

# **Final Entries to Legacy GCSEs, AS and A Levels**

## Consultation



December 2015

Ofqual/15/5791

## Contents

1. About this consultation .....	3
Summary of our proposals .....	3
How to respond to this consultation .....	5
Evaluating the responses .....	5
2. New General Condition .....	6
3. Re-sits in legacy AS and A levels .....	7
Saving and transitional provision for GCEs .....	10
4. Re-sits in legacy GCSEs .....	13
Re-sits for legacy GCSEs in English, English language and mathematics (including linked pair).....	14
Re-sits in other legacy GCSEs .....	17
5. Equality analysis .....	22
Ofqual’s role, objectives and duties .....	22
Equality analysis relating to proposals for re-sit arrangements in legacy GCSE, AS and A level qualifications .....	22
6. Regulatory impact assessment .....	24
Costs to exam boards .....	24
AS and A levels .....	24
GCSEs.....	25
Impacts on students and centres .....	27
Conclusions .....	28
Responding to the consultation .....	29
Your details .....	29
Questions.....	33
Appendix A: Ofqual’s role, objectives and duties .....	38

# 1. About this consultation

- 1.1 We are seeking views on our proposals relating to re-sit arrangements for legacy GCSE, AS and A levels, and on the rules and guidance that we propose to put in place to give effect to our proposals.
- 1.2 Further information about the reform of GCSEs, AS and A levels can be found on our website.<sup>1</sup>

## Summary of our proposals

We are proposing to introduce a new General Condition of Recognition that will require exam boards to comply with any requirements we set when an accredited qualification ends.

### AS and A levels

We are proposing the following:

- Students taking AS and A levels in the last scheduled sitting should have the opportunity to re-sit these qualifications after the final scheduled award, regardless of the subject and exam board.
- Re-sit opportunities in AS and A level subjects where new qualifications were introduced in September 2015<sup>2</sup>, will be available in the legacy qualifications in May/June 2017. All AS and A2 units for these qualifications will be available to all students in the normal way in May/June 2016.
- Re-sits will take place in May or June.
- Students will be able to re-sit any AS or A2 units (including controlled assessment units).
- Similar arrangements should be put in place for the later phases of AS and A level reform.<sup>3</sup>

<sup>1</sup> [www.gov.uk/government/publications/get-the-facts-gcse-and-a-level-reform](http://www.gov.uk/government/publications/get-the-facts-gcse-and-a-level-reform)

<sup>2</sup> New AS and A levels available for first teaching from September 2015: art and design, biology, business, chemistry, computer science, economics, English language, English language and literature, English literature, history, physics, psychology, sociology.

<sup>3</sup> [www.gov.uk/guidance/withdrawal-of-legacy-gcses-as-and-a-levels](http://www.gov.uk/guidance/withdrawal-of-legacy-gcses-as-and-a-levels)

## **GCSEs**

We are proposing the following:

- Students taking GCSEs in English, English language and mathematics (including linked pair maths GCSEs – ‘applications of mathematics’ and ‘methods in mathematics’) in summer 2016 will have a re-sit opportunity in November 2016. We are also seeking views on whether these students should also have a further re-sit opportunity in May/June 2017.
- If a student re-sits any of these qualifications, then – as now – they will need to re-sit **all** the exams for that qualification.
- Students will be able to carry forward the results of the speaking and listening controlled assessment in GCSE English and GCSE English language (including between the two subjects when re-sitting with the same exam board).
- There will be no re-sit opportunities in other GCSE subjects that are subject to reform. For GCSEs in English literature, the final exams in the legacy qualifications will be in summer 2016. For GCSE subjects that are being replaced in the second phase of reforms,<sup>4</sup> the final exams will be in summer 2017. For all remaining legacy GCSEs, the final exams will be in summer 2018.

---

<sup>4</sup> Additional applied science, additional science, art and design, biology, catering, chemistry, citizenship studies, classical Greek, computer science, computing, dance, design and technology: food technology, drama, expressive arts, French, further additional science, geography, German, history, home economics: food and nutrition, hospitality and catering, human health and physiology, humanities, Latin, music, performing arts, physical education, physics, religious studies, science and Spanish.

## **How to respond to this consultation**

The closing date for responses is 2nd February 2016.

You can respond to this consultation in one of three ways:

- Complete the online response at [www.surveygizmo.com/s3/2461561/final-entries-to-legacy-gcses-as-and-a-levels](http://www.surveygizmo.com/s3/2461561/final-entries-to-legacy-gcses-as-and-a-levels).
- Email your response to [consultations@ofqual.gov.uk](mailto:consultations@ofqual.gov.uk). Please include the consultation title (Final Entries to Legacy GCSEs, AS and A Levels) in the subject line of the email and make clear who you are and in what capacity you are responding.
- Post your response to Final Entries to Legacy GCSEs, AS and A Levels, Ofqual, Spring Place, Herald Avenue, Coventry, CV5 6UB, making clear who you are and in what capacity you are responding.

## **Evaluating the responses**

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity. We will therefore only consider your response if you complete the information page.

Any personal data (such as your name, address and any other identifying information) will be processed in accordance with the Data Protection Act 1998 and our standard terms and conditions.

We will publish the evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Please respond by 2nd February 2016.

## **2. New General Condition**

- 2.1 In order to allow for re-sits in legacy GCSEs, AS and A levels, we need to put in place a new General Condition.
- 2.2 We set out below a new General Condition D9, which we propose would apply to any qualification that we regulate which is subject to an accreditation requirement. It requires awarding organisations to comply with any requirements that we put in place once the accreditation for a qualification ceases.
- 2.3 All GCSEs, AS and A levels are subject to an accreditation requirement. As such, the exam boards would, under the proposed new General Condition, be required to comply with any requirements we put in place relating to the closure of legacy GCSE, AS and A level qualifications.
- 2.4 In the following sections we set out our proposals for re-sit arrangements in legacy GCSEs, AS and A levels, and the draft requirements that we propose to put in place to give effect to them, subsequent to the proposed new General Condition.

### **Condition D9 Compliance with saving and transitional provisions following cessation of accreditation**

D9.1 In respect of each qualification which it makes available that is subject to an accreditation requirement in accordance with section 139 of the Act, and for which accreditation will cease to have effect in accordance with section 140(6) of the Act, an awarding organisation must comply with any requirements relating to that qualification which are set out in any saving and transitional provisions made by Ofqual in accordance with section 140(10) of the Act.

### **3. Re-sits in legacy AS and A levels**

- 3.1 New AS and A levels in the first phase of reform were introduced for first teaching in England in September 2015.<sup>5</sup>
- 3.2 We previously decided that the accreditation of legacy AS and A levels in the subjects in the first phase of reform will cease from 31st August 2016.<sup>6</sup> This will mean that, subject to any further regulatory requirements we put in place, exam boards will no longer be able to award those legacy qualifications after that date.
- 3.3 We have been considering the provisions that should apply to the closure of the legacy AS and A levels, and specifically whether students should be able to re-sit their exams once the qualifications have been replaced.
- 3.4 AS and A levels are important qualifications in terms of progression into higher education, and it is relatively common for students to re-sit their exams for these qualifications. When A levels have been reformed in the past, one re-sit opportunity has been made available.
- 3.5 We propose that students taking their exams in the last scheduled sitting of the legacy AS and A levels should also have the opportunity to re-sit these qualifications, regardless of the subject and the exam board.
- 3.6 If a re-sit opportunity is not made available, then the only option open to the student who wants to improve their grade would be to study for and enter the new AS or A level. The content requirements for the new qualifications are different, and in order to take the assessments, students may need to enrol in a new course.
- 3.7 Students taking new AS and A levels in the subjects included in the first phase of reform started studying for their qualifications in September 2015. The proposals in this consultation therefore affect only students who started their AS and A level courses in those subjects before September 2015.
- 3.8 We propose that students who take their A level exams in those subjects in or before summer 2016 will be able to re-sit them in summer 2017.
- 3.9 We also propose that students who started their AS courses in those subjects before September 2015 should be able to take their exams in both 2016 and

---

<sup>5</sup> New AS and A levels to be taught from 2015: art and design, biology, business, chemistry, computer science, economics, English language, English language and literature, English literature, history, physics, psychology, sociology.

<sup>6</sup> [www.gov.uk/government/publications/accreditation-criterion](http://www.gov.uk/government/publications/accreditation-criterion)

2017. This will allow students who take their AS assessments in 2016, at the same time as their A level assessments, to be able to re-sit both levels the following year if they wish. Students who sit an AS qualification in 2015 will be able to enter for the same qualification again in 2016.
- 3.10 After summer 2017, the legacy qualifications in the first phase of reform will no longer be available and there will be no further re-sit opportunities.
- 3.11 We have considered whether the re-sits should take place at a different time of year to the main summer exams – for example, in November alongside the GCSE English and mathematics re-sits, or in January when previous modular AS and A level exams took place. This would reduce the risks raised by running exams for different qualifications at the same time – for example, students being provided with the wrong paper, or being entered for the wrong exams. However, it would increase the costs and disruption to exam boards and to schools and colleges as they would have to make arrangements to hold exams for potentially very few students at a time of year when exams were generally not being taken.
- 3.12 We consider that students who are taking legacy AS or A levels in the last year should undertake a re-sit at the same time as they would have done had they been taking the qualification in any previous year. By making a re-sit available in November, students in the final year of a legacy qualification could either be advantaged or disadvantaged as a result of the early availability of a re-sit opportunity. Ensuring that the re-sit opportunity occurs at the same time as in any other year places students in a year of reform in the same position as those in any other year.
- 3.13 In light of all of our considerations, we propose that the re-sits should take place during May and/or June in the years specified.
- 3.14 Our rules for legacy AS and A levels<sup>7</sup> require exam boards to allow students to re-sit any units that they have taken (including controlled assessment units). We are proposing that the same rules should apply to the re-sit opportunity in 2017.
- 3.15 Our proposals will impose a burden on the exam boards as they will have to make re-sit opportunities available for potentially small numbers of students at the same time as exams in the new qualifications are being delivered and marked. They may take certain steps to ease the impact of such provisions. For example, they may wish to put in place early entry dates, which would allow them to make the relevant preparations for the re-sits. If an exam board wished

---

<sup>7</sup> [www.gov.uk/government/publications/criteria-for-gce-as-and-a-level-qualifications](http://www.gov.uk/government/publications/criteria-for-gce-as-and-a-level-qualifications)

to take such steps, it would have to make its arrangements clear to centres.

We do not intend to put in place requirements to either require or prevent this.

3.16 We set out below our draft requirements giving effect to our above policy proposals.

## **Saving and transitional provision for GCEs**

1. We have previously decided that the following subjects which were accredited prior to 19th June 2014 will cease to be accredited on 31st August 2016 –

Art and Design

Biology

Business Studies

Chemistry

Computing

Economics

English Language

English Language and Literature

English

Literature History

Physics

Psychology

Sociology.

(the 'Relevant Subjects')

2. GCE Qualifications in all other subjects will cease to be accredited on 31st August 2017, subject to any decision made by Ofqual to extend that date under section 140(7) of the Apprenticeships, Skills, Learning and Children Act 2009.
3. We have made the following saving and transitional provisions under section 140(10) of the 2009 Act in respect of GCE Qualifications in the Relevant Subjects. An awarding organisation is required to comply with these saving and transitional provisions under Condition D9.1.
4. Subject to these saving and transitional provisions and the completion of any relevant appeal procedure, an awarding organisation must ensure that the

final award of each GCE Qualification in a Relevant Subject which it makes available takes place in August 2016.

5. In respect of each GCE Qualification in a Relevant Subject which it makes available an awarding organisation must –
  - (a) provide an opportunity in the 2017 calendar year for Learners<sup>8</sup> to take the qualification again (a 'Re-sit Opportunity'), and
  - (b) ensure that each Re-sit Opportunity that it provides meets the requirements outlined in paragraphs 6 to 8.
6. In respect of each Re-sit Opportunity, an awarding organisation must ensure that –
  - (a) Learners complete the Assessments by Examination<sup>9</sup> to be taken as part of that Re-sit Opportunity during May and/or June 2017,
  - (b) a Learner does not complete any assessment to be taken as part of that Re-sit Opportunity after 30th June 2017, and
  - (c) the awarding organisation continues to comply with all of the Conditions of Recognition and Regulatory Documents which apply to the relevant qualification,<sup>10</sup> including those in relation to the marking of assessments, the setting of specified levels of attainment, the issue of results, appeals and the issue of certificates.
7. An awarding organisation must take all reasonable steps to ensure that each Re-sit Opportunity is provided only to –
  - (a) Learners who were issued a certificate for the qualification having taken the relevant Assessments by Examination in or before May and/or June 2016, and
  - (b) Learners who would have been entered to complete the Assessments by Examination to be taken for the qualification in May and/or June

---

<sup>8</sup> In this document, words have the same meaning as defined in *General Conditions of Recognition*, including the relevant Qualification Level Conditions.

<sup>9</sup> For the purposes of these saving and transitional provisions, an Assessment by Examination is as defined in our GCE Qualification Level Conditions and Requirements ([www.gov.uk/government/publications/gce-qualification-level-conditions-and-requirements](http://www.gov.uk/government/publications/gce-qualification-level-conditions-and-requirements)).

<sup>10</sup> For the avoidance of doubt, this includes *Criteria for GCE AS and A-level Qualifications* ([www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/371127/11-07-15-Criteria-for-GCE-AS-and-A-level-Qualifications.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/371127/11-07-15-Criteria-for-GCE-AS-and-A-level-Qualifications.pdf)), insofar as it constitutes a Regulatory Document.

2016, but were not entered due to illness, injury or some other event outside of their control.

8. In respect of each Re-sit Opportunity which it provides, an awarding organisation must ensure that –
  - (a) a Learner may use the result for a unit which he or she has taken previously for the same qualification made available by the awarding organisation, and
  - (b) that Learner is not required to take any assessment for that unit again before being awarded the qualification.
9. If requested, an awarding organisation must provide a Re-sit Opportunity which meets the requirements in paragraphs 6 and 7 to a Learner who took the Assessments by Examination for a GCE Qualification of the same description (A level or AS, as relevant) in the same Relevant Subject with a different awarding organisation in May and/or June 2016. For the avoidance of doubt, this paragraph does not apply where an awarding organisation does not already make available a GCE Qualification of the same description in the same Relevant Subject.

3.17 The provision outlined above only applies to those legacy AS and A levels that have been replaced by new AS and A levels for first teaching in September 2015 in the first instance.<sup>11</sup>

3.18 We intend to use the above provisions, amended as necessary, in respect of all further tranches of legacy AS and A levels without further consultation.

---

<sup>11</sup> New AS and A levels to be taught from 2015: art and design, biology, business, chemistry, computer science, economics, English language, English language and literature, English literature, history, physics, psychology, sociology.

## 4. Re-sits in legacy GCSEs

- 4.1 New GCSEs (graded 9 to 1) in the first phase of reform were introduced for first teaching in England in September 2015.<sup>12</sup> Further new GCSEs will be made available from September 2016 and September 2017.
- 4.2 Students who started their GCSEs in English language, English literature and mathematics in September 2015 are studying the new qualifications.
- 4.3 As with AS and A levels, we previously announced that the accreditation of legacy GCSEs in English, English language, English literature and mathematics will cease on 31st August 2016. Again this will mean that, subject to any further regulatory requirements we put in place, exam boards will no longer be able to award those legacy qualifications after that date.
- 4.4 Following our June 2014 consultation *Completing GCSE, AS and A Level Reform*,<sup>13</sup> we announced the following:
- Legacy GCSEs that have a direct replacement must be discontinued as soon as possible once the new GCSE is available.
  - The last award for legacy GCSEs in digital communication, English, English language, English literature and mathematics will be in summer 2016.
  - The first award of new GCSEs in English language, English literature and mathematics will be in summer 2017.
  - We were considering the arrangements that we should put in place for re-sits of legacy GCSEs.
- 4.5 We have subsequently confirmed<sup>14</sup> that the last opportunity for re-sits of legacy GCSEs in English, English language and mathematics will be in November 2016.
- 4.6 In 2012, exam boards first awarded a pilot linked pair of GCSEs – methods in mathematics and applications of mathematics. These have been available in schools as an alternative to legacy GCSEs in mathematics, and are treated in the same way as legacy GCSEs in mathematics for progression purposes.

---

<sup>12</sup>New GCSEs to be taught from 2015: English language, English literature, mathematics.

<sup>13</sup>[www.gov.uk/government/consultations/gcses-as-and-a-levels-new-subjects-to-be-taught-in-2015](http://www.gov.uk/government/consultations/gcses-as-and-a-levels-new-subjects-to-be-taught-in-2015)

<sup>14</sup>[www.gov.uk/government/publications/timeline-of-changes-to-gcses-as-and-a-levels/changes-to-gcses-as-and-a-levels-that-will-affect-each-current-school-year-group](http://www.gov.uk/government/publications/timeline-of-changes-to-gcses-as-and-a-levels/changes-to-gcses-as-and-a-levels-that-will-affect-each-current-school-year-group)

- 4.7 Our intention was that these pilot GCSEs should be discontinued alongside the legacy GCSE in mathematics. This was not made clear in our announcements above. Following *Completing GCSE, AS and A Level Reform*, we suggested that one half of the linked pair (applications of mathematics) would have its final exams in summer 2018, but we did not refer to methods in mathematics. This was an error that has since been corrected.
- 4.8 All the exam boards offering the linked pair GCSEs in England have made clear that the last exams take place in 2016. Given this, we think that the best approach is to proceed as we originally intended – that is, to discontinue the linked pair GCSEs at the same time as the legacy GCSE in mathematics, and make available a re-sit opportunity for them.
- 4.9 To implement this, we will vary, with respect to linked pair GCSEs, the accreditation date we have previously set for all legacy GCSEs other than English, English language, English literature and mathematics.<sup>15</sup>

## **Re-sits for legacy GCSEs in English, English language and mathematics (including linked pair)**

### **Timing of re-sit opportunity**

- 4.10 As set out above, we have previously confirmed that the last opportunity for re-sits of legacy GCSEs in English, English language and mathematics will be in November 2016.
- 4.11 Our view is that having the re-sit opportunity in November is important for a number of reasons:
- Students currently have an opportunity to re-sit these qualifications in November, and we think students taking their exams in summer 2016 should have the same opportunity available to them.
  - GCSEs in English, English language and mathematics (including the linked pair) are particularly important for progression – and students' places on their new courses can be dependent on securing particular grades in English and mathematics by a certain date.
- 4.12 Since confirming this re-sit availability in November 2016 we have received representations relating to the timing of this additional series leading us to consider the availability of a further re-sits for legacy GCSEs in English, English language and mathematics (including the linked pair) in May/June 2017.

---

<sup>15</sup> The draft requirements below reflect our intention to vary the accreditation date for the linked pair GCSEs following this consultation. Should we change our position on the linked pair following this consultation, we will amend the requirements accordingly.

- 4.13 We are aware that students wishing to re-sit their GCSEs sometimes choose to do this in the November exam series and sometimes choose to wait until the following May/June exams. For these students, there are two potential issues. First, that the re-sit opportunity in November may not allow students who move to a different school or college after their initial GCSE sitting enough time to adjust to a different specification to that offered by their previous school. We are, however aware of the option taken by some schools to enter their former pupils for the November re-sit which reduces this risk. Second, the absence of a further opportunity to re-sit the following May/June could potentially disadvantage students in the final year of the legacy specifications who would usually take the full year before re-sitting. For these students, the concern is that having the re-sit opportunity in November would not provide enough opportunity for teaching, or for students to improve, irrespective of a change in exam board or school/college.
- 4.14 The government expects that students will continue to study English and mathematics post-16 if they have not achieved a grade C or above in their GCSEs. This is likely to mean that the number of students looking to re-sit these GCSEs will be higher than when GCSEs in English and mathematics subjects were reformed previously.
- 4.15 If we were to require exam boards to provide a further exam series in May/June 2017, this would present a number of risks.
- 4.16 The students making up this entry would likely be highly atypical in terms of both their performance and ability profile in comparison with entries in any other exam series. This would make it difficult to confidently secure standards. While this represents a risk in its own right, the concurrent first award of the new GCSEs in English, English literature and mathematics in summer 2017 is also a significant consideration. Handling the complexity of setting standards for the legacy GCSE re-sits while, in the same series, performing the work necessary to secure appropriate standards in these new qualifications would present a risk to standards in both qualifications because exam boards' limited specialist resources in this area would be required to address a much higher number of qualifications.
- 4.17 An additional re-sit opportunity would also add burden on the exam boards for what is likely to be a relatively small number of entries. It is worth noting that the number of assessments that an additional series would represent is significant. This is particularly the case in mathematics GCSEs, given the current availability of linear specifications, formerly modular specifications and the linked pair pilot. This would require an exam board to produce up to 18 additional exam papers for mathematics alone.

4.18 We are proposing to take one of the following two options:

- continue with our original decision, with November 2016 being the final re-sit opportunity for legacy GCSEs in English, English language and mathematics (including the linked pair); or
- require exam boards to offer a re-sit opportunity for legacy GCSEs in English, English language and mathematics (including the linked pair), in both November 2016 and May/June 2017 with the latter being the final re-sit opportunity.

4.19 In light of the considerations summarised above, we do not feel that we can confidently propose either of these approaches without further evidence. We are therefore requesting that respondents indicate their preferred approach, and provide us with any further appropriate evidence.

4.20 We are not proposing an alternative timing in the year for the final re-sit opportunity other than November or May/June, since alternative timings do not appear to offer any notable advantages when balancing the issues for students, schools, colleges or exam boards.

#### **Arrangements for re-sits**

4.21 Our rules for legacy GCSEs<sup>16</sup> currently allow only qualifying candidates<sup>17</sup> to take up the re-sit opportunity in the November sitting. We are proposing to introduce requirements that reflect these arrangements for the November 2016 re-sit opportunity. This re-sit opportunity will therefore be made available only to those students who are 16 at or before the start of the 2016/2017 academic year or who have taken the exam assessments in or before May/June 2016, or who would have taken the exams in May/June 2016, but were unable to do so as a result of illness, disability, or some other event outside their control.

4.22 Following this consultation, should we decide to also require exam boards to make available a re-sit opportunity in summer 2017, we would put in place rules that limit the summer re-sit only to those students who are 16 at the start of the 2016/2017 academic year. This is because students who are under the age of 16 at that time are expected to be studying for the new GCSEs from September 2015.

4.23 Our rules for legacy GCSEs also allow students to carry forward the results of the speaking and listening controlled assessment in GCSE English and GCSE English language (including between the two subjects when re-sitting with the

---

<sup>16</sup> [www.gov.uk/government/publications/criteria-for-gcse-qualifications-graded-a-to-g](http://www.gov.uk/government/publications/criteria-for-gcse-qualifications-graded-a-to-g)

<sup>17</sup> Qualifying candidates are those who have reached at least the age of 16 on or before 31<sup>st</sup> August in the same calendar year as the assessment, or those who have taken the qualification in a previous exam series.

same exam board). However, students cannot carry forward any of their exam marks and must therefore re-sit all the exams. We are proposing to introduce requirements to ensure that the same arrangements apply to any re-sit opportunity that follows on from the May/June 2016 exam series.

## **Re-sits in other legacy GCSEs**

- 4.24 We have also been considering whether there should be a re-sit opportunity for any other legacy GCSEs.
- 4.25 When GCSEs have been reformed in the past, re-sit opportunities have not been made available in other subjects. Unlike in English, English language and mathematics, GCSEs in other subjects are not usually required for progression into employment or to further learning.
- 4.26 We believe that take-up of re-sits in any other subject would be very low, making it difficult to set standards and therefore reducing confidence in the level at which grades in these re-sits had been awarded. We have also considered the burden that would be placed on the exam boards if we required re-sit opportunities to be made available in other GCSE subjects.
- 4.27 At AS and A level, the same considerations apply, but on balance we feel that these are justified by the fact that students are more likely to need these qualifications for progression purposes.
- 4.28 We are therefore proposing that re-sit opportunities will not be made available in legacy GCSEs in any subjects other than English, English language and mathematics (including the linked pair).
- 4.29 In reaching this view, we separately considered whether re-sit opportunities should be made available for legacy GCSEs in the science subjects.<sup>18</sup> After legacy GCSEs in English, English language and mathematics, the science subjects have the next highest uptake in relation to re-sits.<sup>19</sup> Science GCSEs are also sometimes needed for progression onto certain courses, or for certain careers.<sup>20</sup>
- 4.30 In respect of legacy GCSEs in science subjects, our view is that the arguments are finely balanced. However, given the relatively low uptake of re-sits in these subjects, the difficulties in setting standards, and the related burdens on exam boards, we have decided to propose that a re-sit opportunity should not be made available. However, we welcome views in relation to this matter.

---

<sup>18</sup> Additional applied science, additional science, biology, chemistry, further additional science, science, physics.

<sup>19</sup> See our Regulatory Impact Assessment for figures (page 23).

<sup>20</sup> See, for example, primary teaching: [www.ucas.com/ucas/teacher-training/getting-started/entry-requirements](http://www.ucas.com/ucas/teacher-training/getting-started/entry-requirements)

- 4.31 This means that for legacy GCSEs in English literature, the last exams will be in summer 2016. For legacy GCSEs in digital communication, we have already announced<sup>21</sup> that – except for a limited number of schools – the last exams will also be in summer 2016.
- 4.32 For legacy GCSEs in subjects that are being replaced in the second phase of reforms,<sup>22</sup> the final exams will be in summer 2017. For all remaining legacy GCSEs, the final exams will be in summer 2018.
- 4.33 We set out below our draft requirements that we propose to put in place to give effect to the proposals that we have outlined above for legacy GCSEs in English, English language and mathematics (including the linked pair).
- 4.34 These draft requirements cover the re-sit opportunity in November 2016 (which is common to both our proposed options). If, following this consultation, we decide to require a further re-sit opportunity in May/June 2017 then we will amend the requirements accordingly.

### **Saving and transitional provision for GCSEs**

1. As stated in our *Accreditation Criterion For All Qualifications Subject to an Accreditation Requirement*,<sup>23</sup> GCSE qualifications (graded from A\* to G) in the following subjects will cease to be accredited on 31st August 2016 –
  - English
  - English Language
  - English Literature
  - Mathematics.
2. On [date], we used our powers under section 140(7) of the 2009 Act to vary the date on which the GCSE qualifications (graded from A\* to G) in the following subjects will cease to be accredited to 31st August 2016<sup>24</sup> –

<sup>21</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/381968/2014-12-02-completing-gcse-as-and-a-level-reform.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/381968/2014-12-02-completing-gcse-as-and-a-level-reform.pdf)

<sup>22</sup> Additional applied science, additional science, art and design, biology, catering, chemistry, citizenship studies, classical Greek, computer science, computing, dance, design and technology: food technology (but not other routes), drama, expressive arts, French, further additional science, geography, German, history, home economics: food and nutrition (but not other routes), hospitality and catering, human health and physiology, humanities, Latin, music, performing arts, physical education, physics, religious studies, science, Spanish.

<sup>23</sup> [www.gov.uk/guidance/accreditation-requirement](http://www.gov.uk/guidance/accreditation-requirement)

<sup>24</sup> We plan, subject to the responses to this consultation, to confirm this change following this consultation.

- Applications of Mathematics
  - Methods in Mathematics.
3. We have made the following saving and transitional provisions under section 140(10) of the 2009 Act in respect of GCSE qualifications (graded A\* to G) in –
- Applications of Mathematics
  - English
  - English Language
  - Mathematics
  - Methods in Mathematics
- (‘the Relevant Subjects’)
4. In respect of each GCSE qualification in a Relevant Subject which it makes available, an awarding organisation is required to comply with these saving and transitional provisions under Condition D9.1.
5. Subject to these saving and transitional provisions and the completion of any relevant appeal procedure, an awarding organisation must ensure that the final award of each GCSE qualification in a Relevant Subject which it makes available takes place in August 2016.
6. In respect of each GCSE qualification in a Relevant Subject which it makes available an awarding organisation must –
- (a) provide an opportunity in November 2016 for Learners<sup>25</sup> to take the qualification again (a ‘Re-sit Opportunity’), and
  - (b) ensure that each Re-sit Opportunity that it provides meets the requirements outlined in paragraphs 7 to 9.
7. In respect of each Re-sit Opportunity, an awarding organisation must ensure that –

---

<sup>25</sup> In this document, words have the same meaning as defined in *General Conditions of Recognition*, including the relevant Qualification Level Conditions and Subject Level Conditions.

- (a) Learners complete the Assessments by Examination<sup>26</sup> to be taken as part of that Re-sit Opportunity during November 2016,
  - (b) a Learner does not complete any assessment to be taken as part of that Re-sit Opportunity after 30th November 2016, and
  - (c) the awarding organisation continues to comply with all of the Conditions of Recognition and Regulatory Documents which apply to the relevant qualification,<sup>27</sup> including those in relation to the marking of assessments, the setting of specified levels of attainment, the issue of results, appeals and the issue of certificates.
8. An awarding organisation must take all reasonable steps to ensure that each Re-sit Opportunity is provided only to Learners who have reached the age of 16 on or before 31st August 2016, or –
- (a) who were issued a certificate for the qualification having taken the relevant Assessments by Examination in or before May and/or June 2016, or
  - (b) who would have been entered to complete the Assessments by Examination to be taken for the qualification in May and/or June 2016, but were not entered due to illness, injury or some other event outside of their control.
9. In respect of each Re-sit Opportunity which it provides, an awarding organisation must ensure that –
- (a) a Learner may use the result for an assessment which was not an Assessment by Examination which he or she has taken previously for the same qualification made available by the awarding organisation, and
  - (b) that Learner is not required to take that assessment again before being awarded the qualification
10. An awarding organisation must ensure that –
- (a) in respect of each Re-sit Opportunity which it provides in GCSE English language, a Learner may use the result for a speaking and listening

<sup>26</sup> For the purposes of these saving and transitional provisions, an Assessment by Examination is as defined in our GCSE (9 to 1) Qualification Level Conditions and Requirements ([www.gov.uk/government/publications/gcse-9-to-1-qualification-level-conditions](http://www.gov.uk/government/publications/gcse-9-to-1-qualification-level-conditions)).

<sup>27</sup> For the avoidance of doubt, this includes *Criteria for GCSE Qualifications* ([www.gov.uk/government/publications/criteria-for-gcse-qualifications-graded-a-to-g](http://www.gov.uk/government/publications/criteria-for-gcse-qualifications-graded-a-to-g)), insofar as it constitutes a Regulatory Document.

controlled assessment which he or she has taken previously for a GCSE qualification in English made available by the awarding organisation,

(b) in respect of each Re-sit Opportunity which it provides in GCSE English, a Learner may use the result for a speaking and listening controlled assessment which he or she has taken previously for a GCSE qualification in English language made available by the awarding organisation, and

(c) in neither case is that Learner required to take that assessment again before being awarded the qualification in respect of which the Re-sit Opportunity has been provided.

11. If requested, an awarding organisation must provide a Re-sit Opportunity which meets the requirements in paragraphs 7 and 8 to a Learner who took the Assessments by Examination for a GCSE qualification in the same Relevant Subject with a different awarding organisation in May and/or June 2016. For the avoidance of doubt, this paragraph does not apply where an awarding organisation does not already make available a GCSE qualification in the same Relevant Subject.

## 5. Equality analysis

### Ofqual's role, objectives and duties

5.1 We are subject to the public sector equality duty. We have set out in Appendix A how this duty interacts with our statutory objectives and other duties.

### Equality analysis relating to proposals for re-sit arrangements in legacy GCSE, AS and A level qualifications

- 5.2 We recognise the importance of making sure that the decisions we take in relation to regulated qualifications do not unfairly discriminate against or prejudice students because of their protected characteristics.<sup>28</sup>
- 5.3 We have not identified any aspects of our proposals in respect of making re-sit opportunities available in legacy AS and A levels, and in legacy GCSEs in English, English language and mathematics (including the linked pair), that may have a negative impact on students because of their age, disability, race, gender reassignment, pregnancy and maternity, religion or belief, or sex or sexual orientation.
- 5.4 Our proposal that there should be no re-sit opportunity in any other legacy GCSE may have a negative impact on a student with a protected characteristic should that student because of their disability, or as a result of their pregnancy, maternity or gender reassignment, not take their assessments when planned. As there would be no re-sit opportunity, their only option would be to study for and take a new qualification in the subject.
- 5.5 We have balanced this issue against the difficulties that would be caused with awarding, and the costs that would be involved to exam boards, should we require a re-sit opportunity to be available in each legacy GCSE qualification. The numbers taking a re-sit in most legacy GCSE qualifications would likely be very low, with the exception of English, English language and mathematics.<sup>29</sup>
- 5.6 We have not identified any other aspects of our proposals for re-sits that may have a negative impact on students because of age, race, religion or belief, or sex or sexual orientation.

---

<sup>28</sup>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 and sexual orientation. Under section 149 of the Equality Act 2010, we are not required to consider the impact of the reforms on those who are married or in a civil partnership.

<sup>29</sup>See our Regulatory Impact Assessment (page 23).

- 5.7 We are continuing to consider the equality impacts of our proposals, and we will use this consultation to increase our understanding of any possible effects to inform our eventual decisions.
- 5.8 We encourage everyone who responds to this consultation to consider the potential equality effects of the proposals and to give us any relevant information or evidence they may have.
- 5.9 We will take all the information and evidence we receive into account in our decision-making.

## 6. Regulatory impact assessment

- 6.1 We propose that students who started studying for legacy AS and A levels before September 2015 should have an opportunity to re-sit in summer 2017.
- 6.2 We propose that students who started studying for legacy GCSEs in English, English language and mathematics (including the linked pair) before September 2015 should have an opportunity to re-sit in November 2016.
- 6.3 These proposals may be beneficial to students taking one of the above qualifications in the final year in which they are offered, but they are likely to lead to costs for exam boards.

### Costs to exam boards

- 6.4 Our proposal will lead to costs to the exam boards of producing additional exam papers and mark schemes, and running these alongside the new specifications. For some qualifications, particularly for the legacy GCSEs where we are requiring re-sits,<sup>30</sup> it is more likely that exam boards will be able to cover these costs through the fees they collect from students, schools and colleges, because of the number of entrants. For qualifications where there would be a smaller demand for re-sits, it is likely that exam boards will not be able to cover costs without significantly increasing the fees that they charge.

### AS and A levels<sup>31</sup>

- 6.5 We used data from the National Pupil Database to consider the likely demand for re-sits in A level subjects. The data showed that most A level subjects had one or more students taking a re-sit in 2014. The following table sets out the five subjects with the highest numbers of re-sitting students.<sup>32</sup> All numbers are for England, Wales and Northern Ireland and are rounded to the nearest 100.

---

<sup>30</sup> We propose that a re-sit opportunity will be provided in legacy GCSE English, English language and mathematics in November 2016. We are also seeking views on whether there should be a further re-sit opportunity for these subjects in May/June 2017.

<sup>31</sup> This analysis focuses on legacy A levels, although students will also be able to re-sit legacy AS qualifications. Legacy AS qualifications currently form part of the legacy A levels so there is little additional cost involved in allowing re-sits to take place in these qualifications. We have therefore chosen just to set out A level data for the purpose of this regulatory impact assessment.

<sup>32</sup> Data from the National Pupil Database measures only those re-sits completed by the end of the academic year in which the candidate turns 18. It is likely that some candidates re-sit exams the following academic year, so these figures are likely to be an underestimate.

A level subject	Number of re-sits in 2014	Total number of certifications in 2014
Mathematics	6,000	101,200
Art and Design	5,700	46,700
Biology	3,300	61,900
Chemistry	2,700	51,800
Psychology	1,800	42,400

6.6 Given the low numbers of re-sitting students in most A level subjects, and assuming that exam boards charge a re-sit fee that is close to current fees, it is unlikely that revenue gained through re-sit fees will cover the costs to the exam boards of providing the re-sits.

## GCSEs

6.7 The government changed the rules for GCSE performance tables in September 2013 so that only a student's first attempt would count towards performance measures. This has led to a reduction in the number of re-sits being taken. Because of this, we asked exam boards to provide us with more recent data for GCSEs to allow us to properly assess the impact of our proposals.

6.8 The following table sets out the number of students who were 17 in the 2014/15 academic year and who sat a qualification in both 2013/14 and 2014/15 for the most popular subjects. These data have informed our proposal that we will require exam boards to run re-sits in only English, English language and mathematics (including the linked pair). All numbers are for England, Wales and Northern Ireland and are rounded to the nearest 100.

GCSE subject	Number of entries in November 2014 <sup>33</sup>	Number of 17-year-old candidates who sat the qualification in summer 2013/14 and 2014/15	Total number of candidates certificating in summer 2015
Mathematics <sup>34</sup>	35,200	25,000	320,300
English Language	10,100	6,400	139,900
English	5,000	2,500	134,200
Science	-	1,100	134,200
Additional Science	-	500	395,200
English Literature	-	200	158,400
Biology	-	200	225,500
Chemistry	-	100	246,300
Geography	-	100	91,100
Physics	-	100	426,700
History	-	100	438,100
French	-	Less than 100	738,700

6.9 The data show that those subjects in which exam boards already allow a re-sit opportunity in November are those that currently have the largest volumes of re-sits. Higher volumes of re-sits are more likely to mean that exam boards will be able to recover their costs. In subjects where the numbers choosing to take up the re-sit opportunity are likely to be much lower, exam boards would have to either absorb the costs of running that re-sit opportunity, or take a decision to significantly increase their fees in order to offset those costs.

6.10 We considered extending the re-sit opportunity to legacy GCSEs in the science subjects.<sup>35</sup> However, as the data show, only around 2,000 students<sup>36</sup> who were 17 in the 2014/15 academic year entered for the legacy science qualifications in both 2013/14 and 2014/15, indicating that it would be unlikely that re-sits could be administrated without significant extra unrecoverable costs to exam boards.

6.11 When specifications have been withdrawn in the past, exam boards have been expected to offer re-sit opportunities for all legacy A levels and for legacy GCSEs in the subjects included in our proposals.<sup>37</sup> Arguably, therefore, exam

<sup>33</sup>The November exam series are only available to those who are resitting. Some candidates will have entered the exam in both November 2014 and the summer 2015.

<sup>34</sup>Not including linked pair mathematics GCSEs

<sup>35</sup>Additional applied science, additional science, biology, chemistry, further additional science, science, physics.

<sup>36</sup>Excluding further additional science and additional applied science

<sup>37</sup>English, English language, mathematics.

boards may have considered these additional re-sit opportunity costs already and built them into the costs of running the qualification. If so, our proposals may not present an additional burden to them.

## **Impacts on students and centres**

- 6.12 For qualifications in which we propose there should be an opportunity to re-sit, students who did not achieve the grade or result they wanted would be able to re-sit without having to study new content or to complete any non-exam assessment again. This would be a significant benefit for these individuals who might otherwise have to spend time and money studying for the new specification, or who may decide, as a result of the qualification no longer being available, not to re-sit the qualification at all.
- 6.13 If a student needed to study a different specification for an A level, they may need to enrol in an intensive one-year A level course to obtain the new A level. Private colleges that run this kind of course typically charge in excess of £2,500,<sup>38</sup> so there would be a large saving for those students who would instead be able to complete a re-sit of the original specification. Data from the National Pupil Database show that there were 33,000 A level re-sits in 2014.<sup>39</sup> Based on estimated tuition fees of £2,500, the financial saving of making a final re-sit opportunity available for legacy AS and A levels could be in the region of £8 million.
- 6.14 In addition, schools and colleges may benefit from the re-sit opportunities being made available, as they may not need to put on additional lessons or mark non-exam assessments for those who wished to re-sit.
- 6.15 For those legacy GCSE subjects where a re-sit opportunity will not be made available as a result of our proposals, schools and colleges will have additional costs to bear if students still need to gain a given level in that qualification.
- 6.16 In the GCSE science subjects around 2,000 students who turned 17 in the academic year 2014/15 entered for the qualifications in both 2013/14 and 2015/16. These subjects have the highest number of re-sit entries outside of English, English language and mathematics. Some courses or careers<sup>40</sup> require science GCSEs to be successfully completed, so it is likely that there will be some students who will have to study the new syllabus at their own cost, or at

---

<sup>38</sup> See, for example, [www.mpw.ac.uk/locations/birmingham/admissions/fees](http://www.mpw.ac.uk/locations/birmingham/admissions/fees) or [www.ealingindependentcollege.com/tuition-fees/a-level-tuition-fees-january-2011-january-2012](http://www.ealingindependentcollege.com/tuition-fees/a-level-tuition-fees-january-2011-january-2012)

<sup>39</sup> It is likely that the number of re-sits will fall following the last exam series for the specifications as candidates may not be encouraged to re-sit by their school or college.

<sup>40</sup> For example, primary teaching: [www.ucas.com/ucas/teacher-training/getting-started/entry-requirements](http://www.ucas.com/ucas/teacher-training/getting-started/entry-requirements)

that of their school or college, if this is the career path they wish to follow. However, this impact needs to be weighed against the difficulties in awarding low-volume entry qualifications, and the cost to exam boards of setting and running an additional exam series for these qualifications.

## **Conclusions**

- 6.17 Overall, there are significant benefits to individuals of requiring exam boards to provide re-sit opportunities, while there are additional one-off costs to exam boards. The benefits of re-sits are more pronounced where students are more likely to have to meet requirements related to those qualifications to pursue future courses or careers. We are therefore consulting on a requirement that an additional re-sit opportunity is made available in all legacy AS and A levels and in legacy GCSEs in English, English language and mathematics.
- 6.18 The key assumption underlying this impact assessment is that exam boards will set their re-sit fees at a similar level to their regular entry fees. There are no requirements in place for exam boards to do this. They could decide to increase their re-sit fees, in which case the impact of our proposals on the costs to exam boards would be reduced.

## Responding to the consultation

### Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity. We will therefore only consider your response if you complete the following information section.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us that you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Please answer all questions marked with a star\*

**Name\*** Charlie Stripp

**Position\*** Chief Executive

**Organisation name (if applicable)\***

Mathematics in Education and Industry (MEI)

**Address**

Monckton House  
Epsom Centre  
White Horse Business Park  
Trowbridge  
Wiltshire  
BA14 0XG

**Email** charlie.stripp@mei.org.uk

**Telephone** 07771 864507

**Would you like us to treat your response as confidential?\***

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes  No

**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 “Personal response”, which of the following are you?**

Student

Parent or carer

Teacher (but responding in a personal capacity)

Other, including general public (please state below)

---

**If you ticked “Official response”, please respond accordingly:**

**Type of responding organisation\***

Exam board

Local authority

School or college (please answer the question below)

Academy chain

Private training provider

University or other higher education

institution  Employer

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

**School or college type**

- Comprehensive or non-selective academy
  - State selective or selective academy
  - Independent
  - Special school
  - Further education college
  - Sixth form college
  - Other (please state below)
- 

**Type of representative group or interest group**

- Group of exam boards
- Union
- Employer or business representative group (
- ) Subject association or learned society
- Equality organisation or group
- School, college or teacher representative group
- Other (please state below)

MEI is a charity and a membership organisation. It is an independent curriculum development body for mathematics. It is a major provider of mathematics teaching and learning resources, and of mathematics CPD for secondary school and post-16 mathematics teachers.

MEI developed and manages the DfE-funded Further Mathematics Support Programme.

MEI developed the current OCR(MEI) suites of AS/A level Mathematics and Further Mathematics qualifications, and two Core Maths qualifications, which are administered by OCR.

**Nation\***

England

Wales

Northern Ireland

Scotland

Other EU country: \_\_\_\_\_

Non-EU country: \_\_\_\_\_

**How did you find out about this consultation?**

Our newsletter or another one of our communications

Our website

Internet search

Other

\_\_\_\_\_

**May we contact you for further information?**

Yes  No

# Questions

## Question 1

**To what extent do you agree or disagree that students taking AS and A levels should have at least one opportunity to re-sit their exams in the specification for which they studied?**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give reasons for your answer:

As much as possible this cohort must not be treated differently from any other. Students who wish to re-sit a modular AS/A level qualification in order to achieve their HE place must not be expected to study, in one year, a new 2 year course in a linear A level.

## Question 2

**To what extent do you agree or disagree that students re-sitting their AS and A levels in qualifications that have ceased to be accredited should be able to re-sit any of the AS or A level units they have previously taken (including controlled assessment units)?**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give reasons for your answer:

Again, this is so that this cohort is treated the same as any other. This rule would actually be more restrictive than current practice, where candidates sitting A level Mathematics (possibly with Further Mathematics) often take a new unit to replace one in which they have scored badly. Why cannot all units be available, with the restriction that this is a resit operating at the qualification level rather than the unit level? Policing at the unit level is also much harder for awarding organisations.

### Question 3

**To what extent do you agree or disagree that there should be an additional re-sit opportunity for legacy GCSEs in English, English language and mathematics (including the linked pair) in summer 2017?**

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please give reasons for your answer:

(This answer applies to Maths – no doubt it should apply to English and English Language as well.)

We agree that the linked pair GCSE Mathematics should be treated in the same way as GCSE Mathematics.

Between ages 16 and 18 young people are required to be in full time education, an apprenticeship or traineeship or to be in part-time education while working or volunteering. Students who have not achieved a grade C or better in GCSE Mathematics in June 2016, will be required by the funding arrangements to be enrolled on a maths course – if they have a grade D this must be a GCSE course; for other students this course may lead to a stepping stone qualification. The reason for this is that it is recognised that maths is vital for future employment and for everyday life.

The new (9-1) GCSE is harder, by design, at Foundation tier than the A\*-G GCSE these students will have sat in June 2016, with more content and a greater emphasis on problem solving.

It seems only fair that these learners are able to re-sit the legacy qualification. A re-sit in November is not sufficient; many learners need the whole year to get to the required level.

In fact, the data suggest that it may be that yet another resit opportunity should be offered in June 2018. Consider the cohort who sat GCSEs in June 2014.

- Nearly 600 000 16 year olds sat GCSE Maths in June 2014, of whom more than 200 000 did not achieve grade C or better.
- About 35 000 students resat GCSE Maths in November 2014, of whom about 12 000 passed. Some of these would be in an older cohort. This leaves around 190 000 from the original 600 000 without a pass in GCSE Maths.
- About 131 000 students aged 17 or over re-sat GCSE Maths in June 2015, of whom fewer than 47 000 passed. Some of these will be from an older cohort than the one we are considering.
- This leaves at around 140 000 young people from our original cohort of June 14 GCSE candidates who are required to be still studying some maths,

moving towards GCSE resit in 2016.

If these figures are projected to 2017, it is clear that there will be well over 100 000 young people whom the system requires study GCSE maths, who will have failed it once, twice or three times by June 2017, but for whom the only qualification available in June 2018 is one which is, by design, harder than the one they have failed. This does not seem fair.

It will be awkward to organise another re-sit of the current Mathematics specifications in June 2018, but it is clear that if such resits are not available there will be a large number of young people who would be severely disadvantaged compared to previous year groups. Fairness dictates that re-sits must be available for them.

#### Question 4

**To what extent do you agree or disagree that, with the exception of English, English language and mathematics (including the linked pair), there should not be a re-sit opportunity available for legacy GCSEs?**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give reasons for your answer:

Our remit is mathematics, so we do not wish to offer an opinion on other subjects.

#### Question 5

**Do you have any comments on our draft General Condition D9?**

- Yes  No

If yes, please provide them here:

.....

.....

.....

## Question 6

**Do you have any comments on our draft saving and transitional provisions for legacy AS and A level qualifications in the first phase of reform?**<sup>41</sup>

Yes  No

If yes, please provide them here:

Paragraph 7. rules out a re-sit opportunity for a learner who was unclassified (awarded grade U) in June 2016, and therefore was not issued with a certificate. These candidates should be allowed to re-sit so as to achieve a pass grade.

## Question 7

**To what extent do you agree or disagree that we adopt the same saving and transitional provisions, amended as necessary, in respect of all further legacy AS and A level qualifications, without further consultation?**

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please give reasons for your answer:

Mathematics and Further Mathematics are different in several ways, and they are not in the first phase of reform.

- The two subjects are linked, in that some units are permitted to count towards either Mathematics or Further Mathematics, with the choice made at the awarding stage according to complex rules.
- The uniqueness of mathematics is understood by Ofqual, as shown in the recently closed consultation on conditions and guidance for AS/A level Mathematics and Further Mathematics which proposes an entry for reformed A level Mathematics after only one year of teaching, in June 2018. This will impact on re-sits.
- The complex rules on re-certification for Mathematics and Further Mathematics, in order to unlock units, means that there may be some complication with the re-sit opportunities which has not been thought of at this stage.

We strongly urge that there is a further consultation on how this works for Mathematics and Further Mathematics at an appropriate time.

## Question 8

**Do you have any comments on our draft saving and transitional provisions for legacy GCSEs in English, English language and mathematics (including the linked pair)?**

Yes  No

If yes, please provide them here:

There should be a regulation imposing a price-freeze on entry for legacy GCSE Mathematics from June 2016 onwards. Colleges often charge learners to enter for re-sit examinations, and some learners will end up paying for two or three attempts in both English and Mathematics. It would not be fair for the financial burden of increased fees to fall on learners.

## Question 9

**We have not identified any ways in which our proposals on re-sits would impact (positively or negatively) on persons who share a protected characteristic.<sup>42</sup> Are there any potential impacts we have not identified?**

Yes  No

If yes, please provide them here:

We are concerned that young people of a certain age, mostly those born between 1/9/1999 and 31/8/2000, who sit legacy GCSEs in Mathematics in June 2016, may be discriminated against by these arrangements – see our responses to questions 3 and 8.

---

<sup>42</sup> 'Protected characteristic' is defined in the Equality Act 2010. Here, it means age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

**Question 10**

**Are there any additional steps we could take to mitigate any negative impact resulting from these proposals on persons who share a protected characteristic?**

Yes  No

If yes, please provide them here:

See our responses to questions 3 and 8.

**Question 11**

**Have you any other comments on the impacts of the proposals on students who share a protected characteristic?**

Yes  No

If yes, please provide them here:

.....

.....

.....

**Question 12**

**Do you have any comments on the impacts of our proposals on students, schools/colleges and/or exam boards?**

Yes  No

If yes, please provide them here:

See responses to previous questions.

## **Appendix A: Ofqual's role, objectives and duties**

Our statutory objectives include the qualifications 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.

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.

As a public body, we are subject to the public sector equality duty.<sup>43</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; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The exam boards that design, deliver and award GCSEs, AS and A levels 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.

---

<sup>43</sup> Equality Act 2010, section 149.

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;  
and
- (c) the need to maintain public confidence in the qualification.

Legislation therefore sets out a framework within which we must operate. We are subject to a number of duties and we must aim to achieve a number of objectives. These different duties and objectives can, from time to time, 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 we can both secure 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, rational decision.

Qualifications cannot be used to mitigate inequalities or unfairness in the education system or in society more widely than 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 mark in an assessment, our influence is limited to the way that the qualification is designed and assessed.

We require the exam boards to design qualifications to give a reliable indication of the knowledge, skills and understanding of those on whom they are conferred. We also require the exam boards 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 exam boards to monitor whether any features of their qualifications have this effect.

In setting the overall framework within which exam boards will design, assess and award the reformed GCSEs, AS and A levels, we want to understand the possible impacts of the proposals on persons 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.

It should be noted that 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.

We wish to make our publications widely accessible. Please contact us at [publications@ofqual.gov.uk](mailto:publications@ofqual.gov.uk) if you have any specific accessibility requirements.



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit <http://nationalarchives.gov.uk/doc/open-government-licence/version/3> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [publications@ofqual.gov.uk](mailto:publications@ofqual.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.uk/ofqual](http://www.gov.uk/ofqual).

Any enquiries regarding this publication should be sent to us at:

Office of Qualifications and Examinations Regulation

Spring Place  
Coventry Business Park  
Herald Avenue  
Coventry CV5 6UB

2nd Floor  
Glendinning House  
6 Murray Street  
Belfast BT1 6DN

Telephone 0300 303 3344  
Textphone 0300 303 3345  
Helpline 0300 303 3346