



Confidence in Standards:

Regulating and
developing
qualifications and
assessment



department for
children, schools and families

Department for
**Innovation,
Universities &
Skills**



Department for Children,
Schools and Families
and
Department for Innovation,
Universities and Skills

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Regulating and developing
qualifications and assessment

Presented to Parliament
by the Secretary of State for Children, Schools and Families
and
the Secretary of State for Innovation, Universities and Skills
by Command of Her Majesty

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Foreword



The development of skills, knowledge and understanding are at the centre of our education and skills system. The assessment and recognition of that learning play a critical part in ensuring that the system is effective. We need an effective system so that every learner can play an active role in our society and contribute to our ongoing economic prosperity.

In England we have an internationally renowned curriculum, assessment and qualifications system. But the demands on the system keep growing. We have in place ambitious and far-reaching programmes for reforming qualifications and tests at all levels, which will make a key contribution to our plans to meet the economic and social challenges of the years ahead. In particular, the Children's Plan, published on 11 December, announced reforms to National Curriculum testing, and in the new year we will publish a 14-19 qualifications strategy and proposals for the funding of learning at 16-19 and the post-19 organisational landscape.

Underpinning these programmes of reform, we need to have in place a robust set of arrangements to ensure that everyone can have confidence in the standards of qualifications and assessment. People must be confident that tests and qualifications are as rigorous now as they were in the past, that standards across different qualifications and subjects at the same level are comparable, and that what is studied is both challenging and relevant to today's world.

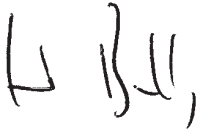
That is why we are publishing these plans to reform how tests and qualifications are regulated. As announced in September, we plan to establish a new independent regulator of qualifications and tests for England, which will be called the Office of the Qualifications and Examinations Regulator. The regulator will be the guardian of standards across the assessment and qualifications system for children, young people and adult learners. The regulator will report directly to Parliament on the tests and qualifications system and the value for money it offers the taxpayer. In developing these proposals we have sought to create a system that is right for now, but will also operate effectively in the changing landscape of the coming years.

We are also taking this opportunity to review how the remaining functions of the Qualifications and Curriculum Authority (QCA) can best be taken forward. QCA will develop into a development agency for curriculum, assessment and qualifications, which will be the key source of expertise

supporting Ministers in curriculum, assessment and qualifications matters. It will also ensure delivery of high quality qualifications and assessments for children and young people.

Throughout all of this, we have sought to build on the knowledge and expertise of QCA and the excellent work it has undertaken over the past ten years. We are grateful to the Board and staff of QCA for their ongoing commitment and hard work and for their contribution to these reforms.

We are confident that these plans will enable the public to continue to place the highest confidence in the standards of qualifications and assessment. We welcome your views on the details of our proposals.



Ed Balls
Secretary of State for Children,
Schools and Families



John Denham
Secretary of State for
Innovation, Universities and Skills

Executive Summary

The case for change

1. Decisions about what learners should be taught (curriculum) and how this learning should be tested (assessment) and recognised (qualifications) are at the heart of our education and skills system. We must ensure that the organisations and arrangements governing the curriculum, assessment and qualifications are effective and help us to deliver world class education and skills.
2. The Qualifications and Curriculum Authority (QCA) has successfully led the development of qualifications and tests over the last 10 years, and has shown robust independence in its regulatory work. However, it is critically important not only that qualifications and tests are of the highest quality, but also that they are seen to be so. Learners of all ages deserve a world class assessment and qualifications system which recognises hard work and achievement. The public, employers and further and higher education institutions must have confidence that standards are comparable across qualifications at the same level, across different subjects and across awarding organisations; that evidence of the impact of investment in education is reliable; and that year on year standards of assessment and qualifications are being maintained. The proposals in this document set out how we will secure this confidence.

A new regulator

3. We plan to establish a new independent regulator of qualifications and tests for England. The regulator will be the guardian of standards across the assessment and qualifications system for children, young people and adult learners, and will make sure that the qualifications market is delivering value for money. To make sure that people can have confidence that its judgements are, and are seen to be, objective, it will be independent of Ministers and will report to Parliament. It will be called the Office of the Qualifications and Examinations Regulator. Like QCA, it will have no role in relation to qualifications awarded or authenticated by higher education institutions.
4. The regulator will regulate at a strategic level, but will have the power to look at individual qualifications where necessary. To maintain standards over time it will:
 - recognise organisations that develop and award qualifications;
 - monitor and inspect awarding organisations; and
 - accredit public qualifications such as A levels, Diplomas and GCSEs.

5. The regulator will also be responsible for overseeing the qualifications market and ensuring that it provides value for money, for investigating complaints and for considering appeals. The regulator will regulate qualifications in England, but will maintain the valuable three-country qualifications framework with Wales and Northern Ireland and will co-operate closely with the qualifications regulator in Scotland.
6. The regulator will also have a remit to regulate National Curriculum tests and the moderation of assessment at Key Stage 1 and in the Early Years Foundation Stage.

A development agency for curriculum, assessment and qualifications

7. The establishment of a new independent regulator of qualifications and tests provides an opportunity to review the non-regulatory work of QCA – its advice and support for Ministers in the monitoring and development of curriculum and related qualifications, and the delivery of tests and assessment.
8. QCA will therefore evolve into a development agency for curriculum, assessment and qualifications. It will be the key source of expertise supporting Ministers in the monitoring and development of curriculum and related qualifications, and will develop and deliver National Curriculum tests and other forms of assessment and ensure delivery of public qualifications. The agency will need to work closely with Ministers as a trusted, expert adviser and delivery agency, and will support the communication of government aims for curriculum and qualifications.
9. The agency will be a source of expertise and, where requested, advice on the development of high quality qualifications for adults, working alongside Sector Skills Councils, which will approve vocational qualifications to go onto the national framework. We are seeking views on whether the agency should have a standing function to review the adequacy of the system for adult learners and to make recommendations for change.

Introducing the changes

10. These are important changes and we plan to introduce them as soon as possible. We plan to implement these proposals in two phases. We can go some way to securing the benefits of an independent regulator of qualifications and tests within the existing legal framework. In the first phase, we plan to establish an interim regulator in advance of the 2008 summer exams season.
11. In the second phase, we will bring forward legislation to establish the new regulator and the development agency. The detail of these legislative provisions will be informed by responses to this consultation.
12. These proposals apply principally to England, although QCA has some responsibilities in Northern Ireland. We will work with the relevant Department in Northern Ireland to consider the impact of the reforms on those functions, and with the devolved administrations in Northern Ireland and Wales to ensure that the three-country qualifications framework is maintained as we reform regulatory structures in England.

13. The rest of this document sets out our proposals in more detail and seeks your views. Chapter 1 explains how the current system of curriculum, qualifications and assessment development and regulation operates and sets out the case for change. Chapter 2 sets out our vision for a new independent regulator and proposals for how this body should regulate qualifications, tests and assessments. Chapter 3 sets out the responsibilities of the development agency, the body that will take on the non-regulatory functions of QCA, and our proposals for how this organisation will operate. Chapter 4 sets out how we plan to implement these reforms.

Chapter 1: The current landscape and the case for change

Summary

Decisions about what learners should be taught (curriculum) and how this learning should be tested (assessment) and recognised (qualifications) are central to our education and skills system. We must ensure that the organisations and arrangements governing the curriculum, assessment and qualifications are effective and help us to deliver a world class education system.

The Qualifications and Curriculum Authority (QCA) has, since 1997, been responsible for monitoring and advising on the curriculum for young people of compulsory school age, developing associated assessments, tests and examinations, and regulating qualifications offered in schools, colleges and workplaces in England. QCA has no role in relation to qualifications awarded or authenticated by higher education institutions.

QCA has shown robust independence in its regulatory work and has developed an approach to assuring standards which is recognised internationally for its quality and reliability. However, we believe that more can be done to sustain full confidence in the standards of qualifications and assessment. This chapter sets out how the current system works and explains the case for change.

- 1.1 This chapter sets out the current arrangements for developing and regulating the curriculum, qualifications and assessments. It looks in detail at the role of the Qualifications and Curriculum Authority and sets out the case for change.
- 1.2 Qualifications and tests are central to ensuring that young people make good progress at all stages of schooling; to raising standards and participation at 14-19; and to improving the skills of our adult workforce to meet the economic challenges of the future. We need to make sure that the qualifications and tests taken by both young people and adults are not only relevant, engaging and of high quality, but continue to command the full confidence of employers, further and higher education institutions and the wider public. We must ensure that young people, adult learners and their teachers feel that their hard work and achievements are properly recognised.

- 1.3 With our partners at all levels of the education system, we must continue to raise standards and to close achievement gaps. To support this, the information we have about the performance of the system must be trusted and transparent, so that we can identify areas for development and recognise success.

The school curriculum

- 1.4 The school curriculum in England comprises all learning and other experiences that a school provides for its pupils. Within the school curriculum, the National Curriculum secures for all pupils an entitlement to a number of areas of learning. It lies at the heart of our policies to raise educational standards. Its aim is to develop the knowledge, understanding, skills and attitudes necessary for each pupil's self-fulfilment and development as an active and responsible citizen.
- 1.5 In particular, the National Curriculum gives all children the opportunity to develop the skills and understanding required to continue learning throughout their lives. The National Curriculum sets out the subjects which must be taught during each of the four Key Stages of the curriculum between the ages of 5 and 16. The Foundation Stage of the National Curriculum currently covers children aged 3 to 5 in maintained schools and those receiving the free entitlement to early education in settings in the private, voluntary and independent sectors. From September 2008, this Foundation Stage will be incorporated into and replaced by the Early Years Foundation Stage (EYFS). The EYFS will set the standards for the provision of learning, development and care for children from birth to the age of 5 in all types of setting. It will not be part of the National Curriculum.

School assessment

- 1.6 All pupils in maintained schools are assessed when they complete each Key Stage of their education – teacher assessment at the end of Key Stage 1 and externally marked tests at Key Stages 2 and 3. At the end of Key Stage 4, pupils take GCSEs or a range of other qualifications. These assessments help teachers and parents check a pupil's progress and take decisions about the next stage of their education. At a national level, the outcomes of assessments are used for accountability and to support school improvement. They provide parents and taxpayers with clear, nationally benchmarked measures of attainment.

Qualifications

- 1.7 Qualifications are central to raising standards and participation for 14-19 year olds and to improving the skills of our adult workforce to meet the economic challenges of the future. There is a wide range of qualifications including public qualifications¹, vocational qualifications and occupational qualifications. Every year, hundreds of thousands of young people and adults will work towards one or more qualifications.

¹ The term 'public qualifications' is used in this document to mean those qualifications, particularly for 14-19 year olds, which are broadly developed as a matter of policy rather than on the initiative of an awarding body. Public qualifications include GCSEs, A levels, Diplomas and functional skills qualifications.

- 1.8 Over the past 10 years there have been sustained increases in the numbers of learners securing qualifications. The percentage of pupils aged 15 in England achieving 5 or more grades A* – C at GCSE has increased from 45.1% in 1996/97 to 60.3%² in 2006/07. The number of National Vocational Qualifications awarded in the UK has increased from 446,000 in 1997/98 to 584,000 in 2005/06 and the numbers awarded at level 3 (equivalent to A level) or above have increased by 63,000³. More young people than ever before are obtaining the qualifications they need to enter higher education. Since 2001, more than 1.7 million adults have gained literacy and numeracy qualifications through the Skills for Life programme.
- 1.9 Qualifications are developed and awarded by awarding bodies. There are many awarding bodies, and any particular type of qualification may be offered by one or more awarding bodies. This means that there is a market in qualifications: exams centres such as schools and colleges choose their supplier from the awarding bodies offering the qualification they want. This market should encourage diversity and choice in the qualifications available to learners and ensure that awarding bodies maintain the high quality of their qualifications. At present, there are around 6,000 qualifications in the national system, offered by 125 recognised awarding bodies which are regulated by QCA together with the regulators for Wales and Northern Ireland.

The UK context

- 1.10 Qualifications in England form part of a broader picture across the United Kingdom. The regulators in England, Wales and Northern Ireland jointly accredit qualifications available in these three countries. These arrangements help ensure that qualifications are understood and recognised across the three countries, benefiting learners, employers and further and higher education institutions. The regulators also work closely with the regulator in Scotland, particularly in relation to vocational qualifications.

What QCA does now

- 1.11 QCA is a statutory authority that was established by the Education Act 1997. It is a Non-Departmental Public Body and is governed by a Board whose members are appointed by the Secretary of State for Children, Schools and Families. QCA performs a wide range of functions relating to curriculum, qualifications and assessment. QCA receives an annual remit and funding settlement from the Government, including remits from both the Department for Children, Schools and Families (DCSF) and the Department for Innovation, Universities and Skills (DIUS), and is accountable to Ministers for the delivery of those remits – although its regulatory functions, in particular, are undertaken at arm's length from Ministers.

2 Provisional figure. See http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000754/SFR34-2007_v2.pdf

3 See <http://www.dcsf.gov.uk/rsgateway/DB/SFR/s000709/SFR05-2007v1.pdf>

QCA's current responsibilities include:

- Keeping under review and advising the Secretary of State on all aspects of the school curriculum and assessment
- Consulting upon, and providing advice to Ministers about, changes to the National Curriculum, including the Foundation Stage
- Publishing and disseminating information relating to curriculum, assessment and qualifications
- Carrying out programmes of research and development in respect of curriculum, assessment and qualifications
- Developing, delivering and administering national tests, auditing and moderation, and maintaining standards of assessment.

And, in conjunction with the Department for Children, Education, Lifelong Learning and Skills (DCELLS) in Wales and the Northern Ireland Council for Curriculum Examinations and Assessment (CCEA):

- Keeping under review and advising the Secretary of State on all aspects of external qualifications
- Regulating awarding bodies
- Developing and publishing criteria for the accreditation of qualifications, including setting detailed requirements for public qualifications
- Accrediting qualifications into the national qualifications framework
- Establishing and maintaining qualification standards
- Ensuring that there are appropriate qualifications available to meet national and local need.

Curriculum and tests

1.12 QCA is responsible for monitoring and developing the curriculum for young people of compulsory school age, developing the National Curriculum and keeping it under review, and evaluating its appropriateness and relevance to the changing needs of learners and society. QCA reports annually to the Secretary of State for Children, Schools and Families on its findings. It also publishes information and guidance about the curriculum for teachers, parents and learners.

1.13 A key piece of work recently undertaken by QCA was the revision of the secondary curriculum. Following the proposals set out in the White Paper *14-19 Education and Skills*⁴, Ministers asked QCA to consult and advise on proposals for a new secondary curriculum to give schools the flexibility to meet students' individual needs and strengths. Ministers set the scope of this curriculum review and approved the final proposals. This new secondary curriculum will be taught from September 2008.

4 *14-19 Education and Skills*, February 2005 – <http://www.dfes.gov.uk/publications/14-19educationandskills/>

- 1.14 QCA will also be closely supporting the review of the primary curriculum announced in the Children's Plan⁵. QCA will take the leading role in providing the evidence required for the review, and will manage the associated consultations. This will be a root and branch review, led by Sir Jim Rose, to ensure that there is:
- more time for the basics so that children achieve a good grounding in reading, writing and mathematics;
 - greater flexibility for other subjects;
 - time for primary school children to learn a modern foreign language; and a smoother transition from play-based learning in the early years into primary school, particularly to help summer-born children who can be at a disadvantage when they enter primary school.
- 1.15 QCA currently also has a statutory role in relation to the curriculum and assessment for the Foundation Stage, and will have the same role for the areas of learning and development for the new EYFS from September 2008.
- 1.16 QCA is also responsible, through the National Assessment Agency (NAA), for the development and delivery of National Curriculum assessments, the statutory tests taken by all children towards the end of each Key Stage. The NAA manages the development and marking of these tests, establishes the level thresholds for attainment and provides data on attainment to the Government. It works with schools to ensure the correct delivery of these tests and carries out reviews of marking where schools request them. The NAA is also responsible for the national audit of the moderation of teacher assessment at the Foundation Stage and Key Stage 1.
- 1.17 At present, all learners take National Curriculum tests when they complete the programme of study for each Key Stage. We are currently examining – through the Making Good Progress Pilot – a range of ways to improve the number of children making good progress in English and mathematics at Key Stages 2 and 3.
- 1.18 One element of this pilot is the trialling of 'single-level' tests. NAA is managing the development and delivery of the tests within the pilot. These tests, which can be taken during two windows each year, are designed to confirm a teacher's judgement that a learner has achieved a particular level in a subject. They are shorter than the current National Curriculum tests and provide a more flexible approach to assessment and progression. The Children's Plan announced our intention to implement new single level tests in reading, writing and mathematics on a national basis at the earliest opportunity, subject to positive evidence from the pilot and to regulatory endorsement of this approach. The new tests would replace the current National Curriculum tests for 11 and 14 year-olds in English and mathematics.

Regulating qualifications and tests

- 1.19 QCA is responsible in England for regulating qualifications at all levels except those awarded or authenticated by higher education institutions. The main focus of this work is the

5 *The Children's Plan – building brighter futures*, December 2007,

http://www.dfes.gov.uk/publications/childrensplan/downloads/The_Childrens_Plan.pdf.

The aim of the Plan is to put the needs of families, children and young people at the centre of everything the DCSF does.

maintenance of standards of qualifications and assessment. Over the last 10 years, QCA has shown robust independence in its work as a regulator and has developed an approach to assuring qualification standards which is recognised internationally for its quality and reliability – as an independent report by the Education Director of the OECD⁶ put it in 2004, “no examination system, at the school or other level, is so tightly or carefully managed”. And confidence in the system among teachers and students has improved over the past few years⁷.

- 1.20 QCA has responsibility for setting criteria for the accreditation of qualifications and for accrediting qualifications which meet those criteria. To facilitate this, QCA recognises awarding bodies to offer accredited qualifications; the current Education and Skills Bill includes provisions to put recognition of awarding bodies on a statutory basis. The purpose of this recognition is to ensure that only those awarding bodies which meet certain requirements and are deemed capable can submit qualifications for accreditation.
- 1.21 QCA works with the qualifications regulators in Wales and Northern Ireland to maintain the National Qualifications Framework (NQF). This framework sets out a series of levels against which all qualifications are recognised. Qualifications at the same level are broadly similar in terms of the demands they place on the learner. This helps learners make informed decisions about the qualifications they want to pursue. When a qualification has been accredited and added to the NQF it is listed on the National Database of Accredited Qualifications, which is run by QCA. This system ensures that there are consistent standards across the diverse and complex range of qualifications.
- 1.22 Once a qualification has been accredited, QCA monitors the delivery of the qualification to ensure that standards are maintained. For instance, QCA undertakes and publishes a regular series of studies comparing standards in GCSEs and A levels over time.
- 1.23 QCA also regulates National Curriculum assessments, including assessments at Key Stages 2 and 3 and the pilot single level tests. It establishes regulatory requirements for the procedures which the NAA must follow in developing and administering tests.

Developing qualifications

- 1.24 As well as setting general criteria for all qualifications, and accrediting qualifications which meet those criteria, QCA and its fellow regulators in Wales and Northern Ireland develop and keep under review the more detailed criteria for public qualifications, such as GCSEs, A levels and Diplomas. These more detailed requirements may include the subject content, level and method of assessment involved in the qualification. QCA works closely with the Government to ensure that these qualification criteria appropriately reflect the purpose of the qualification. It also consults widely with subject experts and others, to ensure that the criteria contain the appropriate content.

6 *Examination Standards: Report of the independent committee to QCA* (QCA, December 2004) – http://www.qca.org.uk/qca_9810.aspx

7 *GCSEs and A level: the experiences of teachers, students, parents and the general public* (QCA, November 2006) – <http://www.qca.org.uk/libraryAssets/media/2006-MORI-Perceptions-A-levels-and-GCSEs-report.pdf>

- 1.25 Awarding bodies then develop their qualifications against these criteria. The qualifications and content criteria for GCSEs, for example, have recently been reviewed and updated to reflect changes to the secondary curriculum; change assessment arrangements; and make progression routes to higher levels of study more explicit.
- 1.26 An important part of our ongoing drive to improve attainment and participation, particularly amongst 16 to 18 year olds, is ensuring that the public qualifications on offer meet the needs of employers and are appealing to learners. Subject to the passage of the current Education and Skills Bill, we plan to raise the participation age – the age to which young people will be required to participate in education or training – to 17 by 2013 and to 18 by 2015. We must ensure that there is a comprehensive and comprehensible range of qualifications available to meet the needs and aptitudes of all young people.
- 1.27 In relation to vocational qualifications, we have already set out our proposal, in *World Class Skills*⁸, that responsibility for shaping the content of vocational qualifications should rest with employers acting through Sector Skills Councils (SSCs). This will ensure that learners develop the skills that employers need and help us to meet the ambitious targets set in the Leitch Review⁹ to meet the skills challenges of the future.
- 1.28 QCA is working with others to test and trial the Qualifications and Credit Framework (QCF), which will provide a new way of recognising achievement through the awarding of credit for units and qualifications. It will provide flexible routes to gaining qualifications, and enable qualifications to be achieved in small steps.

The case for change

- 1.29 As a result of the work of QCA and its fellow regulators, we can have confidence that qualification standards have been maintained, and that improved results in recent years reflect the hard work of students and teachers, and higher levels of investment in our education system. Yet the public debate each year about exam results reflects a persisting view that qualification standards are not being adequately protected, so we have been looking again at the mechanisms through which we aim to secure public confidence in the standards of qualifications and assessment. We have concluded that there are currently two barriers to securing this confidence:
- firstly, the fact that QCA as an organisation reports to Ministers can make it harder to demonstrate that, in carrying out its regulatory function, it is acting wholly independently; and
 - secondly, there is an inherent conflict of interest between QCA's existing functions. As set out above, QCA is responsible for developing the content of public qualifications and tests, and for the actual delivery of National Curriculum tests, as well as for regulating those qualifications and tests. It is difficult for QCA to be seen as a truly independent guarantor of standards in qualifications which it itself delivers or develops.

8 *World Class Skills: Implementing the Leitch Review of Skills in England*, July 2007 http://www.dcsf.gov.uk/skillsstrategy/uploads/documents/World_Class_Skills_FINAL.pdf

9 *Prosperity for all in the global economy – world class skills*, December 2006 http://www.hm-treasury.gov.uk/media/6/4/leitch_finalreport051206.pdf

1.30 The proposals in this document set out how we will tackle these barriers: it is critically important not only that qualifications are of the highest quality, but also that they are seen to be so by learners, employers and the public. The need to develop public confidence is particularly important as we develop new qualifications, such as Diplomas; pilot single level tests; and carry out reforms of vocational qualifications. And we need a system that is both flexible and robust in order to meet new challenges and operate in a rapidly changing landscape. This is what the proposals set out in this document will achieve.

Chapter 2: A new regulatory system

Summary

Learners of all ages deserve a world class assessment and qualifications system which recognises hard work and achievement. The public, employers and further and higher education institutions must trust that tests and qualifications taken by learners are of high quality. They must have confidence that standards are comparable across qualifications at the same level, across different subjects and across awarding organisations; that evidence of the impact of investment in education is reliable; and that year on year standards of qualifications are being maintained.

Awarding organisations, which develop and implement qualifications, must be allowed to operate in a transparent regulatory environment. Regulation should be carried out in relation to risk – with closer scrutiny of, for example, new, high status or high volume qualifications and less detailed scrutiny of other qualifications. Awarding organisations should have the freedom to innovate wherever possible.

We plan to establish a new independent regulator of qualifications and tests for England. The regulatory body, which will be called the Office of the Qualifications and Examinations Regulator, will be the guardian of standards across the assessment and qualifications system for children, young people and adult learners, and will make sure that the qualifications market is providing value for money. It will have the power to investigate complaints and hear appeals. To make sure that people can have confidence that its judgements are, and are seen to be, objective, it will be independent of Ministers – it will report to Parliament. Like QCA, it will have no role in relation to qualifications awarded or authenticated by higher education institutions.

The regulator will regulate at strategic level, but will have the power to look at individual qualifications where necessary. To maintain qualification and assessment standards over time it will: recognise organisations that develop and award qualifications; monitor and inspect such organisations; and, as now, scrutinise closely public qualifications such as A levels, Diplomas and GCSEs.

The regulator will also have responsibility for regulating National Curriculum tests and the moderation process for assessment at Key Stage 1 and the Early Years Foundation Stage.

The regulator will regulate qualifications in England. It will maintain the valuable three-country qualifications framework with Wales and Northern Ireland; and it will co-operate closely with the qualifications regulator in Scotland.

- 2.1 This chapter sets out our plans to create a new system for the regulation of qualifications and tests. This system will ensure that standards of qualification and assessment are maintained and can command the full confidence of the public.

Our vision

- 2.2 We want a qualifications and assessment system where:
- qualifications are world class;
 - assessment is valid, reliable, fair and manageable;
 - information on attainment year on year is trusted and transparent;
 - the public is better informed about examination standards and gets independent information on the state of the system from an unbiased regulator;
 - 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 new Office of the Qualifications and Examinations Regulator

- 2.3 We aim to bring forward legislation at the earliest opportunity to establish a new regulator of qualifications for England which will make this vision a reality. The regulator's core purpose will be to continue to secure high standards in qualifications and assessment, and to maintain confidence in those high standards. It will do this by regulating the qualifications and assessment system as a whole, the awarding organisations and, where appropriate, individual qualifications. In carrying out this role, the regulator will commit – as QCA already has – to the government's principles of good regulation:
- **proportionality** and **targeting**: the amount and nature of intervention should reflect the level of risk, and regulatory intervention should be aimed at what it is intended to achieve and avoid unintended side-effects. The regulator will ensure that organisations have their own effective quality assurance systems in place, but may impose tight scrutiny of qualifications where risk – including reputational risk – is high;
 - **accountability**: the regulator will have public interest at its core. It will be independent of government, and will report to Parliament on standards in qualifications and assessment, and the value for money offered by the qualifications market;

- **consistency** and **transparency**: organisations awarding qualifications will be regulated against a clear and mutually understood framework which is publicly available and applied consistently. The regulator will be expected to consult on the details of the framework. A similar framework should apply to the regulation of National Curriculum and Early Years Foundation Stage assessments.

2.4 These proposals do not increase the number of regulators in the system. They shift existing regulatory functions from QCA to a new independent body, which will be able to regulate more effectively and transparently.

The scope of the regulator

2.5 The new regulator – like QCA – will regulate qualifications at all levels for young people and adults, with the exception of qualifications awarded or authenticated by higher education institutions. Regulated qualifications will include public qualifications, vocational qualifications and non-vocational qualifications. We will continue to expand the range of organisations¹⁰ offering accredited qualifications to include more employers and training providers, in line with the plans set out in *World Class Skills*.

2.6 It will remain the decision of an awarding organisation whether to seek accreditation of its qualifications in the national framework. Accreditation is a guarantee of quality for learners and is usually a condition for public funding, but there are many awarding organisations and qualifications outside the national framework. The regulator will want to promote the benefits of entry into the national framework, as a badge of quality and to promote public understanding of the qualifications.

2.7 We also propose to formalise the regulator’s role in relation to school assessments delivered by the National Assessment Agency (NAA), giving it an express statutory basis on which to regulate these assessments. This includes the moderation processes for the Early Years Foundation Stage Profile and Key Stage 1 teacher assessments, and National Curriculum tests, including the new single level tests.

The functions of the regulator

2.8 The regulator will have the power to regulate at three different levels:

- system level;
- organisation level (regulating individual awarding organisations); and
- qualification level (regulating the detail of some qualifications and their components or units).

10 In this document we use the term “awarding organisations” when referring to all organisations which will in future be able to award qualifications, and “awarding bodies” when referring to the existing awarding bodies.

System level regulation

- 2.9 At system level, we intend that the functions of the regulator should include:
- keeping under review all aspects of regulated qualifications;
 - conducting studies of the qualifications and assessment systems in England, including:
 - studies of the efficiency and value for money of the qualifications system and surveys of market activity;
 - strategic reviews of different parts of the qualifications system;
 - studies of public confidence in the qualifications and assessment systems; and
 - producing information about the national systems of qualifications and assessment.
- 2.10 In looking at the qualifications system, the regulator will be expected to work with Ofsted, the new Commission for Employment and Skills, and other bodies with relevant responsibilities, as well as the regulators in Wales and Northern Ireland; and it will need to co-operate closely with the qualifications regulator in Scotland.

Organisation level regulation

- 2.11 At organisation level, we intend that the regulator should be responsible in law for recognising organisations that award qualifications or parts of qualifications in the national framework¹¹. The regulator will be expected to maintain and publish a list of all recognised awarding organisations.
- 2.12 To operate as an awarding organisation for national qualifications, an organisation will need to be recognised by the regulator. The regulator will develop a series of requirements that all organisations seeking to become recognised awarding organisations will need to satisfy before being recognised. The regulator will consult on the detail of these requirements, but they are likely to include: assurances of organisational stability and capability of carrying out assessments securely and competently; requirements to have thorough quality assurance processes in place; and agreement to regular inspection and monitoring by the regulator. The terms of an awarding organisation's recognition will set out the types of qualifications it has been recognised to award.
- 2.13 Organisations will also need to show that they will adhere to the rules of the national framework for qualifications, such as – where appropriate – allowing units awarded by other recognised organisations to count towards their qualifications and obtaining approval from a Sector Skills Council (SSC) for a vocational qualification in the relevant sector. The continued recognition of an organisation will be dependent on it not being involved in activities which in the view of the regulator are liable to conflict with their awarding functions, unless systems are in place to ensure the integrity of the awarding organisation's qualifications.
- 2.14 We propose to remove the existing requirement that restricts regulatory activities to externally awarded qualifications, or those which are authenticated by a third party, and,

¹¹ The Education and Skills Bill, introduced in November 2007, contains provisions to extend the function of recognising awarding bodies to QCA.

instead, allow the regulator to determine the terms of the recognition for organisations which deliver their own qualifications. This will remove a restriction which is widely seen as unnecessarily bureaucratic and restrictive, and will allow organisations – such as large employers and training providers (including further education colleges) – which have the capability to award their own qualifications to do so.

Question 1: Do you agree that these proposals are the best way of regulating at the organisational level?

Question 2: Do you agree with the proposal to remove the restriction to externally awarded qualifications?

2.15 The new system will make it easier for a greater number of organisations to become awarding organisations. The regulator will need to have the capacity to manage this potential increase in the number of applications for recognition. We would therefore welcome views on the possibility of giving the regulator a power to charge potential awarding organisations for the recognition process. Were this to go ahead, the regulator would be required to consult on and publish a schedule of charges, and to apply it consistently.

Question 3: Do you believe that the regulator should have the power to charge for recognition of awarding organisations?

Qualification level regulation

2.16 In the current system there are three levels of requirement for qualifications:

- general requirements – these are high level requirements that apply to all regulated qualifications. They include requirements that each new qualification has the support of interested parties, (for example, that the relevant SSC supports a sector-specific qualification) and that exam centres can confirm that candidates' work is authentic;
- qualification requirements – these are requirements specific to a particular category of qualification, such as GCSEs, A levels or Diplomas. The requirements determine, for example, that A levels must always be graded in a particular way, or that Diplomas must include particular combinations of learning; and
- sector or subject requirements – these requirements currently exist only for A levels, GCSEs and Diplomas. These might include, for example, a requirement that GCSE music must include a performance element.

2.17 We propose that the regulator should have the power to set requirements at each of these levels, but to simplify the system we also propose to subsume the general requirements into the awarding organisation recognition process. This would mean that part of the recognition process would be to check that an awarding organisation could meet general requirements. The terms of recognition would specify which types of qualification an organisation might offer. Qualification and subject requirements would apply only to the organisations recognised to award relevant types of qualification.

Question 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?

Entering qualifications into the national system

- 2.18 We want a system where qualifications are world class. This means that they must be subject to an appropriate level of scrutiny before being made available to the public. We also need to balance this with the desire to regulate the market in qualifications, intervening only where necessary, allowing awarding organisations the freedom to innovate.
- 2.19 Qualifications within the national system are used for different purposes. Some are public qualifications, used to record young people's achievements in their formal years of education. Other qualifications are focused on the needs of particular employment sectors. We need to make sure that employers in these sectors are confident that the skills that the qualifications are testing are relevant and up to date.
- 2.20 It is appropriate, therefore, that the regulatory framework should allow for different approaches to different qualifications. We propose that the regulator should take a view, based on risk, about which qualifications need closer scrutiny at the point of entry to the system. Ministers might also take a view on which qualifications should be closely scrutinised as a matter of policy. A levels, GCSEs and Diplomas – high profile, high stakes qualifications in which there is a lot of public interest and significant reputational risk were things to go wrong – would continue to be scrutinised closely before they are accredited.
- 2.21 It might also be appropriate for the regulator to scrutinise any other qualifications which are being considered for widespread use in publicly funded schools and colleges.
- 2.22 It would not be necessary, however, for the regulator to accredit every new qualification that enters into the qualifications system. Subject to being recognised by the regulator to do so, awarding organisations would be free to develop lower-risk qualifications and enter them into the national system.

Question 5: Do you agree with the proposal for a risk-based approach to the way in which qualifications enter the national system?

Innovation

- 2.23 We want a system that encourages and rewards innovation by the awarding organisations. In recent years, the growth in the use of technology in assessment has opened the door to improvements in the quality of marking and the feedback available to students and teachers. It also allows for challenging tasks to be undertaken as part of a wider assessment.
- 2.24 Much of this innovation has come from the awarding bodies. We want the regulator to set a clear framework which encourages such innovation and sharing of best practice, whilst ensuring that standards of assessment are appropriately safeguarded.

Question 6: What should the regulator do to encourage and enable innovation by awarding organisations?

Monitoring and inspection

- 2.25 In addition to the recognition process, the regulator will monitor recognised organisations and hold them to account for their performance. This is likely to take the form of periodic monitoring checks and regular inspections, the findings of which will be made public. The regulator may also request formal reports from recognised organisations. Currently QCA sets performance indicators for awarding bodies delivering public qualifications and reports on the awarding bodies' performance against those indicators. We expect the new regulator to continue to exercise that role, keeping the performance indicators continually under review.
- 2.26 As well as monitoring awarding organisations, the regulator will monitor qualifications in the national system. The focus of this monitoring activity and the degree of detail in which it is undertaken will be determined by risk. The regulator will need to develop and consult on a clear framework for its monitoring activity.

National Curriculum assessments and tests

- 2.27 Chapter 1 set out how National Curriculum assessments and tests are currently conducted. At the moment, regulation of these assessments and tests is not an express function of QCA. We propose to formalise the regulator's role, making it an express statutory function similar to that for the regulation of qualifications. We believe that this will improve confidence in the testing and assessment system.

The Early Years Foundation Stage

- 2.28 Alongside the extension of the regulator's statutory powers to regulate National Curriculum assessments and tests, we also propose to give the regulator statutory powers to regulate the process for national and local authority moderation of assessments made at the end of the Early Years Foundation Stage.

Question 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?

Appeals and complaints

- 2.29 We want the regulator to focus its activity at a strategic level. However, when things go wrong – as they will on occasion – there needs to be a clear process for investigating what has happened. This is vital in order to correct any impact on the learner(s) affected, to learn any wider lessons, and to prevent a wider loss of confidence in the system.
- 2.30 Therefore, we propose that the regulator should have the power to investigate complaints and appeals about recognised organisations or individual exam results from other providers of education and training or from the public. As with similar complaints processes, we would expect the complaint to go to the relevant organisation first, with the regulator acting as the back-stop, should the complaint be unresolved.

- 2.31 In cases where an enquiry or appeal has gone through the awarding organisation's system but remains unresolved, we propose that the new regulator, together with the regulators for Wales and Northern Ireland, should establish arrangements to hear appeals.
- 2.32 Currently, the Examinations Appeals Board (EAB) considers appeals about GCSEs and A levels across the three countries. The Board is independent of awarding bodies and of the regulators. The availability of an independent panel such as the EAB is highly valued. We propose that the new arrangements for appeals should retain the strengths of the current system, but that the system should encompass all qualifications in the regulated system. The appeals panel should be empowered to review the processes followed by the awarding organisation and, if appropriate, invite it to reconsider its decision.
- 2.33 Similar arrangements should be available to hear final appeals about results of National Curriculum assessments in England when schools are still dissatisfied. In this case, the arrangements should also cover cases where results have been annulled or changed because of alleged malpractice.
- 2.34 We want appeals arrangements to be seen to be fully independent. We therefore propose to remove Ministers from the appeals board appointments process. One option is for the new regulator to be required to establish an independent panel. The alternative option is that the regulators should have responsibility for making appropriate arrangements for appeals, but should have discretion regarding the details of those arrangements.

Question 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?

Question 9: Should the regulator be required to establish an independent panel for appeals, or should it have discretion regarding the details of the appeals arrangements?

Ensuring value for money

- 2.35 The regulator should have a role to oversee the qualifications market and ensure value for money for the substantial amounts of public money that are spent on qualifications – though without duplicating the functions of existing bodies such as the Competition Commission. QCA has developed its market role in recent years, learning from experience in other regulated industries, and developed work to assess the efficiency of the system.

Powers of the regulator

2.36 QCA and the regulators for Wales and Northern Ireland currently have a published sanctions policy¹². The sanctions which the regulators can impose at present are limited to:

- setting new conditions for accreditation of qualifications (such conditions are determined by the regulator and may include placing a limit on the amount of fee that can be demanded in respect of the award/authentication of a qualification as well as various rights to enter premises, inspect and copy documents);
- suspending or removing accreditation; and
- using QCA's statutory power to direct awarding bodies to take or refrain from taking steps in particular circumstances.

2.37 In conjunction with these current regulatory powers (modified as necessary), we propose that the new regulator should have a number of further powers which reflect the range of its functions. These powers would be in line with the powers of regulators in other sectors, and would be used in line with the principles of good regulation. The regulator would be required to develop and consult on a policy covering the use of the additional powers.

2.38 We are considering and wish to have views on the proposal that the regulator should have the power to:

- require information – this would include powers of search and access to the premises of a recognised awarding organisation. We will consider whether any additional powers relating to third parties might be appropriate where necessary to carry out the regulator's functions (for example, to investigate an allegation of maladministration);
- direct an awarding organisation – for example, instructing a recognised organisation to take steps to improve its quality assurance processes;
- direct a third party to do something or refrain from doing something – for example, a direction to stop claiming falsely that a qualification is accredited or to stop preventing awarding organisations from carrying out their regulatory requirements;
- charge recognised organisations for the costs incurred in investigating/imposing sanctions;
- undertake financial scrutiny – to establish financial stability and capability, or that charges are reasonable;
- intervene and/or impose a sanction – this could include the power to enforce financial or other penalties in line with the principles of the MacRory review¹³. To support its role in relation to complaints, we also propose that the regulator should have a power, similar to that of the Independent Adjudicator for Higher Education, 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;
- set conditions for any charges levied by recognised awarding organisations; and
- co-operate with other regulators such as the Office of Fair Trading, the Competition Commission and the Charity Commission.

12 http://www.qca.org.uk/qca_7655.aspx

13 *Regulatory Justice: Making Sanctions Effective* (November 2006):
http://bre.berr.gov.uk/regulation/documents/pdf/macrory_penalties.pdf

Question 10: Do you agree that the regulator should have the powers proposed, reflecting the range of its functions?

2.39 In the light of comments received on this part of this document, we shall formulate more detailed proposals on the sanctions open to the new regulator, and consult further with the awarding bodies and any others affected prior to legislation.

The operation of the regulator

Visibly independent and accountable

2.40 We intend that the regulator be independent of Ministers. We intend to require it to submit a report each year to Parliament on its work, particularly reflecting the previous summer's exams. In addition, the regulator may report to Parliament, from time to time, on specific issues.

2.41 To regulate fairly and effectively, the regulator will have to build a relationship of trust with those it regulates. But this must be balanced against the need to be seen to be fair and unbiased in its judgements, and maintain the trust of the public. We would expect the new regulator to engage with learners, employers, education institutions and the public. It would be for the regulator to decide how best to do that – it might, for example, use panels, research and conferences.

Governance of the regulator

2.42 The Office of the Qualifications and Examinations Regulator will be a Non-Ministerial Department. The Chair of the organisation will be known as the Chief Regulator of Qualifications and Examinations and will be a Crown appointment; the Chair will be the public face of the organisation. The regulator will have a non-executive Board appointed by the Secretary of State for Children, Schools and Families. The executive head of the organisation, the Chief Executive, will be the Accounting Officer and will also be appointed by the Secretary of State.

The role of Ministers

2.43 The regulator will be regulating the delivery of government policy – in particular National Curriculum assessments and public qualifications. We therefore propose that Ministers should have the opportunity to give guidance to the regulator on their policy aims and objectives. Any guidance of this type will be published. Ministers may also follow the regulator's annual report to Parliament by asking it to investigate areas of specific interest to them. This will not prevent the regulator from investigating areas of its own choice, including issues where there may be a risk of controversy.

Equal opportunities

2.44 As a public body, the regulator will have certain duties relating to the promotion of equality. It will be required to produce Equality Scheme(s) setting out how it will meet its duties under equality legislation in respect of the three equality strands: Race, Disability and Gender. It will also be required to carry out Equality Impact Assessments (EQUIAs) on policies, functions and services to ensure they are compliant with equalities legislation.

- 2.45 We would expect the regulator to pay particular attention to the need to ensure that disabled students and learners with special needs can access accredited qualifications, particularly given the recent extension of the Disability Discrimination Act to General Qualifications. It will need to work with awarding organisations and the Commission for Equality and Human Rights to meet this goal.

Expertise

- 2.46 The regulator must have the knowledge and authority to influence the standards debate at the highest level. It will need to have sufficient expertise to carry out its regulatory role: technical expertise in the comparability of qualifications and assessment methodology, and the skills to oversee the qualifications market and to assess the value for money of the system.
- 2.47 The regulator will also need to retain a core of experts to assess the quality of individual qualifications submitted for accreditation, though will need to avoid undue duplication of expertise with the development agency. In addition, the regulator will need the ability to call on more expertise to assist with specific projects, such as reviewing qualifications in particular subjects.
- 2.48 We propose that the regulator should, with the regulators in Wales and Northern Ireland, maintain a central record of examination and test papers and sample scripts and make those available to the research community, building on the archives currently held by QCA. This will enable research and evaluation to be grounded in accurate historical data.

Wider engagement of the regulator

The UK dimension

- 2.49 The new regulator will regulate qualifications and tests in England. QCA currently regulates National Vocational Qualifications in Northern Ireland and, subject to the passage of the Education and Skills Bill, that role will be extended to all vocational qualifications. School qualifications in Northern Ireland, which are the responsibility of the Department for Education, are regulated by the Council for Curriculum Examinations and Assessment (CCEA). In Wales, responsibility for qualifications rests with the Department for Children, Education, Lifelong Learning and Skills (DCELLS), a department of the Welsh Assembly Government.
- 2.50 Given the free and frequent movement of learners and workers across the three countries, there is a clear need to maintain a common qualifications system as far as possible. The regulatory system for qualifications will continue to operate as a joint activity across England, Wales and Northern Ireland, with the regulatory authorities working closely together. The regulators will also continue to work in close co-operation with the regulator for Scotland.

The international dimension

- 2.51 The qualifications industry increasingly operates internationally. Qualifications such as A levels are an important UK export; some awarding bodies trade on their UK accreditation to sell overseas and some conduct a significant proportion of their business overseas. Revenue from qualifications sold overseas is a significant proportion of turnover for many awarding bodies active in international markets.
- 2.52 Key awarding body functions such as advice lines are more and more being operated outside the UK. With the growth of e-assessment, the geographical location of the learner could become increasingly irrelevant; and, in some sectors, qualifications developed and administered overseas are playing an ever more prominent part in career progression.
- 2.53 Increasingly, the reality is that qualifications and the organisations offering them are not limited by national boundaries. The new regulator will have to operate effectively internationally and to establish relationships with counterparts overseas, in order to maintain confidence in qualifications with an international dimension.

Chapter 3: Curriculum and qualifications development

Summary

The establishment of a new independent regulator of qualifications provides an opportunity to review the non-regulatory work of QCA. This chapter sets out proposals for QCA to develop into a development agency for curriculum, assessment and qualifications, building on the strengths and achievements of QCA's work.

The agency will be responsible for advising and supporting Ministers in the monitoring and development of curriculum and related qualifications.

It will continue the National Assessment Agency's current work on the delivery of the National Curriculum and Early Years assessments and tests.

The agency will be responsible for developing criteria for public qualifications such as A levels, GCSEs and Diplomas against which awarding organisations will develop qualifications.

Working with relevant awarding organisations, the agency will co-ordinate the public qualification delivery system. It will ensure effective timetabling, access arrangements and communication of results. It will also lead on developing the data system to aggregate Diploma achievement.

The agency will be a source of expertise on qualifications for adults.

- 3.1 Chapter 2 set out our plans to create a new, independent body to take over QCA's regulatory functions. This chapter sets out the future direction for QCA, once the regulatory responsibilities have been transferred.

Curriculum and qualifications development

- 3.2 Most of QCA's resources and staff are deployed on functions other than regulation, in support of the Government's objectives for education and skills. These include monitoring and advice on development of the curriculum, delivery of National Curriculum assessments and tests, development and support for delivery of public qualifications and support for the vocational qualifications reform programme.

- 3.3 These functions remain central to the success of the education and skills system in this country. QCA has a 10 year record of which it can be proud. But the creation of the new regulator provides a timely opportunity to review how the other functions of QCA can best be taken forward to support delivery of an education and skills system that will meet the challenges of the future.
- 3.4 These non-regulatory functions cannot be given to the new regulator, as this would recreate the perceived current conflict of roles in QCA. The regulator must be able to focus on maintaining the standards of qualifications and assessments, and confidence in those standards, without also being responsible for the content of those qualifications and assessments. These functions also cannot be given to central government: delivery of National Curriculum assessments and tests in particular must have operational independence from Ministers, and the Department for Children, Schools and Families (DCSF) does not have the capacity to monitor and advise on the National Curriculum.
- 3.5 So we intend that there should continue to be a discrete agency with the expertise to take forward QCA's non-regulatory work. When we legislate to establish the new regulator, we will therefore maintain a separate development agency for curriculum, assessment and qualifications, which has responsibility for this work.
- 3.6 The DCSF is developing a strategy for 14-19 qualifications, to underpin our 14-19 reforms, and will publish proposals for consultation in the new year. The DCSF and the Department for Innovation, Universities and Skills (DIUS) will be publishing joint proposals for new arrangements for the delivery of education and training for 16-19 year olds and for adults. These will set the context within which the agency will work, and we will identify in the proposals any specific impact on the agency.

A development agency for curriculum, assessment and qualifications

- 3.7 For 10 years, the regulatory function of QCA has been its most prominent public role – it is commonly known as the 'exams watchdog' or 'the guardian of standards'. Now that it will no longer be the regulatory authority, and its non-regulatory functions will come to the fore, there is a need for it to develop into a development agency for curriculum, assessment and qualifications. We want this agency to build on the strengths and achievements of QCA, and it will inherit most of its responsibilities, liabilities and staff. Its role will be to support Ministers' objectives for education and skills, by being the key source of expertise on curriculum, assessment and qualifications.
- 3.8 We will decide on the name of the agency when we decide on its role and powers, following this consultation. We propose that the objectives of the agency should be:
- to be the key source of expertise supporting Ministers in the monitoring and development of curriculum and related qualifications, and of learning and development in the early years, to meet the Government's objectives for education and skills; and
 - to develop and deliver National Curriculum tests, and other forms of assessment decided by Ministers, and ensure delivery of public qualifications, to measure and recognise the achievements of learners and the performance of schools and colleges.

- 3.9 The detailed remit of the agency, and the resources it has available, will be set out on an annual basis by the Secretary of State for Children, Schools and Families, reflecting current policy priorities (including any requirements from DIUS). The agency will need to work closely with Ministers as a trusted, expert adviser and delivery agency, able to draw on a solid base of expertise and links with awarding organisations, higher education, employers and others.
- 3.10 The agency will also need to be able to act as a source of feedback, reflecting to Ministers the issues and concerns of teachers, learners, parents, employers and higher education on curriculum, assessment and qualifications issues. It will therefore need to have strong networks with schools, colleges, work-based learning providers and the wider education, skills and children's services sectors. It will need to discuss with Ministers any issues or concerns emerging on which it believes further work is needed, so that Ministers can consider whether to give it a new remit. And it will have a role to help ensure that the government's aims and objectives for curriculum, assessment and qualifications are effectively communicated and understood across the education sector and beyond.
- 3.11 The agency will need to have the capacity to conduct or provide support to reviews of curriculum and qualifications commissioned by Ministers – like the revision of the secondary curriculum, and the close support which QCA provided for the 2004 Tomlinson review of 14-19 curriculum and qualifications¹⁴ and will be providing for the review of the primary curriculum by Sir Jim Rose, which was announced in the Children's Plan.
- 3.12 The relationship between the agency and the regulator will also be important. The two organisations will need to be clearly separate; the regulator will need to be able to assess and provide an independent view of the tests, assessments and qualifications criteria developed by the agency. Nonetheless, the two organisations will need to develop an effective, trusting relationship to support the development of good quality qualifications, assessments and tests. We would expect them to agree a memorandum of understanding, to set out the roles of each body and the expectations of each, whilst reinforcing the independence of the regulator.

Question 11: Do you agree with the proposals for the objectives of the development agency for curriculum, assessment and qualifications?

Governance of the agency

- 3.13 The agency will have a similar governance structure to QCA: it will be a Non-Departmental Public Body (NDPB), with a non-executive Chair and Board, appointed by the Secretary of State for Children, Schools and Families. The responsibility of the Board will be to oversee the work of the organisation, set out its strategic direction and make sure that it is delivering its remits and meeting Ministerial expectations.
- 3.14 The rest of this chapter sets out our detailed proposals for the functions of the agency in each of its key areas of activity.

14 *14-19 Curriculum and Qualifications Reform – Final Report of the Working Group on 14-19 Reform*, October 2004, <http://publications.teachernet.gov.uk/eOrderingDownload/DfE-0976-2004MIG839.pdf>

School curriculum

- 3.15 Ministers are accountable to Parliament for the content of the school curriculum, including the content of the statutory National Curriculum, and for the way in which performance is assessed and reported. The agency will continue QCA's role in supporting Ministers – providing advice to enable them to take decisions about the content of the curriculum at each Key Stage, and on methods of assessment.
- 3.16 The key functions of the agency in relation to the National Curriculum will include:
- to be an expert adviser to the Government on the curriculum, in particular on how the curriculum can remain relevant and keep pace with developments in the economy, society and technology;
 - to monitor delivery of the curriculum, and the impact of curriculum developments on attainment and progression;
 - to carry out work as requested by Ministers, including conducting or supporting formal reviews of the curriculum;
 - to provide specialist support and advice about curriculum content and subject teaching, including publishing guidance and support on subject-specific matters and on cross-cutting dimensions;
 - to communicate and consult about the curriculum – making sense of it to parents, pupils and the general public, as well as to school and subject leaders; and
 - to engage with international developments in curriculum innovation.
- 3.17 QCA has a duty to consult on proposals by Ministers for changes to the National Curriculum, to report on the views expressed during the consultation and to make recommendations as to the proposal and offer any other advice which it considers to be relevant. Should the Government fail to accept QCA's recommendations it must explain its reasons for doing so when it publishes a draft of the proposed order or regulations for the revised curriculum. The Government must then allow a period of at least one month for the submission of evidence and representations on any issues arising. The same provisions will apply to the agency.
- 3.18 QCA has led the development of content for Assessing Pupil Progress (APP) tools, which enable teachers to assess and track pupil progress against the National Curriculum levels. They have also supported the promotion of Assessment for Learning (AfL) techniques for ongoing pupil assessment. We plan to expand APP materials to cover more Key Stages and more subjects, and will expect the agency to continue to lead in the development of APP content. We will also expect them to work with partners – including the Institute for Educational Assessors, the DCSF and the National Strategies – to develop APP and other materials that can underpin support and training for schools.

The Early Years Foundation Stage

- 3.19 We propose that the agency should maintain the role that QCA currently has in relation to the Early Years Foundation Stage (EYFS): it should monitor and report on the areas of learning and development within the EYFS, and should be responsible for the effective delivery of the Early Years Foundation Stage Profile. The split of functions between the agency and the Government for the EYFS will be broadly the same as for the National

Curriculum. We intend that the agency should cover the whole of the EYFS age range, from birth, but only relating to the areas of learning and development within the EYFS.

Proposed changes to National Curriculum and EYFS responsibilities

- 3.20 We propose that the agency's responsibilities relating to the National Curriculum and the EYFS should differ from those of QCA in two respects.
- 3.21 First, we propose to simplify the process by which the agency is required to consult formally on changes to the curriculum (including the EYFS). The agency will still have to 'give notice' of curriculum consultations to associations of local education authorities, bodies representing the interests of governing bodies, and organisations representing school teachers. But we propose to replace the current requirement to give notice of proposed changes to the curriculum to "any other persons with whom consultation appears...to be desirable"¹⁵ with a requirement to take steps to bring proposed changes to their attention. This would enable consultation to take place by means of the internet, thus bringing consultation into the 21st Century.
- 3.22 Secondly, we propose to give the agency responsibility for assessing bids for disapplication of the National Curriculum and exemption from the EYFS learning and development requirements, advising the Secretary of State for Children, Schools and Families (whose responsibility it is to decide on requests) and monitoring successful applications. This will allow the agency to develop evidence of where schools and early years settings believe that the flexibilities within the National Curriculum and the EYFS do not allow them to innovate in the way that they wish.

Question 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?

Question 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 EYFS learning and development requirements?

Delivery of National Curriculum and Early Years Foundation Stage assessments

- 3.23 The agency, through the NAA, will remain accountable to Ministers for the effective delivery of National Curriculum and EYFS assessments. The maintenance of assessment standards, however, will be subject to regulation by the new regulator. In particular, decisions on level-setting and moderation will be the sole responsibility of the agency (as they are of QCA currently) and subject to scrutiny and approval by the regulator. Public confirmation of the independence from Ministers of the standards maintenance process will be a key aspect of regulation, and will be critical to maintain confidence in National Curriculum and EYFS assessments as key measures of the performance of the education system.

¹⁵ Education Act 2002 section 96 paragraph 3(b)

3.24 We want to make sure that roles and responsibilities are clear and transparent in relation to National Curriculum and EYFS assessments:

- the agency will, as QCA does, develop and deliver tests and develop and moderate assessments;
- the Government will set the policy framework within which that happens and hold the agency to account for delivery. Ministers may choose to write to the regulator setting out their objectives for these assessments, to provide a clear framework for their regulation, and the regulator would be required to take into account their views in assessing the agency's proposals;
- the regulator should be at a distance from this process, responsible for checking the validity of tests and delivery models and assuring standards. It will publish the regulatory and quality control requirements it has placed on the agency, monitor the agency's performance against those requirements, and report on its findings to Parliament.

3.25 We continue to review the moderation arrangements for assessment at the Foundation Stage, to improve the accuracy of outcomes.

Question 14: How can confidence in the moderation process for Foundation Stage assessments be improved?

Public qualifications development and support

Development of public qualifications

- 3.26 The agency will take on QCA's responsibilities for developing and advising Ministers on the provision of and specifications for public qualifications, working closely with its counterparts in Wales and Northern Ireland in developing these qualifications. The agency will develop and keep under review the subject criteria against which qualifications are developed by awarding organisations, drawing on its own and others' judgements about appropriate content. For relevant GCSEs, such as English and mathematics, the content needs to be based on the National Curriculum at Key Stage 4 in each of the three countries. For the Diplomas, specially established Diploma Development Partnerships have been developing content. For other public qualifications, the agency will need – as QCA does now – to get a range of views from the education sector, employers and higher education about the appropriate content.
- 3.27 Before agreeing the content, Ministers will want to be satisfied that the qualifications enable and support broad and coherent programmes of learning that support progression and meet the diverse needs of all young people. The forthcoming 14-19 qualifications strategy will set out our plans for achieving this.
- 3.28 In addition, the agency will need to develop the qualifications design criteria – how the content will be assessed. These criteria will include the number of units in the qualification, the grading structure, and what methods of assessment are most valid for the desired learning outcomes. Once the design criteria are developed, the regulator will need to be

able to accept them as appropriate because they will impact substantially on the maintenance of standards. Nonetheless, we believe it is right that the agency, not the regulator, should develop the design criteria, because:

- there are legitimate policy reasons, as well as regulatory reasons, why one assessment model might be preferred to another. Ministers will need to be satisfied that a particular assessment approach is deliverable and is consistent with the wider strategy for 14-19 qualifications, just as the regulator has to be satisfied that it will enable standards to be measured and maintained;
- if the regulator were responsible for developing the design criteria, as well as providing assurance to the public about the standards of the qualifications developed against the criteria, it could be perceived as having a conflict of interest.

3.29 In deciding whether to accept the agency's design criteria, the regulator will need to satisfy itself that they are robust and allow it to ensure that standards are maintained and that levels are consistent with other qualifications; and then adopt the criteria and accredit qualifications against them. The agency may offer support and advice to awarding organisations as they develop qualifications, prior to accreditation by the regulator.

3.30 The relationship between the regulator and the agency should be as transparent as possible. The regulator must be – and be seen to be – scrutinising fully the agency's criteria. We would expect the two organisations to agree a process to facilitate this – for example, the agency writing to the regulator at the start of any qualifications development to set out its plans and timescales; and the regulator responding, setting out the issues and points in the timetable at which it would wish to take a particular interest. These letters, and any subsequent exchanges, would be published.

3.31 Figure 1 summarises the current public qualifications development process. Figure 2 shows the planned future system.

Figure 1: Public qualifications development – current system

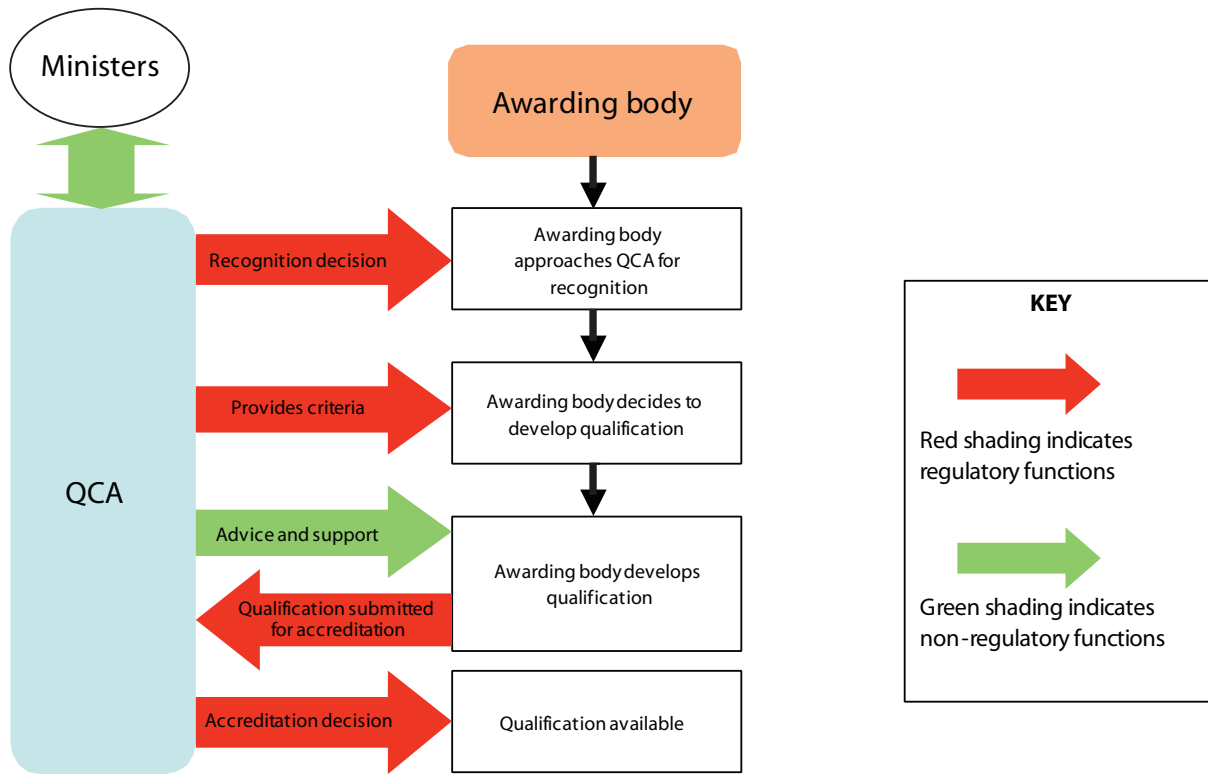
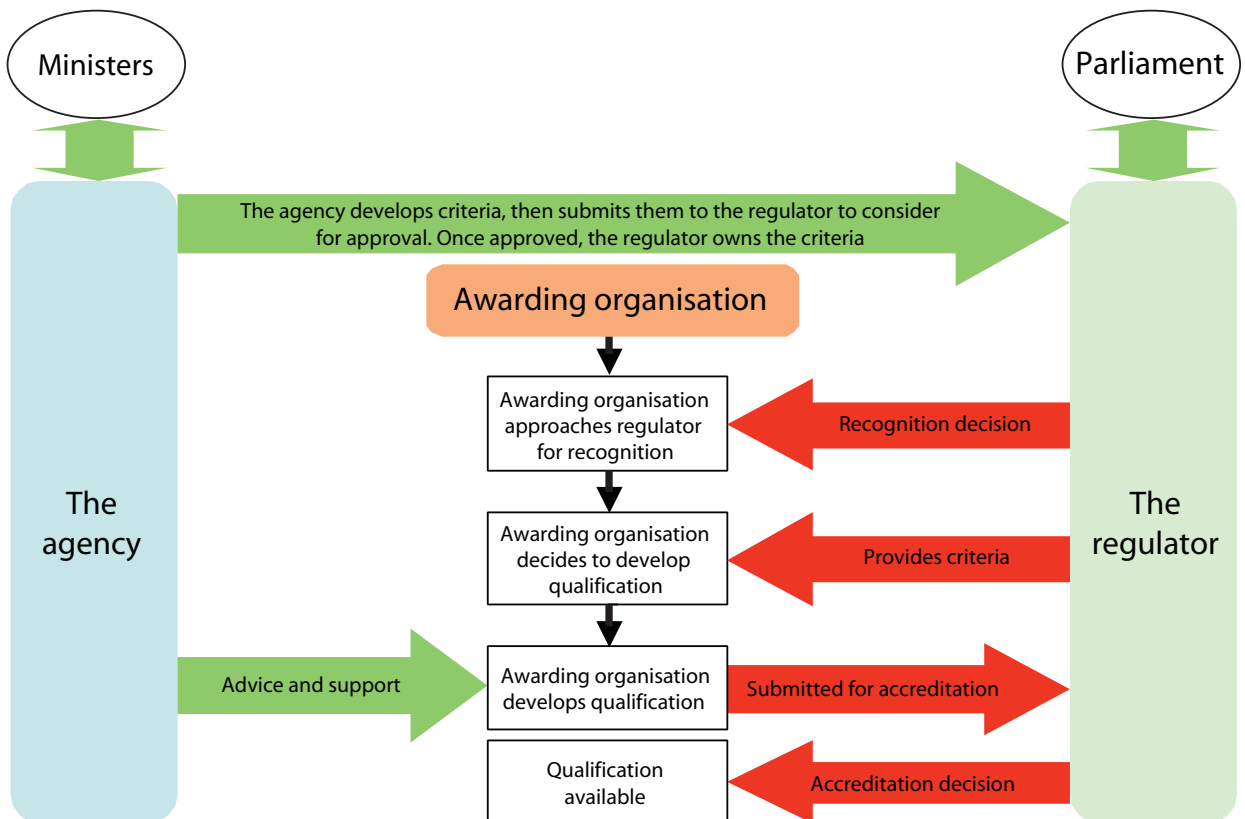


Figure 2: Public qualifications development – proposed system



Question 15: Do you support the proposal that the agency, and not the regulator, should develop the criteria for public qualifications?

Delivery and support of public qualifications

- 3.32 Public qualifications need co-ordinated delivery systems – for example, timetabling, access arrangements, communication of results and, in the case of Diplomas, a data system to aggregate achievement. Whilst it is the role of the regulator to monitor the qualifications to make sure that standards are being maintained, the agency will continue QCA’s work to support the delivery systems for public qualifications, working with the relevant awarding organisations.
- 3.33 This work includes:
- ensuring co-ordinated timetabling and forward planning for the delivery of public qualifications (including Diplomas) during the exams season, and co-ordinating contingency planning;
 - providing training and support to school and college exams officers;
 - co-ordinating work to reduce the administrative burden of public qualifications;
 - leading the project to develop the Diploma Administrative Service, which will aggregate the achievement of learners and allow Diplomas to be awarded. We propose that the agency should be able to charge for provision of this service.
- 3.34 The agency will also take on QCA’s responsibilities for:
- advising the Secretary of State for Children, Schools and Families on which accredited qualifications should be approved for funding for 14-19 year olds, in the light of the forthcoming qualifications strategy. We will consider in that strategy whether there is a need to amend the current powers to approve qualifications for funding;
 - advising on tariffs and equivalencies for inclusion of qualifications in achievement and attainment tables;
 - developing and ensuring delivery of Key Skills and basic skills qualifications; and
 - working with the Learning and Skills Council to develop the Foundation Learning Tier, developing coherent progression pathways for learners who have not yet reached Level 2 (equivalent to GCSE).
- 3.35 The agency may also be asked by the Secretary of State to review the capacity of the awarding market for public qualifications and ensure that they will continue to be delivered effectively and efficiently; and, where appropriate, to offer development support to help build capacity.
- 3.36 The agency will also have a role in considering and advising Ministers on any changes to exam timetables to facilitate any move to a system whereby young people could apply to higher education after they had the results of their A levels or Diplomas.

Question 16: How can the agency most effectively support the delivery of public qualifications?

3.37 Section 402 of the Education Act 1996 confers a right on registered pupils at maintained schools to be entered for those public examinations for which they have been prepared at school. This does not however ensure that pupils at maintained schools have the right in all circumstances to take an examination. Given the intention to raise the participation age (subject to passage of the Education and Skills Bill), we are proposing to consider whether the rights conferred by the legislation should therefore be extended. We are also proposing to consider the extent to which any such rights should apply to others aged 14-19 who are not registered pupils at maintained schools.

Question 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?

Post-19 qualifications

- 3.38 In *World Class Skills*, we set out our plans for the future management of vocational qualifications. Sector Skills Councils (SSCs) will determine the standards which are necessary for qualifications in their areas; awarding organisations will develop qualifications; SSCs will then approve them and the awarding organisations will enter the qualifications into the national qualifications framework. In doing so, they will open up those qualifications to monitoring and scrutiny by the regulator. While SSCs will be the experts on the content of qualifications for their sectors, the agency will be a source of expertise and, as requested by the Government, will work in partnership to provide advice on the development of high quality qualifications which meet national requirements. We will also look to the agency to complete QCA's work in developing and implementing the Qualifications and Credit Framework (QCF) by 2010. Subject to the outcome of the evaluation of the test and trial phase, its supervision will be a matter for the regulator.
- 3.39 We shall want to consider, in due course, what the longer term role of the agency might be in the ongoing development and revision of the national qualifications framework to meet the needs of employers and learners in future years. As far as possible, we want a demand-led market for vocational qualifications, with employers determining which qualifications they need and which they do not, identifying and filling gaps in the market with SSCs and awarding organisations. There is a question whether, in such a context, we need to retain a standing capacity at national level to review the adequacy of the system and make recommendations for change. If such a capacity is needed, there is a further question whether it best sits as an ongoing role for the agency or elsewhere. We shall be consulting in the new year on the future post-19 organisational landscape. In the meantime, we would welcome views on whether there should be such a standing function and, if there should, whether this should be a function of the agency.
- 3.40 The agency will also continue the work of QCA in reviewing, advising on, developing and delivering qualifications which will not fall to be approved by SSCs, as and when the Government asks it to do so. This will include Key Skills, basic skills, functional skills and the Foundation Learning Tier, which cover adults as well as young people; qualifications assessing generic employability skills (Personal, Learning and Thinking Skills); those

supporting non-English speakers; and those providing general access routes to higher education. It will be important, therefore, for the agency to take a strategic view of qualifications conferring these skills for all ages, so that the learning undertaken by young people can be built upon and extended in working life.

Question 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?

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

Other responsibilities of the agency

- 3.41 As a public body, the agency will have legal duties to promote equality of opportunity – disability equality, gender equality and race equality. In particular, the agency will have an important role in supporting delivery of the Government’s objectives to tackle the achievement gap. As it will advise on curriculum, assessment and qualifications, it will need to monitor how they can be made fully accessible and engage all students. The agency will be required to produce Equality Scheme(s) setting out how it will meet its duties under equality legislation in respect of the three equality strands: Race, Disability and Gender. It will also be required to carry out Equality Impact Assessments on policies, functions and services to ensure that they are compliant with equalities legislation.
- 3.42 The agency will have a role, working with Becta, to develop an e-strategy to make sure that curriculum and qualifications make good use of the opportunities provided by ICT, including e-assessment. This is distinct from the regulator’s responsibility to make sure that the regulatory system enables innovation in relation to e-assessment.
- 3.43 As well as its responsibilities for publishing guidance and support on the curriculum, the agency will have a broader responsibility for promoting public understanding about the curriculum and public policy on qualifications. This will complement the regulator’s responsibility for making information available about accredited qualifications and for engaging in and informing public debate about standards.
- 3.44 We will ask QCA to advise on how its research functions could most sensibly be divided between the regulator and the agency. Both organisations will need research capacity – the agency to enable it to advise Ministers, and the regulator to engage in public debate on standards issues.
- 3.45 QCA currently has a lead role for England in international collaborative work on curriculum and qualifications. This includes participation in the European Qualifications Framework and leading England’s contributions to international databases on curriculum and assessment (INCA¹⁶) and on vocational education and training in Europe (Refernet¹⁷). QCA also carries out international consultancy work for overseas countries and is regularly commissioned to carry out international comparative work. We will expect the agency to continue this role.

16 The International Review of Curriculum and Assessment Frameworks Internet Archive <http://www.inca.org.uk>

17 <http://www.refernet.org.uk>

Chapter 4: Next steps – implementing these reforms

Summary

This document has set out our proposals for the new independent regulator of qualifications and tests and the role of the development agency for curriculum, assessment and qualifications. These are important changes and we plan to introduce them as soon as possible.

Subject to Parliamentary approval, we plan to implement these proposals in two phases. The responses to this consultation will influence the detail of how we do so. The first phase is establishing an interim regulator which will operate until legislation is passed. The second is establishing the new regulator and the agency following the passage of the necessary legislation.

- 4.1 The plans that we have set out in this consultation will secure high standards and public confidence in the system of qualifications and assessment in England. They will underpin our programmes of early years, curriculum and qualification reform which aim to improve attainment and skills for people of all ages.
- 4.2 There are a number of key milestones on the way to delivery of these proposals:
- two further consultations due in the new year – one setting out a 14–19 qualifications strategy and the other on the post-19 organisational landscape and the transition of 16–19 funding to local authorities. These will have an impact on the context within which the new bodies will be working;
 - responses to this consultation – by 10th March 2008;
 - publication of the government’s response to this consultation in the spring;
 - the establishment of an interim regulator operating within the existing powers of QCA, before the summer exams in 2008;
 - legislation to establish the new independent regulator and the agency;
 - subject to the passage of that legislation, establishing the new regulator and the agency to complete the implementation of these proposals.

Managing the transition

- 4.3 We can go some way to securing the benefits of an independent regulator of qualifications and tests within the existing legal framework. To this end, we plan to establish an interim regulator in advance of next summer's exams season. We are working closely with QCA to put these arrangements in place.
- 4.4 This interim regulator will be responsible for carrying out the regulatory functions of QCA as they are currently set out in legislation. This regulator will monitor the standards of qualifications and tests. It will make reports, which will be laid before Parliament by the Secretary of State for Children, Schools and Families. The interim regulator will have as much operational independence from the rest of QCA as legislation will allow and, as the Regulation and Standards Division of QCA currently does, will operate at arm's length from Ministers.
- 4.5 The interim regulator will have an interim Chair and acting Chief Executive. The acting Chief Executive will be the current Director of Regulation and Standards at QCA; a permanent appointment will be made when the regulator is fully established. We will be setting in motion the appointments process for a Chair of the interim regulator early in the new year: the appointment process will be supervised by the Office of the Commissioner for Public Appointments. The interim Chair will be supported by an expert committee and will be a member of the QCA Board. We intend that the Chair of the interim regulator should become the first Chair of the new regulator, by Crown appointment, once it is formally established.
- 4.6 In the Education and Skills Bill, which is currently before Parliament, we have proposed modifying the responsibilities of QCA so that, in addition to accrediting qualifications, it has a function to develop and publish criteria for the recognition of bodies which wish to award or authenticate qualifications (or components of qualifications); and where they meet those criteria, to recognise them. This is in line with the proposals set out in Chapter 2, that the regulator should focus on regulation of organisations rather than individual qualifications. Subject to Parliamentary approval, these new responsibilities will be carried out by the interim regulator.

Delivering our proposals

- 4.7 We will bring forward legislation to establish the new regulator and the agency at the earliest opportunity. This legislation will set out the responsibilities of both new organisations and grant them the powers needed to fulfil their roles. The detail of these legislative provisions will be informed by responses to this consultation. As set out above, the organisations will be independent of one another, with separate governance and management arrangements. We will ensure that both have the resources required to carry out their remits and operate with maximum efficiency and that they contribute to the delivery of a world class system of education and skills.
- 4.8 We will establish the new regulator and the agency as soon as possible following the passage of legislation.
- 4.9 As required, we have prepared an impact assessment of these proposals. The impact assessment is available on the DCSF website, at www.dcsf.gov.uk/consultations.

The UK dimension

- 4.10 The responsible Departments in Wales and Northern Ireland are considering whether they wish to mirror the changes to regulatory powers that we are proposing for England. Whether they do or not, we will seek to maintain the three-country framework, as set out earlier in this document.
- 4.11 QCA has responsibility for regulation of National Vocational Qualifications (NVQs) in Northern Ireland, and the Education and Skills Bill proposes to extend that responsibility to cover all vocational qualifications. We intend that responsibility for the QCA Northern Ireland office should transfer to the interim regulator and – subject to Parliamentary approval and the agreement of the Northern Ireland Executive – to the regulator, once established. We will work with the Department for Employment and Learning in Northern Ireland to consider the detail of these arrangements.

Stakeholders

- 4.12 The Government cannot implement these proposals alone. We have been working closely with QCA in developing our proposals and will continue to do so. Other stakeholders – particularly awarding organisations, Sector Skills Councils and other organisations closely involved in curriculum, assessment and qualifications – will play a vital role in implementing these reforms and achieving the benefits we are looking for. We encourage these and other stakeholders to respond to these proposals.

Responding to this consultation

- 4.13 We will listen carefully to the views and comments made in response to this consultation. The closing date for this consultation is **10th March 2008**. You can respond online at www.dcsf.gov.uk/consultations, by email to Confidence.InStandards@dcsf.gsi.gov.uk, or in writing to:

Consultation Unit (Confidence in Standards)
Department for Children, Schools and Families
Area 1A, Castle View House
East Lane
Runcorn
Cheshire
WA7 2GJ

- 4.14 After the consultation period has ended we will analyse responses to these questions. We will then publish this analysis and confirm our plans.

Glossary

AfL	Assessment for Learning
APP	Assessing Pupils' Progress
Becta	British Educational Communications and Technology Agency
CCEA	Council for the Curriculum, Examinations and Assessment (Northern Ireland)
DCELLS	Department for Children, Education, Lifelong Learning and Skills (Wales)
DCSF	Department for Children, Schools and Families
DIUS	Department for Innovation, Universities and Skills
EAB	Examinations Appeals Board
EYFS	Early Years Foundation Stage
FE	Further Education
ICT	Information and Communications Technology
NAA	National Assessment Agency
NDPB	Non-Departmental Public Body
NQF	National Qualifications Framework
NVQ	National Vocational Qualification
QCA	Qualifications and Curriculum Authority
QCF	Qualifications and Credit Framework
SSCs	Sector Skills Councils



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