

Conflict of Interest Policy and Procedure

Policy

Introduction

This Policy and Procedure sets out Gateway Qualifications' approach to identifying, monitoring, and managing potential or actual conflicts of interest whilst ensuring compliance with regulatory requirements.

Generally, conflicts of interest occur where an organisation or an individual has competing interests which might impair its or their ability to make objective, unbiased decisions which may arise within a Recognised Centre ("Centre") or within Gateway Qualifications. This Policy sets out how Gateway Qualifications identifies and monitors conflicts of interest through controls to manage, mitigate and/or remove any identified conflict in order that the integrity of its qualifications and regulatory compliance is maintained.

Management of conflicts of interest can also reduce risks at strategic and operational levels, heighten awareness of potential conflicts and associated risks and promote good management and organisational practices.

This Policy should be read alongside Gateway Qualifications' terms and conditions (centre agreement), and the following Gateway Qualifications' policies:

- Malpractice and maladministration policy and procedure
- Sanctions policy.

Scope

This Policy applies to all stakeholders involved in the development, delivery and awarding of all Gateway Qualifications provision, including:

- Centres - including all Centre staff, associates, freelance staff and contractors
- Gateway Qualifications' Board of Trustees and Committee members
- Gateway Qualifications' staff
- Gateway Qualifications' Wider workforce – including consultants, qualification developers, assessment associates, Internal/External Quality Assurers, Centre and Subject Moderators.

Definition of a conflict of interest

A conflict of interest is a situation that occurs when an individual, or organisation, has competing interests or loyalties. In the case of an individual, the conflict of interest could compromise or appear to compromise their decisions if it is not properly managed.

Gateway Qualifications has adopted Ofqual's definition of a conflict of interest, which also supports its compliance with the Quality Assurance Agency (QAA) Licensing Criteria, as follows:

A conflict of interest exists in relation to an awarding organisation where:

- (a) its interests in any activity undertaken by it, on its behalf, or by a member of its Group have the potential to lead it to act contrary to its interests in the development, delivery and award of qualifications in accordance with its Conditions of Recognition or licensing criteria
- (b) a person who is connected to the development, delivery or award of qualifications by the awarding organisation has interests in any other activity which has the potential to lead that person to act contrary to their¹ interests in that development, delivery or award in accordance with the awarding organisation's Conditions of Recognition or licensing criteria
- (c) an informed and reasonable observer would conclude that either of these situations was the case.

For Centres providing Access to HE provision, the QAA defines 'Conflicts of Interest' as: Conflicts may arise during engagement or tenure, where providers reasonably believe the interests of one party affect the motivations or impartiality of another. This might include close personal or professional relationships with staff, students, or previous experts involved in their area of responsibility, an excessive influence due to their standing in other roles, or because their inclusion in a team of experts creates an unbalanced view.

Details

A conflict of interest may be ongoing or temporary, and can also build up over time due to an excessive engagement period or re-engagement by the same provider.

A Conflict of Interest can be:

- personal or organisational
- financial or non-financial
- perceived, potential or actual.

Having a conflict of interest does not prohibit Gateway Qualifications from permitting a conflict of interest, so long as there is a policy and procedure in place to identify, mitigate, manage, monitor and review so as to prevent any adverse effects from arising. However, some of the Ofqual Conditions do prohibit certain Conflicts of Interest in specific circumstances:

- **Condition A8.3** prohibits anyone with a personal interest in the outcome of an investigation into potential malpractice from carrying out investigations of suspected or alleged malpractice
- **Condition G4.6** prohibits anyone with a personal interest in the outcome of the investigation into potential breaches of confidentiality from carrying out investigations of suspected or alleged breaches of confidentiality
- **Condition I1.2** prohibits anyone with a personal interest in the decision being appealed from taking decisions on that appeal.

¹ Adapted from his or her within Ofqual's version

For Centres providing Access to HE provision, the QAA prohibits certain Conflicts of Interest in specific circumstances:

- **Licensing Criteria 68:** No one involved in the development of a Diploma, or who has an immediate or potential conflict of interest in the decision about a proposed Diploma, is involved in the process of validation of that Diploma or in monitoring and confirming whether conditions for approval have been met.
- **Licensing Criteria 107:** Moderators are: (a) external to the provider (b) not directly involved in admissions decisions for students progressing from a Diploma course that they moderate.
- **Licensing Criteria 105:** Agreements between the moderator and the AVA specify: (a) the moderator's duties and term of service (b) the criteria and process for termination of a moderator's employment c the nature of the relationship between the moderator and the AVA (that is that they are directly accountable to the AVA, do not have any conflicts of interest and are not part of a providing or receiving institution or any other body and cannot subcontract any of their work).

Personal Interest

A personal interest is a conflict of interest that relates to a particular individual. All conflicts of interests that fall under part (b) of the definition are personal interests, as are any perceived conflicts of interest under part (c) that relate to individuals, rather than to the awarding organisation itself.

A personal interest can be financial or non-financial in nature.

Examples of where personal interest conflicts can be present and **must** be avoided include:

- the assessment of a learner being undertaken by a person who has a personal interest in the result of the assessment
- an assessment and internal quality assurance activity undertaken by the same person
- an assessment delivered by a person that has trained the Learner
- anyone with a personal interest in the outcome of an investigation into potential malpractice or a breach of confidentiality from carrying out the investigation into malpractice or breach of confidentiality
- anyone with a personal interest in the decision being appealed from taking decisions on that appeal
- anyone with a personal interest in a complaint being reviewed from taking decisions on that complaint.

Organisational Interest

Gateway Qualifications Recognised Centres

Examples of Centre related Conflicts include:

- member of Centre staff pursues a qualification offered by the Centre
- member of Centre staff has a partnership or subcontracting agreement with a third party which both parties have an interest
- staff and third parties who have access to confidential assessment information also have roles in teaching or assessing learners in the subject area

- staff and third parties who have access to confidential assessment information have a family member, friend or colleague who is due to take those assessments
- a Gateway Qualifications' EQA or Moderator has a professional interest in a Gateway Qualifications' Centre

Gateway Qualifications

An organisational conflict relates to Gateway Qualifications and its ability to make objective, unbiased decisions about how best to develop, deliver or award its qualifications.

Examples of where organisational conflicts can be present and **must** be avoided include:

- when the awarding organisation is also a training provider
- when the awarding organisation has a financial stake in any of its suppliers or third parties
- when the awarding organisation has a financial stake in any of its centres
- a member of Gateway Qualifications' Board of Trustees or a Committee member has a professional interest in a Gateway Qualifications' Centre
- where employment, monetary gain, gifts or hospitality could be gained from a decision made in favour of a particular supplier.
- an individual is writing, assessing, marking or moderating assessments for Gateway Qualifications works for a Centre or a training provider that delivers the same or similar qualification(s).

The lists detailed above are not exhaustive.

Centre responsibilities

We expect that Centre staff involved in the management, assessment and quality assurance of our regulated qualifications or units and their learners, are aware of this policy.

Centres must also have in place a Conflict of Interest policy and procedure that outlines how they receive, review, record and monitor conflicts of interest affecting Gateway Qualifications' provision. The Centre policy should reflect and complement the requirements laid out in this Policy.

Centre staff, including administrative and management staff, and any contractors must understand and be made fully aware of their obligation to report conflicts of interest to the responsible person in the Centre, for onward reporting to Gateway Qualifications.

Gateway Qualifications' responsibilities

Gateway Qualifications is responsible for ensuring that any conflicts of interest in the development, delivery or award of its qualifications, whether they be directly assessed or Centre assessed are identified and managed or removed. It will do this through:

- procedures and activities to minimise the risk of conflicts occurring,
- processes to identify, manage, mitigate and control conflicts of interest,
- processes and procedures to monitor conflicts of interest and associated mitigating actions,

- processes and procedures to deal with any incidents should they occur, reporting to the regulator where required
- processes and procedures to investigate any non-disclosure of Conflicts of Interest
- the monitoring of Centre Conflict of Interest Policies and procedures via the Centre Assessment Standards Scrutiny strategy (CASSS) to ensure compliance.

As part of regulatory requirements Gateway Qualifications' will take all reasonable steps to mitigate the conflict of interest and ensure that it does not have an Adverse Effect². Where an identified conflict of interest has an Adverse Effect Gateway Qualifications will take all reasonable steps to mitigate the Adverse Effect as far as possible and correct it. Where an Adverse Effect is identified, Gateway Qualifications will also consider the appropriateness of an investigation under its Malpractice and Maladministration Policy and its obligations to notify the relevant regulator.

Procedure

Centre

Procedure for reporting	Procedure for reviewing
Centres are required to identify and monitor all conflicts of interest, including those that involve personal interests. Centres must ensure that both actual conflicts of interest or where they may be potential or perceived conflicts of interest are identified, recorded and managed appropriately.	Conflict of interest declarations from Centres will be reviewed by the Centre Compliance Manager. Where it is considered that the mitigation applied by the Centre is not sufficient the Centre Compliance Manager will contact the Centre to discuss the issue and agree an acceptable approach.
Centres must report all declarations of all conflicts of interest to Gateway Qualifications' without delay by completing the Declaration of Interest form on Gateway Qualifications' website https://www.gatewayqualifications.org.uk/advice-guidance/policies/centre-declaration-of-interest/ .	The removal or minimisation of any potential for Adverse Effect will be considered in such decisions. In the case of a lack of consensus on such matters the Director of Awarding will review the situation and agree the appropriate mitigation.
Where changes to an individual's conflict of interest occurs, including where the conflict of interest no longer applies, the Centre must advise Gateway Qualifications.	

2 Ofqual Handbook: General Conditions of Recognition Definition Adverse Effect:

An act, omission, event, incident, or circumstance has an Adverse Effect 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.

Gateway Qualifications' staff, contractors and wider workforce

Procedure for reporting	Procedure for reviewing
<p>Gateway Qualifications staff, contractors, and wider workforce must report any conflict of interest and any activity that might create a potential conflict of interest. All Gateway Qualifications' staff, contractors and wider workforce will complete a Conflict of Interest declaration form upon appointment, with a requirement to confirm declarations annually and when they are subject to any change of status.</p> <p>A change of status may include, for example, a change to their position, responsibilities, other work, new directorships.</p> <p>For those involved in the assessment of Learners, they will also be required to declare any potential or actual conflicts on a per learner basis.</p>	<p>Declaration forms, including updated declarations, are reviewed by the appropriate line/contract manager and added to the conflicts register. Where a conflict of interest is identified it will be escalated by the line/contract manager to the appropriate Director or the Chief Executive Officer for review and the necessary controls and/or mitigations will be applied, and communicated to those individuals, and relevant line/contract managers informed to support the mitigation and management of the conflict.</p> <p>The Chair of the Board of Trustees will review and approve any mitigations and controls to manage any conflicts of interest identified for the Chief Executive Officer and Responsible Officer and update the conflicts register.</p>

Gateway Qualifications' Trustees and Committee members

Procedure for reporting	Procedure for reviewing
<p>Trustees and Committee members must report any conflict of interest and any activity that might create a potential conflict of interest.</p> <p>All Gateway Qualifications' staff, contractors and wider workforce will complete a Conflict of Interest declaration form upon appointment, with a requirement to confirm declarations annually and when they are subject to any change of status.</p> <p>A change of status may include, for example, a change to their position, responsibilities, other work, new directorships.</p>	<p>The Chief Executive Officer will review and approve any mitigations and controls to manage any conflict of interest identified for Trustees; the Vice Chair of the Board of Trustees reviewing and approving conflicts of interest with regard to the Chair of the Board and update the conflicts register.</p> <p>At the commencement of any Board, or Committee meeting Trustees and Committee members are additionally asked to consider and declare any conflicts of interest with regards to the business of the meeting. Any change to declared conflicts will be recorded and appropriate mitigations agreed to progress the meeting.</p>

Recording conflicts of interest

All conflicts of interest, along with the agreed mitigation(s) and controls, are recorded on the Conflicts of Interest register.

Non-disclosure

Alleged breaches of conflict of interest may be identified via whistleblowing, complaints, or via quality assurance activity (e.g. sampling and observation activities).

Alleged breaches will be investigated by Gateway Qualifications. Gateway Qualifications will ensure that investigations are taken by individuals who have no personal interest in the investigation and have the appropriate competence to investigate such matters.

Managing conflicts of interest

Gateway Qualifications' External Quality Assurers (EQAs) will review arrangements for conflicts of interest as part of their Centre monitoring activity. Mitigations for conflicts, whether real or potential will be considered by the Centre Compliance Manager to enable a consistent and proportionate approach for all conflicts.

Where a Centre has reported a change or that a conflict of interest no longer applies the Conflicts of Interest Register will be updated.

Agreement on mitigations

Gateway Qualifications may seek to discuss the appropriateness of any mitigation of a declared conflict of interest with the Centre's Quality Assurance Contact. Gateway Qualifications' Centre Compliance Manager, will confirm acceptable mitigations are in place, or where there are further concerns will confer with the Director of Awarding.

Gateway Qualifications' reserves the right to specify any controls or mitigations in relation to potential or actual conflicts of interest if agreement cannot be reached with a centre.

Suitable mitigations to support the management of conflicts of interest

- The conflict of interest is removed – for example by moving the responsibility for a process to another staff member
- Applying additional scrutiny and controls where an assessor has a personal interest in the outcome of a learner assessment
- An independent Internal Quality Assurer (IQA) is employed where the usual IQA undertakes assessment activity
- Staff members seeking to pursue qualifications and assessments offered by the Centre are registered and assessed at another Centre
- Not allowing individuals to participate in any discussions/decisions relating to the conflict of interest, and requiring them to leave the meeting when the item is discussed
- Contracts that include information on other roles or responsibilities the individual is not permitted to carry out whilst engaged by the contracting organisation
- Where an individual has previously worked for a Centre, not allowing them to participate in monitoring that Centre within a 12-month period of leaving the Centre
- Individuals involved in assessment development will not deliver training to Centres where this would be deemed to be prohibited training.

The above is not an exhaustive list.

Investigations

If an actual or potential conflict of interest is found not to have been disclosed, Gateway Qualifications will carry out an investigation to assess whether the conflict of interest has had an Adverse Effect and appropriate action will be taken.

Data protection

The information provided in any conflict of interest disclosure will be processed in accordance with the data protection principles as set out in the Centre Agreement terms and conditions.

Data will only be processed to ensure that all persons to whom this policy relates act in the best interests of the learners, the Centres delivering the qualifications and Gateway Qualifications. The information provided will not be used for any other purpose. Gateway Qualifications will only disclose information if required to do so by law, government, or Regulators.

Review arrangements and monitoring

Gateway Qualifications will review this Policy and its associated procedures annually and as part of its self-evaluation arrangements, and revise it when necessary in response to customer feedback, findings from internal and external monitoring arrangements, changes in internal practices, actions from the regulatory authorities or other external agencies, or where there may be changes in legislation. All reviews will be subject to checks for ongoing reliability and validity in relation to the management and operation of the conflict of interest policy.

Gateway Qualifications' Quality and Standards and Access to HE Committees are responsible for monitoring the effectiveness of the application of this Policy and Procedure. An annual summary is also submitted to the Board of Trustees for monitoring and ratification.

Contact us

If you have any queries about the contents of the policy, please contact:

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Ofqual General Conditions of Recognition

Condition A4: Conflicts of interest
Condition A8: Malpractice and maladministration
Condition C1: Arrangements with third parties
Condition C2: Arrangements with Centres

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

Conditions I1: Appeals process

Qualifications Wales Standard Conditions

Condition A4: Conflict of Interest

Condition A8: Malpractice and maladministration

Condition C1: Arrangements with third parties

Condition C2: Arrangements with Centres

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

Conditions I1: Appeals process

QAA licensing criteria

Criteria 2: Governance

Criteria 68: Provider and course recognition

Criteria 105: Standardisation and moderation