

## CONSULTATION

# Proposed changes to Conditions and Requirements for the assessment of GCSEs in 2021 (modern foreign languages)

Proposals to modify the assessment requirements for GCSE qualifications in modern foreign languages in response to disruption to education caused by the coronavirus (COVID-19) pandemic.

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## Proposals at a glance

We are consulting on temporary changes to the Subject Level Conditions and Requirements which set out the way in which GCSE qualifications in Modern Foreign Languages must be assessed. The changes will have effect for qualifications taken in summer 2021 only.

The proposed changes are to implement [the policy decisions we published on 3 August 2020](#). We summarised the changes we intended to make for GCSE qualifications in Modern Foreign Languages as follows:

*Remove requirement for assessments to use words outside of vocabulary lists and permit glossing where necessary whilst maintaining the level of knowledge and accuracy needed for the highest grades.*

*Make the spoken language assessment an endorsement reported on a 3-point scale (pass, merit and distinction) against common assessment criteria. To be assessed by teachers during the course of study.*

*Permit exam boards to include an additional optional question in the writing assessment which would enable students to focus on fewer themes in their writing.*

## Audience

This is a technical consultation which explains the changes we propose to make to Subject Level Conditions to implement the policy decisions we took following public consultation. In many cases, technical consultations are of primary interest only to awarding organisations who are well placed to evaluate the effect of detailed changes to the conditions.

In this instance, the changes we are proposing to make include the introduction of criteria to assist teachers to assess students' spoken language. It is important that teachers and others have the opportunity to comment on the criteria we have proposed and for that reason we have decided to consult publicly on the proposed changes to the Subject Level Criteria.

## Consultation arrangements

### Duration

This consultation will be open for two weeks starting on 12 October 2020 and **ending on 26 October 2020 at 23:45**. We recognise this is a much shorter period than we would normally allow for consultation, but we believe it is necessary and reasonable in the current situation. Although exams in 2021 are some months away, students, teachers and the exam boards are seeking information now to enable them to plan and prepare for those exams and carry out the revised speaking assessments over the course of the 2020/21 academic year.

## Respond

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

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

## Introduction

[The Secretary of State for Education wrote to Ofqual on 18 June 2020 to set out the government's broad policy objectives for exams and assessments in 2020/21](#) in the context of the coronavirus (COVID-19) pandemic in which students' education has been disrupted. He said that students taking exams or assessments next year should be able to move on to the next stage of their education or employment and that the overall standard and rigour of examinations and assessments should be maintained wherever possible.

On 2 July we published a [consultation seeking views on proposed changes to the way some GCSEs, AS and A levels we regulate should be examined in summer 2021](#) and to the arrangements for non-exam assessments undertaken by students who will be taking exams next summer.

The consultation closed on 16 July, by which time we had received 28,972 responses. We published a [full summary and analysis of the responses](#) at the same time as our decision document.

Implementation of our policy decisions requires short-term amendments to the Conditions and Requirements which specify the way in which specific GCSE, AS and A level qualifications must be assessed. There are different Conditions and Requirements for different subjects, known as Subject Level Conditions (SLCs), and different SLCs for GCSE and GCE (AS and A level) qualifications.

In this consultation, we set out the changes we propose to make to GCSE Subject Level Conditions and Requirements for Modern Foreign Languages. We are not making any changes to the GCE Subject Level Conditions for Modern Foreign Languages.

## Consultation details

We are seeking views on the changes we propose to make to the GCSE SLCs for qualifications in Modern Foreign Languages.

The proposed revised SLCs have been published alongside this consultation.

We have summarised the effect of the proposed changes below.

## Our proposals

In accordance with the policy decisions published on 3 August 2020, the proposed changes to the SLCs are intended to have the following impact for GCSE MFL qualifications in 2021:

### Assessment of spoken language

- to remove the assessment of spoken language from the calculation of the overall qualification result (the 9-1 grade)
- to put in place flexible requirements for the assessment of spoken language by teachers
- to put in place common criteria for the assessment of spoken language by teachers
- to require the teacher's assessment of spoken language to be marked on a 3-point scale – pass, merit, distinction (or not classified)
- to require each centre to provide a statement confirming that it has taken reasonable steps to make sure there is an opportunity for an assessment of spoken language for every learner
- to require the outcome of the assessment of a learner's spoken language to be separately reported alongside the 9 to 1 grade when results and certificates are issued

### Use of vocabulary in assessments

- to allow awarding organisations greater flexibility in respect of the vocabulary which is to be used in assessments by removing the specific requirement to use vocabulary not on the vocabulary list which exists in other years

## Question

**Do you have any comments on the proposed changes to the Subject Level Conditions in view of the intention of those changes as outlined above?**

If you have a comment about anything in the Subject Level Conditions document, please refer to the page on which it appears.

## Equality impact assessment

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.

We carefully considered whether any of our proposals might impact (positively or negatively) on students who share particular protected characteristics<sup>1</sup> as part of our policy consultation. We set out our analysis of the equality impacts we had identified in our consultation document and when we explained our decisions.

The proposals in this consultation are technical in nature and implement policy decisions we have already taken and explained. We do not consider that there are any equalities impacts in relation to the specific proposals outlined in this consultation beyond those which we considered as part of our policy consultation.

In particular, we do not consider the conditions we have proposed will affect the ability for students with particular protected characteristics to secure an exemption from the assessment of spoken language and nor do we consider our proposals will adversely affect the ability of private candidates, many of whom might share protected characteristics, to access GCSE MFL qualifications in 2021.

### Questions

**Are there other potential equality impacts that we have not explored?**

**What are they?**

**We would welcome your views on how any potential negative impacts on particular groups of students could be mitigated.**

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<sup>1</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.

## Regulatory impact assessment

We carefully considered the impact of our proposals for changes to exams and assessments for 2021 as part of our policy consultation and when we announced our decisions.

We have developed the specific proposals set out in this consultation with input from the exam boards and subject associations with the aim of putting in place arrangements for GCSE MFL qualifications that are both appropriate and manageable.

We have not identified any regulatory impact as a result of these specific proposals which was not already considered and taken into account when we made our policy decisions.

### Questions

**Are there additional activities associated with our specific proposals to change the Subject Level Conditions for GCSE MFL which were not identified and considered as part of the policy consultation process?**

**What are they?**

# 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). We are a 'controller' for the purposes of the General Data Protection Regulation (EU) 2016/679 (GDPR) 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) or write to us at:

Data Protection Officer  
Ofqual  
Earlsdon Park  
53-55 Butts Road  
Coventry  
CV1 3BH

## 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 in the associated response survey.

## Our legal basis for processing your personal data

For this consultation, we are relying upon the public task basis as set out in Article 6 (1) (e) of GDPR to process personal data. Ofqual will consult where it has a statutory duty to consult or where there is a legitimate expectation that a process of consultation will take place.

## 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

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships & Technical Education (IFATE) where the consultation is part of work involving those organisations. We may need to share responses with them to ensure that our approach aligns with the wider process. If we share a response, we will not include any personal data (if you have provided any). Where we have received a response to the consultation from an organisation, we will provide the DfE and IFATE with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

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 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 EU, 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 EU, we make sure that appropriate safeguards are in place to ensure that the personal data is protected and kept secure for example EU – US privacy shield

Following the end of the consultation, we may publish a summary 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 consultation summary listing all organisations that responded, but will not include personal names or other contact details.

If there is any part of your response that you wish to remain confidential, please indicate this on the associated response form.

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.

## How long will we keep your personal data?

For this consultation, Ofqual will keep your personal data (if provided) for a period of 2 years after the close of the consultation.

## Your data

Your personal data:

- will not be sent outside of the European Economic Area 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.

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  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

[ico.org.uk](https://ico.org.uk) 0303 123 1113

# Annex B – Ofqual’s role, objectives and duties

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

Ofqual has five statutory objectives, set out in the Apprenticeship, Skills, Children and Learning Act 2009;

- 1) **The qualification standards objective**, which is to secure that the qualifications we regulate:
  - a) give a reliable indication of knowledge, skills and understanding; and b) indicate:
    - i) a consistent level of attainment (including over time) between comparable regulated qualifications; and
    - ii) a consistent level of attainment (but not over time) between qualifications we regulate and comparable qualifications (including those awarded outside of the UK) that we do not regulate
- 2) **The assessment standards objective**, which is to promote the development and implementation of regulated assessment arrangements which:
  - a) give a reliable indication of achievement, and
  - b) indicate a consistent level of attainment (including over time) between comparable assessments
- 3) **The public confidence objective**, which is to promote public confidence in regulated qualifications and regulated assessment arrangements
- 4) **The awareness objective**, which is to promote awareness and understanding of:
  - a) the range of regulated qualifications available,
  - b) the benefits of regulated qualifications to Students, employers and institutions within the higher education sector, and
  - c) the benefits of recognition to bodies awarding or authenticating qualifications
- 5) **The efficiency objective**, which is to secure that regulated qualifications are provided efficiently, and that any relevant sums payable to a body awarding or authenticating a qualification represent value for money.

We must therefore regulate so that qualifications properly differentiate between Students 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 Students, 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. This duty requires us to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The awarding organisations that design, deliver and award qualifications are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications, except where we have specified that such adjustments should not be made.

When we decide whether such adjustments should not be made, we must have regard to:

- a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities
- b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred
- c) the need to maintain public confidence in the qualification

We are subject to a number of duties and we must aim to achieve a number of objectives. These different duties and objectives can, sometimes conflict with each other. For example, if we regulate to secure that a qualification gives a reliable indication of a Student's knowledge, skills and understanding, a Student who has not been able to demonstrate the required knowledge, skills and/or understanding will not be awarded the qualification.

A person may find it more difficult, or impossible, to demonstrate the required knowledge, skills and/or understanding because they have a protected characteristic. This could put them at a disadvantage relative to others who have been awarded the qualification.

It is not always possible for us to regulate so that qualifications give a reliable indication of knowledge, skills and understanding and advance equality between people who share a protected characteristic and those who do not. We must review all the available evidence and actively consider all the available options before coming to a final, justifiable decision.

Qualifications cannot mitigate inequalities or unfairness in the education system or in society more widely that might affect, for example, Students' preparedness to take the qualification and the assessments within it. While a wide range of factors can have an impact on a Student'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 Students 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 Student to achieve because they have a particular protected characteristic. We require awarding organisations to monitor whether any features of their qualifications have this effect.

In setting our proposed requirements, we want to understand the possible impacts of the proposals on Students 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.



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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)