

## MEMORANDUM OF UNDERSTANDING

1. This Memorandum of Understanding ("Memorandum") is dated 2008 and is made between the Department for Children, Schools and Families of Sanctuary Buildings, Great Smith Street, London SW1P 3BT ("DCSF") and the Qualifications and Curriculum Authority of 83 Piccadilly, London W1J 8QA ("QCA").
2. On 26 September 2007, the Secretary of State for Children, Schools and Families ("Secretary of State") announced that DCSF intends to seek the enactment of legislation to create a new independent regulator ("Regulator"). It is intended the Regulator will have responsibility in England for securing the standards of qualifications and tests; regulating existing and new qualifications; monitoring and reporting on the standards of tests; and qualifications; and regulating the awarding body market.
3. On 17 December 2007, DCSF launched a public consultation which, amongst other things, set out detailed proposals on the operational relationship between QCA and the Regulator and the responsibilities and powers of each organisation.
4. In advance of legislation, interim arrangements as described in this Memorandum are to be put in place, one objective of which will be to facilitate the seamless transfer, in due course, of functions and responsibilities from QCA to the Regulator. It is anticipated that these arrangements will remain in place until the coming into force of the legislation establishing the Regulator. If, for whatever reason, the necessary legislation was not enacted, then consideration would be given at the relevant time as to whether the arrangements should continue in place and, if so, what form they should take.
5. Pursuant to his powers under paragraphs 13(1)(b) and 14(2) of Schedule 4 to the Education Act 1997, the Secretary of State will direct QCA to establish a committee ("Committee") for the purpose of exercising on behalf of QCA functions and powers in relation to the regulation of (a) external qualifications and the bodies which award or authenticate such qualifications and (b) National Curriculum assessments ("Regulatory Purpose"). To that end, the Secretary of State will authorise the Committee to exercise, but only in furtherance of the Regulatory Purpose, the particular functions and powers ("Regulatory Functions") as are specified in his direction ("Direction"). The scope of the Regulatory Functions will however be subject to the principle set out in paragraph 6 below.
6. It is acknowledged that the Direction cannot provide for the Committee to exercise functions which QCA is itself not capable of carrying out. It is acknowledged that the Regulator's


functions may be broader than the current statutory powers of QCA, but that unless and until legislation is passed, the Committee will not be able to exercise such broader functions.

7. The Committee will be chaired by a member of QCA ("Interim Chair"). It will act as the Board of the Regulator in shadow form ("Interim Regulator") and will report into the Board of QCA via the Interim Chair. The intention is that the Interim Chair will not take part in any business of QCA unrelated to the Regulatory Functions.
8. QCA will confer on the current QCA Director of Regulation and Standards the role of the Chief Executive Officer of the Interim Regulator ("Acting CEO"). The Acting CEO will report to the Interim Chair and not to the Chief Executive Officer of QCA ("QCA CEO"). The Acting CEO will no longer be a member of the QCA Executive but may attend any parts of QCA Executive meetings which may impact upon the exercise of the Regulatory Functions by the Interim Regulator, such as strategic or human resource issues. The Acting CEO will attend meetings of the QCA Board in respect of the Regulatory Functions as requested.
9. The Interim Regulator will operate under QCA's remit letter from the DCSF. The funding for the Interim Regulator will be ring-fenced from the funding for the rest of QCA. The QCA CEO will remain responsible as Accounting Officer for the financial management and control of resources used by QCA for all of its activities including those of the Interim Regulator. The QCA CEO will delegate responsibility for the financial management and control of resources used in connection with the exercise of the Regulatory Functions by the Interim Regulator to the Acting CEO, who will exercise the functions of an Accounting Officer in relation to those resources.
10. The Interim Regulator will have its own public identity, press office and headquarters. It alone will exercise the Regulatory Functions in furtherance of the Regulatory Purpose under the control of the QCA Board. It will share certain administrative services with QCA, such as payroll, accounts, human resources and selected support services ("Shared Services"). Whilst the staff of the Interim Regulator, including the Acting CEO, will remain the employees of QCA, the QCA CEO will not be responsible for their acts or omissions (except as required by his role as Accounting Officer). The Interim Regulator will be responsible for its own information management and will respond, in its own name, to all requests for information about its constitution, functions and powers.
11. DCSF and the QCA Board acknowledge that for so long as the Direction is in force, and subject to appropriate changes being made to the QCA CEO's terms and conditions of appointment, the QCA CEO will be discharged from his responsibilities in respect of the Regulatory Functions as exercised by the Interim Regulator. Whilst the QCA CEO remains discharged from these responsibilities, neither he, nor the QCA Executive will have any


responsibility in relation to the formulation and implementation of policy by the Interim Regulator. It is acknowledged that the effect of this release is that there will be statutory functions being discharged by QCA for which the QCA CEO will no longer be responsible except in his role as Accounting Officer. The QCA CEO will, however, continue to be responsible for the Shared Services.

12. The QCA Board acknowledges that it will at all times maintain a level of control over the activities of the Interim Regulator which is consistent with the fact that the actions of the Interim Regulator necessarily remain those of QCA in law. The QCA Board will enter into a memorandum of understanding with the Interim Regulator setting out the controls under which the Regulatory Functions will be exercisable by the Interim Regulator.
13. DCSF acknowledges that the Interim Regulator, and those members of QCA staff working to it, will alone be responsible for the exercise of the functions of QCA as described in paragraphs 5 to 11 above. Accordingly, for so long as the Direction has effect, these will no longer be responsibilities of the QCA CEO except as provided in paragraph 9 above.


SIGNED BY  
FOR AND ON BEHALF OF THE QUALIFICATIONS  
AND CURRICULUM AUTHORITY.

  
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(CHAIR)

SIGNED BY  
FOR AND ON BEHALF OF THE QUALIFICATIONS  
AND CURRICULUM AUTHORITY.

  
.....  
(CHIEF EXECUTIVE OFFICER)

SIGNED BY  
FOR AND ON BEHALF OF THE SECRETARY OF  
STATE FOR CHILDREN, SCHOOLS AND FAMILIES

  
.....  
(DIRECTOR GENERAL FOR THE YOUNG  
PEOPLE DIRECTORATE  
DEPARTMENT FOR CHILDREN,  
SCHOOLS AND FAMILIES)