Memorandum of Understanding between Welsh Language Commissioner and Qualifications Wales

1 Parties

1.1 The Welsh Language Commissioner ("the Commissioner") was established by the Welsh Language (Wales) Measure 2011. Qualifications Wales ("QW") is a body established through the Qualifications Wales Act 2015.

2 Introduction

2.1 This Memorandum of Understanding (MoU) is intended to support effective working arrangements between the Commissioner and QW. Throughout this MoU, the Commissioner and QW will be referred to collectively as 'we' and the terms 'our' and 'us' will be used accordingly.

3 Aims

3.1 This MoU sets out the high level principles that will underlie relations between us. It is not intended to cover every detail of our 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.
3.2 The MoU is intended to support effective working arrangements between us. The purpose of collaborative working between the Commissioner and QW is to support both organisations in effectively and efficiently carrying out their responsibilities.

3.3 All collaboration stemming from this Memorandum should have the benefit of the public in Wales at heart.

4 Roles and legislative background

The Welsh Language Commissioner

4.1 The Welsh Language Commissioner’s aims and functions are defined within the Welsh Language (Wales) Measure 2011. The Measure provides that the Commissioner is a corporation sole. The principal aim of the Commissioner when exercising her functions is to promote and facilitate the use of the Welsh Language. In doing so Commissioner must work towards increasing the use of Welsh in the provision of services, and must work towards increasing other opportunities for persons to use the Welsh language. In doing so, the Commissioner must have regard to the official status of the Welsh language in Wales and duties to use the Welsh language that are imposed by law, and the rights which arise from the enforceability of those duties.

4.2 Two broad principles underpin the Commissioner’s work. The first principle is that Welsh should not be treated less favorably than English in Wales and secondly, the principle that persons in Wales should be able to live their lives through the medium of Welsh if they...
4.3 One of the key means by which the Commissioner seeks to achieve her principal aim is by recommending to the Welsh Ministers that certain standards of conduct relating to the Welsh language ("Standards") are made specifically applicable to persons. The Welsh Ministers have the power to specify such standards in regulations and to authorise the Commissioner to issue compliance notices to those persons. By issuing a compliance notice, the Commissioner requires that person to comply with the specified standards.

4.4 Section 33, together with schedules 7 and 8, of the Welsh Language (Wales) Measure 2011 provide that qualifying persons who provide the public with services to develop or award educational or vocational qualifications, (i.e. "Awarding Bodies"), may be liable to be required to comply with service delivery and record keeping standards relating to the Welsh language. Should regulations be passed by the Welsh Ministers, the Commissioner may, by issuing a compliance notice, require Awarding Bodies to comply with one or more of these standards. The Commissioner also has powers to investigate whether a person has failed to comply with standards and may take action where there is a failure to comply.

Qualifications Wales

4.5 QW is a Welsh Government Sponsored Body, independent of government, and is accountable to the National Assembly for Wales. QW has been established through the Qualifications Wales Act 2015 ("the 2015 Act") as the regulator of non-degree qualifications and the qualifications system in Wales. The
2015 Act provides for QW to be able to recognise Awarding Bodies, to approve certain qualifications and to exercise a variety of connected functions.

4.6 Like the Commissioner, QW has a broad power to be able to do anything that it considers necessary or appropriate for the purposes of, or in connection with, achieving its functions. In particular, where it considers it is appropriate in connection with any of its functions, QW may work jointly with another person. QW must act in a way which it considers appropriate for the purpose of achieving its own principal aims: first, to ensure that qualifications and the Welsh qualification system are effective for meeting the reasonable needs of learners in Wales; second, to promote public confidence in qualifications and in the Welsh qualification system.

4.7 In considering what is appropriate for the purpose of achieving those principal aims, QW must have regard to (amongst other things) the desirability of promoting and facilitating the use of the Welsh language.

Common Interests  
4.8 Accordingly, whilst respecting our distinctive roles and responsibilities, we recognise that there are a number of areas of common interest. Consequently, there may be circumstances where we consider collaborative working between us is the best way to enable us to discharge our statutory responsibilities effectively and efficiently.

5 Status  
5.1 Although this MoU is not legally
gyfreithiol-nwym ac ni fydd yn arwain at
unrhyw hawliau neu rwyмедigaethau i
unrhyw barti, bwriedir iddo fod yn
ddogfen weithiol sy’n darostynedig i
adolygiad yn wyneb unrhyw
newidiadau, polisiau ac arferion
gweithredol gan naill sefydiad.

5.2 Mae pob parti i’r MoGdd hwn yn gyfrifol am sicrhau y gweithredir ei
fusnes yn unol â’i ofynion statuteol ei
hun a thrwy dduiliau sy’n gyson gyda’r
cyd-dealltwriaeth a gyfeirir atyn y
fewn y ddogfen hon. Disgwylir y bydd y
naill barti yn ceisio osgoi, ble bo’n
bosibl, unrhyw weithred y maen y
ymywodol fyd da’n rhagfarnu’n
ormodol ar safbwynt y llall.

5.3 Rydym yn cydnabod y gall y
Comisiynydd ei gwneud hi’n ofynnol i
CC gydymffurfio â safonau’r Gymraeg,
ac y gall y Comisiynydd gyflwyno
argymhelliad ysgrifenedig i
Weinidogion Cymru er mwyn gwneud
safonau yn benodol gymwys i CC. Ni
fydd yr MoGDD hwn yn efelthio ar
ddyletswydd CC i gydymffurfio â’r
safonau hynny. Yn yr un modd, nid
yw’n efelthio ar allu’r Comisiynydd i
orfodi cydymffurfiaeth gyda’r safonau
hynny.

6 Perthynas waith

6.1 I gefnogi perthynas waith dda
rhyngom, rhestir isod sut y byddwn yn
anelu i gyweddio:
- cydnabod a cheisio deall yn
llawn cyfrifoldebau, strwythurau
atebolwadd a fframwaith
ddeddfwriaethol gwahanol ein
glyydd;
- anelu i esbonio a deall unrhyw
wahaniaethau barn trwy drafod
yn barhaus;
- bod yn ymwybodol o gyfleodd i
gydlynu trefnu gweithgareddau,
megis prosiectau ymchwil, ble
bo’n briodol a bod budd o wneud
binding and shall not give rise to any
rights or liabilities for any party, 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
organisation and operational practices.

5.2 Each party to this MoU is
responsible for ensuring that its
business is conducted in accordance
with its own statutory requirements and
in ways consistent with the
understandings referred to in this
document. It is expected that each party
would seek to avoid where possible any
action which it is aware would unduly
prejudice the other’s position.

5.3 We recognise that the
Commissioner may require QW itself to
comply with one or more Standards and
that the Commissioner may recommend
to Welsh Ministers in writing for
standards to be made specifically
applicable to QW. This MoU will not
affect QW’s duty to comply with such
standards. Similarly, neither is the
Commissioner’s ability to investigate
and enforce QW’s compliance with such
standards affected by this MoU.

6 Working relationship

6.1 To support ongoing good working
relationships between us, we set out
below how we will aim to work with each
other:
- acknowledge and seek to fully
understand each other’s different
responsibilities, accountability
structures and legislative
frameworks;
- aim through ongoing discussion to
explain and understand the
reasons for any differences of
view;
- be mindful of the opportunities for
co-ordinated scheduling of
hynny;

○ hysbysu ein glydd mewn dull amserol ble mae'r tebygo'r wydd caiff cyhoeddiau a datblygiadau a bwyso gan naill barti draweffaith ar brif feysydd gwaith y llall;

○ cynnal cyfarfodydd rheolaidd i hysbysu ein glydd cyn gynted ag y bo modd o ddadwlu hefydau perthnasol o fewn ein meysydd o gyfrifoldeb ac os yn bosibl, cyn rhuddhau unrhyw adroddiadau, datganwau i'r wasg, areithiau neu bolisiu;

○ ble bo'n bosib ac yn unol â gofonion statudol, rhannu gwybodaeth o flaen llaw ynghylch rhagleni gwaith a fyddai o ddiddordeb i'r llall cyn i'r gwaith gychwyn;

○ gwaithedd ein glydd i ddigwyddiadau a gynheli'r gennym a ail foda o berthnasedd i waith y naill barti, cyn belled bod y naill ar llall yn gyfrifol am ysgwyddo baich costau eu hunain mewn perthynas â chymnau neu mynychu digwyddiad o'r fath;

○ cysylltu â'n glydd ar sail achos wrth achos yng Nghymru unrhyw ymholiadau'r cyfrifogau y gall fod yr un berthnasol i'r naill barti.

7 Cyfnewid gwybodaeth

7.1 Pe byddai'r naill barti yn derbyn gohebiaeth mewn perthynas â'r iaith Gymraeg a chymwysterau, ac sydd yn codi materion o ddiadordeb cyffelyb, fe hysbysir y llall. Penderfynir hyd a ledd y cydweithio posibl yn dilyn hynny, a hynny yng ngoleuni cyfrifoldebau a pholisi'au'r naill barti.

7.2 Rhaid cadw gwybodaeth a roddir gan un i'r llall, neu a rennir yng nghyd-activities, such as research projects, 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 party may impact on the other's key areas of work;

○ hold regular meetings, 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;

○ share information about programmes of work that would be of interest to the other party in advance, where possible and in accordance with statutory requirements, of that work starting;

○ invite each other to events each party hosts that may be relevant to the work of both parties, provided that each will be responsible for bearing its own costs in respect of attending or running any such event;

○ liaise with each other on a case by case basis regarding any media enquiries which may be pertinent to either party.

7 Exchange of information

7.1 If either party is in receipt of correspondence in relation to the Welsh language and qualifications, and which raises matters of common interest, the other party shall be informed. The scope for possible collaboration will be decided upon thereafter in light of each party's responsibilities and policies.

7.2 Information provided by one of us to the other, or shared in the context of our
destun ein gwaith ar y cyd, yn ddiogel, wedi ei reoli a’i brosesu yn unol â Deddf Diogelu Data 1998 neu unrhyw ddeddfwrariaeth berthnasol arall. Yn benocwl, bydd y naill barti yn sicr hau bod trefniadau digonol ar waith i warchod cyfrinachedd gwybodaeth a ddarparwyd a bod y trefniadau hyn yn dderbyniol i’r llall yn unol â Deddf Diogelu Data 1998.

7.3 Bydd y naill barti, mewn perthnas â’u gweithgareddau ar y cyd a’u cydweithrediad, yn sicr haw cydymfurfiaeth â Deddf Rhyddid Gwybodaeth 2000.

8 Hawliau dynol a chydraddoldeb

8.1 Mae’r angen i weithio mewn modd sy’n cyd-fynd â chonfensiwyn hawliau fel a ddigriifir yn adran 1 Deddf Hawliau Dynol 1998, yn bwysig i waith y Comisiynydd a CC. Ceisir ddu hunwyddo hawliau dynol y sawl a saif o fewn eu ychydigodd gorchwyl cyfreithiol a gweithio mewn modd sy’n cydymfurfio â’r dyletswyddau hynny o dan y Ddeddf.

8.2 Mae’r Comisiynydd a CC yn cydnabod eu rheymediagaethau unigol i gydymfurfio â’u dyletswyddau dan Deddf Cymraddoldeb 2010 a Rheoliadau Deddf Cydraddoldeb 2010 (Dyletswyddau Statudol) (Cymru) 2011, wrth arfer eu gweithredu a chynigol.

8.3 Mae’r partision o’r farn bod y trefniadau fel y nodir yn y MoGdd hwn yn cydymfurfio efo Deddf Hawliau Dynol 1998 a’r dyletswyddau a osodir gan Deddf Cydraddoldeb 2010.

9 Cyhoeddi

9.1 Bydd y Comisiynydd a CC yn gosod copi o’r MoGdd hwn, ac unrhyw fersiwn sydd wedi ei ddiweddarau neu ei ddiwygio, ar eu gwefannau unigol.

collaborative work, must be kept secure, controlled and processed in accordance with the Data Protection Act 1998 or any other relevant legislation. In particular, 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 in accordance with the Data Protection Act 1998.

7.3 Both parties will in their joint activities and co-operation with each other ensure compliance with the Freedom of Information Act 2000.

8 Human rights and equality

8.1 The need to act in a manner that is compatible with Convention rights, as described in section 1 of the Human Rights Act 1998, is important to the work of the Commissioner and QW. Both seek to promote the human rights of those who fall within its legal remit and to work in a way that complies with those obligations under the Act.

8.2 The Commissioner and QW recognise their respective obligations to comply with their duties under the Equality Act 2010 and the Equality Act 2010 Regulations (Statutory Duties) (Wales) 2011 when exercising their respective functions.

8.3The parties to this Memorandum believe that the arrangements as set out in this MoU are compliant with the Human Rights Act 1998 and duties imposed by the Equality Act 2010.

9 Publication

9.1 The Commissioner and QW will each place a copy of this MoU, and any updated or revised version, on their respective websites.
10 Adolygu

10.1 Bydd Comisiynydd y Gymraeg a Phrif Weithredwr Cymwysterau Cymru yn anelu i gwrdd i gymnil adolygiad o'r McGdd hwn yn flynyddol, gyda golwg ar ahangu neu newid hyd a llled gweithrediad y MoGdd hwn ble bemir bod angen gwneud hynny. Bydd yr eitemau i’w trafod yn cynnwys iechyd elin perthynas waith a sut i barhau i gydweithio â’n gilydd.

11 Diwygiadau, cyfnod a therfynu

11.1 Gellir diwygio’r MoGdd hwn ar unrhyw adeg drwy gydsyniad ysgrifenedig a lofnodir gan y ddau barti.

11.2 Bydd cyfnod y MoGdd hwn yn cychwyn oddi ar ddyddiad llcfnodi’r ddau barti.

11.3 Gall naiill barti derfynu’r MoGdd hwn ar unrhyw adeg drwy roi o leiaf tri mis o rybudd ysgrifenedig i’r llall.

10 Review

10.1 The Welsh Language Commissioner and the Chief Executive for Qualifications Wales will aim to meet to conduct a review of this MoU annually, with a view to expanding or altering the scope of operation of this MoU should it be judged necessary. Items for discussion will include the health of our working relationship and how to continue to work together.

11 Amendments, term and termination

11.1 This MoU may be amended at any time by written agreement signed by both parties.

11.2 The term of this MoU shall commence on the date of signature by both parties.

11.3 Either party may terminate this MoU by giving at least three months' notice in writing to the other party at any time.
Llofnodwyr

Prif Weithredwr Cymwysterau Cymru: / Chief Executive, Qualifications Wales:

Signatories

Dyddiad / Date

25/10/2017

Cadeirydd, Cymwysterau Cymru: / Chair, Qualifications Wales:

Dyddiad / Date

25/10/2017

Comisiynydd y Gymraeg: / Welsh Language Commissioner:

Dyddiad / Date
