

Tertiary Education & Research (Wales) Bill Senedd Children, Young People & Education Committee

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Welsh Local Government Association - The Voice of Welsh Councils

We are The Welsh Local Government Association (WLGA); a politically led cross-party organisation that seeks to give local government a strong voice at a national level. We represent the interests of local government and promote local democracy in Wales.

The 22 councils in Wales are our members and the 3 fire and rescue authorities and 3 national park authorities are associate members.

We believe that the ideas that change people's lives, happen locally.

Communities are at their best when they feel connected to their council through local democracy. By championing, facilitating, and achieving these connections, we can build a vibrant local democracy that allows communities to thrive.

Our ultimate goal is to promote, protect, support, and develop democratic local government and the interests of councils in Wales.

We'll achieve our vision by

- Promoting the role and prominence of councillors and council leaders
- Ensuring maximum local discretion in legislation or statutory guidance
- Championing and securing long-term and sustainable funding for councils
- Promoting sector-led improvement
- Encouraging a vibrant local democracy, promoting greater diversity
- Supporting councils to effectively manage their workforce



Introduction

Local authorities provide a crucial contribution to the PCET system via a local structure and offer, whether by supporting schools, via direct delivery and/or by providing support mechanisms and structures for learners to thrive. In the context of Post Compulsory Education and Training (PCET), this mainly includes the delivery of adult community learning, apprenticeships and sixth form provision.

The WLGA and ADEW have been consistent in previous responses to PCET consultations in regard to concerns around the development of a central commission which could bring increased bureaucracy, process and complexity and that areas such as Further Education, adult learning and sixth forms should come under the remit of democratically elected bodies i.e. councils. This said, councils recognise the impending status of the Commission for Tertiary Education and Research, which will become the regulatory body responsible for the funding, oversight and regulation of tertiary education and research in Wales under the Tertiary Education and Research (Wales) Bill and are committed to their roles in ensuring its success in providing a high quality PCET offer for learners and communities.

Councils continue to play a full role in the ongoing major reforms in the (statutory) education sector, including the once-in-a-generation opportunity to develop and implement a new curriculum and ALN Act. Whilst optimistic that both will bring/are bringing improvements to the system and, most importantly, to outcomes for children and young people, alongside these welcome opportunities, there are also huge challenges to the system in realising these reforms. It would also be remiss not to mention and recognise the huge additional and unforeseen strain placed on the system as a result of the Covid 19 pandemic over the last 18+ months. These reforms continue to test and stretch capacity across the system to levels previously unseen. They are also a catalyst for huge optimism in the system in creating conditions which make change possible, enabling the sector to think differently and offer new opportunities for learners, giving them the best chance to thrive in life and work.

PCET reform is another crucial element in ensuring consistency and seamless, positive progression across the system. Although councils have an interest in other parts of the Tertiary, Education & Research (Wales) Bill, including apprenticeships, in recognising that their primary role in PCET mainly relates to adult community learning and sixth forms, accordingly this paper will refer primarily to these areas of the Bill.

General comments

1. In principle, councils agree with the nine strategic duties (under Part 1 of the Bill). These offer a consistent and clear statement of intent and direction whilst capturing the main areas and duties which the Commission is responsible for. The nine duties also resonate with the social, economic and skills needs of Wales (the Civic Mission) and the 7 goals in the Well-being of Future Generations Act



- (WFGA) and should provide consistency with wider reforms such as the requirements of the new (statutory/schools) Curriculum for Wales, thereby assisting and enabling successful transition and progression with the learner having a prominent role.
2. Given the inclusion of adult community learning and sixth forms into the Commission for Tertiary Education and Research (CTER), the WLGA and ADEW also agree with the proposal for the Civic Mission to apply across the tertiary system. The principles of the civic mission also align with the goals in the WFGA in focussing on sustainability and well-being and reinforces the approach both outlined in the nine duties and those in the reforms taking place in the statutory sector.
 3. Whilst the WLGA and ADEW support the proposal for Ministers to publish a Statement of Priorities and accompanying Strategic Plan (how the Commission and tertiary learning institutions will meet the Civic Duties), we are unable to comment further until the detail of these are made available. A statement based on a five-year programme of government (reflecting Welsh Government terms) does however appear a sensible approach which should support planning and consistency. However, this requires a suitable level of flexibility built in – the experience of the Covid pandemic has taught us that flexibility is vital for the system. The WLGA and ADEW would welcome a role in the development of both the Statement of Priorities and Strategic Plan.

Governance

4. The proposals for membership of the Commission appear to be reasonable. It will be important to ensure that there is a broad range of experience and knowledge within the proposed 14 'ordinary' members, including knowledge of adult community learning and sixth form provision as well as knowledge of councils. Whilst seventeen members may appear a high number, the Commission will have a huge remit, making it necessary to ensure that there is sufficient oversight and capacity within the membership to propose, scrutinise and properly consider and respond to relevant matters. It is crucial to ensure that membership reflects the diversity of geography, different settings and contexts across Wales including urban and rural. We also ask for consideration of TWO learner representatives in this number.
5. In previous responses to PCET consultations, the WLGA and ADEW have commented on the importance of the education system to be learner focussed and to ensure that all efforts are made to develop environments and support structures which foster positive wellbeing. Although a priority throughout the system, it is not clear as to where the issue of **learner well-being** will sit in the context of the CTER e.g., might this be a responsibility of the CTER Board, the Quality, Research & Innovation Committee, or something which will run through all levels of governance? Further detail/clarity around this would be welcome. There continues to be a concerted effort and focus across Wales on positive well-being for learners in order to access learning e.g., the recent Whole System (including the NEST/NYTH Framework) and Whole School Approach, with the central principle of 'no wrong door' to children and young people when seeking



support. As part of the Whole System Approach, this also applies to older (post 16) young learners. Without a similar level of focus on well-being, post-16 education could be at odds with both the Civic Mission and efforts in the Pre-16 arena e.g. the Health & Well-being Area of Learning & Experience (AoLE) having equal status with all other AoLE's in the new curriculum.

Registration & De-registration

6. Whilst the requirement for all tertiary education providers (including sixth forms) to register with the Commission can be seen as an additional safeguarding mechanism for learners, staff and institutions, this needs to be both appropriate and proportionate. There also needs to be scope for a level of flexibility to encourage innovation with the review and compliance process being sensitive to the needs of learners and institutions.
7. The statement (in the Explanatory Memorandum) that the *“Removal of a provider from the register will, in most cases, be considered an absolute last resort regulatory measure for the Commission, and only enforced when necessary to safeguard learners’ interests or to protect public monies”* provides some level of reassurance that all other mechanisms (including both supportive and instructive) will be exhausted before taking such an important decision.
8. Whilst accepting that measures need to be in place should an occasion arise whereby there is proven *“substantial institutional turmoil and disruption for staff, learners and local stakeholders.”*, should such a scenario arise in the case of sixth forms or adult community learning (or other services which councils have a level of interest/control over), as councils have a duty to protect the needs of all its learners, it is crucial that councils are made aware at the earliest opportunity of any concerns and that they are able to work closely with the Commission to (jointly) do everything possible to improve the situation and avoid any punitive action in this regard. There is a role for Estyn too here - as well as inspection and challenge, via advising and supporting providers and stakeholders.
9. All necessary rigour, checks and balances need to be in place to avoid such a scenario in the first place (in the case of sixth forms and adult community learning, for councils to be involved and working closely with providers before the point at which CTER would need to be involved) but should the process be invoked and taken to its conclusion, careful and balanced decision making by relevant parties is necessary along the way. Taking provision away could be a short-term catastrophe - not without precedent in some places - for learners; therefore, intervention and support to avoid this must be a priority and/or suitable transition arrangements being put in place. The 5 ways of working emphasise long term thinking, prevention and integration. These have to be central to this.
10. The above principles should also apply if/when deemed necessary for the Commission to enforce powers in instances where quality fails to meet the standards expected and with its new duties *“...to direct that a local authority, or the governing board of a foundation or voluntary school, establish or discontinue a school sixth form, or make proposals in accordance with such a direction.”* There is a clear need to ensure that councils are working closely with the Commission in such circumstances and, ideally, prior to reaching this stage.



Funding

11. The new funding arrangements via the Commission will, arguably, affect providers other than Higher Education Institutions (HEI's) - including sixth forms, adult community learning and FEI's - to a greater extent, as funding is currently to these providers from WG either directly or via councils.
12. Should Outcome Agreements be used to determine how funding is allocated, these will be new requirements for many of these providers and there is still little in the way of explanation as to what these will look like. In a previous PCET consultation response, the WLGA suggested that, when developing Outcome Agreements, the WG and wider tertiary education sector consider international examples such as those used in Scotland since 2016 [Outcome Agreements \(sfc.ac.uk\)](https://www.sfc.ac.uk).
13. Given that the Commission will be determining the allocation of funding to all tertiary education providers as well as the allocation of funding for tertiary education research, **the WLGA and ADEW seek assurance that current levels of funding in the case of sixth forms and adult community learning will, at the least, be maintained at current rates.**

Learner Protection, Complaints Arrangements and Learner Engagement

14. The WLGA and ADEW welcome the clarity and approach regarding Learner Protection Plans as they relate to sixth forms and councils "*The Commission will not provide notice to a local authority to submit a learner protection plan in relation to school sixth form provision. Arrangements are in place to secure the transfer of data about pupils when they move from one school to another, whether due to a school or course closure, a change in personal circumstances or pupil preference. Although the learner protection provisions do not apply to local authorities in relation to school sixth forms, as they have their own arrangements, it would be helpful for the Commission to consult with them when the guidance is developed so that they can be involved in sharing good practice.*" As previously outlined, councils are keen to engage with the Commission where and when relevant and this is a further example of where councils would be keen to assist in sharing experience of learner protection and complaints processes, participation and engagement in order to help shape LPP's for relevant providers.
15. **Learner engagement** - we note that there has been a change in the involvement of sixth forms in the Learner Engagement Code. The [Draft Tertiary Education & Research \(Wales\) Bill Explanatory Memorandum](#) 3.244 (d) states that "*The Commission will ensure that all tertiary education providers as defined in the Draft Bill, with the exception of sixth forms, sign up and adhere to the Learner Engagement Code. While sixth forms within local authorities will not be required to adhere to the Learner Engagement Code, it would be helpful for the Commission to consult with them when the Code is developed so that they can be involved in sharing good practice from other learner engagement activities, such as work with school or youth councils sixth forms*". However, Section 98 (3) of the [Tertiary Education & Research \(Wales\) Bill \(As Introduced\)](#), stipulates that "*The governing body of a maintained school in Wales that provides education suitable to the requirements of persons over compulsory school age must comply*



with the requirements contained in the Learner Engagement Code published under section 125(1) or any revised code published under section 125(3)". This is a change which may require further thought and consideration as to the implications for schools, governors and councillors.

16. The WLGA has previously commented on councils' potential involvement in the development of the Learner Engagement Code, in particular by sharing experience of establishing and maintaining Youth Councils, School Councils, Youth Forums and Youth Parliaments, as well as developing statutory Children & Young People Participation Strategies. Whilst having a learner representative on the Board of the Commission is a welcome proposal, ongoing two-way consultation between learners and providers at all levels via an embedded culture is essential in hearing the learner voice. Whilst mechanisms for engagement may differ between providers, there needs to be consistent principles underpinning these.
17. Councils also need to be part of considering a complaints process for learners to ensure transparency and consistency across all providers.

Welsh Language

18. Councils fully support the strategic duty to "*promote tertiary education through the medium of Welsh*" under the Bill. This duty supports and compliments several other policy priorities in relation to the Welsh Language including Cymraeg 2050, Curriculum for Wales, and developing 'A Wales of vibrant culture and thriving Welsh Language' as part of the WFGA Act. This also builds on targets that councils will already be working towards as part of their next 10-year Welsh in Education Strategic Plans, as well as plans to move schools along the Welsh medium continuum, in line with school categorisation reforms.
19. The new body must have as a priority the willingness to work with councils to ensure they are able to support the development of Welsh Language pathways for all learners at tertiary level, and that pathways below that level are further developed and secured.
20. In implementing this strategic duty by taking "*all reasonable steps to ensure that there is sufficient tertiary education provided in Wales through the medium of Welsh to meet reasonable demand*", it is important that the Commission regularly reviews the tertiary education sector's capacity to deliver sixth-form provision, apprenticeships, and adult community learning through the medium of Welsh. The demand for Welsh language services and education provision will increase further as Welsh medium provision in compulsory education grows and there are already challenges in recruiting staff with the necessary Welsh language skills. It is likely that additional financial support and more strategic planning will be needed to build this capacity within the workforce to deliver this strategic duty effectively. The same options need to be available to learners in both English and Welsh.

Mae'r ymateb yma ar gael yn Gymraeg. This response is available in Welsh