

Regulating Endorsement and Examiner-Author Conflicts

A Consultation on Regulating Awarding
Organisations' Endorsement Processes of
Textbooks and other Support Materials and the
Risks Arising where Examiners Write Resources



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Executive summary

1. There is a large range of resources available for students and teachers to use to support the teaching and learning of the curriculum, and help prepare students for assessment and exams. These include core textbooks or e-textbooks intended to cover all the content of a qualification or part of it, as well as revision guides, worksheets and other prepared support material available in print or online. Resources come from a range of sources, including commercial publishers, the awarding organisations and education websites as well as teachers and students themselves. Students and teachers will use these resources in the classroom or at home.
2. Some awarding organisations have arrangements with commercial publishers whereby they approve and endorse resources to support the teaching and learning of their qualifications. If a resource is successfully endorsed, the publisher promotes this by displaying a statement from the awarding organisation and its logo on the resource. The sale of these resources represents a significant market for educational publishers.
3. For a number of years, there has been general disquiet among stakeholders about the arrangements for endorsing resources. There is a concern that the current involvement of awarding organisations in the textbook market is impacting negatively on the quality of published learning materials, confidence in the exam system and, ultimately, on qualification standards.
4. A range of stakeholders have raised concerns about these arrangements. Concerns include the potential conflicts of interest where the authors of these resources are also examiners and how this might affect the predictability of assessments, and the potential for these arrangements to contribute to a narrow curriculum. In our *Textbook Action Plan – Textbooks: Risks and Opportunities*,¹ we identified and set out the evidence for the following risks from these arrangements to:
 - standards – resources written by senior examiners could compromise the confidentiality, integrity or predictability of assessments;

¹ www.ofqual.gov.uk/files/2012-11-07-textbooks-risks-and-opportunities-action-plan.pdf

- a healthy qualifications market – through, for example, the packaging and selling together of resource packages alongside qualifications in a way that impacts negatively on students and/or purchasers of qualifications;;
 - public confidence – through a perception or reality that the current endorsement arrangements bring risks to standards or unintended consequences because they result in resources too aligned to qualification specifications;
 - the effectiveness of learning – through the overall choice and quality of learning resources and whether these materials are more geared to helping students prepare for exams than they are to supporting engaged and effective teaching and learning.
5. We have now completed the further work we said we would do to evaluate these risks and to decide what action we should take.
 6. Overall we have concluded that it would not be in the interests of students to stop awarding organisations endorsing resources to support the teaching and learning of their qualifications. Endorsement processes can support a coherent curriculum. They can contribute to the range of resources available giving students and teachers confidence that the resources properly cover the specification of the qualification that is being taught.
 7. We are introducing a new General Condition of Recognition on endorsement arrangements. The purpose of the Condition is to build confidence in these arrangements and make sure resources endorsed to support the teaching and learning of a particular qualification do not impinge negatively on the standards or integrity of that qualification. We are requiring awarding organisations to publish the criteria that they use when deciding whether to endorse a resource. We are requiring awarding organisations to develop and apply the criteria in a way that manages any risks to qualification standards.
 8. We do not propose to require awarding organisations to endorse resources, but we are regulating the arrangements where they do. It is up to them to decide whether to include endorsed resources in the overall mix of available resources. The new Condition does not cover resources and materials which we already require awarding organisations to make available to teachers about their qualifications, such as sample past assessments.² Where the authors of

² In Condition D8 we require awarding organisations to make available information to help meet teachers' needs.

resources have access to confidential assessment materials, they are already required to keep these materials confidential.³

9. We are also introducing new guidance for the awarding organisations about our existing requirements concerning conflicts of interest and confidential assessment materials. This is to strengthen the assurance that assessments do not become more predictable, or any confidential assessment material compromised, because of resources that are written by individuals who are also senior examiners for the qualifications the resources support.
10. We are also taking this opportunity to propose guidance in relation to existing requirements on the packaging of qualifications with other products and services, which could include endorsed resources.
11. Overall, we expect the proposals to:
 - protect qualification standards, particularly through new specific guidance on managing the examiner-author conflict of interest;
 - make clear to teachers and students (and the wider public) the assurances that endorsement gives – and what it does not give;
 - give the public confidence that actual and perceived conflicts of interest are being managed effectively;
 - guard against resources being packaged with qualifications in a way that impacts negatively on students and/or the purchasers of qualifications.
12. We also expect the changes to our regulatory framework outlined above to encourage the development of high quality resources to support effective teaching and learning.
13. Resources are developed to support particular demands in the curriculum and to assessments. We have found that textbooks and other resource materials have become increasingly tied to specifications and, more significantly to assessments (exam preparation).
14. Teaching the curriculum in a narrow way, including an excessive focus on exam preparation is not in the overall interests of students and is damaging to their broader educational outcomes. A range of stakeholders have expressed

³ In Condition G4 we require awarding organisations to maintain confidentiality of assessment materials.

concerns that resources that are overly focused on exam preparation can contribute to teaching that is focused on assessment damaging public confidence in the qualification and broader educational system.

15. We want resources to be available in the market that students and teachers can trust. We want endorsement by an awarding organisation to provide positive assurance to the public about the quality of the resources to support effective teaching and learning rather than a perception of being too narrowly written or focused on exam preparation.
16. We will keep under review whether the proposed new General Condition of Recognition is having this effect. If the current concerns continue and there is evidence that the impact of endorsed resources on teaching is damaging standards and public confidence, we would consider more direct regulatory action in this area. We may need to work with others including the DfE on issues affecting students' broader educational outcomes such as narrow teaching.
17. We also consider it desirable for there to be a range of good quality resources available. An awarding organisation has incentives⁴, other than through regulation, to make sure there are adequate resources available in the market to support the teaching and learning of its qualifications. This can include working with more than one publisher. Our discussions with awarding organisations indicate they do not intend to enter into exclusive or generally restrictive endorsement arrangements in the future for GCSE and A levels.
18. We welcome this and were encouraged by the steps Pearson Education has taken to proactively run an open approach to endorsement to treat its publishing arm equally with third-party publishers. When we investigated the business separation measures between Pearson Education's publishing and awarding businesses, we found, for example, Pearson resources were not always in the marketplace earlier than other publishers' resources.⁵

⁴ *Summary of Host Research on Textbooks, Study Aids and Support Services*. Available at: www.ofqual.gov.uk/files/2012-11-07-textbooks-study-aids-and-support-services-research-summary.pdf

⁵ Results showed that Pearson Education published first for approximately half the subjects compared in the study. See our report *Conclusions on Pearson Education's Business Separation Measures – Awarding and Publishing*, available at: www.ofqual.gov.uk/files/2013-08-14-conclusion-on-pearson-business-separation-measures-v2.pdf

19. All awarding organisations must run their businesses to comply with competition law. We will continue to work closely with the competition authorities if there are competition issues impacting negatively on learners and the purchasers of qualifications that fall outside our regulatory powers.

About this consultation

20. This consultation is about introducing new regulatory requirements that apply to awarding organisations that endorse resources to support the teaching and learning of their qualifications. We explain what endorsement is in the next section of this consultation paper. We are also consulting on new guidance about how they should manage any risks to qualification standards where senior examiners also author resources. Most immediately, these proposals will affect the four exam boards that operate in England.
21. We explain the proposals we are consulting on, as well as the detail of a new Condition of Recognition and new statutory guidance under existing Conditions to implement this policy.
22. In this consultation paper, we set out:
 - the evidence for the risks we have identified;
 - the detail of the proposed controls, which are a mix of:
 - i. statutory guidance in relation to existing General Conditions of Recognition, to which awarding organisations must have regard; and
 - ii. a new General Condition of Recognition setting out specific requirements for awarding organisations to meet if they run an endorsement process.
23. We would like to know your views on the proposals before we finalise them. We are seeking views from awarding organisations, publishers and other stakeholders on the scope of these proposals and whether they mitigate the risks we have identified in a proportionate way.
24. We have not identified any impacts arising from our proposals on persons with protected characteristics under the Equality Act 2010.⁶ However, we encourage everyone who responds to the consultation to consider the potential equality impacts of our proposals and provide any relevant information or evidence that they may have in this regard.

⁶ The characteristics protected by the Equality Act 2010 are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, racial group, religion or belief, sex and sexual orientation.

25. We will publish an evaluation of the responses to the consultation and our conclusions later this year. Please respond to the consultation questions using one of these methods:
- Complete the online response form at <http://surveys.ofqual.gov.uk/s3/regulating-endorsement-and-examiner-author-conflicts>
 - Email your completed response document to consultations@ofqual.gov.uk – please include the consultation title in the subject line of the email and say who you are and in what capacity you’re responding.
 - Post your response to Regulating Endorsement Consultation – February 2014, Ofqual, Spring Place, Coventry Business Park, Herald Avenue, Coventry, CV5 6UB.
26. The closing date for this consultation is 6th May 2014.

What is endorsement?

27. Educational publishing is a significant market in the UK. Typically, publishers provide:
- core textbooks or e-textbooks and revision guides for students to use in the classroom or at home;
 - detailed teacher support in print or online;
 - additional worksheets and resources for students to use;
 - digital resources for both teachers and students, in a range of formats;
 - professional development courses, online support and examples of good teaching practice.
28. Currently, some exam boards endorse a range of different types of resources – both print and online – produced by educational publishers,⁷ including teacher guides, student books and revision aids. These arrangements currently focus on resources for general qualifications, in particular GCSEs and A levels, although some endorsement processes extend to resources used to support other qualifications widely taken in schools and colleges, such as Pearson’s BTEC qualifications.
29. The current practice is for endorsed resources to include an approval statement and bear the awarding organisation’s logo. This confirms a strong link between the awarding organisations’ qualifications and these publications.
30. Awarding organisations operate endorsement in different ways and some use more than one term to describe what is essentially giving similar assurances to teachers and students. Some approaches include the use of awarding organisation logos on endorsed resources.
31. Endorsed resources are important, but they are not the only resources used in the classroom.⁸ We know from our research that the availability of a range of

⁷ Pearson Education operates its education publishing arm separately from its qualifications business and endorses resources it publishes for Pearson Edexcel qualifications in the same way as third-party resources.

⁸ A survey conducted for us by HOST Policy Research in 2012 found teachers used, on average, five resources to support teaching and learning in the classroom. See *Summary of Host Research on*

good-quality resources is important to schools and colleges when they choose which particular exam board's specification to teach. It will be important to have high-quality resources available to support the teaching and learning of reformed GCSEs and A levels. We expect to accredit the first tranche of reformed qualifications⁹ this year for first teaching in September 2015.

32. Teachers and students have told us¹⁰ endorsement lets them know easily that a resource meets a certain standard of quality and covers the relevant specification. It can provide an additional assurance to teachers that the resource covers the full specification (or the defined section of it) in adequate depth.

Evidence base

33. We have already collected and reviewed a large amount of evidence and sought views from a range of stakeholders about endorsement arrangements, through:

- a public call for evidence;
- a survey and case studies carried out by HOST research;¹¹
- an analysis of published responses to the Education Select Committee;¹²
- an analysis of previously written reports and publicly expressed concerns about current market arrangements for textbooks and other learning resources;

Textbooks, Study Aids and Support Services. Available at: www.ofqual.gov.uk/files/2012-11-07-textbooks-study-aids-and-support-services-research-summary.pdf

⁹ English literature and language and maths GCSEs and English, physics, chemistry, biology, history, geography, psychology, art and design, sociology, business studies, economics and computing A levels.

¹⁰ *Summary of Host Research on Textbooks, Study Aids and Support Services*: www.ofqual.gov.uk/files/2012-11-07-textbooks-study-aids-and-support-services-research-summary.pdf

¹¹ *Summary of Host Research on Textbooks, Study Aids and Support Services*: www.ofqual.gov.uk/files/2012-11-07-textbooks-study-aids-and-support-services-research-summary.pdf

¹² www.parliament.uk/business/committees/committees-a-z/commons-select/education-committee/news/examinations-report-substantive-publication

- a review of a sample of written textbooks undertaken by Taylor Minnis,¹³ and
 - our investigation¹⁴ of Pearson Education's measures to separate its educational publishing and awarding activities.
34. A summary of this research was published in November 2012, when we issued our *Textbook Action Plan*.¹⁵
35. In the action plan, we said the risks from publishing arrangements were to:
- standards – resources written by senior examiners could compromise the confidentiality, integrity or predictability of assessments;
 - a healthy qualifications market – through, for example, the bundling and selling together of resource packages alongside qualifications in a way that impacts negatively on students and/or the purchasers of qualifications;
 - public confidence – through a perception or reality that the current publishing arrangements bring risks to standards or unintended consequences because they result in resources too aligned to qualification specifications;
 - the effectiveness of learning – through the overall choice and quality of learning resources and whether these materials are more geared to helping students prepare for exams than they are to supporting engaged and effective teaching and learning.
36. Overall, the evidence we present in the *Textbook Action Plan* suggests that there are pros and cons to the current endorsement processes. The Education Select Committee was quite sceptical about endorsement processes and suggested that endorsement should be approached differently. Some stakeholders believe awarding organisations should not be allowed to endorse or produce textbooks at all. Teachers, parents and students have expectations

¹³ www.ofqual.gov.uk/files/2012-11-07-textbooks-specifications-and-materials-research-standards-impact.pdf

¹⁴ www.ofqual.gov.uk/news/ofqual-publishes-report-on-pearson-education

¹⁵ www.ofqual.gov.uk/files/2012-11-07-textbooks-risks-and-opportunities-summary-of-evidence.pdf

about the assurances endorsement provides, but it is not clear whether these are consistent with current endorsement approaches.

37. As a result, we said we would review in detail awarding organisations' processes for endorsement.
38. Since then, we have also published our conclusions from our related work that investigated the specific arrangements at Pearson Education, which owns both an educational publisher and an awarding organisation. It provided evidence of significant changes, which we welcome, to separate these businesses more.
39. We concluded that Pearson Education had in place enough business separation measures and controls to mitigate the risks arising from its business model to an acceptable level.¹⁶ We signalled our further work on reviewing publishing arrangements across the sector. We said we needed to evaluate if regulatory controls were necessary and appropriate to protect qualification standards, improve the design and content of textbooks to support good teaching and learning, and give students an appropriate level of choice of resources.
40. In addition to the evidence we had already evaluated, we also met with a number of exam boards to ask them about their individual endorsement arrangements. While we have focused our additional research on resources to support general qualifications, we also spoke to City & Guilds to understand the similarities and differences in resources that are produced for other types of qualifications.

Policy conclusions.

41. On balance, we have concluded that it would not be in the interests of students to prevent awarding organisations endorsing resources to support the teaching and learning of their qualifications. There is research evidence that supports the principle of high quality textbooks being aligned to the curriculum and assessments as a way of supporting educational standards and as a factor in high-performing countries.¹⁷ Endorsement can contribute to the range of materials available by providing resources that teachers and students are

¹⁶ www.ofqual.gov.uk/news/ofqual-publishes-report-on-pearson-education

¹⁷ Oates, T (2012) *The role of high quality textbooks in raising educational standards – how we need to link textbooks to curriculum and to assessment – the evidence from transnational analysis – Working Paper*. Cambridge Assessment.

confident will properly cover the specification for the qualification that is being taught.

42. This is particularly important as schools and colleges get ready to teach new GCSE and A level qualifications.
43. Our research, however, has identified a number of areas where we can strengthen our regulatory requirements to build confidence that resources do not impinge negatively on the standards or integrity of the qualifications they are written to support. These are:
 - where resources, whether endorsed by an awarding organisation or not, are prepared by a senior examiner; and
 - the processes which awarding organisations have in place to select resources for endorsement.
44. We are therefore proposing statutory guidance that:
 - clearly sets out how we expect awarding organisations to manage conflicts of interest which arise where a senior examiner for a particular qualification is also an author of resources for the same qualification;
 - recognises the issues around confidentiality in relation to assessments which can arise where a senior examiner prepares resources;
45. This new guidance will cover endorsed resources as well as those that are not endorsed. The range of resources that would be covered by the guidance is explained in more detail in the implementation section of this consultation paper.
46. We also considered whether endorsement arrangements could continue to be self-regulated and concluded that regulatory controls were appropriate given the evidence to support the risk to our statutory objectives.
47. We are therefore proposing to introduce a new General Condition of Recognition that requires awarding organisations to:
 - run endorsement in a way that protects qualification standards and public confidence in regulated qualifications; and
 - to be transparent about the criteria they use for endorsement by publishing them.
48. We are requiring that endorsement is run in such a way that endorsed resources do not impinge negatively on the standards or integrity of the

qualification they are written to support. We are requiring awarding organisations to be much clearer about the criteria they use for endorsement.

49. High quality resources have a wider part to play in supporting good educational outcomes. We want students, teachers and other stakeholders to be able to trust that endorsed resources are available to support good teaching and learning. We want awarding organisation endorsement to reassure the public of the quality of the resources. This is instead of giving the current perception they are too narrowly written or over focused on exam preparation. This will support public confidence in the qualifications system and reduce risks to the quality of education.
50. We expect the changes to our regulatory framework outlined above to encourage the development of high quality resources. We will keep under review whether the proposed new General Condition of Recognition is having this effect.
51. We are also taking the opportunity issue guidance signalling the importance of awarding organisations having an approach to the packaging and selling together of qualifications with resources that does not impact negatively on students and the purchasers of qualifications.
52. Further detail on the proposed new General Condition of Recognition and the statutory guidance is set out in the implementation section of this consultation paper.

Implementation

53. Awarding organisations must comply at all times with our *Conditions of Recognition*.¹⁸ These are the main regulatory rules we use. We can take regulatory action against an awarding organisation that breaches, or is likely to breach, a Condition.
54. We also publish statutory guidance to help awarding organisations identify the types of behaviour or practices they could use to meet a Condition. Awarding organisations must have regard to such guidance, but they do not have to follow it in the same way as they must comply with the Conditions. However, an awarding organisation that decides to take a different approach to that set out in guidance must still be able to show it is meeting the Condition or Conditions to which the guidance relates.

¹⁸ www.ofqual.gov.uk/documents/general-conditions-of-recognition

55. In this section of the consultation paper, we explain in more detail the changes to our regulatory framework that we are proposing.
56. We have included a summary table that:
 - references and explains the purpose of each General Condition of Recognition relevant to this consultation;
 - explains the objective of the new proposed statutory guidance;
 - summarises and explains the scope of the proposed guidance.
57. The specific wording of the proposed guidance and new General Condition of Recognition is in the final section of the document.

Improving our existing guidance

Condition A4: Conflicts of interest

58. We require awarding organisations to identify and monitor all conflicts of interest and take all reasonable steps to make sure no conflict of interest affects the standards of and public confidence in the qualifications they offer.
59. In recent years, resources endorsed by exam boards have tended to be written by senior examiners. The exam boards have put contractual arrangements in place so examiners cannot overtly disclose their links to exam boards when writing books and other resources. However, the examiner-author link is clearly known.
60. A conflict of interest is defined in Condition A4 as including where:
 - A person who is connected to the development, delivery or award of qualifications by an awarding organisation has interests in any other activity which has the potential to lead to that person to act contrary to his or her interest in the development, delivery or award in accordance with the awarding organisation's Conditions of Recognition; or
 - An informed and reasonable observer would conclude that this was the case.
61. It is clear that a person who prepares resources for a qualification for which he or she is also a senior examiner would fall within the definition.
62. Examiner-authorship has the potential to affect standards through the narrowing of a specification or by contributing to an unacceptable degree of predictability of assessment. This could happen where, for example, the:

- use of questions, contexts and case studies in exam papers is very similar to that in resources;
 - style and construction of questions in the exam is mirrored in resources so students become familiar with them.
63. We are aware that some awarding organisations have set up or are setting up policies that mean senior examiners cannot write resources for qualifications for which they are contracted or employed by the awarding organisation as a senior examiner. We welcome this, but also recognise this may not always be practical, for example where there is a limited pool of potential authors and examiners, for example for specialist or low-volume subjects.
64. We are, therefore, introducing specific statutory guidance to assist awarding organisations in meeting their requirements in connection with identifying and managing this conflict.

The awarding organisation needs to be notified which of its senior examiners are also writing resources and then monitor their assessments for an unacceptable degree of predictability.

65. The scope of this guidance covers:
- individuals who are both senior examiners¹⁹ and authors of resources for the same specification; and
 - any published resource produced by an in-house or third-party publisher written for a particular specification. Examples include core textbooks or e-textbooks, study guides, revision guides, teacher guides and other online resources – these may or may not have been endorsed by an awarding organisation.
66. We are excluding from this guidance any resources or materials prepared by senior examiners who are also teachers for use solely in the classroom with their own students. We are currently reviewing the issues that arise where senior examiners are also teachers and will report on this separately.

Condition G4: Maintaining confidentiality of assessment materials, including the conduct of specified training events

67. We already require awarding organisations to take reasonable steps to protect the confidentiality of assessment materials and information about assessments.

¹⁹ Senior examiners include chairs of examiners, chief examiners, and principal examiners.

As part of this obligation we expect an awarding organisation must make sure its current (and former) staff and contractors who have access to such materials do not disclose their content. We issued specific guidance to include the conduct of specified training events.²⁰

68. The evidence is that breaches in confidentiality (such as a question from a textbook an awarding organisation has produced or endorsed being repeated in a live assessment) are very rare indeed. As technology and resources change, it becomes increasingly possible that exam questions could be released in other resources which are published ahead of the exam.
69. We are therefore proposing additional guidance under Condition G4 to underline the importance of this issue.
70. The guidance is that awarding organisation need to be notified which of its staff with access to confidential assessment materials are also writing resources, and then monitor their assessments for breaches in confidentiality.
71. The scope of this proposed guidance is:
 - current (and former) staff and contractors who have access to confidential assessment materials and are also authors of resources to support the teaching and learning of the qualification or part of a qualification for which they have confidential assessment materials
 - any published resource produced by an in-house or third-party publisher written for a particular specification. Examples include core textbooks or e-textbooks, study guides, revision guides, teacher guides and other online resources – these may or may not have been endorsed by an awarding organisation.
72. Again, we are excluding from this guidance any resources or materials prepared by current (and former) staff and contractors who have access to confidential assessment materials who are also teachers for use solely in the classroom with their own students.

Condition F2: Packaging qualifications with other products or services

73. We already place requirements on awarding organisations in relation to the packaging of qualifications with other products and services such as resources and selling as one product.

²⁰ www.ofqual.gov.uk/documents/guidance-to-the-general-conditions-of-recognition

74. Condition F2 requires that where an awarding organisation solely makes a qualification available as a package with other products and services it must consult with purchasers to make sure it is appropriate to continue to make that package available.
75. We are proposing guidance that makes clear our expectation that an awarding organisation will put in place, and follow, a policy on when they consider it appropriate to introduce or continue to offer such packages.
76. The proposed guidance indicates that we will not consider it to be appropriate to offer, or continue to offer, a package that has a negative impact on students and/or the purchasers of qualifications.
77. This could happen, for example if an awarding organisation worked exclusively with a particular publisher and this meant that students did not have access to potentially higher quality resources. Purchasers of qualifications may be affected if an awarding organisation is able to cross subsidise the prices between the products and services included in a package.
78. The scope of this proposed guidance includes all awarding organisations that make available qualifications solely in a package with other products or services.

Proposed new General Condition of Recognition on endorsement arrangements

79. Our earlier research set out the evidence supporting our concerns about the quality of learning resources in general. In particular, we concluded that a rather formulaic approach, influenced by current endorsement processes, can result in textbooks that are over focused on exam preparation at the cost of subject content and signposting to wider and more in-depth reading.
80. We believe that public confidence in endorsement arrangements would grow significantly if there was more information available to purchasers and the public about how endorsement processes work that the criteria awarding organisations use when endorsing a resource have been designed to protect qualification standards.
81. We are, therefore, proposing a new General Condition of Recognition that requires awarding organisations to run endorsement in a way that protects qualification standards, and to be clear about, and publish, the criteria they use for endorsement. We think this will make it much clearer to purchasers and users of these resources what they can expect of them.
82. We will also expect each awarding organisation to make sure that the resources it endorses are not marketed in a way that implies the resources contain privileged examiner insight or are needed to successfully complete an assessment.
83. Specifically, we will expect awarding organisations that run an endorsement process to:
- take all reasonable steps to make sure the endorsement process does not have an Adverse Effect²¹, and;
 - publish the criteria it uses to decide whether to endorse a particular resource.

²¹ And Adverse Effect is defined in Condition J1.8 as an act, omission, event, incident, or circumstance if it –

(a) gives rise to prejudice to Learners or potential Learners, or

(b) adversely affects –

(i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,

(ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or

(iii) public confidence in qualifications

A Policy and Technical Consultation on Regulating Processes for Endorsement of Textbooks and other Support Material Run by Awarding Organisations

84. The scope of this guidance covers all awarding organisations that endorses resources.
85. We also propose to publish statutory guidance to accompany this new Condition.

Summary of our proposals

Condition	Purpose of Condition	Objective of guidance	Summary of guidance
Condition A4	Identifying and managing conflicts of interest	To assist awarding organisations in meeting their requirements where they employ or contract with a senior examiner where she or he also writes resources for the qualification they examine.	<p>Guidance under this Condition is that awarding organisations:</p> <ul style="list-style-type: none"> ■ put in place contractual obligations on examiners to notify them promptly if they write supporting resources; ■ monitor that resources written by examiners are not contributing to the predictability of assessment materials. <p>The scope of this guidance covers:</p> <ul style="list-style-type: none"> ■ individuals who are both senior examiners and authors of resources for the same specification; and ■ any published resource produced by an in-house or third-party publisher written for a particular specification. Examples include core textbooks or e-textbooks, study guides, revision guides, teacher guides and other online resources – these may or may not have been endorsed by an awarding organisation.
Condition G4	Maintaining confidentiality of assessment materials	To underline the importance of awarding organisations taking reasonable steps to protect the confidentiality of assessment materials – including where individuals	<p>Guidance adds to existing guidance and is that awarding organisations:</p> <ul style="list-style-type: none"> ■ take steps to maintain the confidentiality of assessment materials in resources produced to support teaching and learning; ■ train staff who have access to confidential assessment

		with access to confidential materials write resources.	<p>materials and also write resources to support teaching and learning on how to protect confidential assessment materials;</p> <ul style="list-style-type: none"> ■ be notified by staff with access to confidential assessment materials where they are also writing resources that are published by an in-house or third-party publisher; ■ monitor assessments set by staff who have access to confidential assessment materials who also write resources that are published by an in-house or third-party publisher. <p>The scope of the notification and monitoring requirements are:</p> <ul style="list-style-type: none"> ■ current (and former) staff and contractors who have access to confidential assessment materials and are also authors of resources to support the teaching and learning of the qualification or part of a qualification for which they have confidential assessment materials; and ■ any published resource produced by an in-house or third-party publisher written for a particular specification. Examples include core textbooks or e-textbooks, study guides, revision guides, teacher guides and other online resources – these may or may not have been endorsed by an awarding organisation.
Condition F2	Packaging qualifications with other products or	To make clear our expectation that awarding organisations will put in place, and follow, a	<p>The guidance is:</p> <ul style="list-style-type: none"> ■ the awarding organisation to have and follow a policy; and ■ that it is not appropriate to continue to offer a package that

	services	policy regarding their consideration of their appropriateness introducing or continuing to offer of packages of qualifications with other products and services.	has a negative impact on students and/or the purchasers of qualifications.
New Condition C3	Arrangements with publishers	To make sure that any endorsement process used by an awarding organisation is transparent and does not impinge on the standards and integrity of qualifications.	<p>Guidance requires awarding organisations to:</p> <ul style="list-style-type: none"> ■ develop the criteria they use for endorsement in a way that manages any risks to qualification standards, and to publish the criteria; ■ give clear guidelines to relevant staff and contractors about how they should engage with publishers who are seeking endorsement of their resources; ■ take all reasonable steps to make sure their endorsement is displayed in the same way on all endorsed resources (through, for example, the use of their logo or text expressing the endorsement), including those produced by the awarding organisations or affiliate companies; ■ take all reasonable steps to make sure publishers of endorsed resources do not market them in a way that implies the resources contain privileged examiner insight or are needed to successfully complete an assessment or qualification.

Proposed additions to Recognition Conditions and guidance (draft legal text)

Condition A4: Conflicts of interest

Positive indicators

The awarding organisation:

- makes sure that its contractual arrangements with its senior examiners clearly set out any obligations on them to manage conflicts of interest arising from other activities that they undertake;
- puts in place contractual arrangements requiring all of its senior examiners to promptly notify the awarding organisation of all instances in which they have been, or are currently, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners for assessments for a qualification in respect of which they are contracted by the awarding organisation as a senior examiner. This does not apply to the preparation of teaching resources or materials by a senior examiner exclusively for Learners that he or she teaches;
- monitors assessments set by senior examiners who are, or have been, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners for assessments for a qualification in respect of which they are contracted by the awarding organisation as a senior examiner to ensure that the fitness for purpose of those assessments has not been compromised by that resource. This does not apply to the preparation of teaching resources or materials by a senior examiner exclusively for Learners that he or she teaches.

Negative indicators

The awarding organisation:

- does not ensure that its contractual arrangements with its senior examiners clearly set out any obligations on senior examiners to manage conflicts of interest arising from other activities that they undertake;
- does not put in place contractual arrangements requiring all of its senior examiners to promptly notify the awarding organisation of all instances in which they have been, or are currently, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners for assessments for a qualification in respect of which they are contracted by the awarding organisation as a senior examiner. This does not

apply to the preparation of teaching resources or materials by a senior examiner exclusively for Learners that he or she teaches;

- does not monitor assessments set by senior examiners who are, or have been, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners for assessments for the same qualification to ensure that the fitness for purpose of those assessments has not been compromised by that resource. This does not apply to the preparation of teaching resources or materials by a senior examiner exclusively for Learners that he or she teaches.

For the purposes of this guidance, a 'senior examiner' in respect of a qualification is a person who is employed or contracted by an awarding organisation to perform one of the roles outlined below –

- a) Chair of examiners – the person responsible to the awarding organisation for maintaining standards across different specifications in a subject within a qualification and from year to year.
- b) Chief examiner – the person responsible to the chair of examiners for ensuring that assessments for a qualification meet the requirements of the specification and maintain standards from one year to the next.
- c) Principal examiner – in relation to each unit or component of a qualification, the person responsible for the setting of the question paper/task and the standardisation of its marking.

Condition G4: Maintaining confidentiality of assessment materials, including the conduct of specified training events

Positive indicators

In addition to existing guidance

The awarding organisation:

- takes all reasonable steps to ensure that resources designed to support the preparation of Learners and persons likely to become Learners which are prepared by current (and former) staff and contractors who have confidential information in relation to that qualification do not compromise the confidentiality of assessment materials for that qualification;
- trains relevant staff about how to protect confidential assessment materials including during the preparation of any resources designed to support the preparation of Learners and persons likely to become Learners, for a qualification in respect of which they have access to confidential assessment materials;
- requires all current (and former) staff and contractors who have confidential information to notify the awarding organisation promptly of all instances in which they have been, or are currently, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners, for a qualification in respect of which they have access to confidential assessment materials. This does not apply to the preparation of teaching resources or materials by a current (or former) contractor exclusively for Learners that he or she teaches;
- monitors assessments set by all current (and former) staff and contractors who are, or have been, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners, for assessments for the same qualification in respect of which they have confidential information to ensure that the confidentiality of those assessments has not been compromised by that resource. This does not apply to the preparation of teaching resources or materials by a current (or former) contractor exclusively for Learners that he or she teaches.

Negative indicators

In addition to existing guidance

The awarding organisation:

- does not take all reasonable steps to ensure that resources designed to support the preparation of Learners and persons likely to become Learners which are prepared by current (and former) staff and contractors who have confidential information in relation to that qualification do not compromise the confidentiality of assessment materials for that qualification;
- does not train relevant staff about how to protect confidential assessment materials including during the preparation of any resources designed to support the preparation of Learners and persons likely to become Learners, for a qualification in respect of which they have access to confidential assessment materials;
- does not require all current (and former) staff and contractors who have confidential information to notify the awarding organisation promptly of all instances in which they have been, or are currently, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners, for a qualification in respect of which they have access to confidential assessment materials. This does not apply to the preparation of teaching resources or materials by a current (or former) contractor exclusively for Learners that he or she teaches;
- does not monitor assessments set by all current (and former) staff and contractors who are, or have been, involved in the preparation of a resource designed to support the preparation of Learners and persons likely to become Learners, for assessments for the same qualification in respect of which they have confidential information to ensure that the confidentiality of those assessments has not been compromised by that resource. This does not apply to the preparation of teaching resources or materials by a current (or former) contractor exclusively for Learners that he or she teaches.

For the purposes of this guidance, a 'senior examiner' in respect of a qualification is a person who is employed or contracted by an awarding organisation to perform one of the roles outlined below –

- a) Chair of examiners – the person responsible to the awarding organisation for maintaining standards across different specifications in a subject within a qualification and from year to year

- b) Chief examiner – the person responsible to the chair of examiners for ensuring that assessments for a qualification meet the requirements of the specification and maintain standards from one year to the next.
- c) Principal examiner – in relation to each unit or component of a qualification, the person responsible for the setting of the question paper/task and the standardisation of its marking

Condition F2: Packaging qualifications with other products or services

Positive indicators

The awarding organisation:

- puts in place, and follows, a policy which includes details of how it will consider whether or not it is appropriate to introduce or continue to make a qualification available in a package together with other products and services.

Negative indicators

The awarding organisation:

- does not put in place a policy which includes details of how it will consider whether or not it is appropriate to introduce or continue to make a qualification available in a package together with other products and services, or does not follow such a policy which it has put in place;
- considers that it is appropriate to make a qualification available in a package together with other products and services where that package has a negative impact on students and/or the purchasers of qualification.

Condition C3: Arrangements with publishers

C3.1 Where an awarding organisation has in place an endorsement process the awarding organisation must:

- a. take all reasonable steps to ensure that the endorsement process does not have an Adverse Effect, and;
- b. publish the criteria which it uses to decide whether or not to endorse a particular resource.

C3.2 For the purposes of this Condition, an 'endorsement process' is a process by which the awarding organisation endorses resources which are designed to support the preparation of Learners and persons likely to become Learners for assessments for a qualification which it makes available or proposes to make available.

Positive indicators

The awarding organisation:

- considers the possible Adverse Effects that endorsement of resources could have when developing the criteria which it uses to decide whether or not to endorse a particular resource and seeks to prevent or mitigate those Adverse Effects through those criteria;
- gives clear guidelines to relevant staff and contractors on engagement with publishers seeking endorsement of their resources;
- takes all reasonable steps to ensure that its endorsement is signalled in the same way for all endorsed resources (through, for example, the use of its logo or text expressing the endorsement), including those produced by the awarding organisation itself or an affiliate company;
- takes all reasonable steps to ensure that publishers of endorsed resources do not market an endorsed resource in a way which implies that the resource contains privileged examiner insight or that its use is necessary for the successful completion of an assessment or qualification.

Negative indicators

The awarding organisation:

- does not consider the possible Adverse Effects that endorsement of resources could have when developing the criteria which it uses to decide whether or not

to endorse a particular resource or does not seek to prevent or mitigate those Adverse Effects through those criteria;

- does not give clear guidelines to relevant staff and contractors on engagement with publishers seeking endorsement of their resources;
- does not take reasonable steps to ensure that its endorsement is signalled in the same way for all endorsed resources (through, for example, the use of its logo or text expressing the endorsement), including those produced by the awarding organisation itself or an affiliate company;
- does not take all reasonable steps to ensure that publishers of endorsed resources do not market an endorsed resource in such a way as to imply that the resource contains privileged examiner insight or that its use is necessary for the successful completion of an assessment or qualification.

Information pages

About you*

Your details:

Name:	Charlie Stripp
Position:	Chief Executive
Name of organisation or group (if applicable):	Mathematics in Education and Industry
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Email:	charlie.stripp@mei.org.uk
Telephone number:	07771864507

Would you like us to treat your response as confidential?* If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Are the views you express on this consultation an official response from the organisation you represent or your personal views?*

Personal views

Official response from an organisation/group (please complete the type of responding organisation tick list)

If you ticked 'personal views', which of the following are you?

Student

Parent/carers

A Policy and Technical Consultation on Regulating Processes for Endorsement of Textbooks and other Support Material Run by Awarding Organisations

Teacher (but not responding on behalf of a school or college)

Other (including general public) (please state capacity) _____

If you ticked 'official response from an organisation/group', please respond accordingly:

Type of responding organisation*

Awarding organisation

Local authority

School/college (please complete the next question)

Academy chain

Private training provider

University or other higher education institution

Employer

Publisher of resources

Other representative group/interest group (please skip to type of representative group/interest group)

School/college type

Comprehensive/non-selective academy

State selective/selective academy

Independent

Special school

Further education college

Sixth form college

None of the above (please state what) _____

Type of representative group/interest group

- Group of awarding organisations
 - Publisher
 - Employer/business representative group
 - Subject association/learned society
 - Equality organisation/group
 - School/college or teacher representative group
 - None of the above (please describe the nature of your group)
-

MEI is a charity and a membership organisation. It is an independent curriculum development body for mathematics. It is a major provider of mathematics teaching and learning resources, and of mathematics CPD for secondary school and post-16 mathematics teachers.

MEI developed and manages the DfE-funded Further Mathematics Support Programme.

Nation*

- England
- Wales
- Scotland
- Northern Ireland
- Other EU country (please state which) _____
- Non-EU country (please state which) _____

How did you find out about this consultation?

- Our newsletter or another of our communications
- Via internet search
- From our website
- From another organisation (please state below)
- Other (please state below)

May we contact you for more information?

Yes

No

*Denotes mandatory fields

Questions

A. To what extent do you agree or disagree that the endorsement of resources by awarding organisations for the teaching and learning of qualifications should be allowed.

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know/no opinion

Please provide comments or evidence to support your answer

Trans-national evidence shows that curriculum coherence i.e. a strong link between curriculum development, teaching resources and assessment, is necessary, but not sufficient, to produce a high-performing education system. Endorsement by awarding organisations is not the best way of providing the link between teaching resources and assessment, but it should not be ruled out. Narrow instrumentalism across the system, driven by high stakes accountability measures and the nature of many current assessments, is the problem, not the endorsement of resources by awarding organisations.

B. To what extent do you agree or disagree that we have correctly identified the risks that endorsement creates. (para 35)

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know/no opinion

Please provide comments or evidence to support your answer

These are all risks to be taken into account, but they are not 'created' by endorsement. In particular the risk to the effectiveness of learning is not created by endorsement; the current arrangements can lead to the spread of narrow instrumentalism from one part of the system to another but could equally lead to the spread of good practice.

C. To what extent do you agree or disagree that where an endorsement process is set up, the controls we are proposing are appropriate to manage these risks sufficiently.

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- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know/no opinion

Please provide comments or evidence to support your answer

The requirement for exam boards to be more transparent about the meaning of endorsement is to be welcomed, but the risk remains that teachers will put more weight on the meaning of 'Endorsed by Exam Board' than it deserves. There is a body of literature on the features of a high-quality textbook in mathematics; is there any requirement that exam boards take account of this in their endorsement process? If not, then the risk to effectiveness of learning is not ameliorated.

D To what extent do you agree or disagree that the draft new guidance in relation to Condition A4, about conflicts of interest when a senior examiner also prepares resources for a qualification, is appropriate?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know/no opinion

Please provide comments or evidence to support your answer

This guidance seems proportionate, though it is likely to result in exam boards requiring that their senior examiners do not write resources linked with the relevant specification, as the implicit requirement to check resources is too onerous. This appears to be, from Para 63, what Ofqual would like to happen. The regulations and guidance should be adequate in those cases where there is a small pool of potential authors and examiners.

The exception needs to be for resources prepared for learners *in the institution in which* the senior examiner teaches; teachers are often required to share resources as part of their job.

E To what extent do you agree or disagree that the draft new guidance in relation to Condition G4, about maintaining confidentiality of assessment material, is appropriate?

- Strongly agree

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- Agree
- Disagree
- Strongly disagree
- Don't know/no opinion

Please provide comments or evidence to support your answer

Condition G4 is unclear. It refers to 'staff and contractors', and then at the end defines a 'senior examiner'. It would be unfortunate if the effect of this guidance was that exam boards prevent all revisers and checkers from writing teaching resources; this is one way in which successful curriculum developers and resource providers, such as staff members of MEI, can help to support curriculum coherence. A requirement to inform the exam board of resources they (revisers and checkers) write and a contract/agreement that requires confidentiality should be sufficient.

F To what extent do you agree or disagree that the draft new guidance in relation to Condition F2, about packaging qualifications and resources together, is appropriate?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know/no opinion

Please provide comments or evidence to support your answer

This approach should deal with any current excesses, while still allowing the positive features that such packaging can encourage, as evidenced in trans-national studies and the UK experience of SMP resources and examinations in mathematics in the 1980s.

G To what extent do you agree or disagree that the draft new condition C3 and related, about awarding organisations arrangements with publishers, is appropriate?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- Don't know/no opinion

Please provide comments or evidence to support your answer
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This approach is appropriate, but will not deal with the risk to effective learning.

H. To what extent do you agree or disagree that public confidence in these arrangements will be improved as a result of the proposals.

Strongly agree

Agree

Disagree

Strongly disagree

Don't know/no opinion

Please provide comments or evidence to support your answer

I. Are there any other alternatives to introducing regulatory controls that we should be considering for endorsement processes?

J. What criteria for endorsement would you like exam boards to use to improve the quality of endorsed resources?

The key criterion is whether the resource is of high quality and 'supports effective teaching and learning' (para 15). Ofqual could summarise the literature that is available on evaluating mathematics textbooks, and exam boards could be required to report whether they gave due regard to the Ofqual document in their endorsement process.

Equality impact assessment

We have not identified any aspects of the proposed changes to our Conditions or guidance that may have a negative impact on students because of age, gender reassignment, pregnancy and maternity, religion or belief, sex, sexuality, racial group, marital status, dependents or disability.

Question K

Are there any specific positive or negative impacts on people who share particular characteristics²² that we should consider in relation to these draft Conditions? If so, what are they and how could we address any negative impacts?

Regulatory impact assessment

Question L

Would any of our proposals have financial or wider resource consequences, positive or negative, for schools, exam boards, publishers or others? Please provide evidence to support your answer.

New developments can be harmed by this whole approach. For example, Core Maths qualifications are currently being developed for 16-19 year olds who have achieved grade C in GCSE Maths but who do not wish to follow a GCE Maths course. There is limited expertise available to develop the curriculum (none is laid down by the DfE), to develop resources and CPD and then to write assessments. MEI is keen to be involved in curriculum development in Core Maths, and in writing resources and offering CPD. The staff involved in this develop a deep understanding of the issues involved in making this work for a new cohort of students, but are not allowed to be involved in setting exam questions. The exam board has to find senior examiners who have not been involved in the development, and may well struggle to do so; this could put the success of the whole project at risk.

It is inevitable that when something new is being developed that there will be a limited pool of people with the expertise to develop the curriculum, write resources, offer CPD and write exam questions. The proposals in this consultation do add risk to such developments.

²² Including those defined by the Equality Act 2010, namely: age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, sexual orientation.

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This publication is also available on our website at www.ofqual.gov.uk

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