

Tertiary Education and Research Commission for Wales

Consultation

Response Form

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About NEU Cymru

About the National Education Union Cymru:

- The National Education Union Cymru stands up for the future of education. It brings together the voices of teachers, lecturers, support staff and leaders working in maintained and independent schools and colleges to form the largest education union in Wales.
- The National Education Union is affiliated to the Trades Union Congress (TUC), European Trade Union Committee for Education (ETUCE) and Education International (EI). It is not affiliated to any political party and seeks to work constructively with all the main political parties.
- Together, we'll shape the future of education.

NEU Cymru response

We welcome the opportunity to respond to this consultation. Whilst we have tried to answer the relevant questions, we would highlight that this has been a challenge without a 'vision' for the PCET sector, which we believe is being created. It is disappointing to proceed without that vision.

We broadly welcomed the Hazelkorn Report, and agree there are challenges in the PCET sector. However, we remain concerned that the

issues we highlighted in the initial consultation have not been addressed within this consultation. There are many areas which lack clarity and whilst we appreciate that any legislation will be ‘enabling’, it is a challenge to see what is being enabled with so much ambiguity and the lack of vision.

Our key concerns are set out below.

Voice for the unions

Without considering the workforce the TERCW will be unable to deliver Welsh Government’s aims. The TERCW seems to be well placed to include the voice of the learner in decision making and strategic priorities. However, NEU Cymru is concerned that the voice of the workforce is currently not well represented in the plans. Whilst it is welcome to see a section on workforce planning, this needs careful consideration in relation to the role of TERCW in workforce planning.

Vision for the PCET sector?

We understand that the WG is working on a ‘vision’ for the PCET sector – a key recommendation of the Hazelkorn Report. It is disappointing that this vision is not available alongside this consultation. We have highlighted throughout this consultation that a ‘vision’ would be helpful, as it is a challenge to see how this consultation addresses the proposals for the PCET sector if we do not know what the ‘vision’ is. We understand the the Cabinet Secretary wants the TERCW to deliver a PCET sector which:

“can be an even greater force for social mobility and national prosperity.”¹

However, we remain concerned that these aspirations will not be met without a clear systematic approach.

It is worth stating here that within the schools system the vision is clearly set out in the Donaldson Review of the Curriculum – Successful Futures². In terms of our children and young people in Wales:

“We must use that time judiciously and productively to help each

¹ <https://gov.wales/about/cabinet/cabinetstatements/2018/Nextsteps/?lang=en>

² <https://gov.wales/docs/dcells/publications/150225-successful-futures-en.pdf>

one of them to grow as a capable, healthy, well-rounded individual who can thrive in the face of unknown future challenges.”

Yet, it seems our PCET sector is to be linked to short-term skills challenges.

We welcomed Donaldson’s Review of the curriculum. We would welcome the sentiments and aspirations of that review forming the vision of the PCET sector. Otherwise, we will have a schools system at odds with PCET, and children and young people whose horizons are narrowed. They will not be offered courses to ‘face unknown future challenges’ (ie acknowledging the importance of transferable skills) but will this also build towards ‘national prosperity’? The two stages, (pre-16 and PCET) seem to have different aims, which is disappointing.

Closure of school sixth-forms?

Whilst it is reassuring that the consultation says Welsh Government don’t want a ‘wholesale tertiary system’ NEU Cymru believes there need to be safeguards in place to ensure that WG’s (and later the TERCW’s) actions do not undermine the viability of school sixth-forms.

We believe it is critical that learners have access to good quality courses close to home. Our members know that whilst some learners flourish in a FE environment, schools also offer opportunities for further learning which suit some learners better. We would be deeply concerned should this legislation undermine the future of school sixth-forms in Wales.

Giving responsibility to the TERCW for opening and closing school sixth forms is a significant cause for concern, and, in our view goes well beyond the remit of its proposed role. We would be gravely concerned should this to go into legislation.

To be absolutely clear, NEU Cymru’s position is that there must always be a place for school sixth forms run by and governed by the Local Authority and school governing body.

Duplication / competition

NEU Cymru believes the idea of ‘competition’ being a concern for the sector lacks clarity. We would expect that young people – and indeed adult learners – have access to good quality courses close to home. In that regard there is a marked difference between duplication and choice

and the two must not become confused. Furthermore, courses and options may well be duplicated in a local authority area but given the rural nature of a number of counties, such duplication is essential if learners in more remote communities are not to be disenfranchised. The Welsh Government has flirted with a number of solutions which do not involve putting a teacher in front of a class (video conferencing, distance learning etc.) but schools and learners often view these as only being acceptable alternatives when being directly taught by a teacher with the requisite experience and expertise is not possible.

A recent report from the Bevan Foundation “I want to be something” highlights changes which need to happen for better access of PCET in Wales:

“Better access: The barriers to post-16 provision must be reduced to ensure that all young people in Wales can fulfil their potential.

We recommend:

- reducing the cost of participation in post-16 further education and work-based learning;
- ensuring parity in financial support for different forms of provision, which should at least match the JSA rate;
- dropping the age restrictions for traineeships; and
- introducing a pre-engagement programme.”³

These need careful consideration and are critical to getting the TERCW right. Learner voice only works if those people make it to be learners.

We would not want to increase any barriers to learning and access to the PCET sector for any learners. In the schools sector we have seen increases in the Federation of schools, meaning that learners face longer journeys to school which can become a significant barrier. This is prohibitive to learning, and should not be extended in the PCET sector.

Accountability and governance

It is also worth noting that some of the different accountability, governance, inspection and other measures of the PCET sector are not necessarily wholly addressed within the consultation. The role of Estyn

³ <https://41ydv1cuyvlonsm03mpf21pub-wpengine.netdna-ssl.com/wp-content/uploads/2018/06/I-want-to-be-something-Hyperlinks.pdf>

in relation to FEIs particularly lacks clarity.

It is disappointing that this consultation was written before the conclusion of the Weingarten Review. That review rightly points to the current 'mosaic'⁴ of accountability in the PCET system. However, this 'mosaic' is unaddressed by this Technical Consultation. Whilst the Weingarten Review raises some important issues and ties the TERCW to some over-arching WG aims and the Future Generations Act, the lack of PCET 'vision' is critical. Strong governance and accountability will only work if the TERCW truly has independence from WG. Yet, the current proposals are not strong enough to warrant them being given duties currently held by WG.

We believe that governance arrangements should be independent of WG – elections rather than Ministerial appointment. They should also ensure representatives from the whole workforce are included.

Without sufficient safeguards in place this feels like a procurement exercise, rather than radical reform of the PCET sector.

Further education institutions

We are concerned about the lack of questions and details relating to FE provision in this consultation. Further education colleges are an important part of the PCET sector, delivering not only A levels and vocational courses to 16-19 year olds, but delivering HE courses and a range of adult learning too. FEIs are often situated in communities which otherwise have limited access to education and can offer learners a different experience to that in a school. Therefore they are a vitally important to ensuring learners have access to good quality courses close to home.

FEIs also currently have different inspection arrangements and duties (eg ALN) than other providers. To that end, we would be extremely concerned about the lack of detail relating to FEIs and would not want to see them neglected in terms of funding which has happened before.

We believe FEIs are critical to the local economy across Wales and the development of the local workforce. This includes micro-businesses and

⁴ <https://gov.wales/docs/dcells/publications/180522-review-of-systems-for-monitoring-and-improving-the-effectiveness-of-post-compulsory-education-in-wales-en.pdf>

SMEs, which rely on FE for their workforce.

Long-term (at least 10 year) funding cycles are critical to ensure planning can be targeted appropriately. The FE workforce have critical insight into how the provision works on the ground, and therefore the voice of the workforce is critical.

We would also note that much learning can be done by looking at the Area Based Reviews in England.

Adult and community learning

We would also have specific concerns in relation to ACL and particularly in terms of the consultation which is currently out in relation to ACL. The two consultations are confusing to respond to this alongside each other, and we would seek clarity about the relationship with the TERCW and ACL more widely.

Please see our response to the previous consultation here, as we don't believe everything we has said has been addressed by this technical consultation:

<https://www.atl.org.uk/sites/www.atl.org.uk/files/PCET%20plans%20-%20WG%20consultation%20-%20NEU%20Cymru%20response.pdf>

We have provided answers to the questions which we think are most relevant below.

The Commission

Question 1:

Is the proposed governance framework appropriate given the remit of the new Commission?

NEU Cymru strongly believes that there needs to be representation of the workforce on the Commission. Including those from FE, HE, WBL and ACL. If the TERCW is given duties which extend into the schools sector they, they will also need to include sufficient representatives from there.

Question 2:

Do you think that the Welsh language and development of Welsh-medium provision should be supported through a statutory committee

within the Commission's statutory governance framework?

NEU Cymru is clear, if WG is serious about their aim of 1 million Welsh speakers by 2050, we need to invest in our current workforce to ensure they have access to training and support to improve their Welsh skills. Welsh language therefore could be a statutory committee, but it would also need to fall within the role of other committees too and have proper funding attached.

Question 3:

Do you agree the Wales Employment Skills Board and the Apprenticeships Advisory Board should be brought within the Commission to strengthen links between the Commission and employers?

The Relationship between the Welsh Government and the Commission

Question 4:

Is the proposed allocation of responsibilities for strategic planning between the Welsh Government and the Commission appropriate?

Question 5:

Are the proposals for dealing with funding appropriate, in the event of the Welsh Government withholding approval of the strategic plan? What safeguards or interim measures should be considered?

Moving funding of sixth forms to TERCW presents significant problems in itself. School funding has, for too many years, been a complex issue and the funding fog that exists has yet to be dispersed. Separating funding responsibility within a school setting where staff and resources are shared will only serve to thicken the pea-souper. The Welsh Government's attempts to introduce different funding methodologies for sixth forms and to introduce a parallel planning system for provision nationally and regionally have not had a positive impact on standards and have often been resented by schools for the instability and bureaucracy they have created.

Clear safeguards need to be in place to ensure that the TERCW is able to deliver longer-term funding for the PCET sector. However, we would

highlight that the precise nature of the relationship between TERCW and WG needs to be closely considered, as Donaldson highlighted in his recent report of Estyn:

“Equally, the nature of Estyn’s relationship to ministers in the Welsh Government is not defined and is therefore also subject to the particular circumstances of the day. In particular, the relationship between HMCI and senior civil servants will strongly affect the ways in which Estyn can contribute to the development of policy. Estyn’s status as a non-ministerial department leaves a degree of ambiguity about its link to ministers⁵.”

We would seek clarity, rather than a ‘degree of ambiguity’, concerning the relationship between the TERCW and WG.

Question 6:

Apart from withholding approval of the strategic plan, what intervention powers may be required by the Welsh Ministers to ensure that the Commission complies with its duties and fulfils the terms of its strategic plan?

Question 7:

Would a five-year cycle be an appropriate length of time for the Commission’s strategic plan to cover or should flexibility be allowed?

We believe 5 years is not a ‘long-term’ plan, and believe 10 years would be more appropriate. There will need to be flexibility, especially considering the time of uncertainty which Wales’ PCET sector may be expecting following EU Exit.

The Relationship between the Commission and Learning Providers

Question 9:

While we recognise that, in light of their contractual obligations, work-based learning providers would not require charitable status to receive public funding, should other types of learning providers be required to have charitable status in order to receive such funding? What might be the advantages and disadvantages?

⁵ <https://www.estyn.gov.wales/sites/default/files/documents/A%20Learning%20Inspectorate%20-%20en%20-%20June%202018.pdf>

We are very concerned about this. Charitable status cannot be obtained by schools (other than if they are independent), as we understand it, which again highlights how they do not fit into this model. We would seek a clear rationale at this point for suggesting charitable status.

Question 12:

If learning providers that did not have charitable status could enter a regulation agreement, how might that differ from the regulation element of the ROA entered into with other learning providers?

As stated above school sixth-forms will be unable to enter into charitable status. Whilst the proposals say school sixth-forms will have to liaise via the local authority, it could have implications both for them as ‘providers’ and in terms of expectations on others too.

Question 14:

What powers may the Commission need to ensure that learning providers and local authorities carry out their responsibilities under the ROA?

It is difficult to see what powers would be appropriate to ensure that providers are carrying out their responsibilities, aside from deciding whether or not they are a suitable provider. We would be concerned that some interventions, such as a fine, or suspension of support for that provider, would have a detrimental impact on the wellbeing, and indeed lives, of both the learner and learning professionals. We would want to ensure that should any action be taken then that there are safeguards in place for both learners and learning professionals.

Question 15:

Is there another model that we should consider? If so, what is it and what would be the benefits?

We would welcome assurances that the model will ‘score’ highly ‘providers’ which are able to:

- provide access to good courses close to home;
- provide support for ALN (as they would have in school or FEIs);
- provide good terms and conditions to staff (including pensions); and
- support the most ‘hard to reach’ learners.

We would be concerned about the aim of the procurement process to offer 'value for money' in terms of the TERCW, but is unable to deliver for learners. Without prioritising learning (and therefore the list above), the ROA system will not create stability and sustainability in the PCET system.

Strengthening the link between planning and funding

Question 19:

Do you agree that the Welsh Minister should cease to have their functions (i.e. duties and powers) under sections 31, 32, 33, 34, 35 and 36 of the Learning and Skills Act 2000 and that the Commission should have those functions or functions very similar to those instead?

We would insist that these functions stay with WG, and that WG exercise those functions through providing funding to the TERCW. As they do with HEFCW now.

Question 20:

Do you consider that the Welsh Ministers should retain a role in respect of the planning, provision and funding of 16 to 19 and post 19 education and training? If so what should that role be?

Yes, we believe WG should retain duties in relation to providing education through providing funding via the TERCW, as mentioned above. It should be noted, however, that planning provision on either a regional or national basis has proved very difficult and during its brief existence, ELW^a acknowledged that it had made little progress with the planning element of the national planning and funding system.

We also strongly believe they should retain the powers in relation to opening and closing school sixth forms.

Question 23:

Do you agree that the Welsh Ministers should hypothecate between elements of the total grant available to the Commission on the basis of type of provision to be funded?

There needs to be clear accountability for decisions, and therefore the

WG needs to decide if it is giving TERCW responsibility for the PCET sector or not. Hypothecated funding must not mean that innovation is stifled for example, or that the TERCW is curtailed in exercising its duties, see comments in relation to Estyn above.

Question 24:

Do you agree that the hypothecation should be split at a FE/HE level to give the Commission as much flexibility as possible, but to acknowledge the fact that we propose specific statutory responsibilities in relation to the funding of further education, which should pass to the new Commission? These do not have a current counterpart in relation to higher education.

We are concerned that the ambition of the TERCW will be undermined by splitting FE from HE in this way. Whilst it is clear that FE funding should be protected to ensure that learners are safeguarded, we have already expressed our concerns that WG should not pass their duty to provide education to 16-19 year olds to the TERCW.

Question 25:

Do you agree that there should be a power available to the Welsh Ministers to directly fund PCET provision (including higher education), having first shared any such proposals with the Commission, and where there is a strong public interest in doing so?

This would be welcome, but logically means WG should retain their duties in order to do so.

Question 26:

We know there are additional funding streams, outside core funding. If you receive such funding can you indicate whether you think responsibility for the funding you receive should rest with the Commission?

We would highlight that there are many funding streams which have an impact on the PCET sector from European funding. We would wish to seek clarification of where alternative funding will be sourced to replace this once we leave the EU, as many of our school and college estate would benefit from work.

Relevant EU funding in the PCET sector is set out below:

The 21st Century Schools and Education Programme

The 21st Century schools programme has already helped to upgrade, and in some cases entirely rebuild, the school and college estate in Wales. According to the European Commission website, this Public Private Partnership (PPP) will bring significant European funds to the next phase; a further “£500m/630m to build new school and college facilities in Wales” from January 2019 until 2024.⁶

Further (and Higher) Education

Whilst we don't organise in the Higher Education (HE) sector, we do have some members teaching HE courses in an Further Education (FE) setting. The FE estate in Wales receives ESF to help rebuild aging campuses. The FE sector also benefits from Erasmus+ funding, helping to support students and staff to visit countries in the EU and share good practice and learning.

One of our members who is a manager in FE said:

“FE utilises Erasmus for students and staff mobility and this is going to be a real loss to us. ESF work allows us to focus on areas that general funding does not. How are we to carry these necessary areas out without the focused funding? If it goes into a general pot there is a risk it will be swallowed up and not happen!”

Adult learning in the wider sense also supports people back into work and to gain qualifications which they would otherwise be unable to obtain.

European Social Funds and European Structural Funds work schemes have supported project since 2007 to:

- Supported 229,110 people to gain qualifications
- Helped 72,700 people into work
- Created 36,970 (gross) jobs and 11,925 enterprises
- £85m for 33,000 apprenticeships and 12,000 traineeships across Wales at employers including Airbus, Admiral and GE Aviation
- £2.1m to promote Science, Technology, Engineering and Maths among young people through the STEM Cymru project

Research and Innovation

⁶ <https://ec.europa.eu/eipp/desktop/en/projects/project-134.html>

WEFO currently has currently got a funding call out for ERDF 'accelerating world-class collaboration in research and innovation'⁷. Our members in the post-compulsory sector would be concerned about opportunities for students to study good quality courses close to home, should there be a withdrawal of funds from this sector. We realise some of the changes planned in the Tertiary Education and Research Commission for Wales (TERCW) are meant to mitigate some impacts on the post-compulsory sector. However, structures alone will not be enough.

Question 27:

Do you agree that the Commission should have the flexibility during a short transition period to operate different planning and funding models across each type of post-16 provider, whilst driving forward alignment and consolidation as the Commission matures in its operation?

This seems a sensible approach.

Question 29:

Do you agree that the Commission should be expected to keep under review intelligence around the apprenticeship levy and consider new ways of allocating funding across the system if the Levy is not seen to be meeting the needs of employers in Wales?

We are deeply concerned about how the Levy is being used in Wales so far, in so far as, the education system has faced challenges in ways they can reclaim it. We believe a lot can be learnt from how the Levy has been implemented in England, but that going forward education 'providers' need to be supported to ensure they can provide apprenticeships to off-set the Levy.

Question 30:

Do you agree that the Commission should continue to work collaboratively with the RSPs to inform provision delivered by learning providers?

Regional Skills Partnerships are an important stakeholder in the PCET sector. However, there should be clear lines of accountability for

⁷ <http://gov.wales/funding/eu-funds/2014-2020/?lang=en>

decisions, as the best interest of individual learners is key to the work of the TERCW.

We believe skills cannot be looked at in isolation. The ONS report that science and research jobs are, for example, in a lower proportion in Wales⁸.

Learners need to be able to access the education/training and then the jobs that are most suited to their talents and ambitions – and any ‘future unknowns’⁹. They should also be able to move wherever they want to so that these talents and ambitions are made the most of and they can access opportunities for improving their lives.

Learners should also be able to stay where they are and get good quality jobs with progression. Central to this is access to good quality education and training close to home.

We would have concerns should Regional Skills Partnerships be allowed to make too many short – term (less than 10 year) decisions, which could have an impact on the sustainability of the FE sector.

Question 31:

Do you agree that the Commission should be able to withhold some of the core budget for each sector to be allocated based on the recommendations set out in the annual skills plans?

As stated above, safeguards need to be in place to ensure that the learners are able to access good quality courses close to home. To that end, workforce planning and continuity are key not just to the workforce themselves, but to the experience of learners in the PCET sector.

We believe too much emphasis is placed on short-term planning and that there should be a 10 year plan for PCET in place.

Question 32:

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<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/thespacialdistributionofindustriesingreatbritain/2015>

⁹ <https://gov.wales/docs/dcells/publications/150225-successful-futures-en.pdf>

Do you consider that the proposals above for monitoring performance and achieving accountability across the PCET system are sufficient and appropriate?

We are concerned that the inconsistencies in terms of accountability – such as registration of the workforce with EWC, Estyn Inspection etc, which are different across each aspect of the PCET sector - have not been sufficiently addressed by proposals.

Question 33:

What more might need to be done to secure the sustainable operation of the PCET system in Wales over the longer term?

Workforce planning and long-term (10 year) funding are key. Please see our comments at the start of this document.

Protecting the Interests of Learners

Question 34:

Do you agree that learner protection arrangements should align with a common set of principles to ensure consistency for learners across the PCET sector?

This seems like a sensible approach. However, NEU Cymru is still concerned that there are inconsistencies across the PCET sector which need to be addressed. These include registration of the workforce with EWC (which does not apply to HE), Estyn Inspection (which does not include HE and varies between schools and FE), duties around learners with additional learning needs (ALN) and also accountability mechanisms. Therefore, learner protection (whilst narrow in this question) extends to the quality of teaching and learning.

We maintain that learners should have access to good quality courses close to home, and that this should include access to a choice of courses in FE and school settings for those aged 16-19.

Question 38:

Do you agree that the current complaint resolution arrangements should remain in place for school sixth forms?

NEU Cymru believe the current complaint resolution arrangements in school sixth forms are sufficiently robust, and would be concerned should these be changed as they would have implications for school governance and the make-up of the school more generally, which could have implications for our members and learners too. Given the requirement for all schools to have a complaints procedure, we believe that it is undesirable and potentially confusing for parents and learners to be operating different procedures pre- and post-16 in 11-18 schools.

Strengthening the Learner Voice and Representation

Question 39:

Do you agree that consistent principles and values should be developed for learner voice and representation and that learning providers should be required to adhere to these?

Learner voice is by now well-embedded in the majority of schools. We have noted with interest, however, that when learner voice opposes reorganisation post-16, authorities and the Welsh Government sometimes ignore it.

Quality Assurance and Enhancement

Question 45:

With the exception of school sixth forms, should a single body be designated to undertake external quality assessment of all PCET provision? Please explain the reasons for your response, and any particular positive or negative impacts that you anticipate.

We are concerned about the lack of clarity in this section, especially in regard to the role of Estyn in the inspection of FEIs. Whilst the implication seems to be that Estyn would cease to inspect FEIs, this is not clear.

We would be concerned about the role of another external body 'starting from scratch' with regard to FEIs. We have been largely supportive of the approach Estyn takes within FEIs and would want to ensure that any new body is able to take into account the inconsistent functions which different bodies within the PCET are under a duty to exercise. For example, learners with ALN will be supported by the Additional Learning Needs and Tribunals Act in both school sixth-forms and FEIs. However,

employers of those on an apprenticeship will be covered by the Equality Act (2010) which has different expectations, as we understand it. To that end we have our reservations.

Question 46:

Do you agree with the proposed definition of quality enhancement? If not, what would you change?

Definition: Processes and activities designed to improve, strengthen and enhance the quality of learning and the learner experience. This could be at subject, programme, provider, sector and/or PCET system levels.

We would have concerns that this definition is cyclical.

Question 47:

Do you agree with the proposed scope of the Commission's role in relation to quality enhancement? If not, what would you change?

We would be concerned that this consultation does not take into account the review of the "National model for regional working" (the consortia) which is currently on-going. We would have reservations about the role of the consortia in relation to their capacity to look at school sixth-forms and would prefer that quality were looked at by Estyn in the schools sector.

Question 48:

How could the Commission's role in workforce development be tailored to reflect the needs of different sectors and providers?

It is really critical that the role of the Commission in terms of workforce development is well defined from the outset. Again, because of the inconsistencies which exist across the sector in terms of workforce, some are registered with EWC, whilst others are not. Workforce is key to the TERCW functioning. If we do not have workforce to meet the needs of learners the TERCW will not be able to deliver on its aims.

Sixth Forms

Question 49:

Should the Commission have any other powers to instigate a regulated alteration in terms of a sixth form such as closure, or is this better achieved via the negotiation of Part II of the ROAs?

We do not believe that the closure or opening of school sixth-forms should be part of the powers given to the TERCW. We believe that decision should clearly sit with WG, as they do now.

We would also highlight that the consultation states some local authorities in Wales were keen that school sixth-forms be fully included in proposals. And yet these are the very bodies expected to represent school sixth-forms. We would therefore be concerned that measures be taken to avoid a conflict of this fashion.

We would also assert that measures are put in place to ensure that school sixth-forms remain part of the mix offered to learners in the PCET sector. This may include a duty for the TERCW to fund school sixth-forms but as we have already indicated, school and sixth form funding is a complex issue and greater clarity on how that would be dealt with is required.

Question 50:

What reporting should be required of the local authority to show effective use of funding given for sixth form provision?

We believe school sixth-forms already have a range of accountability mechanisms, including Estyn inspection. We would want to seek parity of esteem across the vocational and academic routes of study, and to that end, note should be taken of the level of accountability put on schools and caution should be taken of adding more. For example, we would expect a workload impact assessment be done of the impact on school staff in accordance with agreements reached between the trade unions and the Welsh Government to do so. Unfortunately this consultation gives no clear indication that that will take place.

Question 51:

Is the role of the Commission when a sixth form is judged as causing concern appropriate, or should it be different in some way?

We understand this to mean if there is a consideration the sixth-form is not complying with the ROA. As we have already stated above, we

would be very concerned should funding be withheld from providers where it will have an impact on the learners and learning professionals. We would also have concerns about using the consortia to intervene in sixth-forms. The local authority with responsibility for sixth-forms in its area would need to agree a plan with the school and governing body, should a sixth-form be 'causing concern'.

Further, following the Donaldson Report 'A Learning Inspectorate', there is a clear expectation that Estyn will move to a greater support role and that needs to be reflected in this proposal.

Question 52:

Are there any other powers the Commission should have as regards sixth form provision?

We are extremely concerned about the power relating to opening and closing school sixth forms. We would be deeply concerned and believe it is unacceptable to should this power pass to the Commission. We do not believe this would be in the best interest of the learner and feel strongly a mix of provision is central to ensuring learners can access good quality courses close to home.

We would also be concerned about the definition of 'duplication' as it remains unclear. Please see our comments above relating to duplication.

Financial and Governance Assurance

Question 60:

Do you agree that the new Commission should be given express statutory powers in relation to the assurance of financial management, financial health and governance arrangements for PCET providers?

For sixth forms, these matters are currently the responsibility of the local authority which is where we believe they should remain. In the event of financial mismanagement, this is unlikely to be restricted to the sixth form alone in an 11-18 school and having two different bodies investigating problems is a recipe for confusion.

Supporting the Welsh Language

Question 82:

Do you agree that the Commission should be placed under a specific duty to have regard to the Welsh language in the exercise of its functions?

As a public body, we would expect that the TERCW is covered, or listed, under the Welsh Language Act. We have said before that the Welsh Language is important. But if the WG is serious about the target of 1 million Welsh speakers by 2050 they need to support this with funding and training, including for the current workforce. Without this it is difficult to see how the learner will be central to the plans for the TERCW.

Question 83:

In having regard to the Welsh language, do you agree the Commission should be expected to consider matters such as:

- the Welsh Government's vision for a million Welsh speakers by 2050;
- the adequacy of existing provision of education through the medium of Welsh;
- how it can support existing provision through the medium of Welsh;
- how current provision through the medium of Welsh can be developed;
- promoting the Welsh language throughout the PCET sector?

As we have said above, it seems logical that the TERCW will be covered by the Welsh Language Act. However, WG need to support its aspirations with links to funding and training to make this aim a reality.

Question 84:

What are your views regarding the future relationship between the Coleg Cymraeg Cenedlaethol and the Commission? Please include comments on the relationship regarding funding of the Coleg and its operational activities as well as the accountability of the Coleg to the Commission.

We broadly welcomed the Coleg's role being extended to help support FEIs. As we state, WG will not meet their aspirations of 1 million Welsh speakers by 2050 without supporting the current workforce and providing appropriate funding.

Data, Statistics and Research

Question 86:

What are your views on the new body taking ownership of datasets currently owned by the Welsh Government and other agencies?

We would have concerns in relation to some information being shared without the express permission of individuals. Especially in relation to General Data Protection Duties.

Question 87:

Do you consider that a duty should be placed upon secondary schools and other learning providers and examining bodies to share data about learners' characteristics and attainment, with a new learning provider with which a learner is enrolling?

Under new duties which come from the Additional Learning Needs and Tribunals (Wales) Act (the ALN Act) FEIs will receive the Individual Development Plans (IDPs) of learners with additional needs. So some work needs to be undertaken so that appropriate information is shared in order to ensure learners' needs are met.

IDPs need to be shared with FE/WBL providers whilst a learner is given a place on a programme. This will help the learner make the most informed decision for them about whether the course is suitable and also help the provider to make 'reasonable adjustments', communicate better with learners and access other support available.

Question 97:

Are there any other matters which you consider should be taken into account in respect of the proposed arrangements for the designation of HE courses for the purpose of student support?

We would highlight what the Bevan Foundation's recent report into PCET said in relation to financial implications in terms of accessing the PCET sector for young people:

“College enrolment or administration fees, course costs and travel costs were significant outlays for young people from low-income

families. The Educational Maintenance Allowances and traineeship allowance are less than the JSA rate.”¹⁰

We believe careful consideration needs to be given to financial incentives to ensure they provide real social justice to learners in the PCET sector. Our members tell us they have had many learners drop out due to the punitive nature of JSA and their inability to attend courses when they should be ‘looking for work’. If WG is serious about using education to help ensure social justice – which we believe is critical in PCET – then how best to use financial incentives is key. Supporting those who are NEETs because of the nature of JSA and UC is critical to this.

Question 98:

To help inform our assessment of the possible impact of these proposals, can you foresee any particular impact on those with protected characteristics (within the meaning of the Equality Act 2010) and how they might be particularly affected by these proposals?

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 99:

Please also explain how you believe the proposed policy could be formulated or changed so as to have :

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Please see our answers above.

Question 100: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please see the start of this consultation response.

¹⁰ <https://41ydvd1cuyvlonsm03mpf21pub-wpengine.netdna-ssl.com/wp-content/uploads/2018/06/I-want-to-be-something-Hyperlinks.pdf>

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

