

## **Consultation**

**Response Form** Your name: Mary van den Heuvel (ATL Section); Owen Hathway (NUT Section)

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### **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**

#### **Our Response**

National Education Union Cymru welcomes the opportunity to respond to this consultation.

Fundamentally, we believe all learners, including adults are entitled to PCET. Vocational training must have the same status as academic education. This should be the founding principles of the TERCW.

Provision should:

- be fully inclusive and encourage all learners to achieve their full potential, whatever their ability;
- be accessible to adults and community learners as well as young people;
- offer flexibility and meaningful choice of subjects, qualifications and ways of learning;

- ensure pathways for progression to further learning;
- include good quality careers education, information, advice and guidance.

Funding must:

- be sufficient and provided by the WG where possible, so that it is free to learners;
- enable parity of pay and conditions with teachers in schools;
- include financial support for students.

Professionalism in the workforce must:

- have access to continuing professional development that recognises dual professionalism;
- have a voice within the TERCW governance arrangements;
- help shape the workforce strategy;
- begin with a Certificate of Education or PGCE – FE;
- have access to fair terms and conditions of service, which do not undermine their current arrangements.

### **School sixth forms**

We would be opposed to the inclusion of school sixth forms within the TERCW. We believe that school sixth forms should remain part of the school and their associated governance arrangements.

School sixth forms should have a constructive but independent relationship with the TERCW, and other associated PCET settings, but including them within the proposals cannot be justified.

We do believe schools can do more in terms of showing young people their options at key transition periods. There could also be some more consistent measures across education undertaken in a school setting and that undertaken by school sixth forms, however, we would be concerned about losing what settings do especially well.

### **Parity between settings**

Whilst there is a rationale for a body which includes the role of HEFCW and WG functions around FE, WBL and Apprenticeships, we are concerned about all the other bodies involved in this sector, and what role they will play. For example, these sectors are measured and regulated in different ways and we would have concerns about parity for the learner on different courses, as well as the workforce.

How will we ensure that there is parity across the system without being overly prescriptive?

Some of our specific concerns are listed below:

### **Estyn**

Estyn has a specific role to play in the FE sector, which is usually seen by members as more positive than that which they play in schools. We would be interested to learn if there are plans for them to have a role in other areas. We know Estyn are considering inspecting school sixth forms.<sup>1</sup>

### **Education Workforce Council (EWC)**

The EWC registers many of the workforce in the PCET sector, but not all of them. School teachers, FE lecturers, TAs and WBL practitioners all have to register with the EWC. Should the learners expect all of the staff to be registered in the same way? There would certainly be some arguments for this.

### **Professional standards**

We note there are currently different Professional Standards for school teachers and FE lecturers and WBL professionals. There are currently no such standards for other PCET staff.

### **Workforce development strategy**

There is a clear need for a workforce strategy which recognises the skills of the current workforce and ensures clear opportunities for professional development within the sector, to help ensure young people receive a consistently well-developed education sector.

The terms and conditions of service vary across the PCET sector. We must have a workforce strategy, based on excellent access to CPD and fair terms and conditions.

### *Strategic Planning*

#### **Question 1:**

Do you agree the Commission should have a role in strategic planning at national level across the PCET system?

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<sup>1</sup> <https://www.estyn.gov.wales/faqs-inspection-framework-september-2017>

We believe the Tertiary Education and Research Commission Wales (TERCW) will be well placed to have a strategic role, at a national planning level.

However, we would have concerns that there are a range of bodies (Consortia, Regional partnerships, Local authorities, EWC, Qualifications Wales) which could potentially fall under the remit of the TERCW, and would seek clarity on how they will fit within the new body.

### **Question 2:**

Should Outcome Agreements form the basis of the Commission's strategic planning relationship with institutions and providers? If so, what steps could be taken to ensure that Outcome Agreements do not encourage short-term thinking by institutions?

### **Long-term funding**

Long-term funding arrangements are critical in terms of ensuring financial stability for the bodies and institutions which will come under the remit of the TERCW.

### **Outcomes Agreements**

We would have some serious concerns around the use of an Outcomes agreement without careful considerations of the cohort which each body is taking in.

Our members are clear that all learners should be free to choose the best course for them, irrespective of provider. But currently, the sector has some lop-sided duties in terms of the cohort of students who will study with them.

For example, FEIs will have a duty with regard to learners with Additional Learning Needs (ALN) up to 25. They also have differing Welsh Language requirements. Educational Maintenance Allowance<sup>2</sup> and Student Loans<sup>3</sup> are payable to certain groups of learners within these settings too, which may impact courses studied.

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<sup>2</sup> <https://www.studentfinancewales.co.uk/fe/ema/can-i-get-it.aspx#.WedXBmhSzAw>

<sup>3</sup> <http://www.studentfinancewales.co.uk/>

Therefore, it is important that any Outcomes agreement offered, though not overly bureaucratic, places appropriate expectations on the setting.

### *A Single Funding Body*

#### **Question 3:**

Do you agree that funding to the Commission should be dependent upon the production of a strategic plan approved by Welsh Ministers?

We would seek a great amount of autonomy for the body, including the ability to appoint its own council of members. Learning from the Education Workforce Council, and its make-up, we would be keen to avoid the public appointments process and instead ensure that the body was made up from people right across the sector, to ensure buy-in and independence from government.

Whilst WG Ministerial oversight is inevitable, we would suggest the remit letter runs over at least three years, with time to ensure that any Ministerial direction can be undertaken in a sensible and systematic way, and ensure continuity for both the learner and the workforce.

#### **Question 4:**

Do you agree that a provider's eligibility for funding should be conditional on producing an Outcome Agreement that reflects relevant priorities in the Strategic Plan?

We would highlight our concerns about an Outcomes Agreement, highlighted in Question 2.

**Question 5:**

Do you agree that the levels of funding should be dependent, in any way, upon a provider's performance against its Outcome Agreement?

We would have concerns about unintended consequences for this, given the geography of Wales and some disadvantaged groups. The geography can limit choice for the learner and disadvantaged groups may lose out in terms of choice between different settings, if they are solely measured on Outcomes.

We would also be concerned should this further undermine the already financially constrained FE sector. The number of FE lecturers registered with the EWC fell this year, by 626<sup>4</sup>. The PCET sector reforms should be seen as a way of ensuring that learners get access to excellent learning with well-motivated, properly funded and a well trained workforce.

**Question 6:**

Do you think that the Commission should be empowered to make recommendations to the institution, and/or to the Welsh Government, where an institution is at serious financial risk?

It would be sensible to ensure good financial stability in the system that there is some mitigation against risk of provider failure, especially to ensure protection for the learner and the workforce.

We would note that not every organisation involved in the sector is an 'institution', and would seek clarity on, for example, how WBL settings fit within this vision.

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<sup>4</sup> Annual Statistics Digest 2017 <https://www.ewc.wales/site/index.php/en/research-statistics/education-workforce-statistics>

**Question 7:**

Do you think that where it judges that an institution has become financially non-viable, the Commission should be empowered to make appropriate recommendations to the Welsh Government and what safeguards may be required?

Mitigation against provider failure seems sensible. Please see our comments above.

*Protecting the interests of learners in the PCET sector*

**Question 8:**

Do you agree that the arrangements to protect learners studying at PCET providers in Wales need to be strengthened?

We believe that the learner should be central to planning under the TERCW system. We also believe that, as part of this, the workforce need to be empowered as education professionals to have sufficient time and resources to ensure they can deliver the best education to the learner possible. We note that workload and funding were issues identified by not only teachers, but also FE professionals in the recent WG workforce survey, undertaken by EWC<sup>5</sup>.

As previously stated, this should mean learners get access to excellent learning with well-motivated, properly funded and a well trained workforce.

**Question 9:**

If yes, what arrangements should be put in place to support learners no longer able to continue on their course at their chosen provider because

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<sup>5</sup> <https://www.ewc.wales/site/index.php/en/research-statistics/national-education-workforce-survey>

of the closure of the course, the closure of a campus or because of provider failure?

There should be safeguards in place to ensure that learners can be offered a place on the nearest, most suitable course for them – with staff TUPE arrangements in place to ensure continuity.

Workforce planning is central to the TERCW working, and has been sadly overlooked within this consultation.

**Question 10:**

Should providers offering higher education courses that are designated for statutory student support in Wales be required to produce student protection plans within their Outcome Agreements?

We would agree this seems a sensible plan.

*Supporting learners who wish to transfer between courses or providers*

**Question 11:**

What support should be provided to learners wishing to change courses or provider?

We would welcome support for learners wishing to change courses, providing they are able to give sufficient notice and reasons and that the setting is suitably funded – be they receiving a new student part-way through a course, or if they have already invested in a student who leaves.

**Question 12:**

What role, if any, should the new Commission have in ensuring arrangements are in place to facilitate student transfer arrangements and to promote awareness of these arrangements amongst learners?

It seems sensible that this forms part of the agreement with TERCW.

### Managing Learner Complaints

#### **Question 13:**

Is there a need to introduce complaints resolution arrangements for learners in the PCET sector, who are currently unable to take their unresolved complaints to an independent body? If yes, what complaint resolution arrangements should be put in place for learners across the PCET sector?

This area highlights the lack of parity within the system at the moment, and we would seek to ensure that any increases in responsibility come with an increase in funding and training to ensure that extra expectations are fully resourced – and do not take resource away from core education opportunities.

For example, a complaints procedure must be adequately resourced and manageable within workload constraints.

### Quality Assurance and Enhancement

#### **Question 14:**

What models could be used by the Commission for a Quality Assurance Framework encompassing all types of provision?

We do not have a comment about this at this time.

**Question 15:**

Should quality enhancement be a key feature of the Quality Assurance Framework operated by the Commission?

We do not have a comment about this at this time.

*Financial and Governance Assurance*

**Question 16:**

We welcome views on how Welsh apprenticeships should, in the future, fit within the role of the Commission. In particular, we would welcome views on what, if any, changes could be made to the Welsh apprenticeship system provided for in the 2009 Act.

We believe that should other WBL fall under the remit of the TERCW, there is an argument that Apprenticeships should also do so. We would note that Apprenticeships, though not used in the same way as England in terms of the Levy, are not always legislated for. There was, for example, much debate about Apprenticeships being included in Qualifications Wales' remit. Should they be included in the TERCW, we believe this would require legislation.

*Management of Performance and Risk*

**Question 17:**

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

See earlier comments about Estyn etc.

**Question 18:**

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

In order to ensure students have access to best courses, close to home as possible, we believe that the TERCW must have the following in place:

- Be independent from Welsh Government;
- Be able to take long-term funding decisions;
- Have a clear strategic Workforce Plan;
- Ensure providers can provide for all pupils, including those with ALN;
- Have fair terms and conditions for staff, across the sector;

*Research and Innovation*

**Question 19:**

Do you agree that there should be a committee of the Commission to be known as Research & Innovation Wales?

We believe this seems a sensible approach. We would seek to ensure that representatives from the workforce right across the TERCW sector

be included in this Committee, especially recognising the potential that the FE sector could have in terms of experience within this sector.

In terms of Professional Standards, there is a focus for both teaching and FE professionals to engage in their own action research, encouraged by EWC.

**Question 20:**

Do you agree that Research & Innovation Wales should operate as set out above to develop research and innovation capacity and capability in Wales?

We believe, these proposals seem sensible, but would seek particular assurances about long-term funding arrangements and how this sector would be used to mitigate the effects of EU Exit changes in terms of funding from the EU.

*Widening access and participation in the PCET sector*

**Question 21:**

What actions, if any, should be undertaken to encourage greater participation in the PCET sector, particularly by individuals from disadvantaged and under- represented groups?

**ALN**

Welsh Government is currently legislating to place duties on the FE sector to help ensure students with ALN are supported to 25. Yet these duties do not include HE or WBL. Greater clarity is needed to ensure students are able to follow the course of their choice, regardless of provider.

We would want students with ALN to be able to access the best course for them close to home, but if the best course is an out-of-county

placement, it is critical the LA pays for this. For example, RNC in Hereford<sup>6</sup>.

**Access to good courses, close to home.**

We are clear that students should be able to access the course of their choice close to home. This may fall within the TERCW sector and should mean that there are a wide variety of courses available to students locally.

We would be concerned that courses be delivered close to students homes to ensure they can access them, especially for the 16-19 age group.

Some disadvantaged groups, such as those from poorer backgrounds, will not be able to travel so far for the courses which suit them best, so we must ensure they are available locally.

**Question 22:**

How could we ensure greater retention on and successful completion of PCET courses by these groups?

**See above.**

*Measuring impact*

**Question 23:**

How can the evidence base for widening access across the PCET sector be strengthened?

We do not have a comment on this at this time, but would welcome a discussion about it at a later date.

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<sup>6</sup> <http://www.rnc.ac.uk/>

**Question 24:**

Should further and higher education institutions be placed under a duty to publish and provide to the Commission, data on the application, acceptance and progression rates of students, broken down by gender, ethnicity and socio-economic background?

This seems sensible, and this must include data on ALN students.

Sixth forms

**Question 25:**

Do you think that the Commission should have responsibility for the planning, funding and monitoring of school sixth forms? If yes, please give reasons?

No. We would be extremely concerned about including sixth forms within the plans for the TERCW. School sixth forms should have a constructive, independent relationship with the TERCW as separate bodies, under the school governance arrangements.

The Welsh Government's reforms from Education and Training Action Group (ETAG) onwards have seen changes to funding methodologies which have proven burdensome for schools, and meant allocation and demand seldom match.

There is a history of negative experiences for our members where sixth forms have closed and students moved to local FEIs. Some new institutions have been created against the wishes of learners causing some to seek an 11-18 school in a neighboring authority, in order to stay within a Sixth Form setting. We have seen considerable negative consequences for the learners and staff, including a lack of TUPE arrangements for education professionals. We would be extremely concerned about financial decisions over-riding the importance of the learner experience. Whilst we realize school sixth forms are not for everyone, they do offer an excellent education to many learners. As stated within the consultation, a high proportion of learners at post-16

study within school sixth forms and we would not want to lose the excellent education opportunities they offer to many of their pupils.

Whilst we think it is necessary for schools to offer more information to students about the choices open to them at 16, we would have concerns about including school sixth forms within the remit of the TERCW .

We would note that the workforce have a different set of Professional Standards, different pay and conditions and different Estyn inspection regimes.

Giving TERCW any oversight or organisational role would complicate the school accountability framework even further where schools are answerable to their Governors, LAs, Estyn and the consortia.

For all of these reasons, we would not support sixth forms being included within TERCW plans.

**Question 26:**

Do you think that the Commission should have any other role in relation to school sixth forms, for example provider registration, quality assurance and enhancement, and governance? If yes, please give reasons?

No. Please see above.

Quality assurance is already provided by the examinations pupils undertake, LAs, Estyn and the regional consortia.

Governance is already monitored by the Welsh Government's expectations around this area, and forms part of the whole school governance arrangements.

For the above reasons, we would not support school sixth forms forming part of the TERCW system, but be an independent and distinct partner.

**Question 27:**

Do you think it might be preferable to establish the Commission without including sixth forms within its remit, but with the option of doing so at a later date?

No. We reject any proposal that would give the TERCW a remit for control in any form over sixth form provisions.

We believe governance, terms and conditions, and other practicalities, make these proposals unworkably difficult.

### Managing the relationship between the Commission and providers

#### **Question 28:**

Do you agree the new Commission should operate a registration system to facilitate a flexible but consistent approach to its engagement with institutions and providers across the full range of PCET activity? If so, which model, if any, do you prefer and why?

This seems like a sensible approach, should it allow institutional autonomy and be a straightforward but robust system.

### Higher Education Governance

#### **Question 29:**

We are seeking views on how extant legislation governing HECs in Wales might be modernised to place them on a more equal footing with other providers of higher education, incorporated under different constitutional arrangements and, in particular, whether:

- current prescriptions in relation to the governing documents of HECs should be removed;
- whether the requirement for Privy Council approval should be removed for certain amendments to HECs' governing documents;

- whether the current power for the Welsh Ministers to dissolve HECs should be retained or removed.

We have no comment on this section, but believe that learners should have access to high quality education as close to home as possible.

**Question 30:**

We are also seeking views on whether any reform to the process and criteria for granting degree awarding powers (DAP) and university title (UT) for institutions in Wales is necessary as a result of the policy divergence between Wales and England. In particular, whether:

- the Privy Council's role in relation to the granting of DAPs and UT should be retained in Wales or whether responsibility for part or all of the process should transfer to the new post compulsory education and training body.
- any changes to the existing eligibility criteria for DAPs and UT are necessary, including the track record requirement.
- the current basis for the award of indefinite DAPs remains appropriate in light of funding and regulatory changes in Wales.
- the introduction of more flexible degree awarding powers, such as bachelor level only or limited subject, should be explored in Wales.
- powers to vary and revoke degree awarding powers and university title should be considered in Wales,
- any changes to degree awarding powers and validation arrangements would improve the effectiveness of existing partnership arrangements for the delivery of higher education by further education institutions.

We have no comment on this.

*Transitional arrangements – Preparing the road to implementation*

**Question 31:**

Protecting the interests of learners and minimising disruption for providers will inform plans for the transitional period. Are there any other matters which should be taken into account?

We are fundamentally concerned about the lack of acknowledgement of the workforce within this document. Education professionals – teachers, lecturers, leaders and assistants – are the heart of any system. Our members are keen to deliver a high quality education to their learners, and need access to proper resources and training opportunities in order to do this.

Whether a course has learning (CPD) and resources for education professionals is an important measure of the experience the learner will receive.

**Question 32:**

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?

**Additional learning needs**

We would particularly note that the current plans for additional learning needs (ALN), under the ALNET Bill do not include HE and have differing duties on schools, LAs and FEIs.

Whilst we can see some rationale in not including HE at this time (as many students study in England, for example) we would have concerns about continuity for students and parity for providers.

We have previously expressed concerns about a lack of clarity and consistency for students, especially transitioning to the HE sector.

**Question 33:** We would like to know your views on the effects that the establishment of the *Tertiary Education and Research Commission for Wales* would have on the Welsh language, specifically on:

- i) opportunities for people to use Welsh and
- ii) on treating the Welsh language no less favourably than English.

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

In principle we support the 1 million Welsh speakers by 2050 target. However, if the WG is serious about this target we believe there needs to be sufficient funding and resources for this.

We would note, again, there are a range of duties and expectations placed on the bodies which could form part of the TERCW in relation to Welsh.

We would seek assurances that the current and future workforce has access to opportunities to use and practice their Welsh.

We would advocate that any duties or expectations for students to access learning through the medium of Welsh is proportionate to the resources available to the provider.

**Question 34:** 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 above.**

**Question 35:** 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:

No comment.

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:

