

# Confidence in Standards: Regulating and developing qualifications and assessment

## Consultation Response Form

The closing date for this consultation is: 10 March  
2008

Your comments must reach us by that date.

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**Please tick if you want us to keep your response confidential.**

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Please tick the box below which best describes you as a respondent

<input type="checkbox"/> Recognised awarding organisations, including employers authorised to award accredited qualifications	<input checked="" type="checkbox"/> Unrecognised awarding body	<input type="checkbox"/> Representative body
<input type="checkbox"/> Employers not recognised as awarding organisations	<input type="checkbox"/> Local Authority	<input type="checkbox"/> School/College/Work-Based Learning provider
<input type="checkbox"/> Young person	<input type="checkbox"/> Adult learner	<input type="checkbox"/> Parent

Europe's largest assessment agency made up of the largest research group of its kind in the world and three examination boards.

1 Do you agree that the proposals at paragraphs 2.11-2.13 are the best way of regulating at the organisational level?

Yes

X No

Not Sure

**The purpose of the new regulator is unclear. In the Chapter Two Summary it is described as both the guardian of standards for those taking qualifications and charged with ensuring value for money. The former and the latter are in potential conflict. Should the regulator require awarding organisations to undertake certain actions to uphold standards, the costs of examinations may well rise and this could be in conflict with the value for money elements of the regulator's work.**

**Elsewhere (2.43) the regulator is described as regulating "the delivery of government policy". This third purpose reintroduces the conflict of interest that *Confidence in Standards* seeks to eliminate. Cambridge Assessment fully agrees with the statement "We want the regulator to focus its activity at a strategic level" (2.29). We believe that that focus should be "to secure high standards in qualifications and assessment" (2.3). Any thing that detracts from that focus carries the risk that the new regulator will find itself falling into the same difficulties as the old one – namely, by having too many purposes it fulfils none of them well.**

**2.10 Questions have been raised as to whether other country regulators are holding the standard of their equivalent qualifications (e.g. GCSE and A levels) at the same level as the English regulator. There is a case for the new regulator reviewing the standard of all other qualifications holding themselves out to be equivalent.**

**2.11 We assume that the requirements for recognition will be along the current lines and that implementation will be equally stringent regardless of the nature of the awarding body.**

**2.12 The requirements for recognition need to be clearly laid out and published with little opportunity for individual officers to make personal decisions**

**2.13 It is uncertain as to how 2.13 relates to 2.2 "*We want a qualifications and assessment system where...the market...is free to innovate; and all learners have access to the qualifications they need to reflect and recognise their skills and knowledge.* If diversity and choice is valued, then an inflexible system, such as national framework of qualifications rules, will militate against innovation and may undermine the UK's supremacy in the field of assessment.**

**Defining what precisely counts as an employer at system level will perform the same function.**

**In addition, both these requirements increase risk. Examples in the past include interference in vocational qualification design in 1999/2000 - which slowed development, raised costs and disenfranchised users, resulting in a swathe of virtually unused qualifications going into the National Qualifications Framework in 2001-2. Similarly, the NVQ Code of Practice was used in practice to prescribe operating models of assessment. This led to too many verifier visits thereby raising costs and adding to the bureaucracy for both exam boards and colleges. An added 'by-product' was the fossilisation of working practices and the slowing of innovation in this area.**

**An alternative approach would be to place this entire section – adherence to certain rules - within the context of qualification level regulation which question 6 deals with and to which Cambridge assessment gives a full answer.**

**Cambridge Assessment recognises that awarding organisations need to have sanctions applied to them where they engage in activities that conflict with their awarding functions. However, the decision over what constitutes a conflict cannot simply be left to *“in the view of the regulator”*. The regulator must publish and consult on guidelines at the very start of its existence. There needs to be some appeal mechanism to, say, an Ombudsman to ensure that the view of the regulator is tested against the 'reasonable man'. To leave challenges to the regulator to the courts would result in additional cost to both regulator and challenger which would ultimately have to be recovered through additional charges on qualifications in some form.**

2 Do you agree with the proposal to remove the restriction to externally awarded qualifications (paragraph 2.14)?

X Yes

No

Not Sure

**Cambridge Assessment agrees with proposal insofar as it can be assured that such organisations are regulated in exactly the same way as all other awarding bodies.**

3 Do you believe that the regulator should have the power to charge for recognition of awarding organisations (paragraph 2.15)?

Yes

X

No

Not Sure

**There are two major challenges to a regulator charging for recognition when the 'market' is characterised by a small number of very large operators, a large number of niche operators and a larger number of potential entrants of indeterminate size. The first is that the larger operators providing, as they do, the bulk of the revenue stream, come to dominate the regulator with unhealthy results. Alternatively, the regulator, recognising the potential threat, attempts to neutralise it by reversing the normal relationships and granting 'new customers' preferential treatment over and above the service received by the mainstream 'customers'.**

**It should also be noted that the charges are likely to be re-claimed by awarding organisations through the cost of their awards. Thus, whether the regulator is funded through a general fund or through charges, the taxpayer/Treasury will pay the bulk of the costs. By funding centrally, with additional transparency in line with modern regulatory practice, the regulator will be seen to be more independent of the sector it regulates.**

**In addition, the "Confidence in Standards Impact Assessment" suggests that current funding levels will continue and there will be extra costs of "up to £5 million to Government from 2009-10". It is, therefore, uncertain as to use that any recognition charges would be put.**

**Thus, in general, Cambridge Assessment does not believe that, in this sector, charging awarding organisations for recognition would be the best method of recovering costs. If, however, the function of charges is to limit the number of 'vexatious' applications, then we would submit that the charges should be 'at cost' or be based on the recovery of costs directly associated with the recognition process.**

4 Do you agree that the regulator should be able to set qualification requirements at general, qualification and subject/sector level, with the general requirements being subsumed into the recognition process (paragraphs 2.16-2.17)?

Yes

X

No

Not Sure

**The distinction between the ‘requirements’ in 2.16-2.17, and the ‘criteria’ described in 3.21-3.26 is unclear. In our answer to question 15 we lay out where the responsibility should lie for developing requirements/criteria.**

**Cambridge Assessment believes that the regulator should be strategic – and thus subsuming general requirements into the recognition process makes sense. What is less obvious, in light of this approach, is why the regulator should be setting requirements at qualification and subject/sector level at all. As we lay out in our response to question 6, in a system seeking to widen participation and enhance the learning experience of all students, there needs to be room for awarding organisations to try a variety of approaches. The regulator should focus on high-level definitions of needs and be flexible in accrediting assessments that reach the same goal using alternative methodologies.**

5 Do you agree with the proposal for a risk-based approach to the way in which qualifications enter the national system (paragraphs 2.18-2.22)?

Yes

X

No

Not Sure

**Not the approach laid out in this document. The rationale seems to suggest that ‘high stakes’ tests are riskier merely by virtue of being ‘high stakes’.**

**Misclassification and lack of validity in assessments which are seemingly ‘low stakes’ (as defined in national arrangements or in vocational qualifications) can be critical to individual learners. Cambridge Assessment research indicates that seemingly ‘low stakes’ assessment can have a powerful effect on learners’ views of themselves (their identity as learners, their sense of belonging to specific learner groups) and can dramatically affect learners’ decisions about the things at which they are ‘good’ and ‘bad’. In turn, this can affect learners’ decisions about which directions to take in learning programmes, where to put effort in order to excel, and so forth. In short, an ostensibly ‘low stakes’ test – such as Key Skills - can affect the life chances of a candidate sometimes by a greater factor than a ‘gifted and talented’ candidate failing to get precisely the right grade they wanted at GCSE.**

**As a result, Cambridge Assessment does not differentiate different levels of quality assurance, development effort and evaluation/research effort on the basis of the 'high stakes/low stakes' distinction. We believe that a regulatory system dedicated to ensuring quality for the many not the few cannot narrow its regulatory focus to 'high stakes' qualifications only, whether at point of entry or not.**

**Further, the sentence "Ministers might also take a view on which qualifications should be closely scrutinised as a matter of policy" (2.20) sits uneasily with the 'case for change' laid out in 1.29 - if "the fact that the QCA...reports to Ministers can make it harder to demonstrate...it is acting wholly independently" then giving Ministers any kind of power to direct what the regulator should scrutinise and at what intensity re-introduces the difficulties dealt with by the establishment of an independent regulator. As with any other stakeholder, Ministers have always been able to indicate to a regulator what they consider to be important and regulators have always taken such indications on board.**

6 What should the regulator do to encourage and enable innovation by awarding organisations (paragraphs 2.23-2.24)?

**There is more to 'innovation' than technological advance.**

**The innovation of assessment is equally important. The document is correct in identifying that "much of this innovation has come from the awarding bodies". Indeed, Cambridge Assessment itself could not have survived for the last 150 years if it had not engaged in continuous innovation – the majority of that time being without any regulator at all, other than the University of Cambridge providing quality assurance oversight. Most of the innovation in assessment has grown out of awarding bodies listening to schools, universities and businesses. A few examples would be Nuffield Physics and Chemistry in the 1970s, MEI maths (created with schools and the Trust) and CLAIT (created with employers and trainers in the 1990s, Twenty First Century Science (created with Nuffield and York University) and OCR Nationals (created with schools) in the 2000s. By contrast, centrally directed innovation such as NVQs and GNVQs have been far less successful.**

**Therefore, to encourage assessment innovation the regulator needs firstly to ensure a competitive market exists. Then it needs to focus on high-level definitions of needs and be flexible in accrediting assessments that reach the same goal using alternative methodologies. Detailed regulatory prescription is usually the death of innovation. In a system seeking to widen participation and enhance the learning experience of all students, there needs to be room for awarding organisations to try a variety of**

**approaches. Adopting a flexible approach puts the risk where it belongs – on the awarding bodies. If an alternative assessment does not meet a demand, the awarding body (rather than the state) will be left with a useless qualification on its hands. If it is successful, that body reaps the rewards of innovation.**

**On the technological side, the same is true. Both Pearson and OCR have introduced powerful new technologies into examinations. The best way the regulator can continue to enable technological innovation is to create an Innovations Unit with a bias toward flexibility based on research. Such a unit should have the power to suspend or alter Codes of Practice to allow experimental pilots to take place. Naturally, the more research data an organisation submitted to such a unit to underpin its request for suspension of Codes, the more likely it should be to gain the suspension or alteration.**

7 Do you agree with the proposed extension of the regulator’s statutory role to cover National Curriculum and Early Years Foundation Stage assessments and tests (paragraphs 2.27-2.28)?

X Yes  No  Not Sure

**As a general rule, if the Government wishes the general public to have confidence in the standard of any test for which it is the main purchaser, it makes sense to give the task of regulating such tests to an assessment expert. Given the importance attached to National Curriculum assessments and the expertise expected to accrue to the regulator, it would seem to be the best option available. Of course, other sources of assessment expertise exist in the United Kingdom and have contributed to the primacy in assessment knowledge that the UK has in relation to the rest of the world. Using one of these organisations is just as feasible. On a minor point, National Curriculum assessments are neither qualifications nor examinations and thus the title of the new regulator might need reviewing.**

8 Do you agree that the regulator should have the power to investigate appeals and complaints covering all types of qualifications and National Curriculum assessments (paragraphs 2.29-2.33)?

X Yes

No

Not Sure

**The power to investigate appeals and complaints should only be used after internal awarding body procedures have been followed. That power should rightly apply to National Curriculum assessments as well. The system and its protocols should be clearly understood between awarding organisations and the regulator. The methodology to be followed should be published widely.**

**Appeals and complaints are very different in the examining world and require different systems to deal with them.**

9 On appeals (paragraph 2.34) should the regulator:

(a) be required to establish an independent panel for appeals? or

(b) have discretion regarding the details of the arrangements?

(Please tick one box only)

X (a) be required to establish an independent panel for appeals?  
or

(b) have discretion regarding the details of the arrangements

**Cambridge Assessment unreservedly supports the current system of an independent panel for appeals and believes it can usefully be extended in the manner described, providing sufficient resources are committed. The EAB is regarded as independent not only from awarding bodies but also from the QCA/regulator. There has never been, as far as we know, any attack on the place of Ministers in the appointments process but removing them even further from the process can only help to underscore its independence. However, for the new regulator to make different arrangements would serve to cast suspicion over the independence of any new body – and it may come to be seen as a policy arm or ‘enforcer’ of the regulator, rather than the court of last resort for the candidate. Thus it would be best if the regulator were required to establish an independent panel for appeals.**

Do you agree that the regulator should have the following powers (paragraphs 2.36-2.38):

10 a) the power to require information, including the power of search and access?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	X	Not Sure
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10 b) the power to direct an awarding organisation?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	X	Not Sure
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10 c) the power to direct a third party to do something or refrain from doing something?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	X	Not Sure
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10 d) the power to charge recognised organisations for the costs incurred in investigating/imposing sanctions?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	X	Not Sure
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10 e) the power to undertake financial scrutiny?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	X	Not Sure
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10 f) the power to intervene and/or impose a sanction, including the power to enforce financial or other penalties?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	X	Not Sure
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10 g) the power to issue non-binding recommendations to awarding organisations to compensate candidates or their families, and to publish any instances where the recommendation is not followed?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	X	Not Sure
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10 h) the power to set conditions for any charges levied by recognised awarding organisations?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	x	Not Sure
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10 i) the power to co-operate with other regulators such as the Office of Fair Trading, the Competition Commission and the Charity Commission?

(Please use the comments box to expand on any of your answers for question 10).

Yes

No

X

Not Sure

**10 a) The powers of search and access to premises of a recognised awarding body would need to be accompanied by safeguards that the regulator would not take part in ‘fishing trips’, nor use the power to destabilise (or threaten to destabilise) an awarding body with which it had a difference of opinion that needed to be resolved in court. Clearly, commercial awarding bodies have more to fear from a well-publicised ‘dawn raid’ than not-for-profit organisations with the confidence of their industry or university backers but such searches do worry staff and need to be undertaken only on very sound grounds.**

**10 d) Charging for investigating similarly needs to be carefully defined. At most, it should only be on a cost-recovery basis and, again, should only be used where the investigation is soundly based.**

**10 e) Undertaking financial scrutiny falls into the same category. Establishing financial stability and capability to deliver specific qualifications is reasonable, assuming safeguards are in place.**

**However, in terms of scrutiny to establish whether charges are reasonable - and powers for setting conditions for charges - require the regulator to have similar powers in relation to third parties that drive up costs. These might need to be applied equally to examination centres and the new development agency:**

**Examination centres show limited interest in minimising costs and maximising value being reluctant to migrate to cheaper providers. The low level of switching suggests that inertia and considered preferences for different syllabuses or working methods are more powerful factors than mere pricing. Centres also persistently fail to submit their exam entries in good time, so incurring substantial financial penalties at the taxpayers’ expense. There is also little evidence that colleges were or are working in networks and using their purchasing power to negotiate costs as Sir Andrew Foster suggested they do in November 2005.**

**Of equal importance, there is a need for the regulator to factor in the impact of both its own and the development agency’s behaviour on the market. There is much evidence in the past that the behaviour of the regulator has driven up costs:**

- Whereas specifications used to be changed about every decade, they are now changed in about half that time - which costs time and money. Simultaneously, the drive to implement e-marking requires substantial investment – driving up costs.
- In its 2002 GCSE criteria the regulator determined that each qualification must contain coursework. The mandatory requirement across all subjects was disproportionate to the educational gain and helped to drive up costs. The reversal of this policy in the latest round of changes also drives up costs as awarding bodies explore alternative methods of assessment.
- The Common Centre Recognition programme aimed to reduce the bureaucracy of dealing with 100+ awarding bodies. The QCA had not appreciated that most schools only deal with three or four exam boards and therefore have little scope for savings or bureaucratic reduction in this field. The initiative was based on scant evidence, with excessive weight given to anecdotal evidence from a handful of colleges. The exam boards and the QCA have invested more than two years and over £1 million in a process which is yet to deliver any tangible benefits.
- The QCA's subsidiary, the NAA, 'assisted' in encouraging more teachers to become examiners. One of the ways it did this was to raise the rate at which examiners were paid and to subsidise that new higher rate for two years. At the end of the programme, the subsidy was withdrawn, leaving boards to pay the new, higher rate into the future. Historic and current patterns of recruitment did not support the thesis that such support was needed.

It is clear that, if it is to use its new powers to best effect, the new regulator's remit must include encouraging centres to make effective use of market mechanisms and must take into account the impact of not only its own actions but also those of the QCA and, most particularly, whichever organisation is responsible for specification design. Clearly, the scope of the regulator's understanding of the cost pressures on awarding organisations feeds directly into its propensity or otherwise to set conditions for charges levied by awarding organisations. If the regulator is not to have the ability to take into account third parties' impact on costs, it cannot conceivably be given the power to set conditions on these charges.

10 f) Given that a good regulator should seek to change behaviour rather than merely 'punish' the regulated in order to deliver system improvement, giving the new regulator a range of graduated sanctions along the lines of the MacRory Review seem sensible.

**10 g) By contrast, giving the regulator similar powers to the Independent Adjudicator for Higher Education in relation to individual complaints will be a distraction from its core purpose of maintaining standards across the system. The independent Examinations Appeals Board (EAB), successfully deals with individual complaints and it is expected that any successor body would continue to do so. Ample tort law exists to cover any other type of individual complaint. It is important that the new regulator is focused on its key task and is not distracted by having other drivers.**

11 Do you agree with the proposals for the objectives of the development agency for curriculum, assessment and qualifications (paragraphs 3.7-3.12)?

Yes

X No

Not Sure

**Countless international conferences demonstrate clearly that the UK has a huge strength in assessment expertise that goes both wide and deep. The current QCA – to fulfil both of the stated objectives - does little more than commission experts from the UK’s assessment community to provide it with advice and data which it, in turn, passes on the ministers. Thus it acts as a conduit for expert advice rather than being “a trusted, expert adviser”. Indeed, frequently the Department goes outside the QCA when it has need of additional activity and chooses not to use the current agency.**

**For example, in the university sector, the assessment expertise of the universities of Bristol, Exeter, Kings College London and the Institute of Education as well as Oxford University, the Faculty of Education in Cambridge and the CEM centre at Durham have all been used by the QCA on a whole range of issues relating to the development of the curriculum and related qualifications.**

**Specifically in relation to National Curriculum tests, the universities of Manchester, Liverpool and Leeds as well as Cambridge Assessment and the NFER have all been called upon to produce and trial questions, while the tests themselves are delivered under contract by Edexcel. The measurement of the performance of schools and colleges, as well as their adherence to policy in relation to the curriculum is already undertaken by HMI and OFSTED, while the entire SIP policy is really beginning to have an impact on the ground.**

**Examples of work undertaken directly by the Department without going via the QCA include the National Strategies for Literacy and Numeracy as well as the ESOL for Work strategy. Both the Tomlinson Review and Rose Review were commissioned directly by Government with the QCA**

providing the kind of support easily delivered by the Department. This illustrates that the best people for curriculum review are not always those formally linked to the QCA but that they are available at the Government's request. In addition, given that most 'lobbying' over curriculum changes is directed at Government - and that ministers take decisions on the detail of the curriculum (sometimes against QCA advice) - it seems clear that the arms-length principle is not working and that curriculum changes should lie directly with the Department.

The "source of feedback" looked for in 3.10 seems to mean that the new agency will mirror the Department's networks and the Department's work. The strongest education network in England lies with the Department and, if it is thought that there is a lack of feedback, the Department should perhaps be better addressing its internal dynamics to ensure that the responses it undoubtedly gets from the groups identified are properly listened to and managed, rather than creating an expensive agency to undertake the task for it.

The effective communication of the government's aims and objectives in whatever field lies with the Government Information Service and the Department's media office and we can see no additional benefit to employing a further number of people at one remove to help with the task.

It is therefore our view that some of the activity outlined by this section should be subsumed into the Department. For other activity, the Department should commission the expertise it need and create a section within itself to act as a quality control agent.

12 Do you agree with the proposed changes to the arrangements for consultation on changes to the National Curriculum or the Early Years Foundation Stage (paragraph 3.21)?

Yes       No       Not Sure

Comments:

13 Do you agree with the proposal to give the agency responsibility for advising on bids for disapplication of the National Curriculum and exemptions from the Early Years Foundation Stage learning and development requirements (paragraph 3.22)?

Yes      X No       Not Sure

**The DCSF has the capacity to undertake this task and it makes sense to leave it with the Department.**

14 How can confidence in the moderation process for Foundation Stage assessments be improved (paragraph 3.25)?

**The establishment of an independent regulator with the powers outlined together with an agency (whether Departmental or stand-alone, see Q 11) that reacts positively to input from the regulator ought to improve confidence in the whole process, whichever organisation is running it.**

15 Do you support the proposal that the development agency for curriculum, assessment and qualifications, and not the regulator, should develop the criteria for public qualifications (paragraphs 3.26-3.31)?

Yes

X No

Not Sure

**The arguments on both sides of this question are very finely balanced but Cambridge Assessment does not believe this is the right route.**

**Firstly, the purpose of the reorganisation is to place the maintenance of standards beyond doubt by removing any suspicion that politicians are 'interfering' in standards.**

**There are two main drivers affecting standards. One lies in the setting of grade boundaries and one lies in the particular assessment approach (or design criteria) adopted.**

**Public concern is almost exclusively related to the latter, which this paper itself admits "will impact substantially on the maintenance of standards..."; examples include specifying six units at A Level, a decision taken to please one part of the education community, led to accusations of 'exam overload'. The fixing of the AS standard at 50%, combined with an over-hasty delivery schedule not allowing pre-testing of questions, led to the variations in setting the A2 standard which resulted in the A level crisis of 2002. The regular changing of decisions in relation to the use of calculators has generated cynicism as well as making the standard difficult to maintain.**

**By contrast, only minor levels of concern have ever been expressed in relation to the setting of grade boundaries having an impact on standards maintenance.**

**Given that government has many other policy levers to ensure “a particular assessment approach is deliverable and is consistent with the wider strategy...”, including funding mechanisms and the appointment process, we conclude that, were it to continue to control the design criteria, public concern over standards would not be abated and might even be exacerbated. Indeed, with the development agency being even closer to government than the QCA under the *Confidence in Standards* model, there is the prospect that public concern would more clearly be directed at Ministers than it is now.**

**Slightly different arguments apply to the setting of subject criteria. It makes sense for the curriculum design organisation, whether that be this body or the Department, to maintain responsibility for the content of some qualifications.**

**Secondly, while it might seem that if the regulator were responsible for design criteria it would have a conflict of interest, in fact good regulatory practice indicates the opposite. For example the CAA sets safety rules and standards which include aircraft design & manufacturing and passenger safety & structures and polices them without such perception. Similarly, the Food Standards Agency acts in the same way in relation to its field of operation. As these two agencies are the most similar to the exams regulator in terms of regulating quality in the interests of consumer protection, it would seem better to follow a model that demonstrably works rather than one with no track record.**

**In summary, the impact on standards from such requirements is so much greater than the impact on standards from minor changes within awarding organisations that the regulator cannot merely take such requirements from the development organisation. If the system is set up so that it removes the regulator from the qualifications development process until the very end, it risks depriving that regulator of its primary means of ensuring that reliable, high standard and fit for purpose qualifications are developed.**

16 How can the agency most effectively support the delivery of public qualifications (paragraphs 3.32-3.36)?

**Much of 3.33 is already undertaken by major awarding bodies through their own co-ordination systems. Most of the tasks outlined could easily be performed by the Department to the same standard.**

**However, Diplomas bring an added level of complexity in terms of numbers of awarding bodies and units and the Diploma Aggregation Service clearly needs to be run by some body.**

**As a general principle in these cases, Cambridge Assessment believe that the new regulator (Ofqual), rather than the proposed agency, would be best placed to facilitate awarding body inter-operability in the interests of sector resilience and preventing barriers to entry. It might then be the case that, having ensured an interoperable service (such as the DAS), the regulator would seek to transfer risk and responsibility back to the sector by handing over the day-to-day operations of service to a body such as the JCQ or FAB.**

17 What rights should pupils in maintained schools and 14-19 year olds in other sectors have to take qualifications for which they have been prepared (paragraph 3.37)?

**No comment**

18 Should there be an ongoing role for a national body to keep under review the qualifications system for post-19 learners and offer advice when requested (paragraphs 3.38-3.40)?

X Yes

No

Not Sure

**The UK Commission for Employment and Skills would seem to be the best national body to review the post-19 qualifications system. As noted previously, the UK has a huge strength in assessment expertise that goes both wide and deep. It also has the second-most mature market with regard to management consultancy. Both DCSF and DIUS have solid relationships with other key stakeholders such as the business organisations and the Federation of Awarding Bodies.**

**The Departments can therefore commission a wide range of expertise when it needs advice on any particular question, while the Commission could**

**bring issues to the attention of Government.**

19 If so, would the development agency for curriculum, assessment and qualifications be the right organisation to fulfil this function?

Yes

X No

Not Sure

Comments:

20 a) Do you have any other comments on the proposals for the regulator?

### **Diversity and Choice (2.2)**

**The Government states that “We want a qualifications and assessment system where... the market in qualifications provides value for money, is regulated only where it needs to be and is free to innovate; and all learners have access to the qualifications they need to reflect and recognise their skills and knowledge.**

**The system has, in the past, encouraged diversity and choice in the qualifications available to learners. However, current Government policy advocates only ‘three learning pathways’ (apprenticeships, GQs and Diplomas) – which would result in a potentially negative impact on qualifications developed in partnership with, and trusted by, key stakeholders. Edexcel BTecs and OCR Nationals are two such examples.**

**Given the prestigious position of UK education in the world and the growth national and in well-established international qualifications used to gain access to UK employment, Cambridge Assessment believes that the way to achieve these objectives is for the new regulator to be open to new ideas and far less prone to taking Departmental instruction on specifics.**

### **Better Regulation (2.4)**

**Cambridge Assessment welcomes the Government’s view that the regulator will commit to the principles of good regulation. But that commitment needs to be real. The current regulator clearly believes in the principles but, as the next few paragraphs show, it does not put them into practice.**

For example, although there are over 115 recognised Awarding Bodies, the burdens fall heavily on the three providers of general qualifications - AQA, Edexcel and OCR – which have by far the most developed risk management systems and managerial expertise. This does not meet the ‘proportionality’ and ‘targeting’ principles. In addition, the concept of reputational risk identified in “Confidence in Standards” is new, untried and used by no other regulator. Indeed, as far as we know, there has been no definition of which reputation is being identified – people, organisations or qualifications. Given that the current regulator does not produce good quality Regulatory Impact Assessments, we would submit that meeting Better Regulation Commission standards of standard regulatory risk analysis should take a higher order of priority than experimenting with a different form of risk analysis.

The QCA has also been less than ‘consistent’ and ‘transparent’. There is ample scope for individuals to interpret the rules and criteria in an entirely *ad-hoc* way. Officers within the current regulator have included those with a particular view as to how specific sectors or subjects should be assessed/delivered/divided up into units of content/assessment and were unable to see qualifications assessed/delivered in any other way. Specific examples include the ICT National at Level 2, the OCR Health and Social Care National and ‘ESOL Skills for Life’ .

This lack of consistency and transparency seems to grow out of the lack of contestability. That is, there is a lack of professional accountability for individuals, there appears to be no requirement for decisions to be justified against clearly defined criteria and the mechanisms of appeal against idiosyncratic interpretations of regulations, such as they are, are weak. By definition, therefore, the ‘accountability’ principle at individual level is practically non-existent. That said, answering to Parliament will enable the new regulator’s high level accountability to be made much clearer.

However, above and beyond the existence of officers with the power to unilaterally interpret requirements in the light of their own agenda, there exist ‘driving concepts’ which are entrenched, have an unclear origin, and have not been subjected to public scrutiny – all of which are contrary to good regulatory practice.

The clearest example of this is ‘coherence’, originally expressed as a Governmental general aspiration. There has been no exposition of whether the qualifications system actually is ‘incoherent’; nor of any explanation as to why this matters; which form of ‘coherence’ would be best for England; whether it would lead to a better system; and whether it demands such a high priority. Yet the QCA has made it a keystone of the ‘rationalisation’ of the system; it is behind the drive to a reduced number of qualifications, the National Qualifications Framework and day-to-day accreditation decisions.

**We would recommend that the Regulators' Compliance Code, based on the Hampton Principles, becomes a statutory commitment for the new regulator in order to overcome these challenges. Its aim is to "to embed a risk-based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators it applies to".**

**Appointment (2.42)**

**The power to appoint both Chair and Chief Executive seems to Cambridge Assessment to run the risk of producing a regulator that is too narrow. At Ofcom, where the Chairman and Non-Executive Board Directors are appointed by the Secretary of State, the Chief Executive is appointed by the Nominations Committee of the Board - which includes the Chairman and an Independent Assessor. This would seem to allow for a wider pool of candidates.**

**Conversely, in line with recent Government constitutional thinking, in the interests of truly creating an independent regulator a case could be made for the Secretary of State to nominate the Chief Regulator and for the House of Commons, through the requisite Select Committee(s), to hold confirmation hearings on the model used in the United States. This would bring a much needed air of openness and accountability into the arcane world of assessment. (*The Governance of Britain, Streamlining public appointments - Improving current processes and strengthening the House of Commons' role, CM 7170, July 2007*)**

20 b) Do you have any other comments on the proposals for the development agency for curriculum, assessment and qualifications?

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

**Please acknowledge this reply X**

Here at the Department for children, schools and families we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

X Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/> No
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All UK national public consultations are required to conform to the following standards:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

Further information on the Code of Practice can be accessed through the Cabinet Office Website: <http://www.cabinetoffice.gov.uk/regulation/consultation-guidance/content/introduction/index.asp>

**Thank you for taking time to respond to this consultation.**

Completed questionnaires and other responses should be sent to the address shown below by 10 March 2008

Send by post to:  
Consultation Unit (Confidence in Standards)  
Area 1A, Castle View House  
Runcorn, Cheshire  
WA7 2GJ

Send by e-mail to: [confidence.instandards@dcsf.gsi.gov.uk](mailto:confidence.instandards@dcsf.gsi.gov.uk)