

Public Good and a Prosperous Wales – the next steps

Consultation Response Form

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Introductory Comments

The vast majority of ASCL Cymru's members are school leaders, and therefore our response focuses to a significant extent on the impact of these proposals on school sixth forms. We are extremely concerned that this document makes proposals for sweeping changes to the way school sixth forms are run and funded.

Whilst we might see the benefits of an over-arching body to ensure consistency and quality assurance in the FE, HE, Work-based Learning and Apprenticeship sectors, we are not convinced that it should have any role in the work of school sixth forms. There is a real danger here that we will end up with yet another middle-tier organisation, run at significant expense, creating more work of school leaders at a time when they are already accountable to an ever-increasing number of other organisations.

At a time of significant change to the educational landscape, where every area of the profession has been subject to wholesale change, this will derail the profession's trust and confidence in the Welsh Government's stated mission to build capacity for the workforce. There is already a crisis in recruitment and retention: we cannot support reforms which over time, in our view, would potentially lead to wholesale redundancies, and may provide a disincentive for teachers to work in Wales. Professor John Furlong's reforms to ITE would be significantly compromised if novice teachers were not able to access training and gain experience of teaching older students in Welsh schools.

Professor Donaldson's recent review of ESTYN highlighted the significant importance of the sixth form as a part of the whole school, not just in terms of accountability and quality assurance, but also in delivering his curriculum reforms:

"Sixth forms are an important part of the overall school community... The four purposes of Curriculum for Wales do not cease to be relevant at age 16 and ESTYN is well placed to evaluate how schools are supporting their realisation for all young people. Its reach across education also allows wider transition issues for young people to be analysed and reported on.

Inspection and other accountability expectations should ensure that sixth forms are seen as an integral part of the school community and are not subject to competing expectations and priorities." (Donaldson, G. 2018. "A Learning Inspectorate")

ASCL whole-heartedly endorses this conclusion, and in applauding the curriculum reforms, confirm our position that schools must provide a synergous, coherent approach to the curriculum beyond compulsory education.

The Cabinet Secretary, in the introduction to the document says: *"This consultation paper proposes that the Commission should be made responsible for the funding of school sixth forms and have oversight of their quality assurance.... The intention is not to move wholesale to a tertiary model of provision in Wales. I am committed to retaining a mixed economy of provision which meets the needs of different localities and learners."* However, the detail of the proposals makes it clear that the Commission would have a significant role in the funding, viability and running of school sixth forms and could well take decisions about universal tertiary education in the future, to the detriment of student and parent choice.

It is our view that the proposals are overly bureaucratic and frankly unnecessary. School sixth forms are already subject to intense and increasing scrutiny; the Welsh Government has just introduced new Performance Measures, ESTYN has increased its focus on sixth forms, and the Consortia are significantly more involved in quality assurance for sixth forms.

Local authorities are best placed to take decisions about the place of sixth form education in their context, and ensuring they are appropriately resourced. We have been concerned for some time that the current post-16 funding mechanism is not suitable for school sixth forms and would be happy to discuss specific ideas we may have about a more suitable approach.

We have always maintained the need for a single tier of accountability in relation to education and wish to make it clear our opposition to an additional layer of bureaucracy, potential micro-management and interference that these proposals represent. We would therefore urge the Welsh Government to reconsider its proposals.

The Commission

Question 1:

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

We do not consider the proposed remit of the Commission to be appropriate to the needs of all learners in Wales. Therefore, we cannot support the proposed governance framework.

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?

At this stage this is unnecessary.

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?

Only if it reduces the level of bureaucracy and does not add another layer.

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?

Providing school sixth forms are removed from the proposals

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?

Providing school sixth forms are removed from the proposals

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?

Providing school sixth forms are removed from the proposals

The Relationship between the Commission and Learning Providers**Question 8:**

In the regulation section of the ROA, are there other matters that should be included? If so, what are they? Should any be removed? If so, which ones?

These should not apply to school sixth forms

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?

No

Question 10:

Should RTOs be eligible for funding from the Commission under Regulation and Outcome Agreements? If so, how might the regulation element of ROAs need to be modified to reflect the fact that RTOs do not provide learning?

Not appropriate for school sixth forms

Question 11:

If they should not be funded under ROAs, in what circumstances and by what mechanisms should they be funded? What mechanism(s) could be put in place to ensure the appropriate use of any public funding that RTOs might receive?

Direct funding to school sixth forms

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?

Not relevant to school sixth forms

Question 13:

Is the ROA the best way forward? What are the advantages and disadvantages?

Not for school sixth forms

Question 14:

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

Should not apply to school sixth forms

Question 15:

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

Leave school sixth forms under their current jurisdiction

Question 16:

What information about learning providers and research and innovation communities with approved ROAs should the Commission make publicly available?

Should not apply to school sixth forms

Question 17:

Once approved, should the regulatory section of the ROA be ongoing, or should it be reconsidered from time to time? If so, how often should it be reconsidered? How often should the outcome agreement element be re-negotiated?

Should not apply to school sixth forms

Question 18:

Please let us have your views on the issues listed in the 'Additional Matters' section of this paper.

These proposals are entirely inappropriate for school sixth forms. They represent a "sledge-hammer to crack a nut" approach that is not necessary given the level of oversight and accountability already imposed upon schools.

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?

Not in relation to school sixth forms.

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, the role should remain unchanged for school sixth forms.

Question 21:

Do you agree that the powers in section 65 and 66 of the Further and Higher Education Act 1992, along with powers in sections 86 and 87 of the Education Act 2005, should be replicated largely unchanged for the new Commission?

Providing it does not impact upon school sixth forms.

Question 22:

Do you agree that section 68 of the Further and Higher Education Act 1992 should be replaced with a new power that allows Welsh Ministers to allocate funding to the Commission for all post-16 provision? Are there any specific inclusions or exclusions that should be considered as part of this new power?

No - school sixth forms need to be removed from the proposals

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?

Not in relation to school sixth forms.

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.

Providing school sixth forms are removed from the proposals

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?

Providing school sixth forms are removed from the proposals

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?

Should not apply to school sixth forms

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?

Not in relation to school sixth forms.

Question 28:

Should there be transition arrangements in place to ensure that core funding to any institution is initially protected? What would constitute a reasonable protection?

Yes, at least a three-year phased transition.

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?

This is an unnecessary financial burden on schools and should be removed.

Question 30:

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

Providing it does not impact upon school sixth forms.

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?

Not in relation to school sixth forms.

Question 32:

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

Not in relation to school sixth forms.

Question 33:

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

Leave school sixth forms under their current jurisdiction and allow the Commission to focus on HE/FE and other providers.

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?

Not in relation to school sixth forms.

Question 35:

Do you agree with the principles suggested? Are there any that should be omitted or additional principles which should be included?

Should not apply to school sixth forms

Question 36:

Do you agree with the suggested content for inclusion in a Learner Protection and Progression Plan? Is there anything that should be added or omitted?

Should not apply to school sixth forms

Question 37:

What sanctions, if any, should the Commission have in relation to Learner Protection and Progression Plans?

None in relation to school sixth forms

Question 38:

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

Yes, they are tried and tested and work effectively.

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?

Not necessary in relation to school sixth forms, where they are already well embedded and highly successful.

Question 40:

Do you agree that learner representatives should be involved with developing the outcome agreement element of the ROAs?

Not necessary in relation to school sixth forms, where they are already well embedded and highly successful.

Question 41:

Do you agree with the proposal to develop a national framework for learner voice and representation? Do you think this would work for all learning providers?

May be necessary in relation to HE/FE and other settings, but not for school sixth forms, where it is already well embedded and highly successful.

Question 42:

If so, do you think responsibility for establishing the proposed national framework should sit with the Commission?

Only in relation to HE/FE and other settings, but not for school sixth forms.

Question 43:

Should the Commission work with all educational providers in Wales to ensure the establishment of learner-led representative bodies are adequately resourced and supported?

Not necessary in relation to school sixth forms, where they are already well embedded and highly successful

Quality Assurance and Enhancement**Question 44:**

Do you agree with the proposed overall principles for the quality framework? Should anything be added, removed or changed?

Should not apply to school sixth forms

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 would consider this a sensible approach to ensure consistency and raise public confidence for all settings outside of school sixth forms.

Question 46:

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

It is an adequate definition

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?

Not necessary in relation to school sixth forms

Question 48:

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

It could replicate the work done by the regional consortia for schools, for whom there is already sufficient provision.

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?

No. This should not be a part of the Commission's remit. Schools are complex organisations that should not be subject to decisions made by an organisation that does not have experience or understanding of the full extent of the complexities involved. Local authorities are far better placed to consider and take decisions on such matters.

Question 50:

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

There are already systems in place for local authorities to monitor and report on the effective use of funds in schools sixth forms. The Commission should not have any part in the running or funding of school sixth forms.

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?

There are already systems in place for local authorities to deal with schools sixth forms judged as causing concern that are established and effective. The Commission should not have any part in the running or funding of school sixth forms.

Question 52:

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

The Commission should not be involved in school sixth forms in any way.

Supporting and Developing Apprenticeships in Wales**Question 53:**

Do you agree that the Commission should play a central role in delivering Welsh Apprenticeships? In particular, should the Commission have the power to issue Apprenticeship Pathways, as well as Apprenticeship Certificates?

Question 54:

Which elements of the current apprenticeships system work well and should be retained and where can delivery be improved by removing complexity and onerous statutory requirements?

Question 55:

Do you foresee any issues with the Welsh Ministers being able to determine the high level requirements for the operation of the apprenticeship system in the manner currently being proposed via the WAS?

Question 56:

Do you foresee any issues, or have any comments about the reformed apprenticeship system we have proposed?

Research and Innovation**Question 57:**

Do you agree with the general proposal and detailed construction of RIW within the Commission? Please explain why.

Question 58:

Do you agree that RIW should have such a wide funding scope to be able to fund the activities described even if its scope is much more restricted in its final implementation and operation, i.e. should it have such flexibility? Please explain why.

Question 59:

Do you agree with the proposals for the relationships between the Welsh Government, the Commission and RIW and the relationships with funding recipients and R&I community? Please explain why.

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?

Not in relation to school sixth forms

Question 61:

Do you agree that all PCET providers should be subject to similar financial and governance assurance principles? Should the Commission be enabled to apply different arrangements and requirements to different types or categories of PCET providers?

Not in relation to school sixth forms

Question 62:

Do you agree with the proposal to enable the proposed Commission to publish a formal set of requirements and conditions as well as to issue guidance to providers and to advise them of good practice?

Not in relation to school sixth forms

Question 63:

Do you agree with the proposal to provide the Commission with enabling functions and that legislation should set out a broad framework for financial and governance assurance with the Commission given discretion to develop its requirements within that framework?

Not in relation to school sixth forms

Question 64:

Do you agree that:

a) the Commission should be placed under a duty to consult with PCET providers and any other persons it considers appropriate in the development of its financial and governance assurance arrangements?

Yes, but not in relation to school sixth forms

b) the Welsh Ministers should be able to issue guidance to the Commission with regard to financial and governance arrangements and that the Commission be required to take such guidance into account?

Yes, but not in relation to school sixth forms

c) the above requirements would provide sufficient safeguard in respect of the scope and reach of the Commission's financial and governance assurance arrangements? Are there any other safeguards you consider to be necessary?

Yes, but not in relation to school sixth forms

Question 65:

Do you have any comments or concerns about the proposal for the Commission to request information from PCET providers, undertake periodic assurance reviews, enter premises and inspect documents or materials in support of its financial and governance assurance functions?

Providing appropriate safeguards are in place to ensure security of data and GDPR compliance. However, not in relation to school sixth forms.

Question 66:

Do you agree that the Commission should have a range of intervention powers at its disposal to deal with failure to comply with financial and governance assurance requirements?

Not in relation to school sixth forms

Question 67:

Do you agree with the proposal that the Welsh Ministers should retain their powers of intervention under section 57 of the Further and Higher Education Act 1992 and that the Commission should be enabled to make recommendations to the Welsh Ministers as to the exercise of those powers?

Not in relation to school sixth forms

Question 68:

Do you agree with the proposal that the Welsh Government should explore the possibility of transferring the Principal Charity Regulator role for FE institutions to the proposed Commission? What are your views on the proposal to retain the current requirement for HE institutions in Wales to register with the Charity Commission?

HE Governance**Question 69:**

Do you agree that those amendments to HEIs governing documents considered to be in the public interest should continue to be subject to oversight and the approval of the Privy Council?

Question 70:

Do you consider the proposed extension of the 2006 reallocation approach for the amendment of HEIs governing documents to be appropriate? If not, why?

Question 71:

Do you agree that existing statutory requirements that apply to HECs governing documents should be removed so that the proposed approach can be extended to all higher education institutions?

Question 72:

Do you agree with the Commission's proposed role in relation to the consideration of amendments to HEIs governing documents?

Question 73:

To support the proposed approach, do you agree that:

- a) the Welsh Government should issue guidance on the procedure for amending governing documents?

b) the Commission should review the 2006 list of public interest matters in consultation with stakeholders and issue guidance on those matters that will continue to be subject to Privy Council oversight and approval?

c) the Welsh Government be enabled to issue guidance to the Commission in relation to the public interest matters that should continue to be subject to oversight and approval?

Question 74:

Do you consider that the proposed approach would safeguard the public interest in the governance arrangements of HEIs in Wales?

Question 75:

We would welcome views on whether this arrangement should continue to operate in future so that the Welsh Ministers would be required to consult with the Commission and the HEC in question or whether provision should be made for these powers to be exercisable only upon recommendation by the Commission.

Question 76:

Which option do you consider to be the most appropriate and why? Are there other options that should be considered?

Question 77:

Under what conditions or circumstances do you consider it appropriate for dissolution powers to be exercised?

Question 78:

Should dissolution powers only be exercisable on recommendation of the Commission? If so, should this also be extended to the existing arrangements for FE institutions?

Question 79:

Do you agree with the proposed approach, i.e. that no significant changes should be made to the current procedures and criteria for granting DAPs and UT in Wales for the present time?

Question 80:

Do you agree with the Commission's proposed role in relation to the consideration of DAPs and UT applications in Wales?

Question 81:

Do you agree that the Commission should consider the effectiveness of existing arrangements for the delivery of HE in FE as part of its wider strategic remit for PCET provision?

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?

Yes

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?

Yes

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.

Not in relation to school sixth forms

Question 85:

What are your views regarding the future relationship between the National Centre for Learning Welsh and the Commission? Please include comments on the relationship regarding funding and operational activities of the National Centre and accountability of it to the Commission.

Appropriate there should be a direct relationship, but not in relation to school sixth forms

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?

Not in relation to school sixth forms

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?

Already normal practice between school sixth forms. Only if the learner is moving to a different setting e.g. HE or WBL provider

Question 88:

Are there any further powers, duties or other matters that should be considered in developing proposals for these functions of the new body?

They should not relate to school sixth forms

Student Finance Issues

Question 89:

Could an increase in the availability of accelerated degrees better meet the needs of employers and learners in Wales?

Question 90:

Do the current legislative arrangements, in particular the absence of distinct fee limit for accelerated courses restrict the development and delivery of accelerated degrees in Wales?

Question 91:

How might accelerated degrees be defined?

Question 92:

What are your views about the potential costs associated with delivery of two-year accelerated degrees? In particular what are the potential implications for tuition fees chargeable for such courses and for maintenance support for eligible students?

Question 93:

Are there any other matters relating to accelerated degrees that you consider should be taken into account?

Question 94:

Do you agree with the proposal that the Commission should have regulatory oversight of all HE providers in Wales seeking designation of their HE courses for the purpose of student support?

Question 95:

Do you agree with the proposal that there should continue to be two categories of course designation for providers of HE in Wales for the purpose of student support?

Question 96:

Which of the three options do you consider to be most appropriate and why?

Do you think that HE providers outside Wales should also be required to satisfy one of the three options?

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?

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.

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 Introductory Comments above.

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: