

# New General Conditions of Recognition Covering Specified Training Events Frequently Asked Questions



## Introduction

We have introduced new *General Conditions of Recognition*<sup>1</sup> to reduce the risk of confidential material being disclosed in the context of training provided by awarding organisations to Teachers and others. These conditions came into effect on 1st September 2013. Details are contained in our letter to awarding organisations, sent on 25th July 2013.<sup>2</sup> These conditions are supported by new statutory guidance, set out in *Guidance to the General Conditions of Recognition*,<sup>3</sup> details of which are also contained in the letter.

In addition, we are publishing this list of frequently asked questions as further (non-statutory) guidance to give awarding organisations answers to specific questions that have been raised about our new requirements. We have also included in this document material drawn from questions and answers that we included in our summary of the responses to our consultation.<sup>4</sup>

The new conditions require awarding organisations to make any training on specific qualifications for Teachers and others widely available and publish the training materials used. The conditions also require awarding organisations to put in place additional measures to protect the confidentiality of their assessments, such as ensuring that no person who has had access to confidential assessment materials attends training events. Awarding organisations must monitor training events closely, for example by recording them and sampling those recordings.

Please email any further questions about these new conditions to:  
[conditionsandcriteria@ofqual.gov.uk](mailto:conditionsandcriteria@ofqual.gov.uk).

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<sup>1</sup> Available at: [www.ofqual.gov.uk/how-we-regulate](http://www.ofqual.gov.uk/how-we-regulate)

<sup>2</sup> Available at: [www.ofqual.gov.uk/files/2013-07-26-letter-on-seminars.pdf](http://www.ofqual.gov.uk/files/2013-07-26-letter-on-seminars.pdf)

<sup>3</sup> Available at: [www.ofqual.gov.uk/files/2013-09-02-guidance-to-the-general-conditions-of-recognition-september-2013.pdf](http://www.ofqual.gov.uk/files/2013-09-02-guidance-to-the-general-conditions-of-recognition-september-2013.pdf)

<sup>4</sup> Available at: [www.ofqual.gov.uk/files/2013-07-26-responses-to-our-consultation-regulating-ao-training-events-for-teachers-summary-and-our-feedback.pdf](http://www.ofqual.gov.uk/files/2013-07-26-responses-to-our-consultation-regulating-ao-training-events-for-teachers-summary-and-our-feedback.pdf)

**1. Can examiners and others who have seen confidential material deliver online seminars?**

No. A person is 'present' at training within the meaning of Condition G4.3(b), where he or she is present either physically or remotely by means of simultaneous electronic communication. Likewise, a person can be present at training whether or not he or she is actually delivering or presenting the training.

So, where somebody has information about a qualification, and that information remains confidential, he or she cannot participate in training in relation to that qualification: either physically or remotely, whether delivering the training or not.

**2. Can an awarding organisation pre-record material from a chief examiner for a specification and then present this at a training event for Teachers about that qualification?**

A training event about a qualification that uses a pre-recorded message from someone with confidential information would not fall within the definition of 'prohibited training' under Condition G4.3 because that person would not be 'present' under the definition of that term in Condition G4.3(b), which concerns the use of simultaneous electronic communication.

The awarding organisation would, of course, need to comply with the general requirements concerning confidentiality in the conditions, including under Conditions G4.1 and G4.2(a). There will also be the requirement to comply with the obligation under Condition G4.4(c) over publishing training materials.

**3. Where a new specification is to be introduced, is it just presenters who have confidential information about the *new* specification who cannot be involved in relevant training, or would those who have confidential information about a *previous* specification also be unable to attend?**

Condition G4.2(b) states that awarding organisations: 'must not provide or endorse any prohibited training'.

Condition G4.3 states that:

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.

Condition G4.1 operates to require confidentiality in relation to the content of assessment materials or information about the assessment, where such confidentiality is required to ensure that a qualification reflects an accurate measure of attainment.

Where a new specification is introduced, persons who do not hold confidential information in relation to that specification may be present at training in relation to it. Persons who hold confidential information in relation to the previous specification may be present if they meet one requirement: that the disclosure of that confidential information to Teachers will not impact the ability of assessments for the new specification to reflect an accurate measure of attainment. So, for example, where the confidential information that a person holds relates only to assessments for the previous specification, which has already been delivered, and not the new specification, he or she may be present at training in regard to the new specification.

#### **4. What are the exceptions for training events on internal assessments that Ofqual has mentioned previously?**

The first three paragraphs of the answer to the previous question set out how these conditions work. The conditions allow a distinction to be made between:

- information that can be shared with Teachers that they cannot then pass on to their Learners, for example in the context of training on how to conduct internal assessments, and
- information that neither Teacher nor Learner should see because this would breach confidentiality.

So, if an awarding organisation were, say, to share model answers at a training event where Teachers were being standardised to mark controlled assessment or coursework, this would be permissible under Condition G4.2(b) because the event falls outside the definition of 'prohibited training'. However, the requirements regarding the maintenance of confidentiality in Conditions G4.1 and G4.2(a) would apply: the awarding organisation should take all reasonable steps to ensure that such information was not passed on to Learners where this would affect the ability of the assessment to reflect an accurate measure of attainment.

The statutory Guidance<sup>5</sup> in relation to Conditions G4.1 to G4.6 recognises that material may be shared at training events for Teachers doing internal assessments

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<sup>5</sup> [www.ofqual.gov.uk/files/2013-09-02-guidance-to-the-general-conditions-of-recognition-september-2013.pdf](http://www.ofqual.gov.uk/files/2013-09-02-guidance-to-the-general-conditions-of-recognition-september-2013.pdf)

which should not be shared with Learners. The guidance provides an indication, in the third bullet point, of how the requirements in Conditions G4.1 and G4.2(a) can be met in such circumstances:

... 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.

**5. Will a person who holds confidential information about a particular qualification be able to attend training solely related to the standardisation of internal assessment in that qualification?**

Possibly. Whether or not Conditions G4.2 and G4.3 operate to prevent the presence of a person at a particular training event will depend upon the nature of the confidential information that person holds in relation to the qualification for which training is being provided.

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

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

**6. Awarding organisation staff and contractors often have contact with Teachers. When would such contact count as ‘training’? For example, would:**

**a. a qualifications developer attending an event at the request of Centres to discuss elements of the specification count as ‘training’?**

**b. a staff member who has worked on live exam papers be allowed to carry out concept testing on ideas for new syllabuses with Teachers?**

Condition G4.2 is concerned with the provision of training. ‘Training’ should be given its ordinary meaning and, in general terms, will usually encompass meetings at which attendees are either taught a particular skill or provided with information in relation to a particular qualification, with the aim of better equipping them to deliver that

qualification. The obligations in Conditions G4.2 and G4.4 will not, therefore, apply to meetings with Teachers where the purpose is to facilitate the development or design of a qualification by an awarding organisation.

It is important to note, however, that meetings with Teachers even where the primary purpose is not to provide training may, nonetheless, in fact incorporate a training element. We expect awarding organisations to consider carefully whether each particular meeting with Teachers will provide training to them and, if it will, to adhere to the requirements in Conditions G4.2 and G4.4.

#### **7. What sorts of events delivered by or on behalf of awarding organisations are still allowed?**

To give some examples, provided that confidentiality as defined by Condition G4.1 is not breached and all other regulatory requirements are met, training for Teachers can be delivered that:

- is not about a particular regulated qualification;
- is for Teachers who are internal assessors and the training is about how to conduct that assessment;
- is about a particular regulated qualification and is attended by:
  - a) persons who saw earlier assessments but have no information on assessments that have yet to be taken, or
  - b) persons who have confidential information about an earlier specification but not the current one;

and does not involve the presence of anyone with information about that qualification that should not be shared with Learners.

#### **8. Can examiners be involved in the preparation of courses?**

Yes: the restrictions on the involvement of those with confidential information relate to their attendance at training on the day, not their work on the training materials or other involvement in advance of the training being delivered.

#### **9. Does the inclusion of home-educating parents in the definition of 'Teacher' have implications for how awarding organisations relate to private Learners in other contexts?**

No. The term 'Teacher' is only used in Conditions D8 and G4.<sup>6</sup> In both cases, the Conditions recognise that someone undertaking the education of a Learner in a home environment may be preparing that Learner to take a qualification and will, therefore, reasonably require some of the same information as a classroom Teacher to perform that task adequately.

Conditions D8 and G4 will not, however, require the provision of information or training to home educators in relation to the delivery of assessments, as assessments are delivered only through Centres.

**10. Do these conditions mean that a contractor cannot work for more than one awarding organisation at any one time?**

No.

**11. How can an awarding organisation protect its intellectual property, given it is required to publish various training materials?**

An awarding organisation can take appropriate steps to restrict the use of its training materials, if it so wishes, in the same way that it can control the use of any other material it publishes. An awarding organisation is also free to take action against another organisation that inappropriately uses its materials.

Also, the publication requirement can be met by putting the materials on a secure part of the awarding organisation's website, available only to the relevant Teachers.

**12. Does an awarding organisation have to publish in the specified ways the training materials its examiners or former examiners use if they provide training or training materials in relation to a relevant qualification, even if the awarding organisation is not directly involved in that activity?**

The obligations imposed by Condition G4.4 are framed in two different ways, depending on who provides the training in question. Therefore, an awarding organisation must publish the content of any training materials in connection with training it provides to Teachers concerning a relevant qualification.

By contrast, an awarding organisation must take *all reasonable steps* to publish training materials in relation to training provided by persons connected to the awarding organisation.

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<sup>6</sup> These Conditions sit under the headings *Making available information to help meet Teachers' needs* and *Maintaining confidentiality of assessments materials, including the conduct of specified training events*, respectively.

'All reasonable steps' may include, for example, an awarding organisation requiring, as part of its contracts with staff and contractors, copies of any training materials that staff and contractors provide to Teachers as part of training in relation to relevant qualifications.

**13. Do you have any requirements over how an awarding organisation must meet its requirements to 'publish' training materials?**

Yes. Condition J1.7 states:

Where an awarding organisation is required to publish a document or information, that document or information must be published in a way which is –

- (a) clear to its intended audience,
- (b) accurate, and
- (c) reasonably accessible (including by way of publication, if available, on the awarding organisation's website).

**14. The conditions impose various obligations in relation to persons 'connected' or 'previously connected' with the awarding organisation. What does 'connected' mean?**

Condition J1.5 provides that: 'A person is connected to an awarding organisation if that person undertakes or is involved in any activity undertaken by the awarding organisation.'

**15. The conditions, as drafted, would require an awarding organisation to take steps to restrict the training activities of persons who, at the time the conditions came into effect (1st September 2013), had already ceased to be connected with the awarding organisation. This would be difficult, or impossible, for an awarding organisation to address. What does Ofqual expect of the awarding organisations?**

The obligations in Condition G4.2(a) require an awarding organisation to take all reasonable steps to ensure that confidentiality is maintained in line with Condition G4.1, where any person connected to an awarding organisation, or previously connected to it, provides training or training materials in relation to a relevant qualification.

Likewise, Condition G4.2(c) requires an awarding organisation to take all reasonable steps to ensure that any person connected to it, or previously connected to it, does not provide or endorse any prohibited training.

What constitutes all reasonable steps in compliance with these two requirements will depend on each individual case. In particular, we recognise that the ability of awarding organisations to control the behaviour of those with whom they have a current contractual relationship will be greater than their control over those out of contract.

However, all reasonable steps may, for example, require an awarding organisation to take steps to enforce existing obligations (such as an on-going confidentiality requirement) and/or to contact a previously connected person to request that he or she ceases to provide prohibited training.

Condition G4.5, about the confidentiality of assessments and assessment materials, also refers to previously connected persons and replicates an existing requirement. Again, what constitutes all reasonable steps in compliance with this Condition will differ from case to case.