



Consultation response

Pearson UK response to the Ofqual consultation on New Statutory Guidance to Support the General Conditions of Recognition

Contact information

Name	Lesley Davies
Position	Vice President Quality Standards and Efficacy
Name of organisation	Pearson UK Ltd
Email	Lesley.Davies@pearson.com
Address	190 High Holborn, London, WC1V 7BH
Telephone number	+44 (0) 207 190 4589

New Statutory Guidance to Support the General Conditions of Recognition

General comments

We welcome additional guidance on the Conditions of Recognition to support us in our work with the regulator. However, our view of the new proposed guidance suggested in this consultation is that some areas are overly excessive and thus unhelpful, for example, the proposed guidance for Making changes to incorrect results.

We are also concerned that some of the proposed guidance falls outside the scope of the General Condition it relates to. This is concerning as the guidance should pertain to how we meet the requirements of the condition. We believe in these areas the General Conditions of Recognition should be amended, rather than the inclusion of additional guidance. Examples of this are, the proposed guidance for Conditions G6 –Arrangements for Reasonable Adjustments and Condition G7 – Arrangements for Special Considerations.

We have highlighted in our question responses the specific areas to which our concerns are related.

Question 1: Do you have any comments on our proposed guidance for A5

Condition A5.2 covers what an awarding organisation must establish and maintain to ensure the ability to develop, deliver and award qualifications. Condition A5.2(b) specifically relates to the retention of data by saying that we must:

'[establish and maintain] arrangements for the retention of data which will ensure that adequate information is available to it at all times,'

The proposed guidance provides a positive indicator stating that we should retain data including:

'Learner's work exemplifying specified levels of attainment previously set for the qualification'

Currently whilst we do collect examples of learner work, we do not retain an archive for all of our non awarded qualifications as we do for awarded qualifications. We would like further information on why the positive indicator in the guidance interprets the condition in this way. Due to the volume of regulated qualifications we deliver which this would affect it would not be possible to implement this quickly.

We also feel consideration needs to be given as to access of data. Awarding organisations are frequently subject to data requests by Ofqual in specific formats. Awarding organisation systems are set up so that they can access the data that they need to carry out their functions. This does

not mean that it is always readily adaptable to specific formats that may be requested by the regulator.

Question 2: Do you have any comments on our proposed guidance for B3

The current General Condition B3.1 states:

- 'an awarding organisation must promptly notify Ofqual when it has cause to believe that any event has occurred or is likely to occur which could have an Adverse Effect.'

The proposed positive indicator related to this states:

- '[The awarding organisation] where appropriate and taking into account the evidence it has and any requirements relating to the protection of such evidence, reports to other relevant bodies, including for example, but not limited to: the Information Commissioner's Office, Ofsted, the Charity Commission, funding bodies and other awarding organisations;'

We are concerned the positive indicator proposed exceeds the requirements of the General Condition by proposing we report to bodies other than Ofqual and that these changes should be covered through the General Condition.

A proposed negative indicator is given as:

- 'does not notify Ofqual of an event before it becomes aware of it through other means, for example through complaints by Learners or Centres, media reports or reports from other agencies;'

There are many examples where Ofqual may become aware of a potential adverse effect through other means such as social media, media reports or other agencies before we have had the opportunity to inform Ofqual (such as an issue on the day of an examination). There are 30 bullet point questions that we are expected to cover in detail when notifying Ofqual of an adverse effect. Our ability to notify Ofqual in a timely manner is directly impacted by the amount of detail that Ofqual requires in that notification. Ofqual needs to pay consideration to whether its expectations are realistic with regards to the content of the notification and the timeliness with which such notifications can be provided.

Question 3: Do you have any comments on our proposed guidance for C2

Condition C2 sets out the arrangements we must make with centres. This is mainly through setting out requirements and guidance that must be met by the centre. However, the proposed guidance alters the scope of this to include collecting and analysing centre data to make risk based assessments of centre compliance, then requiring investigations based on the data outcomes. In our opinion, this exceeds the requirements of General Condition C2 and should be covered through an expansion of the General Condition and not through the statutory guidance.

We have concerns about the implementation of the following proposed positive indicator:

- 'notifies other awarding organisation and relevant agencies with a role in protecting the interests of learners where it identifies concerns with the actions of centres (subject to any requirements relating to the protection of such data);'

This point is very broad, we are unsure as to what relevant agencies are covered by this and at what point something becomes an identified concern. We believe this point also appears to be outside the scope of General Condition C2 and should be covered through an expansion of the General Condition not through the statutory guidance.

We have concerns around the following example given in the positive indicator:

- Collects and analyses data from Centres (for example the number of students expected to be registered and the number actually registered) which helps inform its view of a risk that the centre will not comply with its requirements

The collecting of data for students that are expected to be registered is not feasible for all qualifications and all centres. Whilst we agree in principle with the inclusion of this positive indicator in the guidance, we do not believe the example of how to meet it should be included.

Question 4: Do you have any comments on our proposed guidance for D3

We agree with the proposed guidance and the positive and negative indicators.

Question 5: Do you have any comments on our proposed guidance for D7

We agree with the proposed guidance and the positive and negative indicators.

Question 6: Do you have any comments on our proposed guidance for E3

We agree with the proposed guidance and the positive and negative indicators.

Question 7: Do you have any comments on our proposed guidance for E5

Currently the proposed guidance positive indicator '*Uses any lessons learned from previous accreditation decisions*' can only refer to general qualifications such as GCE and GCSE. It does not cover vocational qualifications, which generally do not have an accreditation requirement. It should be clear if 'accreditation decisions' is referring to any other form of regulatory feedback.

Question 8: Do you have any comments on our proposed guidance for G1

We propose an addition to the guidance for G1. The proposed guidance for G3 includes the following bullet point as a positive indicator:

'...using command words which are appropriate to the level, context and subject of the assessment and using these consistently and correctly'

We agree with this guidance and think this is also relevant for the guidance for G1 as it is essential when setting assessments.

Question 9: Do you have any comments on our proposed guidance for G3

We agree with the proposed guidance and the positive and negative indicators.

Question 10: Do you have any comments on our proposed guidance for G6

The General Condition G6 outlines that awarding organisations must have reasonable adjustment arrangements in place and will publish these. The proposed indicators exceed the requirements of the condition in a number of areas. This includes the following positive indicators:

- 'collects and analyses data on the number of requests for Reasonable Adjustments made and approved. This could include, for example, requests for each qualification or Centre

- collects and analyses information about complaints about Reasonable Adjustments or about decisions relating to them;
- uses information, intelligence and data to identify and prevent potential misuse of Reasonable Adjustments by Centres and acts on any findings;
- monitors each Centre's application and use of Reasonable Adjustments and takes action where it is not seeking or making appropriate Reasonable Adjustments and where it is seeking or making inappropriate Reasonable Adjustments. The checks are regular and detailed enough to identify potential failures to make and misuse of, Reasonable Adjustments;'

In our opinion, these areas should be covered through an expansion of the General Condition and not through the statutory guidance.

We are also concerned that the guidance requires us to monitor centres who are not seeking Reasonable Adjustments. In line with General Condition G6 we have Reasonable Adjustment arrangements in place and publish our guidance and policies in this area. This puts the burden of responsibility to apply for Reasonable Adjustments on the centre or applicant, we do not believe that it is possible for us to take this responsibility and feel it would be inappropriate to investigate centres on these grounds.

Question 11: Do you have any comments on our proposed guidance for G7

The General Condition G7 outlines that awarding organisations must have Special Consideration arrangements in place and will publish these. The proposed indicators exceed the requirements of the condition in a number of areas. This includes the following positive indicators:

- 'collects and analyses data on the number of requests for Special Consideration made and approved. This could include, for example, requests by qualification, subject and Centre and the impact of any requests approved for example changes to overall results;
- uses data to identify and prevent potential misuse of Special Consideration by a Centre and acts on any findings
- monitors each Centre's applications for Special Consideration and takes action where a Centre is not using the provision appropriately.'

In our opinion, these areas should be covered through an expansion of the General Condition and not through the statutory guidance.

We are also concerned that the guidance requires us to monitor centres who are not seeking Special Consideration. In line with General Condition G7 we have Special Consideration arrangements in place and publish our guidance and policies in this area. This puts the burden of responsibility to apply for Special Considerations on the centre or applicant, we do not believe

that it is possible for us to take this responsibility and feel it would be inappropriate to investigate centres on these grounds.

Question 12: Do you have any comments on our proposed guidance for G8

We agree with the proposed guidance and the positive and negative indicators.

Question 13: Do you have any comments on our proposed guidance for G9

The following positive indicator in the proposed guidance for G9 is unclear:

- 'can be consistently applied to both internal and external examiners, moderators and verifiers to ensure accurate and consistent judgements are made about the attainment of Learners;'

We request clarification on what is meant by 'internal' and 'external' examiners.

Question 14: Do you have any comments on our proposed guidance for correcting incorrect results

You have explained in your introduction that, as the guidance surrounding making changes to incorrect results is not restricted to compliance with a specific condition, you have taken a different approach that sets out the relevant conditions and the factors awarding organisations should consider.

Whilst we appreciate that this is a difficult area and having some clear guidance would be very useful we do not currently feel the proposed guidance is helpful to us. The proposed guidance is currently very long at seven pages in length and cross references several General Conditions, which does not provide a concise and clear approach. It is our belief that this lack of clarity could lead to different awarding organisations interpreting the guidance in different ways.

We feel it would be helpful to have the rules regarding making changes to incorrect results set out clearly as a General Condition of Recognition. This would allow us and all other awarding organisations to operate with clarity, certainty and consistency when making changes to incorrect results.

In addition to our comments on the proposed guidance, we would also appreciate clarification that correcting results for qualifications in which certificates have been issued should lead to the 'invalidation' of the original certificate and the re-issuing of the correct certificate. Currently, the invalidation of certificates is only mentioned in the General Condition I4.2(c)

- '[An awarding organisation] revokes any certificate if the result on the certificate is false because of malpractice, maladministration, or is revealed to be inaccurate as a consequence of an appeals process'