

Consultation on Withdrawing the Regulatory Arrangements for the Qualifications and Credit Framework

A response by
The Chartered Institute of Legal Executives

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For further details

Should you require any
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Introduction

1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. CILEx represents around 22,000 members, which includes approximately 7,500 fully qualified Chartered Legal Executive lawyers. CILEx is also a nationally recognised Awarding Organisation, regulated by the Office of the Qualifications and Examination Regulator (Ofqual) and the Welsh Assembly Government.

General Comments

CILEx generally welcomes the proposals within the consultation as it will add flexibility and the possibility for innovation to a currently very rigid system of qualification design. The changes will also enable greater flexibility in assessment methodology across a qualification, enabling end point assessment, taking into account the needs of end users, rather than restrictive qualification design.

There are some practical issues which have not yet been explained however and which would need clarification before the impact of these changes can be fully assessed. These include:

- A clear definition of what Ofqual means by valid, reliable and fit for purpose to ensure that regulatory requirements are not inadvertently breached.
- An assurance that the changes to titling will retain the approach to the use of Award, Certificate and Diploma which is well understood by stakeholders and that it will still be possible to identify a regulated qualification from an unregulated qualification.
- Following on from the previous point, that Awarding Organisations will be free to develop unregulated qualifications as well as those that are regulated by Ofqual.
- An assurance that Ofqual is working with relevant stakeholders during the consultation period to ensure that unintended consequences of the changes are mitigated (e.g. the Welsh Government, the SFA and BIS).

- Within the consultation, there is reference to regulation by level and sector. It would be helpful to understand how sector will be defined, who will be responsible for allocation to a sector and how easy it will be to gain recognition to offer levels outside those for which the AO is recognised at the point of the change.

Questions

Question 1. We propose to change the way we regulate some vocational qualifications by withdrawing the *Regulatory arrangements for the Qualifications and Credit Framework*. From now on, we will only use the existing General Conditions of Recognition – supplemented in some instances by new General Conditions or guidance – to regulate qualifications that have been or would have been designed to meet the *Regulatory arrangements for the Qualifications and Credit Framework*. To what extent do you agree or disagree with the proposed change?

Strongly agree

Agree

Disagree

Strongly disagree

Don't know / no opinion

Question 2. We propose to change existing recognition arrangements for some vocational qualifications, following the withdrawal of the *Regulatory arrangements for the Qualifications and Credit Framework*. We invite your comments on the proposed changes.

This change would remove recognition as a QCF regulated organisation and replace it with recognition based on Level and Sector in which the Awarding Organisation (AO) is operating. The consultation document indicates that this change will be undertaken in consultation with each Awarding Organisation and therefore should be a straightforward process.

The consultation does not set out how an AO which would like to extend its offer into an area which may not be considered its sector (depending on how these are defined) would be able to do so. For example, where an AO would like to offer management training as part of its offer, where the sector designation is accountancy - would this be permitted or would additional accreditation be required?

Question 3. What are the implications, if any, of closure of the unit bank?

CILEx uses a small number of shared units within its qualifications. The closure of the unit bank will provide CILEx as a user of these units with a copy of the unit for its use in perpetuity. Providing copies to all Awarding Organisations (AO) will allow units to be designed and updated to be fit for purpose for the relevant AO; therefore, there will be no immediate impact to CILEx of this change. There are possible Intellectual Property implications of shared units being distributed free to each user of the units and there is also the possibility (recognised in the consultation) that the owner of the unit will withdraw their unit – leaving other users of the unit with 2 years to replace that unit. CILEx considers that should this situation arise in relation to units it shares, that there should be sufficient time to replace that unit with a CILEx version.

It is also possible that this removal of shared units will increase the number of similar units in use and therefore may also increase the number of qualifications in use.

In your opinion, what would be the impact of this measure?

It will enable each part of a qualification to be designed to be fit for purpose for the relevant occupation and will enable each AO to take responsibility for that design. Therefore it will have a beneficial effect, although it may result in more qualifications ultimately, as each AO makes unique changes to the existing single shared units.

In your opinion, are there any unintended consequences of closing the unit bank that we have not considered?

It may result in more qualifications which are similar but distinct, as each AO designs slightly different parts of qualifications. It would also be helpful to understand how qualifications are added and listed on any replacement framework.

Question 4. Following the withdrawal of the *Regulatory arrangements for the Qualifications and Credit Framework* we will not impose design requirements

about how QCF-type qualifications are structured nor on whether they are made up of units or in some other way. We invite your comments on our proposals.

This is a welcome relaxation of strict design regulations. It will enable AOs to create innovative and flexible qualifications which are fit for the vocational market and will enable stakeholder requirements to be factored into qualification design, which is currently limited for instance by the requirement to have a mastery of each unit within the qualification. It will facilitate the introduction of the use of synoptic assessment to ensure overall competence. For those AOs for which the unitised system is the most appropriate method of design and assessment, this can be continued – although it is not completely clear whether AOs who choose to continue to offer unitised qualifications will have to meet detailed design requirements. This response has assumed that this will not be the situation.

Question 5. To address the withdrawal of the *Regulatory arrangements for the Qualifications and Credit Framework* on credit accumulation, we propose it should continue to be possible for qualifications to be credit-bearing, provided the qualifications are otherwise valid and reliable. We further propose that it should only be possible to attribute credit down to the smallest part of the qualification that can be discretely assessed. We invite your comments on our proposed approach.

Although this requirement is optional, vocational qualifications are currently funded through the credit value attached to the qualification. Therefore assessment of credit for a qualification, whilst optional, is likely to continue. Assessing the credit value on the smallest part of a qualification that can be discretely assessed is not considered to make this assessment problematic.

However, how any changes to GLH and credit value which are to be uploaded to the RITS need careful consideration so as not to create an adverse administrative burden on AOs.

Question 6. To what extent do you agree or disagree with the following proposals:

(a) Awarding organisations should be permitted to, but should not have to, recognise credit awarded to a student by another awarding organisation:

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know / no opinion

(b) Awarding organisations which intend to allow credit transfer or which intend to recognise prior learning in some other way must publish a clear policy approach to doing so.

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know / no opinion

(c) Ofqual should facilitate the availability of information about each awarding organisation's approach to the recognition of prior learning.

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know / no opinion

Are there any other options that we have not considered?

Whilst facilitating credit transfer is not seen as problematic in principle, it would be helpful to know what the regulatory requirements would be surrounding this proposal. A clearer indication of what is meant by ‘facilitate the availability’ would be helpful.

Question 7. Following the withdrawal of the *Regulatory arrangements for the Qualifications and Credit Framework*, the assessment arrangements for QCF-type qualifications will be governed simply through our General Conditions of Recognition. We invite your comments on this approach.

This should simplify the approach to qualification design, provided adequate and clear guidance is provided on the definitions of valid, reliable, fit for purpose and other relevant terminology to ensure that the regulations are clear and AOs are fully aware of the requirements. These definitions should be written in plain English to ensure understanding across AOs is clear.

Question 8. Following the withdrawal of the *Regulatory arrangements for the Qualifications and Credit Framework*, we will not put in place rules to support or facilitate unit sharing.

Where qualifications include collaborative elements, we will focus on whether they meet our regulatory requirements and whether there is clear accountability with each awarding organisation being wholly responsible for all of the qualifications which it offers. We invite your comments on our proposed approach.

This is a welcome development, which ensures that each AO can provide qualifications which are appropriate for the sector in which they operate and ensure that any collaborative elements can be developed appropriately for the sector. The accountability of the AO offering the qualification partly made up of shared elements is considered a benefit as it ensures the AO has full control of all parts of its qualification.

Question 9. We have suggested a number of steps to address issues arising from unit sharing, including use, ownership and accountability. To what extent do you agree or disagree with our proposed approach?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know / no opinion

Are there any other options that we have not considered?

Whilst the approach to bringing unit sharing to an end is welcomed, the copying of units which have been developed by one organisation and provided to all other organisations using them may have significant Intellectual Property implications.

Question 10. When we withdraw the *Regulatory arrangements for the Qualifications and Credit Framework*, our General Conditions will provide sufficient limitation on an awarding organisation's ability to make use of 'award' 'certificate' and 'diploma' in the title of a qualification. To what extent do you agree or disagree with our proposed approach?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know / no opinion

This is agreed, provided the limitations do not affect the titles to an extent that stakeholders are confused by changes made. More information would be required on the limitations of the use of these titles, which are now well understood by stakeholders.

Question 11. When we withdraw the *Regulatory arrangements for the Qualifications and Credit Framework* we will no longer require the use of the term (QCF) in the title of qualifications. We have set out proposals dealing with removal of the term (QCF) from the title of qualifications and the time limits for making those changes. To what extent do you agree or disagree with our proposed approach?

Strongly agree

Agree

Disagree

Strongly disagree

Don't know / no opinion

If the QCF is to be withdrawn, then this is a sensible removal. However, there should be something in the title or description of a qualification which ensures that qualifications regulated by Ofqual can be clearly distinguished from those that are not.

The way in which the changes need to be made to RITS should also ensure that the administrative burden to AOs is minimised.

Question 12. We will still want to have a clear way to explain the relationship between the different qualifications we regulate. We propose an awarding organisation should be required to allocate the right level to each of its regulated qualifications to indicate the relative demand of the qualification. We also propose that the qualifications framework should use eight levels (1 to 8) and three entry levels, as now.

We invite your comments on the proposed approach.

The use of levels is well understood by stakeholders and therefore it is right that this should be retained. It is made clear in the consultation that the level definitions will not be changed and level retention is agreed on this basis.

Question 13. An awarding organisation that had correctly attached a current QCF level descriptor to a qualification should not be required to change that description. To what extent do you agree or disagree with this statement?

Strongly agree

Agree

Disagree

Strongly disagree

Don't know / no opinion

Question 14. We have identified a number of ways in which the proposals on withdrawal of the *Regulatory arrangements for the Qualifications and Credit Framework* may impact on persons who share a protected characteristic. Are there any other potential impacts we have not identified?

Yes No

None identified

Question 15. 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

Question 16. Have you any other comments on the impacts of the proposals in this document on persons who share a protected characteristic?

Yes No

Question 17. Are there any potential regulatory impacts of the proposals in this document that we have not identified?

Yes No

If yes, what are they?

It is unclear from the consultation what will happen to the Personal Learner Record. If credit transfer is no longer compulsory, will the requirement to register each learner's achievements also become optional?

As an Awarding Organisation that delivers qualifications in both England and Wales, the response of the Welsh Government to the removal of the QCF in England is very important to us, as it could potentially impact on how qualifications are designed in the future. Any information which could be provided as to the Welsh Government's likely response to this consultation would be welcome.

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This response is not confidential. The response is an official response on behalf of the Chartered Institute of Legal Executives (CILEx) an Awarding Organisation, based in England and regulated by Ofqual. CILEx can be contacted to discuss this response.