

Guidance to the General Conditions of Recognition

Referring to General Conditions of Recognition
September 2013

For Awarding Organisations



Ofqual/13/5308
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Introduction

- 1.1 Ofqual is the regulator of qualifications (other than degrees), exams and assessments in England, and of vocational qualifications in Northern Ireland. We:
- secure standards by setting clear requirements for the design, delivery, assessment and award of qualifications, and by intervening when necessary to make sure standards are maintained
 - protect students by making sure they are treated fairly
 - promote efficiency within the qualifications sector
 - use our powers to secure value for money when this is not being delivered.
- 1.2 The Apprenticeships, Skills, Children and Learning Act 2009 (the Act), amended by the Education Act 2011, established us as a regulator of qualifications and assessments. We regulate a range of qualifications (other than degrees) in England, and vocational qualifications in Northern Ireland. We also have duties to keep under review all aspects of statutory National Curriculum and Early Years Foundation Stage assessments in England.
- 1.3 Our aim is to regulate so that we achieve our statutory objectives as set out in the Act.
- 1.4 We recognise awarding organisations in order to award qualifications. Each awarding organisation we regulate is accountable for the quality and standards of its qualifications and for its efficiency. Each awarding organisation must have the expertise and resources to fulfil these requirements, and is subject to Conditions of Recognition. These requirements must be met on an on-going basis. We apply Conditions of Recognition to all awarding organisations. In addition, we can impose Conditions of Recognition for certain qualifications or descriptions of qualifications and for certain descriptions of awarding organisations. We also have the power to place conditions on any individual awarding organisation.

Guidance to the General Conditions of Recognition

1.5 Awarding organisations must have regard to this statutory guidance.

An awarding organisation should:

- use the guidance to help it understand the types of behaviour and practice that will indicate that an awarding organisation is or is not complying with its Conditions of Recognition
- use the guidance to help it evaluate whether or not it is meeting the General Conditions of Recognition that it covers
- note that the guidance provides only indicators of compliance and non-compliance.

1.6 This document has been updated since November 2012 and includes the following new or amended guidance

A8 Malpractice and maladministration (amended)

D8 Making available information to help meet Teachers' needs (new)

G4 Maintaining confidentiality of assessments materials, including the conduct of specified training events (new)

Guidance

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A1 on 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.

Guidance on Condition A1 – Suitability for continuing recognition

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.

A5 on 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.

Guidance on Condition A5 – Availability of adequate resources and arrangements

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

The awarding organisation:

- identifies and has in place the resource it needs to develop, deliver and award its qualifications
- accurately forecasts the demand for its qualifications and puts in place resources to meet this demand
- acts quickly to address any shortcomings that it could not reasonably have foreseen in its capacity or ability to develop, deliver or award any of its qualifications
- collects and retains data that will allow it to meet its Conditions of Recognition, which would 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)
- monitors its financial position and takes reasonable steps 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
- 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.

A6 on 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.

Guidance on Condition A6 – Identification and management of risks

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 reasonable expected to do so – that could result in an Adverse Effect.

A8 on 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.

Guidance on Condition A8 – Malpractice and maladministration

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 and 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 contractors do not provide information about its qualifications which is inaccurate or misleading
- has 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 or Northern Ireland (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 contractors 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 the 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 documentary 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.

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 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 contractors 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 contractors 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 contractors 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.

B1 on 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.

Guidance on Condition B1 – The role of the responsible officer

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.

B3 on 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.

Guidance on Condition B3 – Notification to Ofqual of certain events

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

The awarding organisation:

- has a clear policy/approach about how it notifies Ofqual of events that could have an Adverse Effect, with specific and clear roles and responsibilities in relation to event management
- has staff who apply good professional judgement in deciding whether an event has had, or could have, an Adverse Effect and, if so, must be reported to Ofqual
- does not delay in notifying Ofqual of an actual or potential Adverse Effect
- provides information to Ofqual when making an initial notification that includes:
 - the qualifications, subjects and units affected
 - the number of Centres and Learners affected, with a country (England, Wales, Northern Ireland, Other) location breakdown (if possible)
 - the nature and cause of the event
 - the possible or actual impact of the event on Learners, including any impact on the validity of awards
 - how the awarding organisation became aware of the event
 - whether Centres, Learners, media or other stakeholders are aware
 - the actions it has already taken or has plans to take, to identify and address causes and effects, and to mitigate any Adverse Effect
- has staff who understand how to notify Ofqual in relation to requirements in condition B3.3, and do so when necessary without delay
- notifies Ofqual of its plans to substantially change existing qualifications, or to introduce new and substantially different ones, before it starts marketing, promoting or offering them.

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

The awarding organisation:

- does not alert Ofqual to its plans to introduce substantially different qualifications before it submits them for accreditation or – where the qualification is not subject to an accreditation requirement – enters them onto the Register.

B5 on 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.

Guidance on Condition B5 – Representations regarding qualifications

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

The awarding organisation:

- ensures that others connected to the awarding organisation – 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.

C1 on 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.

Guidance on Condition C1 – Arrangements with 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 party
- has arrangements, with third parties, that reflect the conditions appropriate to the third party’s role (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 role 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.

D2 on 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.

Guidance on Condition D2 – Accessibility of qualifications

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.

D8 on 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.

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

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.

E1 on 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.

Guidance on Condition E1 – Qualifications having an objective and support

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.

G4 on Maintaining confidentiality of assessment materials, including the conduct of specified training events

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 no person connected to it, or previously connected to it, 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.

Guidance on Condition G4 – Maintaining confidentiality of assessment materials, including the conduct of specified training events

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

The awarding organisation:

- trains relevant staff about how to protect confidential assessment materials, including during interactions with Teachers
- puts in place and monitors the application of confidentiality policies and processes for its staff and contractors, which include details on how to maintain confidentiality during interactions with Teachers
- 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 materials 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
- makes an electronic audio recording of all face-to-face Teacher training events and other Teacher training events such as teleconferences and webinars or requires a verbatim note of such training, so that any concerns can be checked after the event
- monitors Teacher training events and other interactive Teacher training by reviewing samples of recordings or verbatim notes of them
- gives clear guidelines to staff and contractors about taking part in Teacher training events not provided by the awarding organisation, and takes steps to familiarise staff and contractors with these guidelines
- requires all current (and former) staff and contractors who have had access to confidential assessment materials 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.

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 contractors are up to date and followed
- provides Teacher training events where current (or former) staff or contractors are present in the audience who have had access to information in relation to that qualification that was confidential and has not taken steps to ensure that the information held is no longer 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 contractors with access to material about a qualification that is confidential provide, or intend to provide, Teacher training relating to the qualification (whether privately or through another organisation)
- has not properly evaluated, and where required, validated 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.

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