

Criteria for Recognition

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A Identity, Constitution and Governance

Identity

A.1 The Applicant is a clearly identifiable person (whether an individual or a body).

Constitution

A.2 The Applicant –

- (a) is ordinarily resident in a member state of the European Union or the European Free Trade Association, or
- (b) is legally established, or has a substantial presence, in a member state of the European Union or the European Free Trade Association.

A.3 Unless the Applicant is an individual –

- (a) it is properly constituted in accordance with law, and
- (b) it holds all registrations, authorisations, or approvals required to be held by a person of its type.

Governance

A.4 The Applicant is organised and governed in such a way that will provide appropriate support for its activities as a recognised awarding organisation.

A.5 The Applicant has in place appropriate arrangements to secure that it will be able to –

- (a) identify and monitor any Conflict of Interest which exists in relation to it, and
- (b) manage any Conflict of Interest which relates to it, to ensure that the Conflict of Interest does not give rise to prejudice to Learners or potential Learners or adversely affect –
 - (i) the ability of the Applicant to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
 - (ii) the standards of qualifications which the Applicant may make available as a recognised awarding organisation, or
 - (iii) public confidence in qualifications.

- A.6 Where the Applicant is not an individual, it has in place appropriate arrangements to ensure that its Governing Body will have continuing oversight of, and be directly accountable for –
- (a) the performance of its activities as a recognised awarding organisation, and
 - (b) its compliance with its Conditions of Recognition.

B Integrity

Integrity of the Applicant

- B.1 The Applicant must be a suitable person to be recognised for the award of the relevant qualifications, having regard in particular to –
- (a) any criminal convictions held by it,
 - (b) any finding by a court or any professional, regulatory, or government body that it has been in breach of any provision of Competition Law, Equalities Law, or Data Protection Law,
 - (c) any finding by a court or any professional, regulatory, or government body that it has been in breach of a provision of any legislation or any regulatory obligation to which it is subject, and
 - (d) any instance of insolvency or corporate financial restructuring to which it is or has been subject.

Integrity of Senior Officers

- B.2 Each of the Senior Officers of the Applicant must be a suitable person to be engaged in that role in an awarding organisation that is recognised for the award of the relevant qualifications, having regard in particular to –
- (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 instance of bankruptcy or any individual financial arrangements to which he or she is or has been subject,
 - (d) any occasion on which he or she has been disqualified from holding the directorship of a company or from public office, and
 - (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.

C Resources and Financing

C.1 The Applicant has, or has appropriate arrangements in place to ensure that it will have –

- (a) the systems, processes and resources, and
- (b) the financial resources and facilities,

to enable it to undertake, in accordance with its Conditions of Recognition, the development, delivery and award of any qualification which it may make available as a recognised awarding organisation.

D Competence

- D.1 The Applicant's understanding of, commitment to, and approach to the development, delivery and award of qualifications is sufficient, having regard to the need to ensure that –
- (a) it will be able to undertake, in accordance with its Conditions of Recognition, the development, delivery and award of any qualification which it may make available as a recognised awarding organisation,
 - (b) any such qualification must, as far as possible, be Valid, Reliable, Comparable, Manageable and Minimise Bias, and
 - (c) any such qualification must be compatible with the requirements of Equalities Law.

Interpretation

In these criteria, the following rules of interpretation shall apply:

- 1) Unless the context suggests otherwise, in these criteria –
 - (a) words in the masculine gender are to be read as including the feminine gender (and vice versa),
 - (b) words in the singular are to be read as including the plural (and vice versa),
 - (c) references to 'it' are to be read as including references to 'he' and 'she' (and vice versa),
 - (d) the words 'in particular' indicate a list of examples and should not be read as limiting the scope of the words that occur before them,
 - (e) references to 'person' include any body of persons, whether corporate or unincorporate,
 - (f) a 'qualification' means a regulated qualification (and includes any units of that qualification),
 - (g) 'relevant qualification' refers to any qualification in respect of which the Applicant is applying for recognition or which falls within a description of qualifications in respect of which the Applicant is applying for recognition,
 - (h) references to an Act of Parliament include any secondary legislation made under that Act of Parliament, and
 - (i) words have the same meaning as in Part 7 of the Act.
- 2) Titles and headings in these criteria are for information only and are not to be used for the purposes of interpretation.

Defined Terms

In these criteria, the following words shall have the meaning given to them below (and cognate expressions should be construed accordingly):

the Act

The Apprenticeships, Skills, Children and Learning Act 2009.

Applicant

The person who has applied to Ofqual to be recognised as an awarding organisation in accordance with section 132 of the Act.

Centre

An organisation undertaking the delivery of an assessment (and potentially other activities) to Learners on behalf of an awarding organisation. Centres are typically educational institutions, training providers, or employers.

Comparable

Assessment outcomes that are comparable in standards between assessments within a qualification, between similar qualifications, with other awarding organisations, and over time. Where an assessment has equivalent forms then it is important to ensure comparability of outcomes. There are two reasons for this –

- (A) To reach fair comparisons about the attainment of Learners: It is impossible to produce different forms with exactly the same content and statistical specifications (such as the level of difficulty or demand on the Learner). Therefore, a requirement to ensure comparability of outcomes makes sure the level of difficulty or demand of the test forms is taken into account when setting standards so that Learners taking the different forms can be compared fairly, and
- (B) To ensure that the outcomes can be used as a measure of standards: Outcomes from different forms of the same test must be comparable if they are to be used to measure standards over time. Both expert judgements and statistical procedures such as test equating can be used to ensure comparability of outcomes from different forms of the same test. It is, however, important to ensure that assessments are not so similar that they become predictable, as this would be a threat to the qualification being Valid.

Competition Law

The Competition Act 1998, or any legislation in a jurisdiction other than England which has an equivalent purpose and effect.

Conditions of Recognition

All conditions to which an Applicant's recognition is to be subject (including other conditions to be imposed under section 132(3)(d) of the Act).

Conflict of Interest

A Conflict of Interest exists in relation to an Applicant 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 Applicant 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 Applicant's Conditions of Recognition, or
- (C) an informed and reasonable observer would conclude that either of these situations was the case.

Data Protection Law

The Data Protection Act 1998, or any legislation in a jurisdiction other than England which has an equivalent purpose and effect.

Equalities Law

The Equality Act 2010, any Act that was a statutory predecessor to that Act, or any legislation in a jurisdiction other than England which has an equivalent purpose and effect.

Governing Body

Where the awarding organisation is a limited company, the board of directors of the awarding organisation. Where the awarding organisation is not a limited company, a person or group of people having the equivalent status within the organisational structure of the awarding organisation.

Group

Where the Applicant is a limited company, a group made up of any company which is a holding company of the Applicant, a subsidiary of the Applicant or a subsidiary of a holding company of the Applicant. Where the Applicant is not a limited company, a person or group of people having the equivalent status.

Learner

A person who is registered to take a qualification and to be assessed as part of that qualification.

Manageable

Manageability relates to the feasibility of carrying out particular assessment processes. A Manageable assessment process is one which places reasonable demands on Centres and Learners. The evaluation of the reasonableness of the demands will be based on the scale of the assessment process on the participants, balanced by the usefulness of the outcomes. As with the other requirements (the qualification being Valid, Reliable, Comparable and Minimising Bias), judgements about the qualification being Manageable must be balanced with considerations around the other requirements.

Minimise Bias

Minimising Bias is about ensuring that an assessment does not produce unreasonably adverse outcomes for Learners who share a common attribute. The Minimisation of Bias is related to fairness to all Learners and is also closely related to statutory equality duties.

Reliable

Reliability is about consistency and so concerns the extent to which the various stages in the assessment process generate outcomes which would be replicated were the assessment repeated. A qualification must be Reliable as a necessary condition of the qualification being Valid, as it is not possible to demonstrate the Validity of an assessment process which is not Reliable. The Reliability of an assessment is affected by a range of factors such as the sampling of assessment tasks and inconsistency in marking by human assessors.

Senior Officer

A director or senior executive officer of the Applicant or, where the Applicant is not a limited company, a person holding a position of equivalent status within the organisational structure of the Applicant.

Valid

Where evidence and theory support the interpretation that the assessment outcomes meet their intended uses.

The evaluation of Validity involves the development of a clear argument to support the proposed interpretation of the outcomes and as a consequence the intended uses of the assessment. The Validity argument should be built on statements of the proposed interpretation and supporting evidence collected from all stages of the assessment process.

