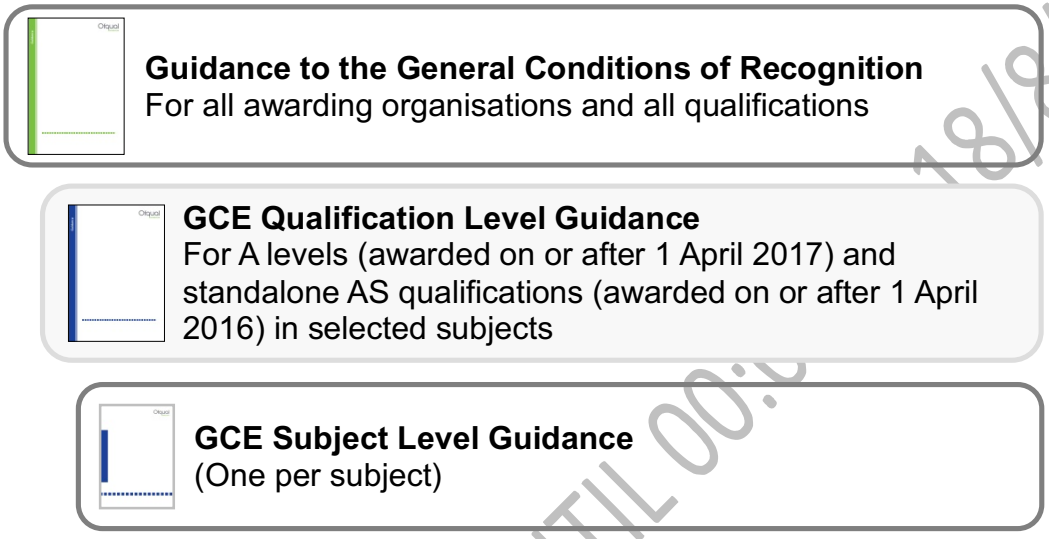
This new guidance will be introduced at 00.01 on Thursday 18 August 2016.

Introduction

About this document

This document (highlighted in the figure below) is part of a suite of documents which outlines our guidance for awarding organisations offering GCE Qualifications.



This guidance supports the GCE Qualification Level Conditions and associated requirements.[1]

This document constitutes guidance for the purposes of section 153 of the Apprenticeships, Skills, Children and Learning Act 2009 (the '2009 Act') and Conditions GCE2.1(c) and GCE9.1.

An awarding organisation has a legal obligation under the 2009 Act to have regard to this guidance in relation to each GCE Qualification that it makes available or proposes to make available. Conditions GCE2.1(c) and 9.1 impose the same obligation in respect of the guidance below which is issued under those Conditions.

An awarding organisation should use the guidance to help it understand how to comply with the GCE Qualification Level Conditions and associated requirements

Guidance set out in this document

This Guidance is designed to help awarding organisations, schools and colleges understand how awarding organisations should determine whether there has been a Marking Error at either review or appeal. The new approach applies to all GCSEs,

[1] www.gov.uk/government/publications/gce-qualification-level-conditions-and-requirements

AS and A level qualifications at the review stage. We think that it is important for everyone involved at exam results time to understand the overall approach.

Schools and colleges have an opportunity in 2016 to bring an appeal on a new ground that there has been a Marking Error. This could be against the original marking, the review of marking, or both.

Some of the Conditions referred to in the Guidance that relate to appeals will not be in force for most qualifications during 2016. The qualifications that are subject to the pilot and the new approach at appeal are pre-reform GCE geography, religious studies and physics.

We have indicated in footnotes within this Guidance any paragraphs that only apply to pilot qualifications in 2016. We will evaluate the pilot before we decide when the Conditions should apply to other qualifications. We will also consider amending the guidance in light of the evaluation.

Guidance on considering Marking Errors on a review or appeal

Awarding organisations which make available GCE Qualifications are required to have in place arrangements for the review and appeal of marking and Moderation decisions. In relation to marking, an awarding organisation is required to have in place arrangements:

- for the review of the marking undertaken by the awarding organisation (Condition GCE17), and
- for the appeal of the result of an assessment following a review (Condition GCE18).

Anybody carrying out such a review must consider the original mark given by a trained Assessor and only make a change to the mark where the marking of the assessment included a Marking Error (as defined in Condition GCE26). An appeal may be brought on the basis that the marking (either in the original marking or on review) included a Marking Error[2], as well as on procedural grounds[3].

A Marking Error is defined as:

"The awarding of a mark which could not reasonably have been awarded given the evidence generated by the Learner, the criteria against which Learners' performance is differentiated and any procedures of the awarding organisation in relation to marking, including in particular where the awarding of a mark is based on -

(a) an Administrative Error [as defined in Condition GCE26]*,*
(b) a failure to apply such criteria and procedures to the evidence generated by the Learner where that failure did not involve the exercise of academic judgment, or
(c) an unreasonable exercise of academic judgment."

We set out our guidance for the purposes of these Conditions below. This comprises both general guidance on the purpose of the provisions and guidance on how we expect awarding organisations to approach the consideration of whether there has been a Marking Error.

Condition GCE12 contains similar provisions relating to arrangements (which awarding organisations are required to secure) for the review of the marking of Centre-marked assessments. These arrangements must require that where there has been a Marking Error, the Marking Error must be corrected[4].

In addition to this, Conditions GCE14 and GCE18 contain similar provisions relating to arrangements for the review of Moderation of a Centre's marking undertaken by the awarding organisation and appeals of the outcome of Moderation following a review. Anybody carrying out such a review must only make a change to the outcome of Moderation where the Moderation included a Moderation Error (which has a definition in Condition GCE26 which is similar to the definition of Marking Error). An appeal may be

[2] Until such a date as is specified in, or determined under, a notice published by Ofqual, the requirement for Marking Errors to be considered on an appeal will apply only to specified pilot qualifications (which are GCE (Pre-reform) qualifications).
[3] Appeals may be brought on the basis that the awarding organisation did not apply procedures consistently or that procedures were not followed properly and fairly. Such appeals on procedural grounds are not covered in this guidance.
[4] This requirement will not come into force until such a date as is specified in, or determined under, a notice published by Ofqual.

brought on the basis that the Moderation included a Moderation Error[5], as well as on procedural grounds.

Below, we refer only to reviews of marking and appeals and the consideration of Marking Errors. However, the principles in our guidance apply to the consideration of Marking Errors in Centre-marked assessments and to the consideration of Moderation Errors (on a review or appeal[6]).

Purpose of considering Marking Errors

A review or appeal may identify that there had been errors in the marking. Examples of this could include a clear and unambiguous failure to properly apply the mark scheme or the identification of unmarked creditworthy material. Such errors must be corrected.

However, for many assessments, it is a misunderstanding to say that Learners have always been either given a *'right mark'* or a *'wrong mark'*. This is because those assessments require Assessors to use their academic judgment in deciding what mark to award.

It will often be the case that two trained Assessors, exercising their academic judgment reasonably and without making any mistake, would award different marks to the same Learner's answer. Following a review or an appeal, one such mark should not be replaced with another such mark, simply because those carrying out the review or the appeal would have given a different mark if they were the original Assessor. We do not consider that one such mark should be replaced with another (often higher) mark, as then Learners who request a review or appeal would be unfairly advantaged over those who do not.

A review or appeal should not be an opportunity for a Learner to have a second go at getting a better mark. Such a review or appeal should only adjust a mark where there has been a Marking Error.

Guidance on approach to considering Marking Errors

On any review of marking (in line with Condition GCE17.4 and the definition of Marking Error in Condition GCE26) the Assessor carrying out the review must consider (in respect of each task in the assessment and the assessment as a whole) whether or not the original mark awarded could reasonably have been awarded. The definition of Marking Error does not set out an exhaustive list of what would constitute unreasonable marking and the Assessor must consider whether there has been such marking in each individual case.

However, the Assessor should take the following steps for each task in the assessment:

- Determine whether there has been an Administrative Error in the marking, such as a failure to mark a Learner's response, and correct any such error.

[5] Until such a date as is specified in, or determined under, a notice published by Ofqual, the requirement for Moderation Errors to be considered on an appeal will apply only to specified pilot qualifications (which are GCE (Pre-reform) qualifications).
[6] Until such a date as is specified in, or determined under, a notice published by Ofqual, reviews or appeals considering Moderation Errors must not lead to a Learner's result being updated so as to lower that result.

- Determine whether the task is one where there are only *'right'* and *'wrong'* marks or one where Assessors are required to exercise their academic judgment. If there are only *'right'* and *'wrong'* marks, determine whether the *'right'* mark was given. Where the '*right'* mark was not given, correct the mark. Otherwise, make no change to the mark.

- If the task requires Assessors to exercise their academic judgment:

    - First, determine whether the marking contains any errors which do not relate to an exercise of academic judgment. Where such an error is found, correct the mark.

    - Then determine whether the Assessor's marking contained any unreasonable exercise of academic judgment. Where this is found, the task should be remarked to the extent necessary to remove the effect of that unreasonable exercise of judgment.

    - Where there is no Marking Error make no change to the mark.

In making any of the above decisions on a review, the Assessor should have considered the Learner's answer, the mark scheme and any of the awarding organisation's marking policies which are relevant. The Assessor should document the reasons for each decision which is made.

We expect a similar approach to be followed on an appeal where an awarding organisation is considering whether there has been a Marking Error, with the exception that Condition GCE18 does not require that the appeal panel itself must carry out any remarking which is required[7].

In Condition GCE17.4(d), the reasons which are required to be documented on review are *'the reasons for any determination and for any change of mark'*. The determinations referred to are decisions (in respect of each task in the assessment and the assessment as a whole), about whether or not the marking included a Marking Error. If a Marking Error is found, the reasons for the change of mark which is necessary to correct the effect of that Marking Error should be documented. Condition GCE17.5(j) requires that the reasons to be provided are the reasons documented by the Assessor.

There is no requirement for reasons to be recorded in a particular form. For example, annotations on a script could be compliant with the requirement, if they were in sufficient detail to make the reasons clear.

Condition GCE18.9 requires the appeals process to provide for the effective appeal of results on the basis that the marking of the assessment (or as the case may be the review of marking of Marked Assessment Material) included a Marking Error[8]. In other words, an appeal may be brought on the basis that the original marking (unchanged

[7] As noted above, until such a date as is specified in, or determined under, a notice published by Ofqual, the requirement for Marking Errors to be considered on an appeal will apply only to specified pilot qualifications (which are GCE (Pre-reform) qualifications).

[8] As noted above, until such a date as is specified in, or determined under, a notice published by Ofqual, the requirement for Marking Errors to be considered on an appeal will apply only to specified pilot qualifications (which are GCE (Pre-reform) qualifications).

following a review) included a Marking Error or that the remarking (which took place on a review) included a Marking Error.

An appeal should consider the original marking, the outcome of the review, including where relevant any remarking, and take into account any other relevant factors. The appeal panel must uphold the appeal if it considers that the original marking (unchanged following review) or any remarking on a review included a Marking Error.

If the appeals process is to be effective, in most cases the reasons documented on review will be relevant information which should inform consideration of the appeal.

In marking (or remarking) an assessment, Assessors can only make judgments in line with the mark scheme and other relevant procedures. If, following the awarding of marks, an awarding organisation considers that there is a problem with a mark scheme or a relevant procedure, the awarding organisation should take steps to resolve the issue in line with its Conditions of Recognition. We would not generally expect such problems to be dealt with through the review and appeal process.

Guidance on academic judgment

In considering whether or not there has been a Marking Error, the person(s) carrying out a review or appeal will often need to consider whether or not the marking of a task included any unreasonable exercise of academic judgment.

Assessors are appointed by awarding organisations because they have particular skills in the relevant subject area. Assessors are then trained by awarding organisations to ensure that they are prepared to carry out marking appropriately.

Assessors are often required to use these skills to make a professional judgment of what mark should be awarded to a particular answer. We refer to this as exercising academic judgment.

Where Assessors are required to exercise academic judgment, there will often be different marks which could reasonably be awarded for an answer (and a range of ways in which marks can be attributed to that answer) without a Marking Error being made. It is only where the Assessor determines that the original marking represents an unreasonable application of academic judgment that the mark should be changed.

The starting point for considering whether there has been such an exercise of academic judgment is therefore always the mark which is being challenged (and not any alternative mark which the Learner/Centre considers should have been awarded).

Reviews or appeals will be required to be considered in many different subjects and contexts. *'Unreasonable'* should be given its normal meaning and a common sense approach should be adopted, taking into account all of the circumstances of the particular review or appeal (which include the mark scheme and relevant marking procedures).

Examples of cases where it might be appropriate to find that there has been an unreasonable exercise of academic judgment include but are not limited to:

- Where the marking of an answer is unduly strict or lenient, beyond the bounds of what might reasonably be expected of a trained Assessor properly applying the mark scheme.

- Where a piece of information given as part of an answer was not given a mark but where any Assessor acting reasonably and who had the appropriate knowledge and training should have given a mark.

- Where the marking of an answer suggests that the Assessor had no rationale for his/her awarding of marks.

An exercise of academic judgment will not be unreasonable simply because a Learner/Centre considers that an alternative mark should have been awarded, even if the Learner/Centre puts forward evidence supporting the alternative mark. A person carrying out a review or appeal should not consider whether an alternative mark put forward by a Learner/Centre would be a more appropriate exercise of academic judgment.

Awarding organisations have obligations to ensure that those carrying out reviews of marking are provided with training in relation to their role (Condition GCE17.5(c)) and monitored to ensure they are performing their role correctly (Condition GCE17.5(e)) and consistently (Condition GCE17.5(g)).

We expect that awarding organisations should, in line with these obligations, take particular steps to develop consistent practice over time in the making of decisions on whether there has been any unreasonable exercise of academic judgment leading to a Marking Error.