

Agenda – Culture, Welsh Language and Communications Committee

Meeting Venue:	For further information contact:
Committee Room 2 – Senedd	Steve George
Meeting date: 15 February 2018	Committee Clerk
Meeting time: 09.30	0300 200 6565
	SeneddCWLC@assembly.wales

- 1 Introductions, apologies, substitutions and declarations of interest**

- 2 National Museum Wales: General Scrutiny**
(09:30 – 10:30) (Pages 1 – 12)
David Anderson, Director General
Neil Wicks, Deputy Director and Director of Finance and Corporate Resources
Nia Williams, Director of Education and Engagement

- 3 Radio in Wales: Evidence Session 1: Ofcom Advisory Committee for Wales**
(10:30 – 11:15) (Pages 13 – 32)
Glyn Mathias, Chair of the Committee
Hywel Wiliam, Member of the Committee.

- 4 Radio in Wales: Evidence Session 2: Ofcom**
(11:15 – 12:00)
Rhodri Williams, Director in Wales
Neil Stock, Director of Broadcasting Licensing

- 5 Paper(s) to note**
 - 5.1 Ofcom: Consideration of draft Memorandum of Understanding**
(12:00 – 12:15) (Pages 33 – 38)



5.2 Non-public funding of the arts: Correspondence from Arts Council England

(Pages 39 – 43)

6 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

7 Consideration of Evidence

(12:15 – 12:30)

Agenda Item 2

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AMGUEDDFA CYMRU – February 2018: Background Information for the Culture, Welsh Language and Communications Committee

Amgueddfa Cymru regards 2018 as a year of opportunity, as we begin to implement the Thurley Review recommendations, and in October, complete the redevelopment of St Fagans.

Successes in 2017

We will be building on successes achieved in 2017, which included:

- **Growth in Visitor Numbers.** This included welcoming a record 297,792 visitors to the seven museums in August – the best ever August visitor figure achieved by Amgueddfa Cymru – up on August 2016 by 18.9%.
- **Exhibitions.** 2017 was an exceptional year for exhibitions, especially at National Museum Cardiff, which hosted the spectacular contemporary art exhibition ‘From Bacon to Doig’, as well as ‘Agatha Christie’, ‘Dinosaur Babies’ and ‘Who Decides?’ (the latter curated by clients of The Wallich, the homelessness charity). Dinosaur Babies (a charging exhibition) attracted over 50,000 visitors and achieved its income target of £180k.
- **New permanent Photography Gallery.** Enhanced by a wonderful gift by Wales’s most significant living photographer, David Hurn, Amgueddfa Cymru now has one of the best photography collections in the UK.
- **Schools.** 180,000 school visits to our museums, making us once again the largest provider of learning outside the classroom in Wales. Of these, 12,000 school pupils enjoyed the brand new activity spaces in the Weston Centre for Learning at St Fagans between 1 September and 30 November.
- **Fundraising.** We secured over £600,000 in the last three months of 2017 alone from trusts, foundations and private donors towards the costs of the St Fagans project.
- **Apprenticeships and volunteers.** We appointed four new mining apprentices at Big Pit, including our first female guide at the site, supported craft apprenticeships at St Fagans and appointed a blacksmith at the National Slate Museum. 700 people volunteered their time at Amgueddfa Cymru in 2017 and of these people 42% were under the age of 25 years old.

What Does 2018 Have In Store?

1. **St Fagans as an exemplar project.** The transformation of St Fagans is said to be currently the Heritage Lottery Fund's most significant project in the UK, with the biggest grant ever to Wales (£11.5 million) along with support from Welsh Government. With exemplary contemporary architecture, and innovative participative galleries, it will be a new model for a museum of history, engaging visitors through the head, the heart and the hand, and asking searching questions and prompting critical thinking about key stages in the nation's past. Once St Fagans is fully re-opened in autumn 2018, it will take its place on the international stage as one of the great national museums of history in the world.
2. **Greater engagement with virtual visitors:** The website recently moved over to the flagship .wales /.cymru domain and has been completely redesigned to improve orientation, e-commerce, and to provide more up-to-date content about Wales and its place

in the world. It attracts around 1.5 million visits a year. Engagement on social media has increased by 460% over the last three years, since the implementation of our updated Social Media Policy and training programme. Award-winning campaigns such as #welshdino enable us to reach an estimated average of 2 million screens on any given week, and we continue to build on this success.

3. **Increase in number of physical visitors.** Despite having to restrict access to substantial part of St Fagans during the redevelopment, Amgueddfa Cymru has managed to sustain its visitor numbers at just below 1.7 million per annum by increasing numbers to other sites, particularly National Museum Cardiff, where visits have risen from 360,000 to 495,000 per annum over the last five years. This success is a result of a stronger temporary exhibition and learning programme, and also press coverage valued at £7 million a year across all sites. St Fagans in turn is expected to attract an additional 250,000 visits per annum within five years of completion.
4. **Economic impact.** Every £1 invested by the Welsh Government in the National Museum generates £4 of additional expenditure in Wales. This is the highest of any publicly funded cultural institution in Wales, contributing £83m of Gross Value Added (GVA) to the Welsh economy. Visitors from outside Wales have increased as a proportion of total visitors from 37% in 2012 to 42% in 2015 (a further survey is scheduled for 2018), so we would expect to see our economic impact increasing. The Value Wales Toolkit estimates £27,242,693 money generated for Wales and the UK against the delivery of the St Fagans redevelopment construction contract, which included a Community Benefit Plan.
5. **Higher Education and Research.** The Museum is the only national institution in Wales, other than universities, that has Independent Research Organisation (IRO) status. This enables the Museum to apply directly to the Research Councils for funding. In 2016 the Museum appointed its first Head of Research, supported by an eminent Research Advisory Committee. We have active MoUs or active partnerships with all Welsh universities encompassing public programmes, research and support for their capital developments and much of this work will come into fruition this year.
6. **Income generation.** In 2016/17 - the last full financial year - the Museum raised £10.3 million in income from all non-GIA sources (including Enterprises, research and expert consultancies, donations and sponsorship). The Museum is now significantly expanding its income generation activities, and intends to recruit a Commercial Director to take this forward.
7. **Partnerships with other museums in Wales.** The Museum works closely with the Federation of Museums in Wales, and supports local museums through loans and exhibitions. This includes our 10 year relationship providing exhibitions with Oriel Y Parc in Pembrokeshire National Park. In 2014, after a 20 year absence, Amgueddfa Cymru and the Federation collaborated in hosting the UK Museums Association's most innovative and successful annual conference to date. The conference is due to return to Wales in 2020 or 2021. A legacy of the conference was the Welsh Museums Festival, and Amgueddfa Cymru will once again be working closely with local museums to deliver this year's festival in October.
8. **Welsh language.** St Fagans is the home and the leading public centre for the Welsh language among cultural institutions in Wales. The National Slate Museum Llanberis

and the National Wool Museum Drefach are also the leading Welsh language institutions in their regions. 22% of Amgueddfa Cymru's visitors across all sites are first language Welsh speakers or are learning the Welsh language. In partnership with the National Centre for Learning Welsh and to support Welsh Government's Strategy to increase the number of Welsh speakers, we have established a festival, *Gŵyl ar Lafar* for Welsh learners to practice their Welsh in heritage and cultural settings. We have also joined Work Welsh to support and deliver Welsh language training for our workforce in 2018.

9. **Cultural participation and social inclusion.** The Museum's development of volunteer programmes, in partnership with community organisations like DrugAid Wales and the homeless charity The Wallich, is described by the Paul Hamlyn Foundation as "a beacon" for the rest of the museum sector in the United Kingdom. We have been successful in obtaining Heritage Lottery Funding for the development phase of Kick the Dust. As part of this five-year programme we will work in partnership with Barnardo's, Promo Cymru and Llamau to engage with young people aged 11-25 living in areas of multiple deprivation, at risk of exclusion and/or experiencing Adverse Childhood Experiences.
10. **Culture and poverty.** The Museum leads the UK museum sector in developing programmes to enhance the life chances, through cultural participation, of children experiencing poverty. We work with the Knowledge and Analytical Service (KAS) in Welsh Government to lead the evaluation strand for the Fusion: Creating Opportunities through Culture initiative. We are also a lead cultural partner and provider in the Fusion programme, and will deliver strategic cultural projects linked to employability, empowerment, early years and family learning, and health and wellbeing. In 2018 this will include delivering the Cultural Ambition Project as a partner with CCSkills, MALD and the National Skills Academy.
11. **Supporting the Welsh Government's National Goals.** Amgueddfa Cymru works with Wales's national institutions in helping the nation to achieve the goals of the Well-being of Future Generations Act (2015) for education, health and well-being (for example, dementia programmes), addressing poverty, environmental change (for example, species taxonomy and monitoring) and economic development. Our Vision Commitments and Objectives are aligned with the Well-being Goals.
12. **International role.** Amgueddfa Cymru has long term partnerships, underpinned by MoUs, with national governments and museums in China and Japan. The Natural Sciences Department alone has long term partnerships with 40 overseas museums. As well as loaning individual specimens and works of art, the Museum has toured major income generating exhibitions over the last decade to the Gulf, the United States and Japan. Following the exhibition 'Nature's Song' from the Chongqing region of China in 2017, the Museum is working with the Japanese Government Cultural Agency and the National Museum of Japanese History to bring a major exhibition of Japanese Art and Design - the first ever on this scale outside London - to open at National Museum Cardiff in June 2018. This project has received the strong support of the Japanese Embassy and Japanese companies in the UK.

How We Achieve This Our Unique Identity.

Our commitment to the public. Our Vision as an organisation is ‘**inspiring People, Changing Lives**’, and this is the foundation of all our work. Research underpins everything we do, and the exceptional range of our research on visitor learning and cultural participation provides us with a depth of understanding of the social value and impact of our community partnerships, exhibitions and learning programmes.

Inter-disciplinarity. The Museum is the most inter-disciplinary national museum in the United Kingdom, embracing: Art, Design, Earth Sciences, Life Sciences, Archaeology, Social History, Oral History, Industrial History, and Learning and other Social Sciences.

Geographical distribution. The Museum has sites in North West Wales (Slate Museum, Llanberis), West Wales (Wool Museum, Drefach), South West Wales (Industrial and Maritime Museum, Swansea), and South East Wales (St Fagans and National Museum Cardiff in Cardiff; the Roman Legion Museum in Caerleon, and Big Pit in Blaenavon), as well as the National Collections Centre in Nantgarw. We also work in partnership with Wrexham Museum and Oriel y Parc, as well as local museums throughout Wales to enable access to the national collections.

Collections and curatorial expertise. Amgueddfa Cymru holds over 5 million items in total. Of these around 3 million specimens are in the natural science collection; through these, the Museum holds the only national evidence base for climate change in Wales over centuries, millennia and aeons - a vital resource for the nation now and in the future. It also holds the archaeological archive for over 50% of the historic environment in Wales, a total of 1,275,000 objects. It has the most significant collections of social history and oral history in Wales, comprising 396,823 items. The Museum also holds the national collections of Welsh and European art, including some of the finest Impressionist works in the world.

Agenda Item 3

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Cynulliad Cenedlaethol Cymru / National Assembly for Wales
Pwyllgor Diwylliant, y Gymraeg a Chyfathrebu / The Culture, Welsh Language and Communications Committee
Radio yng Nghymru / Radio in Wales
CWLC(5) RADIO01
Ymateb gan Pwyllgor Cyngori Cymru, Ofcom / Evidence from Ofcom Advisory Committee for Wales

The possible impact of the deregulation of commercial radio on audiences in Wales

In May 2017, the Advisory Committee submitted a response to the consultation by the UK Government Department for Digital Culture Media and Sport (DDCMS) on proposals to deregulate commercial radio within the UK. We supported the broad thrust of the proposed relaxation of current regulatory provision, including the removal of existing music format requirements and Ofcom's role in ensuring a range of choice in radio services. It is worth explaining why.

It is an understandable reaction to suggest that relaxing these requirements will lead to the homogenisation of the radio provision for listeners in Wales. The music will all sound the same and it will be increasingly difficult to tell the stations apart. Surely local commercial stations were meant to be local and reflect the communities they serve instead of becoming (in some cases) just links in a chain of commercial stations across the UK?

Commercial radio, however, faces a number of challenges in the coming decade. It already faces competition from the internet, where equivalent stations undergo no regulation of any kind. The potential switchover to digital, whenever it may come, also poses a similar problem. Existing legislation does not provide for any regulatory requirements on digital commercial stations in terms of programme formats or the provision of news. Those stations on digital are often still observing the regulatory requirements because they are simulcasting on analogue. So, as time goes by, existing regulation would be likely to impact on a smaller and smaller portion of the commercial radio industry.

Listening to digital radio is continuing to increase in Wales. Ofcom's Communications Market Review, published in August 2017, stated that 58% of adults in Wales now have a DAB radio, a higher percentage than in Scotland or Northern Ireland. And almost two-fifths of radio listening in Wales is already through digital platforms.

So it is a question of priorities. As we head into the digital future, which aspects of regulation is it most important to preserve? Trying to regulate music formats in a digital world is almost certainly futile. But there is one local service which commercial radio provides which it is vital to maintain – and that is news and information. And that is especially vital in Wales.

The UK government's position

The DDCMS accepts the overwhelming response in its consultation process in favour of maintaining strong requirements on commercial radio stations to provide national and local news and core information such as traffic and travel information and weather. It proposes to bring forward a new legislative structure prior to the analogue licence renewals in 2022. This we strongly welcome, because the gain here is that there will be requirements for news and information on digital radio channels which would not otherwise exist. Where the Advisory Committee strongly disagrees with the DDCMS is over its refusal to consider that different provisions for news may be needed in Wales.

The provision of news in Wales

In our evidence to the DDCMS consultation submitted in May 2017, the Advisory Committee focused in particular on the provision of news in Wales. Our broad summary was as follows:

‘The provision of news is of particular importance to civic life in Wales in order to secure an informed democracy. The National Assembly for Wales and the Welsh Government have powers and functions covering key domestic policy areas including health, education, transport and economic development. It is essential to ensure there is plurality in the reporting of Welsh public life, and that this coverage is not left exclusively to the BBC. It is essential that Welsh news continues to be made in Wales’.

We also made a specific recommendation about the importance of all-Wales news on commercial radio in Wales:

‘A consequence of devolution is that, along with news that applies to the whole of UK, there is a need to report news at a pan-Wales level as well as news of relevance to specific localities and regions within Wales. For example, a story about a change in Welsh Government health policy is relevant to listeners across the whole

of Wales. However, if left to the market, there is a risk that in the absence of regulation, there would be no Wales news coverage. From its own research, Ofcom has concluded that, due to the costs of producing local news, there is a significant risk that this content would not be provided in the absence of clear regulatory requirements’.

The UK Government response to the consultation published on December 18, 2017 ignored our submission. It concluded, inter alia, that ‘there was little support for Ofcom to have powers to set different news and information requirements in the nations’. It added later: ‘A clear view was expressed that there is no need for Ofcom to have the power to set different news (national and local) or other local requirements in the nations’. The response accepted there was a more balanced argument over the need for requirements for local content on commercial stations in Wales to be produced in Wales. But again the DDCMS came out against imposing any such requirements, arguing that there would remain a strong commercial incentive to supply locally made content.

It is yet another missed opportunity to foster the limited plurality of sources of news and information we have in Wales. We should not underestimate the contribution played by local commercial radio in Wales. According to Ofcom’s Communications Market Report published in August 2017, local commercial radio services achieved a 26% share of total listening hours in Wales,

The lowest share in the UK but still more than three times the share of BBC Radio Wales and BBC Radio Cymru combined. Recent research by The Radio Centre has asserted that radio is the most trusted medium for news in the UK and that makes it all the more important that commercial radio news in Wales paints an accurate picture of the nation where their listeners live.

The concept of all-Wales news

There is one central issue at stake in this debate – the failure of UK legislation to recognise the concept of all-Wales news. Under the 1990 and 1996 Broadcasting Acts, the requirements refer only to national (i.e. pan-UK) or local news, so there is consequently no regulatory capacity to enforce a requirement for anything else. This limited concept is now long out of date, but still frames the mindset of the DDCMS. If there is to be new legislation relating to the deregulation of commercial radio, it should form an opportunity to correct this anomaly.

The DDCMS is proposing to balance its wider proposals for the deregulation of commercial radio with clearer protections for what it calls local and national news (as per the above definitions) and core information following any future switchover to digital radio. In its December statement, it says that ‘in bringing forward legislation we will clarify Ofcom’s powers in this area to allow Ofcom to set clear guidance on how these requirements are set and to enable it to set requirements based on the size of the target audience for each nation.’ This is the opportunity to take on board the concept of all-Wales news and ensure it is taken into account in Ofcom’s requirements.

The issue of regulatory burden

The DDCMS response of December 2017 articulated the reason why the industry did not want to take on what they called ‘differential’ or ‘enhanced’ requirements for news in the nations on commercial radio. It was that the greater cost burden would be an unfortunate consequence given that transmission costs are already generally higher and digital radio expansion more challenging due to coverage issues. The DDCMS agreed that they did not want to disadvantage local stations in the nations, but that Ofcom should instead ‘have regard to the needs of all UK audiences in setting the requirements on a UK basis’.

There would be of course be little opportunity for Ofcom to consider the needs of the Welsh audience until and unless the concept of all-Wales news is included in the legislative requirements.

It is also necessary to challenge the argument about the cost burden. Most of the commercial stations currently operating in Wales currently include some all-Wales news in their bulletins in addition to UK/international and local news (is this correct?). Ofcom need only require commercial radio stations in Wales to ‘give appropriate prominence’ to all-Wales news in their bulletins (or some equivalent phrase). That is not likely to be an unreasonable requirement and, in fact, the argument about the extra regulatory burden has been grossly exaggerated.

News from nowhere

The DDCMS response of December 2017 confirms the UK government’s intention to press ahead with the relaxation of the existing local production requirements placed on commercial radio. The requirements, which determine how much of the station’s programme production has to be produced locally, are now regarded as

too onerous, not least because they do not apply to stations that only broadcast on DAB.

But the DDCMS response chooses to fudge the issue of whether this removal of local production requirements should also apply to news, and this is what causes the ACW a great deal of concern. The DDCMS document talks about 'clearer requirements as to local news sourcing', but that does not mean very much. It would be possible for news bulletins for local commercial radio stations around the UK to be compiled and read from a central studio in London.

Given the track record of the London media in failing to comprehend Welsh devolution, this does not bode well for the accuracy and quality of news on commercial radio in Wales in the future. This issue has been well-rehearsed, from the King report at the BBC through to the recent incident of a presenter on the BBC Today programme describing a Westminster MP, Justine Greening, as the former education secretary for England and Wales. It is vital that there is a clear legislative requirement for news about Wales to be produced in Wales.

The Availability of the BBC's DAB and FM Radio services in Wales

DAB services are broadcast on a multiplex which can carry a number of radio services. When DAB services first developed in the UK, under the 1996 Broadcasting Act, the BBC was allocated a single UK wide multiplex to carry its main radio services (Radio 1, 1 Extra, 2, 3, 4, 4 Extra, 5 live, 6 and Asian Network). Coverage of this multiplex has steadily improved and has now reached around 92% of homes in Wales.

However, due to the engineering characteristics of this multiplex, the station line-up could not be varied at a local level and the legislation provided a 'must carry' right for the BBC's local services in England to be carried on local commercial DAB multiplexes. In Wales, the BBC does not provide local services, but instead there are two national radio services, Radio Wales and Radio Cymru. But this pre-devolution legislation did not really recognise this 'nation' tier of radio so the same arrangement applied in Wales; Radio Cymru and Radio Wales were also given 'must carry' rights on local commercial DAB multiplexes in Wales. The problem in Wales was that initially, there were only two commercial multiplexes on air, serving Newport, Cardiff and Swansea, so the coverage of Radio Wales and Radio Cymru on DAB was restricted to around 41% of homes. By today, a number of additional local commercial multiplexes have been launched serving most of north and south

Wales and coverage has significantly improved, reaching around 86% of homes. But local commercial multiplexes still do not serve most of mid Wales due to the challenging economics of DAB roll-out.

At the end of January this year, the BBC launched Radio Cymru 2, which broadcasts an alternative breakfast service to Radio Cymru on-line and on DAB, where the existing capacity allocated to Radio Cymru and Radio Wales is shared with the new service for a few hours each morning.

Historically, Radio Wales' FM coverage was also lower than that of Radio Cymru as Radio Wales was originally launched as an AM network on the medium wave. However, additional FM frequencies have been found for Radio Wales over the years and in 2011, improvements were made at the Wenvoe transmitter enabling the service to reach 81% of the population on FM, but this was still less than Radio Cymru's 95% coverage.

Community Radio and DAB

The 2003 Communications Act created a new tier of radio broadcasting in the UK, focused specifically on community engagement. Community Radio stations are not for profit services with the objective of delivering social gain. Licences allocated by Ofcom run for five years although they have usually been renewed. They are volunteer led with only a few full time staff. The last decade has seen rapid growth of the community radio sector across the UK and in Wales, there are currently 10 stations on air, Calon FM (Wrexham), Tudno FM (Llandudno), BRFM (Brynmawr), Radio Tircoed (Gorseinion), Bro Radio (Barry), Radio Glan Clwyd (Glan Clwyd Hospital and local area), Mon FM (Anglesey), Radio Cardiff and GTFM (Pontypridd). Ofcom has also recently awarded licences in Aberystwyth (Radio Aber), and the Rhondda Valleys (Rhondda Radio). The legislation limits the amount of commercial income that can be raised by community stations to minimise competition with commercial radio for income streams and the transmission radius of community radio is also limited to around a 5km radius on FM. Although AM transmission on the medium wave is also an option, all of the current community stations in Wales have opted to broadcast on FM, except Radio Glan Clwyd which broadcasts on AM.

¹Ofcom CMR Wales 2017, p47

²Ofcom CMR Wales 2017, p47

³Source: BBC Wales, quoted in the IWA Media Audit for Wales, 2015.

Unlike commercial stations which are generally music led, community stations carry far more speech content, feature a far wider of music content and also serve communities of interest as well as geographical communities. However their transmission areas are far smaller than commercial radio which limits their reach, although most of the services are also available on-line.

Currently there is no specific upgrade route for community radio to broadcast on DAB. Community stations could negotiate carriage of their services with a multiplex operator and acquire a Digital Sound Programme Licence (DSP) from Ofcom, but carriage costs would be very high, capacity on many local commercial multiplexes is very limited or unavailable and the DSP licence would not contain any requirements for social gain or community benefit.

Technical trials conducted by Ofcom in 2016 have shown that it is viable to broadcast DAB on a small scale using open source software and low cost transmission technology. In 2017, the DDCMS supported a Private Members Bill, The Broadcasting (Radio Multiplex Services) Act 2017, to enable Ofcom to licence small scale DAB in the future and the Department is currently consulting on proposals for a suitable licensing regime to enable both community radio and small commercial stations to be carried by low power multiplexes . The DDCMS suggests in the consultation that, “Ofcom should have the flexibility be able to offer a new DSP licence for community radio stations called C-DSP licences and these will be for stations that whilst broadcasting in digital, choose to operate in all other respects as a community radio station. Like existing community radio stations, these new services would need to be constituted as a not for profit entity operated for social gain and would need to be subject to the same limits on commercial fundraising as existing community radio stations (broadcasting on FM/AM frequencies).”

The consultation document proposes 12 year licenses for low power multiplexes operators, some restrictions on the ownership, service charge regulation of multiplex operators to be monitored by Ofcom, no ‘must-carry’ access for BBC local services and a 40% limit on the coverage area of low power multiplexes compared to the coverage provided by a local commercial multiplex serving the same area. The consultation closes on 28 February 2018.

⁴<https://www.gov.uk/government/consultations/small-scale-dab-licensing-consultation>

Yr Arglwydd Elis-Thomas AC/AM
Y Gweinidog Diwylliant, Twristiaeth a Chwaraeon
Minister for Culture, Tourism and Sport

Julie James AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip

Agenda Item 5.1



Llywodraeth Cymru
Welsh Government

Elin Jones AM
Y Llywydd
National Assembly for Wales

30 January 2018

Dear Elin

Enclosed for your attention is a draft Memorandum of Understanding (MoU) concerning the relationship between UK Government, the Welsh Government, the National Assembly for Wales and the Office of Communications (Ofcom), arising as a result of the St David's Day Agreement and the subsequent Wales Act 2017.

The MoU commits Ofcom to consulting the Welsh Government on its draft annual plan and sets out the process for Welsh Ministers to appoint a member for Wales to the Ofcom Board for the first time. It also reinforces Ofcom's accountability to the National Assembly for Wales (paragraphs nine and thirteen are especially relevant to this point).

We intend to proceed with the recruitment of an Ofcom Board member for Wales as soon as possible. Following commencement proceedings in Parliament in late November last year by the Secretary of State for Wales, relating to Section 68 of the Wales Act 2017, powers to appoint will transfer to the Welsh Government at the end of March. Recruitment can begin prior to this date, although the attached MoU must be finalised and signed beforehand.

We would be grateful if you could refer the draft MoU to committees with an interest, for discussion at the earliest opportunity. We will await any comments from relevant committees and yourself prior to agreeing and signing the MoU.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'E. Elis-Thomas'.

Yr Arglwydd Elis-Thomas AC/AM
Y Gweinidog Diwylliant, Twristiaeth a Chwaraeon
Minister for Culture, Tourism and Sport

A handwritten signature in black ink, appearing to read 'Julie James'.

Julie James AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip

MEMORANDUM OF UNDERSTANDING

Between the UK Government, Welsh Government, National Assembly for Wales and the Office of Communications

Scope and Purpose

1. This Memorandum of Understanding (MoU) concerns the relationship between UK Government, the Welsh Government, the National Assembly for Wales and the Office of Communications (Ofcom) arising as a result of the St David's Day Agreement and the subsequent Wales Act 2017.
2. The MoU commits Ofcom to consulting the Welsh Government on its draft annual plan; and sets out the process for Welsh Ministers to appoint a member to the Ofcom Board. All parties are committed to working constructively together to achieve the purposes set out in the MoU.

Background

3. The Commission on Devolution in Wales, also known as The Silk Commission, was established by the UK Government in 2011 to look at the future of the devolution settlement in Wales. Part II of the Commission's report, entitled 'Empowerment and Responsibilities: Legislative Powers to Strengthen Wales' published in March 2014¹, made a number of recommendations in relation to broadcasting. While the report found there was no case to devolve the regulation of broadcasting, it made a specific proposal in relation to Ofcom:

R.22 The interests of Wales should be represented on the Ofcom board through a board member with specific responsibility for representing Wales.

4. The aim of this recommendation is to strengthen the input of the Welsh public and representative organisations in the development of Ofcom policies across its entire remit (broadcasting, telecoms and postal services) at a United Kingdom level. Following the BBC's new Royal Charter², this remit also includes the regulation of the BBC in addition to Ofcom's existing duties regulating the other Public Service Broadcasters.
5. Following the publication of the Silk report, the UK Government launched a review of legislative powers relevant to Wales, which became known as the St David's Day process. This culminated in the publication of a Command Paper by the UK Government in February 2015, 'Powers for a purpose: Towards a lasting devolution settlement for Wales'³, outlining how the recommendations of the Silk Commission were to be implemented. Paragraphs 2.8.5 - 2.8.8 outline the government's commitment to implement the Silk Commission's recommendations, and further commitments made by

¹<https://www.gov.uk/government/publications/empowerment-and-responsibility-legislative-powers-to-strengthen-wales>

²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577829/57964_CM_9365_Charter_Accessible.pdf

³https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408587/47683_CM9020_ENGLISH.pdf

the UK Government, in relation to Ofcom. These are broadly consistent with the arrangements set out in the Smith Commission Agreement⁴, on the further devolution of powers to Scotland.

6. The Wales Act 2017⁵ implements these measures:

- Section 68 amends the Office of Communications Act 2002 to confer the power on Welsh Ministers to appoint one member of Ofcom's Board who is capable of representing the interests of Wales. Prior to any appointment, the Welsh Government is required to consult with the Secretary of State. This will support the Secretary of State in their role to ensure that the Board will function effectively as a whole. The appointment will be subject to the existing regulatory framework for appointments to the boards of public bodies, which is set out in the Code of Practice issued by the Commissioner for Public Appointments. The appointee will have the same UK-wide responsibilities as other non-executive members of Ofcom.
- Section 68 also amends the Office of Communications Act 2002 to require the Comptroller and Auditor General to send a copy of Ofcom's statement of accounts to Welsh Ministers to be laid before the National Assembly for Wales, and to require Ofcom to send a copy of its annual report to Welsh Ministers to be laid before the National Assembly for Wales.

7. An MoU is the best means of providing clarity and certainty about how the different parties will be consulted on the setting of Ofcom's strategic priorities. This is because, due to Ofcom's independence from Government it is not possible to give a statutory underpinning to a formal consultative role for the Welsh Government or National Assembly for Wales.

Parties

- The Department for Culture, Media and Sport ("DCMS")
- The Office of Communications ("Ofcom")
- The Welsh Government
- The National Assembly for Wales

Commitments

Formal consultative role for the Welsh Government and the National Assembly for Wales in setting the strategic priorities for Ofcom with respect to its activities in Wales.

8. Each year Ofcom publishes an Annual Plan which sets out its strategic priorities and describes the other work it will be conducting in the coming year.
9. The process for formally consulting the Welsh Government and the National Assembly for Wales in the formulation of Ofcom's Annual Plan shall be as follows:

⁴http://webarchive.nationalarchives.gov.uk/20151202171017/https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397079/Scotland_EnduringSettlement_acc.pdf

⁵ The Act received Royal Assent on 31 January 2017

- Ofcom will consult the Welsh Government and appropriate committees of the National Assembly for Wales on its draft Annual Plan once published.
- Ofcom will consider any representations from Welsh Government (Ministers and Officials), and the National Assembly for Wales' appropriate committees through this process in formulating its Annual Plan;
- Ofcom will send its final Annual Plan to Welsh Government ministers and relevant committees of the National Assembly for Wales outlining how it determined its priorities, with reference to the main issues raised during the preceding consultation process.

Welsh Ministers' power to appoint a member to the Ofcom Board

10. Section 1 of the Office of Communications Act 2002, as amended by section 68 of the Wales Act 2017, provides that the Welsh Ministers have the power to appoint a member of the Ofcom Board and must consult the Secretary of State before doing so. Further agreed guidance on the operation of the appointment process is attached at Annex 1.

Annual report and accounts

11. Ofcom's Annual Report and Accounts are presented to the UK Parliament and the National Assembly for Wales pursuant to paragraphs 11 and 12 of the Schedule to the Office of Communications Act 2002. Ofcom is required to send its accounts to the Secretary of State and the Comptroller and Auditor General (C&AG). Welsh Ministers will lay any report sent to them by C&AG before the National Assembly for Wales. Ofcom will send a copy of its Annual Report to the Secretary of State and Welsh Ministers who will lay it before the UK Parliament and the National Assembly for Wales respectively.

Other Ofcom appointments

12. Under section 17 of the Communications Act 2003, Secretary of State approval is required for appointments to the Communications Consumer Panel. In relation to the member for Wales, Ofcom will also consult the Welsh Government and secure the required approval from the Secretary of State in making the final appointment.

Ofcom reporting and appearing before the National Assembly for Wales

13. Section 37 of the Government of Wales Act 2006 provides that the National Assembly for Wales may require any person to attend its proceedings, for the purposes of giving evidence in concerning any matter relevant to the exercise by the Welsh Ministers of any of their functions. This therefore includes Ofcom in relation to the discharge of its functions in Wales. Ofcom receives invitations to provide evidence to Committees of the National Assembly for Wales both by production of documentary evidence and by appearing in person. Ofcom welcomes these invitations.

Meetings

14. There will be separate meetings between Ofcom and Welsh Ministers; and between Ofcom and Wales Office Ministers. These will take place at least once a year.

15. There will be regular meetings as appropriate during the year between Ofcom and the Welsh Government; and between Ofcom and the Wales Office at official level. It is recognised that more informal engagement at official level between Welsh Government and Ofcom on specific topics will continue and that the meetings envisaged above will not serve to limit that.
16. DCMS, Ofcom and the Welsh Government agree that this MoU will be the subject of periodic review, at official level, the first review to occur no later than two years after the date of signature.

Signatures

<p><i>(For and on behalf of the Secretary of State for Culture, Media and Sport)</i></p>	<p><i>(For and on behalf of Ofcom)</i></p>
<p><i>(For and on behalf of the Welsh Government)</i></p>	

Annex 1

Appointment by Welsh Ministers of a member of the Ofcom Board

1. The appointment of a Member of the Ofcom Board shall be made by Welsh Ministers following consultation with the Secretary of State.
2. The appointment of the Welsh Member shall be made in accordance with the Governance Code on Public Appointments (2017, or as updated from time to time) and the Code of Practice for Ministerial Appointments to Public Bodies' (2012, or as updated from time to time) (the 'Code').
3. At the commencement of an appointment process the Welsh Government shall meet with the Chair of Ofcom to agree the key criteria for the appointment, including skills, knowledge and experience required of the individual.
4. The parties acknowledge that that any person so appointed will, as a member of the Ofcom Board, have the same UK-wide responsibilities as all other non-executive Members of the Board.
5. Ofcom and the Welsh Government will work together to agree the form of advertising, search process and timetable for the new appointment (with costs incurred being borne by Ofcom). DCMS will be advised of the role specification, details of the panel's composition and plans for advertising before the advert is published.
6. An Advisory Panel will be established in accordance with the Code and will include, as a minimum, a Chair nominated by the Welsh Government, an Independent member and the Chair of Ofcom.
7. The Advisory Panel will agree the process for sifting candidates and the timetable and process for interviewing the short-listed candidates.
8. Following the interviews, the Advisory Panel will make a recommendation to the Welsh Ministers on the individual or individuals the Panel believes meet(s) the criteria for the appointment.
9. The Welsh Ministers will make the appointment in accordance with the Governance Code on Public Appointments, and will formally document it with the successful candidate. This will be done following consultation with the Secretary of State.



Bethan Jenkins AC/AM
Chair, Culture, Welsh Language and Communications Committee
National Assembly for Wales
Cardiff Bay, Cardiff
CF99 1NA

16 January 2018

Dear Bethan,

Thank you for your letter regarding the Arts Council's support for fundraising programmes, and our experiences of them. To give proper context it is worth setting out the time line and trajectory of our work. Our work in this area is grounded in Goals 3 & 4 of our ten year strategy "Great arts and culture for everyone", published in 2010.

2012-15 investment round

In 2012, in response to the DCMS' philanthropy initiative, £70million was assigned to Arts Council England to establish **Catalyst Arts**. This programme was focused on benefiting arts and cultural organisations in England. Between 2012 and 2015 Catalyst Arts focused on supporting the sector to grow the amount of income from private sources. It did this in two ways:

- a) establishing permanent endowments for significant NPOs, as well as
- b) capacity building and matched funding for medium and small sized organisations

Catalyst Arts helped the sector to leverage £49.5million in response to the £48.5million investment. The Evaluation¹ ran for a year after the programme and provides rich source of case studies and learning you wish to examine.

In 2013, we established dedicated training and development programme, **Arts Fundraising & Philanthropy**, run by a consortium of Cause4, University of Leeds and the Arts Marketing Association. This programme included a mix of one day training courses including:

¹ <http://www.artscouncil.org.uk/publication/catalyst-evaluation-year-three-final-report>

- Trustees role in fundraising;
- individual giving;
- and developing a case for support.

Arts Fundraising & Philanthropy also developed:

- one year fundraising career development opportunities;
- mentoring and skills development
- a network of peer to peer support groups across the country
- and online resilience information platform [Culture Hive](#).

We will continue to support this programme as part of the next investment period as they join the portfolio as a Sector Support Organisation.

2015-18 investment round

From 2015 our **Catalyst Evolve** programme supported 140 projects across small to medium sized organisations to build fundraising capacity and raise matched funding. Catalyst Evolve was resourced with £17.5million of our strategic funding between 2015-2018.

Between 2015 and 2018 our £2 million **Building Resilience** fund is increasing the resilience of up to 100 cultural organisations. It will also provide models and case studies to be shared more widely across four themes. The four themes will explore and pilot different approaches to long term sustainability. They are:

- diversity and entrepreneurship,
- international philanthropy,
- change management
- and making the most of intellectual property.

2018-22 investment round

In April 2017 we launched **Catalyst Small Grants** which will build on the Evolve programme, using £3.5million of strategic funding. Catalyst Small Grants will support a similar number of smaller organisations to build fundraising capacity. It will also include museums and library services outside of local authority control. Funding will be awarded in January 2018.

Another part of our approach in our 2018-22 investment round is the **Arts Impact Fund**. This fund is providing repayable loan finance between £150,000 and £600,000 for arts organisations that can demonstrate a social impact through their work. The fund is created and funded by Bank of America Merrill Lynch, the Esmée Fairbairn Foundation and Nesta. It's supported by Arts Council with additional funding from the Calouste Gulbenkian Foundation.

Evaluation and learning

In 2016 Arts Council England commissioned the **Private Investment in Culture Survey**.² The survey helps address the lack of data in this area since annual publication by Arts & Business ceased. For this reason the survey also considered the years between 2012 to 2015 for which there was no data.

The survey showed private investment accounted for 18% of total income (£480million) compared to 48% for earned and 34% for public funding. This includes:

- Business Investment (sponsorship) – £96million,
- Individual Giving - £245million
- and Trusts and Foundations - £139million.

Between 2012/13 and 2015/16, the overall earned and contributed income of the NPO portfolio rose to one and three quarter billion pounds in cash terms. This represents an increase of more than 20%.

For several months from November 2016, Arts Council England and HLF were also part of a **matched crowdfunding**³ pilot programme delivered by Nesta. This was also supported by DCMS in response to the Culture White paper. We plan to learn from the findings of the pilot as we consider our 2018-22 investment round.

Our structure

Arts Council England has a dedicated resource focussed on this work, including a part time 'Director, Philanthropy' and a part time 'Director, Resilience'. This function allows us to develop policy, oversee the area of work above as well as contribute to sector development. Examples of recent work include our support for the sector in the lead up to, and following, changes in fundraising regulation; as well as the introduction of the General Data Protection Regulation.

² http://www.artscouncil.org.uk/sites/default/files/download-file/Private_investment_culture_report_Nov_2016.pdf

³ <https://www.nesta.org.uk/publications/matching-crowd-combining-crowdfunding-and-institutional-funding-get-great-ideas-ground>

Collaboration across borders

Your letter referred to whether conditions on our funding might inhibit cross-border collaboration between organisations in relation to fund raising. The focus of our support for organisations is of course for the benefit of arts and cultural organisations in England. However we do provide more than £26m of funding to organisations in Wales for activity taking place in England, including support for Welsh National Opera for example.

With regard to fundraising, our focus on England does not exclude or prevent arts and cultural organisations from accessing training and resources from outside of England.

To take just one example, Cause 4 who work with us on our Arts, Fundraising and Philanthropy programme report a number of organisations active in Wales have accessed their training in recent years. These include:

- Ensemble Cymru
- National Theatre Wales
- Artes Mundi
- Sinfonia Cymru
- Arts & Business Cymru
- Penarth Pier Pavilion
- Literature Wales
- Chapter Arts Centre
- Wales Millennium Centre

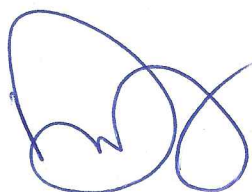
Cause 4 are currently also in discussions with the Royal Welsh College of Music & Drama about a future partnership for AFP with their Arts Management MA.

Similarly, the Arts Marketing Association have 121 members in Wales, and our CultureHive has between 80 and 100 users from Wales each month. This represents around 2-3% of the total.

I do agree that further collaboration could be interesting and beneficial. I understand that discussions have been held with Arts Council of Wales and Creative Scotland about how such work could take place. It may be that our respective geographic restrictions are holding such progress back, no to mention continuing pressure on public funds for all of us.

I hope this information is useful in your inquiry. Should you wish to discuss any of this in further detail, I'm sure my colleagues working on this area would be happy to help. These include Francis Runacres our Executive Director, Enterprise & Innovation; Clare Titley our Director, Philanthropy; and Jane Tarr our Director, Newcastle. My office should be able to help take forward such a conversation.

Kind regards,



Darren Henley
Chief Executive