



# **Section 96 (7) Equality Act 2010**

## **Reasonable Adjustments in National Qualifications in Scotland**

### **Report on the Outcome of the Consultation**

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# Introduction

SQA, as the regulator of National Qualifications<sup>1</sup> in Scotland, has a power under Section 96 (7) of the Equality Act 2010 to specify and publish where reasonable adjustments to National Qualifications should **not** be made. Reasonable adjustments are steps taken to avoid a disadvantage to a disabled person.

SQA undertook a public consultation setting out how it proposed to exercise this power, in order to seek stakeholder, customer and partner views on its proposals. The consultation was open from 19 March 2012 until 8 June 2012.

In developing these proposals, SQA was mindful of the need to:

- ◆ minimise the extent to which disabled candidates are disadvantaged in attaining the qualification because of their disabilities
- ◆ secure that the qualification gives a reliable indication of the knowledge, skills and understanding of the candidate
- ◆ maintain public confidence in the qualification

This report provides details on:

- ◆ how the consultation was undertaken
- ◆ the stakeholders, customers and partners who responded
- ◆ the key issues from the consultation responses
- ◆ SQA's decision on the specifications to be made

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<sup>1</sup> A list of National Qualifications can be found in Appendix 1.

# Consultation summary

## How the consultation was undertaken

The overarching aim of the consultation was to seek views from a wide range of stakeholders, centres and organisations with an interest in these issues. All centres, individuals and organisations were invited to respond by e-mail at the start of the consultation and a public consultation notice was put on SQA's website. In addition, SQA staff presented the proposals to a range of different groups and events to inform stakeholders and to encourage them to respond.

## Stakeholders who responded

In total 71 responses were received from a diverse range of stakeholders. These stakeholders included: schools, colleges, the Scottish Parent Teacher Council, disabled learners, local authorities, specialist learning support officers, the Equality and Human Rights Commission (EHRC), groups representing disabled learners, and professional associations (including the Scottish Council for Independent Schools and Scotland's Colleges). Appendix 2 lists the stakeholders who responded.

## Consultation responses

This section summarises the responses for each of the consultation proposals.

### Proposal 1

In relation to all new and existing National Courses, it is proposed that SQA specifies that exemption of any assessment component which comprises **30% or more** of the total Course assessment should not be considered as a reasonable adjustment.

Do you agree with Proposal 1?	Yes	No
	44	12
	79%	21%

### Proposal 2

In relation to the new National Literacy Units at all levels, it is proposed that SQA specifies that exemption from demonstrating any of the four assessed skills of reading, writing, listening or talking should not be considered as a reasonable adjustment.

Do you agree with Proposal 2?	Yes	No
	36	19
	65%	35%

### Proposal 3

In relation to new National Courses in Modern Languages and Gaelic (Learners) at all levels, it is proposed that SQA specifies that exemption from demonstrating any of the four assessed skills of reading, writing, listening or talking in the target language should not be considered as a reasonable adjustment.

Do you agree with Proposal 3?	Yes	No
	35	16
	69%	31%

### Proposal 4

In relation to new National Courses in English and Gàidhlig at all levels, it is proposed that SQA specifies that exemption from demonstrating any of the four assessed skills of reading, writing, and where relevant, listening or talking should not be considered as a reasonable adjustment.

Do you agree with Proposal 4?	Yes	No
	35	18
	66%	34%

### Proposal 5

In relation to existing National Core Skills Communication Units and to National Certificate Communication Units, it is proposed that SQA specifies that exemption from demonstrating abilities in reading, writing, listening or speaking should not be considered a reasonable adjustment.

Do you agree with Proposal 5?	Yes	No
	45	10
	82%	18%

### Proposal 6

In relation to the new National Literacy Units at all levels, it is proposed that SQA specifies that human readers and scribes should not be considered as reasonable adjustments where reading and writing abilities (which are defined as functional/transactional in nature) are being explicitly assessed.

Do you agree with Proposal 6?	Yes	No
	31	30
	51%	49%

## Proposal 7

In relation to new National Courses in Modern Languages and Gaelic (Learners) at all levels, it is proposed that SQA specifies that human scribes should not be considered as a reasonable adjustment where the ability to write with technical accuracy in the target language is being specifically assessed. An exception to this could be in situations where the candidate is able to spell out words in the target language, letter by letter.

Do you agree with Proposal 7?	Yes	No
	37	13
	74%	26%

## Proposal 8

In relation to new National Courses in Modern Languages and Gaelic (Learners) at all levels, speech-recognition software should not be considered as a reasonable adjustment where the ability to write with technical accuracy in the target language is being specifically assessed.

Do you agree with Proposal 8?	Yes	No
	32	18
	64%	36%

## Proposal 9

In relation to SQA-set questions in the external examination of all new and existing National Courses, it is proposed that SQA specifies that the explanation of any words or questions to candidates should not be considered as a reasonable adjustment.

Do you agree with Proposal 9?	Yes	No
	44	6
	88%	12%

## Proposal 10

In relation to all new and existing National Courses in English, Gàidhlig, Gaelic (Learners) and Modern Languages at all levels, it is proposed that SQA specifies that using British Sign Language (BSL) to demonstrate reading, writing, talking or listening abilities in the particular language should not be considered as a reasonable adjustment.

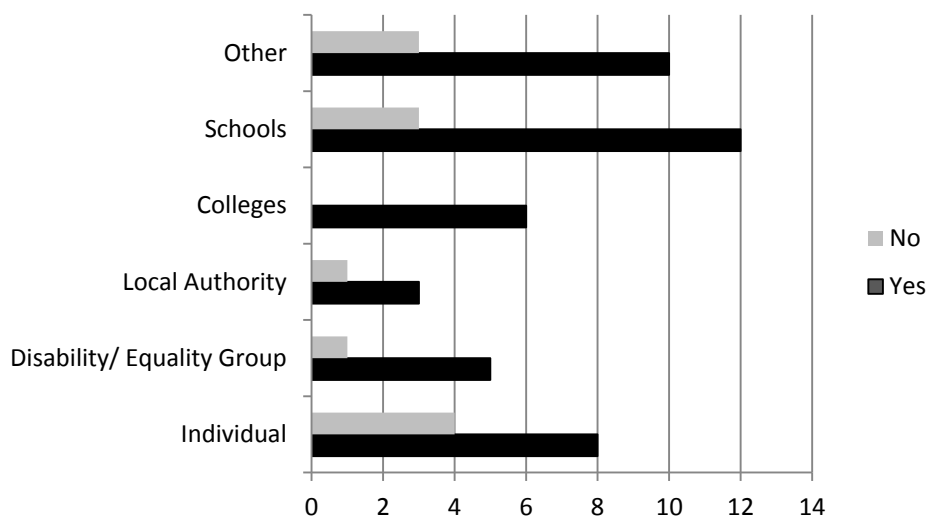
Do you agree with Proposal 10?	Yes	No
	26	21
	55%	45%

# Response analysis

This section provides analysis of responses to each of the proposals in the consultation document.

**Proposal 1: In relation to all new and existing National Courses, it is proposed that SQA specifies that exemption of any assessment component which comprises 30% or more of the total Course assessment should not be considered as a reasonable adjustment.**

Of the 56 responses to this question, 44 agreed with this proposal and 12 disagreed.

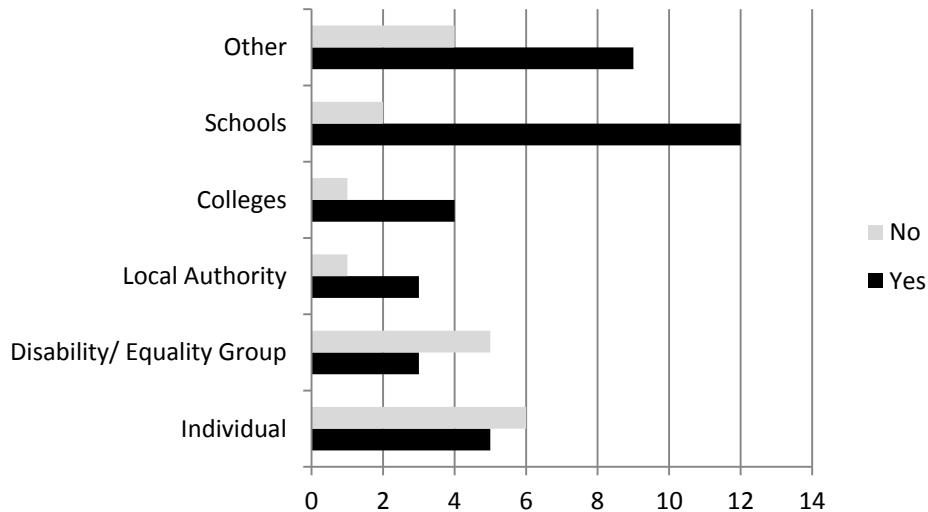


## Respondents' comments

- ◆ There was general agreement that the proposal was fair and reasonable, but exemption should only be considered when all other adjustments have been considered and exhausted.
- ◆ There was general agreement that exemption of 30% or more of a Course assessment would undermine both the integrity of that assessment and public confidence in the qualification.
- ◆ A number of respondents thought that the proposal protects student's self-esteem and supports confidence in the qualification. All students, including disabled students, should be expected to meet all core Course competences.
- ◆ A number of respondents felt that SQA should provide further explanation of the rationale behind the figure of 30% and that the proposal should be subject to regular review.
- ◆ A number of respondents considered that applying a fixed limit was not helpful as it did not take account of individual candidate needs.

**Proposal 2: In relation to the new National Literacy Units at all levels, it is proposed that SQA specifies that exemption from demonstrating any of the four assessed skills of reading, writing, listening or talking should not be considered as a reasonable adjustment.**

Of the 55 responses to this question, 36 agreed with this proposal and 19 disagreed.



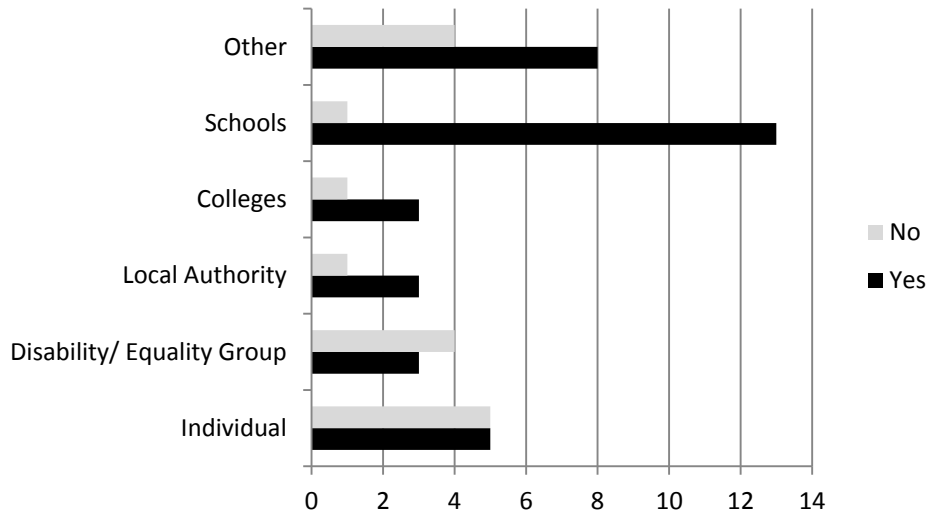
#### Respondents' comments

- ◆ In general, many respondents agreed that if the four assessed skills are defined as being of equal importance then a candidate cannot be exempted from any one or more of these skills.
- ◆ Some respondents raised specific concerns about the disadvantage to those deaf candidates who do not use British Sign Language (BSL) or Sign Supported English (SSE) and those candidates who use augmentative and alternative communication (AAC) and who have difficulty with talking and/ or listening.
- ◆ Several respondents raised concerns about the Literacy Unit being a mandatory part of the National 3 and National 4 Courses in English, potentially excluding some candidates from achieving their Course in English.
- ◆ Many respondents, who disagreed with the proposal, appeared to be unaware that there was a range of appropriate reasonable adjustments that could be put in place to allow candidates to demonstrate their ability to read, write, talk and listen and therefore minimise the potential disadvantage.



**Proposal 3: In relation to new National Courses in Modern Languages and Gaelic (Learners) at all levels, it is proposed that SQA specifies that exemption from demonstrating any of the four assessed skills of reading, writing, listening or talking in the target language should not be considered as a reasonable adjustment.**

Of the 51 responses to this question, 35 agreed with this proposal and 16 disagreed.

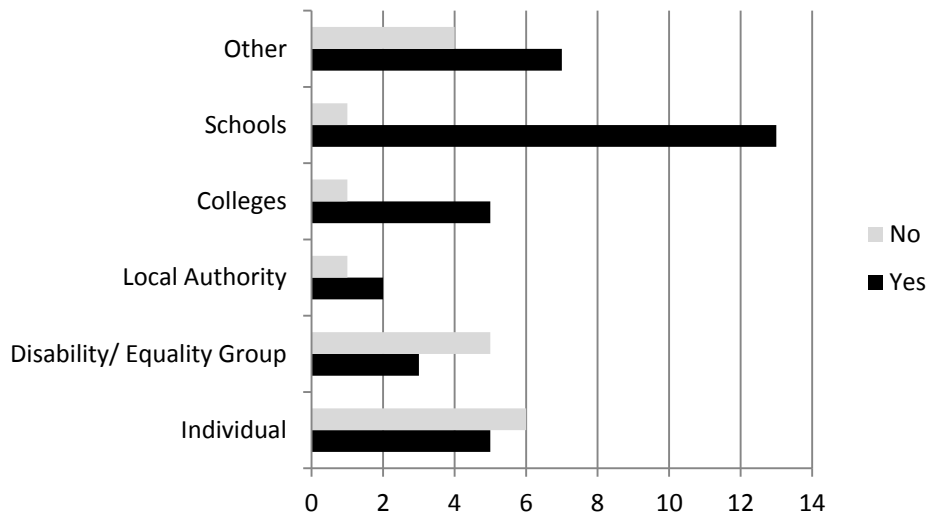


**Respondents' comments**

- ◆ Many of the respondents considered this proposal to be fair and reasonable, consistent with maintaining the integrity of the qualification.
- ◆ As with the previous proposal, many respondents, who disagreed with the proposal, appeared to be unaware of the appropriate reasonable adjustments that could be put in place to allow candidates to demonstrate their ability to read, write, talk and listen and therefore minimise the potential disadvantage.
- ◆ Some respondents raised specific concerns about candidates who have difficulty with talking and listening, but who are able to read and write in the language concerned. They believed that this proposal was too restrictive and would mean that some candidates may not be able to gain a National Course in Gaelic (Learners) or Modern Languages.

**Proposal 4 : In relation to new National Courses in English and Gàidhlig at all levels, it is proposed that SQA specifies that exemption from demonstrating any of the four assessed skills of reading, writing, and where relevant, listening or talking should not be considered as a reasonable adjustment.**

Of the 53 responses to this question, 35 agreed with this proposal and 18 disagreed.

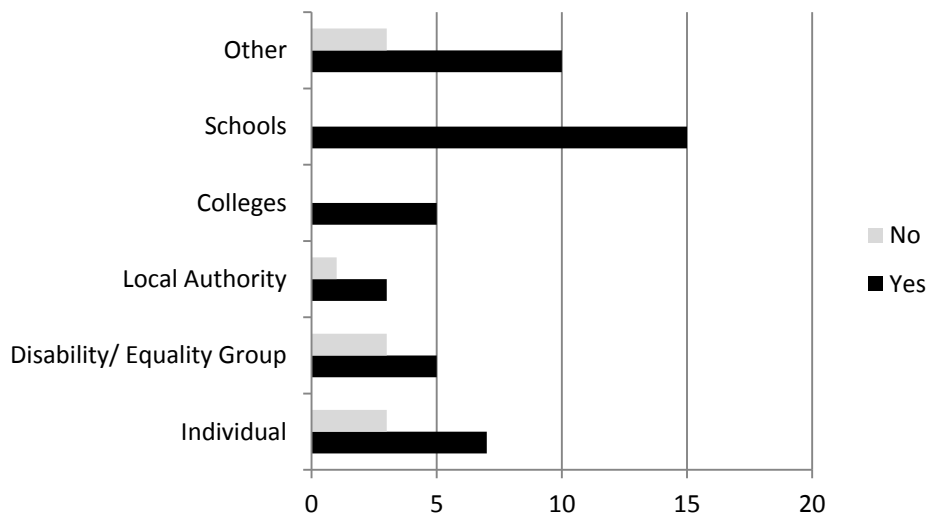


#### Respondents' comments

- ◆ As with proposal 3, many of the respondents believed that this proposal seemed fair and reasonable, consistent with maintaining the integrity of the qualification.
- ◆ As with previous proposals, many respondents appeared to be unaware that there were many reasonable adjustments that could be put in place to allow different candidates to demonstrate their ability to read, write, listen and talk and therefore minimise the potential disadvantage.
- ◆ A few respondents raised specific concerns about candidates who have difficulty with talking and listening and felt that for some candidates, this proposal would mean that they may not be able to gain a National Course in Gàidhlig or English.
- ◆ Some respondents were very concerned this proposal combined with proposal 10 would mean that some deaf candidates, who use BSL, may not be able to gain a National Course in Gàidhlig or English

**Proposal 5: In relation to existing National Core Skills Communication Units and to Communication (NC) Units, it is proposed that SQA specifies that exemption from demonstrating abilities in reading, writing, listening and speaking should not be considered a reasonable adjustment.**

Of the 55 responses to this question, 45 agreed with this proposal and 10 disagreed.

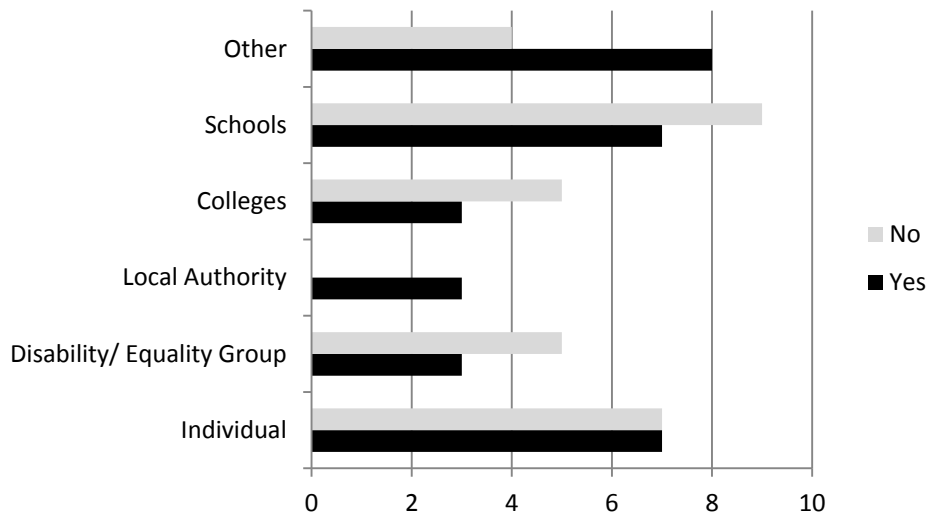


**Respondents' comments**

- ◆ The majority of respondents believed that this proposal seemed fair and reasonable, consistent with maintaining the integrity of this core communication qualification.
- ◆ Many respondents also highlighted that the proposal was reasonable and that the current assessment arrangements which were available to candidates minimised any potential disadvantage.

**Proposal 6: In relation to the new National Literacy Units at all levels, it is proposed that SQA specifies that human readers and scribes should not be considered as reasonable adjustments where reading and writing abilities (which are defined as functional/transactional in nature) are being explicitly assessed.**

Of the 61 responses to this question, 31 agreed with this proposal and 30 disagreed.

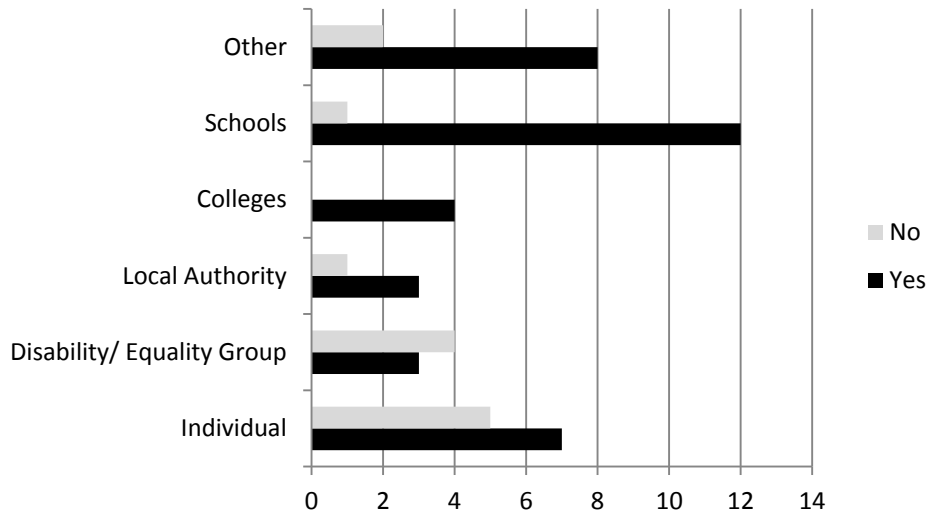


#### Respondents' comments

- ◆ Many respondents expressed wholehearted agreement for this proposal and it was seen as being honest, fair and logical.
- ◆ Other respondents expressed their wholehearted disagreement for this proposal as it would mean that some candidates would not be able to achieve this qualification.
- ◆ Many respondents felt that the use of ICT and assistive technologies would allow candidates to be independent and would reflect how a candidate would be expected to work in the workplace or in Further/Higher education.
- ◆ Some respondents felt quite strongly that the use of human readers and scribes was not an appropriate support strategy for candidates who experience cognitive difficulties with reading and writing and that the use of ICT was more appropriate.
- ◆ Some respondents believed that the use of assistive technologies is not an answer for all candidates because it depends on a candidate's particular disability or the availability of the technology.
- ◆ A few respondents believed that technology should also be prohibited.
- ◆ Several respondents believed that the proposal is too prescriptive and does not take account of individual candidate needs.
- ◆ Many respondents expressed their concerns that as the Literacy Unit is a mandatory Unit in the National 3 and National 4 English Courses, some candidates could be further disadvantaged.

**Proposal 7: In relation to new National Courses in Modern Languages and Gaelic (Learners) at all levels, it is proposed that SQA specifies that human scribes should not be considered as a reasonable adjustment where the ability to write with technical accuracy in the target language is being specifically assessed. An exception to this could be in situations where the candidate is able to spell out words in the target language, letter by letter.**

Of the 50 responses to this question, 37 agreed with this proposal and 13 disagreed.

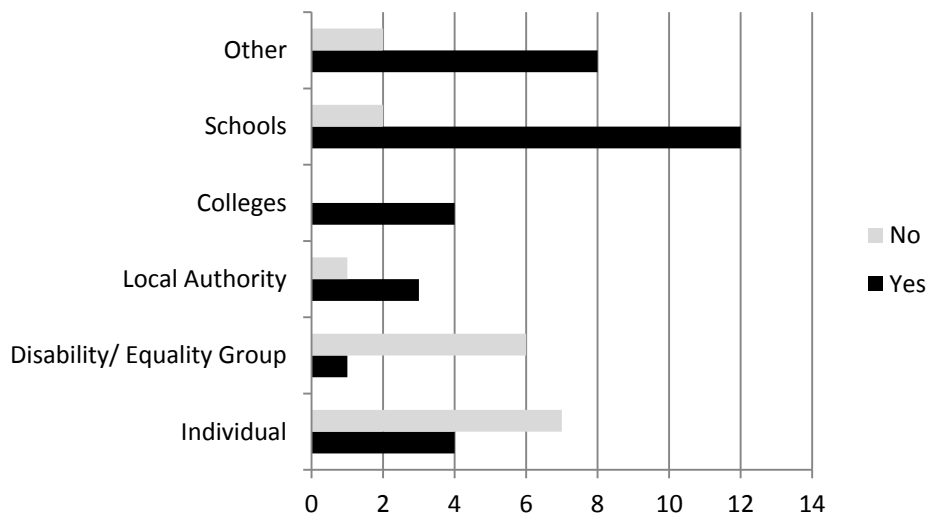


#### Respondents' comments

- ◆ The majority of respondents agreed that this proposal seemed fair and reasonable and was necessary to maintain the integrity of the qualifications in Modern Languages and Gaelic (Learners).
- ◆ Many respondents agreed that providing a human scribe in an assessment which explicitly assesses a candidate's technical knowledge of spelling and grammar would fundamentally undermine the qualification.
- ◆ Some respondents, while agreeing to proposal 7, expressed their concern as to whether any candidate would be able to spell out words in the target language, letter by letter, and felt that in practice this would be difficult in an external examination.

**Proposal 8: In relation to new National Courses in Modern Languages and Gaelic (Learners) at all levels, speech-recognition software should not be considered as a reasonable adjustment where the ability to write with technical accuracy in the target language is being specifically assessed.**

Of the 50 responses to this question, 32 agreed with this proposal and 18 disagreed.

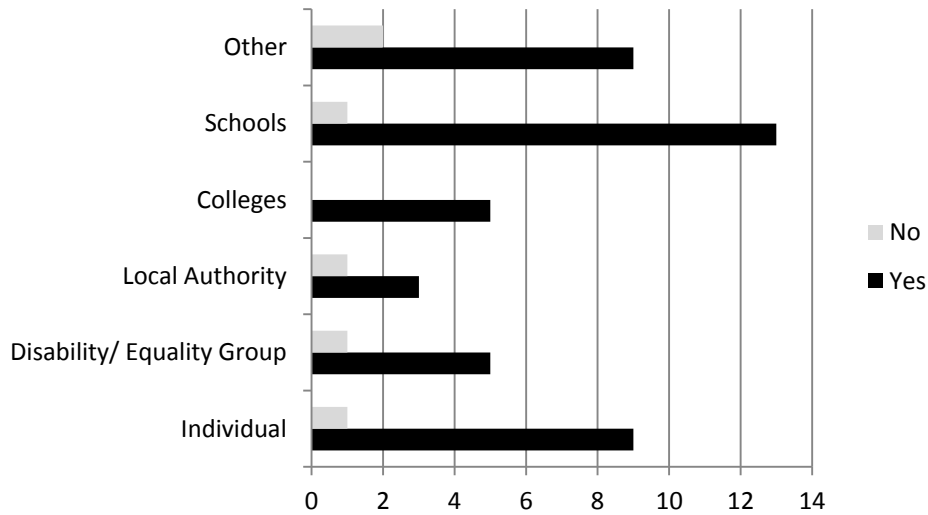


#### Respondents' comments

- ◆ The majority of respondents agreed that, as with a scribe, software which provided technically accurate text would not reflect the candidates' writing skills but rather their ability to speak.
- ◆ A few respondents believed that if using assistive technologies was the only way that a candidate could produce written text and where the use of this technology was their normal way of working, then this should be allowed.

**Proposal 9: In relation to SQA-set questions in the external examination of all new and existing National Courses, it is proposed that SQA specifies that the explanation of any words or questions to candidates should not be considered as a reasonable adjustment.**

Of the 50 responses to this question, 44 agreed with this proposal and 6 disagreed.

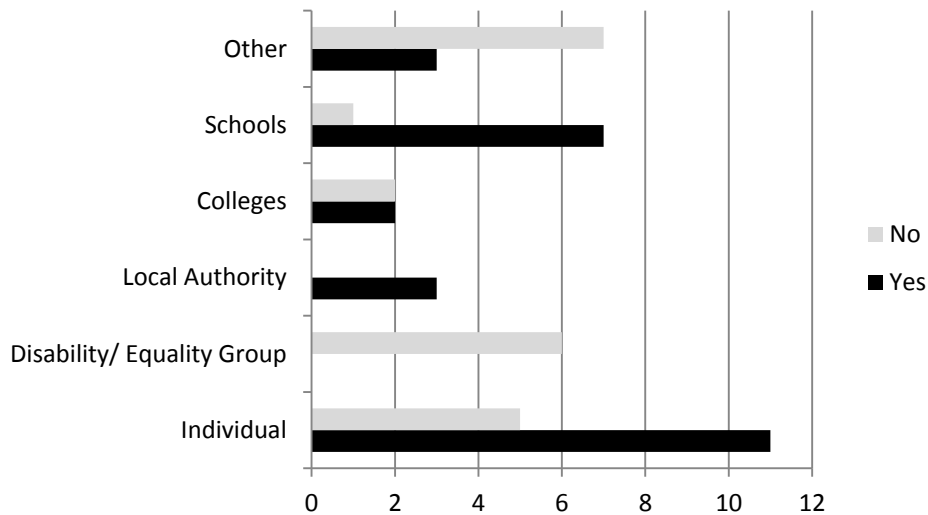


#### Respondents' comments

- ◆ The majority of respondents agreed with the proposal.
- ◆ Some respondents did raise the issue of the accessibility of the language of SQA-set question believing that many SQA-set question papers presented barriers to candidates with weaker language skills, including those who are deaf and who have language processing difficulties.

**Proposal 10: In relation to all new and existing National Courses in English, Gàidhlig, Gaelic (Learners) and Modern Languages at all levels, it is proposed that SQA specifies that using British Sign Language (BSL) to demonstrate reading, writing, talking or listening abilities in the particular language should not be considered as a reasonable adjustment.**

Of the 47 responses to this question, 26 agreed with this proposal and 21 disagreed.



#### Respondents' comments

- ◆ Of those who agreed with the proposal, the overriding view was that it is not acceptable to demonstrate competence in one language through another language. BSL is recognised as a language in its own right.
- ◆ Most of the respondents who agreed with the proposal believed that a specific language qualification indicates an overall competence in that particular language.
- ◆ Of those who disagreed with the proposal, there were very strong feelings that to prohibit the use of BSL to demonstrate 'talking' and 'listening' in English would be a retrograde step, given the current provision of Standard Grade English – Alternative Communication.
- ◆ It was argued by some respondents that it would seem a reasonable adjustment to make the English qualification accessible to deaf BSL users by allowing the use of BSL in talking and listening.
- ◆ Some respondents, who did not agree with the proposal in relation to National Courses in English, did agree with it in relation to Modern Languages, Gàidhlig and Gaelic (Learners) qualifications.
- ◆ Several respondents also believed that the inconsistent approach to the use of BSL in the assessment of talking and listening in the new Literacy Units compared with the assessment of talking and listening in English, did not make sense. They thought that deaf candidates should have the opportunity to gain a National Qualification in English by using BSL for the listening and



talking components or by being exempted from having to demonstrate talking and listening skills.

- ◆ A few respondents considered that this proposal, combined with Proposal 4, would mean that there was no pathway to meaningful certification in English for BSL users.
- ◆ Some respondents believed that it was totally unacceptable to restrict access to a National Qualification as essential as English, especially when an adjustment, such as allowing the use of BSL in the assessment of talking and listening, would make the Course accessible to some deaf candidates.

# SQA's decision on the specifications to be made

In deciding on the specifications to be made, SQA very carefully considered all the responses to this consultation. In addition, the proposals were discussed with a wide range of internal and external stakeholder groups, including SQA's Equality and Inclusion Key Partners Group, the English and Literacy Curriculum Area Review Groups, the Cross Party Group on Dyslexia, the Visual Impairment Maths and Science Curricular Group, the Heads of Sensory Services Forum, the EIS Additional Support Needs Network, the East Lothian and City of Edinburgh Principal Teachers of Support for Learning and the National Parent Forum.

The decision-making body for making specifications under s 96(7) of the Equality Act 2010 is the SQA Board. SQA's Qualifications Committee (a sub-committee of the Board) and its Advisory Council (established under legislation), which both include strong external stakeholder involvement, provided advice on the proposed specifications in order to help the Board reach its decision.

SQA has considered the views of all those consulted and has taken account of:

- (a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities
- (b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred
- (c) the need to maintain public confidence in the qualification

Proposals **1, 2, 5, 6, 7, 8, 9 and 10<sup>2</sup>** in the Consultation document were approved by SQA's Board. The following specifications are based on these proposals.

**Specification 1:** in relation to **National Courses at National 5 to Advanced Higher**, exemption of an assessment component<sup>3</sup> which comprises 30% or more of the total Course assessment will not be a reasonable adjustment.

**Specification 2:** in relation to **National Courses at National 5 to Advanced Higher**, the explanation of words or questions to candidates in an SQA-set question paper will not be a reasonable adjustment.

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<sup>2</sup> Proposal 10 in the consultation document was approved only in relation to National Courses in Gàidhlig, Gaelic (Learners) and Modern Languages but not in relation to National Courses in English.

<sup>3</sup> An assessment component refers to one of the seven agreed assessment methods in a Course assessment; they are assignment, case study, performance, practical activity, project, portfolio, question paper.

**Specification 3:** in relation to **National Literacy Units** at all levels (i) exemption from demonstrating any of the four assessed skills of reading, writing, listening or talking will not be a reasonable adjustment and (ii) using human readers and scribes will not be reasonable adjustments where reading and writing abilities are being explicitly assessed.

**Specification 4:** in relation to **National Units and Courses in Modern Languages and Gaelic (Learners)** at all levels, human scribes<sup>4</sup> or speech-recognition software will not be reasonable adjustments where the ability to write with technical accuracy in the target language is being explicitly assessed.

**Specification 5 :** in relation to **National Units and Courses in Gàidhlig, Gaelic (Learners) and Modern Languages** at all levels, using British Sign Language (BSL) to demonstrate reading, writing, talking or listening abilities in the particular language will not be a reasonable adjustment.

**Specification 6:** in relation to **National Core Skills Communication Units and to National Certificate Communication Units**, exemption from demonstrating abilities in reading, writing, listening or speaking will not be a reasonable adjustment.

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<sup>4</sup> An exception to this could be in situations where the candidate is physically unable to write but is able to dictate and spell out words in the target language letter by letter.

# Concluding remarks

SQA is committed to equality of access to assessment and qualifications for all candidates. It has embraced the changes brought by the Equality Act 2010 and takes seriously its responsibility to minimise disadvantage for disabled candidates and to maintain the credibility of Scotland's qualifications system.

In deciding to make the specifications, SQA has very carefully considered the views of all those consulted. The decisions taken were influenced, but not wholly determined, by the percentage support in the consultation responses.

At the heart of each decision, SQA has fully considered:

- ◆ the need to minimise the extent to which disabled persons are disadvantaged in attaining a particular qualification because of their disabilities
- ◆ the need to ensure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred
- ◆ the need to maintain public confidence in the qualification

It is challenging to balance the above, which are not always mutually compatible, and it is recognised that, despite all reasonable efforts, it might not be possible for all candidates to achieve particular qualifications.

The specifications will be kept under regular review. SQA will monitor their implementation and their impact on candidates.

## **Relevant General Qualifications in Scotland covered by section 96 of the Equality Act 2010**

### **National Qualifications in Scotland**

- ◆ Standard Grades
- ◆ National Courses (Access, Intermediate 1, Intermediate 2, Higher and Advanced Higher)
- ◆ New National Courses (National1 to National 5, Higher and Advanced Higher) to be introduced under Curriculum for Excellence from 2013/14
- ◆ Scottish Baccalaureates
- ◆ All Skills for Work Courses
- ◆ Non-vocational Awards

## Stakeholders who responded

Schools (19)	Colleges (6)	Local Authorities (4)	Disability/ equality groups (13)	Individuals (16)	Other (13)
Mainstream secondary schools (x8)	Forth Valley College	North Lanarkshire Council	SCOD (Scottish Council on Deafness)	Individuals (x5)	Support for Learning Teachers East Ayrshire Council
Special schools (x2)	Carnegie College	Fife Council	NDCS (The National Deaf Children's Society)	Teachers (x5)	Specialist Teaching and Disability Team Midlothian Council
Independent schools (x3)	West Lothian College	Aberdeen City Council	Capability Scotland	Teachers of the Deaf (x3)	Association of Scottish Principal Educational Psychologists
Secondary schools with dedicated units or support for learning departments (x6)	Adam Smith College	West Dunbartonshire Council	Down's Syndrome Scotland	Lecturers (x2)	Scottish Council for Independent schools
	Motherwell College		FSDC (For Scotland's Disabled Children) Education Group	PTSfL Teacher (x1)	Deaf Learners Group
	John Wheatley College		Sense Scotland		Vision Support Service Aberdeen City
			Dyslexia Scotland		SPTC (Scottish Parent Teacher Council)
			BATOD Scotland (British Association of Teachers of the Deaf)		Midlothian Support for Learning Principal Teachers Midlothian Council

Schools (19)	Colleges (6)	Local Authorities (4)	Disability/ equality groups (13)	Individuals (16)	Other (13)
			EHRC (Equality and Human Rights Commission)		Children's Service Shetland Islands Council
			CALL Scotland (Communication, Access, Literacy and Learning)		City of Edinburgh Psychological Services
			ECU (Equality Challenge Unit works to support equality for staff and students in higher education across all four nations of the UK, and in colleges in Scotland)		Youthlink Scotland
			LEAD Scotland (Linking Education and Disability)		University of Highlands and Islands
			Enquire (the Scottish Advice Service for Additional Support for Learning)		EIS (Educational Institute of Scotland)