



Regulatory Document

REGULATORY POLICIES AND PROCEDURES

Priority Qualifications List and Restricted Priority Qualifications Policy

April 2018

Version (2) of the Priority Qualifications List Policy was approved on 8 November 2016. Version (1) of the Restricted Priority Qualifications Policy was approved on 22 July 2016 by the Qualifications Wales Board. This revised version was approved on 4 April 2018 by Qualifications Wales' Policy Group.

Section 47(1)(b) of the Qualifications Wales Act 2015 ("the Act") requires Qualifications Wales to publish a statement of its policy with respect to the exercise of its functions under Part 4 of the Act, which includes provisions on priority qualifications¹ and restricted priority qualifications². Qualifications Wales will keep its policy statements prepared under section 47 of the Act under review, and if it considers it appropriate in consequence of a review, prepare revised statements.³

Qualifications Wales will review this document every three years. Such a review may consider the effectiveness of the policy and its ongoing applicability. Feedback on this policy is welcomed at any time. Please send any comments to policy@qualificationswales.org.

¹ Section 47 (1)(b) Qualification Wales Act 2015

² Section 47 (1)(b) Qualification Wales Act 2015

³ Section 47 (4) Qualification Wales Act 2015.

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Background and Context

This policy will be of interest to awarding bodies, all users of qualifications in Wales and Welsh Ministers. It explains how we will exercise our functions in relation to the approval and restriction of qualifications.

In accordance with section 34 of the Qualifications Wales Act 2015 (“the Act”), schools, institutions and employers in Wales can only offer a publicly-funded course to learners under the age of 19 that leads to a qualification that is approved or designated (unless an exemption has been granted by the Welsh Ministers).

Approved qualifications will need to meet robust approval criteria that ensure they are designed to meet the needs of learners in Wales. They may only be awarded with the identified approval number in Wales. Designated qualifications are provided by recognised awarding bodies but need not necessarily be unique to Wales and are usually also available to learners in England and Northern Ireland.

Approved qualifications may be restricted to avoid inconsistencies between different forms of the same qualification and to enable us to make a choice between different awarding bodies or between different forms of qualification. These are called Restricted Priority Qualifications.

Section 13 (Duty to prepare list of priority qualifications) outlines the duty of Qualifications Wales and the Welsh Ministers to jointly prepare a Priority Qualifications List.

A qualification may be included on the List *“when Qualifications Wales and Welsh Ministers are satisfied that ensuring and maintaining public confidence in the qualification is a priority for Qualifications Wales, by reason of the significance of the qualification having regards to the needs of learners and employers in Wales”*⁴.

The aim of this policy is to explain:

- the use of the Priority Qualifications List in considering qualifications for approval;
- how the List will be created and maintained;
- the reasons for restricting priority qualifications;
- the process by which priority qualifications are restricted.

This policy does not incorporate either the List or the criteria used in the approval of qualifications. The List can be found [here](#). Approval criteria can be found [here](#).

⁴ <http://www.legislation.gov.uk/anaw/2015/5/contents/enacted>

The Priority Qualifications List

1. The Priority Qualifications List (“the List”) enables us to take a planned, structured and scheduled approach to the approval of qualifications. It will also enable us to focus public resources most effectively on qualifications that are most significant, whilst also having the flexibility to consider whether or not to approve a non-priority qualification. It is not intended to communicate the relevant importance of one qualification or a form of qualification over another.
2. A qualification may be included on the List when Qualifications Wales and Welsh Ministers are satisfied that ensuring and maintaining public confidence in the qualification is a priority, by reason of the significance of the qualification having regard to the reasonable needs of learners and/or employers in Wales. The protocol for the development and ongoing review of the List will be agreed between ourselves and Welsh Government.
3. We will only consider a qualification for approval if it is on the List, or if it applies to the circumstances described in sections 16-20 of this policy.
4. The List may include individual qualifications or descriptions of qualifications. It is split into three main sections:
 - a) Qualifications with a current priority approval period. The consideration of these qualifications for approval is a priority for ourselves as outlined in paragraph 6 below;
 - b) Restricted priority qualifications. This is divided into two parts. Part 1 relates to those qualifications where Qualifications Wales has an intention to restrict. Representations in response to the notification to restrict will be considered before any determination to restrict is published. Determinations to restrict are indicated in Part 2.
 - c) Unrestricted qualifications with priority approval periods that have expired.

Including qualifications on the Priority Qualifications List

5. Section 13 of the Act requires Qualifications Wales and Welsh Ministers to jointly prepare a Priority Qualifications List. The List must be published.
6. In deciding which qualifications to include on the List, we will consider our principal aims (as set out in section 3 of the Act) of ensuring that qualifications and the Welsh qualification system are effective for meeting the

reasonable needs of learners in Wales and promoting public confidence in qualifications and the Welsh qualification system.

7. The following are examples of situations in which we may consider a qualification or description of qualification for inclusion on the List. These examples are not exhaustive:
 - a) we do not consider certain qualifications presently available to learners in Wales to be effective, either because they do not reflect a requirement specific to Welsh learners or because they do not develop skills needed to gain employment;
 - b) planned changes mean that existing qualifications no longer meet curriculum or skills requirements;
 - c) a gap has been identified in the skills of a workforce in an employment sector that employs a large number of people or is of significance to the Welsh economy;
 - d) a gap has been identified in a progression pathway which currently exist for Welsh learners, and
 - e) the need to ensure availability of Welsh-medium qualifications.
8. The List will be published by Qualifications Wales and Welsh Ministers. Awarding bodies will be notified of its publication and subsequent updates.
9. We will also adopt a "Forward Look" approach to identifying qualifications that may be included on the List at a later date. The Forward Look will enable the early development of approval criteria for these qualifications and may give awarding bodies notice of likely future priorities.
10. We will collaborate with Welsh Government in the development of the Forward Look and Welsh Ministers will be invited to give their views on qualifications that should be included in the Forward Look. The Forward Look will be published with the List on our website following agreement from both parties.

Approval of qualifications on the List

11. Generally, only qualifications for which approval criteria have been published will be added to the List. In instances of restricted priority qualifications, we may publish a determination to restrict on the List prior to the publication of approval criteria.
12. We will develop approval criteria for qualifications to be included on the List with close involvement by subject experts and stakeholders, where appropriate.

13. Approval criteria and rules about submitting qualifications for approval will be published. Qualifications that have been submitted for approval by recognised awarding bodies may be approved by ourselves. Approved qualifications will be identified as such on the Qualifications in Wales (QiW) database.
14. Following the end of the priority approval period of each qualification on the List, each such qualification will be moved to the 'Qualifications with expired priority approval periods' section. Awarding bodies may still submit applications for approval of qualifications included within the 'Qualifications with expired priority approval periods' section of the List. We will communicate timescales to awarding bodies upon submission of applications for approval.
15. Qualifications that are to be restricted may be included in the 'Restricted priority qualifications' section of the List prior to the publication of approval criteria.

Approval of qualifications that are not on the List

16. Qualifications Wales is also able to consider for approval qualifications that are not on the List.
17. Qualifications Wales may consider a qualification that is not on the List for approval if there are published approval criteria. Qualifications Wales will, however, prioritise the approval of qualifications that are on the List over the approval of qualifications that are not on the List.
18. Circumstances may arise where we will judge that there is a need to support our principal aims by publishing approval criteria for qualifications that are not on the List.
19. We will notify recognised awarding bodies of the publication of approval criteria for a qualification that is not on the List.
20. A qualification that is not on the List will be approved only if it is submitted by an appropriately recognised awarding body and if it meets published approval criteria.

Maintenance of the List

21. The List will be reviewed at regular intervals and updated, where appropriate and with the agreement of the Welsh Ministers, as and when Qualifications Wales identifies that a qualification is a priority for Qualifications Wales and

there are new approval criteria. The publication of new approval criteria is likely to result in changes to the List.

22. In setting the priority approval period, Qualifications Wales will consider the timescale required to enable effective delivery of the qualification by the anticipated date for first teaching.
23. Notice will be given to awarding bodies that designation of qualifications similar to those on the List will end at a given date, to coincide with the availability of newly approved qualifications.
24. When qualifications are added to the List, Qualifications Wales will communicate the timing and duration of the priority approval period to awarding bodies.

Restricted priority qualifications

25. Section 14 of the Act allows us to restrict a qualification that is on the List. We may consider whether to apply a restriction to a qualification on the List. A restriction will limit the number of forms (or 'versions') of a qualification that may be approved at any time.
26. Priority qualifications may be restricted if Qualifications Wales is satisfied that it is desirable to do so, having regard to the principal aims and the objectives to:
 - avoid inconsistency between different forms of the same qualification (by reference to the level of attainment indicated by different forms of the same qualification, or otherwise); and
 - to enable Qualifications Wales to exercise a choice between different awarding bodies or different forms of qualification as outlined under section 14(4) of the Act.
27. In deciding which qualifications to restrict, we will consider our principal aims of ensuring that qualifications and the Welsh qualification system are effective for meeting the reasonable needs of learners in Wales and promoting public confidence in qualifications and in the Welsh qualification system.
28. We may identify qualifications that potentially should be restricted through a range of sources including sector and thematic reviews, stakeholder engagement and market research.

29. The following are examples of situations in which we may consider a restriction of a priority qualification. These examples are not exhaustive:
- where there is a need for specific qualification content in Wales due to curriculum or devolved policy requirements;
 - where there is a need for specific assessment arrangements in Wales due to curriculum or devolved policy requirements;
 - restriction would support the economic viability for awarding bodies to develop such qualifications for Wales;
 - restriction would support the availability of qualifications in sector areas which are deemed a priority, and
 - where we identify that inconsistency between different existing forms of the same qualification is significant and problematic.
30. We will consider on a case by case basis whether to apply a restriction to a qualification and how many forms the qualification should be restricted to. Such consideration will be based on a range of sources of information including reviews of existing provision, stakeholder feedback, market research. In considering whether to develop a proposal to restrict, we will consider the options available and evaluate their effectiveness in meeting the aims and objectives outlined in paragraph 26.
31. If we propose to apply a restriction to a qualification, before doing so we will notify each recognised body, and any other parties that we consider might reasonably be expected to have an interest in the outcome of the proposal. 'Other parties' may include the learning providers who enter candidates for qualifications, such as schools, Further Education Institutions and Corporations, sector bodies and work based learning providers.
32. The notification may form part of a wider consultation and regulatory impact assessment. It will also include, the subject of the proposed restriction, the rationale for the proposed restriction, supporting evidence, and information on the arrangements relating to any restriction that we are considering.
33. Before applying a restriction, we will consider any representations made by respondents to the consultation in respect of the proposal.
34. Where an awarding body has raised objections to the proposed restriction this will not prejudice the outcome of any subsequent commissioning or selection process. Where any awarding body can demonstrate to the reasonable satisfaction of Qualifications Wales that there is a danger of prejudice, this will be managed by appropriate steps, for example, by ensuring separation of duties for staff involved where appropriate.

35. We will publish a determination of a restricted priority qualification as required by section 14(5) of the Act. The determination will be published by noting on the List the qualifications or descriptions of qualifications that we intend to restrict.
36. A determination will specify the maximum number of forms of the qualification that may be approved at any one time and may indicate whether we intend to adopt the commissioning or selection route in respect of the restricted priority qualification.
37. The first route, set out in section 15 (Power to make arrangements for development of restricted priority qualification) and section 16 (Approval of a restricted priority qualification developed in accordance with section 15 arrangements) of the Act, is for us to enter into a contractual arrangement with awarding bodies for the development of a new form of a restricted priority qualification which will then be submitted to us for approval. We refer to this route as the 'commissioning' route.
38. The second route, set out in section 17 (Approval of a restricted priority qualification in the absence of section 15 arrangements), is for us to approve one or more versions of a qualification from those submitted for approval. We refer to this route as the 'selection' route. This may include the selection of existing qualifications from those submitted subsequently, for approval by recognised awarding bodies. This policy will apply to both of those routes unless specified otherwise. Whether the commissioning or selection route is used, the choice of awarding bodies will be subject to open, fair and transparent competition.
39. Section 23 (Duration of approval) of the Act provides that we will grant approval of the restricted priority qualification for a limited period specified at the time of granting approval. We envisage that this would normally be for a period of up to 5 years.
40. At least one year prior to a restricted priority qualification expiry date, we will review the objectives of the initial determination and consider whether a further restriction should be applied. If we propose to apply a further restriction we will follow the process outlined in paragraphs 30-39 above: the choice of awarding body will again be subject to open, fair and transparent competition.

Commissioning of a new Restricted Priority Qualification

41. Section 15 of the Act provides that we may enter into arrangements with an awarding body for the development of a new form of a restricted priority

qualification and that it must prepare a scheme about the making of such arrangements. We refer to this as the 'commissioning' route.

42. We must prepare and publish a scheme for commissioning qualifications that is open, fair and transparent. The scheme will set out the general procedure that we will follow, and may be supplemented with documentation specific to each potential restriction. In broad terms, where the [Concession Contracts Regulations 2016](#) apply to the commission, we will proceed in accordance with those Regulations. In other cases, we will apply our own procedure which will be in line with our procurement policy.
43. In either case, this will involve a staged bidding process, applying the principles of transparency, non-discrimination and equal treatment. Once the commission to develop the qualification(s) has been awarded, we will have close oversight of the work of the commissioned awarding body as it develops the qualification.
44. This oversight will take the form of close contract management as well as involvement with key decisions about subject content and assessment methodology.
45. Where the Concession Contracts Regulations 2016 apply, unsuccessful bidders may make an application to the court to challenge the award of contract(s) if they believe there has been a breach of the Regulations. The process and timescales are set out in Part 5 of the Regulations.
46. Once a commissioned restricted priority qualification has been developed by an awarding body it must be submitted for approval. We will review the qualification against the relevant approval criteria which we have published under Section 20 (Approval criteria) of the Act. If the qualification meets the approval criteria, the qualification will be approved. If it does not meet the approval criteria, the awarding body will be asked to revise the qualification to meet the criteria. We may specify a time limit for such revisions to be made. Failure to meet the approval criteria and/or to address the necessary revisions within this time limit may lead to termination of the commission.
47. Only commissioned awarding bodies will be able to offer the restricted qualification, as "Approved", until the approval period expires (or approval is surrendered or withdrawn). This will be subject to transitional arrangements for legacy qualifications to ensure that learners who have already started courses leading to legacy qualifications are not unfairly disadvantaged.

48. We will not designate any form of qualification that is subject to a restriction or which in our judgment is the same as or similar in purpose to a restricted priority qualification, particularly where a qualification could be chosen as an alternative to a restricted priority qualification.

Selection of a Restricted Priority Qualification

49. Section 17 of the Act provides that we may approve a form of a qualification that is a restricted priority qualification where we do not intend to enter into arrangements under section 15. We refer to this as the 'selection' route.

50. We must prepare and publish a scheme for selecting qualifications that is open, fair and transparent. The scheme will set out the general procedure that we will follow, and may be supplemented with documents specific to each potential restriction in relation to:

- the making of applications for approval under section 17;
- how we will consider those applications;
- the priority approval period and the approval and selection criteria to be used.

Selection criteria will be used to enable us to make the choice between those qualifications which meet the approval criteria.

51. We will exercise our functions in accordance with the scheme and applying the principles of transparency, non-discrimination and equal treatment. In broad terms, where the Concession Contracts Regulations 2016 apply, we will proceed in accordance with those Regulations. In other cases, we will apply our own procedure. The process will seek to allow a period of approval that provides awarding bodies with reasonable time to prepare an application.

52. Awarding bodies may appeal against the selection decision through our [Regulatory Appeals Policy](#) within 20 working days of the notification of the decision. In cases where the Concession Contracts Regulations 2016 apply, awarding bodies may also have remedies under those Regulations.

53. Only selected awarding bodies will be able to offer the restricted qualification, as "Approved", until the restriction period expires (or approval is surrendered or withdrawn). This will be subject to transitional arrangements for legacy qualifications to ensure that learners who have already started courses leading to legacy qualifications are not unfairly disadvantaged.

54. We will not designate any form of qualification that is subject to a restriction or which in our judgment is the same as or similar in purpose to a restricted

priority qualification, particularly where a qualification could be chosen as an alternative to a restricted priority qualification.

55. We will develop approval criteria for restricted priority qualifications, whether commissioned or selected, with close involvement by subject experts and stakeholders. The development of approval criteria for commissioned restricted priority qualifications may also take into account matters which may have been discussed and resolved with the commissioned awarding body during the development of the qualification.
56. Approval criteria and rules about submitting qualifications for approval, whether commissioned or selected, will be published.

Transitional arrangements for legacy qualifications

57. Transitional arrangements may be implemented where withdrawal of approval or revocation of designation is made on the basis that the qualification or description of qualification concerned is now restricted.
58. Such arrangements will be made in accordance with the requirements and timescales outlined in Sections 27 (*Withdrawal of approval*) and 32 (*Revocation of section 29 designations*) of the Act and have regard to the need to avoid prejudice to persons who are seeking, or might reasonably be expected to seek to obtain the form of qualification. As such transitional arrangements will enable registered learners to complete their qualification and may mean that existing forms of the qualification continue following the determination of a restriction for the purposes of enabling learners to complete their qualification. Such arrangements will have a clearly defined end date and will not be available to new learner registrations from the 1 September falling in the year after the decision to revoke has been made.

Revocation or variation of a restricted priority qualification

59. We may (in accordance with the terms of any agreement between ourselves and the Awarding Body) revoke or vary a determination of a restricted priority qualification where for instance it has come to our attention that the objectives of the determination have altered or are not being met. In such cases we will, before publishing any determination to revoke or vary:
- notify each recognised body, and any other parties that we consider might reasonably be expected to have an interest in the proposed determination, of the proposal (including the rationale for the proposal);

- consider any representations made to it by those persons in respect of the proposal.

60. Awarding bodies may appeal against the revocation or variation through our [Regulatory Appeals Policy](#) within 20 working days of the notification of the determination.