

# Detail of changes to the General Conditions of Recognition and associated Guidance – September 2013



Ofqual has imposed new General Conditions of Recognition in relation to:

- the provision of information for centres, teachers, trainers etc about qualifications, and
- the management of the risks to the confidentiality of assessments posed by certain training events for teachers, trainers etc.

This note sets out the changes to the General Conditions and to the formal Guidance on the General Conditions that we have made with effect from 12.01 am on 1 September 2013. These changes apply to all awarding organisations.

New conditions and guidance are shown in **blue**; text that is to be withdrawn is shown in **red**.

Ofqual  
1 September 2013

## **Dissemination of information to help meet the needs of Centres and Teachers**

**Condition C2 is to be amended as follows:**

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

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**C2.5 The awarding organisation must provide effective guidance to the Centre in respect of the parts of the delivery of qualifications which the Centre undertakes.**

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
- b. 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.

**Condition D8 is to be introduced as follows:**

### **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.

## **Guidance for 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.

## **Maintaining Confidentiality of Assessment Materials, including the Conduct of Certain Training Events**

**Condition G4 is to be amended as follows:**

### **Condition G4 – 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 must take all reasonable steps to ensure that such confidentiality is maintained where it (or any person connected to it) provides training or training materials in relation to a qualification.**

**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.

G4.4 Where any breach of such confidentiality (including through the loss or theft of assessment materials) is either suspected by an awarding organisation or alleged by any other person, the awarding organisation must investigate that breach.

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 for Conditions G4.1 to G4.6 - 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.

## Guidance on Condition A8 – Malpractice and maladministration

The Guidance on Condition A8 is to be amended as follows

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.

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## **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.

## Interpretation and definitions

**Condition J1.8 is to be amended as follows:**

### **Proposed new definition**

To help awarding organisations understand the definition of 'Teacher' in these new Conditions we propose to add this as a key term under Condition J1.8. This definition is set out below:

#### *Definition of 'Teacher' –*

A person who prepares any Learner, or any person likely to become a Learner, for assessment for a qualification and who does so:

- a. as a lecturer, supervisor, tutor or other appropriate provider of education or training, or
- b. in circumstances in which that preparation takes place primarily at home.

### **Users of qualifications**

Persons who have a legitimate interest in the qualification or type of qualification made available by the awarding organisation, which may include –

- (a) Learners and Learners' representatives,
- (b) Centres,
- (c) Teachers,
- (d) employers and employers' representatives,
- (e) further and higher education establishments,
- (f) schools,
- (g) government departments and agencies, and
- (h) professional bodies.