



Consultation on rules and regulations on teacher involvement in exam development

**A response by
The Chartered Institute of Legal Executives**

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1. Introduction

- 1.1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. CILEx represents around 20,000 members, which includes approximately 7,500 qualified Chartered Legal Executive lawyers.
- 1.2. CILEx is also a nationally recognised Awarding Organisation, regulated by Ofqual, Qualifications Wales and CCEA.
- 1.3. CILEx continually engages in the process of policy and law reform. At the heart of this engagement is public interest, as well as that of the profession. Given the unique role played by Chartered Legal Executives, CILEx considers itself uniquely placed to inform policy and law reform.
- 1.4. As it contributes to policy and law reform, CILEx endeavours to ensure relevant regard is given to equality and human rights, and the need to ensure justice is accessible for those who seek it.

2. Question 1: Do you have any comments on the wording of the proposed amended Condition A4.3? For specific comments, please refer to the relevant line numbers in your response.

- 2.1. It is imperative that awarding organisations protect the integrity of confidential assessment materials. CILEx endorses the proposed wording for Condition A4.3 to make it an explicit requirement for awarding organisations to maintain an up to date conflicts of interest register.

3. Question 2: Do you have any comments on the wording of the proposed amended guidance for Condition A4? For specific comments, please refer to the relevant line numbers in your response.

- 3.1. CILEx welcomes the clarity provided by Ofqual in relation to its requirements for Condition A4. The proposed guidance for Condition A4 is both robust and fair.
- 3.2. The reference to ‘third parties’ makes it clear that Condition A4 applies to anyone who develops or otherwise sees information about confidential assessment materials.
- 3.3. In relation to line 31, CILEx welcomes the inclusion of an example. Ofqual may wish to include other examples of resources designed to support the preparation of learners and persons likely to become learners for assessment for that qualification.
- 3.4. CILEx notes that the wording of the negative indicators is clear. However, it should be noted that whilst awarding organisations may take all reasonable steps to identify, monitor and mitigate all conflicts of interests, an awarding organisation will not know, what it is not told.

4. Question 3: Do you have any comments on the wording of lines 42 onwards of the proposed amended guidance for Condition A8? For specific comments, please refer to the relevant line numbers in your response.

- 4.1. CILEx supports Ofqual’s intention that where malpractice is found, in relation to a teacher disclosing confidential assessment information, they should be held accountable by the relevant authority.

- 4.2. The wording of lines 42 onwards is clear. However, CILEx would welcome advice from Ofqual of the relationship between Ofqual and the Teaching Regulation Authority (TRA).

5. Question 4: Do you have any comments on the wording of the proposed amended Condition G4.3, G4.5 or the title of the condition? For specific comments, please refer to the relevant line numbers in your response.

- 5.1. CILEx supports Ofqual's proposal to make a minor adjustment to G4.3 to improve clarity of the definition of 'prohibited training'.
- 5.2. In relation to the proposed amendment to Condition G4.5, CILEx agrees with the proposed wording; in particular, the explicit inclusion of 'other third party'.
- 5.3. CILEx supports Ofqual's proposal to change the title of Condition G4 to simply 'Maintaining confidentiality of assessment materials', because this ensures the title is relevant to the content of the condition.

6. Question 5: Do you have any comments on the wording of the proposed amended guidance for Condition G4? For specific comments, please refer to the relevant line numbers in your response.

- 6.1. CILEx supports the revised format of the proposed guidance for Condition G4 because it is easier to follow.
- 6.2. In relation to lines 26, CILEx welcomes the clarity provided by Ofqual within the proposed guidance of third party activities covered by Condition G4. Further clarity is provided in line 33, which covers other persons who fall within the term 'Teacher', as defined in Conditions J1.8. Such clarity is helpful for awarding organisations to understand and determine the scope of Ofqual's expectations on awarding organisations in relation to Condition G4.
- 6.3. With reference to Line 47, the wording of this bullet point is considered to be ambiguous. It could be improved with the inclusion of examples.
- 6.4. CILEx notes in relation to line 127, that Ofqual may wish to use the term 'third party' instead of 'contractors', for consistency.
- 6.5. CILEx has no comments on the wording of the negative indicators.

7. Question 6: Do you have any comments about our proposed guidance on safeguarding confidentiality where teachers are involved in developing assessments? For specific comments, please refer to the relevant line numbers in your response.

- 7.1. In relation to lines 23-65, Ofqual has highlighted the interlinking of the Conditions, which is considered particularly helpful for awarding organisations.
- 7.2. CILEx welcomes Ofqual's confirmation that the proposed guidance is not intended to mandate a particular approach in relation to any particular type of qualification; instead it is for the awarding organisation to determine a suitable approach to compliance with the Conditions. This is further advanced by Ofqual's use of phrases such as 'potential' safeguards in line 102, and 'one possible approach' in lines 236, 272 and 304.
- 7.3. CILEx has however raised concerns in relation to lines 183-185, as these set out an explicit requirement and is not guidance in relation to the condition.
- 7.4. The measures proposed could facilitate detection of the inappropriate use of information about confidential assessment materials by a teacher. However, the practicalities of such measures still remain questionable, for example:
- Line 209, the proposal that awarding organisations sample teaching plans, materials and formative assessments, is not considered practical. In reality, if such measures were utilised, the use of teachers in the production of confidential assessment materials would be reconsidered.
 - Line 214, statistical monitoring of small cohorts will impact on the extent to which statistics can be used to identify 'unusual results'. Also, it would not be possible to directly attribute any peaks in achievement data to a teacher breaching confidentiality. Furthermore, is Ofqual suggesting that awarding organisations should consider monitoring data about assessments even when it has no reason to believe that there has been a potential breach of confidentiality?
- 7.5. CILEx endorses the inclusion of examples (from lines 221-309) to illustrate the different safeguards that an awarding organisation may choose to put in place for qualifications with different risk profiles.

8. Question 7: We have not identified any ways in which the proposed amended Conditions or guidance would impact (positively or negatively) on persons who share a protected characteristic. Are there any potential impacts we have not identified?

8.1. CILEx has not identified any potential impacts on persons who share protected characteristics.

9. Question 8: Are there any additional steps we could take to mitigate any negative impact resulting from these proposals on persons who share a protected characteristic?

9.1. Not applicable.

10. Question 9: Do you have any other comments on the impacts of the proposals on students who share a protected characteristic?

10.1. CILEx has no comments on the impacts of the proposals on students who share protected characteristics.

11. Question 10: Do you have any further comments on the estimated costs of awarding organisations, large and small, complying with our proposed new Conditions and following our revised guidance?

11.1. There may be some costs and, to an extent, an administrative burden involved in relation to the changes to Condition G4 and the new section of statutory guidance. Whilst CILEx currently has measures in place to manage these risks, it will be necessary to revisit these measures in light of the new section of statutory guidance. However, at this stage CILEx is not in a position to estimate additional costs.

12. Question 11: Are there any additional steps we could take to reduce the regulatory impact of our proposals?

12.1. Ofqual may wish to consider, in the interest of fairness, providing awarding organisations with a reasonable timescale with which to comply with the proposals.

13. Question 12: Are there any costs or benefits associated with our proposals which we have not identified?

13.1. No.

14. Question 13: Do you have any comments on the readability and accessibility of the guidance?

14.1. CILEx welcomes the revised format to the proposed guidance for Condition G4.

15. Question 14: Do you have suggestions on how it might be improved?

15.1. CILEx has no further comments.

For further details

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