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# Part C: Statutory guidance

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## Applies to England

Contents

Guidance on Condition D3 Reviewing approach

Guidance on use of Centre-marking

Guidance on Condition H2 Centre Assessment Standards Scrutiny where an assessment is marked by a Centre and Condition TL13 Moderation arrangements

Guidance on assessment objectives

Guidance on Condition TL7 Total Qualification Time

Guidance on assessments

Industry Placement guidance

Guidance on recognition of prior learning

Guidance on standard setting for T Levels

Guidance on the general conduct of reviews and appeals

Guidance on considering Marking Errors on a review or appeal

Purpose of considering Marking Errors

Guidance on approach to considering Marking Errors

Guidance on academic judgment

Guidance on Condition TL25 Discovery of failure in processes

Note: Additions and amendments to the existing guidance are highlighted in bold text.

# Guidance on Condition D3 Reviewing approach

The document referred to in Condition TL3.1(a)on which each T Level will be based will be subject to periodic review by the Secretary of State, or an organisation on their behalf.

As part of the evidence to inform its own review of a T Level under Condition D3.1, an awarding organisation should have regard to the outcomes of any such review of the content document, as well as any feedback from the Secretary of State, or an organisation on their behalf, or Ofqual on the T Level itself.

# Guidance on use of Centre-marking

In line with the requirements published under Condition TL8.1:

> evidence generated by a Learner in the Core Project and assessments for the Occupational Specialisms must be marked by the awarding organisation or a person connected to the awarding organisation, save to the extent that marking by a Centre is necessary to ensure the validity and/or manageability of the relevant assessment.

The default position therefore is that these assessments will be marked by the awarding organisation.

Indeed, the expectation is that where it is possible for an awarding organisation to mark part, but not all of an assessment, it should mark those parts. For example, there may be parts of the assessment for an Occupational Specialism which can only validly be assessed by a Centre, whereas the remaining parts can be assessed by the awarding organisation.

In considering any potential division of marking between the awarding organisation and Centres, the awarding organisation should also consider the requirement –

(a) to use the smallest number of assessments, whilst ensuring manageability, and

(b) to assess performance outcomes for an Occupational Specialism together, as far as possible, so as to allow Learners to draw together relevant knowledge, skills and behaviours.

As part of its consideration of whether Centre-marking is necessary, an awarding organisation should consider the extent to which the following factors, if significant in scale, are relevant and, if so, whether their effect can be managed or mitigated without Centre-marking –

(a) where the evidence generated by Learners is likely to arise spontaneously and/or be ephemeral in nature – and where this may lead to significant or insurmountable logistical difficulties in terms of an awarding organisation arranging to be present for every assessment;

(b) where the assessment would require repeat measurement over an extended period of time, potentially including measurement of multiple aspects across multiple Learners, rather than measurement on a single occasion – and where this may lead to significant or insurmountable logistical difficulties in terms of an awarding organisation being present for the whole period of the assessment;

(c) where the presence of an Assessor could significantly affect the assessment, for example because it may place undue pressure on Learners and therefore undermine fairness, or could require the assessment to be designed and/or completed in an artificial way which would undermine validity;

(d) where the presence of an Assessor is not possible owing to issues of sensitivity and/or confidentiality with respect to individuals required to participate in the assessment(s) for a particular T Level.

These factors are not exhaustive. Ultimately, an awarding organisation should base its consideration of whether or not the use of Centre-marking is required on the content for the T Level in question. It should consider and balance the factors above alongside any others it considers relevant. An awarding organisation may, for example, attach greater weight to a particular factor in relation to one T Level than in relation to another. An awarding organisation should only consider an approach that includes Centre-marking where the risks to validity or manageability are significant and cannot be managed or mitigated without the use of Centre-marking.

Where it uses Centre-marking, an awarding organisation should have regard to the guidance set out in this document in relation to the Moderation of Core Assessments and Occupational Specialisms.

In line with Condition TL12.1(b), an awarding organisation must also ensure that it provides training to any Centre-based Assessors.

# Guidance on Condition H2 Centre Assessment Standards Scrutiny where an assessment is marked by a Centre and Condition TL13 Moderation arrangements

We have provided guidance in relation to factors an awarding organisation should consider in relation to the use of Centre-marking for the Core Project and assessments for the Occupational Specialisms. Where Centre-marking is used for an assessment, under Condition H2, an awarding organisation must have in place clear and effective arrangements for the Moderation of that assessment.

Moderation will only be relevant where an awarding organisation allows the Core Project and/or Occupational Specialism assessments to be marked by a Centre.

Condition TL13 sets out some specific requirements in relation to Moderation of Core Assessments and Occupational Specialisms.

The purpose of Moderation is to allow the awarding organisation to ensure that Centres are applying the relevant mark scheme correctly and consistently. It is therefore an important part of ensuring that standards are maintained across the qualification.

Under Condition C2.3(j), an awarding organisation must set out in its specification for the qualification the Moderation processes which it has in place. In line with the requirements set under Condition TL5.1(b), an awarding organisation must also set out its approach to Moderation in its assessment strategy.

In the guidance below we set out our expectations in relation to how an awarding organisation should determine its approach to Moderation.

(a) Where marking by Centres is permitted, Assessors at a Centre will mark assessments using the awarding organisation's mark scheme. Where more than one Assessor marks an assessment or part of an assessment, within a single Centre, an awarding organisation should ensure that the Centre ensures that marking is consistent across all Assessors within that Centre.

(b) An awarding organisation should consider what information should be retained by a Centre in order to allow the awarding organisation to undertake Moderation effectively, and should ensure the retention of that information through its arrangements with the Centre under Condition C2.

(c) Condition H2.5 requires that an awarding organisation is able to, and does, make changes to a Centre's marking where necessary. Condition H6.1(d) requires the results issued by an awarding organisation to reflect the outcome of any Moderation undertaken. Moderation must therefore take place before results are issued by the awarding organisation so that any necessary changes can be made before those results are issued. However, Learners must be notified of their preliminary result for any Centre-marked assessment under Condition TL14, so as to be able to request a review of the Centre's marking prior to Moderation.

(d) Moderation should be carried out by persons trained by awarding organisations in the standard expected, reviewing actual work produced by Learners in the Centre. We will expect an awarding organisation to have processes in place, including training and guidance, to ensure that the Moderation which it undertakes is effective, as required by Condition H2.1.

(e) Moderation should be based on a sample of Learners from the Centre. An awarding organisation should ensure that the sample of work it uses for Moderation reflects the number of Learners at the Centre: the smaller the number of Learners the greater proportion of them would typically be included in the sample, and vice versa. An awarding organisation should also ensure that the sample includes work that is representative of the range of attainment demonstrated by Learners at that Centre.

(f) An awarding organisation should consider the marks awarded by the Centre in terms of how far they correspond with those that the awarding organisation would give to the Learner in line with the mark scheme.

(g) An awarding organisation may choose to set a level of tolerance by which the marks given to a Learner by a Centre may reasonably vary from those that would have been given by the awarding organisation. (This is on the basis that it may not be reasonable to expect exact agreement, and so a degree of variation may be

allowed, within a certain tolerance.)

(h) If the differences between the marks awarded by the Centre and by the awarding organisation are all within tolerance, then no adjustment is made to the Centre's marks. If the difference is judged to be outside of the tolerance, an adjustment may be made to that Centre's marks for that assessment.

(i) If the awarding organisation is not able to determine the appropriate adjustments to make based on the sample, it should request additional samples of work from the Centre.

(j) By exception, the awarding organisation may determine that the Centre's marks are not capable of correction by means of an adjustment, and that all of the Learners' work from the Centre must be re-marked.

(k) In line with Condition TL15, an awarding organisation must provide each Centre with feedback, explaining what the outcome of moderation was, and why decisions were made.

# Guidance on assessment objectives

Condition TL4.1 allows us to set guidance in relation to the objectives to be met by each Core Assessment and Occupational Specialism for a T Level.

We set out our guidance for the purposes of Condition TL4.1 below.

## The Core Examination

We expect an awarding organisation to use the following assessment objectives in respect of each assessment for the Core Examination –

| | **Objective** |
|---|---|
| AO1 | Demonstrate knowledge and understanding of the content. |
| AO2 | Apply knowledge and understanding of the content to different situations and contexts. |

AO3 Analyse and evaluate information and issues related to the content

We expect an awarding organisation to ensure that there is a reasonable balance between the weighting of these assessment objectives and to explain its approach to their weighting in its assessment strategy.

## The Core Project

An awarding organisation should develop assessment objectives in relation to Core Project assessments that require Learners to –

- plan their approach to meeting the project brief,
- apply core knowledge and skills as appropriate,
- select relevant techniques and resources to meet the brief,
- use maths, English and digital skills as appropriate, and
- realise a project outcome and review how well the outcome meets the brief.

We expect an awarding organisation to set a separate assessment objective in relation to each of the five requirements above.

In setting those assessment objectives, we expect an awarding organisation to –

(a) ensure that the assessment objective in relation to 'core knowledge and skills' is drafted in such a way as to be specific to the relevant document referred to in Condition TL3.1(a)on core skills, and

(b) weight the assessment objectives such that the assessment objective in relation to 'core knowledge and skills' is at least 50% with a reasonable balance between the remaining four assessment objectives.

# Guidance on Condition TL7 Total Qualification Time

Under Condition TL7.2(a), where the Secretary of State, or an organisation on their

behalf, specifies a range in respect of any element of Total Qualification Time for a T Level, an awarding organisation must assign a number of hours within that range by applying, as far as possible, the TQT Criteria.

An awarding organisation should include the Industry Placement in its calculation of Total Qualification Time, but not in its calculation of Guided Learning Hours.

An awarding organisation must use the TQT Criteria to determine the appropriate number of hours within the range specified by the Secretary of State, or an organisation on their behalf. However, where the application of the TQT Criteria would lead to the assignment of a value which is outside the specified range, an awarding organisation must prioritise setting a number within the range.

Under Condition TL7.2(b), where the Secretary of State, or an organisation on their behalf, has specified a single value for the number of hours in respect of any element of Total Qualification Time, rather than a range, an awarding organisation must assign that specified number of hours.

An awarding organisation should promptly notify Ofqual where it considers that the range or number specified by the Secretary of State, or an organisation on their behalf, would generate a value which is significantly different than that which the awarding organisation would arrive at by simply applying the TQT Criteria.

Under Condition TL7.3, where the Secretary of State, or an organisation on their behalf, provides guidance in respect of any element of Total Qualification Time for a T Level, an awarding organisation must have regard to that guidance, and apply the TQT Criteria as far as possible, in assigning a number of hours to that element.

# Guidance on assessments

Condition TL8.1 allows us to set guidance in relation to Core Assessments and Occupational Specialisms.

We set out our guidance for the purposes of Condition TL8.1 below.

## Weighting of Core Assessments

We expect the Core Examination to represent a larger proportion of the Core Assessments than the Core Project.

As such, we expect the Core Project to account for between 25 – 40%, and the Core Examination to account for between 60 – 75%, of the total marks available for the Core Assessments.

In line with the requirements set under Condition TL5.1(b), an awarding organisation must explain its approach to the weighting of the Core Assessments in its assessment strategy.

# Industry Placement guidance

**Condition TL9.2 allows us to specify requirements and guidance in relation to Industry Placements.**

**We set out our guidance for the purposes of Condition TL9.2 below.**

## Monitoring of Industry Placement statements

**Under Condition TL9.1(b), an awarding organisation must reasonable steps to confirm that Centres hold sufficient evidence to support the Industry Placement statements they provide.**

**In doing so, we expect an awarding organisation to undertake a monitoring exercise in relation to the Industry Placement statements that it has received in relation to an assessment cycle for the Core Assessment and Occupational Specialism.**

**As part of its monitoring exercise, an awarding organisation should review evidence held by Centres to underpin their Industry Placement statements. This may be through a review of the evidence held by a sample of Centres or all Centres that provided Industry Placement statements to the awarding organisation for the relevant assessment cycle for the Core Assessment and Occupational Specialism.**

**An awarding organisation should confirm that there is evidence to support**

**the Centre's decisions in relation to the completion of the Industry Placement by the relevant Learner, and the number of hours completed by that Learner as part of the placement. An awarding organisation is not required to review the decision made by the Centre in relation to the completion of the Industry Placement, only that the Centre has evidence to support its decision.**

**In determining its approach to the review of evidence, an awarding organisation's considerations should include:**

- **factors in relation to timing of the review activity, for example whether this should happen before or after results are issued to Learners, taking into account any risks to complying with published dates for the issue of results and manageability for Centres**
- **factors in relation to determining any sampling approach of Centres providing Industry Placement statements, for example over what time period the evidence from all Centres will be reviewed**
- **factors in relation to Centres, for example, whether a Centre has previously delivered T Levels, or whether any malpractice or maladministration has occurred in relation to any Centre's delivery, marking or issue of results.**

**Where a Centre is found not to have sufficient evidence to support an Industry Placement statement that it has provided, the awarding organisation must, under Condition A8, investigate whether there has been any malpractice or maladministration in relation to the provision of that statement.**

**Where an awarding organisation finds that there is not sufficient evidence to underpin the Industry Placement statement provided by a Centre, it should determine the appropriate action to take based on the specific circumstances. An awarding organisation is not required to amend a Learner's result or certificate for a T Level in respect of that Learner except where it finds that there has been malpractice on the part of the Learner in relation to the Industry Placement.**

**We expect an awarding organisation to make clear to Centres the consequences of any finding of malpractice or maladministration in respect of an Industry Placement statement.**

**An awarding organisation should notify the Department for Education, in line**

**with any guidance issued by the Secretary of State, of any instance where it finds malpractice or maladministration by a Centre in respect of an Industry Placement statement.**

# Guidance on recognition of prior learning

Under Condition TL10.1, an awarding organisation must establish, maintain and comply with, a policy for the recognition of prior learning in respect of content for the core where appropriate.

Under Condition TL10.2, 'recognition of prior learning' has the same meaning as in Condition E10.2. Under that definition, prior learning will include prior attainment.

In its policy, an awarding organisation should specify the criteria that it will use to determine whether or not to accept prior learning (for example the evidence requirements) in relation to content for the core that it considers is transferable to a different T Level.

This will involve a judgment by the awarding organisation on whether or not particular content is transferable from the T Level that the Learner has previously studied to that which he or she is now studying. In doing so, an awarding organisation should take account of the content, and follow any requirements set by the Secretary of State, or an organisation on their behalf in this respect, and revise its policy where those requirements are revised.

Where satisfied that the content in question is transferable, the awarding organisation should then consider whether to accept the particular application for recognition of prior learning in respect of that content.

# Guidance on standard setting for T Levels

Condition TL11.3(b) allows us to specify requirements and guidance in relation to the setting of specified levels of attainment for T Levels.

We set out below our guidance for the purposes of Condition TL11.3(b).

Evidence to be taken into account in setting specified levels of attainment

Condition TL1143 states that in setting the specified levels of attainment for a T Level which it makes available, an awarding organisation must have regard to an appropriate range of qualitative and quantitative evidence.

Condition TL11.5 states that such evidence will only be appropriate if it includes evidence of –

(a) the Level of Demand of the Core Assessments and Occupational Specialism,

(b) the level of attainment demonstrated in those assessments by an appropriately representative sample of Learners taking the Core Assessments and Occupational Specialism,

(c) employers' expectations of the knowledge, skills and understanding necessary for Learners to reach the specified levels of attainment,

(d) the level of attainment demonstrated by Learners taking the Core Assessments and Occupational Specialism in a –

(i) prior assessment (which was not for that qualification), whether or not that assessment was for a regulated qualification, or

(ii) prior qualification, whether or not that qualification was a regulated qualification, and

(e) following the first year in which the T Level is awarded, the level of attainment demonstrated by Learners who have previously been awarded the qualification, and

(f) where a different awarding organisation has previously made the qualification available, the specified levels of attainment set by that awarding organisation for the qualification.

Without prejudice to any requirements that Ofqual may set in relation to the weight to be given to evidence in the first awards, examples of the evidence that may be used by an awarding organisation in setting the specified levels of attainment for the Core Assessments and Occupational Specialisms for a T Level which it makes available may include –

- grade descriptors for key grades in respect of Core Assessments and Occupational Specialism assessments,
- exemplification materials for key grades in respect of Occupational Specialism assessments,
- question papers/tasks and final mark schemes,

- senior Assessor input into decisions, for example comments on how the assessments have worked or are likely to work, and recommendations for the setting of specified levels of attainment,
- technical information about how the assessments, and/or any similar assessments previously and concurrently available, have functioned, for example mark distributions, mean marks, standard deviations and item-level statistics,
- samples of current Learners' work selected from a range of Centres and assessed/Moderated by Assessors/moderators whose work is known to be reliable,
- details of changes in entry patterns and choices of options,
- archive Learners' work exemplifying specified levels of attainment in previous assessments for the qualification, together with the relevant question papers/tasks and mark schemes,
- inter-awarding organisation evidence for Core Assessments and Occupational Specialisms,
- pertinent material deemed to be of equivalent standard from similar qualifications or other relevant qualifications,
- information on Learners' performance in previous assessments for the qualification, and
- marking guides for assessments where the evidence is of an ephemeral nature.

In determining whether it has sufficient evidence of the level of attainment demonstrated in the Core Assessments and Occupational Specialisms by an appropriate percentage of the Learners them, an awarding organisation should consider whether the marks on its system reflect –

- all possible routes through the qualification, and
- a representative proportion of Learners' marks for the qualification.

## Setting specified levels of attainment in the first year of awarding

In setting the specified levels of attainment for in the first year in which it awards a T Level, an awarding organisation may place greater weight on qualitative evidence, although not to the exclusion of relevant quantitative evidence where available.

In subsequent years we will expect qualitative evidence to be supplemented with quantitative evidence from previous assessment series as this becomes available, such as the comparison of mean marks in particular assessments over time to help track variations in Levels of Demand from one year to the next.

# Guidance on the general conduct of reviews and appeals

Awarding organisations are required to have in place arrangements for the review and appeal of marking and Moderation decisions in relation to the Core Assessments and Occupational Specialisms for the T Levels which they make available.

We set out below guidance on some points in relation to how an awarding organisation should approach the conduct of –

(a) a review of Moderation under Condition TL16,

(b) an Administrative Error Review under Condition TL18,

(c) a review of marking of Marked Assessment Materials under Condition TL19,

(d) a review of the overall result for the T Level under Condition TL20, and

(e) an appeal in relation to Moderation or marking under Condition TL21.2.

This guidance is intended to relate to the process adopted by an awarding organisation and – in relation to Conditions TL19 and TL21, where relevant – it should be read alongside our guidance on the substantive consideration of whether or not a Marking Error exists, as well as our Guidance on making changes to incorrect results which forms part of the Guidance to the General Conditions of Recognition.

## Expert reports

As part of its review and appeal process, an awarding organisation can request expert evidence to assist with its determination. For example, it may request a report

from a senior examiner.

However, where the senior examiner is not the actual decision-maker, the decision-maker should not uncritically accept the report without scrutinising its findings and challenging them where appropriate. Such an uncritical acceptance would be to delegate the making of the decision to the senior examiner preparing the report.

Such a report is one piece of evidence among others and, although it will be for the decision-maker to decide the weight to be accorded to it, that decision must be made consciously in each case applying the decision-maker's own judgment.

## Personal interest

Our conditions state that reviews and appeals should not be conducted by anyone with a personal interest in the outcome of a review or appeal. Doing so is likely to give rise to a Conflict of Interest, as defined in Condition J1.8

A personal interest is a conflict of interest that relates to a particular individual. As such it falls within the definition of a conflict of interest in Condition A4.1(b) and (c).

A personal interest can be financial or non-financial in nature. So, for example, where a person carrying out an Administrative Error Review is related to the Learner who has completed the assessment, or to the original Assessor who marked it, that will be a personal interest and precluded by Condition TL18.6. Likewise, where a person's salary is related to the number of Administrative Errors that he or she does, or does not, identify during reviews, that too would be a personal interest.

The relevant question to ask is whether the person carrying out the review has any reason to make anything other than a decision made in good faith in line with the relevant conditions, or whether an informed and reasonable observer would conclude that such a reason exists.

## Reasons

Conditions TL15, TL16, TL19 and TL21 require an awarding organisation to give reasons for its determinations on reviews and appeals.

The provision of reasons is important in a number of respects. The discipline of

providing reasons may serve to improve the quality of decisions by focusing the mind of the decision-maker. Robust reasons will also promote public confidence in the standards set in regulated qualifications, and may assist a Centre or Learner to more readily accept the awarding organisation's determination. Importantly, by allowing the Centre or Learner to make an informed decision as to whether it has good grounds to disagree with a determination, the provision of reasons supports any opportunity to request a further review or appeal.

The reasons provided by an awarding organisation should be adequate to fulfil these functions. What is adequate will depend on the context, including the type of issues raised in the request, the nature of the assessment and the type of review or appeal. However, we will expect any reasons provided by an awarding organisation to display the following basic attributes –

(a) Reasons must be proper, adequate and intelligible.

(b) Reasons must engage with the issues raised in the request for the review or appeal and allow the Centre or Learner to understand why a particular concern has not been accepted.

(c) Reasons do not need to be lengthy but should allow the Centre or Learner to understand what conclusions have been reached on the principal important issues raised in the request.

(d) Reasons should refer to the mark scheme, where appropriate. It will be insufficient to simply state that a Learner has not included certain material in his or her response to a task without showing how the inclusion of that material is required by the mark scheme.

(e) Where an expert report is relied on, the reasons must outline what weight has been accorded to that report, and why.

(f) There is no requirement for reasons to be recorded in a particular form. For example, for certain reviews, annotations on a script could be compliant with the requirement to provide reasons. However, in whatever form they are presented there must be sufficient detail to make the reasons clear.

## Further opportunities for review or appeal

When providing its determination on a review or appeal to a Centre or Learner, an

awarding organisation should clearly set out any further opportunity for review or appeal. Where such a further opportunity exists, an awarding organisation should not give the impression that its determination is necessarily the final part of the process.

# Guidance on considering Marking Errors on a review or appeal

In our guidance above we address some procedural aspects relating to how reviews and appeals are conducted. In the guidance below we focus more specifically on an awarding organisation's substantive determination as to whether or not a Marking Error exists.

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 TL19), and
- for the appeal of the result of an assessment following a review (Condition TL21).

Anybody carrying out such a review or appeal 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 TL1). An appeal may be brought on the basis that the marking (either in the original marking or on review) included a Marking Error, as well as on procedural grounds.[1]

> 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 TL1],
>
> (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.

Our guidance below 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.

Conditions TL16 and TL21 contain 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 TL1 which is similar to the definition of Marking Error). An appeal may be brought on the basis that the Moderation included a Moderation Error[2], 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).

# 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 (the latter being an Administrative Error which is encompassed in the definition of a Marking Error). 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 TL19.5 and the definition of Marking Error in Condition TL1) the Assessor carrying out the review must consider 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.
- 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 TL21 does not require that the appeal panel itself must carry out any remarking which is required.

In Condition TL19.5(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, 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 in line with our guidance on reasons elsewhere in this document. Condition TL19.6(h) requires that the reasons to be provided are the reasons documented by the Assessor.

Condition TL21.8 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. In other words, an appeal may be brought on the basis that the original marking (unchanged 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 TL19.6(c)) and monitored to ensure they are performing their role correctly and consistently (Condition TL19.6(e)).

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.

# Guidance on Condition TL25 Discovery of failure in processes

Condition TL25 requires an awarding organising to take specified action where it discovers, through a review or appeal, that there has been a failure in its awarding process that may have affected other Learners.

When conducting a review or appeal, we will expect an awarding organisation to consider where any issue that it identifies may have affected other Learners and, where the answer may be yes, to take all reasonable steps to ascertain whether this is in fact the case.

Where that investigation establishes that other Learners have been affected by a failure in its process, in considering how to correct or mitigate the effect of the failure, an awarding organisation must have regard to our ‘Guidance on making changes to incorrect results’ which forms part of the Guidance to the General Conditions of Recognition.

[1] 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.

[2] The requirement for Moderation Errors to be considered on an appeal will only apply from such a date as is specified in, or determined under, a notice published by Ofqual.

↑ Back to top


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