

Federation of Awarding Bodies – FINAL response to the Ofqual consultation on conditions, guidance and requirements for Ofqual-regulated Apprenticeship end point assessments, May 2018

Overview of the Federation of Awarding Bodies

The Federation of Awarding Bodies is the trade association for vocational and technical awarding organisations (AOs) with over 125 organisations in full membership ranging from large generic AOs to those working in specific occupational areas, including professional bodies.

Our members operate across a wide range of vocational/technical sectors and provide a range of qualifications to support learners to qualify and progress in their chosen sector. Many of our members award qualifications that form part of the apprenticeship frameworks and/or the new apprenticeship standards (where these include qualifications). In addition, approximately 30% of our full members are also on the Register of End Point Organisations (RoEPAO) to offer end-point assessment (EPA) in relation to one or more of the apprenticeship standards. Some of these EPAs will be externally quality assured by Ofqual. We therefore have an interest in this consultation and the regulation of end point assessments.

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

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Consultation questions

Q1: To what extent do you agree or disagree with our proposal to provide end-point assessment specific guidance in relation to conflicts of interest covering the areas set out?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please provide any comments:

The Federation agrees that it will be useful for Ofqual to provide specific guidance on conflicts of interest for end point assessment organisations (EPAOs). It will be important for EPAOs to ensure that their activity meets the Ofqual requirements and it is therefore helpful for Ofqual to provide specific guidance to provide clarity on this matter in the context of the provision of end point assessment. In terms of the draft guidance provided in Appendix B, the Federation has the following comments:

- 1- The guidance provided on page 4 of the draft document refers to the 'amount of times that a learner takes a qualification'. The Federation suggests the language used here (and in other places throughout the document) should be 'end point assessment' and not 'qualification' for the sake of clarity. We understand that Ofqual regulates EPAOs as if they were qualifications but we feel the use of the word 'qualification' is potentially confusing. It is also not consistent with the language used on page 15 of the consultation document where bullet point 8 refers to end point assessment and not a qualification.
- 2- The Federation believes that the guidance could be further developed to be more helpful to EPAOs. For example, the draft guidance, page 3, refers to processes and procedures that are 'sufficiently separate from assessment' but does not provide any real clarity about what is and is not likely to be seen by the regulator as being sufficient separation. The Federation understands that Ofqual would not wish to be prescriptive on this matter (and EPAOs would not want this either) but providing further clarity through positive/negative indicators and/or examples of what should be considered would be useful. The Federation is aware that some organisations are taking extensive steps to completely separate the EPAO business from their other business activities. This requires substantial resources and it is important to be sure that organisations are taking these steps because they are clear about what is expected and have chosen this route, rather than this potentially being a response to a lack of clarity of the requirements.
- 3- As raised at the consultation event on 27 March in Coventry, the regulator's view of invigilation will need to be clear in the final version of the guidance on conflict of interest so EPAOs know whether or not this activity can be undertaken by a person with an interest in the result of the assessment.

Q2: To what extent do you agree or disagree with our proposal to apply an end-point assessment specific version of Condition B3, covering the areas set out?

- Strongly agree
 Agree
 Neither agree nor disagree
 Disagree
 Strongly disagree

Please provide any comments:

The Federation agrees that it will be useful for Ofqual to apply an end-point assessment specific version of Condition B3. It will be important for EPAOs to ensure they notify Ofqual of events and clarification of what will be relevant in an EPAO context will be beneficial.

In terms of the proposals on page 16 of the consultation document, the Federation has the following comments:

- 1- The examples of the events that should be reported includes 'where an assessment plan could cause an adverse effect...' The assessment plans will have been reviewed by Ofqual, prior to having been accepted for the provision of external quality assurance. The EPAOs may therefore feel that they will be viewed as challenging the judgement and expertise of Ofqual and this could be perceived as being a difficult position to be in. Also, the requirement to approach Ofqual using an official notification does not seem to be in keeping with how organisations would usually raise concerns on matters such as this with Ofqual. When a notification is submitted, it would be usual for the EPAO to also provide Ofqual with a plan for managing the situation but it is difficult to see how they could be expected to do this in relation to assessment plans as these are not within the control of the EPAO.
During the discussions at the 27 March consultation event it emerged that this requirement may be intended to relate to assessment plans that undergo changes once the EPAO is in the process of working with them. However, even in these situations it is not clear that a formal notification is the most appropriate way to deal with such matters. Is this requirement proposed so there is a mechanism for EPAOs to flag up concerns so Ofqual can co-ordinate some action to address the points identified?
- 2- The third bullet point on page 16 requires EPAOs to tell Ofqual if they are removed from the register of end point assessment organisations. Following the recent consultation event in Coventry on 27 March, the Federation understands that ESFA will provide this data directly to Ofqual so we question the value of also requiring EPAOs to notify Ofqual. This duplication of effort does not seem to add any value.
- 3- The requirement in EPA3.4 could be clearer. Is this referring to the current requirement for EPAOs to enter each separate EPA into its scope of recognition or is it requiring something different?

Q3: To what extent do you agree or disagree with our proposal to put in place end-point assessment specific guidance setting out when Condition C2 will, and will not, apply to end-point assessments?

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

Please provide any comments:

It is important that EPAOs are clear about when the arrangements they have in place mean that they are working with Centres and therefore need to comply with the full extent of the requirements of C2. The guidance could be further enhanced if it took some of the examples of employer involvement that is specified in assessment plans and indicated whether these mean that C2 would/would not apply.

Q4: To what extent do you agree or disagree with our proposal to put in place end-point assessment specific guidance setting out the need, as part of keeping its qualifications under review, to have regard to the Institute's reviews and feedback?

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

Please provide any comments:

The Federation understands the importance of EPAOs taking the IfAs reviews and feedback into consideration. However, the ability of the EPAO to fulfil this requirement will depend on the effectiveness of the IfA's communication of its reviews. This communication will need to be robust and proactive to ensure EPAOs are provided with a fair chance of being aware of the information they need to take into account. It is not ideal to have an EPAOs compliance be reliant, to some extent, on effective communication by another organisation. It would, therefore, be useful to have published assurance from IfA that they will communicate the required information in a clear, accessible and timely fashion to support EPAOs in their compliance.

Q5: To what extent do you agree or disagree with our proposal to disapply Condition E1 in respect of end-point assessments?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for disapplying this Condition. It is not relevant in an EPAO context.

Q6: To what extent do you agree or disagree with our proposal to set a Condition requiring compliance with assessment plans?

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

Please provide any comments:

The Federation agrees that to ensure consistency across different EPAOs it will be important that they each comply with the requirements specified in the assessment plan. It is vital that the market experiences assessment which is consistent and at the same level of demand, irrespective of the organisation through which it is accessed.

Q7: To what extent do you agree or disagree with our proposal to put in place an end-point assessment specific Condition on the completion of gateway requirements?

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

Please provide any comments:

The Federation understands the importance of the gateway being reached before the apprentice is provided with access to their EPA. We therefore support Ofqual's proposal to introduce a Condition that requires an EPAO to take all 'reasonable steps' to ensure the gateway is reached prior to the delivery of an EPA. It would, however, be useful if Ofqual provided guidance on the evidence it will require an EPAO to collect/store to evidence that it has checked that an apprentice has reached

their gateway. This will ensure that EPAOs can develop their systems and processes accordingly, at the outset, and avoid costly redevelopment charges.

Q8: To what extent do you agree or disagree with our proposal to disapply Condition E7 in respect of end-point assessments?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for disapplying this Condition. It is not relevant in an EPAO context. TQT cannot be applied to an EPA.

Q9: To what extent do you agree or disagree with our proposal to disapply Condition E8 in respect of end-point assessments?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for disapplying this Condition. It is not relevant in an EPAO context. TQT cannot be applied to an EPA and therefore credit cannot be calculated.

Q10: To what extent do you agree or disagree with our proposal to put in place end-point assessment specific guidance about the titling of end-point assessments?

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

Please provide any comments:

The Federation agrees with Ofqual's proposals for the titling of end point assessments. This will bring some consistency to the approach to titling which will help employers and apprentices in the

market. It would be useful if this titling convention was adopted across the market, by other EQA organisations too, but we understand this is not within Ofqual's remit.

Q11: To what extent do you agree or disagree with our proposal to continue to require end-point assessment organisations to publish specifications for end-point assessments?

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

Please provide any comments:

The current requirement for awarding organisations to publish specifications has raised issues which the Federation has previously shared with Ofqual. We believe these concerns are replicated in the EPAO context as it is not fully clear how much detail an EPAO will be required to provide in the published specification. EPA is a highly competitive market and EPAOs will have invested heavily in developing their product. They will therefore, quite naturally, be reticent to make too much detail available to their competitors. The Federation believes that further work should be undertaken by Ofqual to provide clarity on the extent of the information that must be provided in the specification. This work would be of benefit to awarding organisations and EPAOs too. Until this clarity is provided we do not believe the requirement to publish a specification should be applied to EPAOs. This area needs to be clarified for AOs too and once there is clarity the resulting requirements should be applied to EPAOs and AOs.

Q12: To what extent do you agree or disagree with our proposal to produce end-point assessment specific guidance setting out how Condition E3 applies in respect of end-point assessments?

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

Please provide any comments:

As we have stated above, there is a need for further clarification of the detail that should be provided in a specification. This guidance should aim to provide not only the headings/categories of information that should be included but also the extent of the detail that should be provided under each heading/category.

Q13: To what extent do you agree or disagree with our proposal to no longer suspend Conditions E3.2(l), E3.4(a) and E3.4(c)?

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

Please provide any comments:

The Federation does not see that these criteria will ever be relevant to EPAOs as they relate to TQT and credit which are not relevant in that context. We therefore believe it is clearer to disapply these criteria in relation to EPAOs.

Q14: To what extent do you agree or disagree with our proposal to put in place an end-point assessment specific Condition to require the level of the end-point assessment to match that of the apprenticeship standard?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for this proposal and believes it is the best option for ensuring the relevant level is assigned to an EPA on a consistent basis.

Q15: To what extent do you agree or disagree with our proposal to put in place end-point assessment specific guidance setting out how an end-point assessment organisation should comply with Conditions D1, E4 and G1 relating to ensuring assessments that are set are fit for purpose and can be delivered?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for this proposal and believes it is a pragmatic proposal for ensuring the fitness for purpose of EPAs. Some of our members have identified specific issues with the draft guidance which will need to be addressed to ensure it is clear.

Q16: To what extent do you agree or disagree with our proposal to put in place an end-point assessment specific Condition to require end-point assessment organisations to provide materials for the purposes of Ofqual's evaluation and to take any actions specified by Ofqual as a result?

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

Please provide any comments:

The Federation understands that Ofqual will need to be able to require information from an EPAO for technical evaluation. It will be important that the regulator has oversight of the information that relates to the end point assessments and can evaluate this to provide confidence to the market of the quality of the EPAs on offer.

It would be beneficial for EPAOs to have further information on this process, what the sampling approach is likely to be, what materials are likely to be required, what data Ofqual is likely to request (so EPAOs can arrange for standard data reports to be built), how long Ofqual will take to evaluate the materials and respond to the EPAO and whether the EPAO may use the materials and offer EPA during the time it takes for Ofqual to conduct its evaluation.

Q17: To what extent do you agree or disagree with our proposal to put in place end-point assessment specific guidance setting out how an end-point assessment organisation should comply with Conditions H1 and H2 in relation to marking and moderation?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for this proposal and believes it is the best option for providing clarity to EPAOs in relation to marking and moderation.

Q18: To what extent do you agree or disagree with our proposal to put in place end-point assessment specific guidance for Condition H6 on issuing results for end-point assessments?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for this proposal and believes it is the best option for providing clarity to EPAOs in relation to issuing results for EPA. This guidance should make Ofqual's position on the use of its logo clear in this context i.e. that it should not be used.

Q19: To what extent do you agree or disagree with our proposal to disapply Conditions I3 and I4 in respect of end-point assessments?

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

Please provide any comments:

The Federation agrees with Ofqual's rationale for this proposal to disapply these Conditions. As EPAOs are not permitted to issue certificates for EPAs it would be problematic if these Conditions were not disapplied.

Q20: We have set out the ways in which our proposals could impact (positively or negatively) on learners who share a protected characteristic. Are there any potential impacts that we have not identified?

The Federation has not identified any potential impacts on learners who share protected characteristics.

Q21: Are there any additional steps we could take to mitigate any negative impact, resulting from our proposals, on learners who share a protected characteristic?

The Federation has not identified any additional steps that could be taken to mitigate any negative impact on learners who share protected characteristics.

Q22: Do you have any other comments on the impacts of our proposals on learners who share a protected characteristic?

The Federation has no further comments on the impact of the proposals on learners who share protected characteristics.

Q23: We have not identified any ways in which our proposals will unduly increase the regulatory impact on end-point assessment organisations. Do you have any comments on this assessment?

The Federation welcomes that Ofqual, as a provider of External Quality Assurance for apprenticeships, has laid out its proposed regulations for EPAOs. We welcome that these reflect the General Conditions of Recognition that awarding organisations must comply with to award regulated qualifications in England and we support the application of regulation that safeguards the quality of assessment and the validity of qualifications in England.

We fully understand that Ofqual has a role to play in the wider apprenticeship system and that the responsibility for the quality of apprenticeships is held by the Institute for Apprenticeships (IfA). However, we feel it is important to make the point that EPAOs who deliver apprenticeship standards that are externally quality assured by Ofqual will face a much heavier regulatory burden than those who are regulated by other external quality assurance (EQA) organisations. No other EQA that we are aware of has developed a comprehensive set of requirements for EPAOs and no other EQA has the powers that Ofqual has to take regulatory action and to fine an organisation. It is therefore unavoidable that any EPAO that is externally quality assured by Ofqual will face a much greater regulatory burden than others in the apprenticeship market. This is not a criticism of Ofqual's approach, which we believe is rightly demanding of those who are providing assessment of apprenticeships. It is vital that the quality of EPA is assured and we would welcome the development of similarly demanding requirements by other EQA organisations so that we have a level playing field for all EPAOs, regardless of who the EQA organisation is. We would hope that Ofqual is able to influence this through its engagement with the IfA and its role on the IfA's Quality Alliance.

Q24: Are there any additional steps we could take to reduce the regulatory impact of our proposals?

The Federation has no further comments on the regulatory impact of the proposals.

Q25: Are there any costs or benefits associated with our proposals which we have not identified?

The Federation has no further comments on the costs or benefits of the proposals.

Q26: We have not identified any ways in which our proposals will prevent innovation by end-point assessment organisations. Do you have any comments on this assessment?

The Federation has no further comments on the impact of the proposals on innovation by EPAOs.

Q27: Do you have any comments on our proposed End-point assessment Qualification Level Conditions?

It would be useful for Ofqual to confirm the arrangements for the annual statement of compliance in relation to AOs who are also EPAOs and whether their EPAO activity will be covered in the same SoC as their AO activity or in a separate return.

Similarly, it would be useful for Ofqual to set out how audit activity will be conducted for AOs that are also EPAOs. Will this be separate activity?

Q28: Do you have any comments on our proposed End-point assessment Qualification Level Guidance?

The Federation has no further comments on the guidance.

About you

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

Organisation (if applicable): * Federation of Awarding Bodies

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

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

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

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

Awarding organisation

Local authority

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

Academy chain

Private training provider

University or other higher education institution

Employer

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

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 awarding organisations
- 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)

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Ofqual's newsletter

Ofqual's social media channels

Other social media channels

Ofqual's website

Internet search

Other: _____