

Federation of Awarding Bodies –Final response to the Ofqual consultation on the Rules and Guidance for Technical Qualifications, October 2018

Overview of the Federation of Awarding Bodies

The Federation of Awarding Bodies is the trade association for vocational and technical awarding organisations (AOs) with over 115 organisations in full membership ranging from large generic AOs to those working in specific occupational areas, including professional bodies.

Our members operate across a wide range of vocational/technical sectors and provide high quality qualifications to support learners to qualify and progress in their chosen sector. Some members of the Federation are in the process of responding to the Department for Education's Invitation to Tender (launched 03 September 2018) for the development of the Technical Qualifications that will sit within the first three T levels. Other members will be considering whether to participate in future tendering rounds. The Federation therefore has an interest in this consultation and we welcome the opportunity to respond.

The Federation would like to note that we welcome the additional steps Ofqual has taken to support this consultation; the two events and the webinar in September. We also welcome the 8-week consultation period which is more reasonable than the 4 week period provided for responses to the previous consultation on regulating technical qualifications.

This evidence submission is provided on behalf of the Federation's membership following consultation with them and with the Federation's Board of Directors. However, AOs are a diverse community and our members may wish to make their own individual submissions containing their own perspectives and emphases, in addition to any comments forwarded to the Federation for inclusion in this overall response.

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If there is any part of your response that you wish to remain confidential, please indicate below:

Yes, I wish part of my response to be confidential

No, my response is not confidential

The closing date for responses is **28 October 2018 at 23:45**.

Consultation questions

Q1: Do you have any comments on our proposed assessment strategy Condition and requirements?

The Federation understands the importance of an awarding organisation having a comprehensive assessment strategy in place for each Technical Qualification that it will award. Ofqual's outline of the areas that this assessment strategy will be required to cover is useful.

The Federation has two comments to make in relation to the assessment strategy:

1. Page 7 of the consultation document (penultimate bullet in 2.6) requires AOs to explain their approach to 'how learners' interests will be protected if there are changes to content'. This is an important consideration and one which we are sure AOs will be keen to address. However, it is important to note that the landscape within which TQs will operate means that AOs will not have sole control over changes to the content and there may be circumstances in the future where even the best endeavours of the AO cannot ensure that learners interests are fully protected. For example, an employer panel, working with the Institute for Apprenticeships, could potentially decide upon a change that means that learners are required to study content that is significantly different to previous cohorts. In such circumstances it would not be possible to fully protect learners from the impact of such a change. AOs will only be able to act within the confines of their given remit for TQs and will not have the same level of control over the content as they have with many other qualifications.

2. It will be important that requirements for assessment strategies are clearly presented to AOs so they can provide the necessary information in their submissions. Where the first iteration of an assessment strategy is not accepted by Ofqual, it would be useful if the regulator could commit to ensuring all perceived shortfalls are included in the initial feedback to the AO and only those areas are reconsidered during any subsequent resubmission. We fully accept that assessment strategies need to meet the requirements of the regulator but we are keen to avoid the frustration and delay that is caused when points are identified, addressed by the AO, resubmitted and the next response then identifies new/different points to be addressed. Review by the same person/team within Ofqual may also help to avoid this type of situation and we would welcome any measures that the regulator can put in place to support this.

Q2: Do you have any comments on our proposed assessment objective guidance for the core examination?

The Federation believes there is a risk for AOs wherever their ability to comply with regulations is dependent on a third party performing its role effectively. TQ4 (Qualification Titling) requires such reliance in that an AO will be dependent on IFA publishing its requirements in a clear and timely manner and making the relevant AOs aware of the requirements. We would hope that the regulator will take a pragmatic view in the future of any potential non-compliance that results, should the IFA not fulfil its role/responsibilities in a way that supports AOs in meeting this requirement. We accept that this is an unlikely scenario, but nevertheless, it would be unfair for an AO to face any type of regulatory action because of actions of a third party which are beyond their control.

This reliance on a third party appears in other parts of the draft requirements (such as TQ5 Total Qualification Time) and presents a risk for AOs who could, in theory, face regulatory action for situations that are beyond their control.

Q3: Do you have any comments on our proposed assessment objective guidance for the core project?

The Federation has nothing further to add.

Q4: Do you have any suggestions for further requirements or guidance on the controls around assessments, in addition to those set out?

It would be useful if the Guidance made it clear that learners are not prohibited from retaking if they wish to attempt to improve their grades.

Q5: Do you have any comments on our proposed Conditions, requirements and guidance on setting and maintaining grade standards?

The Federation has no comments on the Conditions, requirements and guidance on setting and maintaining grade standards.

In terms of grading more generally, we are aware that the Department for Education is currently still considering the assignment of an overall grade to the T Level. We assume that if this overall grade is applied that it will not impact on the grading activity that an AO is required to undertake and that core and specialism grades will be provided by the AO, to the IFA, for inclusion in the overall grading approach.

We would like to comment on section 2.23 which relates to Recognition of Prior Learning (RPL) and requires an AO to set its policy on RPL to ensure it follows 'any requirements set by the Institute'. We noted at the consultation event in London in September that the IFA was not yet in a position to provide information on what these requirements will be or when they will be available. In particular, there does not yet seem to be a clear position on RPL of the core across different T levels and if the intention is that this is available then we believe it is important to establish a timeline for the work and publish this alongside a clear assignment of roles and responsibilities.

The Federation is not aware of any work that is underway in this area. We noted about our concern about members' compliance being reliant on the actions of third party organisations and once again we would hope to see a pragmatic approach by the regulator should any non-compliance of an AO result from the actions of a third party.

Q6: Do you have any comments on the details of any of our proposals for Conditions for the review of marking, moderation and appeals of Technical Qualifications? Please refer to specific Conditions in your answer.

The Federation has no comments on these Conditions.

Q7: Do you have any comments on the details of our proposed guidance for how an awarding organisation should approach Condition TQ13, Condition TQ15, Condition TQ16 or Condition TQ17.2?

The Federation has no comments on this guidance.

Q8: Do you have any comments on the specific wording or details of our proposed guidance for how an awarding organisation should make a substantive determination as to whether or not a Marking Error exists?

The Federation has no comments on the guidance on Marking Errors.

Q9: Do you think any other Conditions between TQ9 and TQ22 require guidance? If so, please describe what issues and areas the guidance should address.

The Federation has not identified any further areas where guidance is required but would request that Ofqual keeps this under regular review and develops future additional guidance as a need for it is identified.

Q10: Do you have any comments on our proposed rules for new Technical Qualifications?

The Federation has the following comments:

TQ5.2 – it will be important that the IFA provides early clarity of its intention to specify TQT and GL values for TQs. As we have seen recently with Functional Skills, it is essential that AOs are clear from the outset when these figures will be assigned by a third party and when they will be provided to the AO. It would be useful to know the IFA's plan for assigning TQT/GL figures to the first three TQs.

TQ7 – Discussion of this point during the consultation event in London in September identified the need to be clear about where the responsibility sits for the mapping of the core across the TQs in different pathways for the purposes of Recognition of Prior Learning. IFA verbally confirmed that it would be their responsibility but this needs to be formally confirmed and details provided about when this will be completed and how it will be made available to AOs for RPL purposes. This is an area that would benefit from clarification.

Retakes – (page 49, regulatory requirements document) – it would be useful to be clear that there are no rules which prohibit a learner from retaking assessments in an attempt to improve their grade. This was queried during the consultation event in London and it would be useful to have an explicit statement provided to this effect so AOs do not face future criticism for allowing this activity. Retaking to improve grades has been an area of scrutiny in the past and it would be useful to have it clearly stated and known that it is not a requirement for AOs to block this activity.

TQ17.4(c) – this would benefit from clarification that the independent person is required in the final stage of the appeal process only and that it is acceptable for the appeal to be concluded at an earlier stage of the process without the inclusion of a decision maker who is not an employee of the AO.

Q11: Do you have any comments on our proposed guidance for new Technical Qualifications?

The Federation has the following comments on the proposed guidance:

Guidance on Condition D3- An AO will have responsibility for the validity of the TQ and it will need the freedom to balance the feedback from other parties against the overall validity of the qualification. So, although an AO will be required to 'have regard' to the outcomes of review activity, it may find that it cannot implement all of the changes required by the review activity because they present a validity challenge. We would expect that in such cases, Ofqual would support the AOs prioritisation of overall validity and it would be useful to reflect this in the guidance.

Guidance on Condition H2- the footnote on the first page of this Guidance reflect that it is the preliminary mark that should be shared (not result).

Guidance on Condition H6- the requirement for an AO to issue results to the IFA and/or ESFA so they may provide the T level certificate to the learner, where appropriate, raises 2 concerns. Firstly, we believe the mechanism for transmission of this data is not yet specified and it will be crucial that an AO is not seen to be non-compliant if there are any technical difficulties which affect its ability to transmit results that are the responsibility of the IFA/ESFA and beyond the AOs control. Experience with the transmission of data to the LRS for the PLR has shown that technical problems can cause delays to the transmission of data, particularly in the early stages of a system bedding in. We are not aware of any work that is being carried out on how this data will be transmitted and would welcome assurance from the regulator that AOs will not be subject to regulatory action for any data transmission failure that is beyond their control.

Secondly, whilst we understand that the policy which prevents learners in England from accessing a certificate for the achievement of a TQ is not an Ofqual policy, we strongly disagree with this position. In relation to the guidance, we accept that AOs must be clear about the status of the results issued but we anticipate that centres and learners will find this confusing and AOs will be required to take steps to explain this, at length, on a frequent basis. AOs should not be held responsible for any ensuing confusion generated by this policy position.

Guidance on Condition I3 and I4 – Our position on the TQ certification policy is clearly stated above. In relation to the requirement to issue a certificate to learners outside of England, it would be useful to extend the guidance to state that the usual Ofqual logos requirements apply and to clarify if, in these case, AOs may include their own logo on the certificates (which we presume they will be permitted to do).

Guidance on Recognition of Prior Learning – this places the AO in a position where it is reliant on a third party, the IFA, to be able to be compliant. The IFA will need to ensure its policy is clear and

well communicated to AOs. Where the policy is unclear/ambiguous it would be unfair to hold AOs accountable for any resultant non-compliance.

Guidance on Standard Setting – the requirements in the a-f list (and in TQ8.4) would benefit from further clarification in relation to di) and dii) and what prior assessment and qualifications should be taken into account and how the AO will access this information.

On the second page of this guidance, the bullet point referring to ‘inter-awarding organisation evidence for Technical Qualifications’ would benefit from further explanation to clarify what is intended by this and what activity an AO would be required to undertake.

Q12: Are there any regulatory impacts that we have not identified arising from our proposals?

The Federation has nothing further to add.

Q13: Are there any additional steps we could take to minimise the regulatory impact of our proposals?

The Federation believes that Ofqual’s ongoing work with the Institute for Apprenticeships (IFA) will be useful in supporting the development of information that the IFA needs to provide to AOs. This will help to ensure that the compliance of AOs is not in any way hindered by the activities of a third party.

Q14: Are there any costs or benefits associated with our proposals which we have not identified?

Individual members will be best placed to provide information on costs and benefits.

Q15: Is there any additional information we should consider when evaluating the costs and benefits of our proposals?

Individual members will be best placed to provide information on costs.

Q16: Do you have any comments on any ways in which our proposals will prevent innovation by awarding organisations?

The Federation believes that the monopoly market model for T levels is the biggest threat to AO innovation but we understand that this is not an Ofqual policy decision. We have always believed that one of the risks of the single license approach is the removal of ongoing positive competitive pressure which stimulates innovation and progress.

In addition, Ofqual's proposals only allow for centre marking of core skills assessments and occupational specialism assessments in *exceptional circumstances*, i.e. where an assessment cannot be validly marked by an awarding organisation. The manageability for awarding organisations of this approach to assessment could potentially act as a barrier to innovation.

Q17: We have not identified any proposals which could impact (positively or negatively) on learners who share a protected characteristic. Are there any potential impacts that we have not identified?

The Federation understands that the policy on not certifying TQs for learners in England is not an Ofqual policy. However, we do believe it places all learners in England who undertake a TQ at a disadvantage and we believe it could have an even greater impact on learners who share protected characteristics who may find it more challenging to complete the full T level programme. We believe that access to a TQ certificate would add significant value for all learners and even greater value (in terms of recognising achievement, motivating and supporting progression) for those learners who are not able to complete the full programme because of protected characteristics.

Q18: Are there any additional steps we could take to mitigate any negative impact, resulting from our proposals, on learners who share a protected characteristic?

It would be useful if Ofqual could work with the IFA to monitor non-completion of T levels to identify the number of learners with protected characteristics who are not able to complete the full programme. There may, for example, be more challenges associated with the industry placement requirement for learners who share some protected characteristics. An evidence base would be useful in any review of the current TQ certification policy to identify whether there is any disadvantage caused by the current policy position on TQ certification.

Q19: Do you have any other comments on the impacts of our proposals on learners who share a protected characteristic?

The Federation has nothing further to add.

About you

To evaluate responses properly, we need to know in what capacity you are responding to the consultation. We will only consider your response if you complete the following section. Questions marked with a * are required.

Organisation (if applicable): * Federation of Awarding Bodies

Is this a personal response or an official response on behalf of your organisation? *

Personal response (please answer the question 'If you ticked 'Personal response'')

Official response (please answer the question 'If you ticked 'Official response'')

If you ticked 'Official response', which of the following are you? *

Awarding organisation

Local authority

School or college (please answer the question 'School or college type' below)

Academy chain

Private training provider

University or other higher education institution

Employer

Other representative or interest group (please answer the question 'Type of representative group or interest group' below)

Type of representative group or interest group

Group of awarding organisations

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group

Consultation on rules and guidance for Technical Qualifications

School, college or teacher representative group

Other (please state below)

Trade association for Awarding Organisations

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Ofqual's newsletter

Ofqual's social media channels

Other social media channels

Ofqual's website

Internet search

Other: _____