

CONSULTATION

Consultation on new statutory guidance for Condition F1

Guidance on the presentation of fee information to
potential purchasers

ofqual

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Proposals at a glance

We have published decisions confirming that, following consultation, we are making changes to Condition F1 – Information on fees. The changes will come into effect on 18 January 2021¹.

This consultation seeks views on proposed guidance for the revised Condition F1.

Audience

This consultation is open to anyone who may wish to make representations, but may be of most interest to awarding organisations and their representative bodies.

This is because this is largely a technical document aimed at helping awarding organisations understand how to present their fee information to meet our requirements. However, those who purchase qualifications and any other interested parties are very welcome to respond if they have issues they wish to raise.

While this consultation relates to Ofqual's proposed statutory guidance, the guidance has been developed in conjunction with CCEA Regulation and Qualifications Wales. CCEA Regulation and Qualifications Wales will take into account any revisions made as a result of Ofqual's consultation and will introduce guidance separately.

Consultation arrangements

Duration

This consultation will be open for eight weeks starting on 20 February 2020 and ending on 16 April 2020.

Respond

Please respond to this consultation by using one of the following methods;

- complete the online response at www.gov.uk/government/consultations/consultation-on-new-statutory-guidance-for-condition-f1
- email your response to consultations@ofqual.gov.uk - please include the consultation title in the subject line of the email and make clear who you are and in what capacity you are responding

For information on how we will use and manage your data, please see annex A.

¹ This was amended following a decision in June to extend from 1 Oct.

Introduction

Ofqual's statutory guidance

We publish guidance¹ to help awarding organisations understand how to comply with our rules, known as General Conditions of Recognition². The Apprenticeships, Skills, Children and Learning Act 2009 requires that recognised awarding organisations have regard to the guidance we publish. This means they must review the guidance and consciously consider it when making decisions about their approach. Guidance is not a further set of rules; an awarding organisation does not have to follow it if it has good reason not to as it may find different ways to meet a Condition.

Some of our guidance takes the form of positive and negative indicators. These provide help to determine whether or not an awarding organisation may be complying with a Condition. This type of guidance explains what 'good' and 'bad' looks like. For example, if an awarding organisation does 'X', we are likely to find that it is compliant with the relevant Condition; if it does 'Y', we are likely to find that it is non-compliant.

We also publish guidance relating to particular issues that sets out what the Conditions require and the factors an awarding organisation should consider when dealing with that issue. Sometimes such guidance may apply to more than one Condition.

The form of guidance we publish for a particular Condition or issue varies depending on what is most likely to help awarding organisations understand our Conditions. In some instances, such as proposed here, we use a combined approach.

¹ <https://www.gov.uk/government/publications/guidance-to-the-general-conditions-of-recognition>

² <https://www.gov.uk/government/publications/general-conditions-of-recognition>

Overview of Conditions and guidance relating to information on fees and features of a qualification

CCEA Regulation, Ofqual and Qualifications Wales undertook a public consultation³ on proposed changes to each of the three regulators' Conditions of Recognition between August and October 2019.

Among the proposed changes were changes to Condition F1 (Information on fees). We proposed to replace the previous Condition F1.1, requiring fee information to be made available on request, with a revised Condition requiring each awarding organisation to provide its fee information on its public-facing website. In addition, to aid transparency, we proposed defining the fees that must be published.

Respondents to the consultation did not raise specific concerns with the proposed new defined terms, but a number of attendees at our consultation events queried how existing products and services might map across to our defined fee categories and whether they would be required to use this terminology on their websites. We wish to help awarding organisations better understand what is required by the Condition and how to comply by providing guidance.

Ofqual's revised Condition F1.1 is shown below, for ease of reference:

Condition F1 – Information on fees

Making fee information available

F1.1 In respect of each of its qualifications that it makes available for purchase, an

awarding organisation must publish the following information for potential purchasers in England –

- (a) where possible, the Standard Qualification Fee,
- (b) where applicable, any Package Fee,
- (c) where possible, any Associated Learner Fees,
- (d) where possible, any Mandatory Centre Fees,
- (e) where it is not possible for the awarding organisation to calculate a Standard Qualification Fee, Associated Learner Fees or any Mandatory Centre Fees, a statement of the method by which these fees are calculated.

³ <https://www.gov.uk/government/consultations/consultation-on-changes-to-the-conditions-of-recognition>

Consultation details

We set out below our proposed guidance for the new Condition F1.

[START OF PROPOSED GUIDANCE]

Introduction

Condition F1 requires awarding organisations to publish fees for their qualifications and all associated services on a publicly-accessible website. The information should be available without an enquirer having to request it from, or provide any information to, the awarding organisation.

When deciding how this information should be presented, and how particular services should be identified and categorised, an awarding organisation must have regard to this guidance.

Use of defined terms

Awarding organisations are not obliged to use the defined terms 'Standard Qualification Fee', 'Package Fee', 'Associated Learner Fees' or 'Mandatory Centre Fees' that we have published in Condition J1.8 when publishing fee information. Where these defined terms are not used, however, the awarding organisation should make clear which fee constitutes the Standard Qualification Fee and, if applicable, the Package Fee for each qualification. In addition, the awarding organisation should make clear which fees constitute the Associated Learner Fees and Mandatory Centre Fees categories.

All fees, however they are labelled, should adhere to the required content, being the services covered by the fee, as set out in the Conditions of Recognition and the guidance below.

Standard Qualification Fee

This fee should represent all mandatory fees that must be paid in respect of a single Learner progressing from registration for the qualification through to receipt of a certification in relation to it.

This should represent the fee for the most straight-forward route a Learner can take that can result in the award of the qualification. Therefore, the fee should be based upon the following assumptions:

- (a) the Learner passes all assessments at the first attempt
- (b) where differently priced options are available, the fee reflects the lowest cost combination of options that, on completion, would enable the Learner to be awarded the qualification
- (c) the fee excludes any one-off registration fees that would not be paid again were further qualifications to be taken with the same awarding organisation in the future

- (d) the fee excludes any periodic membership fees that would not have to be paid again were a second qualification to be taken in the same membership period.

The published fee should be based upon the current price for that year. An awarding organisation can negotiate discounts on this published fee with potential purchasers, for example based on their expected cohort size, or to reflect their role in developing or delivering the qualification.

<i>Examples of what should, where applicable, be included in the Standard Qualification Fee:</i>	<i>Examples of exclusions from the Standard Qualification Fee:</i>
Qualification/Unit entry fee(s)	Periodic or lifetime Learner registration fees <i>(to be included in Associated Learner Fees)</i>
Assessment / portfolio marking or Centre Assessment Standards Scrutiny (including Moderation) done by the awarding organisation	Annual professional membership fee <i>(to be included in Associated Learner Fees)</i>
Mandatory assessment materials <i>(if obligatory and purchased from the awarding organisation)</i>	Learning materials not required for assessment <i>(if obligatory and purchased from the awarding organisation, then this may be a Package Fee)</i>
Notification of results	Moderation fees levied at a cohort level <i>(to be included in Mandatory Centre Fees)</i>
Issue of certificate	Centre-charged assessment delivery costs
	Centre-charged raw materials for assessment
	Any goods or services required to be purchased alongside the qualification, as a package (these should be included in a Package Fee).

Package Fee

Where an awarding organisation only makes a qualification available in a package with other products or services, the Package Fee represents the notional fees for those other products or services that are required to be purchased along with the qualification. The fee should not include the Standard Qualification Fee for the qualification itself.

If the awarding organisation makes the qualification available for purchase separately to the package, then the awarding organisation does not have to publish a Package Fee. It can, instead, publish details of the package alongside the Standard Qualification Fee, making clear this is an additional option.

Associated Learner Fees

These fees would be the fees for all optional services directly related to the delivery and award of a qualification to a Learner. These include, where applicable, the following, and any other relevant fees:

- (a) late entry

- (b) reviews of marking (even if these are not charged, or are refunded, in certain circumstances)
- (c) appeals (even if these may be refunded in certain circumstances)
- (d) taking the qualification again (if this differs from the Standard Qualification Fee)
- (e) replacement certificates
- (f) periodic or lifetime Learner registration
- (g) annual professional membership, where membership is a pre-requisite for taking the qualification (even if the awarding organisation and the membership body are separate entities)

These fees may or may not vary by qualification. Where they do not vary they need not be repeated..

If the awarding organisation sets fee levels for some elements, such as Late Entry Fees, as a proportion of the Standard Qualification Fee, then it would be reasonable to present this fee in that way, rather than publishing the actual values relevant to each qualification. The awarding organisation's overall intention should be for clarity and transparency, in line with Condition F1.2(b).

Mandatory Centre Fees

These fees should represent all mandatory fees that must be paid by a Centre in order to deliver qualifications, but that are not included in the Standard Qualification Fee for the qualifications. These fees would be levied either at a Centre level or at a cohort level.

These include, where applicable, the following, and any other relevant fees:

- (a) initial Centre Approval fees
- (b) annual Centre fees
- (c) Moderation fees levied at a cohort or Centre level
- (d) fees for periodic, mandatory visits, for example, for audit or quality assurance
- (e) fees for any other Centre visits where these are dictated by the awarding organisation
- (f) minimum spending thresholds, alongside the terms relating to their application
- (g) fees related to the delivery of specific qualifications levied at a cohort level
- (h) fees that are not related to a specific qualification levied at a cohort level

[END OF PROPOSED GUIDANCE]

Question 1: To what extent do you agree or disagree that the proposed guidance will help awarding organisations to understand the requirements of Condition F1?

Please explain your response.

Question 2: If applicable, please provide details of any learner or qualification-related fees for which the proposed guidance does not provide sufficient clarity on how they should be published?

Please provide comments on how we might make this guidance clearer and more helpful.

Impact Assessments

We assessed the impact of requiring awarding organisations to publish fee information in accordance with the revised Condition F1 in Chapter 8 of our [consultation decisions](#). Below we consider any additional regulatory or equality impacts arising from the publication of guidance on Condition F1.

Regulatory Impact Assessment

The Apprenticeships, Skills, Children and Learning Act 2009 requires that recognised awarding organisations have regard to the guidance we publish. This means they must review the guidance and consciously consider it when making decisions about their approach. Guidance is not a further set of rules; an awarding organisation does not have to follow it if it has good reason not to as it may find different ways to meet a Condition.

We anticipate this guidance will help awarding organisations understand the new requirements for publication of fee information. Since it is only four pages long, the burden of familiarisation with the guidance will be minimal and we anticipate will be absorbed into the wider familiarisation costs reported in our consultation decisions. Any burden should be balanced against the potential time saved by awarding organisations in determining how best to comply with the revised Condition F1.

Equality Impact Assessment

The guidance will apply equally to all awarding organisations offering regulated qualifications and aims to help them comply with the new requirements. One respondent to our consultation on changes to Condition F1 identified a potential positive impact. The publication of fees on awarding organisations' websites means that this information will be more accessible to all purchasers. Disabled people, in particular, may be able to access the information more easily, for example through the use of assistive technology.

We have not identified any further positive or negative impacts of our proposed guidance for individuals who share protected characteristics.

Question 3: Please provide any comments on our assessment of the expected regulatory impact of the proposed guidance, including any impacts that we have not considered.

Question 4: Please provide any comments on our assessment of the equality impact of the proposed guidance, including any impacts that we have not considered.

Annex A - Your data

What's this Privacy Notice about?

This Privacy Notice is provided by The Office of Qualifications and Examinations Regulation (Ofqual). We are a 'controller' for the purposes of the General Data Protection Regulation (EU) 2016/679 and Data Protection Act 2018 ('Data Protection Laws'). We ask that you read this Privacy Notice carefully as it contains important information about our processing of consultation responses and your rights.

It's our job to tell you how we will collect and use your information, why we need it and what your rights are. We do this to comply with the Data Protection Laws and to protect your privacy.

How to contact us

If you have any questions about this Privacy Notice, how we handle your personal data, or want to exercise any of your rights, please contact:

Data Protection Officer at dp.requests@ofqual.gov.uk or write to us at: Data Protection Officer, Ofqual, Earlsdon Park, 53-55 Butts Road, Coventry, CV1 3BH.

Purpose and lawful basis for processing

As part of this consultation process you are not required to provide your name or any personal information that will identify you. If you provide us with your personal details then we might process those details to get in touch with you about your response.

We will process any other personal data provided in the responses for the purpose of informing the development of our policy, guidance or other regulatory work in the subject area of the request for views. In the case of consultations, we will publish a summary of responses and may publish copies of responses on our website, www.gov.uk/ofqual. We will not include personal details.

We will also publish an annex to the consultation summary listing all organisations that responded. We will not include names of individuals or other contact details. If you tell us that you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

The lawful basis we are relying on to process your personal data is article 6(1)(e) of the GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a regulator.

Sharing your response

We may share your response, in full, with The Department for Education (DfE) and The Institute for Apprenticeships and Technical Education (the Institute) where the consultation is part of work involving those organisations. We may need to share responses with them to ensure that our approach aligns with the wider process. If we share a response, we will not include any personal data. Where we have received a response to the consultation from an organisation, we will provide the DfE and the

Institute with the name of the organisation that has provided the response, although we will consider requests for confidentiality.

Freedom of Information

Please note that as a public body, all written information that we hold is subject to Freedom of Information requests. Any requests from a third party for us to share your personal data with them will be dealt with in accordance with data protection laws.

If there is any part of your response that you wish to remain confidential, please indicate this in your response but note we cannot guarantee that confidentiality can be maintained in all circumstances.

How long will we keep your personal data

For this consultation, Ofqual will keep your personal data for a period of 2 years after the close of the consultation.

Your data

Your personal data:

- will not be sent outside of the European Economic Area
- will not be used for any automated decision making

As a data subject, you have the legal right to:

- access personal data relating to you
- have all or some of your data deleted or corrected
- prevent your personal data being processed in some circumstances
- ask us to stop using your data, but keep it on record

Please note that exceptions apply to some of these rights which we may apply in accordance with the law. If you would like to exercise your rights, please contact us using the details set out above.

You also have the right to lodge a complaint with the Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at ico.org.uk, or telephone 0303 123 1113. ICO, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.



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