who have not completed all the assessments (for example, because of previous or future lockdowns), awarding organisations must be clear about the

amount of assessment evidence a learner must have completed before a qualification can be awarded. Awarding organisations were also required to review their current arrangements for Special Consideration to ensure they remain appropriate in the context of the potential continuing disruption caused by the pandemic.

103. Special Consideration may apply to both internal assessments and exams. Therefore, as internal assessments may continue within qualifications in scope of the alternative regulatory arrangements, we consider that General Condition G7 and the current guidance in the Extended ERF should continue to apply for these qualifications.

## **Question 22:**

To what extent do you agree/disagree with our proposed approach to Special Consideration?

## **Appeals**

104. General Condition of Recognition I1 (Appeals process) requires that an awarding organisation's appeals process must provide for the effective appeal of results on the basis that the awarding organisation did not apply procedures consistently or that procedures were not followed properly and fairly. Awarding organisations have discretion to include additional grounds should they wish to do so, such as allowing appeals to be accepted directly from learners.
105. In the ERF, we supplemented General Condition I1 with some specific guidance highlighting the issues that awarding organisations would need to consider, particularly in relation to the issue of calculated results. In the context of the Extended ERF, we did not however think that it was necessary to develop additional guidance around appeals relating to the adaptation of assessments because the General Condition was sufficient.
106. For those qualifications which are in scope of the alternative regulatory arrangements, we consider that it will be necessary to supplement General Condition I1 with additional guidance around appeals. For those qualifications most closely aligned to GCSEs, AS and A levels, we would permit awarding organisations to take similar approaches to appeals.

### **Question 23:**

To what extent do you agree/disagree that we should supplement General Condition I1 with additional guidance around appeals for qualifications in scope?

## **Certificates**

107. When we introduced the ERF and the Extended ERF, we said that awarding organisations should issue certificates (where appropriate) as normal and should not refer on the certificate to a result having been determined under the arrangements in those regulatory frameworks. To do otherwise would risk disadvantaging learners by suggesting that their awards were less valid than those awarded under our normal regulatory arrangements.
108. We propose to take the same approach for certificates awarded in 2021 for qualifications in scope of the alternative regulatory arrangements.

### **Question 24:**

To what extent do you agree/disagree with our approach to certification for qualifications in scope?

## **Private candidates/learners**

109. There will be some learners who are studying vocational, technical and other general qualifications independently. Some of these learners may be registered directly with an awarding organisation, others may be registered for a qualification through a centre but may not be receiving education directly from them. These are all considered to be 'private learners'.
110. Under the ERF and the Extended ERF, we required awarding organisations to include private learners within their arrangements as far as possible.

111. Last summer, when the ERF was introduced, we said that where a centre is providing centre assessment grades<sup>8</sup> to support the award of calculated result for learners taking a particular qualification, they should include private learners where they have seen sufficient evidence of the learner's achievement to make an objective judgement about their performance. As described earlier in this document, many vocational and technical qualifications are designed with a number of assessments which can be taken throughout the qualification and so where a private learner has completed some assessments, these would also be likely to support the provision of calculated results.
112. We also said that where awarding organisations adapt their assessments, under the ERF or the Extended ERF, that they must offer adapted assessments to private learners in in as similar a way as possible to other learners.
113. We recognised however that it may be necessary for some learners who have not been studying with a centre to take assessments at the next available opportunity.
114. For qualifications in scope of the alternative regulatory arrangements, we propose to take a consistent approach and to require awarding organisations to include private learners in their arrangements as far as possible. For those qualifications most similar to GCSEs, AS and A levels we would expect them to take a similar approach to that agreed for those qualifications following this consultation.

### **Question 25:**

To what extent do you agree/disagree with our proposed approach for private candidates/learners?

## **Qualifications also taken internationally**

115. Under the ERF, we permitted awarding organisations offering regulated qualifications also taken internationally to:
  - apply the approach in the ERF where appropriate and manageable, or

---

<sup>8</sup> Centre assessment grades (CAG) were provided by teachers based on their professional judgements of the grade their students would most likely have achieved if they had sat exams in summer 2020 and completed any non-exam assessment.

- continue to comply with the General Conditions of Recognition if this was more appropriate based on the needs of the specific international market
116. We also flagged that awarding organisations should consider the particular risks of malpractice depending on the nature of the non-UK setting.
117. We took the same approach under the Extended ERF and have permitted awarding organisations to adapt assessments taken in international markets, where this was necessary, if this did not undermine the validity of the qualifications and risks around malpractice and the particular needs of the international market were considered and addressed.
118. We propose to take a consistent approach for qualifications in scope of the alternative regulatory arrangements and to permit awarding organisations to award on the basis of minimum evidential requirements where this is necessary, provided that it does not undermine the validity of qualifications and the risks around malpractice and the particular needs of the international market are considered and addressed.

### **Question 26:**

To what extent do you agree/disagree with our approach to awarding for qualifications in scope which are also taken internationally?

## **Regulatory oversight and record keeping**

119. In the ERF and the Extended ERF, we took a similar approach to regulatory oversight and record keeping.
120. In the Extended ERF, we require awarding organisations to maintain records of the decisions they made when adapting assessments in compliance with our requirements and guidance. They are also required to provide these records to us upon request to enable us to undertake a risk-based approach to regulatory supervision and monitoring.
121. They are also required to have regard to any advice that we provide in writing, in the form of a Technical Advice Notice. They are required to follow our advice unless there is a compelling reason not to.
122. We propose to take the same approach for qualifications in scope. We plan to undertake proactive and targeted monitoring work in relation to qualifications and the awarding organisations that offer them. We will evaluate a sample of awarding organisations' records about the

approaches they propose to take. We will engage with awarding organisations, who offer similar qualifications, in order that they take a consistent approach where it is appropriate to do so. In addition, we will check awarding organisations' delivery at multiple points (whether through one-to-one or group engagement) and we will scan across similar qualifications and sectors, so that we can maintain consistency and prevent risks from materialising as far as possible. We will collect more data directly from awarding organisations to inform our risk-based approach, as well as gathering feedback from learners, centres and employers.

123. We will monitor awarding organisations approaches to awarding; determining whether they have sufficient evidence on which to base awards; and their decisions about whether an approach to adaptation would be more appropriate in the context of the qualification that they are delivering. Where certificating learners are eligible for special consideration we will monitor awarding organisations' approaches to this.
124. We expect awarding organisations to operate transparently and in good faith and to notify us promptly if things go wrong. Our priority will be to work constructively with awarding organisations to achieve the fairest outcomes for learners. Engaging in this way will maximise our ability to resolve issues quickly and we will be proportionate in our response.

### **Question 27:**

To what extent do you agree/disagree with our approach to regulatory oversight and record keeping?

### **Next steps**

125. Following this consultation, we will consult on the detailed conditions requirements and guidance necessary to put the policy decisions into effect.
126. We anticipate reissuing the Extended ERF, carrying forward the existing Extended ERF provisions, and adding new provisions to permit the issue of awards where exams do not take place and/or learners do not complete all internal assessments for those qualifications in scope.



# Equalities Impact Assessment

127. As a public body, we are subject to the public sector equality duty. Annex B sets out how this duty interacts with our statutory objectives and other duties.
128. Awarding organisations are required to comply with equalities legislation, and our existing General Conditions of Recognition reinforce this in relation to the qualifications they make available. They are required to monitor their qualifications to identify features which may disadvantage a group of learners who may share a protected characteristic<sup>9</sup>, and this applies to the design, delivery and award of their qualifications.
129. In developing the proposals we have set out, we have sought to ensure that the approach does not unfairly disadvantage learners, 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 learners who share protected characteristics. We set these considerations out below, in addition to the impacts we have identified throughout this consultation.
130. While it is not possible to completely remove all impacts which have been identified, we are keen to understand whether respondents agree with the impacts we have identified, whether there are other impacts that we have not identified, and, whether there are ways to mitigate these impacts. We would therefore encourage you to read and respond to this section.
131. Following the arrangements that were in place in summer 2020, we conducted an analysis of grades awarded for a number of VTQs in spring and summer 2020<sup>10</sup>. Our equalities analyses showed that, in most cases, attainment gaps did not seem to have increased over time between different demographic groups. There were some specific cases where attainment gaps appeared to have changed over time (for example, between males and females in level 1/2 and level 3 other general qualifications and Level 3 Performance Table qualifications, excluding Applied Generals), although these apparent differences seem small in real terms and it is difficult to know what the exact cause of these may be (for

---

<sup>9</sup> For the purposes of the public sector equality duty, the 'protected characteristics' are: disability, race, age, religion or belief, pregnancy or maternity, sex, sexual orientation, and gender reassignment

<sup>10</sup> [An analysis of grades awarded for a number of VTQs in spring and summer 2020](#)

example, these findings could reflect a genuine change in ability of cohorts over time). It should be noted that this particular analysis was performed on a sample of the overall cohort only. We will continue to monitor the impact of our final approach.

## Qualifications in scope

132. The proposals in this consultation seek to ensure that learners taking VTQs are not disadvantaged compared with learners taking GCSEs and A levels, where these are used for similar purposes. The Department's policy is seeking to ensure that the approach in VTQs should be coherent with General Qualifications as far as possible, particularly where qualifications are designed, delivered, and assessed in a similar way.
133. To ensure VTQ learners are not disadvantaged, results informed by teacher assessment are likely to be available for these qualifications, with the exact qualifications being similar to those for which calculated results were available last summer, although this is still to be confirmed. But recognising the variety of assessment models used in VTQs, where learners have already completed work, can continue with assessments or non-exam assessments remotely, or when centres reopen, then this will be able to inform teacher assessment.
134. By treating qualifications used in similar ways to GCSEs and A levels the same as far as is possible, while also allowing flexibility in approaches to recognise the differences that exist in many VTQs, this will help ensure that learners taking VTQs, including those who share particular protected characteristics are not disadvantaged, on the basis of taking a VTQ as opposed to a General Qualification, when compared to learners taking similar general qualifications.

## Learners taking VTQs

135. We know from the previous equalities impact assessments we have undertaken<sup>11</sup> that learners taking many VTQ are, on average, more likely to

---

<sup>11</sup> [Decisions on arrangements for the assessment and awarding of vocational, technical and other general qualifications in 2020 to 2021 – Part 2](#)

be from more disadvantaged backgrounds when compared with learners taking GCSEs, AS and A levels not covered by the proposals in this consultation. When compared with learners taking GCSEs, the learners taking level 1 or 2 qualifications covered by the ERF were, on average, more likely to come from lower socio-economic backgrounds. This was also the case when we compared learners taking A levels with learners taking other level 3 qualifications. We also found that learners taking level 1 or 2 qualifications typically had a lower average level of achievement at key stage 2 or were more likely to have special educational needs compared to learners taking GCSEs. Again, this was the case for learners taking level 3 qualifications covered by the ERF compared to learners taking A levels.

136. We have also identified, as part of our previous equalities impact assessments that some VTQs are more likely to be taken by learners who share protected characteristics. Additionally, VTQs are more likely to be taken by adult learners, who may have additional responsibilities, such as caring responsibilities.
137. The approach we are proposing seeks to ensure that, as far as is possible, learners taking VTQs are not disadvantaged when compared to learners taking GCSEs, AS and A levels which are used for similar purposes, in particular where these are used to facilitate progression. The approach we have proposed seeks therefore to ensure that where VTQs are used for similar purposes as for GQs, then similar mitigations are in place. But recognising the wide variety of qualifications, assessments and delivery models typically used in VTQs, we have also sought to allow as much flexibility as is possible, for awarding organisations to put in place approaches that will mitigate, as far as is possible, the disadvantage faced by learners taking VTQs, including those who share particular protected characteristics.
138. We have proposed that for those qualifications covered by these proposals, all learners taking these qualifications should be within scope of the arrangements. This means that any learner due to take an assessment will be covered by the same arrangements and that learners are not prevented from receiving a result on the basis of their age. If we were to restrict the arrangements to specific learners, for example those in a particular year group or at a particular point within their course, there is a risk that learners who have been equally affected, may have been disadvantaged due to their age.

## Impact on particular groups of learners

139. Any results issued must reflect the evidence of the standard at which a learner is performing. We would therefore expect a high-performing learner to receive a better result than a low-performing learner. Given the differential nature of the interruption to learners' teaching and learning during the coronavirus (COVID-19) pandemic, some learners, including those with protected characteristics or belonging to particular groups may have been less able than others to gain the knowledge and skills required for their assessment.
140. Respondents to Ofqual's consultations last year suggested that the impacts on learning during the pandemic may have been greater for particular student groups than for others. While we recognise these concerns and have sought to ensure these proposals do not unfairly disadvantage any groups of learners, it is not possible through results to seek to rectify the differential impact of the pandemic on different groups of learners, as it would mean the results would no longer be a reliable reflection of what students know and can do.

## Qualification and assessment models

141. The qualifications covered by these proposals vary significantly in terms of their size, the nature of the assessments, the purposes for which they are used, and the way they are delivered. Some VTQs, for example, are available at fixed times each year, whereas others are available on a rolling basis, and learners take them when they are ready. Being able to take qualifications when they are ready helps to mitigate some of the disadvantage faced by learners with protected characteristics, as they may learn in different ways as a result of their protected characteristics. If we were to prescribe a single approach covering all qualifications, awarding organisations and centres may be prevented from implementing such approaches. The flexibility we are proposing to allow for VTQs means that awarding organisations will be able to take account of the needs of these learners when deciding how to determine results.
142. Additionally, as part of the Extended ERF that is currently in place, awarding organisations have developed approaches to adapting assessments, which allow learners to take assessments in alternative ways, for example remotely, or using remote invigilation. Again, if we were to prescribe a single approach, for example to require all learners to

receive a result informed only by teacher assessment, learners who could otherwise have taken an adapted assessment may be disadvantaged.

143. By allowing flexibility in the approach to assessment, awarding organisations will be able to consider the nature of their individual qualifications, including taking account of the impact on learners with protected characteristics, to put in place approaches that are most appropriate for the qualifications they deliver. We believe this approach is more likely to mitigate any potential disadvantage faced by these learners, than a single prescribed approach.

## Proposed principles

144. In line with the approach taken last summer, we are considering whether to include a principle for awarding organisations issuing results, that they must seek to issue results to as many learners as possible who are taking a VTQ which it makes available.
145. Such a principle would mean that while awarding organisations must continue to consider the needs of learners with protected characteristics and meet their equalities obligations, they would not be prevented from adapting an assessment or issuing a result to learners, on the basis that not all learners were able to receive a result, including where this was because they shared a protected characteristic.
146. If implemented, this proposal has the potential to disadvantage some learners as a result of them sharing a protected characteristic, when compared to other learners who do not share that characteristic. We have considered this and do not believe that learners for whom awarding organisations can issue a result should be prevented from receiving a result on the basis that this result is not available to all learners. We are however seeking views as part of this consultation on whether to implement this principle, so would welcome views on this.
147. Principle 2 of the Extended ERF, which we have proposed to retain sets out that “An awarding organisation must seek to ensure, as far as possible, that the adaptations which it makes to a qualification do not serve to advantage or disadvantage learners taking that qualification against their peers taking general qualifications not covered by the Extended ERF”.
148. The extent to which it is possible for awarding organisations to meet this principle will depend on the approach that is implemented for GCSEs, AS and A levels not covered by the Extended ERF. While our proposals seek to ensure alignment as far as is possible between the arrangements for

GCSEs, AS and A levels and VTQs such that there is no advantage or disadvantage, there is a risk that the final arrangements for one group of learners creates greater advantage than for another group; it may make it difficult to put in any processes to sufficiently identify and mitigate this prior to the issue of results.

149. Our starting point is that we will seek to minimise the likelihood of this risk materialising as far as is possible. However, it may not be possible to fully mitigate in all circumstances. We will consider this as we finalise the approach for GQs and VTQs.

## Exam assessments

150. Despite the variations in qualification and assessment models referred to above, a number of VTQs and other general qualifications do include exam assessments and are taken in a similar way, at fixed times in the year as GCSEs, AS and A levels. In line with Department's proposed policy, in order to ensure that learners taking VTQs are not disadvantaged, then a similar approach is being proposed for exams for certain VTQs, some of which are included on performance tables, as is in general qualifications.
151. This will mean that for learners taking some VTQs and other general qualifications that are similar to GCSEs, AS and A levels, and which are used similarly for progression purposes, learners will receive a result based on alternative assessment arrangements. While this may help minimise the extent to which learners taking VTQs may be disadvantaged compared with those taking GCSEs, AS and A levels, it will be important to ensure that any approach to alternative assessment arrangements takes account of the needs of learners who share a protected characteristic, and we will consider this as we develop the detail of the approach.
152. For some VTQs, while there are exams taken at fixed points in the year, these may not be the only forms of formal assessment. Some VTQs are taken in a modular way, so learners may already have 'banked' results for assessments which contribute to their overall qualification. Where this is the case, we have set out that these 'banked' units should inform a learner's result. This will help ensure that as far as is possible, a learner's grades will be informed by their actual work.
153. There is a possibility that this could both positively and negatively impact on learners with protected characteristics. On the one hand, basing teacher assessment judgements on actual evidence produced by the learner, may help minimise the risk of bias in the judgements made by centres, which

may positively impact these learners. But it is also possible that learners with some protected characteristics may be less likely than other learners to have banked assessment results, for example if they have missed a greater amount of teaching and learning time, for example due to shielding due to a disability.

154. For exams that are not taken at fixed points, we have set out that for VTQs, these may continue in line with the Extended ERF, either as scheduled, with adaptations in place, or at a later date. We believe that permitting such assessments to continue is the most effective way to ensure that learners, including those with protected characteristics are not disadvantaged. It will mean that learners will have the opportunity to demonstrate what they know or can do, and that they can take with the reasonable adjustments and other support which they would normally receive.

## Internal assessment

155. Many VTQs include internal assessment as part of the qualification, for example in the form of projects, portfolios, or practical assessments. Often these happen throughout the year rather than at fixed points. This means that in many cases, learners may already have completed these assessments, or may be able to continue to complete them remotely, or when centres reopen.
156. This consultation sets out that where possible, such assessment should continue. This will mean that as far as possible, learners are not disadvantaged, and that work they may already have completed will contribute to their overall result. We have also proposed that where other assessment can continue to be completed then this should be permitted and may be used to inform results and teacher assessment. Where work has not yet been completed, it will help incentivise learners to engage in their education, to ensure that such work is completed in order to be used as part of their qualification result.
157. It is possible that some learners with projected characteristics may be disadvantaged if they have not been, or are unable to complete internal assessment, because of their protected characteristic. If, for example a disabled learner had been required to shield for longer than other learners, or if a learner did not have access to the reasonable adjustments required to complete internal assessment remotely, then these learners may be disadvantaged. We do not however consider that it would be appropriate to disadvantage those learners that are able to complete internal assessment,

on the basis of some learners being unable to. For learners that are not able to complete internal assessment it may be necessary for the assessment to be delayed, or for the learner to be awarded a result based on other evidence or partial evidence.

## Access to equipment

158. Where assessments take place remotely, it is possible that some learners could be disadvantaged as a result of being unable to access, or to use equipment. This could be IT equipment to access remote assessments, specialist equipment or software needed to complete remote assessments, or access to reliable internet connectivity, for example in rural locations. In some instances, this disadvantage may be caused as a result of learners sharing a protected characteristic, for example a disabled learner may be unable to use the necessary equipment as a result of their disability. In others, it may be caused by learners living in a particular area, for example rural areas with limited access to the internet.
159. Some learners could also be disadvantaged as a result of the centres where they take their assessments, as some are more likely than others to be able to provide equipment or resources and accommodate social distancing requirements.
160. Learners with protected characteristics could also be negatively affected if they rely on specialist equipment, or reasonable adjustments, which they do not have access to remotely. While awarding organisations will be required to consider the needs of all learners, including those with protected characteristics when adapting assessments, it may not be fully mitigate this disadvantage, where it is simply not possible for a learner to access resources or equipment they would have access to in a centre.

## Timing

161. When compared with assessments taken in summer 2020, the timing of the disruption may help to mitigate some of the disadvantage faced by learners with protected characteristics. In 2020, assessments were cancelled at a point when many learners had not completed their courses, and centres remained closed, in the period up to when assessments should have been taken, meaning that it was difficult for many learners to continue with learning and to produce further evidence. Additionally, awarding



organisations did not have in place arrangements for adapting assessments to make them available remotely.

162. In 2021, it is probable that centres may reopen prior to when some assessments are due to be taken. Additionally, many awarding organisations have already adapted assessments, and developed approaches to delivering them remotely. This means that while it is not possible to remove the disadvantage faced by learners who have missed teaching and learning time, or who are currently unable to access centres, it is possible that they will still be able to take assessments in some form prior to results being issued. This will help mitigate the disadvantage faced by these learners, for example as a result of learners having access to teaching and support staff or reasonable adjustments, which they can access in centres, but may not be able to do so remotely.

## Reasonable adjustments

163. Some disabled learners require reasonable adjustments in order to access assessments. These are adjustments to the way an assessment is taken to allow a disabled student to access the assessment and demonstrate what they know or can do. These adjustments reflect a learner's normal way of working, so the adjustment they use in an assessment should reflect the way they access teaching and learning during their course.
164. It is possible that the reasonable adjustments required for an adapted assessment may be different to those a learner needs for an assessment that was taken in the way originally intended. As such, the type of reasonable adjustment required to reflect a learner's normal way of working may not be possible, depending on the nature of the adapted assessment.
165. Where assessments are not cancelled, but are instead taken at a later date, this means that learners are more likely to be able to take assessments in the way originally intended or as adapted in line with the principles in the Extended ERF, which will include being able to access reasonable adjustments which they would normally have. While this will help mitigate the disadvantage faced by disabled learners who require reasonable adjustments which are not available for adapted assessments, we welcome respondents' views on the best way to ensure students receive the reasonable adjustments they need.

## Special Consideration

166. We have set out our approach to Special Consideration in the context of the disruption faced by learners taking assessments. The Extended ERF provides guidance in this area, setting out that in the first instance, awarding organisations should seek to adapt assessments to allow learners to access them before considering special consideration. We have previously said that where Special Consideration is available to learners who have not completed all of the assessments (for example, because of previous or future lockdowns), awarding organisations must be clear about the amount of assessment evidence a learner must have completed before a qualification can be awarded. Awarding organisations were also required to review their current arrangements for Special Consideration to ensure they remain appropriate in the context of the potential continuing disruption caused by the pandemic
167. Special Consideration may apply to both internal assessments and exams. Therefore, as internal assessments may continue within qualifications in scope of the new regulatory arrangements, we have set out that we consider that General Condition G7 and the current guidance in the Extended ERF should continue to apply for in scope qualifications.
168. While this won't completely remove any potential disadvantage faced by learners who are unable to complete assessments, including where this is due to them sharing a protected characteristic, it will in some instances help ensure that learners are able to receive a result, who may not otherwise have received one.

## Private candidates / learners

169. For private learners who do not normally attend a centre, there is a risk they could be potentially disadvantaged where assessments do not go ahead as planned. It is possible that some groups of learners are more likely to be taking assessments as private candidates, and this could include, for example, learners with behavioural difficulties, or special educational needs and disability learners.
170. The approach we have set out does not prevent private candidates from accessing adapted assessments, or from taking assessments at a later date where this is possible. But we recognise that due to not being associated with a centre, some private learners may be less able to access a result than other learners.

171. We believe that for 2021, the possibility of assessments taking place later in the summer, along with the additional time during which learners may have produced and potentially banked assessment evidence, and the progress made by awarding organisations in adapting assessments, means that private learners are less likely to be disadvantaged compared with learners in summer 2020. It is possible however, that the disadvantage faced by these learners will remain to some extent.

## Extended ERF

172. We have proposed to carry forward the requirements of the Extended ERF for summer 2021. The Extended ERF allows awarding organisations to determine the approach for their qualifications and assessments, and allows them to make adaptations to assessments. The Extended ERF sets requirements that in making adaptations, awarding organisations must seek to minimise bias as far as is possible, as well as complying with the requirements of the General Conditions in relation to accessibility of qualifications and reasonable adjustments. Awarding organisations' obligations to ensure their assessments are accessible extend to any assessments that they produce as part of the revised arrangements. We have also published guidance for awarding organisations against these requirements.

## Certificates

173. We have proposed that awarding organisations should issue certificates (where appropriate) as normal and should not refer on the certificate to a result having been determined under the arrangements in those regulatory frameworks. This will help ensure that no learner is disadvantaged due to having received a result under these proposals, including those for whom the reason their result was issued under these proposals was as a result of them sharing a protected characteristic.

## Appeals

174. Under our proposals, it will be possible to appeal against results and we have set out that for those qualifications which are in scope of the alternative regulatory arrangements, we consider that it will be necessary to supplement General Condition I1 with additional guidance around appeals. For those qualifications most closely aligned to GCSEs, AS and A levels,

we would permit awarding organisations to take similar approaches to appeals.

175. We will consider as part of any guidance the arrangements for learners who believe they have been disadvantaged as a result of these proposals, including on equalities grounds.

**Question 28:**

Are there other potential positive or negative equality impacts that we have not explored? If yes, what are they?

**Question 29:**

Do you have any views on how any potential negative impacts on particular groups of learners could be mitigated?

# Regulatory Impact Assessment

1. We are proposing an approach which will enable results to be issued to learners who are taking VTQs that are used for progression to and through employment, further or higher education. Our approach is intended to ensure that learners taking these qualifications are not disadvantaged when compared with learners taking GCSEs, AS and A levels used for similar purposes.
2. The Department's position is that it is no longer viable for the external sessions written exams for Vocational and Technical qualifications on performance tables, scheduled for February and March, to go ahead. The Department has also set out that for VTQs and other general qualifications used for progression, learners are likely to have suffered similar levels of disruption to those taking GCSEs, AS and A levels, therefore it is the Department's expectation that the external assessments for these qualifications are no longer viable as originally envisaged.
3. The proposals we have set out in our consultation are intended to ensure that the approaches taken by awarding organisations will meet the Department's policy intentions, while also recognising the range and complexity of different assessment models used in VTQs. Given the complexity of the VTQ landscape, we are not proposing to prescribe a single approach. Instead, we are seeking to build on the approach we put in place last year through the Extraordinary Regulatory Framework (ERF) and the subsequent Extended ERF. This approach allows flexibility for awarding organisations to determine the most appropriate approach for their qualifications and assessments, which could be to allow assessments to proceed as normal, or could involve adapted assessments, for example taken or invigilated remotely.
4. In developing our proposals, we have considered the potential regulatory impact of meeting our requirements, and the potential burden this could place on other stakeholders, for example, learners, centres, employers and further and higher education institutions. We have previously conducted regulatory impact assessments as part of our consultation on the Extended ERF that is currently in place, which are available here<sup>12</sup> The regulatory impacts previously identified included:

---

<sup>12</sup> [Arrangements for the assessment and awarding of Vocational and Technical and Other General Qualifications in 2020 to 2021 Consultation](#)

- familiarisation with any new or amended requirements
  - development of approaches to adaptations
  - communication of requirements to centres, supporting centre activities and managing continued increased volumes of enquiries from centres and learners
  - adaptation or development, and delivery, of processes and systems for adapted assessments and quality assuring these
  - investment in technology needed to deliver adapted assessments including specialist hardware or software and training in how to use these
  - maintaining a record of decisions made to adapt an assessment and the rationale for them
  - preventing, detecting and investigating any malpractice or maladministration specifically relating to the delivery of adapted assessments
  - issuing of results in accordance with new arrangements
  - the impact on business as usual activities of having to comply with any new or amended requirements, or ongoing compliance with the Extended ERF
  - costs to centres of delivering adapted assessments, combined with meeting other external factors such as social distancing requirements
5. As many of the approaches being proposed are similar, we anticipate that many of the regulatory impacts of our proposals will also be similar. That is not to say however that the current further disruption will not lead to further regulatory impacts, and we set out in this section our assessment of these impacts. Awarding organisations may already have incurred some of the costs relating to these impacts, however it is likely there will also be new and continued costs relating to the proposals set out in this consultation.

## Awarding organisations

6. Under our proposals, awarding organisations will need to continue to meet the requirements of the Extended ERF. Where exams are cancelled, they will need to put in place arrangements to issue results based on teacher assessment to learners. Our proposal to retain the majority of the requirements in the Extended ERF should help minimise the extent of any additional burden on awarding organisations. Awarding organisations have been operating under the Extended ERF since the summer, and have already developed approaches to adapting assessments. Our approach will allow these to continue.
7. There are however some assessments for which Department's policy is that exams should not go ahead. These are primarily those that are assessed by

external examination, and which are used for similar progression purposes to GCSEs, AS and A levels. For these VTQs which are subject to alternative assessment arrangements, the impact on awarding organisations is likely to be greater, as they will have to develop systems and processes for determining and quality assuring any alternative assessment arrangements. As awarding organisations have more recently been operating under the Extended ERF, which has not required them to issue results in this way, the arrangements may be new, and the regulatory impact of meeting them is likely to be greater.

8. We recognise however that regardless of whether awarding organisations are familiar with the requirements, there are likely to be some additional requirements that awarding organisations will need to familiarise themselves with, and will also be ongoing costs of delivering assessments under these arrangements. Since the Extended ERF was put in place, we have spoken to a number of awarding organisations to identify the potential burdens posed by meeting the Extended ERF. Informed by these discussions we have identified the following potential regulatory impacts:

- the cost of repurposing staff to deliver assessments under the extended ERF, including potentially requiring staff to work additional or unsociable hours
- the development and implementation of quality assurance processes to ensure that adapted assessments are delivered in line with the extended ERF, and that results are valid
- developing and implementing adapted assessment approaches
- the need to train staff on new processes and procedures
- the cost of communicating new and amended requirements to centres, and of responding to an increased volume of enquiries on an ongoing basis
- the need to develop and implement new IT systems in order to deliver and monitor remote or adapted assessments
- reviewing arrangements with centres, in particular where alternative methods for delivering assessments may affect the risk rating of individual centres
- the potential for an increased number of appeals where centres were unhappy with the results of adapted assessments or those results that have been informed by teacher judgements

9. Our requirements for VTQs are flexible and allow awarding organisations to develop approaches that are appropriate for the qualifications and assessments they offer. This means that in determining the approach, they can take account of the potential burden and manageability of their approaches. Given the range and variety of VTQ assessments, this is likely to

be less burdensome than if we had required a single approach to all VTQ assessments.

10. It is also possible that awarding organisations will face an additional burden as a result of an increased number of requests for special consideration. Where learners' assessment has been disrupted, awarding organisations may allow special consideration, subject to their minimum requirements. Given the likelihood that a greater number of learners will have been disrupted in some way, it is possible that awarding organisations will face an increased number of requests, and associated burden in managing these requests. Awarding organisations are able to set minimum requirements, for example relating to the minimum amount of evidence that must be available to approve a request for special consideration, however we acknowledge that this is likely to place some additional burden on awarding organisations.
11. There is also likely to be an additional burden placed on awarding organisations of engaging with Ofqual, centres, sector specialists and other stakeholders in the delivery of assessments. The burden of these activities will need to be balanced with the potential benefits of ensuring a clear and consistent understanding of any regulatory requirements, and that centre and stakeholders understand, and can implement awarding organisations' approaches.
12. As part of our monitoring of awarding organisations, we have analysed information we hold to determine the risk of financial difficulties as a result of the disruption. We recognise that lockdowns have led to difficult trading conditions for awarding organisations, with many having furloughed or reduced numbers of staff during this period. This may impact on awarding organisations' capacity to deliver adapted assessments, and where assessments cannot go ahead, represent a loss of income for awarding organisations, while still seeking to issue results to learners.
13. In implementing an approach to delivering assessments, we have taken account of these concerns as far as is possible. We recognise that there will be some additional burden on awarding organisations, which we have sought to minimise where possible. Some of the activities awarding organisations will carry out would need to be carried out in any year, but doing so in light of the current disruption is inevitably going to pose some additional burden.

## Centres

14. Although our requirements do not apply directly to centres, it is likely that as a result of delivering assessments in line with our requirements, centres, their staff and learners, may face additional burden.



15. The regulatory impact may vary by qualification. For qualifications that are mainly subject to adaptations, then there will be a burden in delivering these adapted assessments, although to some extent, centres may be familiar with the arrangements, as these are likely to be similar, if not the same as, those currently in place under the Extended ERF. For those qualifications where Department's policy is that assessments should not take place and where alternative assessment arrangements are in place, the burden may be greater. For these assessments, centres will need to follow awarding organisation guidance and requirements in relation to determining results.
16. Regardless of whether assessments are adapted or delayed, or whether results informed by teacher assessment are issued, there may be the following direct costs and administrative burdens to centres associated with our proposals, depending on the qualifications offered, and, whether and how they are adapted:
- familiarisation with guidance issued by awarding organisations, communicating this to staff and training as they required
  - communication and ongoing support to learners in relation to adapted assessments and qualifications
  - enabling and supporting the delivery of adapted assessments and qualifications
  - managing a high volume of enquiries from learners, parents and employers
17. We also recognise that some centres will be managing the introduction of adapted assessments at the same time as they might be running delayed assessments and/or giving learners the opportunity to resit assessments.
18. Depending on the specific arrangements made by each awarding organisation, there could be additional costs to centres of meeting each awarding organisation's requirements. These could include:
- Delivering those assessments (for example non-exam assessments) that are able to continue
  - Collecting and collating information and evidence required by awarding organisations to inform results
  - Providing declarations or other administrative requirements to awarding organisations
  - Responding to queries from awarding organisations relating to evidence they have provided
  - Managing an increased number of submissions for special consideration and appeals on behalf of learners

19. It is also likely that some adapted assessments will rely on remote approaches to assessment delivery or invigilation. Some of these approaches may require learners to have access to IT equipment, or other specialist equipment. Where learners do not have access to this remotely, there may be a burden on centres in trying to provide such equipment or resources for learners. Where assessments can go ahead, there may be additional costs for centres of meeting any requirements for delivering assessments, for example accommodating social distancing, or providing PPE for staff and learners.
20. We will work with stakeholders to ensure that as far as is possible, our requirements on awarding organisations do not place unnecessary burden on centres, and that approaches are consistent as far as is possible. We are proposing to allow flexibility as far as is possible for awarding organisations to determine the most appropriate approaches for their qualifications, and would expect awarding organisations to consider the impact on centres as part of their arrangements. It is likely however that these approaches will not entirely remove the potential burden on centres.

## Learners

21. We are focused on making sure that, where possible, learners are not disadvantaged and that disruption to their planned progression is minimised. However, we recognise that regardless of the steps that can be taken to securing approaches that will lead to learners receiving results, there will inevitably be some disruption and potential burden as a result of the current circumstances.
22. We are proposing that results may take account of non-exam assessment that has already been completed, or that internal assessment can continue to be completed remotely, to inform results. Where completed internal assessment is used, then this may reduce the burden on learners, as work already completed can be considered. Where internal assessment has not yet been completed, there may be an additional burden on learners of having to complete internal assessment, and potentially of having to do so remotely as opposed to under their normal arrangements.
23. We understand there may be negative impacts, including possible financial impacts, for any learners whose qualifications are delayed, where their progression is also delayed. This could include those who need to improve their results in order to progress to their chosen study or employment destination.
24. Our proposals are aimed at keeping delayed assessments to the absolute minimum so that the majority of learners can obtain a result for their qualifications over the coming months.

## FE, HE and employers

25. We recognise that there would be significant negative impacts on FE and HE and employers – in terms of their recruitment activity – if large numbers of learners were not able to progress as planned because they were unable to pass or complete their qualifications because of disruptions to teaching, learning and assessments arising from the pandemic.
26. We consider that the approach we are proposing will help to mitigate this risk without undermining the validity of qualifications. However, we also recognise in our objectives that there is a need for a system-wide approach to address the risks impacting on qualifications and assessments which are outside the scope of our regulation, and we will work with partners, stakeholders, other regulators and the Department to achieve this.

## Innovation and growth

27. 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). We must exercise our regulatory activity in a way that ensures that any action taken is proportionate and only taken when needed. Growth Duty sits alongside our duty to avoid imposing unnecessary burden, as required under the ASCL Act 2009, as well as our statutory duties relating to equality and the Business Impact Target.
28. We consider our proposals for adaptation are proportionate and necessary to manage the longer-term impacts of the pandemic. However, it may also be that adaptations to assessments encourage innovation and investments which yield for awarding organisations in the longer term.

## Estimated costs and savings

29. We encourage respondents to share with us as much information as possible about the likely costs and administrative burdens, as well as any savings or benefits, of the proposals set out in this consultation, so that we may consider this information when reaching our decisions. We encourage anyone who responds to this consultation to tell us if they think there is something we could do differently that would still achieve the same aim but would reduce costs and administrative burden.

### **Question 30:**

Are there any regulatory impacts, costs or benefits associated with the implementation of our proposals that are not identified in this consultation? If yes, what are they?

**Question 31:**

Are there any regulatory impacts, costs or benefits associated with the implementation of our proposals that are specific to teachers not identified in our consultation? If yes, what are they?

**Question 32:**

What additional costs do you expect you will incur through implementing our proposals? Will you save any costs? When might these costs and savings occur? Please provide estimated figures where possible.

**Question 33:**

Are there any additional or alternative approaches we could take to minimise the regulatory impact of our proposals?

## Annex A: Your data

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

This Privacy Notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual) and Department for Education (DfE). The relevant data protection regime that applies to our processing is the UK GDPR<sup>13</sup> 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 [dp.requests@ofqual.gov.uk](mailto:dp.requests@ofqual.gov.uk)

### Our legal basis for processing your personal data

Where you provide personal data for this consultation, we are relying upon the public task basis as set out in Article 6 (1) (e) of UK GDPR to process personal data which allows processing of personal data when this is necessary for the performance of our public tasks. We will consult where there is a statutory duty to consult or where there is a legitimate expectation that a process of consultation will take place.

Where you provide special category data, we process sensitive personal data such as ethnicity and disability, we rely on Article 9(2) (g) of UK GDPR as processing is necessary for reasons of substantial public interest.

### 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.

---

<sup>13</sup> Please note that as of 1<sup>st</sup> January 2021, data protection laws in the UK have changed. The General Data Protection Regulation (EU) 2016/679(GDPR) no longer applies to the UK. However, the UK has incorporated GDPR into domestic law subject to minor technical changes. The Data Protection, Privacy and Electronic Communications (Amendment etc.) EU exit Regulations (DPPEC) came into force in the UK on 1<sup>st</sup> January 2021. This consolidates and amends the GDPR and UK Data Protection Act 2018 to create the new UK GDPR.

## Why we are collecting your personal data

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 would like to provide contact information. If you or your organisation are happy to provide personal data, with regard to this consultation, please complete the details below. We would like to hear as many views as possible and ensure that we are reaching as many people as possible. In order for us to monitor this, understand views of different groups and take steps to reach specific groups, we are asking for sensitive data such as ethnicity and disability to understand the reach of this consultation and views of specific groups. You do not have to provide this information and it is entirely optional.

**If there is any part of your response that you wish to remain confidential, please indicate in the survey.** Where you have requested that your response or any part remains confidential, we will not include your details in any published list of respondents, however, we may quote from the response anonymously in order to illustrate the kind of feedback we have received.

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 and assess this in accordance with applicable data protection rules.

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 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. We will analyse all responses and produce reports of consultation responses. In the

course of analysis, we will where possible avoid using your name and contact details. We will only process the body of your response but we are aware that in some cases, this may contain information that could identify you.

## Sharing your response

This is a joint consultation undertaken by Ofqual and the Department for Education (DfE). Ofqual will lead the consultation and collect the responses. Therefore, your consultation response will be shared with DfE as this forms part of work involving both organisations. We need to share responses with them to ensure that our approach aligns with the wider process. Where we share data, we ensure that adequate safeguards are in place to ensure that your rights and freedoms are not affected. You can find details of how DfE processes personal data [here](#).

We use SmartSurvey to collect consultation responses and they act as our data processor. You can view SmartSurvey's privacy notice at <https://www.smartsurvey.co.uk/privacy-policy>

Your response will also be shared internally within Ofqual in order to analyse the responses. We use third party software to produce analysis reports, which may require hosting of data outside the UK, specifically the US. Please note that limited personal information is shared. All personal contact information is removed during this process. Where we transfer any personal data outside the UK, we make sure that appropriate safeguards are in place to ensure that the personal data is protected and kept secure.

Following the end of the consultation, we will publish an analysis of responses on our website, [www.gov.uk/ofqual](http://www.gov.uk/ofqual). We will not include personal details in the responses that we publish.

We may also publish an annex to the analysis listing all organisations that responded, but will not include personal names or other contact details.

## 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 UK unless there are appropriate safeguards in place to protect your personal data
- 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
- object to the processing of your personal data
- 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. You can also find further details about Ofqual's privacy information [here](#).

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.



## Annex B: Ofqual's objectives and duties

### The Apprenticeship, Skills, Children and Learning Act 2009

We have five statutory objectives, which are set out in the Apprenticeship, Skills, Children and Learning Act 2009<sup>14</sup>.

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:
    - c. a consistent level of attainment (including over time) between comparable regulated qualifications; and
    - d. 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.

---

<sup>14</sup> <http://www.legislation.gov.uk/ukpga/2009/22/section/128>

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>15</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 performance table qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications.

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

---

<sup>15</sup> <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

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 the overall framework within which awarding organisations will design, assess and award performance table qualifications, 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.



© Crown Copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated.

To view this licence, visit

[www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/)

or write to

Information Policy Team, The National Archives, Kew, London TW9 4DU

Published by:



Earlsdon Park  
53-55 Butts Road  
Coventry  
CV1 3BH

0300 303 3344

[public.enquiries@ofqual.gov.uk](mailto:public.enquiries@ofqual.gov.uk)

[www.gov.uk/ofqual](http://www.gov.uk/ofqual)