

## **Memorandum of Understanding between Ofqual and Qualifications Wales**

### **Parties**

The Office of Qualifications and Examinations, a body established under The Apprenticeships, Skills, Children and Learning Act 2009 (**Ofqual**)

Qualifications Wales, a body established through the Qualifications Wales Act 2015 (**Qualifications Wales**)

### **Introduction**

1. A natural and legitimate consequence of the devolution of education policy is that qualifications and regulatory policy has developed and diverged across England and Wales in response to the needs of each jurisdiction. As regulators we should recognise the legitimate differences between our policies and each take the actions that meet our own different legislative requirements, whilst recognising the on-going benefits of working together. This Memorandum of Understanding (MoU) is intended to support effective working arrangements between Ofqual and Qualifications Wales. Throughout this MoU, Ofqual and Qualifications Wales will be referred to collectively as 'we' and the terms 'our' and 'us' will be used accordingly.

### **Aims of Agreement**

2. This MoU sets out at a high level the principles that will underlie relations between us. It is not intended to cover every detail of the relationship. It will be used to guide relations, to avoid as far as possible duplication of effort, misunderstanding or unintended impact on third parties and on each other. An overarching aim of this agreement will be to manage the regulatory burden wherever possible.
3. The MoU is intended to support effective working arrangements between us. The purpose of collaborative working between Ofqual and Qualifications Wales is to support both organisations in effectively and efficiently carrying out their responsibilities.

### **Status of Memorandum of Understanding**

4. This MoU is not legally binding. It is intended to be a working document that will be subject to review in the light of changes to the organisational landscape, the policy of each Regulator or the respective Governments and operational practice.
5. Each party to this MoU is responsible for ensuring that its business is conducted in ways consistent with the understandings detailed in this document.
6. This MoU may be supported by further and more detailed operational agreements, particularly in relation to the sharing of information.

## **Roles and Legislative Background**

7. The Apprenticeships, Skills, Children and Learning Act 2009 (the **ASCL Act**) established Ofqual as a non-ministerial Government department. While it is a part of Government, it is accountable to Parliament and not to ministers for its judgements and the performance of its functions. Ofqual regulates qualifications, examinations and assessments in England and vocational qualifications in Northern Ireland.
8. Qualifications Wales has been established through the Qualifications Wales Act 2015 as the regulator of non-degree qualifications and the qualifications system in Wales. It is a Welsh Government Sponsored Body, independent of government, and is accountable to the National Assembly for Wales
9. It is against this legislative background that we agree to work together wherever possible, to deliver a system of regulation that is effective and workable for its users across England and Wales whilst taking account of the distinct policy and legislative frameworks applicable to each jurisdiction.
10. The term 'awarding organisations' is used throughout this document. This is Ofqual's preferred terminology. The term 'awarding bodies' is used by Qualifications Wales.

## **Matters of common interest**

11. Whilst respecting our distinctive roles and responsibilities there are a number of areas of common interest. There will be circumstances where collaborative working between us will be the best way to enable us to discharge our statutory responsibilities effectively and efficiently. This will be to our benefit and that of the awarding organisations we both regulate by avoiding duplication and unnecessarily increasing regulatory burden.

Those areas of common interest include:

- our respective policies on qualifications as well as the qualifications policies of the Welsh Government and the Government at Westminster;
- the approaches to and processes for overseeing the standards and delivery of GCSEs, A Levels and other General Qualifications, particularly where the same qualification is awarded to learners in both jurisdictions;
- the regulation of qualifications especially Vocational Qualifications that are awarded to learners in both jurisdictions;
- the recognition, expansion and surrender of recognition of awarding organisations which are recognised by both Regulators;
- any matters that relate to a mutually recognised awarding organisation's ability to comply with each party's Conditions of Recognition;
- the imposition of sanctions, directions or additional requirements on awarding organisations which are recognised by both Regulators;
- ensuring that qualification users have a clear understanding of the content, level and purpose of qualifications; and

- the operation of UK qualifications frameworks for which we are responsible.

## **Working Relationship**

12. We are committed to the principle of good communication. We will communicate through regular liaison and discussion on relevant issues. The intention is not to constrain the discretion of either regulator but to allow, where appropriate, each to make representations to the other in sufficient time for those to be considered.
13. To support on-going good working relationships between us, we set out below how we will aim to work with each other including:
  - identify what degree of joint working would be appropriate in any given circumstance, recognising that this will differ according to the specifics of the case;
  - acknowledge each other's different responsibilities, accountability structures and legislative frameworks;
  - aim through discussion to explain and understand the reasons for any differences of view;
  - develop a deeper understanding of each other's roles and responsibilities;
  - take advantage of the opportunities for co-ordinated scheduling of activities where appropriate and where there is benefit in doing so;
  - notify each other in a timely and appropriate way where the likelihood of significant announcements and developments made by one regulator may impact on the other's key areas of work or on an awarding organisation which is also regulated by the other regulator. Where these matters are confidential, we will respect that confidentiality;
  - inform each other in a timely and appropriate manner on policy and regulatory developments, engaging in early dialogue on matters that will impact on the work of the other regulator;
  - proactively seek solutions to avoid or mitigate the effects of any disagreement that may impact on the delivery of qualifications across both jurisdictions;
  - inform stakeholders about the collaborative relationship including publishing a copy of this MoU on our respective websites;
  - hold regular meetings, both strategic and operational, to inform one another as soon as possible on relevant developments within our areas of responsibility and, where possible, before the release of any relevant reports, press releases, speeches or policies;
  - communicate jointly on matters of mutual interest, when it is appropriate to do so;
  - share information about programmes of work that would be of interest to the other regulator in advance, where possible, of that work starting;
  - invite each other to events each regulator hosts that may be relevant to the work of both regulators, provided that each regulator will be responsible for bearing its own costs in respect of attending or running any such event; and
  - liaise, involve and keep each other informed as necessary on the drafting of key policy and regulatory documents.

## **Exchange of information**

14. Where appropriate and at all times operating in accordance with the Freedom of Information Act 2000 (**FOIA**), the Data Protection Act 1998 and any and all other legislation and contractual agreements, we will aim to share information we already hold which is important to standards and confidence in the qualifications we each regulate.
15. The sharing of any information relating to complaints about mutually recognised awarding organisations and any regulatory action taken by either Ofqual or Qualifications Wales in respect of mutually recognised awarding organisations, will be subject to a separate written agreement that will be published.
16. If either regulator receives a request under FOIA to disclose any information belonging to the other regulator, it will notify and consult with the other regulator. The other regulator shall respond in sufficient time to allow the regulator receiving the request to respond in a manner and time compliant with the provisions of FOIA.
17. Information provided by one of us to the other must be kept secure. Both parties will ensure that adequate arrangements are in place to protect the confidentiality of information provided, and that such arrangements are acceptable to the other.
18. Information, including confidential information, received by one regulator from the other pursuant to this MoU will only be retained by the receiving regulator for a period relevant to discharge its functions. This will not normally exceed a period of 2 years, at which point a decision will be taken on whether to delete or retain the information. Any decision to retain information will have regard to relevance, necessity, proportionality, and relevant legislation relating to the retention of public records

## **Cross-jurisdiction data**

19. Where Ofqual undertakes and publishes data or information that includes data relating to qualifications awarded in Wales, Ofqual will share its approach for this and a draft report, data, analysis or statement with Qualifications Wales for comment at a reasonable time prior to publication.
20. Where Qualifications Wales undertakes and publishes data or information that includes data relating to qualifications awarded in England, Qualifications Wales will share its approach for this and a draft report, data, analysis or statement with Ofqual for comment at a reasonable time prior to publication.

## **Amendments of Memorandum of Understanding**

21. This MoU may be amended at any time by written agreement signed by both regulators.

### **Publication of Memorandum of Understanding**

22. Ofqual and Qualifications Wales will each place a copy of this MoU on their respective websites.

### **Annual meeting to Review this Memorandum of Understanding**

23. The Chief Regulator for England and the Chief Executive for Qualifications Wales will aim to conduct a review of this MoU annually, by way of telephone or in person. Items for discussion may include the health of their working relationship, how to work together going forward, developments over qualifications regulation in the two jurisdictions and what each regulator has planned that will be of interest to the other.

### **Term and Termination**

24. This MoU shall commence on the date of signature by both Parties, and shall continue unless terminated in accordance with clause 25.
25. Either Party may terminate this MoU by giving at least three months' notice in writing to the other Regulator at any time.

**Signatories**

.....  
Chief Executive, Qualifications Wales

.....  
Chair, Qualifications Wales

.....  
Chief Regulator for England

.....  
Chair, Ofqual