

DATED

05 August 2024

MEMORANDUM OF UNDERSTANDING

between

The Commission for Tertiary Education and Research

and

the Coleg Cymraeg Cenedlaethol

1. Introduction

- 1.1 The aim of this Memorandum of Understanding is to set out the agreement reached between the Commission for Tertiary Education and Research (“**the Commission**”) and the Coleg Cymraeg Cenedlaethol (“**the Coleg**”). This Memorandum does not affect the existing functions of the parties or the exercise of those functions; neither does it amend any other policies or agreements relating to their activities.
- 1.2 This Memorandum, supported by a separate data sharing agreement, describes how each party will fulfil its role in relation to the Coleg’s designation by Welsh Ministers to advise the Commission in the discharge of its strategic duty to promoting tertiary education through the medium of Welsh, as set out in the Tertiary Education and Research (Wales) Act 2022. This Memorandum sets out an agreed set of principles, ways of working and methods of communication. Other aspects of partnership working between the Commission and the Coleg is not covered by this Memorandum.
- 1.3 This Memorandum is not intended to be legally binding.

2. The parties

The Commission

- 2.1 The Commission for Tertiary Education and Research (“the Commission”) is established by the Tertiary Education and Research (Wales) Act 2022 (TER Act) as a body corporate to fund and regulate tertiary education¹ and research in Wales.
- 2.2 The TER Act sets out eleven strategic duties, which requires the Commission, through its funding and regulation, to promote or encourage specific outcomes specified in those strategic duties. One of these duties (section 9 of the TER Act refers) is to promote tertiary education through the medium of Welsh. The intention of this duty is to require the Commission to take all reasonable steps to, not just meet demand for Welsh medium tertiary education, but also build demand for and encourage participation in Welsh medium tertiary education. Specifically the TER Act sets out that the Commission must:
 - (a) encourage demand for, and participation in, Welsh tertiary education provided through the medium of Welsh;
 - (b) take all reasonable steps to ensure that there is sufficient Welsh tertiary education provided through the medium of Welsh to meet demand;
 - (c) encourage the provision of tertiary education through the medium of Welsh by—
 - (i) registered providers in Wales, and
 - (ii) other persons providing tertiary education funded or otherwise secured by the Commission.

The Coleg

- 2.3 As outlined in the Coleg’s articles of association, the object of the Coleg shall be, for the benefit of the public, to advance learning and knowledge by:

¹ Higher education, further education and training suitable to the requirements of persons who have attained the age of 16

- a) promoting, maintaining, developing and planning Welsh medium and Welsh language provision and related activities in higher education, further education and continuing education in Wales, working with and through higher education institutions, further education institutions, schools and partner organisations in Wales; and
- b) promoting, maintaining, developing and planning learning, acquiring, enhancing and improving the Welsh language communication skills of people generally, working with appropriate institutions in Wales or elsewhere.

2.4 Section 9 of the TER Act also enables Welsh Ministers to designate a person to advise the Commission on the discharging of its duty to promote tertiary education through the medium of Welsh. On 5 June 2023, the Minister for Education and Welsh Language designated the Coleg to undertake that role. That letter will be published by the Commission. The Commission must have regard to any relevant advice from the Coleg from 1 April 2024.

3. Agreed set of principles

3.1 The parties agree the following principles:

- The Coleg and the Commission recognise their respective independence and will show regard for each other's remits and activities. Both parties understand that this Memorandum protects the freedom of both parties to fulfil their own terms of reference.
- The parties will communicate openly with each other, responding promptly to queries from each other, aiming to resolve any disputes amicably and constructively.
- The parties agree to adhere to statutory requirements and best practice, including complying with applicable laws and standards including applicable procurement rules, data protection and freedom of information legislation.
- Each party will ensure that members of staff are aware of the contents of this Memorandum, the principles for joint working and have an awareness of the roles of the other organisation and the statutory framework within which they are required to operate

4. The relationship in practice

4.1 The working relationship between the parties is characterised by regular, on-going contact and open exchange of information.

4.2 Meetings and ways of working:

4.2.1 There will be regular meetings between the Commission and Coleg in line with this agreed timetable:

- a) An annual meeting including the Chief Executives and Chairs to discuss advice provided to the Commission by the Coleg.
- b) Regular meetings (at least once an academic term) between senior officials of the Commission and Coleg to discuss advice provided and, where appropriate, to discuss forthcoming advice.
- c) Ad hoc meetings between officers at any level to discuss matters of mutual interest on an ongoing basis.

4.2.2 The formal meetings outlined in 4.2.1a) and 4.2.1b) will be minuted and minutes produced alternately by officials of the Commission/Coleg.

- 4.2.3 Each party will alert the other party promptly of any activities they are undertaking, or considering undertaking, which are outside of the agreed programme of work (see 4.2.1a) which may overlap with the interests of this Memorandum.
- 4.2.4 The Coleg will not have observer status on the CTER Board and associated strategic committees and CTER will not have observer status on the Coleg Board or its associated strategic committees. This does not preclude the Coleg Board inviting the Commission or its officers to a specific meeting(s) of the Coleg's Board or any of its strategic committees, or the Commission inviting the Coleg or its officers to a specific meeting(s) of the CTER Board or any of its strategic committees.
- 4.2.5 The Commission and Coleg agree that it is not appropriate to have Board members who sit on the Boards of both organisations.

4.3 The Coleg's advice to the Commission under its designated role:

- 4.3.1 The Coleg will have a wide discretion in deciding what advice, under its designated role, would, in its opinion, 'assist the Commission' in discharging its strategic duty to promote tertiary education through the medium of Welsh. The Commission may seek advice from the Coleg in its designated role. Where advice from the Coleg to the Commission is provided (whether initiated by the Coleg or sought by the Commission) it is only deemed to be advice under the designated status where it relates to:
- (a) the promotion, maintenance, development and planning of tertiary education provided in Wales through the medium of Welsh,
 - (b) the promotion of the acquisition and improvement of Welsh language skills,
 - (c) the maintenance, development, planning and provision of activities to support the acquisition and improvement of Welsh language skills, and
 - (d) collaboration between tertiary education providers in Wales in relation to the matters mentioned in paragraphs (a) to (c).
- 4.3.2 If the Coleg offers advice in relation to the Commission's other strategic duties or functions, it could be deemed to be designated advice if the Coleg believes that the advice will benefit the Commission in delivering on those matters set out in para 4.3.1.
- 4.3.3 If the Coleg is unable to advise the Commission for any reason, the Coleg will write to the Commission within an agreed timeframe to explain its reasons for not offering the advice sought.
- 4.3.4 Advice from the Coleg to assist the Commission in the discharge of its duties as described in the Act will take several forms including, but not restricted to:
- (a) Overarching strategic advice notes intended to cover a period of a number of years.
 - (b) Strategic advice notes pertaining to specific institutions, areas of the tertiary education sector and/or thematic issues across the whole tertiary education sector.
 - (c) Consultation responses which relate to matters within scope of the designated role.
 - (d) Operational and ad hoc advice minuted in meetings between the Coleg and the Commission.
- 4.3.5 Where the Coleg gives advice to the Commission it must be explicit where that advice is being given under its designated role. When that advice is given, the Commission will fully consider that advice and the extent to which it will respond to that advice. Approvals for giving the

advice and responding to that advice are matters for the respective boards of both the Coleg and the Commission.

- 4.3.6 Advice from the Coleg to the Commission will normally be published on the Coleg's website. The Commission's response to formal advice from the Coleg will normally be published on the Commission's website. The decision to publish the advice will be a matter for the Coleg in the discussion with the Commission balancing transparency, provider confidentiality and the public interest.
- 4.3.7 Where advice is published, the Coleg will discuss the contents of the advice with the Commission before the advice is formally provided and published. Where the advice has implications on another organisation, that organisation will be consulted.
- 4.3.8 Whilst every effort will be made to agree a forward programme for advice, circumstances may arise where advice may be provided (by the Coleg) or sought (by the Commission) outside the agreed forward programme. Where such circumstances arise prompt discussion will take place of the timescale for offering and considering advice.
- 4.3.9 When advice is provided to the Commission both parties will agree a reasonable timetable to respond.
- 4.3.10 Both the Commission and the Coleg will endeavour to produce a jointly agreed annual summary of the activities, the advice provided and the responses. This annual report detailing the operation of the Coleg's designation and this MOU will be presented to the Board of the Commission and to the Board of the Coleg.
- 4.3.11 Each party will make every reasonable effort to assist each other with any request to the extent that it is reasonably practicable to do so, as far as it pertains to each party's role as set out in the Act.

5 Reconciliation of disagreement

- 5.1 All parties will seek to resolve any disagreements amicably at an operational level. If a disagreement cannot be resolved at that level, senior managers from the organisations should seek to settle any issue.

6 Review

- 6.1 This Memorandum of Understanding will be reviewed one year after being signed. Thereafter, it will be reviewed and updated, if necessary, every two years.
- 6.2 This Memorandum of Understanding may be modified by mutual consent of the parties, acting via authorised officials.
- 6.3 Any party may terminate this Memorandum of Understanding by giving at least 3 months' notice in writing to the other party.
- 6.4 This Memorandum will be effective unless and until Welsh Ministers decide that the Coleg is no longer the 'appropriate person' to give 'relevant advice' to the Commission.

Simon Pirotte

Date: 08 August 2024

(SIMON PIROTTE, On behalf of Medr, the Commission for Tertiary Education and Research)

Ioan Matthews

Date: 05 August 2024

(IOAN MATTHEWS, On behalf of the Coleg Cymraeg Cenedlaethol)