

## **Explanatory Memorandum: Qualifications Wales (Monetary Penalties) (Determination of Turnover) Regulations 2019**

This Explanatory Memorandum has been prepared by the Education Department and is laid before the National Assembly for Wales in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Qualifications Wales (Monetary Penalties) (Determination of Turnover) Regulations 2019. I am satisfied that the benefits justify the likely costs.

Kirsty Williams

**Minister for Education**

12 March 2019

## **Description**

1. Section 38 (1) of the Qualifications Wales Act 2015 enables Qualifications Wales to impose a monetary penalty on an awarding body that fails to comply with a condition of its recognition. The regulations create an upper limit or cap on the amount of the monetary penalty that Qualifications Wales can impose. The regulations stipulate that the amount of the monetary penalty may be whatever Qualifications Wales decide is appropriate but may not exceed 10% of an awarding body's UK turnover.
2. The regulations also set out how Qualification Wales will determine turnover for the purposes of the 10% cap. The regulations state that turnover includes all amounts derived by the awarding body from the provision of goods and services falling within the body's ordinary activities in the United Kingdom and all other amounts received by the body in the course of its ordinary activities. The amounts are to be calculated in conformity with generally accepted accounting principles in the UK.

## **Matters of Special Interest to the Constitutional and Legislative Affairs Committee**

3. None

## **Legislative background**

4. The Qualifications Wales Act 2015 ("the Act") established Qualifications Wales as the independent regulator for non-degree qualifications in Wales.
5. Part 7 of the Act makes provision about steps that may be taken by Qualifications Wales if it considers that a body awarding qualifications in Wales has failed to comply with a condition to which its recognition, or the approval of a qualification awarded by it, is subject. Among the enforcement sanctions available to Qualifications Wales is the power to impose a monetary penalty on a body it regulates for non-compliance with its Standard Conditions of Recognition and regulatory documentation.
6. Section 38(3) of the Act provides that the amount of the penalty is to be determined in accordance with regulations made by the Welsh Government. The regulations are intended to limit the range of the penalty that Qualifications Wales may impose on bodies it regulates. Subject to this limit, the monetary penalty imposed by Qualifications Wales will be whatever they decide is appropriate in all the circumstances of the case.
7. The regulations are made subject to approval under the affirmative resolution procedure in the Assembly.

## Purpose and intended effect of the legislation

8. The regulations need to be made by the Welsh Government to determine the financial limit on the monetary penalty that Qualifications Wales may impose; until these regulations are made Qualifications Wales cannot exercise their power to impose a monetary penalty. The regulations also set out how Qualification Wales will determine turnover of an awarding body for the purposes of the cap.
9. It is proposed that regulations are made to cap any monetary penalty imposed by Qualifications Wales at 10% of an awarding body's total UK turnover in the financial year preceding the issuing of the monetary penalty notice.
10. The regulations apply to awarding bodies operating in Wales.

## Consultation

11. The consultation on the policy content of the Qualifications Wales (Monetary Penalties) (Determination of Turnover) Regulations 2019 took place from 22 October 2018 to 7 January 2019. The consultation exercise involved the consultation document being on the Welsh Government website for the period stated above. Organisations could respond on line or by email. Key awarding bodies and the Federation of Awarding bodies were made aware by email of the consultation exercise.
12. There were 13 responses, which is relatively low as Qualifications Wales regulates 104 awarding bodies. One response was from the Federation of Awarding Bodies who are the representative body for the awarding body sector.

Sector	Total Number of Responses
Awarding Bodies	8
Other Organisations	3
Individuals	2
<b>Total</b>	<b>13</b>

13. The majority of respondents to the consultation (eleven out of thirteen) agreed that Qualifications Wales should be able to impose monetary penalties and that these should be capped at a maximum level. However the majority of respondents disagreed that the cap should be 10% of the awarding bodies' total UK turnover, making the following comments:

- A number of awarding bodies felt that determining the maximum penalty as 10% of UK turnover would put risks on awarding bodies operating across the UK. One awarding body made the comment that it seemed 'unduly harsh' on awarding bodies that do not generate the majority of their regulated income from Wales.
- Eight out of thirteen of the respondents felt it was unfair to use their total annual UK turnover as a means of determining a monetary penalty with regard to often much smaller operations within Wales. Some awarding bodies felt it would be possible to separate out 'revenue' generated from business in Wales.
- Generally the awarding bodies felt it was unfair to include their other activities, including non-regulated qualifications and support materials, when determining a percentage of turnover. Some awarding bodies suggested that only 'Regulated activity' in Wales should be taken into account when determining their turnover.
- Five of the eight awarding who responded expressed concern about the effects of an event occurring which affected qualifications in both England and Wales, which meant the involvement of both Ofqual and Qualifications Wales. They were concerned that if both regulators decided to impose financial penalties (which could be up to 10% of turnover), an organisation could face a fine of up to 20% of its turnover.

14. A number of other comments were received from respondents including:

- One awarding body made the point that the proposed upper limit could lead to gaps in regulated qualification provision across Wales if awarding bodies withdraw from the market because the risk of remaining is too severe.
- The predominant view was that the proposals outlined did not offer any particular incentives for awarding bodies to offer Welsh medium qualifications. One respondent, however, felt the proposed monetary penalties regulations would assist Qualifications Wales in ensuring qualifications were available through the medium of Welsh and should have a positive effect on the Welsh Language.
- The point was made by two of the awarding bodies that awarding bodies 'understood that any monetary penalties would be paid into the Wales Consolidated Fund.' They said they would 'appreciate some consideration being given to the proceeds of any monetary penalties being assigned to a fund that is used to support the technical and vocational education sector.'

15. Many of the other comments coming back from the awarding bodies concerned the implementation of the regulations which would be the responsibility of Qualifications Wales who are the Welsh Regulator.

16. The two most common factors from the consultation responses were:
- i. The disagreement with the proposal to calculate turnover using all of an awarding body's activity rather than using only regulated activity; and
  - ii. That it was unfair to use the awarding bodies' total annual UK turnover as a means of determining a monetary penalty with regard to often much smaller operations within Wales.
17. We have considered these responses against the need to ensure that Qualifications Wales are able to exercise this power to fine equally across all organisations which award qualifications in Wales. As there was no clear majority view on what was thought to be the best way to determine an awarding body's turnover, the proposal, as set out in the consultation, has been used as the basis. To restrict the determination of turnover to regulated activities only would be targeting a specific group of awarding bodies, those which charge a sufficient amount for the award of their qualifications. Other awarding bodies, such as, employers and some other organisations that do not charge for their qualifications would have little or no turnover generated from regulated activity. As such, the Welsh Ministers would be unable to impose any effective fine on these organisations. Further clarification has been made within the regulations on the interpretation of what is "applicable turnover" in relation to an awarding body's ordinary activities.
18. The proposed definition of turnover allows Qualifications Wales to have an effective monetary penalties policy taking into account the diverse nature of the qualifications market. The definition is in line with the Companies Act 2006, using this definition is fair, transparent and straightforward making it less burdensome to administer. No workable alternatives were presented by the awarding bodies in their responses to the consultation exercise.
19. With regards to the argument that it was unfair to use an awarding body's total UK turnover for determining a monetary penalty, some awarding bodies felt it would be possible to separate out 'revenue' generated from business in Wales. However, Qualifications Wales is not able to access authoritative data on awarding bodies' turnover in Wales (rather than in the UK as a whole). It will only be able to access UK turnover as awarding bodies are generally registered as companies operating in England and Wales. Qualifications Wales published a list of factors which would be taken into account in determining a monetary penalty. Relevant turnover is one of these as would be the severity of the breach. Qualifications Wales would work with an awarding body which may be subject to a monetary penalty to see what the level of their activity in Wales was and would take this into account in determining a potential monetary penalty. Qualifications Wales would need to be proportionate and reasonable in all cases.
20. In practice, a number of awarding bodies are regulated by both Qualifications Wales and Ofqual with regard to the qualifications they offer in Wales and England respectively. Qualifications Wales works closely with the other regulators of qualifications, especially Ofqual and so would want to co-

ordinate any monetary penalty decisions to ensure that the regulators were joined up in their overall approach and to safeguard from placing fines on the same awarding bodies for the same breaches. Therefore, if both Ofqual and Qualifications Wales have the same upper limit, it would support both organisations to work effectively together.

21. The First-tier Tribunal will be in place to ensure there are effective checks and balances in the system. The Regulations should set the overall parameters, but it is Qualifications Wales' responsibility as regulator to place an appropriate level of monetary penalty which is proportionate and reasonable or else risk being referred to the Tribunal. The cap itself is therefore not the place to try to control this, but for Qualifications Wales to work through when deciding on a case by case basis what is the appropriate level of monetary penalty.
22. A number of operational queries were raised in the consultation exercise which have been discussed with Qualifications Wales. Qualifications Wales will be giving additional clarity in their Monetary Penalties policy which will implement the regulations. They will publish their revised policy after the regulations have come into force.
23. For these reasons it is felt appropriate to continue with the proposal for the upper limit for a monetary penalty to be set at 10% of an awarding body's UK turnover as proposed in the consultation paper.

## **Part 2 – Regulatory Impact Assessment**

24. This Regulatory Impact Assessment has been developed to consider the regulatory implications of the proposed Monetary Penalties Regulations.

### **Examination of options**

25. Four options for a cap on the Monetary Penalty Qualifications Wales is permitted to impose on awarding bodies have been examined here.
26. In examining alternative options, officials have researched the powers to impose financial penalties of other regulators. These range from the unlimited power of the Gambling Commission to the £500k limit imposed on the Information Commissioner's Office. Many regulators have their powers to impose financial penalties capped at 10% of the turnover of the organisations they regulate; these include Ofqual, Ofgem, Ofwat and the Office of Rail and Road Regulation.
27. Officials have considered a number of potential options to determine **the limit** of the financial penalties imposed by Qualifications Wales. These are:

## Option 1

### Not imposing a cap

#### **Advantages**

- The advantage of this approach is that it does not fetter Qualifications Wales with regard to the level of monetary penalty it may impose.

#### **Disadvantages**

- This approach could however lead to uncertainty amongst awarding bodies over the maximum monetary penalty that could be imposed
- It may not be in keeping with the spirit of debates during the development of the Qualifications Wales Act in 2013/14.

## Option 2

### A cap of up to 10% of an awarding body's total turnover in the United Kingdom in the financial year preceding the issuing of the monetary penalty notice.

#### **Advantages**

- This approach would maintain consistency. When the Welsh Ministers were regulators for qualifications and had the power to impose monetary penalties under section 32AB of the Education Act 1997 the Welsh Ministers set the cap at 10% of total turnover .
- Setting the cap at 10% of total turnover would give Qualifications Wales the same upper limit to monetary penalties as Ofqual, Qualifications Wales' counterpart in England, and so treat the two awarding bodies the same. In practice, over 100 awarding bodies are regulated by both Qualifications Wales and Ofqual with regard to the qualifications they offer in Wales and England respectively. In many cases it would be the regulator who had monitored the awarding body and undertaken the investigation into the breach who would issue the monetary penalty.
- If both Ofqual and Qualifications Wales have the same upper limit, it would support both organisations to work effectively together on an equal footing. Qualifications Wales works closely with the other regulators of qualifications, especially Ofqual, with whom it has a memorandum of understanding (2016), and so would want to co-ordinate any monetary penalty decisions to ensure that the two regulators were joined up in their overall approach and to also avoid imposing monetary penalties on the same awarding bodies for the same breaches. It would not be appropriate for Qualifications Wales to be seen as a regulator with lesser powers. Although some awarding bodies do less business in Wales, that is not the case with all awarding bodies.

- This would be an upper limit only and not a guide to what is an appropriate level of monetary penalty.

### **Disadvantages**

- There is a view that limiting Qualifications Wales' power to impose monetary penalties to 10% of an awarding body's total UK turnover may be considered disproportionate in terms of the relative size of the Welsh qualifications market when compared to England. In cases where awarding activities in Wales account for a small proportion of an awarding body's business, the cap may be relatively large compared to the scale of the awarding body's activities. This point was raised by awarding bodies when the Welsh Government consulted on capping monetary penalties in 2012 when it was regulator for qualifications and again during scrutiny of the Qualifications Wales Bill. However, the extent of activity in Wales is one of the areas Qualifications Wales would consider in arriving at an appropriate monetary penalty.

### Option 3

Up to a percentage of turnover from relevant activities in Wales in the financial year preceding the monetary penalty notice or £100k whichever is the greater.

### **Advantages**

- This option could be seen as a workable compromise. For those awarding bodies deriving income from providing qualifications; the cap is determined in relation to that income, but not all awarding bodies have an income from 'regulated' activities
- This option also allows Qualifications Wales the opportunity to issue a monetary penalty against those organisations who do not charge fees. Officials believe that Qualifications Wales would be able to estimate the turnover from relevant activities as it would be able to access data on the number of awards made during the relevant period and would have access to data on fees charged.

### **Disadvantages**

- This approach could be punitive for small awarding bodies that do charge fees but only make a small number of awards in Wales and whose total turnover from relevant activities in Wales (or in some cases total turnover from the United Kingdom as a whole) may not reach £100,000.
- A monetary penalty based on a percentage of turnover would be a better way of future-proofing the regulations (as a specified sum of money may be out of date in a few years). Some awarding bodies undertake significant activity in Wales, as we have said, so a percentage of turnover is a more progressive approach. A policy based on fee income may,



however, be misleading as awarding bodies have many different business models and derive income from a variety of sources and not just fees. As stated above not all awarding bodies derive an income from 'regulated' activities. In arriving at a monetary penalty Qualifications Wales would aim to work with the awarding body to define relevant activity in Wales. Qualifications Wales cannot access data from ONS on turnover in Wales.

#### Option 4

Apply a different penalty cap according to the severity of the breach.

#### **Advantages**

- There would be a different cap applied depending on whether the breach was categorised for example, as 'minor', 'moderate' or 'significant' and is similar to that taken by the Office of Rail and Road. The maximum penalty the Office of Rail and Road may impose is 10% of the licensee's or relevant operator's turnover.

#### **Disadvantages**

- It would be difficult to define acceptable parameters for each category to cover all eventualities.
- Such an approach could lead to ambiguity and place an unnecessary burden on awarding bodies if they felt compelled to appeal a decision based on the category the breach had been placed in. Qualifications Wales will consider the severity of the breach, taking account of the impact of the breach on learners and public confidence when determining the amount of the monetary penalty.

#### **Table of Options**

Options	How it operates	Minimum Penalty	Maximum Penalty	Comments
1	No cap	No minimum	No upper limit	Could lead to uncertainty

2	10% of UK turnover as difficult to determine Welsh turnover as many different business models exist	No minimum	<p>10% of UK turnover.</p> <p>UK turnover of £20m – max monetary penalty of £2m.</p> <p>UK turnover of £750,000 – max monetary penalty of £75,000.</p> <p>Turnover in UK £40,000 max penalty £4,000</p>	QW would infact look at turnover and business in Wales along with other factors, with the awarding body, and take a proportionate approach in imposing a monetary penalty.
3	A percentage of relevant activities in Wales or £100,000 which ever is the greater	£100,000	Percentage of relevant activities in Wales eg relevant activities in Wales of £25,000 – max monetary penalty of £2,500.	£100,000 may be significant for some awarding bodies who do not undertake a lot of work in Wales. In addition, a percentage rather than a sum of money is preferable in order to future-proof the penalty.
4	Different cap imposed according to the severity of the breach	No minimum	No maximum	Difficult to define acceptable parameters for each category eg minor, moderate or severe. Could lead to many appeals by awarding bodies.

## **Preferred Option**

28. On balance the preferred option is option 2 set out above. This option sets a cap of 10% of an awarding body's total UK turnover on any monetary penalty Qualifications Wales can impose.
29. As noted above, awarding bodies have a variety of different business models and it will always be difficult to devise a scheme that is equally acceptable to all. In considering options for the cap, we have anticipated the concerns of both large and small awarding bodies, especially those who generate very little income from regulated activity in Wales, based on concerns raised in the Welsh Government's 2012 consultation and any concerns voiced during scrutiny of the Qualifications Wales Bill.
30. We have also considered any concerns in the context of Qualifications Wales' draft policy on monetary penalties and our own Welsh Government consultation exercise. We are of the opinion that the factors Qualifications Wales will take into account when calculating any monetary penalty, in particular the level of an awarding body's business in Wales, mitigate any concerns raised. Setting the cap at 10% would also provide consistency with Ofqual.
31. The First-tier Tribunal will be in place to ensure there are checks and balances in the system. The Regulations should set the overall parameters, but it is Qualifications Wales' responsibility as regulator to place an appropriate level of monetary penalty which is proportionate and reasonable or else risk being referred to the Tribunal. The cap itself is therefore not the place to try to control this, but for Qualifications Wales to work through when deciding on a case by case basis what is the appropriate level of monetary penalty.

## **Turnover**

32. When the power to impose monetary penalties was previously with the Welsh Ministers (under 32AA of the Education Act 1997), the Welsh Ministers had power under section 32AB (2) of the Act to make an Order (The Recognised Persons (Monetary Penalties) (Determination of Turnover) (Wales) Order (2012) to determine the turnover of a person for the purposes of the 10% cap applying to monetary penalties.
33. Welsh Ministers no longer have this power expressly under the Qualifications Wales Act. However, the scope of the regulation making power is wide enough to allow the Welsh Ministers to include the parameters for determining turnover in the regulations. A provision is included about determining turnover which QW can apply consistently when imposing monetary penalties on awarding bodies. The role of the Welsh Ministers would be setting the parameters and QW's role will be in determining turnover, that is to say applying the parameters which have been set so that QW can determine each awarding body's turnover when imposing the monetary penalty. The parameters proposed include the following elements:

34. Turnover of a recognised body would be the sum of:

- All amounts derived by the body from the provision of goods and services falling within the body's ordinary activities in the UK
- All other amounts received by the body in the course of its ordinary activities in the UK by way of gift, grant, subsidy or membership fee after deduction of trade discounts, value added tax and other taxes based on the amounts received.
- The amounts would be calculated in conformity with the generally accepted accounting principles in the UK.
- The turnover of the recognised body would be the body's turnover for the business year preceding the date of the notice to impose a monetary penalty.

35. However, the size of the cap does not directly determine the level of monetary penalty, and it would not free Qualifications Wales from the obligation to set a monetary penalty that is proportionate and reasonable in all the circumstances of the case. Qualifications Wales states in its Monetary Penalties policy that it will take factors such as the extent of the awarding body's business in Wales, the impact of the breach on learners and/or on the qualifications system in Wales into account when setting the level of any fine. Qualifications Wales will also take account of whether any financial sanctions have been imposed in relation to the same breach by other regulators when calculating the level of fine.

## **Costs and Benefits**

36. We have examined the cost of the preferred option and of the General Regulatory Chamber First Tier Tribunal which Qualifications Wales have agreed to pay for.

37. Start-up costs rather than transition costs are envisaged.

38. Qualifications Wales is an independent statutory body, funded by the Welsh Government. They oversee the standards to which qualifications are awarded, independent of influence from others. A core part of this work is to monitor the compliance of awarding bodies and qualifications against their rules ("regulatory activity").

39. Occasionally, when certain awarding bodies cannot or will not comply with the Qualifications Wales rules, they will decide to impose sanctions, using the statutory powers given to them by the Qualifications Wales Act 2015. These powers include the ability to impose a monetary penalty, and to require an awarding body to pay the costs incurred by Qualifications Wales in connection with imposing that penalty.

40. As outlined in the Qualifications Wales draft Monetary Penalties Policy which they consulted on in 2018, they would generally only consider imposing a monetary penalty for the more serious cases of non-compliance. These would

include cases where the non-compliance was either deliberate or the awarding body must have known, or ought reasonably to have known, that there was a risk that a non-compliance would occur and failed to take reasonable steps to prevent it.

41. As such, Qualifications Wales does not anticipate imposing a monetary penalty on a regular basis. It may be useful to note that Ofqual, in the eight years in which it has been in operation, has to date imposed monetary penalties on only **six** occasions. It should also be noted that Ofqual has decided to recover costs incurred in **all** cases where a monetary penalty has been imposed. On this basis, the average number of monetary penalties expected to be imposed in Wales each year is less than one.
42. As noted above, the Act allows Qualifications Wales to require an awarding body to pay the costs incurred by Qualifications Wales in connection with imposing a monetary penalty. This power deters awarding bodies from behaving irresponsibly and ensures that, in the few cases where such a strong regulatory response is necessary, those responsible for the non-compliance pay the costs of investigations and not the public.
43. In deciding whether to require an awarding body to pay these costs, Qualifications Wales will have regard to the extent of these costs, and whether those costs would be proportionate to the monetary penalty imposed.

They may seek to recover:

- any costs incurred in investigating the non-compliance that exceed those which they would anticipate in undertaking their regulatory activity;
  - any costs incurred in imposing a monetary penalty that exceed those which they would anticipate in undertaking their regulatory activity;
  - any costs incurred in obtaining legal advice in relation to the specific application of the monetary penalty.
44. They will also consider whether there are any countervailing factors which indicate that the regulator, rather than the awarding body, should meet the costs of imposing the monetary penalty e.g. that a significant period of time has passed since Qualifications Wales incurred costs in connection with the direction, or that their costs exceed the sum of the monetary penalty imposed.
45. In the absence of regulations which grant them the power to impose monetary penalties, Qualifications Wales has not carried out investigations of this nature to date. As such, they are unable to provide Welsh Government with an accurate estimate of the likely costs they would incur in imposing a monetary penalty.
46. It is also important to emphasise that these costs are likely to vary dependent on the nature of each case in question. In the six cases to date in which Ofqual have recovered costs incurred in imposing a monetary penalty, these have ranged from £5,842 to £50,000.

47. However, Qualifications Wales would expect that any direct costs (such as the costs of obtaining external legal advice) will be recoverable as billed. Their investigation and administration costs are likely to be based on the number of hours recorded by staff at different grades, with an hourly rate calculated in accordance with the [Managing Welsh Public Money framework](#)<sup>1</sup>.
48. They would expect that the majority of the investigation and administrative costs would be incurred at Officer and Manager levels within the Qualifications Wales structure, but also foresee that some costs would be incurred at Associate Director and Director levels in respect of approving such enforcement decisions.

### **Awarding Bodies**

49. The costs to the awarding bodies themselves are likely to vary depending on the nature of each case in question.
50. In the six cases to date in which Ofqual have imposed monetary penalties, these have ranged from £30,000 to £175,000. In determining the amount of a monetary penalty that an awarding body will be required to pay, Qualifications Wales will take the following factors into account:
- the awarding body's turnover;
  - the upper limit of the monetary penalty that they may impose on an awarding body, as set by Welsh Ministers;
  - the impact of the non-compliance on learners, centres, other awarding bodies and on the Welsh qualification system;
  - any costs incurred by the awarding body in attempting to prevent the non-compliance or mitigate its effects;
  - the potential impact of a monetary penalty on the awarding body and its ability to comply in the future.
51. Qualifications Wales will also work with other regulators to determine, where necessary, if non-compliance has occurred in relation to their jurisdictions. Qualifications Wales will take any action taken by other regulators into account when deciding whether to impose a monetary penalty.

### **First-tier Tribunal Costs**

52. There will be an impact on the General Regulatory Chamber of the First Tier Tribunal. The Ministry of Justice envisage that costs associated with the new appeals going to the General Regulatory Chamber of the First Tier Tribunal will be formed by start-up costs of £7,000 and running cost of £35,000 for 10 appeals in the first 12 months (this includes any IT changes). Appeals will

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<sup>1</sup> Section 6 confirms that 'the standard approach is to set charges to recover full costs' and that 'cost should be calculated on an accruals basis, including overheads, depreciation (e.g. for start-up or improvement costs) and the cost of capital'.

then be costed on costs per case basis as £3,500 per appeal (ball park figure). QW have agreed to meet these costs.

- 53. Tribunals charge an initial start up and running cost when the appeal is due to be implemented and is on the proviso that no IT development of the database is required nor significant judicial training. Those would be subject to additional costs.
- 54. Start-up costs cover update of the website, guidance, forms, staff and judicial training, senior judicial input into implementation, implementation time and expenses incurred by operational and the jurisdictional and operational support team.
- 55. The running cost covers only First-tier Tribunal judicial cost for salaried and fee paid judges, expert panel members and lay members and administration for those appeals and use of HMCTS estate for both hearing and administration.

### **Specific Impact Assessments**

#### **Impact of the proposed legislation on duties of the Welsh Ministers as set out in the Government of Wales Act 2006.**

- 56. The 2019 Regulations are not considered to have any specific impact on the duties of the Welsh Ministers as set out in the Government of Wales Act 2006.

### **UNCRC**

- 57. The regulations actively support the UN Convention on the rights of the child, specifically under articles 12, 29 and 30. The regulations include appropriate protections for learners and for awarding bodies. The Integrated Impact Assessment can be viewed on line.
- 58. Positive impacts on children and young people were identified as a result of the proposed regulations which will give more protection to learners through the ability of QW to impose penalties. Children and learners can be more confident that the qualifications they take meet their reasonable needs and are rigorous.

### **Welsh Language**

- 59. Qualifications Wales has regard to the Welsh Language Measure 2011 and promotes and facilitates the uptake of Welsh Language qualifications.

### **Equality of Opportunity**

- 60. No issues relating to these duties are considered to arise from the making of these 2018 Regulations. The integrated impact assessment can be viewed on the Welsh Government website. The regulations focus on the quality assurance aspects of Qualifications Wales' work. The regulations will help ensure that qualifications are effective in meeting the reasonable needs of learners and that there is public confidence in the qualifications and regulatory processes. As a result of the regulations children, young people and all learners will be able to be

more confident that the qualifications they take are fit for purpose. Section 149(1) of the Equality Act 2010 requires that the Welsh Ministers have regard in the exercise of their functions to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act. The QW Act 2015 references the Equality Act 2010 and the Framework document between the two organisations also says QW should have regard to equality of opportunity.

### **Well-being and Future Generations (Wales) Act 2015**

61. Qualifications Wales will have due regard to the principles of the Well-being and Future Generations Act and this is stipulated in the Framework Agreement between the Welsh Government and Qualifications Wales.

### **Sustainable Development**

62. Through having regard to the Well-being and Future Generations (Wales) Act 2015, QW will act in accordance with the sustainable development principles.

### **Impact upon the Voluntary Sector**

63. We do not expect the voluntary sector to be affected by the new regulations.

### **Competition Assessment**

64. There are no market implications associated with the making of these 2019 Regulations.

### **Post implementation review**

65. The Welsh Government will monitor the impact of the new regulations through feed-back from awarding bodies, Qualifications Wales and other stakeholders.