

National Assembly for Wales
Children, Young People and Education Committee
QW 17
Qualifications Wales Bill
Evidence from : Highfield Awarding Body for Compliance

Consultation questions

The Explanatory Memorandum prepared by the Welsh Government describes the Bill's main purposes in the following terms:

The Bill provides for the establishment of Qualifications Wales as the independent regulatory body responsible for the recognition of awarding bodies and the review and approval of non-degree qualifications in Wales. Qualifications Wales will also, along with the Welsh Ministers, be responsible for preparing a list of priority qualifications, designated as such by reason of the significance of the qualification, having regard to the needs of learners and employers in Wales. The intention is, through the establishment of Qualifications Wales, to strengthen the oversight of qualifications and of the qualification system in Wales.

The Bill is intended to address the four main limitations of the current system. These are outlined in the Explanatory Memorandum as:

- there is no single organisation that is dedicated to ensuring the effectiveness of qualifications and the qualification system;
- there are no powers to prioritise qualifications and to thereby focus regulatory activity where it is most needed – with the result that there are large numbers of regulated qualifications but limited resources to ensure effectiveness;
- there are no powers to select a single provider of a given qualification to ensure that learners across Wales take the same qualification; and

- the capacity to drive forward the strategic development of qualifications within the current arrangements is too limited – creating a risk that Wales’ qualifications will not be held in as high esteem, nationally and internationally, as those in other nations.

The Bill provides Qualifications Wales with the following principal aims, and it must act compatibly with these when exercising its functions:

- a) Ensuring that qualifications, and the Welsh qualification system, are effective for meeting the reasonable needs of learners in Wales; and
- b) Promoting public confidence in qualifications and in the Welsh qualification system.

Question 1 – Is there a need for a Bill for the purposes outlined above?

HABC are supportive of plans to establish an independent regulatory body for Wales. The Bill and supporting Explanatory Memorandum generally the arrangements needed to establish a single organisation that is dedicated to ensuring the effectiveness of qualifications and the overall qualification system in Wales.

There are however, some aspects of the Bill that give rise to concerns for HABC and which could have the potential to impact on the qualification market in a negative way. These include:

1. The risk of a reduction in the choice of vocational qualifications (VQs) available to learners in Wales due to some awarding bodies having little other choice than to withdraw from the Welsh market. This withdrawal may be a result of awarding bodies not having qualifications listed on the priority or restricted priority list, the financial viability of supporting the development, marketing and awarding of a separate Welsh version of a qualification, the reluctance or inability to bear the burden of charges for regulatory activity or the inability/unwillingness to bear the increased regulatory burden generated by further divergence between regulatory systems in England, Scotland and Wales.
2. The potential impact on niche sectors who may find that either the qualifications they require are not on the priority list for Wales or find that there are no awarding bodies that are willing or able to award them in Wales.
3. A reduction in the mobility of learners in Wales and a resulting disadvantage for Wales-based learners who may find their progression routes into FE, HE and employment outside of Wales are restricted through only having access to Welsh versions of qualifications.
4. The impact on centres (employers, colleges and independent training providers) who may find their choice of awarding bodies restricted in the future and that they

need to seek centre approval with a range of awarding bodies due to restrictions on the awarding of some priority qualifications. There is also a potential impact on centres that operate near the border in that they may attract learners from both sides of the border and may therefore need to offer two versions of a qualification (the Welsh version and the English version) within their centre.

If you believe there is a need for the Bill, what are the main issues that need to be resolved?

HABC would urge Qualifications Wales and the Welsh Government to make sure that any requirements for Welsh versions of qualifications are at a sufficiently high level that awarding bodies are able to contextualise qualifications and/or use core and options approaches to meet those requirements. This approach should help to ensure that the Welsh market does not become too specific and will help to ensure that awarding bodies will be able to continue to offer valuable qualifications to learners and employers in Wales.

How significant is this issue? (Please select one option)

<i>1 - This is a key, urgent problem.</i>	X
<i>2 - This is a problem that needs to be addressed.</i>	
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	

Question 2 – Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?

HABC agrees that the Bill delivers some of the stated objectives but is concerned that the following objectives may not be delivered in full:

1. Although HABC understand the ambition to establish qualifications that are delivered in Wales as nationally and internationally recognised passports to future learning and employment it is not fully clear how this will be achieved. We have concerns that, at least in the short term, before Welsh versions of qualifications are fully understood, there is the potential to hamper learners' mobility beyond Wales by offering them access to Welsh versions of qualifications only. This may be particularly pertinent if the qualifications are in any way labelled or titled as the 'Welsh version' as this labelling it unlikely to be understood beyond the Welsh market.
2. HABC believe that the public confidence objective is a complex one to achieve and although we can understand how the changes outlined in the Bill and Explanatory Memorandum may in theory contribute to increased public confidence we do not believe there is any guarantee that this will be the case. One high profile media case has the potential to damage public confidence in the qualifications system.
3. The overall qualifications system may not meet the reasonable needs of learners if the changes result in the withdrawal of a significant number of awarding bodies (and hence qualifications) from the Welsh market. This could result in gaps in provision that in turn could result in some learners not having their reasonable needs catered for.

If not, how do you think the Bill should be amended to take account of this?

HABC would like to see the Bill amended to clarify that the term 'Welsh version' should be an administrative label only which is used to refer to those qualifications that are accredited by Qualifications Wales for use in Wales.

How significant is this issue? (Please select one option)

<i>1 - This is a key, urgent problem.</i>	
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<i>2 - This is a problem that needs to be addressed.</i>	X
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<i>3 - This is a minor problem</i>	
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<i>4 - Not a problem.</i>	
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Question 3 – Are the sections of the Bill as drafted appropriate to bring about the purposes described above?

Nothing further to add.

If not, what changes do you believe need to be made to the Bill?

Nothing further to add.

How significant is this issue? (Please select one option)

<i>1 - This is a key, urgent problem.</i>	
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<i>2 - This is a problem that needs to be addressed.</i>	
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<i>3 - This is a minor problem</i>	
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<i>4 - Not a problem.</i>	
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Question 4 – Has the Welsh Government correctly identified the four main limitations of the current arrangement, and will the two principal aims the Bill sets for Qualifications Wales, as well as the eight matters which it must have regard when exercising its functions, effectively address these limitations?

In relation to the 4 main limitations of the current arrangements in Wales HABC believe that:

1. The Welsh Government has correctly identified that there is no single organisation that is dedicated to ensuring the effectiveness of qualifications and the qualification system and the Bill does provide for establishing Qualifications Wales for this purpose. HABC support the establishment of a regulatory body for Wales.
2. In terms of the prioritisation of qualifications and focus for regulatory activity we believe that there are alternative approaches that could be adopted to address this issue other than by establishing a priority list. We are concerned that a priority list has the potential to quickly become out of step with the needs of employers and the wider economy, even if there is a commitment to updating it on a regular basis. The current system has the benefit of giving the market itself a greater amount of control over the qualifications that are developed in response to its needs as long as awarding bodies are agile and responsive to these needs. If this market-led approach results in a high number of qualifications these could be regulated on the basis of the risk they present, taking into account, for example, the numbers of learners registered and the consequential value of achieving the qualification (e.g. is it a licence to practice, an entry requirement for HE etc).
3. We believe that having a single provider of a given qualification to ensure that learners across Wales take the same qualification has the potential to impact on the market in a range of disadvantageous ways (see response to Question 5 below). Qualifications can be comparable without being completely the same and we feel that Qualifications Wales could invest in research to support the effective comparability of qualifications rather than take the step of limiting the availability in Wales to one qualification through one awarding body.
4. The matter of the esteem in which qualifications are held on a national and international basis is likely to be difficult to guarantee irrespective of the approach adopted within Wales.

In relation to the two principal aims specified HABC are concerned that there is the potential for the reasonable needs of some learners not to be met in the future if there is withdrawal of awarding bodies and their qualifications from the market. We believe there is a risk that this will open up some gaps in provision that could leave some learners without access to the qualifications they require for their future careers. In addition, as we have stated above, public confidence in qualifications and in the Welsh qualification system is probably not an issue that can be engineered with any certainty and any future errors in the system are probably just as likely to dent public confidence in the system.

If you believe there are problems in this area, how do you think they could be resolved?

HABC would recommend that consideration is given to:

1. Different ways that can be used to target the regulatory resources that are available to ensure they are effectively allocated. Exploration of risk based approaches to regulation may present an alternative to a priority list approach.

The conduct of research into effective methods of ensuring the comparability of qualifications instead of narrowing the offer in Wales to one qualification via one awarding bodies.

How significant is this issue? (Please select one option)	
<i>1 - This is a key, urgent problem.</i>	
<i>2 - This is a problem that needs to be addressed.</i>	X
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	
Question 5 – What are your views on the proposals for determining ‘priority qualifications’ and, within these, ‘restricted priority qualifications’?	
<p>HABC understands and supports the need to provide a qualifications offer in Wales that meets the specific needs of Welsh learners and employers. However, in determining the contents of the priority list of qualifications for Wales we believe there are a number of important points that should be considered:</p> <ul style="list-style-type: none"> • Extensive, accurate and up to date labour market information (LMI) and forecasts will need to be available to ensure the list reflects the needs of a wide range of stakeholders, both in terms of their current needs and their forecasted future needs. • Accurate forecasting of needs will be particularly important where industry sectors are evolving and their needs are changing at a rapid pace. • LMI will need to take into account the needs of markets beyond the Welsh border, particularly in England, Scotland and Europe, to ensure that a wide range of progression opportunities are available to learners in the future. • The list will also need to be updated regularly to ensure it continues to reflect the needs of any new and emerging sectors and does not tie the qualifications offer to out-dated needs or drive learners down the route of taking qualifications for which there is no employer demand by the time they have qualified. • The priority list will need to reflect the full range of qualifications that learners and employers in Wales require for future success and not just the academic qualifications that may form part of this requirement. Vocational qualifications (VQs) have an important role to play in the ensuring the future success of the economy within Wales and the importance of continuing to have access to a wide range of VQs should be reflected on the priority list. <p>In moving forward with the priority list there will be a need to pay special regard to two areas which may not be reflected on the overall priority list but are important areas that the overall qualification system needs to cater for, in particular:</p> <ol style="list-style-type: none"> 1. How qualification provision for niche sectors within Wales will be supported. A sector may be niche and offer employment opportunities to a relatively small number of people within Wales (and beyond) but this does not mean it should be ignored by the qualifications system. It may have particular cultural or regional relevance which it will be important to support in the future. 2. How qualifications that have been developed to cater to the specific needs of particular types of learners will be supported in the future. Similarly, there will be learners with particular requirements which may mean they need access to specific qualifications that have been developed to take these requirements into account and it will be important that the system does not neglect these learners. 	

Currently HABC operates within the market in Wales to develop and award a variety of VQs to meet the needs of Welsh employers and learners. We work closely with providers to identify their needs and provide qualifications that reflect these stated needs. We believe that this approach provides a healthy qualifications market which gives choice to learners and providers, drives innovation through competition and ensures that qualifications continue to evolve and reflect current employer and learner needs. By restricting the provision of priority qualifications to one awarding body there are a number of risks that could disadvantage the market in Wales, including:

- **The removal of choice from the centre** - centres may find that if they wish to continue to offer a particular qualification they are required to work with the specific awarding body that Qualification Wales has restricted an award to, regardless of whether the service levels, systems and processes of the awarding body work effectively for the centre.
- **Multiple approvals and added complexity for centres (employers, colleges and training providers)** - at present, a centre can choose to work with one awarding body for all qualifications or a number of awarding bodies for specific qualifications across their overall offer. The centre chooses the arrangement that works best for them. If a qualification is only available through one awarding body then the centre will have no choice other than to work with that awarding body. If the centre offers a range of qualifications that are categorised as 'restricted priority' they could find that they need to seek centre approval with multiple awarding bodies to ensure they can access the full range of qualifications that they wish to offer to their learners. This may have cost and resource implications for centres who may find they face additional costs (centre approval etc) and complexity (dealing with different awarding bodies administrative systems and procedures).
- **Learner Access in Wales**– if a learner wishes to access a qualification that is awarded by a particular awarding body and this is not the awarding body that has been selected to award the 'restricted priority' qualification in Wales then the learner will not be able to access the qualification they want without moving or studying outside of Wales. Learner preference may be driven by employer preference, especially where there is strong brand awareness within a specific sector e.g. CACHE in the care sector, EAL in engineering, HABC in the licensed trade etc. Where employers operate on a national basis they may wish their employees in all regions to achieve a qualification via the same awarding body and they may not understand why this is not possible in Wales.
- **Impact on future choice**– the market in Wales is likely to be relatively small for awarding bodies in most sectors. For some awarding bodies it is currently possible to serve the market because the qualifications, systems and process are already established and in place and closely linked with the Ofqual systems and processes. However, if an awarding body is not selected to award a 'restricted priority' qualification and has to withdraw from the market for that qualification in Wales, for however many years that the restriction is applicable, then it is questionable as to whether the costs of re-entering that market at a future date will be feasible. It is also possible that if an awarding body is not selected to award a restricted priority qualification in a particular qualification area that this could impact on their ability to continue to offer across the rest of their portfolio in Wales. It is possible that the majority of an awarding bodies revenue is achieved on a small number of qualifications and the revenue earned from these qualifications is, in some cases, used to subsidise the qualifications offer in other smaller volume or niche markets. If the revenue generating qualifications are in the restricted priority category and an awarding body is not selected to award these qualifications, it may undermine their whole business model in Wales and lead to a total withdrawal from the Welsh market. Qualifications Wales could find that whichever awarding body is initially selected to award a restricted priority qualification may be the only awarding body that elects to apply to do so in future years. This could leave Qualifications Wales in

a position of not having any choice in future years, regardless of how satisfied they are with the performance of the incumbent awarding body. This is a potentially high risk position to be in if, for example, the incumbent awarding body does anything that damages the public perception of the quality of their qualification in the market. Longer term, Qualifications Wales may choose to award the qualification themselves, but it is likely to take some time to establish this awarding function.

- **Impact on future innovation**- should the situation outlined above arise, Qualifications Wales could find that the incentive to innovate in relation to a restricted priority qualification is diminished as the competitive driver to do so has been removed.
- **Portability of qualifications** - there is also a need to consider the portability of the qualifications that are available to learners within Wales and whether Welsh versions will be able to support the movement of learners across the border into England and further afield into Europe and the international labour market. There is a real potential that the proposed changes could give rise to legal action, for example due to the creation of a monopolistic situation and/or restraint of trade.

If you think there are problems in this area, how do you think they could be resolved?

If the Welsh Government/Qualifications Wales has concerns that the awarding of a qualification by more than one awarding body has an impact on standards then HABC believes it is fair to require awarding bodies to work to a common standard and provide evidence to Qualifications Wales of how this standard is maintained. The action taken to maintain the standard could be explained to the wider stakeholders to help to address any negative perceptions associates with a choice of qualifications being made available in the same subject area within the market in Wales.

Under the research remit of Qualifications Wales, further research could be conducted into how best to evidence the validity of vocational qualifications so that there is guidance available to awarding bodies about how they can support Qualifications Wales in being able to assure the public of the quality of each of the qualifications that is available in the market. Similarly, further research in relation to the comparability of different qualifications would be valuable in supporting awarding bodies to evidence how their qualifications compare to other similar qualifications in the market.

HABC believe that Qualifications Wales should focus on taking steps to improve the public perception of the current competitive market before it takes steps to restrict the awarding opportunities for priority qualifications.

How significant is this issue? (Please select one option)

1 - This is a key, urgent problem.

2 - This is a problem that needs to be addressed.

3 - This is a minor problem

4 - Not a problem.

X

Question 6 – What are your views on the commissioning type process Qualifications Wales would undertake under the Bill, in respect of restricted priority qualifications?	
HABC's concerns about restricted priority qualifications are outlined above. In addition to these concerns the only other point that we would like to make is for the need for any commissioning process to be transparent and make provision for clear feedback to those who have participated in the commissioning process but not been successful.	
If you believe there are problems in this area, how do you think they could be resolved?	
Nothing further to add.	
How significant is this issue? (Please select one option)	
<i>1 – This is a key, urgent problem.</i>	
<i>2 – This is a problem that needs to be addressed.</i>	X
<i>3 – This is a minor problem</i>	
<i>4 – Not a problem.</i>	
Question 7 – How will the Bill change what organisations do currently and what impact will such changes have, if any?	
HABC believes that some of the proposed changes to the how the qualifications system operates in Wales could have the following impacts:	
<ul style="list-style-type: none"> • If awarding bodies are required to develop Welsh versions of qualifications for the market they may not be able to benefit from the economies of scale that are currently achievable when developing qualifications for the market in England and Wales. This may well result in some (and perhaps many) awarding bodies withdrawing from the Welsh market as it will not be financially viable to operate there, given the size of the market and the costs associated with qualification development and quality assurance. This could in turn result in less choice for learners and employers in Wales, less competition and potentially, less innovation in the market and potential impact on standards. • If awarding bodies are required to pay fees to be regulated this too is likely to impact on how many are willing/able to remain in the market. Where margins on qualifications awarded in Wales are small, any fee payable to Qualifications Wales for regulation may make the Welsh market unviable on a financial basis for HABC. Similarly, if fee capping is to be carried out this limits awarding bodies ability to run their businesses in a way that meets their objectives and targets and is likely to be seen as unacceptable in some cases. • We understand the need to provide qualifications in Wales that meet the specific needs of Welsh learners and employers. However, we do have a concern that qualifications that become too Wales-specific could impact on the mobility of learners who wish to enter FE, HE or employment elsewhere in the UK, or beyond. 	

We believe that there is a need to recognise that the border between Wales and England is permeable and that policies and systems adopted in Wales should not hinder two-way movement between Wales and other countries in the UK and Europe. It will be essential to find the right balance between qualification content that meets the specific needs of stakeholders in Wales whilst also safeguarding the mobility of learners. HABC does not intend this statement to signal that we wish the Welsh Government to simply adopt the qualifications that are available in England as there are many aspects of recent vocational education and training policy in England that we do not support. However, we do feel it is only right to signal the risks to learners of a system that may focus their future progression and employment within Wales to an extent that may limit their opportunities.

The future relationship between Qualifications Wales and other regulators, particularly Ofqual, has the potential to impact on awarding bodies. As the regulatory strategies of Qualifications Wales and Ofqual diverge the burden on awarding bodies is likely to increase as they will, in effect, need to operate in compliance with two regulatory systems instead of one. For some awarding bodies the impact this will have on resource requirements may be significant enough to lead to a withdrawal from the Welsh market.

If you believe there are problems in this area, how do you think they could be resolved?

Nothing further to add.

How significant is this issue? (Please select one option)

<i>1 - This is a key, urgent problem.</i>	
<i>2 - This is a problem that needs to be addressed.</i>	X
<i>3 - This is a minor problem</i>	
<i>4 - Not a problem.</i>	

Question 8 – What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

HABC does not feel that the Bill has taken into account the impact that some of the proposed changes could have on awarding bodies and the qualifications market in Wales, particularly in the short term. Qualifications Wales will not initially be established as an awarding body and additional legislation will be required to facilitate this in the future. This is likely to take time. In the meantime, if the proposed changes result in mass withdrawal of awarding bodies from the Welsh market this will impact on the availability of qualifications and is likely to result in gaps in provision which will disadvantage learners and other stakeholders. We feel that further consideration needs to be given to the feasibility of awarding bodies being able to operate in the Welsh market if there is a need for a separate Welsh version of a qualification, regulatory systems and processes that are increasingly diverging from those in England, a priority list of qualifications, a restricted priority list of qualifications, fees for regulation, fee capping for awarding bodies and the real potential for the market to disappear altogether in the medium term if Qualifications Wales decides to proceed with its own plans to become an awarding body. A combination of these factors could make the Welsh market unviable for a number of awarding bodies.

If you believe there are problems in this area, how do you think they could be resolved?

HABC is committed to supporting awarding activity in Wales and we would welcome an operating environment within Wales that made it feasible for awarding bodies to continue to operate in that market. We believe that the range and quality of qualifications offered by HABC and our competitor's have the potential to support learners in Wales in making progress into meaningful further learning and employment. We would therefore welcome ongoing dialogue between Qualifications Wales and the Federation of Awarding Bodies (FAB), or directly, to try to identify solutions to some of the issues that the current Bill presents. We are confident that the effective relationships we have already built with the Welsh Government and Qualifications Wales will continue and ensure ongoing collaboration and dialogue.

How significant is this issue? (Please select one option)

1 - This is a key, urgent problem.

2 - This is a problem that needs to be addressed.

3 - This is a minor problem

x

4 - Not a problem.

Question 9 – Do you have any views on the way in which the Bill falls within the legislative competence of the National Assembly for Wales?

Nothing further to add.

Question 10 – What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?

In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.

Nothing further to add.

Question 11 – What are your views on the financial implications of the Bill?

In answering this question you may wish to consider Part 2 of the

Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

Nothing further to add.

Question 12 – Are there any other comments you wish to make about specific sections of the Bill?

HABC would like to make the following additional comments:

1. As Qualifications Wales takes shape and assumes its role as an independent regulator for Wales, we would value the opportunity to continue to work closely with representatives of Qualifications Wales to discuss how any planned activities and requirements may impact on awarding bodies and to support Qualification Wales in any activities that help awarding bodies to understand what is required of them. HABC would also like to support Qualifications Wales to continue to promote the benefits VQs in the future and in publicly recognising the benefits of VQs.
2. The remit of Qualifications Wales in relation to apprenticeships in the future is not clear from the Bill or the Explanatory Memorandum. Apprenticeships are an important progression route for young people which offer valuable learning, work opportunities and qualifications as the basis for future careers. Apprenticeships in England are undergoing significant change as a result of the implementation of the Richard Review recommendation. These changes have impacted on the future role that the regulator in England will have in relation to apprenticeships. HABC are aware it is the intention to hold a Welsh Government Apprenticeship Consultation, as indicated in the minutes from the FAB/DfES/AB Liaison Group. It is not yet clear whether apprenticeships in Wales will continue to operate in line with the current operational model or if they too will undergo review and subsequent change. We believe that the inclusion of qualifications in apprenticeships is a feature that should be maintained as it ensures that the apprentice has the opportunity to achieve regulated, quality assured and portable recognition of achievement to the required standard which can be used to evidence to employers and other stakeholders that they have reached the required standard. We would welcome the retention of qualifications with Welsh apprenticeships in the future.
3. HABC would wish to see continued attempts at collaborative working between the 4 country regulators, particularly between Qualifications Wales and Ofqual. We recognise that this requires the other regulators to commit to such an approach and that there may well be challenges in achieving this which are outside of Qualifications Wales' control. However, we are conscious that our competitors work across the 4 countries and the demands of different regulators can present a significant challenge for awarding bodies. We would hope that where two or more UK regulators have the same requirements of awarding bodies this could be handled in a streamlined way such as the approach to annual statements for compliance with the General Conditions of Recognition.
4. There is some concern that the requirement for Welsh version of qualifications will require slightly different versions of what is basically the same qualification (i.e. one version for Wales, another for England etc.). This could be confusing for learners, employers and other stakeholders, especially those outside of Wales or those near the border who may be presented with different versions of what appear otherwise to be the same qualification.

The Bill makes provision for Qualifications Wales to charge for some of its activity. HABC does not feel it is appropriate for the regulatory function (a requirement to operate in Wales) should be chargeable to awarding bodies and is concerned at the impact this could have on

HABC. We would welcome an early dialogue on any proposals to charge awarding bodies to operate in the Welsh market. Similarly, any plans to fee cap what an awarding body would be able to charge in the market would be an issue (with potential legal ramifications) that we would welcome early dialogue on.