

Memorandum of understanding

Introduction

1. This memorandum of understanding sets out the understanding of the Skills Funding Agency (the Agency) and the Office of Qualifications and Examinations Regulation (Ofqual) of the principles that will underlie relations between them.
2. The memorandum is intended to support effective working arrangements between the parties. It is not intended to cover every detailed aspect of the relationship between them. It is a statement of principles that will guide relations between them to ensure appropriate arrangements are in place to enable them to discharge their respective responsibilities effectively and to avoid duplication of effort, misunderstanding or unnecessary impact on third parties.
3. This memorandum is not legally binding. It will serve as a working document that will be subject to review in the light of operational practice.
4. Throughout this memorandum, Ofqual and the Agency will be referred to collectively as 'we' and the expressions 'our' and 'us' will be used accordingly.
5. This memorandum should be seen in the context of the relationships that Ofqual has with ministerial departments and the Skills Funding Agency as an agency of the Department for Business, Innovation and Skills (BIS). This memorandum may be supported by further and more detailed operational agreements, specifically in the context of the development and deployment of the Personal Learning Record and the necessary interfaces between the organisations' respective Information Technology systems.



Review of memorandum

6. This memorandum may be amended at any time by agreement of both parties. In addition, this memorandum will be reviewed annually and updated as necessary in the light of experience of its operation in practice and of any changes to the qualifications systems, or further Machinery of Government changes.

Roles and responsibilities

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.
8. In relation to England, Ofqual regulates awarding organisations and the qualifications they award or authenticate. Ofqual also regulates the statutory assessment arrangements for the national curriculum and those for the early years foundation stage. In addition, Ofqual regulates vocational qualifications in Northern Ireland.
9. The ASCL Act established the Skills Funding Agency as an agency of the Department for Business, Innovation and Skills. The role of the Agency is to fund and regulate adult Further Education and skills training in England. The mission of the Agency is to ensure that people and businesses can access the skills training they need to succeed in playing their part in society and in growing England’s economy. This is done in the context of priorities set by the Secretary of State for Business, Innovation and Skills and of greater freedom and flexibilities for the sector to better respond to learner and employer need.
10. The Agency also has a role in the vocational qualifications reform programme and the implementation of the Qualifications and Credit

Framework (QCF). The Agency is committed to implementing and promoting a unit and credit based qualification framework as the framework of choice for the post 19 FE and skills system in England.

11. The Agency's role in the vocational qualifications reform programme also encompasses the development and deployment of a Personal Learning Record for the QCF and the public funding of qualifications in the context of government priorities and investment priorities.

12. Whilst respecting the distinctive roles and responsibilities of both parties, Ofqual's independence and its regulatory role, there are a number of areas of shared interest and interface in the context of provision which is regulated and publicly funded for adults in England. These include:
- Reasonable needs of learners being met
 - Reasonable requirements of employers being met by embedding the advice of the appropriate sector bodies
 - Bureaucracy in the system is minimised and the system is easy to understand
 - Publicly funded qualifications offer value for money and are developed and delivered within an efficient and competitive market
 - Discrimination is eliminated and equality promoted by taking account of the needs of learners with disability
 - Public confidence in regulated qualifications and their value is upheld.
 - That the technology developed in each organisation is aligned and is capable of supporting credit accumulation and transfer.
 - An appropriate relationship is created between awarding organisations, providers and public funding, ensuring efficiencies and simplification to benefit learners and employers.



Working relationship

13. We will seek to build on the good working relationship that already exists between us by:
- setting clear expectations as to what each party expects of the other
 - respecting each other's different responsibilities, accountability structures and legislative frameworks
 - taking advantage of the opportunities for co-ordinated scheduling of activities where this may be appropriate and where there is benefit in doing so
 - where appropriate notify each other well in advance where there is a likelihood of significant announcements and development which may impact on each other's key areas of work
 - informing stakeholders about our relationship and being clear about our distinctive roles.

Treatment of matters of common interest

14. We are committed to the principle of good communication with each other on areas of mutual interest. This will be done through regular liaison and regular discussion on relevant issues. The intention is not to constrain the discretion of either party, but to allow each to make representations to the other in sufficient time for those to be considered.
15. Against this background we will:
- Where appropriate, inform one another as soon as practicable on relevant developments within our respective areas of responsibility, whenever possible prior to public release of any publications, reports, press releases or speeches

- Where appropriate give appropriate consideration to the other's views and explain where we do not agree.
 - Where appropriate look to maximise opportunities for joint communication on matters of mutual interest.
 - Subject to the Freedom of Information Act, the Data Protection Act and the ASCL Act, and other constraints (e.g. commercial confidentiality, price sensitive matters) our exchanges may at times be in confidence where necessary.
16. Where appropriate we will invite each other to events hosted by one and of interest to both.
 17. Where appropriate, we will liaise, involve and keep each other informed as necessary on drafting key documents where relevant to the other's functions.

Exchange of information

18. We will aim to avoid duplication such as in the collection of information and undertaking validation checks with awarding organisations; wherever possible, we will share information we already hold.
19. Each party will also endeavour to provide information in its possession that may be reasonably requested by the other, subject to necessary confidentiality constraints and safeguards and statutory bars on disclosure. This will be in line with an agreed process for the exchange of both routine and non-routine data and information. We will, in line with Freedom of Information Act provisions on information provided in confidence, refer back to the originating party any requests for information we hold but did not collect and which we are aware is confidential in nature. Each party will make the other party aware of any

significant disclosure it intends to make to a third party of any information it received from that other party.

Implementing the MoU

20. This document clearly sets out the principles governing the implementation of the MoU. On a day to day basis issues should be resolved by the immediate work stream managers and the issues that cannot be resolved immediately should be escalated to the senior sponsors who will take a decision to escalate to the Chief Executive of Ofqual and the Chief Executive of Skills Funding who will then be responsible for resolving the issue. Both organisations will commit to meeting within three weeks of the initial escalation to provide speedy resolution.

Publication of memoranda

21. Both SFA and Ofqual will place a copy of this memorandum on their respective websites www.skillsfundingagency.bis.gov.uk and www.ofqual.gov.uk.

Signed by:

Isabel Nisbet

Geoff Russell

for Ofqual

Isabel Nisbet

Chief Executive Officer

10 September 2010

for the Agency

Geoff Russell

Chief Executive Officer

September 2010