

**WITHDRAWN**

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## **Guidance to the General Conditions of Recognition**

**August 2018**

For Awarding Organisations



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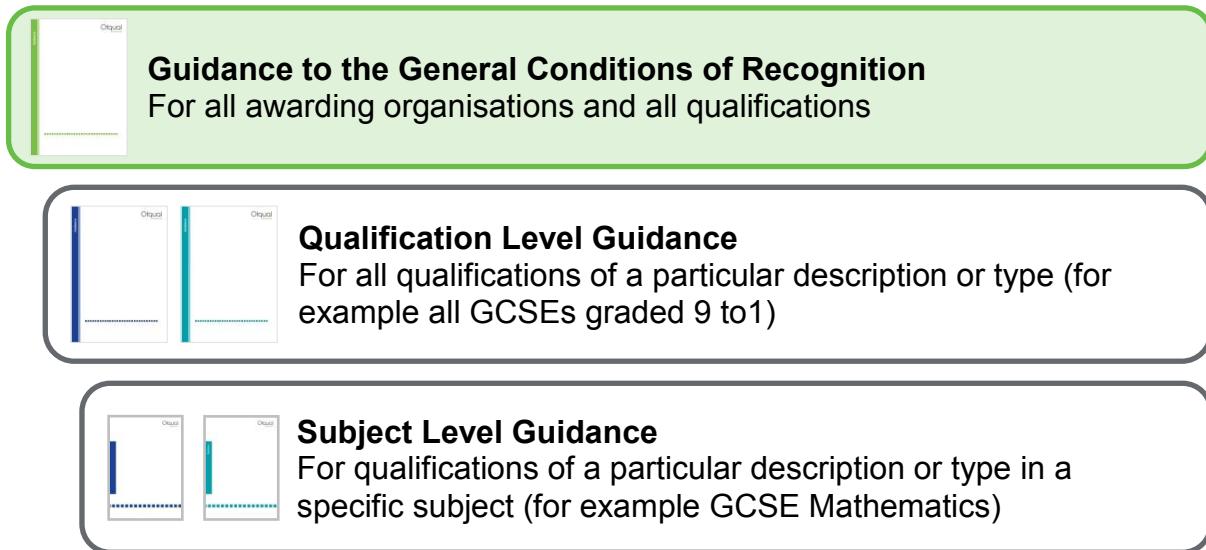
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# Introduction

## About this document

This document (highlighted in the figure below) is part of a suite of documents which sets out our guidance for awarding organisations.



This document sets out guidance which supports the General Conditions of Recognition.<sup>1</sup> As such, it applies to all awarding organisations and all regulated qualifications.

This document constitutes guidance for the purposes of section 153 of the Apprenticeships, Skills, Children and Learning Act 2009 (the ‘2009 Act’). All awarding organisations have a legal obligation under the 2009 Act to have regard to this guidance.

An awarding organisation should use the guidance to help it understand how to comply with the General Conditions of Recognition (and any associated requirements).

<sup>1</sup> [www.ofqual.gov.uk/documents/general-conditions-of-recognition](http://www.ofqual.gov.uk/documents/general-conditions-of-recognition)

## **Guidance set out in this document**

This document provides guidance on the General Conditions of Recognition set out in the table below.

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## **Revisions to this document**

We have revised this document since it was originally published (see Appendix 1 for details), most recently in August 2018.

The August 2018 version of this document replaces all previous guidance to the General Conditions of Recognition; it includes the following new or amended guidance, which will come into effect at 5.01pm on Monday 6 August 2018:

- Guidance to Condition A4 – Conflicts of interest (amended)
- Guidance to Condition A8 – Malpractice and maladministration (amended)
- Guidance to Condition G4 – Maintaining confidentiality of assessment materials (amended)
- Guidance on safeguarding confidentiality where Teachers are involved in developing assessments (new)

# **Guidance to the General Conditions of Recognition**

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## **Guidance on Condition A1 – Suitability for continuing recognition**

### **Condition A1    Suitability for continuing recognition**

#### **Suitability for continuing recognition**

- A1.1 An awarding organisation must not, by means of any act or omission which has or is likely to have an Adverse Effect, render itself unsuitable to continue to be recognised for the award of a relevant qualification.
- A1.2 For these purposes, an act or omission may include in particular one which results in the awarding organisation –
- (a) being convicted of a criminal offence,
  - (b) being held by a court or any professional, regulatory, or government body to have breached any provision of Competition Law, Equalities Law, or Data Protection Law,
  - (c) being held by a court or any professional, regulatory, or government body to have breached a provision of any other legislation or any regulatory obligation to which it is subject, or
  - (d) becoming insolvent or subject to corporate financial restructuring.

#### **Inactive awarding organisations**

- A1.3 An awarding organisation must –
- (a) ensure that, within two years of first being recognised for the award of qualifications, it has submitted to Ofqual for accreditation or directly to the Register a qualification that meets its Conditions of Recognition, and
  - (b) take all reasonable steps to ensure that, once it has submitted a qualification that meets its Conditions of Recognition, no two-year period passes in which it does not award a qualification in accordance with its Conditions of Recognition.

#### **Ensuring the suitability of Senior Officers**

- A1.4 An awarding organisation must ensure that each of its Senior Officers is at all times a person suitable to be engaged in that role in an awarding organisation that is recognised for the award of the relevant qualifications.
- A1.5 For these purposes, a Senior Officer may in particular be unsuitable for that role by virtue of –
- (a) any criminal convictions held by him or her,

- (b) any finding by a court or any professional, regulatory, or government body that he or she has breached a provision of any legislation or any regulatory obligation to which he or she is subject,
- (c) any proceedings in bankruptcy or any individual financial arrangement to which he or she is or has been subject,
- (d) any disqualification from holding the directorship of a company or from public office, or
- (e) any finding of malpractice or maladministration, in relation to a qualification (whether a regulated qualification or a qualification which is not regulated), to which he or she is or has been subject.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- is clear about which acts or omissions will have, or are likely to have, an Adverse Effect, and is aware of the type of actions and behaviours that could cause it to happen;
- makes sure all relevant staff understand which acts or omissions will have, or are likely to have, an Adverse Effect;
- has considered the behaviours that might be unsuitable for its Senior Officers, taking into account the market in which it operates and the qualifications it provides;
- uses appropriate information and evidence to make a judgement when it checks the suitability of its Senior Officers, both at the time of appointment and at regular intervals when in post – for example as a result of up-to-date voluntary disclosure or other appropriate checks.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- appoints a Senior Officer without knowing, or despite knowing, they were unsuitable for the post;
- does not ensure that its Senior Officers understand, at the time of appointment and once in post, what is expected of them in order to be suitable;

- does not identify or address its Senior Officers' behaviours that make them unsuitable for the role;
- does not act promptly and appropriately when a Senior Officer becomes unsuitable for the role.

## **Guidance on Condition A4 – Conflicts of interest**

### **Condition A4    Conflicts of interest**

#### **Definition of conflict of interest**

- A4.1 For the purposes of this condition, a conflict of interest exists in relation to an awarding organisation where –
- (a) its interests in any activity undertaken by it, on its behalf, or by a member of its Group have the potential to lead it to act contrary to its interests in the development, delivery and award of qualifications in accordance with its Conditions of Recognition,
  - (b) a person who is connected to the development, delivery or award of qualifications by the awarding organisation has interests in any other activity which have the potential to lead that person to act contrary to his or her interests in that development, delivery or award in accordance with the awarding organisation's Conditions of Recognition, or
  - (c) an informed and reasonable observer would conclude that either of these situations was the case.

#### **Identifying conflicts of interest**

- A4.2 An awarding organisation must identify and monitor –

- (a) all conflicts of interest which relate to it, and
- (b) any scenario in which it is reasonably foreseeable that any such conflict of interest will arise in the future.

- A4.3 An awarding organisation must establish and maintain an up to date record of all conflicts of interest which relate to it.

#### **Managing conflicts of interest**

- A4.4 An awarding organisation must take all reasonable steps to ensure that no conflict of interest which relates to it has an Adverse Effect.

- A4.5 Where such a conflict of interest has had an Adverse Effect, the awarding organisation must take all reasonable steps to mitigate the Adverse Effect as far as possible and correct it.

#### **Interests in assessment**

- A4.6 An awarding organisation must take all reasonable steps to avoid any part of the assessment of a Learner (including by way of Moderation) being undertaken by any person who has a personal interest in the result of the assessment.

A4.7 Where, having taken all such reasonable steps, an assessment by such a person cannot be avoided, the awarding organisation must make arrangements for the relevant part of the assessment to be subject to scrutiny by another person.

**The written conflict of interest policy**

- A4.8 An awarding organisation must establish, maintain, and at all times comply with an up to date written conflict of interest policy, which must include procedures on how the awarding organisation intends to comply with the requirements of this condition.
- A4.9 When requested to do so by Ofqual in writing, an awarding organisation must promptly submit to Ofqual its conflict of interest policy, and must subsequently ensure that the policy complies with any requirements which Ofqual has communicated to it in writing.

**Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- ensures that its contractual arrangements with staff and third parties who have access to confidential assessment information<sup>2</sup> clearly set out any obligations on those staff and third parties to manage conflicts of interest arising from other activities that they undertake;
- puts in place contractual arrangements which require, at a minimum, staff and third parties who have, or have had, access to confidential assessment information through the assessment development process (including quality assurance) to provide details to the awarding organisation of –
  - all instances in which such a person is, or has been, a Teacher for the relevant qualification, or is employed by a Centre at which that qualification is taught or delivered (even if that person does not themselves teach or deliver the qualification); and
  - all other conflicts of interest including personal conflicts such as, for example –

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<sup>2</sup> In this guidance, 'confidential assessment information' refers to both the contents of assessment materials and information about the assessment in relation to which confidentiality must be maintained under Condition G4.1.

- where a child, sibling, or other close family member is due to take the assessment in relation to which the person has confidential assessment information, and
- where a partner or other close family member is teaching, or is due to teach, the relevant qualification;
- requires such details to be provided on an ongoing basis for as long as the relevant assessment information remains confidential;
- maintains records of all conflicts (using one or more documents) and retains relevant entries for as long as the relevant assessment information remains confidential or as long as required to undertake effective monitoring, whichever is later;
- puts in place contractual arrangements requiring staff and third parties who have had access to confidential assessment information to promptly notify it if they have been, or are currently, involved in the preparation of a resource designed to support the preparation of Learners for assessments for that qualification. One example of such a resource would be a textbook for the specification. This does not apply to the preparation of teaching resources or materials by a Teacher exclusively for Learners that he or she teaches (although the awarding organisation may choose to look at such materials in order to deter and detect any breach of confidentiality);
- monitors assessments set by staff and third parties who have been involved in the preparation of a resource designed to support the preparation of Learners for assessments for that qualification, to ensure that the fitness for purpose of those assessments has not been compromised by that resource. One example of such a resource would be a textbook for the specification. This does not apply to the preparation of teaching resources or materials by a Teacher exclusively for Learners that he or she teaches (although the awarding organisation may choose to monitor such materials in order to deter and detect any breach of confidentiality);
- investigates credible concerns which come to its attention in relation to conflicts of interest.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- did not know that the partner of a staff member involved in the development of confidential assessment information was employed at the time as a Teacher for the qualification for which the assessment would be taken;

- did not know that a third party who it contracted to develop or quality assure confidential assessment materials was employed at the time as a Teacher for the qualification for which the assessment would be taken;
- did not know that a third party who it contracted to assist with the development of confidential questions for an assessment – who did not teach the relevant qualification at the time – later became a Teacher of that qualification before the assessment was taken;
- did not know that a third party who modified confidential assessment materials worked at the time as a private tutor in respect of the qualification for which the assessment would be taken;
- where a current Teacher holds confidential assessment information, deletes relevant information from its conflicts register where the Teacher stops teaching the relevant qualification before the assessment is taken or before any monitoring takes place.

## **Guidance on Condition A5 – Availability of adequate resources and arrangements**

### **Condition A5    Availability of adequate resources and arrangements**

#### **Ensuring the ability to develop, deliver and award qualifications**

A5.1 An awarding organisation must –

- (a) ensure that it has the capacity to undertake the development, delivery and award of qualifications which it makes available, or proposes to make available, in accordance with its Conditions of Recognition, and
- (b) take all reasonable steps to ensure that it undertakes the development, delivery and award of those qualifications efficiently.

A5.2 For these purposes, an awarding organisation must establish and maintain –

- (a) arrangements which will ensure that it retains at all times a Workforce of appropriate size and competence,
- (b) arrangements for the retention of data which will ensure that adequate information is available to it at all times,
- (c) arrangements which will ensure that sufficient technical equipment and support is available to it at all times,
- (d) appropriate management resources, and
- (e) appropriate systems of planning and internal control.

A5.3 For these purposes, an awarding organisation must also –

- (a) regularly review its ongoing resource requirements and make appropriate changes to take into account the findings of each review, and
- (b) adequately plan any new developments which it proposes to introduce, and allocate sufficient resources to ensure that such developments are effectively introduced.

#### **Ensuring financial viability**

A5.4 An awarding organisation must ensure that it will have available sufficient financial resources and facilities to enable it to develop, deliver and award qualifications in accordance with its Conditions of Recognition until at least the time by which every Learner for a qualification it makes available has had the opportunity to complete that qualification.

## **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- identifies and has in place, the resources it needs to develop, deliver and award its qualifications;
- has a system for reliably forecasting the demand for its qualifications and puts in place resources to meet this demand;
- is sufficiently flexible to act to address changes in its forecasted demand;
- acts quickly to identify and address any shortcomings in its capacity or ability to develop, deliver or award any of its qualifications that it could not reasonably have foreseen;
- collects and retains data that will allow it to meet its Conditions of Recognition, which could include, but not be limited to:
  - evidence of support for its qualifications (Condition E1);
  - qualitative and/or quantitative information from its monitoring of qualifications for features that could disadvantage particular Learners (Condition D2);
  - data that enables it to review the specified levels of attainment previously set for the qualification and similar qualifications it makes available (Condition H3);
  - the outcomes of its monitoring of its financial position and the steps it has taken to address any issues identified.

## **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not identify or address inefficiencies in the development, delivery and award of its qualifications;
- cannot cope with demand for its qualifications;
- cannot facilitate demands from the regulator or other agencies, as required;
- fails to make appropriate amendments to the size and competence of its Workforce when it makes significant changes to the qualifications it offers;

- relies on IT systems that are prone to poor performance and/or repeated error;
- cannot access the up-to-date data it needs to be able to meet its conditions.

## **Guidance on Condition A6 – Identification and management of risks**

### **Condition A6    Identification and management of risks**

#### **Identifying risks**

A6.1 An awarding organisation must take all reasonable steps to identify the risk of the occurrence of any incident which could have an Adverse Effect.

#### **Preventing incidents or mitigating their effect**

A6.2 Where such a risk is identified, the awarding organisation must take all reasonable steps to –

- (a) prevent the incident from occurring or, where it cannot be prevented, reduce the risk of that incident occurring as far as is possible, and
- (b) prevent any Adverse Effect that the incident could have were it to occur or, where it cannot be prevented, mitigate that Adverse Effect as far as possible.

#### **Contingency plan**

A6.3 An awarding organisation must establish and maintain, and at all times comply with, an up to date written contingency plan.

A6.4 A contingency plan must be of sufficient detail and quality to allow the awarding organisation to mitigate, as far as possible, the Adverse Effect of any incident which has been identified by the awarding organisation as having a risk of occurring.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- identifies events that might have an Adverse Effect using risk management approaches;
- knows where ownership for its approach to risk management lies within the organisation;
- reviews and updates its risks using a systematic and consistent approach;
- takes action to prevent or deal with risks that might have an Adverse Effect;
- has a contingency plan that covers:
  - the triggers for implementation of the plan;

- the impact on other parts of the business of implementing the plan;
- the minimum requirements to maintain development, delivery and award of its qualifications;
- communication plans for relevant external parties;
- what needs to be done to return to business as usual;
- tests its contingency plan to make sure it can mitigate Adverse Effects, covering areas such as key business systems and processes, and makes any necessary changes following the tests.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not systematically consider the range and type of risks that may have an impact on its regulated activities;
- has an ad hoc or inconsistent approach to identifying and managing risks that relate to preventing or mitigating Adverse Effects;
- does not actively take steps to mitigate risks it has identified;
- fails to identify a foreseeable risk – where it might be reasonably expected to do so – that could result in an Adverse Effect.

## **Guidance on Condition A8 – Malpractice and maladministration**

### **Condition A8    Malpractice and maladministration**

#### **Preventing malpractice and maladministration**

A8.1 An awarding organisation must take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available.

#### **Investigating and managing the effect of malpractice and maladministration**

A8.2 Where any such malpractice or maladministration is suspected by an awarding organisation or alleged by any other person, and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must –

- (a) so far as possible, establish whether or not the malpractice or maladministration has occurred, and
- (b) promptly take all reasonable steps to prevent any Adverse Effect to which it may give rise and, where any such Adverse Effect occurs, mitigate it as far as possible and correct it.

#### **Procedures relating to malpractice and maladministration**

A8.3 For the purposes of this condition, an awarding organisation must –

- (a) establish and maintain, and at all times comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration, and
- (b) ensure that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome.

A8.4 Where a Centre undertakes any part of the delivery of a qualification which an awarding organisation makes available, the awarding organisation must take all reasonable steps to keep under review the arrangements put in place by that Centre for preventing and investigating malpractice and maladministration.

A8.5 An awarding organisation must, following a request from such a Centre, provide guidance to the Centre as to how best to prevent, investigate, and deal with malpractice and maladministration.

### **Dealing with malpractice and maladministration**

- A8.6 Where an awarding organisation establishes that any malpractice or maladministration has occurred in the development, delivery or award of qualifications which it makes available, or proposes to make available, it must promptly take all reasonable steps to –
- (a) prevent that malpractice or maladministration from recurring, and
  - (b) take action against those responsible which is proportionate to the gravity and scope of the occurrence, or seek the cooperation of third parties in taking such action.
- A8.7 Where an awarding organisation has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence –
- (a) may affect a Centre undertaking any part of the delivery of a qualification which an awarding organisation makes available, it must inform that Centre, and
  - (b) may affect another awarding organisation, it must inform that awarding organisation.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- has ways of working that reduce the risk of incidents of malpractice or maladministration occurring;
- makes sure that individuals involved in the development, delivery and award of its qualifications understand and routinely follow these ways of working;
- takes all reasonable steps to ensure that current (and former) staff and third parties do not provide information about its qualifications which is inaccurate or misleading;
- follows policies, practices and/or procedures that reduce the risk of malpractice and maladministration, covering, among other things:
  - plagiarism, collusion, tampering, breach of confidentiality of assessment materials;
  - incidents that occur outside of England (if it operates elsewhere);

- knows what to do if evidence of malpractice or maladministration comes to light, whether in the organisation itself or within a third party involved with the design, delivery or award of a qualification;
- acts quickly when it has evidence of malpractice or maladministration;
- investigates promptly any allegations for which there are reasonable grounds that current (or former) staff or third parties have provided inaccurate or misleading information to Centres or Teachers about its qualifications and, if the awarding organisation establishes that Teachers have been misinformed, takes reasonable steps to correct any misunderstandings with the Centres or Teachers that are affected;
- captures, logs and addresses all suspicions and evidence of malpractice.

The awarding organisation uses and regularly reviews a standardised investigations policy and approach that sets out:

- who investigates concerns about malpractice or maladministration;
- how an investigation is undertaken;
- how whistleblowers will be treated, and in such a way that individuals will not be prejudiced;
- when and how interested parties will be notified lawfully;
- how any interviews should be conducted;
- how facts will be gathered and evidence found, collated and stored;
- how evidence will be verified;
- how confidentiality of investigation materials is assured;
- how the records of its investigations will be presented and their accuracy assured;
- how and when any visits to Centres will be announced and undertaken;
- which principles will be followed when it undertakes an investigation with other bodies.

The awarding organisation has on record:

- clear terms of reference for the investigations that it has undertaken;

- a log of all allegations, including those that were not investigated, that it can cross-reference if new information is provided.

Where the awarding organisation finds that a Teacher has disclosed confidential assessment information, the awarding organisation ensures that, where appropriate, the Teaching Regulation Agency (TRA), or any organisation that carries out the same function in England or another jurisdiction, is notified. In considering whether or not such a referral is appropriate the awarding organisation considers whether:

- the Teacher in question is subject to professional regulation by the TRA or other teaching regulator; and
- the malpractice identified is serious based on the facts of the case and the seriousness of the sanction imposed by the awarding organisation.

The awarding organisation takes into account any guidance issued by the appropriate regulator. In general, a referral should be made where there was a deliberate or persistent disclosure in contravention of the requirements for the conduct of the assessment, or in breach of confidentiality of confidential assessment information, particularly where the action had, or was intended to have, a significant impact on the outcome of the assessment for at least one Learner.

The awarding organisation reminds any Centre at which the Teacher is employed of its obligation to consider a referral to the TRA. Where an awarding body has evidence that a Centre has made a referral, then it does not need to make a referral itself. If in doubt, an awarding organisation should err on the side of making a referral itself.

Where the awarding organisation finds that a person not subject to regulation by the TRA or another teaching regulator has disclosed confidential assessment information, it notifies any other professional regulator to which that person is subject, where appropriate.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- has used an individual or Centre to assist with, or lead on, an investigation when there is a suspicion or allegation that the individual or Centre was itself connected to, or responsible for, the malpractice and/or maladministration being investigated;
- cannot demonstrate that it has taken steps to prevent repeat incidents of previous cases;

- has not followed its own procedures when investigating a matter;
- has not properly evaluated, and, where required, validated evidence collected during an investigation;
- has not contacted relevant parties that are critical to the investigation itself, or to the outcomes of the investigation;
- has not kept records and documents relating to the incident and investigation for an appropriate period;
- has not been able to enforce action it has taken against those involved in malpractice or maladministration, and cannot demonstrate a good reason why it has been unable to do so;
- has failed to take all reasonable steps to prevent its current (or former) staff or third parties from providing inaccurate or misleading information about its qualifications;
- has failed to investigate promptly allegations for which there are reasonable grounds that current (or former) staff or third parties have provided inaccurate or misleading information about its qualifications to Centres or Teachers;
- has not, where it has established that current (or former) staff or third parties have provided inaccurate or misleading information about its qualifications to Centres or Teachers, taken reasonable steps to correct any misunderstandings with the Centres or Teachers that are affected.

## **Guidance on Condition B1 – The role of the responsible officer**

### **Condition B1    The role of the responsible officer**

#### **Appointing a responsible officer**

- B1.1 An awarding organisation must ensure that an individual is at all times appointed to act as its responsible officer.
- B1.2 The awarding organisation must ensure that Ofqual is informed in writing of the name of the person from time to time appointed as its responsible officer.

#### **The role of the responsible officer**

- B1.3 An awarding organisation must ensure that its responsible officer serves as the authoritative point of contact for Ofqual in relation to all activities undertaken by the awarding organisation which are of interest to Ofqual in accordance with the Act, including in particular –
- (a) any matters relating to its compliance with its Conditions of Recognition,
  - (b) its ability to undertake the efficient development, delivery and award of qualifications,
  - (c) the standards of qualifications that it makes available or proposes to make available,
  - (d) any matters which may affect public confidence in qualifications, and
  - (e) the accessibility of qualifications it makes available, including its compliance with Equalities Law.
- B1.4 An awarding organisation must ensure that, where –
- (a) its responsible officer makes a statement to Ofqual (other than one which is required to be made by the Governing Body), Ofqual will be entitled to rely on that statement as being accurate and made on behalf of the awarding organisation, and
  - (b) Ofqual gives to its responsible officer a statement, request, or notice addressed to the awarding organisation, Ofqual will be entitled to treat that statement, request, or notice as having been given to the awarding organisation.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The responsible officer:

- can explain his/her responsibilities and how he/she undertakes the role;
- is given authority to speak to Ofqual on behalf of the awarding organisation;
- undertakes the responsibilities of the role, as defined by the organisation;
- is an authoritative point of contact with Ofqual, as required by B1.3, drawing on the expertise and information held by others within the organisation.

The awarding organisation:

- has identified its responsible officer;
- has defined and recorded the role and responsibilities of its responsible officer, such as within a job description/role specification or other appropriate record;
- enables its responsible officer to fulfil the role;
- provides the responsible officer with the support and access to information and other resources necessary for the role;
- responds quickly to any issues arising with the role, such as changing the definition of the role, providing extra support and/or changing the role holder;
- makes relevant staff aware of the role of the responsible officer;
- ensures the role of the responsible officer is covered when the normal post holder is away from the business for a given period of time due to illness, holiday or other appropriate considerations.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The responsible officer:

- has provided Ofqual with misleading or inaccurate information;
- has not responded to requests for information;
- does not have the expertise and experience necessary for the role;
- does not have the authority to act on behalf of the organisation in its dealings with Ofqual;
- provides information to Ofqual that is contradicted by Senior Officers or other members of staff.

## **Guidance on Condition B3 – Notification to Ofqual of certain events**

### **Condition B3    Notification to Ofqual of certain events**

#### **Notification where an event could have an Adverse Effect**

B3.1 An awarding organisation must promptly notify Ofqual when it has cause to believe that any event has occurred or is likely to occur which could have an Adverse Effect.

#### **Specific examples of events which could have an Adverse Effect**

B3.2 For the purposes of this condition, such events may in particular include those where –

- (a) there is a substantial error in the awarding organisation’s assessment materials,
- (b) there has been a loss or theft of, or a breach of confidentiality in, any assessment materials,
- (c) the awarding organisation cannot supply assessment materials for a scheduled assessment date,
- (d) there has been a failure in the delivery of an assessment which threatens Assessors’ ability to differentiate accurately and consistently between the levels of attainment demonstrated by Learners,
- (e) the awarding organisation will be unable to meet a published date for the issue of results or the award of a qualification,
- (f) the awarding organisation has issued incorrect results or certificates,
- (g) the awarding organisation believes that there has been an incident of malpractice or maladministration, which could either invalidate the award of a qualification which it makes available or could affect another awarding organisation,
- (h) the awarding organisation has (for any reason, whether inside or outside its control) incurred an increase in costs which it anticipates will result in an increase in its fees of significantly more than the rate of inflation,
- (i) the awarding organisation is named as a party in any criminal or civil proceedings or is subjected to a regulatory investigation or sanction by any professional, regulatory, or government body, or

- (j) a Senior Officer of the awarding organisation is a party to criminal proceedings (other than minor driving offences), is subject to any action for disqualification as a company director, or is subject to disciplinary proceedings by any professional, regulatory, or government body.

**Notification of specified events in all cases**

B3.3 An awarding organisation must promptly notify Ofqual if it is, or if it has cause to believe that it is likely to be, subject to –

- (a) a material change in its governance structure or legal status,
- (b) a change of control,
- (c) a merger between it and another body, or
- (d) any insolvency or bankruptcy proceedings.

B3.4 An awarding organisation must promptly notify Ofqual if it proposes to make available a qualification which is substantially different in type or content to any which it has previously made available.

**Further requirements on the timing of notifications**

B3.5 When it notifies Ofqual of an event in accordance with this condition, or as soon as possible afterward, an awarding organisation must also notify Ofqual of any steps that it has taken or intends to take to prevent the event having an Adverse Effect or to correct or mitigate that Adverse Effect if it occurs.

B3.6 An awarding organisation must not delay making a notification to Ofqual in accordance with this condition because relevant information is unavailable, but must notify based on all the information that it has and provide further information to Ofqual once it becomes available.

**Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- identifies events that have occurred or are likely to occur that could have, or has had, an Adverse Effect and notifies Ofqual promptly;
- has staff who take timely, informed decisions and exercise appropriate judgement when deciding when to report events to Ofqual, and when managing events;
- notifies Ofqual of events that have occurred or are likely to occur that could have, or has had, an Adverse Effect irrespective of whether the event is being managed through established contingency plans;

- has clear decision-making and timely escalation processes for identifying and determining whether an event could have, or has had, an Adverse Effect;
- balances the need to gather sufficient evidence to identify whether an Adverse Effect has occurred or is likely to occur, with the need promptly to notify Ofqual of the event, prioritising prompt notification over waiting for all evidence to be available, taking account of:
  - the actual or potential impact on Learners;
  - its assessment of the seriousness of the event, taking account of the factors set out in the guidance on making a notification below;
  - the urgency of any actions required to mitigate the actual or potential Adverse Effect (for example, because of proximity to an assessment on a specific date, or to the issuing of results or certificates);
  - how long it will take the awarding organisation to gather evidence and decide on, and take, key decisions or actions;
  - the actual or potential impact on public confidence, such as if the event has been or is likely to be reported in the media or on social media;
- provides information to Ofqual when making a notification that includes:
  - what has happened or is likely to happen and why;
  - how and when it became aware of the event;
  - its assessment of the seriousness of the event and of its actual or potential Adverse Effect, and the basis on which this assessment was made, taking account of any information from Ofqual (for example if Ofqual has asked for specific information about certain types of event) about how particular types of event should be reported;
  - the possible or actual impact of the event on Learners or public confidence (in terms of both the type of Learner(s) affected and volume of Learners affected), including any impact on the standards or validity of qualifications;
  - the actions it has taken or plans to take to prevent, correct or mitigate as far as is possible any actual or potential Adverse Effect, to identify its cause and to prevent the event from reoccurring;
  - the qualifications, subjects and units affected, including the dates and details of any affected assessments;

- its assessment of the scale of the event including, where possible, the number of Centres and Learners affected, with a country location breakdown;
- any relevant supporting information or documents relating to the event, for example, copies of assessment materials in the case of question paper errors or details of system failures in the event of an issue with an online assessment system;
- how it is monitoring the event to ensure its assessment of the seriousness remains accurate and that its actions remain appropriate;
- whether Centres, Learners, media or other stakeholders are aware and details of any complaints or correspondence it has received about the event;
- the expected timescales for resolving and/or mitigating the impact of the event;
- how it will keep Ofqual informed throughout its management of the event;
- any other organisations or agencies that are involved;
- provides sufficiently detailed information to enable Ofqual to understand the nature of the event and the actions taken by the awarding organisation;
- where full information is not available at the point when the awarding organisation notifies Ofqual, provides an indication of what further information will be provided and when;
- in supplying information to Ofqual, takes account of requirements relating to the protection of personal information, and where relevant, the need to protect the confidentiality of assessment materials;
- provides regular updates and relevant information as agreed with Ofqual, throughout its management of the event;
- keeps its decisions about whether or not an event has an actual or potential Adverse Effect under review as circumstances and/or its understanding of the event change;
- notifies Ofqual of any event under B3.3 sufficiently far ahead of any changes taking place and provides relevant supporting evidence as required by Ofqual, which could include:
  - a description of any changes which are being made;

- relevant documents which confirm any changes or the likely nature of potential changes;
    - plans for how the awarding organisation will ensure that no Learners are unfairly advantaged or disadvantaged as a result of any change;
    - the steps it will take to make sure it will remain compliant with its Conditions of Recognition;
- notifies Ofqual (as required by Condition B3.4) of its plans to offer qualifications which are substantially different before it starts marketing, promoting or offering them, for example when it intends to offer qualifications:
  - of a nature which it does not have experience offering;
  - in a sector for which it has not previously offered qualifications;
  - at a level which it has not previously offered qualifications;
  - using a method of assessment it has not previously used.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not have a clear and effective process for managing event notifications;
- fails to inform Ofqual promptly and provide sufficient detail of events which have had, or could have an Adverse Effect;
- does not notify Ofqual of an event which has had, or could have an Adverse Effect before Ofqual becomes aware of it through other means (for example through complaints by Learners or Centres, media reports or reports from other agencies) where it would have been possible to do so;
- does not provide regular and timely updates for an event which it has reported, as it manages the event;
- does not manage event notifications effectively, leading to a delayed or inappropriate resolution which adversely impacts Learners, public confidence or standards;
- experiences reoccurrences of the same or similar event where this could have been prevented;

- does not respond fully or accurately to requests from Ofqual for further information;
- provides inaccurate reports of events that could have an Adverse Effect, such as:
  - inaccurate reporting of the number of events which occur;
  - inaccurate or misleading assessments of the seriousness of the event;
- does not alert Ofqual to a material change in its governance or ownership or until after the event;
- does not alert Ofqual when it becomes evident its financial security is at risk;
- does not alert Ofqual to its plans to introduce substantially different qualifications sufficiently far ahead of submitting them to the Register (to allow Ofqual to consider the need for any additional requirements that may apply, such as an accreditation requirement or special condition), or where an accreditation requirement applies, before it submits them for accreditation (to allow time for the accreditation of that qualification);
- starts marketing a qualification, registering Learners or offering a qualification that is substantially different in type or content to any qualification it has previously made available before notifying Ofqual of its intentions.

## **Guidance on Condition B5 – Representations regarding qualifications**

### **Condition B5 Representations regarding qualifications**

#### **Statements regarding qualifications which are not regulated qualifications**

B5.1 An awarding organisation must not (and must take all reasonable steps to ensure that any person connected with it does not) make any statement that would be likely to lead Users of qualifications to believe that a qualification it makes available is a regulated qualification when it is not a regulated qualification.

#### **Advertising and promotion of qualifications**

B5.2 An awarding organisation must not (and must take all reasonable steps to ensure that any person connected with it does not) advertise or promote its qualifications in a manner that is likely to be misleading to Users of qualifications.

#### **Use of Ofqual's Logo**

B5.3 An awarding organisation must ensure that its use of Ofqual's Logo complies with Logo Requirements and Certificate Requirements which may be published by Ofqual and revised from time to time.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- ensures that others connected to it – including Centres – who are involved in the development, delivery and award of its qualifications, accurately differentiate between regulated and unregulated qualifications and other products when representing its qualifications;
- clearly differentiates between regulated and unregulated qualifications in its materials, publications and on its website, so there is no scope for confusion by Users of qualifications.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not deal promptly or effectively with misleading statements or materials about the regulated status of its qualifications;
- is the subject of complaints about the status of its products;

- has not made clear on a website or in documentation which of its qualifications are regulated by Ofqual and which are not;
- has used the Ofqual Logo in ways that do not meet the Ofqual Logo Requirements and Certificate Requirements, including, but not limited to, the use of the Ofqual Logo on:
  - marketing materials;
  - websites;
  - qualification specifications;
  - unit certificates;
  - unregulated qualifications.

## **Guidance on Condition C1 – Arrangements with third parties**

### **Condition C1    Arrangements with third parties**

- C1.1 Where an awarding organisation arranges for a third party to undertake, on its behalf, any part of the development, delivery or award of qualifications which the awarding organisation makes available, or proposes to make available, the awarding organisation must –
- (a) ensure that the arrangements which it establishes with that third party enable the awarding organisation to develop, deliver and award qualifications in accordance with its Conditions of Recognition, and
  - (b) monitor and, where appropriate, enforce such arrangements so as to ensure that it is able to develop, deliver and award qualifications in accordance with its Conditions of Recognition.
- C1.2 An awarding organisation must take all reasonable steps to ensure that, in making any such arrangements, it does not impose unnecessary or unduly burdensome requirements on third parties.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- evaluates a third party’s ability and willingness to act in a way that will enable the awarding organisation to comply with the conditions before entering into an arrangement with the third party;
- has arrangements with third parties that reflect the conditions appropriate to the third parties’ roles (examiners, IT providers, printers and couriers, for example) that enable it to meet its Conditions of Recognition;
- has up-to-date records of the third parties with which it works and of their roles in the development, delivery and award of its qualifications;
- makes clear to the third parties with which it works what it expects of them;
- has acted quickly and appropriately when it has found third-party activity puts at risk its ability to comply with its Conditions of Recognition enforcing such arrangements where necessary;
- seeks feedback from third parties on the burden of its arrangements on them and reduces any such burden where possible.

## **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not identify where a third party is putting its compliance with the conditions at risk;
- breaches its conditions because of the actions of a third party;
- places unnecessary requirements on its third parties.

## **Guidance on Condition C2 – Arrangements with Centres**

### **Condition C2    Arrangements with Centres**

- C2.1 Where a Centre undertakes any part of the delivery of a qualification on behalf of an awarding organisation, this condition applies in addition to the requirements in Condition C1.
- C2.2 Where this condition applies, an awarding organisation must ensure that arrangements between it and the Centre include a written and enforceable agreement.
- C2.3 That agreement must in particular include provisions which –
- (a) require the Centre to take all reasonable steps to ensure that the awarding organisation is able to comply with its Conditions of Recognition,
  - (b) require the Centre to take all reasonable steps to comply with requests for information or documents made by the awarding organisation or Ofqual as soon as practicable,
  - (c) require the Centre to assist the awarding organisation in carrying out any reasonable monitoring activities and to assist Ofqual in any investigations made for the purposes of performing its functions,
  - (d) set out all the requirements with which the Centre must comply in order to continue to deliver the qualification,
  - (e) establish a sanctions policy to be applied in the event that the Centre fails to comply with these requirements,
  - (f) require the Centre to retain a Workforce of appropriate size and competence to undertake the delivery of the qualification as required by the awarding organisation,
  - (g) require the Centre to have available sufficient managerial and other resources to enable it effectively and efficiently to undertake the delivery of the qualification as required by the awarding organisation,
  - (h) require the Centre to undertake the delivery of the qualification required by the awarding organisation in accordance with Equalities Law,

- (i) require the Centre to operate a complaints handling procedure or appeals process for the benefit of Learners,
  - (j) set out any Moderation processes that the awarding organisation will undertake or that will be undertaken on its behalf,
  - (k) specify a process to be followed in any withdrawal of the Centre (whether voluntary or not) from its role in delivering a qualification, and
  - (l) require the Centre to take all reasonable steps to protect the interests of Learners in the case of such a withdrawal.
- C2.4 In the event that the Centre withdraws from its role in delivering a qualification, the awarding organisation must take all reasonable steps to protect the interests of Learners.
- C2.5 The awarding organisation must, in respect of the parts of the delivery of qualifications which the Centre undertakes:
- (a) provide effective guidance to the Centre, and
    - make available to the Centre any information which, for the purposes of that delivery, the Centre may reasonably require to be provided by the awarding organisation.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- sets out clearly to Centres what it requires them to do, making necessary information available and providing appropriate support and guidance (for example training and/or publications), including:
  - the requirements the Centre must meet, including those relating to the Centre’s staff;
  - the requirements the Centre must meet and the steps it must take in the event of any incident;
  - its requirements for the delivery of any part of a qualification that a Centre undertakes on its behalf, for example arrangements for security of assessments, conduct of assessments and examinations, managing assessment and examination timetabling, management of centre-assessed work and authentication of Learners;

- its arrangements for a Centre to report to the awarding organisation instances where its requirements are not being met;
    - any service level agreements between the awarding organisation and the Centre (for example entry requirements, registration of learners and applications for Reasonable Adjustments and Special Consideration);
    - any requirements relating to the use of third parties by Centres (for example satellite centres or training providers);
    - its arrangements for Centres to identify, investigate and report cases of suspected or actual malpractice or maladministration to the awarding organisation and the awarding organisation's procedures for taking action;
- uses a Centre approval process which takes reasonable steps to ensure it only enters into an agreement with a Centre that has the capacity and capability to comply with its arrangements for all qualifications it will deliver. The approval process should include an assessment of the Centre's:
  - ability to comply with the awarding organisation's requirements;
  - capability to deliver the qualification to the number of Learners it aims to register;
  - internal management controls;
- maintains an up-to-date record of the Centres with which it has agreements and these agreements;
- uses an agreement with a Centre which:
  - requires the Centre to seek written approval from the awarding organisation before permitting a third party (for example training providers or satellite centres) to deliver any part of its qualifications, including its assessments;
  - places responsibility on the Centre to monitor whether any third party involved with the delivery and assessment of the qualification on its behalf has appropriate capacity and capability;
  - requires the Centre to agree in writing to its requirements before the awarding organisation approves the use of a third party;
- before agreeing to a Centre's request that a third party should be involved with the delivery of any part of a qualification, assures itself that the involvement of the third party will not put at risk the Centre's ability to comply with the

agreement or the awarding organisation's ability to comply with its Conditions of Recognition;

- monitors Centres' adherence to the agreements to identify Centres that are not compliant, or that are at risk of failing to comply, including through routine and unannounced visits to Centres;
- does not approve a Centre that it cannot effectively monitor, for example because of its location;
- ensures that Centres only register Learners for qualifications whom they reasonably expect to complete the qualification and that they have the resources, capability and capacity to deliver the qualification to the expected number of Learners;
- provides information to Centres to enable them to take appropriate steps to identify and notify the awarding organisations of any disabled Learners for whom the awarding organisation may need to make a Reasonable Adjustment, in time for such adjustment to be made;
- collects and analyses appropriate data and information from Centres which helps inform its view of the risk that the Centre will not comply with its requirements;
- identifies and addresses potential or actual Centre non-compliances in a timely way;
- investigates Centres which it believes might not be, or are not, complying with its Centre agreement;
- where it identifies Centres which are not acting in accordance with the agreement, takes appropriate action to secure compliance, or where necessary, applies appropriate and proportionate sanctions;
- has a credible and effective approach to the use of sanctions that encourage compliance;
- notifies other awarding organisations and relevant agencies with a role in protecting the interests of Learners where there are issues with the actions of Centres (subject to any requirements relating to the protection of such data);
- maintains records of interactions with Centres, including, for example, those relating to inspections or malpractice investigations and monitors and manages the risks presented by these Centres;

- identifies risks to Learners arising from Centre closures or withdrawals and puts in place effective arrangements to manage risks to Learners, including arrangements to allow Learners to complete assessments, in line with the Centre's contingency plans;
- seeks feedback and keeps its arrangements with its Centres under review, using feedback to improve its procedures and ensuring that these do not impose unnecessary burdens on Centres.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- enters into agreements with Centres which do not have the capability, capacity or resources to act in accordance with its agreement;
- does not have written agreements with its Centres, or has agreements between the Centre and the awarding organisation which do not include all the provisions listed under C2.3;
- does not monitor Centres' compliance with the agreement in a way which would enable it to identify and take action to correct or mitigate any issues;
- does not take responsibility for the way in which assessments are delivered by Centres, including the marking and moderation of assessments;
- does not enforce the agreement or impose appropriate sanctions when a Centre has breached the agreement;
- has, and takes no action against, any Centres which:
  - are not aware of their responsibilities under this agreement;
  - do not meet the requirements set by the awarding organisation and deliver qualifications in a way that is contrary to their agreement;
  - register Learners for the qualification where the Centre does not have the capacity, capability or resources to deliver the qualification to these Learners;
  - do not enable the awarding organisation to comply with the requirements of the General Conditions, for example by misrepresenting or mis-selling qualifications;
  - have not properly dealt with complaints or appeals from Learners;

- does not have suitable arrangements in place to ensure that Learners are not unfairly disadvantaged if a Centre withdraws from its role in delivering the qualification.

## **Guidance on Condition C3 – Arrangements with publishers**

### **Condition C3    Arrangements with publishers**

C3.1 Where an awarding organisation has in place an endorsement process the awarding organisation must:

- (a) take all reasonable steps to ensure that the endorsement process does not have an Adverse Effect, and
- (b) publish the criteria which it uses to decide whether or not to endorse a particular resource.

C3.2 For the purposes of this condition, an ‘endorsement process’ is a process by which the awarding organisation endorses resources which are designed to support the preparation of Learners and persons likely to become Learners for assessments for a qualification which it makes available or proposes to make available.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- considers the Adverse Effects that endorsement of resources could have when developing the criteria which it uses to decide whether or not to endorse a particular resource, and seeks to prevent or mitigate those Adverse Effects through those criteria;
- gives clear guidelines to relevant staff and contractors on engagement with publishers seeking endorsement of their resources;
- takes all reasonable steps to ensure that its endorsement is signalled in the same way for all endorsed resources (through, for example, the use of its logo or text expressing the endorsement), including those produced by the awarding organisation itself or an affiliate company;
- takes all reasonable steps to ensure that publishers of endorsed resources do not market an endorsed resource in a way which implies that the resource contains privileged examiner insight or that its use is necessary for the successful completion of an assessment or qualification.

## **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not consider the possible Adverse Effects that endorsement of resources could have when developing the criteria which it uses to decide whether or not to endorse a particular resource, or does not seek to prevent or mitigate those Adverse Effects through those criteria;
- does not give clear guidelines to relevant staff and contractors on engagement with publishers seeking endorsement of their resources;
- does not take reasonable steps to ensure that its endorsement is signalled in the same way for all endorsed resources (through, for example, the use of its logo or text expressing the endorsement), including those produced by the awarding organisation itself or an affiliate company;
- does not take all reasonable steps to ensure that publishers of endorsed resources do not market an endorsed resource in such a way as to imply that the resource contains privileged examiner insight or that its use is necessary for the successful completion of an assessment or qualification.

## **Guidance on Condition D2 – Accessibility of qualifications**

### **Condition D2 Accessibility of qualifications**

- D2.1 An awarding organisation must ensure that it complies with the requirements of Equalities Law in relation to each of the qualifications which it makes available.
- D2.2 An awarding organisation must monitor qualifications which it makes available for any feature which could disadvantage a group of Learners who share a particular Characteristic.
- D2.3 Where an awarding organisation has identified such a feature, it must –
- (a) remove any disadvantage which is unjustifiable, and
  - (b) maintain a record of any disadvantage which it believes to be justifiable, setting out the reasons why in its opinion the disadvantage is justifiable.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- has an up-to-date understanding of Equalities Law relevant to qualification design, delivery and award;
- takes into account, when designing a qualification, information and advice on how different groups might be affected by particular features;
- collects and analyses evidence to identify any features of its qualifications that have disadvantaged, or could disadvantage, a group of Learners who share a particular Characteristic, for example from Learner surveys, focus groups, statistical analysis, monitoring of Learner profiles and/or specialist reviews;
- removes, where possible, or minimises features of its qualifications or assessments that have disadvantaged or might disadvantage a group of Learners sharing a particular Characteristic.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- breaches Equalities Law;

- does not deal proportionately and appropriately with concerns from Learners or other stakeholders about possible bias in its qualifications;
- does not actively monitor whether any features of its qualifications disadvantage particular Learners, or take appropriate steps to remove or reduce any such disadvantage.

## **Guidance on Condition D3 – Reviewing approach**

### **Condition D3    Reviewing approach**

#### **Review of approach**

D3.1 An awarding organisation must keep under review, and must enhance where necessary, its approach to the development, delivery and award of qualifications, so as to assure itself that its approach remains at all times appropriate.

#### **Evidence to inform approach**

D3.2 An awarding organisation must –

- (a) have due regard to all information, comments and complaints received from Users of qualifications in relation to the development, delivery and award of qualifications, and
- (b) identify and give due regard to any credible evidence which suggests that a change in its approach to the development, delivery and award of qualifications is required in order to ensure that the approach remains appropriate.

D3.3 Where an event relating to an awarding organisation (or an event, of which it is or should be aware, relating to any other awarding organisation) has had an Adverse Effect, the awarding organisation must review and revise where necessary its approach to the development, delivery and award of qualifications to ensure that its approach remains appropriate.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- reviews its approach to developing, delivering and awarding its qualifications in a regular and systematic manner, for example by refreshing its approaches in light of experience and feedback and undertaking in-depth periodic reviews;
- changes its approach to developing, delivering and awarding qualifications where it has identified a need, for example because:
  - it finds a systemic problem with its approaches through monitoring, its investigation into an event that has or may result in an Adverse Effect or through complaints it has received;

- it has submitted qualifications for accreditation which were found not to comply with the accreditation criteria;
    - it has received information about an Adverse Effect (for example from another awarding organisation) that could potentially have an impact on the way it develops, delivers or awards its own qualifications;
    - it has received feedback from the regulator through audits, research or other means;
- reviews each of its qualifications in a regular and systemic way, for example by annual monitoring of the performance of a qualification and more in-depth reviews every three to five years;
- during its review of a qualification includes an independent element to ensure objectivity and challenge. This could be, for example, through one or more of:
  - employers from the sector the qualification is designed for;
  - organisations that rely on the qualification, for example further or higher education institutions;
  - other external stakeholders including Centres;
  - internal staff who were not involved in originally developing, delivering or awarding the qualification;
- during its review of the development, delivery and award of a qualification takes into account and acts, as necessary, on any feedback received from Ofqual (for example, decisions from a previous accreditation submission, or outcomes of relevant audits);
- seeks, records and analyses feedback from Users of qualifications (including, for example, employers and professional bodies who have an interest in the qualification and who may generate evidence about whether or not a qualification is meeting its objective and takes it into account during its review of a qualification);
- evaluates, records and, where appropriate, implements any improvements to its approach to developing, delivering and awarding a qualification in a timely and effective way. The awarding organisation ensures that, as far as possible, Learners are not unfairly advantaged or disadvantaged as a result of the way in which it implements any changes;
- takes all reasonable steps, following the occurrence of an Adverse Effect, to revise its approach to the development, delivery and award of qualifications so

as to reduce the likelihood of the Adverse Effect reoccurring in respect of any of its qualifications.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not routinely review its approach to developing, delivering or awarding a qualification;
- does not consider whether it should review its approach in light of information of Adverse Effects affecting another awarding organisation of which it should be aware;
- does not seek or respond, where appropriate, to feedback from Users of qualifications;
- does not consider and act on information received from Users of qualifications or from Ofqual that identifies potential or actual issues with its approach to developing, delivering or awarding a qualification;
- does not, without good reason, make necessary changes to a qualification that its review of that qualification has highlighted as necessary;
- changes its approach to developing, delivering or awarding a qualification in a way that has, or may have, an adverse impact on Learners, unless it has good reason for doing so;
- fails to consider, when dealing with an issue that arises in respect of one of its qualifications, whether the issue may affect other qualifications too.

## **Guidance on Condition D7 – Management of the withdrawal of qualifications**

### **Condition D7    Management of the withdrawal of qualifications**

- D7.1 For the purposes of this condition, an awarding organisation withdraws a qualification at the point in time when it first –
- (a) ceases to register Learners for the qualification,
  - (b) ceases to deliver or award that qualification to Learners,
  - (c) surrenders its recognition in respect of that qualification, or
  - (d) has its recognition withdrawn by Ofqual in respect of that qualification.
- D7.2 Where an awarding organisation intends to withdraw, otherwise believes it to be likely that it will withdraw, or is obliged to withdraw, a qualification, it must take all reasonable steps to protect the interests of Learners in relation to that qualification.
- D7.3 An awarding organisation must give to Ofqual reasonable notice of its anticipated withdrawal of a qualification, and must do so prior to the time at which it provides that information to any Learners, Centres, or purchasers of qualifications.
- D7.4 Where an awarding organisation intends to withdraw, or is obliged to withdraw, a qualification, it must –
- (a) promptly prepare, maintain, and comply with a written withdrawal plan, which must specify how the interests of Learners in relation to that qualification will be protected, and
  - (b) provide clear and accurate information about the withdrawal to Learners, Centres, and purchasers of qualifications who are likely to be affected by the withdrawal.
- D7.5 An awarding organisation must ensure that any withdrawal plan which it prepares complies with any requirements which Ofqual has communicated to it in writing.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

*In respect of the withdrawal of qualifications:*

The awarding organisation:

- regularly monitors the extent to which its qualifications are taken by Learners (such as reviewing registration and certification data). After analysing this information or the outcome of any other review(s) of its qualifications, the awarding organisation puts in place steps to withdraw any qualifications:
  - for which it is not currently making awards, or for which it has never made an award and which it is unlikely to award in the near future; or
  - that are no longer fit for purpose; or
  - that no longer meet its regulatory requirements; or
  - that it has replaced with an alternative qualification;
- gives notice to Ofqual of its intention to withdraw a qualification within a reasonable timeframe and before it communicates this to Learners, Centres and purchasers of the qualification;
- promptly sets an operational end-date and certificate end-date when it decides to withdraw a qualification and provides this information to Centres and other relevant Users (taking into account the uptake and purpose of the qualification);
- includes in its withdrawal plan:
  - clear timescales;
  - an explanation of why the qualification is being withdrawn;
  - information about the numbers of Learners or Centres that may be affected;
  - information about how the interests of Learners taking the qualification will be protected;
- delivers the withdrawal plan effectively, keeps the plan under review (including seeking and analysing feedback from Centres about how the withdrawal is progressing) and changes the plan, as necessary;
- provides relevant and timely information to Users about the qualification being withdrawn. This information is proportionate to the impact of the withdrawal, and could include (where applicable):
  - which qualifications are being withdrawn and why;
  - how the withdrawal could affect Learners;

- dates for final registrations for new Learners, and assessments and retake opportunities for existing Learners;
  - information about deadlines for completing particular actions;
  - arrangements for Learners to switch to alternative qualifications, if appropriate;
- taking into account the uptake and purpose of the qualification, provides timely and relevant information to Learners, Centres and purchasers of qualifications about alternative or replacement qualifications that are available and how these differ from the qualification being withdrawn;
- where a qualification is withdrawn as a regulated qualification but continues to be available as an unregulated one, communicates the changed nature of its regulatory status to avoid Users of qualifications being confused or misled and ensure it complies with the requirements of Condition B5.1.

*In addition to the guidance above, in relation to withdrawal or surrender of recognition which will lead to the withdrawal of qualifications (D7.1(c) and (d)), compliance will be indicated where:*

The awarding organisation:

- approaches Ofqual at an early stage to discuss its action plan relating to the surrender of its recognition;
- uses staff who have the necessary capability to manage the withdrawal or surrender of its recognition and the associated withdrawal of the qualifications.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not act upon a requirement to withdraw one or more of its qualifications following a decision by Ofqual to withdraw its recognition in respect of those qualifications;
- does not give appropriate notice to Users of qualifications of its plan to withdraw a qualification to allow them time to make suitable plans ahead of the withdrawal;
- does not provide sufficient information for affected Users when it withdraws a qualification, for example about timelines or possible alternative available qualifications;

- does not provide sufficient resources to deliver, mark or award a qualification that is being withdrawn;
- allows a Learner to enrol or register for a qualification that they are unlikely to be able to complete before the qualification is withdrawn;
- does not make clear what arrangements (if any) are in place for Learners to re-take assessments for a qualification that is being withdrawn;
- continues to offer the withdrawn qualification and certifies it as a 'regulated qualification';
- promotes or allows others to promote any qualification which it has withdrawn from the Register as a regulated qualification.

## **Guidance on Condition D8 – Making available information to help meet Teachers’ needs**

### **Condition D8    Making available information to help meet Teachers’ needs**

D8.1 In respect of each qualification which it makes available, an awarding organisation must ensure that there is available to each Teacher any information which, for the purpose of preparing Learners and persons likely to become Learners for assessments for that qualification, the Teacher may reasonably require to be provided by the awarding organisation.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- publishes on its website a sample of past assessments and other information that may reasonably be required for Teachers to prepare Learners for assessment of its qualifications, clearly linked from the pages containing the relevant qualification specifications;
- responds promptly to requests for information from Teachers, where Teachers need the information to prepare Learners for assessment and the information is not otherwise available.

## **Guidance on Condition E1 – Qualifications having an objective and support**

### **Condition E1    Qualifications having an objective and support**

#### **Qualifications to have an objective**

E1.1 An awarding organisation must ensure that each qualification which it makes available or proposes to make available –

- (a) has a clear objective in accordance with this condition, and
- (b) meets that objective.

E1.2 The objective of a qualification must be such as to lead to a benefit for Learners who have reached a specified level of attainment, and may include –

- (a) preparing Learners to progress to a qualification in the same subject area but at a higher level or requiring more specific knowledge, skills and understanding,
- (b) preparing Learners to progress to a qualification in another subject area,
- (c) meeting relevant programmes of learning,
- (d) preparing Learners for employment,
- (e) supporting a role in the workplace, or
- (f) giving Learners personal growth and engagement in learning.

#### **Qualifications to have support**

E1.3 Where an awarding organisation proposes to make available any new qualification, it –

- (a) must first consult Users of qualifications to ascertain whether there is support for the qualification, and
- (b) may only make available the qualification where it has evidence of sufficient support from Users of qualifications.

E1.4 For these purposes, the following considerations will in particular be relevant in determining what constitutes sufficient support –

- (a) the objective of the new qualification,
- (b) whether the new qualification is intended to facilitate a particular route of progression for Learners, and

- (c) the number of Learners that the awarding organisation reasonably estimates is likely to take the new qualification.

E1.5 For the purposes of this condition, Users of qualifications will be deemed to support a new qualification if the prevailing view of those Users of qualifications is that the qualification would provide a benefit to Learners.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- describes the objective of its qualifications accurately and clearly;
- builds into its arrangements for the design and development of its qualifications time and resources to gather, consider and respond to potential Users’ views;
- seeks views from a range of potential Users of the qualification and listens and responds to their views;
- records the evidence it has of User support;
- makes available or puts forward for accreditation specific support from informed potential Users.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- is the subject of complaints from Users that its qualifications are not meeting the intended objectives;
- makes available or puts forward for accreditation (where required) qualifications that do not have specific support from informed potential Users;
- ignores feedback received regarding support for a qualification;
- has support that refers to the awarding organisation or the qualification type, rather than clearly relating to the proposed qualification and its subject.

## **Guidance on Condition E2 – Requirements on qualification titling**

### **Condition E2 Requirements on qualification titling**

- E2.1 An awarding organisation must ensure that the title on the Register of any qualification which it makes available includes the following information –
- (a) the name of the awarding organisation,
  - (b) the level of the qualification,
  - (c) the type of the qualification (where the qualification has a type),
  - (d) a concise indication of the content of the qualification, and
  - (e) any Endorsement known at the time the qualification is submitted to the Register.
- E2.2 An awarding organisation must, in addition –
- (a) ensure that the title on the Register reflects the knowledge, skills and understanding which will be assessed as part of the qualification, and
  - (b) take all reasonable steps to ensure that the title allows Users of qualifications to identify similar units or qualifications which it makes available or are made available by other awarding organisations.
- E2.3 An awarding organisation must ensure that each qualification which it makes available, or proposes to make available, has a title which it uses consistently in its advertising and in its communications with Users of qualifications.
- E2.4 An awarding organisation must ensure that the titles of qualifications which it makes available, or proposes to make available, are not misleading to Users of qualifications.
- E2.5 An awarding organisation must ensure that it amends the title on the Register for a qualification which it makes available when it makes any revision to a level assigned to that qualification.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The title of a qualification:

- includes the name of the awarding organisation in full or in abbreviated form if the abbreviated form is widely used and recognised;

- includes the level of the qualification which has been determined by reference to the level descriptors in accordance with the requirements referred to in Condition E9.3;
- only includes the term ‘NVQ’ if the qualification is based on recognised occupational standards, confers occupational competence and requires work-based assessment and/or assessment in an environment that simulates the work place;
- only uses the terms –
  - ‘award’ to indicate a small-sized qualification (i.e. a qualification that has a TQT value of 120 or less);
  - ‘certificate’ to indicate a medium-sized qualification (i.e. a qualification that has a TQT value in the range 121-369)
  - ‘diploma’ to indicate a large-sized qualification (i.e. a qualification with a TQT value of 370 or more);

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The title of a qualification includes:

- terms that are misleading or cannot be justified, for example –
  - terms associated with higher education qualifications that are referenced to the Framework for Higher Education Qualifications such as Honours, Masters, Graduate and Postgraduate;
  - terms that cannot be justified such as ‘higher’, ‘extended’ or ‘advanced’ when the qualification is not provided as a progression route from another qualification;
  - subjective statements about the qualification which may be misleading;
- the term ‘QCF’ after 31 December 2017.

## **Guidance on Condition E3 – Publication of a qualification specification**

### **Condition E3 Publication of a qualification specification**

- E3.1 An awarding organisation must, before first making available a particular qualification, publish a specification for that qualification.
- E3.2 An awarding organisation must ensure that the specification for a qualification sets out –
- (a) the qualification's objective,
  - (b) any other qualification which a Learner must have completed before taking the qualification,
  - (c) any prior knowledge, skills or understanding which the Learner is required to have before taking the qualification,
  - (d) units which a Learner must have completed before the qualification will be awarded and any optional routes,
  - (e) any other requirements which a Learner must have satisfied before the Learner will be assessed or before the qualification will be awarded,
  - (f) the knowledge, skills and understanding which will be assessed as part of the qualification (giving a clear indication of their coverage and depth),
  - (g) the method of any assessment and any associated requirements relating to it,
  - (h) the criteria against which Learners' levels of attainment will be measured (such as assessment criteria or exemplars),
  - (i) any specimen assessment materials,
  - (j) any specified levels of attainment,
  - (k) where the awarding organisation is required to make such an assignment under General Condition E7 (*Total Qualification Time*), the number of hours which it has assigned to that qualification for each of Total Qualification Time and Guided Learning,
  - (l) any value for credit which it has assigned to that qualification and any Component of that qualification, and

(m) the level or levels which it has assigned to that qualification and any Component of that qualification.

- E3.3 An awarding organisation must ensure that the specification for a qualification is clear, accurate and communicates, to the reasonable and informed person –
- (a) what the qualification requires of the Learner in respect of each of the details that is applicable to the qualification, and
  - (b) how the qualification is fit for purpose.

### **Amendments to the specification**

- E3.4 An awarding organisation must promptly amend the specification for a qualification following any revision by it of –
- (a) the number of hours which it has assigned for Total Qualification Time or Guided Learning,
  - (b) the level or levels which it has assigned to that qualification or any Component of that Qualification, or
  - (c) any value for credit which it has assigned to that qualification or any Component of that qualification.
- E3.5 Where an awarding organisation has amended the specification for a qualification it must publish that specification as amended.

### **Application**

- E3.6 Conditions E3.2(l), E3.2(m), E3.4 and E3.5 shall not apply to an awarding organisation until such date as is specified in, or determined under, any notice in writing issued by Ofqual to the awarding organisation under this paragraph.
- E3.7 Any such notice issued by Ofqual may be –
- (a) subject to any conditions that Ofqual specifies (which may include conditions placing requirements on an awarding organisation as to its conduct prior to the date specified in or determined under it),
  - (b) issued to an individual awarding organisation or to any group of awarding organisations,

- (c) issued in respect of one or more qualifications or descriptions of qualifications,
- (d) varied by Ofqual at any time prior to the date specified in or determined under it.

E3.8 Where Ofqual makes such a notice subject to conditions, an awarding organisation to which the notice is issued must comply with any requirements that are imposed on it in accordance with those conditions.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation’s specifications:

- are developed using a clear approach and are subject to appropriate quality assurance and sign-off arrangements;
- set out the learning aims and objectives for the qualification clearly, so that Users are able to take informed decisions about the suitability of the qualification for their purposes;
- are readily available to Users, for example through the awarding organisation’s website, and provide clear contact information where queries about the specification can be raised.

The awarding organisation:

- engages with Users of qualifications (for example through employer forums or external focus groups) while it is developing the specification (for example about the qualification’s content, structure, purpose and accessibility), and considers the feedback as part of its ongoing review of the specification and the development of future specifications.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- makes implausible, unjustifiable or misleading claims about a qualification relating Learners’ progression to other qualifications or employment;
- publishes specifications which are not accessible, clear and accurate.

## **Guidance on Condition E5 – Assurance that qualifications comply with the conditions**

### **Condition E5 Assurance that qualifications comply with the conditions**

- E5.1 Before submitting a qualification to the Register or for accreditation, an awarding organisation must –
- (a) review that qualification, and
  - (b) assure itself that the qualification complies with the requirements of its Conditions of Recognition, making any changes to the qualification which are necessary for that purpose.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- before submitting a qualification to the Register or for accreditation, ensures it is reviewed against the relevant Conditions, taking account and recording the outcome of:
  - feedback from Users on their views about the benefit the qualification would provide to Learners;
  - the clarity of the qualification’s objective and the extent to which the qualification is likely to meet its objective;
  - the rationale for the proposed assessment framework, and the extent to which it would facilitate the valid assessment of the required knowledge and skills;
  - the achievability of the plans for the awarding organisation and/or Centres to recruit, train, standardise and monitor the performance of Assessors to facilitate valid assessment;
- makes any improvements to a qualification highlighted by the reviewer(s) before it is submitted to the Register or for accreditation;

- authorises only a person(s) of appropriate competence to confirm that the qualification complies with the requirements of its Conditions of Recognition and is ready to be submitted to the Register or for accreditation;
- uses any lessons learned from previous accreditation decisions (where relevant) to strengthen its approach to reviewing and signing off its proposals prior to their submission for accreditation or to the Register.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not subject a qualification to review before submitting it to the Register or for accreditation;
- does not, without justification, make any changes to the qualification that are highlighted as necessary by the review process;
- submits a qualification to the Register or for accreditation even though (including but not limited to):
  - it does not have evidence that the qualification has support from employers, employer representatives or relevant professional bodies;
  - there is no rationale for the proposed assessment framework;
  - it cannot demonstrate how assessments marked by Centres would be effectively moderated; or
  - it does not have evidence to support any claims about progression to another qualification or employment;
- makes errors in the information it submits to the Register or submits incomplete information.

## **Guidance on Condition E7 – Total Qualification Time**

### **Condition E7    Total Qualification Time**

- E7.1 In respect of each qualification which it makes available or proposes to make available, and awarding organisation must assign to that qualification a number of hours for –
- (a) Total Qualification Time, and
  - (b) Guided Learning.
- E7.2 An awarding organisation must ensure that the number of hours it assigns to a qualification for Total Qualification Time includes the number of hours which it has assigned to that qualification for Guided Learning.
- E7.3 An awarding organisation must, in assigning to a qualification a number of hours for each of Total Qualification Time and Guided Learning, apply the TQT Criteria.
- E7.4 An awarding organisation must –
- (a) keep under review the number of hours it has assigned to each qualification for each of Total Qualification Time and Guided Learning,
  - (b) in particular, review that number of hours assigned following any revision by Ofqual to the TQT Criteria, and
  - (c) revise that number of hours if appropriate.
- E7.5 Following any review by Ofqual of the number of hours assigned to a qualification in respect of Total Qualification Time or Guided Learning, an awarding organisation must revise that number in any manner required by Ofqual.

### **Application**

- E7.6 Conditions E7.1 to E7.5 shall not apply to an awarding organisation until such date as is specified in, or determined under, any notice in writing issued by Ofqual to the awarding organisation under this paragraph.
- E7.7 Any such notice issued by Ofqual may be –
- (a) subject to any conditions that Ofqual specifies (which may include conditions placing requirements on an awarding organisation as to its conduct prior to the date specified in or determined under it),

- (b) issued to an individual awarding organisation or to any group of awarding organisations,
- (c) issued in respect of one or more qualifications or descriptions of qualifications,
- (d) varied by Ofqual at any time prior to the date specified in or determined under it.

E7.8 Where Ofqual makes such a notice subject to conditions, an awarding organisation to which the notice is issued must comply with any requirements that are imposed on it in accordance with those conditions.

### **Interpretation**

E7.9 For the purposes of this Condition references to a ‘qualification’ are references to the qualification as a whole and not to individual units.

Values for Total Qualification Time, including Guided Learning, are calculated by considering the different activities that Learners<sup>3</sup> would typically complete to achieve and demonstrate the learning outcomes of a qualification. They do not include activities which are required by a Learner’s Teacher based on the requirements of an individual Learner and/or cohort. Individual Learners’ requirements and individual teaching styles mean there will be variation in the actual time taken to complete a qualification. Values for Total Qualification Time, including Guided Learning, are estimates.

### **Some examples of activities which can contribute to Total Qualification Time include:**

- Independent and unsupervised research/learning
- Unsupervised compilation of a portfolio of work experience
- Unsupervised e-learning
- Unsupervised e-assessment
- Unsupervised coursework
- Watching a pre-recorded podcast or webinar
- Unsupervised work-based learning

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<sup>3</sup> In this document, terms have the meaning given to them in Condition J1 (Interpretation and Definitions).

- All Guided Learning

### **Some examples of activities which can contribute to Guided Learning include:**

- Classroom-based learning supervised by a Teacher
- Work-based learning supervised by a Teacher
- Live webinar or telephone tutorial with a Teacher in real time
- E-learning supervised by a Teacher in real time
- All forms of assessment which take place under the Immediate Guidance or Supervision of a lecturer, supervisor, tutor or other appropriate provider of education or training, including where the assessment is competence-based and may be turned into a learning opportunity.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- has Total Qualification Time and Guided Learning values for its qualifications that are broadly in line with similar qualifications;
- can explain its decision about the Total Qualification Time and Guided Learning values for its qualifications where these values differ from those of similar qualifications;
- considers and responds to the views of potential Users of the qualifications on the proposed Total Qualification Time and Guided Learning values and builds into its qualification development process the time to do so;
- has and retains evidence to support its assignment from informed potential and/or existing Users of qualifications about the Total Qualification Time and Guided Learning values;
- gathers, considers and responds to the views of existing Users of the qualification to review the Total Qualification Time and Guided Learning values and builds into its arrangements for the review of its qualifications the time and resources to do so;
- can explain its decision about the Total Qualification Time and Guided Learning values required for the qualification, with reference to the available evidence and the intended cohort for the qualification;

- where it makes an assignment before the qualification is first made available, gathers and considers evidence of the actual time typically taken by learners in the first cohort to complete the qualification and revises the number of hours of Total Qualification Time and Guided Learning if appropriate;
- considers feedback from Users of qualifications about the accuracy of values assigned to a qualification for Total Qualification Time and Guided Learning, and revises those values if appropriate.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation –

- does not review its approach to calculating the number of hours for Total Qualification Time and/or Guided Learning following complaints or in response to negative feedback about that approach;
- does not review the number of hours assigned to a qualification for Total Qualification Time and/or Guided Learning following complaints or in response to negative feedback in relation to that number of hours;
- disregards feedback and evidence from Users of qualifications about the Total Qualification Time and/or Guided Learning values required;
- has Total Qualification Time and/or Guided Learning values for a qualification that are not comparable with those of similar qualifications and lacks evidence to support the difference in values.

### **Examples of activities that contribute to Total Qualification Time and Guided Learning**

The table below sets out examples of activities which would form part of the Total Qualification Time for a range of example qualifications. We also set out which of those activities should form part of the Guided Learning assigned to that qualification.

Qualification	Activity which forms part of TQT	Also part of Guided Learning?
<b>GCSE Mathematics</b>	Classroom Teaching	Yes
	Invigilated examinations	Yes
	Classroom teaching	Yes

Qualification	Activity which forms part of TQT	Also part of Guided Learning?
<b>A level History</b>	Research project <i>Student carries out independent research and produces report without supervision</i>	No
	Invigilated examinations	Yes
<b>Tennis coaching</b>	Classroom-based induction to qualification (as required in specification)	Yes
	Classroom teaching	Yes
	Court/pitch sessions directly supervised by tutor	Yes
	Coaching skills practice at club/school <i>Student responsible for generating own evidence of practice e.g. statement confirming attendance from suitable attendant adult, generally not tutor</i>	No
	Final practice coaching session carried out in simulated conditions (i.e. student delivers coaching session to either non-student participants or fellow students) <i>Student is observed and assessed at the same time as the coaching session is taking place</i>	Yes
<b>Fitness instructor</b>	Face-to-face meetings with tutor or other pre-arranged 1:1 teaching session (e.g. telephone/webcam contact, internet messaging i.e. online conversation in real time)	Yes
	Work-based practice (competence-based, formative assessment). <i>Observed by employer, tutor or other witness more qualified than the student. Observer assesses student's competence in health and safety, setting up equipment, behaviour with clients, circuit training skills etc. Student may be assessed at any time.</i>	Yes
	Portfolio assessment <i>Student collates evidence of competence and understanding of policies etc. Unsupervised activity.</i>	No
	E-assessments	No

Qualification	Activity which forms part of TQT	Also part of Guided Learning?
	<i>E-assessment of knowledge/understanding e.g. knowledge/understanding of anatomy. Student is unsupervised and can access online e-assessment at any time.</i>	
<b>Level 4 Counselling (placement unit)</b>	Supervised practical sessions <i>Tutor observes counselling session, provides feedback and discusses problems/issues/best practice with student</i>	Yes
	Placement agreement <i>Student researches and finds own placement(s), including contacting centre, agreeing structure of placement etc.</i>	No
	Practical sessions <i>Unsupervised counselling sessions with adult clients</i>	No
	Work portfolio/log <i>Reflective activities by unsupervised student, resulting in portfolios of work experience etc. for assessment</i>	No
<b>Multi-maintenance for beginners</b>	Workplace induction (required in specification) <i>Teaching in classroom environment and 'Toolbox talks' i.e. direct tutoring in workplace. Includes health and safety, first aid, safety in workplace etc.</i>	Yes
	Supervised work <i>Student works under supervision of employer/direct supervisor</i>	Yes
	Unsupervised work <i>Student works independently and complies work diary (factual record of tasks carried out on that day)</i>	No
	Final assessment <i>On-demand test with multiple-choice questions. Student is supervised by employer/direct supervisor during the assessment.</i>	Yes

Qualification	Activity which forms part of TQT	Also part of Guided Learning?
<b>Level 6 Finance</b>	<p>Financial plan  <i>Student works independently and unsupervised to produce financial plan which is assessed externally.          No formal tuition provided.</i></p>	No
<b>Grade 4 Music</b>	<p>Classroom Teaching  <i>May be 1:1 tuition or group teaching sessions.</i></p>	Yes
	Unsupervised practice/rehearsal sessions	No
	<p>Practical examination  <i>Examiner supervises and assesses student's demonstration of knowledge and skills e.g. performance test of set pieces, knowledge test of scales and arpeggios, aural test, sight-reading test</i></p>	Yes

## **Guidance on Condition E10 – Recognition of Prior Learning**

### **Condition E10 Recognition of Prior Learning**

E10.1 Where an awarding organisation has in place a policy for the recognition of prior learning it must –

- (a) ensure that the policy which it has in place enables the awarding organisation to award qualifications in accordance with its Conditions of Recognition,
- (b) publish that policy, and
- (c) comply with that policy.

E10.2 For the purposes of this Condition, 'recognition of prior learning' is the –

- (a) identification by an awarding organisation of any learning undertaken, and/or attainment, by a Learner –
  - (i) prior to that Learner taking a qualification which the awarding organisation makes available or proposes to make available, and
  - (ii) which is relevant to the knowledge, skills and understanding which will be assessed as part of that qualification, and
- (b) recognition by an awarding organisation of that learning and/or attainment through amendment to the requirements which a Learner must have satisfied before the Learner will be assessed or that qualification will be awarded.

### **Examples of 'positive indicators' that would suggest an awarding organisation is likely to comply**

The awarding organisation's published policy for recognition of prior learning (RPL):

- is open, transparent and clear to Learners and Users of qualifications;
- sets out the evidence of prior learning that will be required by the awarding organisation;
- sets out the various stages to be followed in considering an application for RPL and the timelines to be followed at each stage;
- sets out the criteria which will be used when making a decision about the appropriateness of RPL;

- identifies the range of possible outcomes to a successful application for RPL;
- sets out a complaints process;
- identifies any role to be taken by a Centre in making a decision about RPL;
- identifies any limit on the amount of RPL available for any qualification which is subject to such a limit.

The awarding organisation ensures that:

- any decisions on whether on an application for RPL are carried out by staff who are competent to consider and make decisions about RPL;
- its policy for RPL is regularly reviewed and, where appropriate, amended; and
- any qualification awarded to a Learner who has made a successful application for RPL provides a valid and reliable indication of that Learner's knowledge, skills and understanding.

## **Guidance on Condition F2 – Packaging qualifications with other products or services**

### **Condition F2      Packaging qualifications with other products or services**

#### **Packages offered as an option**

F2.1 Where an awarding organisation makes available a qualification both in a package with other products or services and separately from those other products or services, it must inform purchasers prior to the time of purchase that the qualification may be purchased separately or in a package.

#### **Packages offered without alternative options**

F2.2 An awarding organisation must not make available a qualification in a package together with other products or services unless it also makes available that qualification without other products or services, except where it –

- (a) from time to time seeks comments from purchasers on whether the packaging of the qualification with the particular products or services is appropriate, and
- (b) reasonably concludes that continuing to make available the package is appropriate.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- puts in place, and follows, a policy which includes details of how it will consider whether or not it is appropriate to introduce or continue to make a qualification available in a package together with other products and services.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not put in place a policy which includes details of how it will consider whether or not it is appropriate to introduce or continue to make a qualification available in a package together with other products and services, or does not follow such a policy which it has put in place;
- considers that it is appropriate to make a qualification available in a package together with other products and services where that package has a negative impact on Learners and/or the purchasers of the qualification.

## **Guidance on Condition G1 – Setting the assessment**

### **Condition G1 Setting the assessment**

- G1.1 In setting an assessment for a qualification which it makes available, an awarding organisation must ensure that the content of the assessment is –
- (a) fit for purpose,
  - (b) appropriate for the method of assessment chosen, and
  - (c) consistent with the specification for that qualification.
- G1.2 An awarding organisation must take all reasonable steps to ensure that the Level of Demand of an assessment for a qualification which it makes available is consistent –
- (a) across all options as to tasks which may be completed by a Learner for the purposes of the assessment,
  - (b) with the Level of Demand of any other assessment which may be completed by a Learner as an alternative to the assessment, for the purpose of the qualification, and
  - (c) with the Level of Demand of previous assessments and of any specimen assessment materials which the awarding organisation has published in relation to the qualification.
- G1.3 An awarding organisation must produce a written document in relation to an assessment which sets out clear and unambiguous criteria against which Learners' levels of attainment will be differentiated.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- sets assessments, or where applicable, ensures that its Centres set assessments, which:
  - include only content that is drawn from the knowledge, skills and understanding in the specification and which ensure that the Level of Demand of the assessment is consistent with previous assessments;

- make it possible for Learners to demonstrate, and the awarding organisation or Centre to measure, the extent to which they have the knowledge, skills and understanding required by the qualification;
- allow the specified level of attainment set out in the specification to be reached by a Learner who has attained the required level of knowledge, skills and understanding;
- use methods of assessment that are valid and are appropriate to the knowledge, skills and understanding being measured;
- effectively differentiate between Learners (that is, solely on the basis of the knowledge, skills and understanding being assessed);
- accurately measure the knowledge, skills and understanding they are intended to measure;
- additionally, for graded qualifications, sets assessments, or ensures its Centres set assessments, which:
  - cover the full range of demands targeted by the assessment;
  - enable the full range of Learners targeted by the assessment to demonstrate the extent to which they have the knowledge, skills and understanding required by the qualification;
  - enable the awarding organisation to differentiate effectively between Learners (that is, solely on the basis of the knowledge, skills and understanding being assessed) across the range of attainment targeted by the assessment;
- has a clear rationale for any optional routes through a qualification, combinations or pathways and can explain how, as far as is possible, these are comparable in terms of the Level of Demand and the amount of subject content required to be taught and on which Learners will be assessed;
- keeps its assessments under review, amending them where necessary, to ensure they remain fit for purpose, for example by reflecting new requirements, good practice or legislation.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- sets assessments which:

- do not allow it to measure the extent to which Learners have the knowledge, skills and understanding required by the qualification;
- are not manageable for Centres or Learners, for example because of the availability of equipment, materials or resources;
- discriminate between Learners on the basis of factors other than the knowledge, skills and understanding being measured by the qualification, for example because of the context in which questions/tasks are set;
- include content which is not covered by the specification;
- have options, routes or pathways through the qualification which are not of the same Level of Demand;
- uses an assessment procedure which does not measure the knowledge, skills and understanding required by the qualification with sufficient accuracy;
- does not take appropriate corrective action where it identifies assessments which do not meet these requirements.

## **Guidance on Condition G3 – Use of language and Stimulus Materials**

### **Condition G3 Use of language and Stimulus Materials**

- G3.1 An awarding organisation must ensure that assessments for qualifications which it makes available use only appropriate language and Stimulus Materials.
- G3.2 Language and Stimulus Materials are only appropriate if they –
- (a) enable Learners to demonstrate their level of attainment,
  - (b) require knowledge, skills and understanding which are required for the qualification,
  - (c) are clear and unambiguous (unless ambiguity forms part of the assessment), and
  - (d) are not likely to cause unnecessary offence to Learners.
- G3.3 In considering whether language and Stimulus Materials for an assessment are appropriate, an awarding organisation must take into account in particular –
- (a) the age of Learners who may reasonably be expected to take the qualification,
  - (b) the level of the qualification,
  - (c) the objective of the qualification, and
  - (d) the knowledge, skills and understanding assessed for the qualification.
- G3.4 An awarding organisation must take all reasonable steps to ensure that no assessment for a qualification which it makes available contains language or Stimulus Materials which could lead a group of Learners who share a common attribute or circumstance to experience – because of that attribute or circumstance – an unreasonable disadvantage in the level of attainment that they are able to demonstrate in the assessment.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- ensures that language and Stimulus Materials are clear, precise and understandable for Learners, unless understanding ambiguous and/or complex language is part of the knowledge, skills and understanding being assessed by the qualification. This could include, but is not limited to:
  - using straightforward sentence structures with accurate punctuation;
  - using language and vocabulary suitable for the level, context and subject of the assessment and for the expected age and ability of Learners;
  - avoiding unnecessarily dense text, unnecessary words, metaphors or redundant information;
  - avoiding unnecessary pictures or diagrams;
  - only using Stimulus Materials where these support valid assessment of the knowledge, skills and understanding being measured;
  - using command words which are appropriate to the level, context and subject of the assessment and using these consistently and correctly;
- ensures that, where it uses Stimulus Materials, these:
  - are error-free, clear and easy to understand (unless dealing with ambiguity and/or understanding complex language are part of the knowledge, skills and understanding being assessed);
  - have a clearly defined purpose;
  - are presented in a format that is likely to be familiar to Learners (unless the interpretation of unfamiliar formats is part of the assessment);
  - use contexts that, as far as possible, do not advantage Learners that have had a particular experience over those that have not, where this experience is not a requirement of the knowledge, skills and understanding being assessed;
- uses language and Stimulus Materials which allow a valid assessment of the knowledge, skills and understanding being assessed and which, as far as possible, allow Learners to demonstrate their level of attainment in these;
- uses language and Stimulus Materials which do not unfairly advantage or disadvantage Learners, including those who share a particular characteristic or experience, on grounds other than their attainment of the knowledge, skills and understanding being assessed by the qualification. Such characteristics and experiences could include, but are not limited to:

- the Protected Characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation;
- experiences that are more likely to be familiar to particular cultural or social groups;
- prior knowledge that does not form part of the knowledge, skills or understanding being assessed;
- language comprehension where this is not part of the knowledge, skills or understanding being assessed;
- ensures that, as far as possible, assessments are free from bias on the basis of Protected Characteristics, stereotyping, or language which may cause offence;
- seeks feedback from Centres, gathers and analyses information (for example about complaints received and the performance of Learners) to identify issues with its use of language or Stimulus Materials;
- uses feedback to inform its development of valid assessments and qualifications and to provide feedback and training for staff who develop assessment materials.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- uses language or Stimulus Materials which:
  - include unnecessary negative, narrow or stereotypical representations of particular groups;
  - are unnecessarily complex or irrelevant to the knowledge, skills or understanding being assessed;
  - include pictures or diagrams which are not relevant to the knowledge, skills and understanding being assessed or which are not required to be able to answer questions;
  - include unclear information;
  - are open to different interpretations by Learners where such interpretation does not form part of the assessment;

- is not aware of, or does not act appropriately to consider and where possible mitigate, circumstances where Learners or groups of Learners have been disadvantaged as a result of language or Stimulus Materials;
- does not take action to reduce or remove any disadvantage that has been caused by its use of language or Stimulus Materials for current and future Learners.

## **Guidance on Condition G4 – Maintaining confidentiality of assessment materials**

### **Condition G4    Maintaining confidentiality of assessment materials**

G4.1 Where confidentiality in –

- (a) the contents of assessment materials, or
- (b) information about the assessment,

is required in order to ensure that a qualification which an awarding organisation makes available, or proposes to make available, reflects an accurate measure of attainment, the awarding organisation must take all reasonable steps to ensure that such confidentiality is maintained.

G4.2 In particular, an awarding organisation –

- (a) must take all reasonable steps to ensure that such confidentiality is maintained where it (or any person connected or previously connected to it) provides training or training materials in relation to such a qualification,
- (b) must not provide or endorse any prohibited training, and
- (c) must take all reasonable steps to ensure that any person connected or previously connected to it does not provide or endorse any prohibited training.

G4.3 For the purposes of this condition, ‘prohibited training’ is training –

- (a) provided to Teachers in relation to such a qualification,
- (b) at which a number of persons are present (whether physically or remotely by means of simultaneous electronic communication),
- (c) where any one of those persons holds information in relation to the content of assessment materials or information about the assessment for that qualification, and
- (d) where disclosure of the information to Teachers would breach such confidentiality.

G4.4 An awarding organisation must, in respect of any training it provides to Teachers in relation to such a qualification (and, in relation to any such training provided by any person connected to it, must take all reasonable steps to) –

- (a) ensure that the training is reasonably available to all Teachers preparing Learners, or persons likely to become Learners, for assessments for that qualification,
- (b) advertise to Teachers the availability of the training, including in particular by publishing details of the training, and
- (c) publish the content of any training materials which have been provided to Teachers in connection with the training, as soon as reasonably practicable after the training has been held.

G4.5 An awarding organisation must take all reasonable steps to ensure that

- (a) no person connected to it, or previously connected to it, and
- (b) in particular, not Teacher or other third party who has had access to assessment materials,

offers to disclose information about any assessment or the content of any assessment materials where that information is (or is said or implied to be) confidential.

G4.6 Where any breach of such confidentiality (including through the loss or theft of confidential assessment materials) is either suspected by an awarding organisation or alleged by any other person and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must:

- (a) investigate that breach,
- (b) ensure that such an investigation is carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in its outcome, and
- (c) so far as possible, establish whether or not a breach of such confidentiality has occurred.

### **Third party activities covered by Condition G4**

An awarding organisation must ensure that it takes appropriate steps to meet the requirements of Condition G4 in relation to its own employees.

Awarding organisations are also likely to contract with a variety of third parties in relation to the development and delivery of assessments, many of whom will have

access to confidential assessment information.<sup>4</sup> This will include not only those persons who set questions and quality assure the assessments but also those involved in printing assessments and distributing them to Centres. For online assessments it may also include any third party that hosts the platform through which an assessment is provided.

Condition G4.1 requires an awarding organisation to take all reasonable steps to ensure confidentiality is not breached by anyone during any part of the assessment development and delivery process.

For the purposes of Conditions G4.3 to G4.5, awarding organisations should also remember that the term 'Teacher', as defined in Condition J1.8, includes not only qualified teaching staff in schools and colleges, but also covers home-schooling parents, private tutors and employers providing training to Learners in relation to vocational qualifications.

## **Confidential information**

Condition G4.1 refers to confidentiality in respect of:

- (a) the contents of assessment materials, and
- (b) information about the assessment for a qualification.

This covers any information which, if divulged inappropriately, could impact on the validity and/or reliability of an assessment. Information about when or how particular knowledge, skills or understanding will be assessed will be confidential if the assessment was designed in a way that assumes the Learner will not know that information before taking the assessment.

For some assessments, it might be enough to maintain confidentiality in relation to information about specific questions. For other assessments, knowledge of a broad overview about the topics to be set or the general structure of the paper might compromise the ability of the assessment to measure the Learner's attainment effectively.

## **Examples of training that is not prohibited**

Provided that confidentiality, as defined by Condition G4.1, is not breached and all other regulatory requirements are met, training for Teachers can be delivered if it:

- does not relate to a particular regulated qualification; or

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<sup>4</sup> In this guidance, 'confidential assessment information' refers to both the contents of assessment materials and information about the assessment in relation to which confidentiality must be maintained under Condition G4.1.

- is about a particular regulated qualification but does not involve the presence of anyone with information about that qualification that must not be shared with Teachers and Learners. This could include where the training is attended by persons who:
  - had sight of the contents of previous assessments that are part of the current specification but have no confidential information on assessments that have yet to be taken; or
  - had confidential information about assessments for an earlier specification for the same qualification but do not have confidential assessment information in relation to the current specification.

Where a staff member with confidential information about qualification A attends a training event in relation to qualification B, that training will not become prohibited training simply because an attendee asks, or might ask, a question about qualification A. If the answer to the question would involve the staff member breaching confidentiality, he or she should simply decline to answer it, and could refer the questioner to publicly available information.

Condition G4.2 concerns the provision of training. ‘Training’ should be given its ordinary meaning and, in general terms, will usually encompass meetings – attended either in person or remotely – at which attendees are either taught a particular skill or provided with information in relation to a particular regulated qualification, with the aim of better equipping them to deliver that qualification. The obligations in Conditions G4.2 and G4.4 will not, therefore, apply to meetings with Teachers where the purpose is to facilitate the development or design of a particular regulated qualification by an awarding organisation.

However, it is important to note that meetings with Teachers, at which the primary purpose is not to provide training, may incorporate a training element. We expect awarding organisations to consider carefully whether each particular meeting with Teachers will provide training to them and, if so, whether any such training will adhere to the requirements in Conditions G4.2(a) and G4.4.

Likewise, a staff member with confidential information will not automatically be providing prohibited training if he or she takes a telephone call from, or otherwise talks to, a Teacher. However, prohibited training will include one-to-one training where all of the elements of the definition in Condition G4.2 are met. The staff member, therefore, must not disclose confidential information when answering a question.

Pre-recorded training – such as a webinar – from someone with confidential information will not fall within the definition of ‘prohibited training’ under Condition G4.3 because that person would not be ‘present’ under the definition of that term in

Condition G4.3(b), which concerns the use of simultaneous electronic communication.

The awarding organisation would, of course, need to comply with Condition G4.2(a) in that the pre-recorded training could not disclose information that would breach Condition G4.1. It must also comply with the obligation under Condition G4.4(c) concerning the publication of training materials.

The above examples are for illustrative purposes only and are not exhaustive.

### **Training on Centre-marked assessment**

Condition G4 allows a distinction to be made between:

- (a) information that can be shared with Teachers that they must not then pass on to their Learners (for example, in the context of training on how to conduct Centre-marked assessments); and
- (b) information that neither Teachers nor Learners should see because this would breach the requirement of confidentiality in Condition G4.1.

So, for example, if an awarding organisation was to share model answers or exemplar work at a training event where Teachers were being standardised in relation to Centre-marked assessments, this would be permissible under Condition G4.2(b). This is because the event falls outside the definition of ‘prohibited training’.

However, although the disclosure of such information to Teachers would not breach confidentiality as defined by Condition G4.1, an awarding organisation must take all reasonable steps to ensure that such information is not passed on to Learners where this would affect the ability of the assessment to reflect an accurate measure of attainment.

A person can attend a training event if he or she holds only confidential information in relation to the qualification that, if disclosed to Teachers, would not breach the requirement of confidentiality in Condition G4.1. One such example would be if the person held confidential information in relation to the standardisation of marking in Centre-marked assessment only.

However, a person could not attend such training if he or she holds confidential information in relation to external assessment for that qualification as that information, if disclosed to Teachers, would breach the requirement of confidentiality in Condition G4.1.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- is clear which assessment materials and information are confidential;
- monitors who has had access to confidential assessment information and the extent to which this is the case (for example if they have seen entire assessments or parts of assessments), for each of its qualifications;
- trains relevant staff about how to protect confidential assessment information, including during interactions with Teachers;
- puts in place and monitors the application of confidentiality policies and processes for its staff and third parties, which include –
  - details on how to maintain confidentiality during interactions with Teachers; and
  - provision in relation to the protection of confidentiality by staff and third parties who have access to confidential assessment information through the assessment development process, including quality assurance (in relation to which, see our overarching guidance on safeguarding confidentiality where Teachers are involved in developing assessments);
- makes sure that, where it provides training to Centres about how to set, deliver or mark assessments, the Centre is trained on how to protect confidential assessment information and maintain confidentiality, and the training itself is designed and delivered to minimise the risk of a breach of confidentiality by the future disclosure of materials provided in connection with the training;
- monitors the training and training materials that it delivers to make sure confidential information is not shared at events, for example by:
  - reviewing training materials before they are used;
  - reviewing recordings of training events;
  - sending observers to monitor samples of training events;
- requires all current (and former) staff and third parties who have had access to confidential assessment information in relation to a particular qualification to apply in writing for the awarding organisation's permission before providing, endorsing or attending any Teacher training events in respect of that qualification, and only gives permission where doing so would not lead to prohibited training taking place;
- puts all presentations and other training materials used at its Teacher training events on its website (or in a secure area of its website accessible to all

Teachers for the qualification), clearly linked from the pages containing the relevant qualification specifications;

- has on record clear terms of reference for the investigations it has undertaken into suspected or alleged breaches of confidentiality;
- has on record a log of all allegations of breaches of confidentiality, including those that were not investigated, that it can cross-reference if new information is provided.

The awarding organisation:

- takes all reasonable steps to ensure that resources designed to support the preparation of Learners which are prepared by current (and former) staff and third parties who have confidential assessment information in relation to that qualification do not compromise the confidentiality of assessments for that qualification;
- trains relevant staff about how to protect confidential assessment information, including during the preparation of any resources designed to support the preparation of Learners, for a qualification in respect of which they have access to confidential assessment information;
- requires all current (and former) staff and third parties who have confidential assessment information to notify the awarding organisation promptly of all instances in which they have been, or are currently, involved in the preparation of a resource designed to support the preparation of Learners for a qualification in respect of which they have access to confidential assessment information. This does not apply to the preparation of teaching resources or materials by a current (or former) third party exclusively for Learners that he or she teaches;
- monitors assessments set by all current (and former) staff and third parties who are, or have been, involved in the preparation of a resource designed to support the preparation of Learners for assessments for the same qualification in respect of which they have confidential assessment information, to ensure that the confidentiality of those assessments has not been compromised by that resource. This does not apply to the preparation of teaching resources or materials by a current (or former) third party exclusively for Learners that he or she teaches.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not make sure its confidentiality policies and processes for staff and third parties are up to date and followed;
- does not ensure that its conflict of interest records maintained under Condition A4.3 are up to date and contain details of all relevant conflicts in relation to staff and third parties who hold confidential assessment information;
- provides Teacher training events where current (or former) staff or third parties are present in the audience who have had access to assessment information in relation to that qualification which is still confidential
- provides material information about an assessment to Teachers at a training event that is additional to, or contradicts, its published information regarding the relevant qualification, without publishing that information as soon as reasonably practicable after the training event;
- does not take all reasonable steps to establish whether its staff or third parties with access to confidential assessment material provide, or intend to provide, Teacher training relating to the qualification (whether privately or through another organisation);
- has not properly considered evidence collected during an investigation into a suspected or alleged breach of confidentiality;
- has not contacted relevant parties that are critical to an investigation into a suspected or alleged breach of confidentiality, or to the outcomes of that investigation;
- has not kept records and documents relating to the breach of confidentiality and the investigation for an appropriate period.

## **Guidance on Condition G6 – Arrangements for Reasonable Adjustments**

### **Condition G6 Arrangements for Reasonable Adjustments**

- G6.1 For the purposes of this condition, Reasonable Adjustments are adjustments made to an assessment for a qualification so as to enable a disabled Learner to demonstrate his or her knowledge, skills and understanding to the levels of attainment required by the specification for that qualification.
- G6.2 An awarding organisation must, in accordance with Equalities Law, have in place clear arrangements for making Reasonable Adjustments in relation to qualifications which it makes available.
- G6.3 An awarding organisation must publish details of its arrangements for making Reasonable Adjustments, which must include details as to –
- (a) how a Learner qualifies for a Reasonable Adjustment, and
  - (b) what Reasonable Adjustment will be made.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- is aware, and ensures that its staff are aware, of its responsibilities under Equalities Law (including maintaining an up-to-date knowledge of any changes);
- engages with relevant stakeholders and representative groups to make sure its arrangements for Reasonable Adjustments meet its responsibilities on an on-going basis;
- considers the Reasonable Adjustments any disabled Learners might need;
- where decisions about Reasonable Adjustments are delegated to Centres, ensures that, through its agreement with Centres, its arrangements for Reasonable Adjustments are delivered effectively;
- makes information available to Centres and Learners about:
  - entitlements under equalities law for disabled learners to request a Reasonable Adjustment and any restrictions that apply to this;

- how to apply for a Reasonable Adjustment;
- the evidence that should support the application for a Reasonable Adjustment;
- the timelines for applying for a Reasonable Adjustment;
- how the awarding organisation will decide whether a Learner should be given a particular Reasonable Adjustment;
- how a Reasonable Adjustment will be made and any information, such as about equipment or time, the Centre needs to be able to do this; and
- the process for Centres or Learners to appeal against an awarding organisation's decision not to make a Reasonable Adjustment or a specific Reasonable Adjustment;
- makes Reasonable Adjustments available so that disabled Learners can demonstrate their knowledge, skills and understanding;
- considers each application or request for a Reasonable Adjustment on the basis of relevant information, or ensures that Centres do this where the decision has been delegated and:
  - applies appropriate criteria, which are clear and consistent for determining each application;
  - where it rejects an application, provides a clear reason to the Centre or Learner and, where appropriate, suggests suitable alternative Reasonable Adjustments to those requested;
  - provides a process for the Centre or Learner to appeal against its decision;
  - keeps a record of the decisions it makes;
- does not make, or allow Centres to make, a Reasonable Adjustment which:
  - would prevent the qualification from providing a reliable indication of the extent to which a Learner has the knowledge, skills and understanding being measured;
  - would alter the knowledge, skills and understanding being measured as opposed to the way they are demonstrated; or
  - unfairly advantages or disadvantages any Learner or group of Learners, whether or not they have had a Reasonable Adjustment applied;

- collects and analyses data on the number of requests for Reasonable Adjustments made and approved. This could include, for example, requests for each qualification or Centre;
- collects and analyses information about complaints about Reasonable Adjustments or about decisions relating to them;
- uses information, intelligence and data to identify and prevent potential misuse of Reasonable Adjustments by Centres and acts on any findings;
- monitors each Centre's application and use of Reasonable Adjustments and takes action where it is not making Reasonable Adjustments appropriately. The checks are regular and detailed enough to identify potential misuse of Reasonable Adjustments;
- reviews and evaluates the effectiveness of its arrangements for Reasonable Adjustments, taking account of its own data and monitoring, information from Centres, Learners, Users of qualifications, Ofqual requirements and any other relevant guidance (for example from the Equality and Human Rights Commission) or case law. It uses this information to inform the design of its qualifications and makes necessary improvements in a timely and effective manner.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- fails to:
  - make its approach to Reasonable Adjustments clear;
  - make appropriate Reasonable Adjustments available;
  - determine requests for Reasonable Adjustments in a fair, timely and consistent way;
  - consider requests for Reasonable Adjustments from Centres or Learners;
  - respond appropriately to complaints about its arrangements for Reasonable Adjustments;
  - ensure that where it delegates decisions on Reasonable Adjustments to Centres, the Centre follows its requirements;

- does not make appropriate Reasonable Adjustments available that allow Learners to demonstrate their knowledge, skills and understanding being measured;
- does not understand or comply with its duties under Equalities Law to make Reasonable Adjustments;
- makes a Reasonable Adjustment which is prohibited by Ofqual's specifications under section 96 of the Equality Act 2010;
- does not monitor, in a way that would enable it to identify any misuse, how centres are using Reasonable Adjustments;
- approves, or allows Centres to approve, requests for Reasonable Adjustments which:
  - are not based on sufficient evidence of how the Learner's disability affects their ability to demonstrate the knowledge, skills and understanding being measured; or
  - unfairly advantage or disadvantage any Learner or group of Learners, whether or not they have had a Reasonable Adjustment applied;
- rejects, or allows Centres to reject, requests for Reasonable Adjustments which meet the criteria it has set out for that Reasonable Adjustment to be applied, or does not provide a clear reason to the Centre or Learner where it rejects a request.

## **Guidance on Condition G7 – Arrangements for Special Consideration**

### **Condition G7 Arrangements for Special Consideration**

- G7.1 For the purposes of this condition, Special Consideration is consideration to be given to a Learner who has temporarily experienced –
- (a) an illness or injury, or
  - (b) some other event outside of the Learner's control,
- which has had, or is reasonably likely to have had, a material effect on that Learner's ability to take an assessment or demonstrate his or her level of attainment in an assessment.
- G7.2 An awarding organisation must have in place clear arrangements for Special Consideration to be given to Learners in relation to qualifications which it makes available.
- G7.3 An awarding organisation must publish details of its arrangements for giving Special Consideration, which must include details as to –
- (a) how a Learner qualifies for Special Consideration, and
  - (b) what Special Consideration will be given.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- sets out clearly the types of Special Consideration, if any, that are appropriate for each qualification for Learners who have suffered an illness, injury or other event outside of their control. Special Consideration could include, but is not limited to:
  - an adjustment to a Learner's mark for a Learner whose performance in an assessment has been affected;
  - an adjustment to the arrangements for accessing an assessment for a Learner who is not disabled, but whose ability to access the assessment has been affected by an injury or illness;
  - carrying over the fee for an assessment that the Learner was unable to take to a later assessment opportunity;

- has clear and consistent processes, which it communicates clearly to Centres or Learners, setting out:
  - whether Special Consideration is available for a particular qualification or assessment and if so the types of Special Consideration that may be made;
  - the point in the assessment process at which Special Consideration will be applied;
  - where Special Consideration is available for Learners who have not completed all of the assessments, the minimum amount of assessment evidence the Learner must have completed before a qualification can be awarded;
  - the eligibility criteria and evidence requirements to support a request for Special Consideration;
  - the process and timelines for applying for Special Consideration;
  - how the eligibility criteria will be applied in each case to make a decision about whether to approve Special Consideration for a Learner;
  - the process for Centres or Learners to appeal against a decision not to grant Special Consideration;
- ensures that in each case where it allows Special Consideration, it is applied appropriately and consistently, balancing the need to ensure that the qualification gives a reliable indication of the knowledge, skills and understanding being measured, with the need to ensure that as far as possible, Learners are not disadvantaged because of an illness, injury, or other event outside of their control;
- takes into account the qualification's objective when it decides the types of Special Consideration, if any, that should be available – types of Special Consideration available could include, but are not limited to:
  - awarding additional marks where a Learner has been able to take an exam but where their performance has been affected by an illness, injury or other exceptional event outside of their control;
  - making arrangements to allow a Learner to access an exam, such as providing assistance to write in a written exam for a Learner who has suffered an injury which prevents them from writing;

- allowing an alternative assessment opportunity for the Learner at a later date;
- does not provide Special Consideration where this would alter or prevent the qualification from providing a reliable indication of the knowledge, skills and understanding being measured by the assessment objectives;
- does not provide Special Consideration where this would unfairly advantage or disadvantage Learners;
- ensures that Learners who have experienced an illness, injury or other event outside of their control, which will affect their ability to demonstrate their knowledge, skills and understanding, are not unfairly advantaged or disadvantaged, as far as is possible, where Special Consideration is applied;
- considers each application for Special Consideration and:
  - applies clear and consistent criteria for determining each application, so that like cases are treated alike;
  - where issues affect a whole Centre or a number of Centres (for example flooding) considers the need for consistency in similar cases, including between other relevant awarding organisations;
  - where it rejects an application, provides a clear reason to the Centre or Learner;
  - provides a process for the Centre or Learner to appeal against its decision;
  - keeps a record of the decisions it makes;
- collects and analyses data on the number of requests for Special Consideration made and approved. This could include, for example, requests by qualification, subject and Centre and the impact of any requests approved, for example changes to overall results;
- uses data to identify and prevent potential misuse of Special Consideration by a Centre and acts on any findings;
- has a process in place to monitor each Centre's applications for Special Consideration and takes action where a Centre is not using the provision appropriately. The checks are sufficiently regular and detailed to identify misuse of Special Consideration;

- reviews and evaluates the effectiveness of its arrangements for Special Consideration, taking account of its own monitoring, information from Centres, Learners, Users of qualifications and any Ofqual requirements.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- fails to:
  - make its approach to Special Consideration clear, including, where relevant, being clear about where Special Consideration is not available;
  - determine requests for Special Consideration in a fair, timely and consistent way;
  - consider requests for Special Consideration, where it is allowed, from Centres or Learners;
  - respond appropriately to complaints about its arrangements for Special Consideration;
- does not monitor, in a way that would enable it to identify any misuse, how Centres are using Special Consideration;
- approves requests for Special Consideration which:
  - are not based on sufficient evidence; or
  - unfairly advantage any Learner or group of Learners, whether or not they have had a Special Consideration applied;
- rejects requests for Special Consideration which meet the criteria it has set out for that Special Consideration to be applied.

## **Guidance on Condition G8 – Completion of the assessment under the required conditions**

### **Condition G8 Completion of the assessment under the required conditions**

G8.1 An awarding organisation must take all reasonable steps to ensure that, in relation to qualifications which it makes available –

- (a) evidence generated by a Learner in an assessment is generated by that Learner (or includes evidence generated by that Learner as a contribution to group work), and
- (b) where an assessment is required to be completed under specified conditions, Learners complete the assessment under those conditions (other than where any Reasonable Adjustments or Special Consideration require alternative conditions).

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- designs its qualifications so that:
  - the conditions under which assessments or tasks must be completed are able to be delivered by Centres and Assessors;
  - as far as is possible, the awarding organisation, Centres or Assessors can determine whether work has been produced by the Learner being assessed;
- considers the possible risks to assessments being completed under the specified conditions or to being able to authenticate Learners’ work and designs assessments (for each assessment or subject) and tasks to mitigate these risks;
- sets clear requirements for the conditions under which Learners must complete the assessment and communicates these clearly to Centres, ensuring appropriate guidance and support (which could include training) is provided, including for relevant Centre staff. These could include, but are not limited to, requirements for:
  - the resources or materials required for Learners to complete the assessment;

- its expectations of Centres and their staff in relation to ensuring the assessment is completed under the required conditions and that work is completed by the Learner for whom it is submitted;
  - conducting the assessment, including where appropriate, the environment/location and conditions under which it must be completed;
  - any relevant administrative and security arrangements, such as restrictions on the timing of access to assessment materials;
  - any invigilation, supervision or verification arrangements;
  - the way in which any practical assessments must be conducted;
  - any restriction on the number of occasions on which the assessment can be undertaken;
  - the way in which any group work is assessed and how the knowledge and skills of each individual Learner should be identified;
  - the extent, if any, to which Learners can redraft or refine their work and benefit from Centre feedback;
  - how it will enforce its requirements, check that Centres follow them and the possible sanctions if they do not;
  - where Centres set and deliver assessments, ensures that Centres have in place appropriate arrangements to meet the awarding organisation's requirements;
- takes all reasonable steps to ensure that the Learner has produced the work being assessed. These could include, but are not limited to:
- requiring Centres to identify Learners using methods such as photographic identification, signatures or other unique identifiers to confirm that the Learner is who they say they are;
  - requiring declarations that the work has been produced by the Learner for whom it is being submitted, for example a statement by the Learner, and/or the Centre and/or an Assessor, depending on the nature of the assessment;
  - determining the contribution made by individual Learners to group tasks and assessments;
  - making arrangements to ensure that work submitted by private/external candidates has been produced by the Learner;

- ensuring relevant Centre and awarding organisation staff are trained on how to identify where a Learner's work may not be their own and what to do where this is the case;
- checks that the assessment is completed under the required conditions and that Learners have produced the work being assessed, for example by carrying out regular checks, including some unannounced, on Centres delivering assessments;
- investigates cases where it believes its requirements are not being met and takes appropriate action where it finds evidence that this is the case. The actions it takes, combined with its monitoring arrangements, are an effective incentive for Centres to comply with their obligations;
- keeps its processes for ensuring the assessment is completed under the required conditions and that work is produced by the Learner under review. It reviews and acts on feedback from its own monitoring, from Centres, from Ofqual and other relevant sources to improve its arrangements as necessary.

### **Examples of ‘negative indicators’ that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- does not take appropriate steps during the design of the qualification to remove or reduce risks that the assessment is not completed under the required conditions or that Learners' work cannot be authenticated;
- does not set, or make available to Centres, clear requirements setting out:
  - the conditions under which assessments must be completed;
  - arrangements for ensuring and confirming that the work being assessed is produced by the Learner;
- sets requirements which are not manageable for Centres;
- does not provide appropriate training or support to Centres on its requirements;
- sets assessments which require group work where it is not possible to determine the contribution of each individual Learner;
- credits, or allows Centres to credit, Learners for an assessment for which it cannot be satisfactorily verified that the work has been produced by that Learner;

- allows an assessment to be taken under conditions other than those it has specified, except where a Reasonable Adjustment or Special Consideration applies;
- does not effectively monitor, to enable it to identify where Centres are not meeting its requirements;
- does not promptly investigate or take appropriate, effective and consistent action where there is evidence that its requirements are not being met;
- does not make appropriate changes or improvements to its requirements where it has identified issues with its arrangements.

## **Guidance on Condition G9 – Delivering the assessment**

### **Condition G9 - Delivering the assessment**

- G9.1 An awarding organisation must ensure that every assessment for a qualification that it makes available is delivered effectively and efficiently.
- G9.2 An awarding organisation must ensure that, on delivery of every assessment for a qualification that it makes available, the assessment:
- (a) is fit for purpose,
  - (b) permits Reasonable Adjustments to be made, while minimising the need for them,
  - (c) allows each Learner to generate evidence which can be Authenticated,
  - (d) allows each specified level of attainment detailed in the specification to be reached by a Learner who has attained the required level of knowledge, skills and understanding, and
  - (e) allows Assessors to be able to differentiate accurately and consistently between a range of attainments by Learners.
- G9.3 An awarding organisation must ensure that, on delivery of every assessment for a qualification that it makes available, the content of the assessment:
- (a) is fit for purpose,
  - (b) is appropriate for the method of assessment chosen, and
  - (c) is consistent with the specification for that qualification.

### **Examples of ‘positive indicators’ that would suggest an awarding organisation is likely to comply**

The awarding organisation:

- clearly sets out how its assessments must be delivered to ensure that they are valid and delivered effectively and efficiently and communicates its requirements clearly to Centres;

- ensures that, as far as is possible, all assessments are delivered consistently within and across Centres and in accordance with its requirements, for example by:
  - providing consistent guidance and support (which could include training) for Centres delivering assessments and tasks;
  - providing guidance to Centres about the conditions that are required to ensure that Learners have opportunities to demonstrate their knowledge, skills and understanding under appropriate conditions, including, where appropriate, in the workplace;
- ensures that all assessments delivered:
  - include content that covers the knowledge, skills and understanding in the specification to the extent required for a particular assessment;
  - use assessment arrangements which deliver valid assessments, whilst ensuring as far as is possible that equipment or materials required are reasonably obtainable for Centres;
  - enable Learners to demonstrate the extent to which they have the knowledge, skills and understanding required by the qualification – for graded qualifications, this should be for the full range of Learners targeted;
  - enable the awarding organisation to differentiate effectively between Learners (that is, on the basis of the knowledge, skills and understanding being assessed) – for graded qualifications this should be across the range of attainment targeted by the assessment;
  - award marks or credits that are representative of the demands of the questions/tasks;
  - can be consistently applied by Assessors, moderators and verifiers to ensure accurate and consistent judgements are made about the attainment of Learners;
- monitors the way assessments are delivered and the use of appropriate safeguards to identify and authenticate each Learner's work;
- only uses group assessments where it is an effective way to assess the skills being measured and where the contribution of each Learner can be identified and authenticated;

- monitors the delivery of assessments to ensure its requirements are being met, for example by carrying out regular checks on Centres' practices, and takes action where this is not the case;
- keeps its arrangements for delivering assessments under review, making changes to its arrangements where necessary to address any issues.

### **Examples of 'negative indicators' that would suggest an awarding organisation is not likely to comply**

The awarding organisation:

- delivers assessments, or permits Centres to deliver assessments, which cannot be delivered efficiently or effectively, for example because:
  - procedures or assessments add unnecessary costs (including those which are not directly incurred) to Centres or Learners;
  - resources and equipment required are not reasonably obtainable for Centres;
  - insufficient information is provided to Centres about the requirements they have to meet;
  - there is insufficient time available for Centres to deliver assessments or tasks to all Learners in line with the awarding organisation's requirements;
- uses assessment types in which the work of individual Learners cannot be authenticated, for example:
  - setting assessments or tasks which are completed without supervision and without suitable alternative safeguards in place;
  - setting group tasks where the contribution of individual Learners cannot be distinguished;
- delivers assessments which do not allow it to measure the extent to which Learners have the knowledge, skills and understanding required by the qualification or which do not differentiate validly between the full range of attainment by Learners;
- delivers assessments which discriminate between Learners on the basis of factors other than the knowledge, skills and understanding being measured by the qualification, for example:
  - because the language or vocabulary used in an assessment prevents a Learner understanding what is being assessed;

- because a Learner who is familiar with the context in which an assessment task is set, but which is unrelated to the knowledge and skills being assessed, will be advantaged over a Learner who is unfamiliar with that context.

# Guidance on making changes to incorrect results

## Introduction

We expect an awarding organisation to issue correct results to Learners. But where an awarding organisation discovers that, despite its controls, it has issued an incorrect result, it must have regard to this guidance when deciding what to do.

An incorrect result is one that does not accurately reflect a Learner's performance in his/her assessment. It could be higher or lower than the level of attainment which the Learner demonstrated. An awarding organisation may discover that it has issued an incorrect result in different ways, including:

- through the application of its own quality assurance processes;
- through its investigations into malpractice or maladministration; or
- where a review of marking or an appeals process reveals an issue which is relevant to other Learners' assessments.

Regardless of how an incorrect result is discovered (and whether it is higher or lower than the level of attainment demonstrated by the Learner), an awarding organisation must decide what action to take, and whether or not to correct the result.

This guidance identifies a number of Conditions that place obligations on awarding organisations which are relevant to this issue. It explains how an awarding organisation should decide what action to take and some of the factors it should consider. The importance of these factors will vary between cases, but awarding organisations should adopt a consistent approach to determine which are relevant and how to balance them.

In particular, this guidance focuses on an awarding organisation's decision whether or not to correct an incorrect result. It is for the awarding organisation to take this decision in each case, ensuring that it meets the requirements of the Conditions and has regard to this guidance. Having taken this decision, the awarding organisation should always consider whether it should take any other action to comply with the requirements of the Conditions.

## What requirements must an awarding organisation meet?

Awarding organisations must comply with all of the Conditions which apply to the qualifications they offer. The Conditions below are likely to be particularly relevant to the issuing of results and to the action an awarding organisation should take if it finds it has issued an incorrect result.

- **Condition A6.1** requires an awarding organisation to take all reasonable steps to identify the risk of any incidents which could have an Adverse Effect. Since

the issuing of an incorrect result could (in many cases) have an Adverse Effect, an awarding organisation should actively consider any risks which might lead to this happening.

- **Condition A6.2** requires that where such a risk is identified, the awarding organisation takes all reasonable steps to prevent the incident from occurring or to reduce the risk of it occurring. The awarding organisation must also prevent, or if this is not possible mitigate, any Adverse Effect that the incident could have were it to occur.
- **Condition H5.1** requires an awarding organisation to ensure that the result of each assessment taken by a Learner reflects the level of attainment demonstrated by that Learner.
- **Condition H6.1(d)** requires an awarding organisation to issue results which accurately and completely reflect the marking of assessments (including any Moderation and other quality assurance process).
- Where an awarding organisation issues an incorrect result, it will have failed to comply with one or both of **Conditions H5.1 and H6.1(d)**. There are a number of further requirements that could be relevant if an awarding organisation issues an incorrect result.
- **Condition A7.1** requires that where any incident occurs which could have an Adverse Effect, an awarding organisation must promptly take all reasonable steps to prevent the Adverse Effect or to mitigate it as far as possible and correct it. In doing so, it must prioritise the provision of assessments which accurately differentiate between Learners on the basis of the level of attainment they have demonstrated and the accurate and timely award of qualifications.
- **Condition A8.2** requires that where an awarding organisation suspects malpractice or maladministration and has reasonable grounds for doing so, it must promptly take all reasonable steps to prevent any Adverse Effect which may occur. Where an Adverse Effect does occur it must mitigate it and correct it as far as possible. This obligation may be relevant where an incorrect result has been issued as a result of malpractice or maladministration.
- **Condition I1.4** or (where Condition I1 does not apply to a qualification) the relevant Qualification Level Condition, requires that if an awarding organisation discovers a failure in its assessment process through any Review Arrangements or appeals process, it must take all reasonable steps to identify any other affected Learners, correct or mitigate as far as possible the effect of the failure, and ensure that the failure does not recur. Awarding organisations must ensure that if specific Qualification Level Conditions are in place for

Review Arrangements or appeals, such as those for reviews of Moderation, they are adhered to before considering the following guidance.

## **What should an awarding organisation do when it discovers it has issued an incorrect result?**

Where an awarding organisation discovers that it has issued an incorrect result, we expect it to:

- understand what has happened. It should make sure it gathers adequate information on which to base any decision about what to do next and whether to correct the result;
- determine whether the issue of the incorrect result has caused any Adverse Effect or whether there is the potential for any Adverse Effect to occur;
- notify Ofqual, where any Adverse Effect has occurred or could occur (in accordance with Condition B3.1);
- determine what action to take to, including whether or not to correct the result and whether any other action should be taken;
- keep a record of the decision it makes in respect of: whether any Adverse Effect has occurred or is likely to occur, whether or not to correct the result and on any other action it takes to prevent, mitigate or correct any Adverse Effect. It should be able to explain, on a case-by-case basis, what action it has taken and why.

## **What should an awarding organisation consider when deciding what action to take?**

Where an awarding organisation discovers that it has issued an incorrect result, it must take all reasonable steps to prevent any Adverse Effect which could be caused or, where this is not possible, to mitigate and correct any Adverse Effect. An Adverse Effect is most likely to be caused where the issuing of the incorrect result:

- prejudices the Learner who has been issued with the result or prejudices other Learners;
- adversely affects the standard of the qualification; or
- adversely affects public confidence in regulated qualifications.

In some instances, issuing an incorrect result could cause more than one Adverse Effect and these could happen at different times.

Where the issuing of the incorrect result has had or could have an Adverse Effect, the default position is that the awarding organisation should correct the result. In most cases this will either prevent the Adverse Effect from occurring or otherwise mitigate or correct it.

However, we recognise that correcting the result may have a negative impact such that, balancing this impact against the Adverse Effect(s) involved, it would not be a reasonable step for the awarding organisation to correct the result.

Even where the awarding organisation does not consider the issuing of the incorrect result has had or could have an Adverse Effect, it will have breached a Condition. Correcting the result will help remedy that breach. Again, we recognise that in some cases the negative impact of correcting the result may be such that this would not be a reasonable course of action for the awarding organisation to take.

We expect an awarding organisation to consider all relevant factors in order to:

- identify any Adverse Effects caused (or potentially caused) by issuing the incorrect result; and
- decide what action it would be reasonable to take, balancing any Adverse Effect against any negative impact which may be caused by correcting the result.

The list below sets out factors which we expect an awarding organisation to consider when deciding on a reasonable course of action (alongside any other relevant factors).

- **Impact on the Learner who has been issued with an incorrect result** – The awarding organisation should consider whether allowing an incorrect result to stand or correcting the result could prejudice the Learner. For example, prejudice may be caused if the result is corrected where the original result has already been used to make decisions, such as whether to re-take a qualification, enrol in further or higher education, or enter employment. Conversely, in some situations allowing a Learner to rely on a result which he/she has not actually achieved may prejudice that Learner.
- **Impact on other Learners** – The awarding organisation should consider whether allowing an incorrect result to stand could prejudice other Learners. For example, Learner A could miss out on a progression opportunity to Learner B because Learner B has incorrectly been given a higher result than his/her performance merited.

- **Public confidence** – The awarding organisation should consider the impact on public confidence in regulated qualifications of it issuing an incorrect result and of the action it takes in response.
- **Standards** – The awarding organisation should consider the impact on the standard of the qualification if it does not correct the error.
- **Number of Learners affected** – The impacts on other Learners, on standards and on public confidence are likely to be greater if many Learners are affected.
- **Reliance on the incorrect result by third parties** – Where third parties have relied on, or are likely to rely on, the incorrect result, the awarding organisation should consider whether that increases the possibility of an Adverse Effect. For example, if a qualification is a licence to practise, the awarding organisation should consider whether allowing a Learner who may not have demonstrated the level of competence indicated by the incorrect result to keep that result could have an Adverse Effect.
- **Timing** – The length of time since the result was issued and any indication given by the awarding organisation that the result may or may not be final.
- **Malpractice** - Whether the Learner's own actions (including malpractice) contributed to the incorrect result being issued.

The extent to which each factor is relevant, and whether there are any others that should be considered, will vary. This could depend, for example, on the purpose of the qualification and how it is used by the Learner or other Users of qualifications. Consideration of all the factors may not all point towards one action.

An awarding organisation should determine which factors are relevant and give appropriate weight to these in each case when deciding on its course of action.

### **What should an awarding organisation do after deciding what action to take?**

After deciding what action to take, an awarding organisation should take all reasonable steps to communicate any change in result to any affected Learners and, where appropriate, reissue results and/or certificates.

**Condition I4.2(a)** requires awarding organisations to take all reasonable steps to issue a certificate and any replacement certificate. Where an awarding organisation has decided to correct the result, it should ensure it does this.

An awarding organisation should consider any further actions it needs to take. In accordance with **Condition B3.5**, the awarding organisation should notify Ofqual of

any steps that it has taken or intends to take to prevent an Adverse Effect, or to correct or mitigate any Adverse Effect that occurs.

In accordance with **Condition A6**, an awarding organisation should consider whether or not its contingency plan should be updated.

**Condition D3.3** requires that where an event relating to an awarding organisation has had an Adverse Effect, it must review and revise where necessary its approach to the development, delivery and award of qualifications to ensure it remains appropriate.

### **What happens where an incorrect result is discovered as part of Review Arrangements or an appeals process?**

Awarding organisations are required to have in place a process for the appeal of results. In some qualifications, awarding organisations are also required to have Review Arrangements in place (for example for a review of marking in GCSE, AS and A level qualifications). As well as this, Ofqual has put in place an appeals process for some qualifications.

Following an appeal (or a review) the result must be changed or confirmed as appropriate, in accordance with any relevant requirements (for example those relating to a review of marking in GCSE, AS and A level qualifications).

# **Guidance on safeguarding confidentiality where Teachers are involved in developing assessments**

## **Introduction**

Many awarding organisations use Teachers in the development of assessments, and there can be clear benefits to doing so. Experienced Teachers have detailed subject knowledge and understand how Learners are likely to respond to questions. It requires skill and experience to develop successful exam papers and other forms of assessment. Assessments must be comprehensible to Learners while allowing appropriate differentiation between them. Assessments must not be too predictable, but neither must they stray from what has been taught. They must be capable of being completed within the allocated time and must be of the same level of demand whenever they are taken.

However, we expect awarding organisations to be alive to the risks to confidentiality to which the use of practising Teachers gives rise, and to use appropriate safeguards to ensure compliance with the Conditions.

This guidance identifies a number of Conditions that place obligations on awarding organisations which are relevant to this issue. It also outlines some of the factors that will be relevant in an awarding organisation's analysis of the strength of the safeguards it needs and gives some examples of the types of safeguards that might be used.

There is no 'one size fits all approach' to mitigating the risks of a Teacher misusing confidential information about assessments. Each awarding organisation must use safeguards that are appropriate for each of its qualifications. Responsibility for taking a suitably robust approach to complying with the Conditions sits with each awarding organisation, having had regard to this statutory guidance, as well as the specific guidance in relation to the relevant Conditions.

In the guidance below 'confidential assessment information' refers to both the contents of assessment materials, and information about the assessment, in relation to which confidentiality must be maintained under Condition G4.1.

## **What requirements must an awarding organisation meet?**

The Conditions below are especially relevant to the risks around the involvement of Teachers in the development of assessments.

- **Condition A4.2** requires an awarding organisation to identify and monitor all current and reasonably foreseeable conflicts of interest (as defined in Condition A4.1) that relate to it. This will include identifying any relevant teaching roles held by Teachers involved in the development of assessments, and monitoring any such conflict.

- **Condition A4.4** requires an awarding organisation to take all reasonable steps to ensure that no conflict of interest that relates to it has an Adverse Effect. An awarding organisation is thus required to do everything that it can to ensure that no Teacher involved in developing assessments breaches confidentiality. Where an Adverse Effect does occur, **Condition A4.5** requires an awarding organisation to take all reasonable steps to mitigate that effect as far as possible and correct it.
- **Condition A6.1** requires an awarding organisation to take all reasonable steps to identify the risk of occurrence of any incident that could have an Adverse Effect. This will include an awarding organisation's assessment of risk in relation to breaches of confidentiality by Teachers involved in assessment development. **Condition A6.2** requires an awarding organisation to take all reasonable steps to prevent any such incident from occurring and prevent (or if it cannot be prevented, mitigate) any Adverse Effect that the incident would have if it occurred.
- Where an incident occurs which could have an Adverse Effect, **Condition A7.1** requires an awarding organisation to promptly take all reasonable steps to prevent the Adverse Effect – or, where it occurs, to mitigate and correct it as far as possible and give priority to making sure the assessments accurately differentiate between Learners.
- **Condition A8.1** requires an awarding organisation to take all reasonable steps to prevent the occurrence of malpractice in the development, delivery or award of qualifications. A deliberate breach of confidentiality in relation to assessments will almost certainly constitute malpractice. Where any such malpractice is reasonably suspected or alleged, Condition A8.2 requires an awarding organisation to investigate it.
- Where malpractice is established, **Condition A8.6** requires an awarding organisation to take all reasonable steps to prevent it from reoccurring and to take proportionate action against those responsible, or seek the cooperation of third parties in taking such action.
- Where an awarding organisation arranges for a third party – such as a Teacher – to undertake any part of qualification development on its behalf, **Condition C1.1** requires the awarding organisation to (i) ensure that those arrangements enable the awarding organisation to comply with the Conditions, and (ii) to monitor and enforce those arrangements where necessary to ensure compliance with the Conditions.
- **Condition G4.1** requires an awarding organisation to take all reasonable steps to maintain the confidentiality of the content of, or information about, assessment materials where this is required to ensure the qualification reflects

an accurate measure of attainment. In particular, **Condition G4.5(b)** requires an awarding organisation to take all reasonable steps to ensure that no Teacher or other third party involved in the development of assessments breaches, or offers to breach, such confidentiality.

## **Factors in deciding what safeguards are appropriate**

Each awarding organisation must use safeguards that are appropriate for each of its qualifications.

In determining the package of safeguards that would be appropriate, we expect an awarding organisation to consider all relevant factors. In particular, we expect an awarding organisation to consider the following:

- **The nature and amount of confidential assessment information held by a Teacher** – We will expect that the more confidential assessment information that a Teacher has about an assessment – or the greater the effect that its disclosure would have on the fitness for purpose of the assessment – the stronger the package of safeguards an awarding organisation will need to use to meet the requirements of the Conditions.
- **The Teacher's role in delivering qualifications** – We expect that the more directly a Teacher is involved with delivering the qualification for which he or she holds confidential assessment information, the stronger the package of safeguards that will be needed. A stronger package of safeguards should be used for a Teacher currently involved in teaching the relevant qualification, including as a private tutor, than for a Teacher who teaches an alternative qualification (such as one offered by a different awarding organisation), or who is no longer actively teaching.
- **Potential pressures on Teachers to misuse confidential assessment information** – We expect that an awarding organisation will take stronger steps to prevent a Teacher inappropriately using confidential assessment information about a qualification used for school or college accountability purposes, or which is particularly high stakes because it directly affects a Learner's progression options or life chances. This will include, in particular, qualifications that are used for progression to higher education, or which confer a licence to practise.
- **The impact if confidential assessment information is misused** – In considering what safeguards to put in place, we expect an awarding organisation to consider the ease with which it could replace assessment materials, or Learners could re-take an assessment, should a Teacher be found to have made inappropriate use of confidential assessment information.

For example, it is likely to be more difficult for an awarding organisation to mitigate the impact of an inappropriate disclosure in relation to a qualification that is assessed once annually, is taken by large numbers, and for which there is a pre-determined results date (such as GCSEs and A levels) than for a qualification for which there are regular assessment opportunities.

Some qualifications will be awarded on the basis of one assessment only, whereas for others, a number of assessments will contribute to the final result. In qualifications for which there are multiple assessments, if one assessment is compromised, a result might be awarded based on a Learner's performance in the other assessments. The number of assessments that contribute towards a qualification is therefore a further factor for an awarding organisation to consider when determining the ease with which it could mitigate the impact of a breach of confidentiality.

## Potential safeguards

Below are some examples of the potential safeguards that an awarding organisation may use to prevent the disclosure of confidential assessment information or to limit any Adverse Effect resulting from such a disclosure.

The examples we provide relate to:

- assessment development and design;
- support for Teachers and Centres; and
- detection and deterrence.

Each awarding organisation must consider what (if any) safeguards will be required in relation to each of its qualifications, taking into account all relevant factors, including those outlined in the previous section.

We expect an awarding organisation to consider the appropriate balance between up-front measures to prevent and (if necessary) mitigate the disclosure of confidential assessment information, and end-point measures which allow it quickly to identify and mitigate any disclosure that takes place.

### Assessment development and design

- **Teachers are not involved in developing confidential assessment materials** – The surest way for an awarding organisation to guard against Teachers inappropriately using confidential assessment information is to make sure no Teachers have such information. An awarding organisation could choose to keep its assessment production process entirely in-house and not contract services from currently employed Teachers. It could secure any

necessary Teacher insights and expertise from recently retired Teachers or Teachers who are taking a break from teaching.

- **Teachers involved with developing confidential assessment materials cannot teach the qualification** – An awarding organisation might stipulate that any Teachers it engages to develop confidential assessment materials must not themselves teach the qualification for which those materials would be used, while those materials remained confidential. Its contractual provisions would need to address the risks of disclosure to teaching colleagues and address the opportunities for the Teacher to work as a private tutor, for example.

While the above two approaches might work well for some qualifications, an awarding organisation would need to balance their use against the different risks to which they could give rise, including to the quality of the assessments developed. In relation to the second example, Teachers might not wish to develop assessments for qualifications they are not allowed to teach. Such a prohibition could limit their ability to change jobs and the options of their Centre to change awarding organisation.

- **No serving Teacher knows whether or when the assessment materials they have developed or seen will be used** – An awarding organisation might commission Teachers to write whole or parts of assessments, but the decision on whether or when the materials would be used would be tightly controlled and not be known to any Teacher. The use of a question bank, or question paper bank, may achieve the necessary degree of uncertainty, although consideration would need to be given to the size of the question bank and the frequency with which it is updated (and it would still need to be made clear to Teachers that information in relation to each question or task within the bank was confidential<sup>5</sup>).

The form and degree of unpredictability needed to make this approach an effective safeguard will vary by qualification. An awarding organisation should consider the number and the nature of the assessment tasks/questions, whether the tasks/questions would be memorable if seen in advance, and whether a Learner who had prior information about the task/question would likely be advantaged over others.

For qualifications such as GCSEs, A levels and the main alternatives, the stakes of the qualification, for both Learners and Centres, are sufficiently high that we will normally expect an awarding organisation to manage its assessment development in such a way so no Teacher of the relevant qualification knows with certainty the

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<sup>5</sup> We will view each individual item in a bank as confidential. However, the number of items in the bank, and the structure of the relevant assessment, will be relevant to the risks arising from any breach of confidentiality in relation to an individual item, and how easily the Adverse Effect arising from any such breach can be mitigated.

content of any specific assessment. Where it does not do so, we will expect an awarding organisation to be able to offer a compelling justification for any alternative approach.

- **No serving teacher is involved with developing all of the assessments for any one qualification** – Where the confidentiality of one assessment has been compromised by a Teacher, an awarding organisation might disregard the affected Learners' performance in that assessment and estimate their overall mark based on their performance in the other assessments for the qualification, relative to the performance of other Learners who completed all of the assessments (an 'assessed result'). This will only be possible where there is more than one assessment for the qualification, and not all of those assessments have been compromised by the Teacher's actions.

An awarding organisation that allows Teachers to develop assessments for qualifications they also teach might ensure that no such Teacher sees all the assessments to be taken by a Learner for that qualification (for example, both exam papers). This would limit the impact, including on Learners, of a Teacher inappropriately using confidential assessment information. It could also assist with the awarding organisation's monitoring activities as it would allow the awarding organisation to consider whether Learners performed better than expected in the assessment their Teacher had developed or otherwise seen, relative to their performance in their other assessments.

### **Support for Teachers and Centres**

The types of support an awarding organisation might give to a Teacher who holds confidential assessment information include:

- clear contractual arrangements setting out the Teacher's obligations with respect to confidential assessment information and any limitations on other roles the Teacher could undertake while information he or she held remained confidential,
- providing training and advice to the Teacher in relation to maintaining confidentiality of assessment materials and information,
- having direct contact with the Teacher's Centre to emphasise the importance of ethical practice, the potential consequences of wrong-doing and the support the Centre might provide the Teacher to avoid deliberately or sub-consciously using the information they hold in an inappropriate way, and
- requiring annual declarations from the Teacher that he or she understands and will at all times comply with their obligations to protect confidential assessment information.

Where a Teacher has access to confidential assessment information, we will expect an awarding organisation's contract with that Teacher to at least provide for termination in the event of any deliberate disclosure of such information.

### **Detection and deterrence**

An awarding organisation is required to actively monitor all conflicts of interest that apply to it (Condition A4.2), as well as its contractual arrangements (Condition C1.1(b)). It is also required to take all reasonable steps to prevent (i) any conflict of interest having an Adverse Effect (Condition A4.4), (ii) the occurrence of any incident that could have an Adverse Effect (Condition A6.2(a)), (iii) any malpractice in relation to the development and award of qualifications (Condition A8.1), and (iv) any breach of confidentiality in relation to confidential assessment information (Condition G4.1).

A Teacher who holds confidential assessment information may be deterred from using that information inappropriately if he or she knows that such use is likely to be detected. We will therefore expect an awarding organisation to consider whether, in view of the risks it faces in relation to a particular qualification, the transparent use of any monitoring procedures will be a reasonable step to take to meet the requirements of the above Conditions.

We will expect awarding organisations to undertake some level of monitoring in relation to high stakes qualifications in relation to which Teachers hold confidential assessment information. We also expect them to investigate thoroughly any allegations or evidence of malpractice.

The monitoring undertaken by an awarding organisation may be shaped by the safeguards that it has put in place at the development stage. For example, more robust upfront safeguards may mean that less rigorous monitoring is required. However, an awarding organisation must always be alive to the risk of a breach of confidentiality – no matter how robust its upfront safeguards – and the need to swiftly identify and deal with any breach that occurs.

Some examples of the types of monitoring and investigation that an awarding organisation could undertake are as follows:

- reviewing the evidence generated in the relevant assessment by Learners whose Teacher had confidential assessment information to look for any unusual patterns in their responses;
- in response to allegations of a breach of confidentiality by a Teacher, looks for signs in their teaching plans, teaching materials and formative assessments that they had inappropriately narrowed their teaching or disclosed confidential information;

- monitoring social media to look for signs that confidential assessment information has been disclosed; and
- undertaking statistical monitoring to look for unusual results or patterns of results in Centres where Teachers with confidential assessment information are teaching.

In each case an awarding organisation should consider whether a particular type of monitoring or investigation will yield reliable information, whether in isolation or as part of a wider range of evidence.

## **Examples**

We have set out above some general indications as to when we will expect to see stronger safeguards depending on the risks associated with a particular qualification.

The following examples illustrate the different safeguards that an awarding organisation may choose to put in place for qualifications with different risk profiles. These examples are not intended to mandate any particular approach in relation to any particular type of qualification but rather – when read together with the sections above – to aid an awarding organisation's own consideration of how best to comply with the Conditions.

### **Example 1**

#### **The qualification and associated risks**

- A high stakes qualification used for school accountability purposes, taken by c. 250,000 Learners annually and used to support progression to employment or higher education.
- The assessments comprise two unseen written exam papers, each containing six questions from which Learners must attempt three questions.
- The nature and number of questions on each paper makes them memorable and, if known in advance, teaching and learning could be narrowed.
- The impact of a breach would be high, including because of the numbers of Learners who could be affected and the damage to public confidence.

#### **One possible approach**

The awarding organisation considers that Teacher input to developing the assessment materials will enhance the quality of the assessments and, because risks can be managed as set out below, it decides to retain that input.

In light of the potential impact of any breach of confidentiality, and the opportunities to narrow teaching and learning if the exam questions are known in advance, the awarding organisation:

- commissions three Teachers to each write questions on specific aspects of the curriculum and requires them to document the assessment objectives and their relative weightings that will be assessed for each question, for use when the exam paper is put together;
- ensures that no one Teacher knows which of his or her questions will be used in any particular exam paper in any particular assessment series and does not see the questions developed by the other Teachers;
- identifies a permanent member of staff, advised by a recently retired Teacher of the qualification, to select the questions to be used in the two exam papers for any assessment series.
- sets out in their contracts the Teachers' obligations with regard to the confidential materials, and provides for the termination of the contract in the event of disclosure of confidential assessment information by the Teacher;
- makes sure each Teacher's head of Centre knows the role the Teacher has played and that he or she will not know whether or when the questions they have written will be used; and
- reviews the Learners' scripts of at least one of the Teachers each year to look for unusual patterns of responses.

## **Example 2**

### **The qualification and associated risks**

- A high stakes qualification used for school accountability purposes, taken by c.100,000 Learners annually and used to support progression to employment or higher education.
- The assessments comprise three unseen written exam papers, each covering different aspects of the curriculum. Learners must attempt all questions on each paper.
- The nature and number of questions on each paper means they are not particularly memorable. The nature of both the subject content and of the exam questions means that, even if the questions were known in advance, teaching and learning the whole of the curriculum would be needed to secure a good mark.
- The impact of a breach would be high, including because of the numbers of Learners who could be affected and the damage to public confidence.

### **One possible approach**

- The awarding organisation has had difficulties recruiting people with appropriate subject and assessment expertise to develop the assessments. In the longer term it commits to commissioning the writing of multiple papers so no Teacher currently teaching the qualification who develops assessments knows if or when any particular assessment will be used.

- In the short term it is concerned the extra workload of such an approach would deter anyone considering applying for an examiner role. It therefore engages two Teachers who currently teach the qualification to each write one of the papers. The third paper is written by a full-time employee who, until recently, had taught the specific aspects of the curriculum assessed by that paper. Neither of the Teachers sees the two papers that they have not written, only the employee sees all three.
- The awarding organisation reviews the exam scripts of the Learners who were taught by the two Teachers to look for any unusual patterns of response. It also undertakes a statistical analysis to determine whether the Learners' performance in the paper their Teacher had developed was out of line with their performance in the other papers, relative to the performance of all Learners taking the qualification. It interviews the Teacher and the Learners, where appropriate, to understand the reasons for any unusual patterns.
- Each Teacher's contract with the awarding organisation sets out the Teacher's obligations with regard to the confidential assessment information, and provides for the termination of the contract in the event of disclosure of such information by the Teacher.
- The awarding organisation makes sure each Teacher's head of Centre knows the role they have played and advises them of the steps it will take to detect any inappropriate use of the information held by the Teacher..

### **Example 3**

#### **The qualification and associated risks**

- A high stakes qualification for the Learner and for those who rely on the qualification as an indication of competence to practise.
- Assessment is by observation of the Learner undertaking a predetermined set of tasks which are well known and will have been practised extensively before undertaking the assessment.
- The nature of the assessment is intentionally highly predictable, as the Learners are assessed on their competence in performing a known set of tasks.

#### **One possible approach**

- As Learners know they will be assessed on their full range of skills, and the assessments are intentionally predictable, the awarding organisation does not consider it necessary to limit who can write the tasks or to use particular safeguards where practitioners who write the tasks also employ people who are preparing for the assessments. It does not therefore adopt any additional safeguards.

# Appendix 1 – Revisions to this document

The table below sets out all revisions made to the *Guidance to the General Conditions of Recognition* since it was first published, and the dates on which those revisions came into force.

New or amended guidance	Date new or amended guidance in force
<ul style="list-style-type: none"> <li>■ Guidance to Condition A4 – Conflicts of interest</li> <li>■ Guidance to Condition A8 – Malpractice and maladministration</li> <li>■ Guidance to Condition G4 – Maintaining confidentiality of assessment materials</li> <li>■ Guidance on safeguarding confidentiality where Teachers are involved in developing assessments</li> </ul>	6 August 2018
<ul style="list-style-type: none"> <li>■ Guidance to Condition A5 – Availability of adequate resources and arrangements</li> <li>■ Guidance to Condition B3 - Notification to Ofqual of certain events</li> <li>■ Guidance to Condition C2 – Arrangements with Centres</li> <li>■ Guidance to Condition D3 – Reviewing approach</li> <li>■ Guidance to Condition D7 – Management of the withdrawal of qualifications</li> <li>■ Guidance to Condition E3 – Publication of a qualification specification</li> <li>■ Guidance to Condition E5 – Assurance that qualifications comply with the Conditions</li> <li>■ Guidance to Condition G1 – Setting the assessment</li> <li>■ Guidance to Condition G3 – Use of language and Stimulus Materials</li> <li>■ Guidance to Condition G6 – Arrangements for Reasonable Adjustments</li> <li>■ Guidance to Condition G7 – Arrangements for Special Consideration</li> <li>■ Guidance to Condition G8 – Completion of the assessment under required Conditions</li> <li>■ Guidance to Condition G9 – Delivering the assessment</li> <li>■ Guidance on making changes to incorrect results</li> </ul>	15 July 2016

<ul style="list-style-type: none"> <li>■ Guidance to Condition E2 – Requirements on qualification titling</li> <li>■ Guidance to Condition E7 – Total Qualification Time</li> <li>■ Guidance to Condition E10 – Recognition of Prior Learning</li> </ul>	1 October 2015
<ul style="list-style-type: none"> <li>■ Guidance to Condition A4 – Conflicts of interest;</li> <li>■ Guidance to Condition C3 – Arrangements with publishers;</li> <li>■ Guidance to Condition F2 – Packaging qualifications with other products or services;</li> <li>■ Guidance to Condition G4 – Maintaining confidentiality of assessment materials, including the conduct of specified training events (amended).</li> </ul>	1 September 2014
<ul style="list-style-type: none"> <li>■ Guidance to Condition A8 – Malpractice and maladministration (amended);</li> <li>■ Guidance to Condition D8 – Making available information to help meet Teachers' needs;</li> <li>■ Guidance to Condition G4 – Maintaining confidentiality of assessment materials, including the conduct of specified training events (amended).</li> </ul>	1 September 2013
First published	23 November 2012

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Office of Qualifications and Examinations Regulation

Spring Place  
Coventry Business Park  
Herald Avenue  
Coventry CV5 6UB

Telephone 0300 303 3344

Textphone 0300 303 3345

Helpline 0300 303 3346