

Cyflwynwyd yr ymateb hwn i ymchwiliad y [Pwyllgor Plant, Pobl Ifanc ac Addysg](#) i egwyddorion cyffredinol y [Bil Addysg Drydyddol ac Ymchwil \(Cymru\)](#)

This response was submitted to the [Children, Young People and Education Committee](#) inquiry into the general principles of the [Tertiary Education and Research \(Wales\) Bill](#)

TER 28

Ymateb gan: Comisiynydd Plant Cymru

Response from: Children's Commissioner for Wales

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of Senedd Cymru that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

Consultation Response

Overview

I support the general principles of the Bill in the establishment of the Commission for Tertiary Education and Research. The aspiration to develop effective and coordinated education and training offers opportunities to better ensure the education and welfare of young people, to increase equality and non-discrimination through ensuring equity of access to post-16 education, and to develop a system in which young people can participate and exercise their right to take part in decisions that affect their lives. My response focusses on four specific aspects of the Bill:

- Representation of learners, including those under 18, within the Commission
- Additional Learning Needs and alignment with duties under the Additional Learning Needs and Education Tribunal (Wales) Act 2018
- Part 4: Apprenticeships
- Part 5: Learner protection, complaints procedures and learner engagement

Representation of learners, including those under 18, within the Commission.

I note that the Board of the Commission will include a number of associate members, who will be non-voting members of the Commission, these members will include: at least two tertiary education workforce representatives, one to represent the academic workforce, and one to represent the non-academic workforce, both of whom will be appointed by Welsh Ministers; one Commission staff member; and at least one person appointed by Welsh Ministers to represent learners in tertiary education.

I recommend that the appointment of a member to represent learners should echo the appointment of members to represent the workforce, and that there should be a requirement for at least two learner representatives: to represent learners in Higher Education and in Further Education Institutions. I also suggest that there is a requirement for the Board to include at least one learner representative aged between 16-19 at the time of appointment, to ensure representation of this age-group of learners in post-compulsory education.

Additional Learning Needs

Paragraph 3.276 sets out that the Commission will be required to have regard to the needs of persons with additional learning needs and to the desirability of facilities being available which would assist the discharge of duties under the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

However, further detail would support the Commission to more effectively fulfil this and consideration should be given as to whether this can more clearly align to the duties on local authorities to review the sufficiency of their Additional Learning Provision [ALP], as set out in Chapter Seven of the [Additional Learning Needs Code for Wales 2021](#). The 2021 Code sets out, at Paragraph 7.2, that as part of its review, a local authority must consider the extent to which their arrangements are sufficient to meet the ALN of the children and young people for whom it is responsible. In doing so, it must have regard to the provision that may reasonably be arranged by others (such as FEIs and NHS bodies). Paragraph 7.3 sets out that there should also be consideration given to the sufficiency of ALP in Welsh.

I suggest that mechanisms could be included in the Bill which would require the Commission to have regard to these reviews so that they have the ability to strategically deploy resource across Wales to address identified insufficiencies in the availability of ALP as it relates to 16-25 year olds. This should also include express consideration of the sufficiency of Welsh language ALP for this age group.

Part 4: Apprenticeships

I support the policy aim to make the apprenticeship system more flexible and more responsive to demand. I also particularly welcome that this responsiveness is not just to employer demand, but also to the demand of learners. UCAS has noted a significant increase of interest in apprenticeships this year, in data shared with the Welsh Policy Group in November 2021, searches for degree apprenticeships on UCAS' CareerFinder webpage were up by 37%, to a record 1.35m in the last 12 months.

However, I am unsure how learner demand will be assessed and articulated by the Commission and suggest that potential consideration is given to whether a mechanism to capture this should be included in the Bill. Alternatively, this could be developed alongside the Bill: The Wales Apprenticeship Advisory Board has a current role to express employer and provider demands, and consideration could be given as to how this enterprise-led Board, as informed by input from Regional Skills Partnerships (which are also largely employer-led) can effectively ensure that the priorities of learners as well as employers can be captured.

At paragraph 3.342 the Explanatory Memorandum sets out that the Commission may charge a fee for the issue of certificates, but as is currently the case Ministers will specify the maximum amount of the fee that can be charged for certificates. I welcome that there are mechanisms to limit this fee but I note that this fee may incur a barrier to some learners if costs are passed on to apprentices themselves. I urge that all steps

are taken to ensure equity of access to apprenticeships and suggest that it should be specified that this fee is not paid by learners. This would align this to the delivery priorities 2016-2022 set out in [Aligning the Apprenticeship model to the needs of the Welsh economy 2017](#) which clearly states a policy aim of, 'Improving Access, Equality and Equity of opportunity'.

Part 5: Learner protection, complaints procedures and learner engagement

I welcome intended provisions in the Bill to enable the Commission to establish arrangements for the development and approval of learner protection plans, and to issue guidance in relation to this. I note that in the development of guidance it is specified that the Commission must consult, and I suggest that this is expanded to include a specific requirement to consult with learners in the development of this guidance.

I also welcome the accountability to learners that is entailed in the establishment of a student complaint scheme that has the ability to refer unresolved complaints to an independent body through the Office of the Independent Adjudicator. However, I note that school sixth forms will not fall under the provisions of this scheme on the basis that schools complaint procedures are deemed sufficiently robust. However, complaints procedures in schools do not usually enable unresolved complaints to be referred to an independent body. Instead appeals procedures are undertaken by the Governing Body of the school, and it is only in some specific instances that independent investigation would apply, for example, Governing Bodies are required to appoint an independent investigator to investigate allegations of abuse by staff members and local authorities must have arrangements in place for this. However, this specific safeguard in relation to abuse allegations arose through the recommendations of the [Clywch Inquiry](#), and was in response to a previous gap in accountability around abuse allegations – it does not apply in complaints unrelated to allegations of abuse.

Case work received by my Investigation and Advice Service has illustrated that families and young people have concerns about the lack of independence in general schools complaints procedures. Therefore, I would recommend that consideration is given to including school sixth forms into the student complaint scheme, to ensure parity of accountability for learners in all post-16 settings.

I welcome the establishment of the Learner Engagement Code as a mandatory, ongoing registration condition and as part of terms and conditions of funding. This is an important mechanism to ensure the participation of learners in decisions in their institutions and related to the strategic delivery of their learning and wider educational experiences, including wellbeing. I would encourage the Bill to include a requirement that learners must be consulted in the development or review of the Code and also that the views of learners must be considered in the Commission's monitoring of the effectiveness of the Code.

Yours sincerely



Professor Sally Holland

Children's Commissioner for Wales