

# Agenda – Children, Young People, and Education Committee

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Meeting Venue:	For further information contact:
Video Conference via Zoom	Naomi Stocks
Meeting date: 2 December 2021	Committee Clerk
Meeting time: 09.00	0300 200 6565
	<a href="mailto:SeneddChildren@senedd.wales">SeneddChildren@senedd.wales</a>

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In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on [www.senedd.tv](http://www.senedd.tv)

## Registration and private pre-meeting

(08.45 – 09.00)

### 1 Introductions, apologies, substitutions and declarations of interest

(09.00)

### 2 Scrutiny of Qualifications Wales Annual Report 2020 – 2021

(09.00 – 10.15)

(Pages 1 – 21)

David Jones, Chair – Qualifications Wales

Philip Blaker, Chief Executive – Qualifications Wales

[Annual Report](#)

Attached Documents:

Research Brief – Qualifications Wales Annual Report 2020–21

### 3 Motion under Standing Order 17.42(ix) to resolve to exclude the public from the meeting for the next item

(10.15)



#### **4 Scrutiny of Qualifications Wales Annual Report 2020 – 2021 – consideration of the evidence**

(10.15 – 10.20)

#### **Break**

(10.20 – 10.30)

#### **5 Tertiary Education and Research (Wales) Bill – evidence session 3**

(10.30 – 11.30)

(Pages 22 – 81)

Professor Elizabeth Treasure, Chair of Universities Wales and Vice Chancellor  
of Aberystwyth University

Professor Maria Hinfelaar, Vice Chair of Universities Wales and Vice  
Chancellor of Wrexham Glyndŵr University

Amanda Wilkinson, Director – Universities Wales

Marian Wyn Jones, Chair of the Chairs of Universities Wales (ChUW)

Maxine Penlington, Chair of the Board of Governors at Wrexham Glyndŵr  
University and representing Chairs of Universities Wales (ChUW)

Louise Casella, Director – The Open University in Wales

Cerith Rhys Jones, External Affairs Manager – The Open University in Wales

Attached Documents:

Research Brief – Tertiary Education and Research (Wales) Bill

Bilingual Glossary

CYPE(6)–07–21 – Paper 1 – Universities Wales

CYPE(6)–07–21 – Paper 2 – ChUW

CYPE(6)–07–21 – Paper 3 – The Open University in Wales

#### **Break**

(11.30 – 11.35)

#### **6 Tertiary Education and Research (Wales) Bill – evidence session 4**

(11.35 – 12.35)

(Pages 82 – 94)

Guy Lacey, Chair of ColegauCymru and Chief Executive Officer of Coleg Gwent

Dafydd Evans, Chief Executive Officer of Grwp Llandrillo Menai and representing – ColegauCymru

Rachel Bowen, Director of Policy and Public Affairs – ColegauCymru

Sharon Davies, Head of Education – Welsh Local Government Association (WLGA)

Attached Documents:

CYPE(6)-07-21 – Paper 4 – ColegauCymru

CYPE(6)-07-21 – Paper 5 – WLGA

## **Lunch**

(12.35 – 13.20)

## **Registration and pre-meeting**

(13.20 – 13.30)

## **7 Tertiary Education and Research (Wales) Bill – evidence session 5**

(13.30 – 14.15)

(Pages 95 – 97)

Becky Ricketts, President – National Union of Students Wales (NUS)

Joe Atkinson, Press and Public Affairs Consultant – National Union of Students Wales (NUS)

Attached Documents:

CYPE(6)-07-21 – Paper 6 – NUS

## **Break**

(14.15 – 14.20)

## **8 Tertiary Education and Research (Wales) Bill – evidence session 6**

(14.20 – 15.20)

(Pages 98 – 105)

Aled Roberts, Welsh Language Commissioner

Ioan Matthews, Chief Executive – Coleg Cymraeg Cenedlaethol

Gwenllian Griffiths, Chief Engagement Officer – Coleg Cymraeg Cenedlaethol

Attached Documents:

CYPE(6)-07-21 – Paper 7 – Welsh Language Commissioner

CYPE(6)-07-21 – Paper 8 – Coleg Cymraeg Cenedalethol (Welsh Only)

CYPE(6)-07-21 – Paper 8 – Coleg Cymraeg Cenedlaethol (Translation)

## **9 Papers to note**

(15.20)

### **9.1 Legislative Consent Memorandum on the Skills and Post-16 Education Bill**

(Page 106)

Attached Documents:

Letter from the Minister for Education and Welsh Language to the Chair of the Economy, Trade and Rural Affairs Committee – CYPE(6)-07-21 – Paper to note 1

### **9.2 Inter-Institutional Relations Agreement**

(Pages 107 – 108)

Attached Documents:

Letter from the First Minister to the Chair of the Legislation, Justice and Constitution Committee – CYPE(6)-07-21 – Paper to note 2

### **9.3 Committee training**

(Pages 109 – 111)

Attached Documents:

Letter from the Chair of the Children, Young People and Education Committee to the Llywydd – CYPE(6)-07-21 – Paper to note 3

### **9.4 Legislative Consent Memorandum on the Skills and Post-16 Education Bill**

(Pages 112 – 113)

Attached Documents:

Letter from the Chair of the Children, Young People and Education Committee to the Minister for Education and Welsh Language – CYPE(6)-07-21 – Paper to note 4

## **9.5 Legislative Consent Memorandum on the Skills and Post-16 Education Bill**

(Pages 114 – 115)

Attached Documents:

Letter from the Minister for Education and Welsh Language – CYPE(6)–07–21  
– Paper to note 5

## **9.6 General scrutiny of the Minister for Health and Social Services**

(Pages 116 – 155)

Attached Documents:

Letter from the Minister for Health and Social Services, Deputy Minister for Social Services and Deputy Minister for Mental Health and Wellbeing – CYPE(6)–07–21 – Paper to note 6

## **9.7 Tertiary Education and Research (Wales) Bill**

(Pages 156 – 158)

Attached Documents:

Letter from the Chair of the Children, Young People and Education Committee to the Minister for Education and Welsh Language – CYPE(6)–07–21 – Paper to note 7

## **10 Motion under Standing Order 17.42(ix) to resolve to exclude the public for the remainder of the meeting**

(15.20)

**11 Tertiary Education and Research (Wales) Bill – consideration of the evidence heard in the previous session**

(15.20 – 15.30)

Document is Restricted

# Agenda Item 5

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted



# Bil Addysg Drydyddol ac Ymchwil (Cymru)

Geirfa Ddwylieithog

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## Tertiary Education and Research (Wales) Bill

Bilingual Glossary

Tachwedd 2021 | November 2021

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Paratowyd yr eirfa ddwylieithog hon gan  
Wasanaeth Ymchwil y Senedd a'r  
Gwasanaeth Cyfieithu a Chofnodi.

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This Bilingual glossary has been prepared by Senedd  
Research and the Translation and Reporting Service.

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## Termau a ddefnyddir yn y Bil | Terms within the Bill

academic freedom	rhyddid academaidd
alternative Welsh apprenticeship	prentisiaeth Gymreig amgen
application-to-acceptance information	gwybodaeth o gyflwyno'r cais i dderbyn y cynnig
apprenticeship certificates	tystysgrifau prentisiaethau
apprenticeship framework	fframwaith prentisiaeth
approved Welsh apprenticeship	prentisiaeth Gymreig gymeradwy
approved Welsh apprenticeship agreement	cytundeb prentisiaeth Gymreig gymeradwy
civic mission	cenhadaeth ddinesig
coherence	cydlyn
collaborating body	corff sy'n cydlafurio
collaboration	cydlafurio
complaint(s)	cwyn/cwynion
complaints procedure(s)	gweithdrefn gwyno/gweithdrefnau cwyno
compliance	cydymffurfedd
co-operate	cydweithredu
Chief Inspector	Prif Arlogydd
de-registration	datgofrestru
designated body	corff dynodedig
directions	cyfarwyddydau
dissolution	diddymu

eligible candidate	ymgeisydd cymwys
eligible person(s)	person/personau cymwys
fee limit statement	datganiad terfyn ffioedd
fee limits	terfynau ffioedd
financial support	cymorth ariannol
funding	cyllido
further education	addysg bellach
further education sector/institutions	sector/sefydliadau addysg bellach
general ongoing registration conditions	amodau cofrestru parhaus cyffredinol
governing body	corff llywodraethu
governing document(s)	dogfen lywodraethu/dogfennau llywodraethu
guidance	canllawiau
high level goals	nodau lefel uchel
high level objectives	amcanion lefel uchel
higher education	addysg uwch
higher education corporations	corfforaethau addysg uwch
Higher Education Funding Council for Wales (HEFCW)	Cyngor Cyllido Addysg Uwch Cymru (CCAUC)
inspection	arolygiad
Intervene/intervention	ymyrryd
issue (vb)	dyroddi (bf)
learner engagement Code	y Cod ymgysylltu â dysgwyr
learner protection plan	cynllun diogelu dysgwyr
life-long learning	dysgu gydol oes

mandatory ongoing registration condition(s)	amod/amodau cofrestru parhaus mandadol
means tests	profion modd
outcome agreement(s)	cytundeb/cytundebau canlyniadau
peer review process	proses adolygu gan gymheiriaid
powers of entry	pwerau mynd i mewn
proportionate conditions	amodau cymesur
provider	darparwr
qualifying institutions	sefydliadau cymhwysol
qualifying person	person cymhwysol
qualifying course	cwrs cymhwysol
quality	ansawdd
quality assurance	sicrhau ansawdd
reform	diwygio
register (n)	cofrestr (enw)
registration (vb)	cofrestru (bf)
registration conditions	amodau cofrestru
regulated course fees	ffioedd cwrs rheoleiddiedig
regulated tertiary education	addysg drydyddol reoleiddiedig
research and innovation	ymchwil ac arloesi
right of entry	hawl mynediad
Royal Charter	Siarter Frenhinol
specific ongoing registration conditions	amodau cofrestru parhaus penodol
survey	arolwg
tertiary education	addysg drydyddol
transfer scheme(s)	cynllun/cynlluniau trosglwyddo

## Geirfa safonol – Standard Terms

<b>Before legislation is introduced</b>	<b>Cyn cyflwyno deddfwriaeth</b>
consultation	ymgyngoriad
draft Bill	Bil drafft
Green Paper	Papur Gwyrdd
pre-legislative scrutiny	craffu cyn y broses ddeddfu
White Paper	Papur Gwyn

### Introduction of Senedd legislation

Act of the Senedd	<b>Cyflwyno deddfwriaeth y Senedd</b>
as introduced	Deddf gan y Senedd
Bill introduction	fel y'i cyflwynwyd
Explanatory Memorandum	cyflwyno'r Bil
Explanatory Notes	Memorandwm Esboniadol
Financial Resolution	Nodiadau Esboniadol
Impact Assessment	Penderfyniad Ariannol
legislative competence	Asesiad Effaith
period of intimation	cymhwysedd deddfwriaethol
purpose and intended effect of the legislation	cyfnod hysbysu/setlo
Regulatory Impact Assessment (RIA)	diben y ddeddfwriaeth a'r effaith y bwriedir iddi ei chael
Report stage	Asesiad Effaith Rheoleiddiol
Royal Assent	Cyfnod adrodd
	Cydsyniad Brenhinol

Short title	Enw byr
Stage 1 - Committee considerations of general principles	Cyfnod 1 - Pwyllgor yn trafod yr egwyddorion cyffredinol
Stage 1 – Debate in Plenary on general principles	Cyfnod 1 – Dadl yn y Cyfarfod Llawn ar yr egwyddorion cyffredinol
Stage 2 - Committee consideration of amendments	Cyfnod 2 - Pwyllgor yn ystyried y gwelliannau
Stage 3 - Plenary consideration of amendments	Cyfnod 3 - y Cyfarfod Llawn yn ystyried y gwelliannau
Stage 4 - Passing of the Bill in Plenary	Cyfnod 4 - Pasio'r Bil yn y Cyfarfod Llawn

## Westminster Legislation

Legislative Consent Motion	Cynnig Cydsyniad Deddfwriaethol
Legislative Consent Memorandum	Memorandwm Cydsyniad Deddfwriaethol
Act of Parliament	Deddf Seneddol
UK Statutes	Statudau'r DU

## Deddfwriaeth San Steffan

## Other general legislative terms

Member in charge (of the Bill)	Aelod sy'n gyfrifol (am y Bil)
Section	Adran
Schedule	Atodlen
guidance	canllawiau
transitional costs	costau pontio
post-legislative scrutiny	craffu ôl-ddeddfu
sunrise clause	cymal 'codiad haul'

sunset clause	cymal machlud
Bill summary	crynodeb o'r Bil
provision(s)	darpariaeth/darpariaethau
transitional provisions	darpariaeth drosiannol
statement of policy intent	datganiad o fwriad y polisi
enacted, enactment	deddfu, deddfiad
repeal	diddymu/diddymiad
amend	diwygio
consequential amendments	diwygiadau canlyniadol
legislative framework	fframwaith deddfwriaethol
statutory framework	fframwaith statudol
statutory requirement	gofyniad statudol
Order	Gorchymyn
affirmative / negative procedure	gweithdrefn gadarnhaol / negyddol
amendment(s)	gwelliant/gwelliannau
subordinate legislation	is-ddeddfwriaeth
minor amendments	mân ddiwygiadau
statutory instrument	offeryn statudol
resolution	penderfyniad
delegated powers	pwerau dirprwyedig
regulations	rheoliadau



## 1. Introduction

- 1.1. This document provides some early provisional comments on the Tertiary Education and Research (Wales) Bill as laid on 1 November 2021. The Bill will establish the Commission for Tertiary Education and Research (CTER), as an independent funding and regulatory body responsible for the oversight of tertiary education and research in Wales. The Commission will replace HEFCW, which will be dissolved, and take on a number of functions of the Welsh government in relation to tertiary education.
- 1.2. Committee members will appreciate that further work is required on a range of areas to understand the scope and likely impact of the provisions and reach a collective view. We have provided this interim submission at the request of the committee but will provide a formal response by the committee's consultation deadline of 17 December 2021.
- 1.3. With the above caveats, the following provides a brief outline of our provisional views on the Bill and the key areas of present concern or investigation, ahead of our full response to the Committee's consultation.

## 2. Summary

- 2.1. Universities Wales has consistently supported the Welsh Government's intention to build on the strengths of the current higher education and post-compulsory education systems in Wales. For Wales' future prosperity, it is crucial we ensure that this legislation is as good as it can be and supports a Commission that is effective and long-lasting.
- 2.2. We are pleased that significant progress has been made since the consultation on the Draft Bill. The Bill as introduced includes a range of amendments in response to our previous representations to government which go some way to meaningfully address the concerns we expressed in our response to the consultation on the Draft Bill (see [here](#)).



- 2.3. The Bill now includes a more focused set of nine strategic duties. This is a welcome change and, broadly, the strategic duties are ones that we support in principle. We welcome the recognition of the important contribution that universities make to civic mission and wider social and economic well-being of Wales. Welsh universities continue to play a pivotal role in their local and regional economies as well as in the national economic prosperity of Wales, including helping to drive the economic recovery and renewal in Wales in the post-COVID landscape.
- 2.4. Inevitably, however, there are a number of outstanding matters of importance. To ensure that the Bill can deliver on its strategic duties, the Welsh Government's stated aims and objectives, and deliver a long-lasting settlement for tertiary education, research and innovation, there are a number of areas we feel should be addressed.
- 2.5. Many of our concerns are around the extent to which the Commission is empowered to act at an arm's length of government, a necessity for an effective arm's length body. Similarly, although there has been progress in ensuring the existing protections around academic freedom, charity status and institutional autonomy are maintained, there remain gaps in the Bill as laid.
- 2.6. Our initial appraisal of the Bill has highlighted some key areas that we would want to be addressed including:
- **Further exploration of how the detail on registration and regulation will be managed.** This includes the Commission's powers to impose specific conditions for individual institutions ([point 5 in this document](#)).
  - The need for a **general duty in relation to institutional autonomy** and related amendments which reflects existing protections ([point 6](#)). **This is a fundamental ask** which would ensure existing protections are maintained and also would help mitigate a number of separate concerns.
  - How to ensure **balanced funding and transparent funding decisions** ([point 9](#)).
  - The retained and strengthened powers in relation to **Higher Education**

**Corporations** which only apply to a small number of institutions and are not in line with the Law Commission's recommendation. We feel the purpose and rationale of retaining and strengthening this power is not clear ([point 7](#)).

2.7. In addition to these areas, there are a number of matters on which we expect to further engage with the Welsh Government and the Senedd to address concerns:

- Queries around **funding powers and protections**, some of which would be addressed through a general duty in relation to institutional autonomy above ([point 9](#)).
- **Power for Welsh Government to give general directions** which, while similar to previous powers, can be made via publication rather than order/statutory instrument which would mean no scrutiny or approval from the Senedd ([point 13](#)).
- Power for Ministers to **modify the Commission's strategic plan**.
- Questions around **information powers** ([point 12](#)).

2.8. While we welcome the flexibility of the Bill to deal with potential changes, it would be useful to have further information on how the Welsh Government has prepared for further UK developments in relation to the Bill. We would advocate avoiding relying too heavily on powers to determine aspects of the regulatory system without the full scrutiny of primary legislation.

2.9. The timescales for implementation of the Commission also remain a very concern and appear to be particularly challenging. The Welsh Government is still currently working towards launching the new Commission in 2023, with arrangements phased in under transitional provisions.

### 3. The context of universities

3.1. Welsh universities play a fundamental role across the Welsh economy and society. Recent analysis by Viewforth Consulting found that Welsh universities generate over £5.3bn of output, make up 11.8% of all Welsh service sector

export earnings and generate one in every 20 jobs in Wales<sup>1</sup>. These benefits are felt in communities across the country, including in areas that do not have a university presence.

- 3.2.** Our universities take seriously their responsibilities to people in Wales and our communities. We are the only UK nation where all universities are signed up to a civic mission framework that sets out our activities and ambitions around supporting communities and public services. We are also the only UK nation where all universities are accredited living wage employers.
- 3.3.** Throughout the pandemic, our universities' role in tackling economic, social and health challenges came into greater focus. Universities' civic response to the pandemic in areas such as training, research, expertise and community support is in part highlighted [here](#).
- 3.4.** Wales faces significant challenges: climate change, shifting demographics and the impact of automation and technological change on some of our largest occupation sectors<sup>2</sup>. The work our universities undertake in delivering education, skills and research and innovation will be a crucial element in mitigating these risks while making the most of the opportunities they offer.
- 3.5.** Contributions made by universities and their students through knowledge and skills exchange, partnerships and support for local employers have huge potential to help businesses, industries, and other partners to continue, recover and thrive following the pandemic. Research by the National Centre for Entrepreneurship in Education (NCEE), predicts that over the next five years, universities in Wales will:
  - Give 4,000 years' worth of upskilling and training to businesses and charities.
  - Help 1,300 new businesses and charities to be formed.
  - Be part of regeneration projects worth £536 million to the Welsh economy.

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<sup>1</sup> <https://uniswales.ac.uk/media/The-economic-impact-of-higher-education-in-Wales.pdf>

<sup>2</sup> <https://uniswales.ac.uk/media/Solving-Future-Skills-Challenges-in-Wales.pdf>

- 3.6. Universities have a crucial role to play in training the healthcare workers who have played such a pivotal role in the country's response to the pandemic. In the next five years we will train 10,000 nurses and 4,000 medics, working with the NHS to provide a critical pipeline of talent to help ensure it has the resources it needs to respond to the challenges it faces both now and in the future.

## 4. Outstanding questions

- 4.1. Although the key changes generally appear to be positive and the system overall looks potentially workable, there remain significant questions and more work is needed to assess how far these changes have in practice addressed the issues we raised in our consultation response ([here](#)).

## 5. Overall regulatory framework and balance of detail on the face of the Bill.

- 5.1. We have previously expressed our support for the Welsh Government's intention to build on the strengths of current higher education and post-compulsory education systems in Wales. In particular, this includes the proposals to establish baseline registration requirements for all providers which focus on the quality of education, better protect the interests of learners and promote the engagement of learners at all institutions in Wales. We have also welcomed the intention to reduce the unnecessary administrative burdens and complexity of the current system, and increase flexibility.
- 5.2. However, **there is a lack of detail in the Bill as laid and its accompanying documentation about many of its basic features** including what the basic categories of registration will look like, who they will apply to and what requirements they will contain. Much of this we would have expected to have been confirmed with laying of the Bill, placed on the face of the Bill itself or in accompanying draft regulations. Instead, **many important policy decisions appear to be left to future regulation, making it difficult to assess the workability of proposals.**

- 5.3. The limited indications in the Statement of Policy intent suggest that the Welsh Government is currently considering a registration system focused on those who provide higher education, and that there will be two categories: higher education (core) and higher education (alternative) which largely appears to replicate the status quo.
- 5.4. **The Bill as drafted also includes a significant Henry VIII power to subsequently amend primary legislation through regulations.** If this is relied on this could mean that key features of the Bill are decided without the full primary legislative process.

## 6. Institutional autonomy and academic freedom.

- 6.1. This was a key area of concern we highlighted in relation to the Draft Bill. Institutional autonomy and academic freedom are cornerstones of higher education both in the UK and internationally. As principles, they underpin how our universities conduct research and innovation, how they develop and deliver and teaching and learning.
- 6.2. There is evidence which suggests a correlation between autonomy and university rankings and points to the lack of comparative autonomy as a major obstacle to competitiveness<sup>3</sup>. Without a system that protects and champions autonomy and academic freedom, we disadvantage Wales in securing world-leading researchers and staff, and impair our universities' ability to form partnerships and to compete for business and research contracts, both domestically and internationally.
- 6.3. As constituted, universities in Wales are not public bodies but charities and have a legal duty to act independently from government and determine their own objectives and strategic direction, which they are committed to doing in consultation with their key stakeholders. Preserving their independence is essential to ensure that they are not reclassified as central government for

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<sup>3</sup> Referenced here: <https://uniswales.ac.uk/media/Universities-Wales-response-to-the-Draft-Tertiary-Education-and-Research-Bill-consultation.pdf>

purposes of national accounting, which would have major consequences the Welsh Government's accounts and budget. Universities are also subject to UK competition law which requires that they act independently from other providers in relation to the UK higher education market.

- 6.4. There has been significant progress made in addressing the issues we raised in relation to the Draft Bill, particularly in relation to academic freedom. Nevertheless, there remain significant issues that need to be addressed.
- 6.5. In relation to academic freedom, we strongly welcome the changes since the Draft Bill including extending the duty to have regard to the importance of academic freedom to the Welsh Ministers. Further work appears may be needed on its drafting to deliver the intended protection, however: the duty at the moment applies only in relation to higher education provision (which does not appear to include, for instance, research and innovation).
- 6.6. There are remaining gaps in the limitations on funding powers which have been transferred from FHEA 1992. There are some remaining specific areas of concern relating to regulatory powers, as highlighted further below.
- 6.7. The Welsh Ministers have no general duty in relation to protecting the institutional autonomy of universities. Equivalent duties are in legislation elsewhere in the UK such as the Higher Education and Research Act 2017.
- 6.8. Despite the very welcome extension to the Commission's duty to ensure compatibility with charity law (s.17), the new duty continues to apply only to the exercise of the Commission's powers and not the Welsh Ministers' and does not appear to fully cover the remaining gaps in the limitations on funding powers transferred from FHEA 1992 or resolve some of the specific areas of concern relating to regulatory powers.

## 7. Higher education corporations – autonomy and governance

- 7.1. We continue to be concerned that the Welsh Government has retained its

power to dissolve Higher Education Corporations in Wales against their will. Instead of seeking to remove this power, the Bill makes it easier to exercise, enabling the Welsh Government to transfer property on dissolution more easily where rights of pre-emption and return or similar are involved.

- 7.2. The power to dissolve HECs against their will was removed in 2017 in England in the light of a potential review of the sector by ONS, and previous ONS decisions that indicated that its exercise would mean reclassification of the universities to central government from the not-for-profit sector.
- 7.3. We feel the purpose and rationale of retaining and strengthening this power is not clear. In designing a new regulatory system, which is meant to provide a fair and equitable basis for regulation across the PCET sector, the Welsh Government is seeking to preserve a measure that relates to a small number of institutions.
- 7.4. The Welsh Government has also chosen to extend its powers to change the statutory requirements for HECs' instruments and articles of government by regulations. This runs contrary to the Law Commission recommendations in 2017, which as part of its review of unnecessary regulatory burdens on charities, recommended that the Welsh Government should take steps to remove of the current legislative requirements as to the content of the governing documents of HECs.

## 8. General and strategic duties

- 8.1. There have been significant changes in this area, and they are broadly ones that we support in principle. We welcome the recognition of the important contribution that universities make to civic mission and wider social and economic well-being of Wales. Welsh universities continue to play a pivotal role in their local and regional economies as well as in the national economic prosperity of Wales, including helping to drive the economic recovery and renewal in Wales in the post-COVID landscape.
- 8.2. Our key concern is the continuing absence of a general duty on the Welsh Ministers and Commission to respect institutional autonomy, and a duty on the

Welsh Ministers to prevent their powers being exercised in ways that would require universities to act incompatibly with charity law or their governing documents. These two amendments would help to address some of concerns with a number of specific provisions of the Bill.

- 8.3. We welcome the intent to give a clearer statement of strategic direction and duty. We feel that there is a case for research and innovation to feature more clearly in the Commission's ambitions and duties, and our initial impression is that there may be further scope for improving the general coherence and consistency with the other parts of the Bill.

## 9. Funding powers and duties

- 9.1. The funding powers and duties in the Bill are largely intended to mirror existing legislation. In relation to higher education, the Welsh Government's has previously expressed an intention to maintain existing academic freedom and autonomy protections from the Further and Higher Education Act 1992. These have long served as cornerstones for protection of the institutional autonomy and academic freedom of universities across the UK, and have been transferred successfully in legislation that has succeeded it in all other parts of the UK.
- 9.2. However, there remain some seemingly unintended but concerning gaps in the limitations on setting terms and conditions of funding, which remain essentially as detailed in our response to the Draft Bill. It does not appear that these are fully covered by the extension of the general duties in relation to compatibility with charity law and academic freedom:
- In relation to the Commission's powers to fund institutions, for instance, this means that in certain instances there is no longer a duty to consult with universities, to have regard to their distinctive characteristics (or their denominational character), or to ensure that the terms and conditions of funding only relate to the funding that comes from the Commission and to ensure that the Commission does nothing to discourage a university from having funding from other sources. There are currently no limitations on the



Welsh Minister's powers to fund universities directly.

- When funding the Commission, the Welsh Ministers are no longer prevented from specifying particular courses and programmes or areas of research when setting the Commission's terms and conditions of funding.

9.3. One of our general concerns with funding arrangements for the Commission is how it will effectively balance its duties across the full tertiary education, research and innovation landscape. We understand that the Welsh Government is investigating a number of potential options to address this which may include the introduction of a balanced funding principle, possibly paired with a duty on transparent funding decisions.

## 10. Regulatory powers and registration conditions

10.1. The Bill sets out a new regulatory system which is based on a system of registration, with a complex system of powers to set different registration conditions for different categories of registration. The Commission is given very significant powers of enforcement and intervention, largely mirroring existing enforcement and intervention arrangements under the Higher Education (Wales) Act 2015. These powers are additional to the Commission's powers to set terms and conditions of funding and require outcome agreements, which can be used for a wider set of providers who receive funding.

10.2. There remain some specific provisions of concern which do not appear to have changed since the Draft Bill, which if exercised could seemingly for instance cause the Commission to be in breach of its duty to not require universities to act incompatibly with their charity law requirements.

10.3. This includes for instance, the Commission's power to impose specific registration conditions for particular institutions, enforceable by injunction. The view we expressed in response to the Draft Bill is that the Commission should not be able, as the Bill currently permits, to impose them on individual providers on any matter and at any time as it sees fit. We have argued the power should be limited to setting class requirements which apply to all providers or a

particular description.

- 10.4. We strongly support the introduction of a base-line requirement for all institutions that will help to give greater protection for students and ensure they have adequate learner engagement arrangements in place. It is appropriate that the Commission should develop the detail of this, and that it should be in consultation with providers and students.
- 10.5. However, further work is needed to limit the exercise of the Commission's powers as drafted before we can support the provisions.

## 11. Regulatory burden and complexity

- 11.1. A key and welcome change since the Draft Bill is that the requirement to have Access and Opportunity Plans in place is removed and replaced by fee plan statements, fee plan requirements and a new set of equal opportunity conditions. We are currently working through the detail of the changes.
- 11.2. At this stage, the changes appear to be positive in terms of giving the Commission greater flexibility and potentially reducing unnecessary regulatory burden. Much will depend on how these are implemented in practice and what requirements the Welsh Ministers place on the Commission through regulations. As noted above, there is limited information on the new arrangements for different categories of provider and much is left to regulations to later determine.
- 11.3. At one stage in the consultations, outcome agreements were proposed as a potential alternative to the registration system. The Bill includes the power to require outcome agreements, as well as the registration conditions. We would like greater clarity about the policy intent and how they may be applied.

## 12. New Information Powers

- 12.1. We expressed significant concerns in the Draft Bill about the Welsh Ministers' new information powers, and these have not changed in the Bill as laid. This includes a new power (modelled on a similar power in HERA 2017) to require application-to-acceptance information for research on 'any topic approved by

them’, and the power to require to the Commission to give them any information ‘relating to or obtained in the performance of any of its functions’.

- 12.2. Both of these powers as drafted raise potential issues about the use/onward use of commercially sensitive information on individual institutions, and could discourage rather than promote sharing of information.

### 13. Independence and operation of the Commission.

- 13.1. It is vital that the Welsh Government succeeds in its intention to create a strong and independent body that is able to command the confidence of its stakeholders and that has the necessary resource, flexibility and authority to support higher education in Wales in the face of a highly competitive and rapidly developing wider UK and global economy.
- 13.2. In our response to the Draft Bill we outlined several aspects that appeared to potentially compromise the independent operation of the Commission and potential effectiveness. In particular, the retained powers concurrently exercisable by the Welsh Ministers in relation FE and HE risk undermining the independence and authority of the Commission. Similarly, the new powers to directly fund higher education are more likely in our view to undermine the operation of the Commission than support it.
- 13.3. More generally, the extent to which the Welsh Ministers may intervene in the operation of the Commission and the potential to prescribe the detail of how it should regulate remains a concern.
- 13.4. In particular, the Welsh Ministers should not be able to modify the Commission’s strategy without its consent, as drafted. This remains an issue as it also affects the ability of the Welsh Ministers to specify courses and areas of research in their terms and conditions of funding for the Commission (see above).
- 13.5. The new provisions in the Bill as laid to give general directions to the Commission is also a significant concern, as drafted, since unlike its equivalent in FHEA 1992, the directions are not made by order (i.e. under the legislative process).

## 14. Timescales and implementation.

- 14.1. The timescales for implementation of the Commission also remain a very concern and appear to be particularly challenging. The Welsh Government is still currently working towards launching the new Commission in 2023, with arrangements phased in under transitional provisions.
- 14.2. The Welsh Government's costings accompanying the Bill (Explanatory Memorandum, p.210) currently assume that the interim CEO will be in post from February 2022 (i.e. before even Stage 1 of the Bill has been completed) and that an Advisory Committee will be appointed initially to take forward the appointment of the CEO and transition arrangements until the legislation allows the appointment of a Chair (commencing from 1 January 2023) and remaining Board members (from March 2023).
- 14.3. The lack of detail on many of the key features of the new regulatory arrangements as noted above exacerbates the issue. Our evidence to CYPE committee's inquiry on implementing the Higher Education (Wales) Act 2015 attests to the very considerable amount of time and resource required to deal with implementing regulations and arrangements and making sure they were fit for purpose. The time and costs – particularly the opportunity costs – were significantly underestimated at the time.
- 14.4. The lessons from the reviews of EIWa, clearly point to the risks of underestimating the time and resource required to merge bodies together, with their differing systems, and to make them work.

## 15. UK Internal Markets Act 2020.

- 15.1. We are very pleased to note that the Committee is explicitly looking at the potential complications arising from the UK Internal Market Act 2020 in relation to this Bill. **It is not yet** clear to us how far the Bill's provisions are fully compatible with it.

- 15.2. The first issue is that it is not clear how far the UK Internal Market Act 2020 applies to universities. The UK Government confirmed during the passage of the Bill that it was their intention to exclude tuition fees but that it was not clear how university services more generally would interact with the Act and this may need to be clarified in subsequent regulations (Letter to Lord Purvis, 2<sup>nd</sup> November 2020, [here](#)).
- 15.3. What is clear is that regulatory requirements already in force are not affected by the Act, so existing arrangements for universities in Wales remain unaffected for the moment, but any substantive change to them will mean that the Internal Market Act applies.
- 15.4. The application of the Act to the Bill is legally complex and we are still working through the potential ways it could be affected. In relation to the Draft Bill, however, we have previously drawn attention to a number of areas that may need to be investigated further for potential conflict. None of these appear to have changed in the Bill as laid:
- The Draft Bill relies on applying regulatory requirements to providers based in Wales only, not to providers from other parts of the UK, which means that it has the potential to be directly discriminatory for purposes of IMA 2020
  - The regulatory requirements in the Draft Bill are seemingly not confined to regulating the exercise of functions ‘of a public nature’ for purposes of IMA 2020 and further clarity on IMA’s interpretation would be needed to do so effectively.
  - For instance, differences in constitutional requirements and new information powers are not confined to ‘public functions’ only.
  - The regulation of courses applies to all courses, irrespective of whether they are publicly funded or not.
  - The Welsh Ministers and, in certain instances, the Commission can impose terms and conditions of funding which are not related to the use of public funds

- In the Draft Bill, both the Commission and the Welsh Government have powers to set registration conditions that do not relate specifically to public functions. "

15.5. The outcome of the legal challenge to the Act in relation to Wales is also as yet not certain, which presents a further timing issue for this Bill. We understand that the hearing for the Welsh Government's appeal against the Administrative Court's refusal to grant permission to judicial review the Act is take place in January 2022. This may mean a decision before the end of the Stage 1 is reached. However, we remain concerned to avoid higher education becoming the test case in this area.

## 16. Other UK developments and Augar

16.1. We currently expect the UK Government to announce a series of potentially major post-16 education reforms in England in the next few weeks in response to the Augar Review relating to fees, funding and student support measures in England which may need to be taken into account in further developing the Bill. For example, because there is a significant cross-border flow of students between England and Wales, changes to the English system will often require a policy response from Wales.

16.2. In the meantime, there is a suite of legislation introduced following the Queen's speech in May 2021 such as the Skills and Post-16 Education Bill, Freedom of Speech Bill which the Welsh Government recognise may impact on the TER(W) Bill. Some of the legislation applies directly to higher education in Wales such as the Charities Bill and proposals on audit and corporate governance, and others to UK infrastructure such as Advanced Research and Invention Agency Bill.

16.3. The Counsel General, in announcing the Welsh Government's legislative programme on 6<sup>th</sup> July 2021 ([here](#)), highlighted in particular that the Skills and Post-16 Education Bill and the procurement Bill 'clearly overlap' with the Welsh Government proposals.

16.4. We welcome the flexibility of the Bill to deal with potential changes, but we



would welcome further information on how the Welsh Government has prepared for further UK developments in relation to the Bill. We would advocate avoiding relying too heavily on powers to determine aspects of the regulatory system without the full scrutiny of primary legislation.

## About Universities Wales

Universities Wales represents the interests of universities in Wales and is a National Council of Universities UK. Universities Wales' Governing Council consists of the Vice-Chancellors of all the universities in Wales and the Director of the Open University in Wales. Our mission is to support a university education system which transforms lives through the work Welsh universities do with the people and places of Wales and the wider world.

**Universities Wales**

**17 November 2021**



## 1. Introduction

1.1 In December 2020, ChUW (the Chairs of Universities Wales) and Universities Wales submitted a joint response to the Welsh Government’s consultation on the draft Tertiary Education and Research (Wales) Bill. The response is available [here](#). The present paper, which has been prepared at the request of Senedd officials, provides some provisional and interim comments from ChUW on the Bill as laid in the Senedd on 1 November 2021. In preparing it, Chairs have had the benefit of sight of the interim paper submitted to the Committee by Universities Wales, whose contents they fully endorse. Further work is required on a range of issues before the Chairs’ full and definitive response to the Bill as laid can be formulated. ChUW and Universities Wales are working on a further joint response to the Committee’s consultation on the Bill and this will be submitted by the 17 December deadline.

1.2 In their response to the consultation on the draft Bill, ChUW and Universities Wales concluded that *“although there are aspects of the Draft Bill that we support, overall there is very significant further work required before this Draft Bill can be fit for purpose and deliver the Welsh Government’s intentions”*. In considering the Bill as laid in the Senedd, Chairs have been heartened to note the significant progress that has been made since the initial consultation. The Bill includes a number of welcome amendments that go some way to address concerns that universities had previously expressed. However, some aspects of the Bill remain problematic and require further work. The underlying rationale for certain of its provisions is not always clear. The full range of Chairs’ concerns will be addressed in the formal response to the Committee’s consultation. For the purposes of the present paper, Chairs will focus on three issues<sup>1</sup>:

- the need for a general duty in relation to **institutional autonomy**; and
- Welsh Ministers’ powers in relation to **Higher Education Corporations**; and
- the need to ensure **balanced funding and transparency** in funding decisions.

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<sup>1</sup> These are also among the issues addressed in the interim submission made by Universities Wales.



## 2. Institutional autonomy

- 2.1 As the interim Universities Wales submission states, “institutional autonomy and academic freedom are cornerstones of higher education both in the UK and internationally [and] they underpin how our universities conduct research and innovation, how they develop and deliver and teaching and learning”. It points to evidence that suggests a correlation between autonomy and universities’ domestic and international competitiveness. It notes that universities in Wales are charities that have a legal duty to act independently from government and to determine their own objectives and strategic direction and that they are also subject to UK competition law which requires that they act independently from other providers in relation to the UK higher education market. A clear acknowledgment that universities are autonomous institutions is necessary to ensure their continuing competitiveness, as well as the continuing protections and benefits afforded by charitable status<sup>2</sup>, and their compliance with charity law.
- 2.2 The Bill as laid contains a number of welcome improvements and amendments in the area of academic freedom. For example, the duty to have regard to the importance of academic freedom has been extended to include the Welsh Ministers as well as the Commission (although the duty currently applies only to higher education provision and does not appear to cover other university activities, including research and innovation). The addition of duties relating to terms of freedom for members of academic staff to test received wisdom and to put forward new ideas and controversial or unpopular opinions, and relating to freedom for institutions to manage their affairs, for example in respect of courses and research, is also welcome.
- 2.3 The Welsh Government has on a number of occasions expressed its commitment to institutional autonomy. For example, the Ministerial Guidance on the implementation of the Higher Education (Wales) Act 2015 contains (at paragraph 100) the unequivocal statement:

*The Welsh Government respects the autonomy of institutions including their academic freedom.*

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<sup>2</sup> Chairs endorse the point made in the Universities Wales submission that there remain in the Bill specific provisions, such as the Commission’s power to impose specific registration conditions for particular institutions, that could conflict with the Commission’s duty not to require universities to act incompatibly with their charity law requirements.

The 2017 White Paper consultation on PCET reform, *Public Good and a Prosperous Wales – Building a reformed PCET system*, contains the following:

*The Welsh Government recognises the importance of institutional autonomy. Institutions must be free to make the decisions that are in their best interests and in the interests of their learners and communities. Innovation, responsiveness, institutional autonomy and academic freedom are principles that both the Welsh Government and the new Commission will continue to respect.*

*We are committed to upholding institutional autonomy and guaranteeing academic freedom. Both of these principles are vital in any modern democracy.*

There are also references to autonomy in the Explanatory Memorandum.

2.4 However, and despite the case that was made for this during the consultation on the draft Bill, a general duty in respect of institutional autonomy that corresponds to the new provisions for academic freedom has not been included on the face of the Bill as laid<sup>3</sup>. Nor has a general duty on the Welsh Ministers to prevent their powers being exercised in ways that would require universities to act incompatibly with charity law or their governing documents. For the reasons given above, these matters are of fundamental concern and **Chairs continue strongly to urge that the Bill be amended to make good these omissions.**

### **3. Higher Education Corporations**

3.1 Chairs continue to be concerned that the Bill provides for Welsh Government to retain its power to dissolve Higher Education Corporations (HECs) in Wales against their will. Indeed, the Bill makes it easier for this power to be exercised since it enables the Welsh Government to transfer property on dissolution more easily where rights of pre-emption and return or similar are involved.

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<sup>3</sup> By contrast, the Higher Education and Research Act requires the Office for Students (OfS) to have regard in performing its functions to “the need to protect the institutional autonomy of English higher education providers” and goes on to state that, in performing its functions, the OfS must have regard to guidance given to it by the Secretary of State and that, in giving such guidance “the Secretary of State must have regard to the need to protect the institutional autonomy of English higher education providers”.

- 3.2 Chairs are not clear as to the purpose and rationale for retaining and strengthening this power. It is also the case that the power applies only to the three HECs in Wales and not to the five chartered universities. In the case of the latter, significant constitutional hurdles would have to be overcome if dissolution or merger were needed. It is inequitable that equivalent arrangements do not apply in the case of HECs. The power to dissolve HECs against their will was removed in 2017 in England in the light of a potential review of the sector by ONS and concerns that the exercise of this power would mean reclassification of the universities to central government from the not-for-profit sector.
- 3.3 There may be an argument for Welsh Ministers to retain the power to dissolve an HEC but only with the proviso that such power should be capable of being exercised only at the instigation and with the consent of the institution itself. This view would appear to be supported by the evidence given to the Committee on 18 November by the Chief Executive of HEFCW<sup>4</sup>.
- 3.4 **Chairs would wish to see an amendment to the Bill whereby to include a duty for Ministers to consult an HEC and to seek its consent, before using their powers to dissolve the institution or change its instruments and articles of government.**
- 3.5 Chairs are also concerned that the Bill provides for the extension of the Welsh Government's powers to change the statutory requirements for HECs' instruments and articles of government by regulations. In 2017, as part of its review of unnecessary regulatory burdens on charities, the Law Commission recommended that the Welsh Government should take steps to remove of the current legislative requirements as to the content of the governing documents of HECs.

#### **4. Balanced funding and transparency**

- 4.1 One of the challenges that will be faced by the Commission will be the need to ensure equitable and fair treatment of all parts of the PCET sector. It will be important that the Commission is able effectively to balance its funding duties across the sector as a whole, including in respect of universities' role in research and

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<sup>4</sup> Dr David Blaney said then: The difficulty with the legislation as proposed is for Ministers to dissolve an HEC against the will of the governing body, and we see that as a significant problem. We're not entirely sure that there's a clear rationale for that put in the explanatory memorandum, and let's not forget there are only three providers in the system that are HECs ... (<https://record.senedd.wales/Committee/12467>).

innovation, and to ensure that resource requirements for one part of the sector do not adversely impact on another. To that end, **Chairs would wish to see the introduction in the Bill of a balanced funding principle and a duty on transparent funding decisions.**

**Chairs of Universities Wales**

**23 November 2021**

The Chairs of Universities Wales (ChUW) came into being in 2004 to provide a forum for discussion for Chairs of University Governing Bodies in Wales and to act as the representative body for them. Its aims are to:

- support the HE sector in developing the highest standards of governance appropriate within a sector comprised of autonomous institutions, serving a multiplicity of stakeholders and vital to the nation's prosperity;
- promote best practice in university governance;
- work with individual governors to develop their knowledge and skills, as these relate to the good governance of their institutions, through (for example) governor development programmes;
- address strategic policy issues pertaining both to trends in HE as a whole and to the particular responsibilities of members of governing bodies;

and its guiding principles are to:

- be an enabling body which seeks to ensure that its members are well informed of relevant issues and developments, so that they are better able to discharge their roles for the accountability and sustainability of their institutions;
- be a constructive body which seeks to contribute the distinctive experience, knowledge and perspective of its members;
- be a body which provides a forum and network for members where they can share common issues and concerns in a supportive environment;
- conduct its business without prejudice to the autonomy of the institutions of its members.

The members of ChUW as of 23 November 2021 are:

Mrs Marian Wyn Jones, Chair of ChUW and Chair of Council, Bangor University

Ms Louise Evans, Chair of the Board of Governors, University of South Wales

Professor Stuart Palmer FREng FInstP FLSW, Chair of Council, Cardiff University

Ms Maxine Penlington OBE FLSW, Chair of the Board of Governors, Wrexham Glyndŵr University

Mr Bleddyn Phillips, Chair of Council, Swansea University

Dr Emyr Roberts, Chair of Council, Aberystwyth University

Mr John Taylor, Chair of the Board of Governors, Cardiff Metropolitan University

The Venerable Randolph Thomas, Chair of Council, University of Wales Trinity Saint David

# PRE-EVIDENCE NOTE

## The Tertiary Education and Research (Wales) Bill

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## ABOUT THE OU IN WALES

The Open University was established in 1969, with its first students enrolling in 1971. It is a world-leader in providing innovative and flexible distance learning opportunities at higher education level. It is open to people, places, methods and ideas. It promotes educational opportunity and social justice by providing high-quality university education to all who wish to realise their ambitions and fulfil their potential.

Over 14,500 students across Wales are currently studying with the OU. There are OU students in every Senedd constituency and we are the nation's leading provider of undergraduate part-time higher education. Almost three out of four OU students are in employment while they study and with an open admissions policy, no qualifications are necessary to study at degree level. Over a third of our undergraduate students in Wales join us without standard university entry level qualifications.

## CONTACT

Cerith D. Rhys Jones

External Affairs Manager, The Open University in Wales

Email: [cerith.rhys-jones@open.ac.uk](mailto:cerith.rhys-jones@open.ac.uk)

Phone: 029 20 262 765

# 1. INTRODUCTION

- 1.1. The Open University (OU) in Wales welcomes the opportunity to submit this initial note to the Children, Young People and Education Committee in advance of our oral evidence session with the committee on 2 December 2021.
- 1.2. As requested, this note outlines our broad opinion on the Tertiary Education and Research (Wales) Bill as published earlier this month. We look forward to expanding on this note in our oral evidence and in our full written submission the committee's inquiry once we have had an opportunity to further consider the bill.
- 1.3. The Open University in Wales remains broadly supportive of the purpose and objective of the bill and believe that it offers an opportunity to change the narrative and culture surrounding flexible, part-time, and lifelong learning.
- 1.4. The committee will note that the OU in Wales is not a legal entity distinct from The Open University. Therefore, as an institution, our business cannot be considered to be "mainly or wholly" carried out in Wales. The bill's provisions therefore do not apply to The Open University's activities in Wales as easily as to other providers.
- 1.5. For the provisions of the bill to apply to the OU in Wales – and for us to continue to be eligible to be in receipt of public funds – the Welsh Ministers would need to exercise their regulatory powers under s. 140 of the bill to designate The Open University as a 'tertiary education provider in Wales'.
- 1.6. This is essential. We have received oral assurances from officials that it is the Welsh Government's policy intention to exercise s. 140 powers in respect of us. We have also received assurances that it is recognised that the Commission's regulatory relationship with The Open University will necessarily be different than with other providers and will take into account The Open University's relationships with regulators across the UK.

# 2. INITIAL COMMENTS FOR CONSIDERATION

## 2.1. Strategic framework

- 2.1.1. We very strongly welcome the introduction of the nine new strategic duties of the Commission. We believe these to be both comprehensive and ambitious and are pleased that they reflect the breadth of what the post-16 education system can offer learners.
- 2.1.2. The committee may wish to consider whether the Welsh Ministers' power to amend their strategic priorities at any time could raise the potential for a lack of coherence and long-term certainty in the Commission's own strategic plan.
- 2.1.3. The committee will note that the strategic equality of opportunity duty at s. 3 (1) (b) refers to retaining students to 'the end of courses', without defining that term. Without qualification or specification on the face of the bill, the use of this phrase raises the risk that success for undergraduate study might only be defined by the number of graduates generated from three-year Bachelor's degrees. We believe this to be an outdated view of the variety and purpose of higher education.



- 2.1.4. It is our hope, as we seek to ‘build back fairer’ after the pandemic, that our higher education system will become more flexible and responsive to the needs of learners, employers, and providers alike. If the bill were to define success as reaching the ‘end of courses’, our view is that that would be a barrier to achieving a more flexible and responsive system.
- 2.1.5. Embedding such a traditional view of learning into this bill raises the risk that the system will not be futureproofed against changing patterns of learning. That would represent a missed opportunity to contribute to building a more flexible higher education system.
- 2.1.6. Many students of the OU in Wales do not take up study with the intention of completing a full degree programme. Indeed, many are content to study a module or two. Many may look to this kind of provision to help boost their confidence. They may only need to undertake a shorter package of study to help retrain or upskill. Large number of students may have complex lives with any number of additional responsibilities, including caregiving and being in full-time work, outside their studies.

## 2.2. Registration model

- 2.2.1. We are broadly supportive of the registration model set out in the bill. While our regulatory relationship with the Commission remains to be determined, we are eager to avoid as far as possible a situation wherein regulation which already applies to The Open University through the Office for Students is duplicated by the Commission.
- 2.2.2. Indeed, we view this as an opportunity to strike an appropriate balance between maximising the potential of harmonised standards across the nations of the UK and minimising an overly onerous regulatory burden on providers.
- 2.2.3. We believe the balance of detail on the face of this bill vs. secondary legislation after Royal Assent to be much more appropriate than was included in the draft bill of 2020. We appreciate that this bill appears to provide a welcome level of greater autonomy to the Commission than under the previous iteration of the bill.
- 2.2.4. That said, the bill leaves the question of the entirety of the OU in Wales’ future funding and regulatory relationship to regulations. While this provides the opportunity to work with officials and the Welsh Ministers to ensure that those regulations are correct and proportionate, it also means that The Open University in Wales currently lacks any certainty as to our future relationship with the Commission.
- 2.2.5. Our objective is to reach a position where The Open University can continue its activities in Wales for the benefit of learners and the economy and deliver on our social justice mission. This will require (a) ongoing eligibility to be in receipt of public funds, in common with other higher education providers, for our learning and teaching and appropriate research and innovation activities, and (b) care to ensure that the associated regulatory requirements (i) are proportionate, (ii) are not subject to duplicative or overly onerous requirements, and (iii) take into account assurances that might be relied upon from other UK regulators. A considerable amount of work will need to be done involving us and officials to ensure that s. 140 regulations are correct and proportionate.

## 2.3. Fee limits

- 2.3.1. As noted in paragraphs 2.1.4 and 2.1.5., it is our hope that this bill can be used as a mechanism to facilitate a more flexible and responsive higher education system, which is equipped to respond to changing demographics, a changing economy, and changing demand-side requirements.
- 2.3.2. With that in mind, it is our expectation that over the course of the coming years, students will wish to study in different ways and at different times. This will necessarily require a more flexible approach to finance, in which, for example, students are able to draw on appropriate support for smaller packages of study.
- 2.3.3. We are concerned that the provisions at s. 44 in respect of fee limits have the potential to limit the flexibility of any future model. The committee may wish to consider the extent to which these provisions may be overly prescriptive and may not reflect the reality of what the higher education system of the future will require.

## 2.4. Outcome agreements

- 2.4.1. While establishing the possibility of outcome agreements, the bill does not contain any detail as to what outcome agreements might contain, or be limited to, beyond some mandatory stipulations. It is therefore challenging to offer any firm comments on these provisions for the simple reason that we do not know how they will operate in practice.
- 2.4.2. Our primary concern would be to avoid outcome agreements becoming a device for catch-all quasi-regulation, and to avoid a situation where outcome agreements become overly onerous or unresponsive to the individual nature of the OU in Wales.

## 2.5. Quality

- 2.5.1. We are content that the Commission will retain the power to publish quality assurance frameworks and to designate another body to perform its quality assurance functions. Again, we are eager to avoid any duplicative quality regulation, particularly given that most of our curriculum is delivered on a pan-UK basis.

## 2.6. Learner voice

- 2.6.1. We welcome the learner-centred nature of much of what is contained in the bill. We believe this reflects the true purpose of the post-16 sector: to provide opportunities for all people, regardless of background or circumstances, to fulfil their potential through learning.
- 2.6.2. The schedules to the bill provide for the appointment of an associate learner member to the Commission's board. We alert the committee to the fact that the OU, while the largest provider of part-time undergraduate higher education in Wales (and indeed the UK), is not a member of NUS.

We therefore invite the committee to consider the extent to which the proposed composition of the board sufficiently reflects the voice and experience of part-time learners and providers.

## **2.7. Post-19 funding**

- 2.7.1. The bill makes provision for the funding of education and training of eligible persons aged over 19, with particular reference to levels 1, 2, and 3. The Education Minister referred to this funding mechanism during his statement to the Senedd on the introduction of the bill.
- 2.7.2. We invite the committee to consider whether this mechanism sufficiently reflects the breadth of what lifelong learning is, and the extent to which it would facilitate people to progress to higher learning throughout life.
- 2.7.3. The committee may also wish to consider how flexibility can be built into this funding mechanism from the outset, together with consideration of the objectives of promoting learning at lower levels. For our part, we believe that learning at these levels should always be considered as a potential step on a pathway to higher learning.

# Agenda Item 6

CYPE(6)-07-21 – Paper 4



Senedd Children, Young People and Education Committee  
consultation: Tertiary Education and Research (Wales) Bill

19 November 2021

ColegauCymru is a post-compulsory education charity; we promote the public benefit of post-compulsory education and learning. We also convene the further education (FE) Principals' Forum, which represents Further Education colleges and FE institutions (FEIs) in Wales. ColegauCymru also undertakes research, policy development and provides practical support to FE colleges in Wales, including on work-based learning (WBL) which is a key part of FE college activity.

ColegauCymru welcomes the opportunity to submit evidence to the Senedd's Children, Young People and Education Committee on the Tertiary Education and Research (Wales) Bill.

## Introduction

ColegauCymru is in broad support of the proposed Bill. In submitting our response to the Committee, we are seeking to strengthen the provisions within the draft and ensure that by full and proper scrutiny, post compulsory education in Wales is well-governed, resilient and able to meet the challenges that lie ahead.

The introduction of the concept of post compulsory education is novel in as much as it does not have a clear comparator within the UK or indeed further afield. Although there are some similarities, it is important to note that the Further Education sector is materially different to both schools and universities. Also, the functions of providers regulated by the proposed Bill already cross over and complement each other as they seek to serve the citizens of Wales.

The proposed Tertiary Education and Research (Wales) Bill must be set in the context of the Further and Higher Education (Governance and Information) (Wales) Act 2014 which enhanced the autonomy and decision-making abilities of further education institutions (FEIs) in Wales. It removed and modified existing legislative controls on further education corporations, giving them greater control over their own governance and dissolution arrangements, recognising that the sector is best placed to determine how the needs of their learners and local communities should be met. The principle, that the FE sector knows, engages and responds to the needs of its communities, must be preserved in any changes to the post-16 sector and their status as charitable bodies respected and protected.

Likewise, ColegauCymru notes that universities whether established by statute or via the Privy Council are independent institutions. Schools, including sixth forms as well as FE and HE bodies, and each part of the post compulsory education sector is distinct from government whilst founded and funded to service the public or contracted to deliver services on its behalf. Without the acknowledgement of this vital separation, there is a risk that education becomes politicised. ColegauCymru is of the view that this important separation should be remembered and respected by the Committee and subsequently by the Senedd in its deliberations.

## Key issues

Colegau Cymru is concerned about the short timescale allocated to consultation on the general principles of the Bill and considers a little over six weeks to be extremely short given the lengthy and complex nature of the Bill, explanatory notes and associated documents.

However, we would like to make the initial six points below.

### **1. Nine strategic duties must be integrated throughout the Bill**

1.1 Government, in seeking to exercise its democratic mandate, must have due regard to the fact that all powers claimed, retained or devolved to an arms-length body, must be reasonable and proportionate and related to its stated aims. The aims are articulated in the draft Bill by virtue of Commission's strategic duties as outlined in sections two through ten. However, the Committee should consider the extent to which the powers set out in the Bill meet the strategic duties placed on the organisation and the extent to which the intention of Welsh Ministers to secure and retain certain powers is reasonable and proportionate.

1.2 The inclusion of the nine strategic duties is a welcome amendment to the original draft but it is essential to ensure that this change is taken into account throughout the entirety of the Bill. For instance, the first (if not primary) duty of the Commission is to promote life-long learning and a variety of levels, types and modes of study. The Committee should consider if the Bill as drafted provides sufficient assurance that this variety can be achieved and whether (or not) it will confirm the existing level, types and modes of study.

1.3 The strategic duty on equality is critical in terms of developing a fairer and more equal Wales and needs to build on recent Welsh Government work on anti-racism and LGBTQ+.

1.4 If there are powers conferred on the Commission or upon Welsh Ministers within the Bill that do not clearly relate back to one of the nine specific strategic duties, their relevance to what the Commission and the government is trying to achieve should be questioned.

## 2. Parity between expectations and requirements placed on post-16 sector institutions, in particular sixth forms and further education / further education and higher education

2.1 Any relevant requirements placed on Further Education must equally apply to school sixth forms and higher education as appropriate.

2.2 For example, expectations on planning and links or direction from Regional Skills Partnerships should not be more onerous to the Further Education sector than they are for the Higher Education sector.

2.3 We have seen some shift towards greater parity in the second iteration of the Bill: the inclusion of school sixth forms in obligations under the Learner Engagement Code is welcome. However, it is unreasonable to exempt school sixth forms from the requirement of developing Learner Protection Plans. Points 16.6 and 16.7 of the Explanatory Memorandum make clear the inadequacy of such an approach – noting the focus on data, that “[c]urrently, these arrangements do not cover transfers between schools and other types of learning provider” and that while headteachers must transfer the pupil’s educational record to the responsible person should they request this, this does not include the results of any assessment of the pupil’s achievements.

2.4 There is a stark contrast between the Welsh Government approach to the transition between primary and secondary schools recently consulted on as part of the arrangements for the new Curriculum for Wales. There we see a focus beyond data that takes in continuity of learning and continued appropriate and supported progression but also a new emphasis on good health and well-being. Relevant elements of this approach could be reflected in Learner Protection Plans.

2.5 Given the emphasis on discretion and proportionality in relation to Learner Protection Plans in the Explanatory Memorandum, it is absolutely right that school sixth forms and Further Education providers should be treated equitably rather than entrenching an inadequate two tier system that disadvantages learners seeking to transfer from schools to other institutions and places additional burdens on the Further Education sector but exempts schools. Point 16.40 notes the potential unknown costs of developing Learner Protection Plans and it is inequitable to expect FE to shoulder these if schools are exempt.

2.6 The focus on parity across post-16 institutions must include properly addressing the issue of nugatory competition for learners (both between school sixth forms and FE, and FE and HE in terms of “Year zero” courses) which often still leads to inefficiency, not providing the best opportunities for learners and not obtaining best value for the public purse.

### **3. A stronger duty to consult and demonstrate consultation**

3.1 Many parts of the Bill refer to consultations by the Commission or Welsh Ministers on codes, plans or further regulations, often referring to ‘appropriate persons’. Institutions are currently participating in the scrutiny of a bill where much of the detail of any potential impact will be determined by statutory instruments under negative procedure. ColegauCymru would like to see greater emphasis on meaningful consultation and a requirement to demonstrate that genuine efforts have been made to consult ‘appropriate persons’ both on the draft Bill and also on the initial instruments that will define its impact.

3.2 In the exercise of its powers, or that of Ministers, while the appropriate consultees may differ depending on the specific focus, consultation cannot be merely the publication of documents in the public domain with a deadline for response. The duty to consult needs to be enhanced, spelt out and be clear. Positive representation from the relevant parts of the post-16 sector and beyond, where necessary, is essential and consideration should be given to ensuring this in both the legislation and via the relevant statutory instruments.

3.3 This issue of consultation and representation will extend to the constitution and make up of the Commission itself and its associated committees where representation from the Further Education sector must be equal to that of other sectors, including Higher Education, to ensure that the essential voice of the FE sector is not marginalised or lost.

### **4. Inspection and Quality Assurance arrangements**

The Bill as currently drafted has a fairly stark separation between quality assurance and inspection arrangements between Higher and Further Education. Given the overlap between these areas and the likely evolution in provision to provide the ‘variety of levels, types and modes of study’, ColegauCymru would like to see greater consideration of this area and clarity on responsibilities. For example, where does adult learning, including adult community learning, fit within the Bill’s quality assurance plans, given this takes place in a variety of settings and at different levels. Likewise, there is the issue of “Year zero” or “foundation” Level 3 provision offered by some universities: this takes place in a HE setting but is a level of provision usually, equivalent to A Level which is inspected by Estyn.



## 5. Provision of Level 4 and Level 5 technical and vocational qualifications

Despite the duty to promote ‘variety of levels, types and modes of study’ the Bill does not address the issue of developing and awarding qualifications. Feedback from the Further Education sector and an increasing body of research shows demand for technical and vocational qualifications at Levels 4 and 5. As part of the duty of “Contributing to a sustainable and innovative economy”, it is vital that the Commission is able to address the issue of provision of technical and vocational qualifications and enables the FE sector to deliver more efficiently and effectively in this sphere. This may be further developed via additional regulations but needs to be addressed within the context of the scrutiny of the Bill.

## 6. Education and training for “eligible persons over 19”

While allowing for the possibility of prioritising providing education and training for ‘eligible persons over 19’ as a separate category of over-19s, more information is needed about the practical change Welsh Government envisages. This means a better idea of plans, what such regulations determining eligibility will look like, and some indications of preferred or likely timescales. ColegauCymru understands that the Wales Centre for Public Policy is undertaking work on this area and looks forward to both the publication of this research and the Welsh Government’s response.

## Conclusion

ColegauCymru welcomes the introduction of the Bill and is keen to support its passage. Our support is based on the need for adequate and effective scrutiny, the preservation of the separation between government and education establishments and securing the means by which the Commission may discharge its strategic duties. We are grateful for the opportunity to contribute to the hearings held by the Committee.

### Dr Rachel Bowen

Cyfarwyddwr Polisi a Materion Cyhoeddus | Director of Policy and Public Affairs

Rachel.bowen@colegaucymru.ac.uk

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

Sharon Davies, Head of Education

### **Welsh Local Government Association - The Voice of Welsh Councils**

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

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

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

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

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

#### **We'll achieve our vision by**

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



## Introduction

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

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

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

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

## General comments

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



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

## Governance

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



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

## Registration & De-registration

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



## Funding

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

## Learner Protection, Complaints Arrangements and Learner Engagement

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





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

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

## Welsh Language

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

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

## CYPE Committee Written Evidence: Tertiary Education and Research (Wales) Bill

### About NUS Wales

National Union of Students Wales (NUS Wales) is the representative body of students in the further and higher education sector. We are the largest membership organisation in Wales, representing more than 300,000 university students, college students and apprentices.

### Introduction

NUS Wales supports the overall aim of the Tertiary Education and Research (Wales) Bill. The creation of a single regulator for the tertiary education sector would give students greater clarity in an increasingly competitive sector and ensure less bureaucratic regulation. However, there are aspects of the Bill that we believe fall short.

### Student voice

The Bill does not reflect the importance of student voice. We have made clear from our earliest conversations around the Bill that the most effective and efficient source of advocacy and representation for students is themselves - but this must be properly supported and funded. Students' unions in HE institutions have had a hugely positive impact on their students and wider communities, and the Bill presents the perfect opportunity to embed this across the sector.

We have suggested two amendments to the Bill (which can be found as Annex 1) to Welsh Government. As of the date of submitting this briefing, we have yet to hear about whether they will be accepted.

The first of these, adding student and learner voice to the strategic framework, is the most important and most disappointing not to already be in the document. It places student and learner voice on the same footing as the continuing professional development of teaching assistants.

The second of these seeks to add student and learner voice as an initial condition of registration. We are seeking this as we believe student and learner voice should be considered by the Commission in the same manner as the other initial conditions. We do not accept that the principles of student and learner voice should be different at different levels of the post-compulsory sector – the practical realities will be different, but not the principles.

Both of these would sit squarely with the Welsh Government's own "Tertiary Education and Research Strategic Vision" document for the post-compulsory sector that states the Commission "will have the interests of learners at its heart".

We are supportive of the concept behind the Learner Engagement Code and look forward to working with the Commission in the future. However, the Bill does not go far enough to ensure that the Commission must be mindful of student and learner voice and that the providers and sector it regulates. The Bill is what sets the environment that the Commission will operate in. At the moment that environment is not sufficiently reflective of student and learner interests.

### Students written out of education

NUS Wales is opposed to the sole use of the word 'learner' in the draft Bill, rather than a standardised word or dual usage of student and learner. Students must not be written out of a Bill that will lay the foundations for the future of tertiary education for years to come. The most developed best practice on engagement, partnership and representation in the post-16 context uses the word 'student'. Sector bodies such as HEFCW, QAA, institutions, and representative bodies such as NUS and students' unions use the word 'student'. Practically, using the word 'learner' in this



context will lead to confusion and a dilution of students' identity and the student movement.

We strongly believe that to lose the word "student" so comprehensively would be more significant than the Welsh Government realises. The two words are not used interchangeably in the different sectors the Bill will cover.

While we accept that there are pedagogical arguments for the use of 'learner', this descriptor removes agency and implies that 'learners' exist only to learn. 'Learner' may reflect the Welsh Government's aim of embedding a lifelong understanding of the person as a learner, but it also defines them entirely through their course of study.

Being a learner is just one part of being a student or an apprentice: university students access housing, mental and physical health support and financial aid through their institution; college students are embedded in their communities and make use of local transport and sporting facilities; and apprentices often work for more hours than they receive training, usually below minimum wage without access to the same level support and advocacy as their peers in full-time education.

This could be easily amended in the Bill – currently the term "persons receiving tertiary education" is used and is shorthanded to "learner" – this could be amended to "student/learner" with little overall impact on the Bill.

Again, we have made these points previously and we would very disappointed if the language of the Bill failed to embrace the student experience with the proposals from reforming the future of the FE and HE system in Wales. Students as a cohort will feel that this Bill bears no relation to them, and that they are not even

part of the conversation, let alone central to overarching objectives of the Bill.

## Students at the heart of the system

After the UK government increased tuition fees at the beginning of the previous decade, it published a White Paper entitled '[Students at the Heart of the System](#)'; this was viewed with disdain by the student movement for the gap between its title and the reality of the reforms it consulted on.

Finally, the Bill currently states that students would have just one seat on the Commission for Tertiary Education and Research (CTER) that the Bill establishes – and a non-voting seat at that. This is one fewer than the tertiary education workforce, and the same number as CTER staff. This means the Bill would increase representation of everyone in the sector except for students. Given the size of CTER's remit, a broader range of student and learner voice should be given space at the table

For decades now, Wales has been far ahead of England on protecting and enhancing the student voice, but the draft Tertiary Education and Research (Wales) Bill at present does not place "students at the heart of the system".

## Contact

If you would like to discuss the contents of this briefing, please email [jeremy.harvey@nus-wales.org.uk](mailto:jeremy.harvey@nus-wales.org.uk).

## Annex 1 – Submitted Amendments

Part 1 Section 5 Section 2

Add -

“(c) the importance of the collective and individual voices of learners and students in the management and delivery of provision”

Part 2 Chapter 1 Section 25 Subsection 1

Add -

“(d) the effectiveness of the learner and student voice structures of the applicant tertiary education provider”

# Agenda Item 8

CYPE(6)–07–21 – Paper 7

## **The Welsh Language Commissioner’s evidence on the Tertiary Education and Research (Wales) Bill for the Children, Young People and Education Committee**

### **1. General**

- 1.1 In general, we support the establishment of the Commission for Tertiary Education and Research. The aspiration to develop a more effective and coordinated post compulsory education and training system offers obvious opportunities to improve Welsh medium provision. It is important that these aspirations align to the aims of the Cymraeg 2050 Strategy.
- 1.2 However, significant work is needed in order to develop Welsh medium and bilingual provision in the post compulsory sector. My 5 year [Report on the Position of the Welsh language](#) notes that the statistics of the past five years show that there has been very little real progress in the sector in relation to the core objectives of Cymraeg 2050. Historically, the post compulsory education sector's Welsh medium and bilingual provision has not received the same investment and strategic emphasis in comparison with the statutory education sector. This situation has changed significantly in the context of the higher education sector since establishing the Coleg Cymraeg Cenedlaethol in 2011, but it is fair to argue that there is a need to go further, especially in terms of further education provision and Welsh medium apprenticeships. Therefore, establishing the Commission offers an opportunity to reflect on the current situation, and to establish more robust frameworks and arrangements in order to ensure that the entire post compulsory sector takes strides to improve Welsh medium and bilingual provision.

### **2. The Bill’s provisions for the Welsh language**

#### **2.1 The Commission’s Responsibilities**

In general we welcome the duties placed on the Commission in Part 1, section 8 of the Bill to promote tertiary education through the medium of Welsh; to encourage people to participate in tertiary education provided in Wales through the medium of Welsh; to encourage the provision of tertiary education through the medium of Welsh by registered providers in Wales, and other persons providing tertiary education funded or otherwise secured by the Commission. We are however concerned about the wording of the duty to take all reasonable steps to ensure that there is sufficient tertiary education provided in Wales through the medium of Welsh to meet reasonable demand.

#### **2.2 All reasonable steps and meeting reasonable demand**

It is not sufficient to place the duty that the Commission must ‘take all reasonable steps to ensure that there is sufficient tertiary education provided in Wales through the medium of Welsh to meet reasonable demand’. The fact that tertiary education provision through the medium of Welsh has been very limited in the past means that there is a need to actively promote the provision and encourage individuals to study through the medium of Welsh. Without focusing on this, there is a danger that the clause ‘meet reasonable demand’ will lead to a lack of progress. Therefore, we

believe the Commission will need to have a specific strategic focus on encouraging and promoting Welsh medium and bilingual provision, especially in the short and medium term. In this context, there should be a specific focus on progression in Welsh medium and bilingual education, and the value of bilingual skills in the world of work in Wales. We therefore believe that the Bill's wording should be amended in order to place a duty on the Commission to ensure that tertiary education provision enables all Welsh learners/students to continue to develop their Welsh language skills when transferring from statutory education to tertiary education. This is essential when considering the vision that the sector will contribute significantly to national and individual prosperity, as bilingual skills will increase the employability of individuals.

### **2.3 Funding**

We understand that Welsh Ministers will be able to allocate financial resources to the Commission in respect of all categories of tertiary education and that the Commission will be able to allocate funding to providers to deliver Welsh-medium tertiary education and the provision of Welsh language acquisition courses. We support this ability to allocate funding but believe that there is a need to consider the best way of doing so with regards to the outcomes of the provision in ensuring that people maintain and develop their Welsh language skills all over Wales.

### **2.4 Additional Learning Needs**

We support the requirements on the Commission when securing further education and training requirement in Section 3, 93, 1 (d) to have regard to the education and training that is required in order to ensure that employees and potential employees are available who are able to deliver additional learning provision in Welsh; and (e) to have regard to the education and training that is required in order to ensure that facilities are available for assessing through the medium of Welsh whether persons have additional learning needs.

### **2.4 Sixth forms and local Welsh medium provision**

We understand that for the purposes of the Bill that tertiary education encompasses sixth form provision. In light of the lack of Welsh language provision in the wider post-16 sector, there is an important place for sixth form classes in Welsh medium schools. This provision provides pupils who have received their statutory education through the medium of Welsh the opportunity to maintain and develop those Welsh language skills and also contribute to the Welsh ethos of those schools. The Commission will therefore need to have an understanding and appreciation of sixth forms in Welsh medium schools.

2.5 The Commission will be responsible for allocating funding for local authority maintained school sixth forms. The Commission is to be enabled, in certain circumstances, to direct that a local authority, or the governing board of a foundation or voluntary school, establish or discontinue a school sixth form, or make proposals in accordance with such a direction. The circumstances and limitations on what might trigger the Commission to direct a local authority to bring forward proposals will be consulted on and included in the statutory School Organisation

Code. Our hope would be that these systems and processes would safeguard and promote the current Welsh medium provision in Welsh medium schools.

2.6 13.32 and 13.33 of the explanatory memorandum explains the relationship between the Commission and providers and local authorities. It explains that this could be achieved through the negotiation of outcome agreements (other than where provision and services are secured by means of contracts). It is explained that it is envisioned that these would, in effect, be “performance contracts” to be negotiated between the Commission and providers in receipt of recurrent funds, and between the Commission and local authorities in respect of funding allocated for school sixth form provision. There is a clear opportunity here to ensure that Welsh medium provision is part of these performance contracts.

2.7 3.268 of the explanatory memorandum explains that the Commission will have ‘responsibility for ensuring the formation of local curricula, in line with its responsibilities to plan and fund post-16 education and training and to secure proper facilities for learners aged 16 to 19.’ In terms of Welsh medium and bilingual provision it is likely that tertiary education providers will compete, at a local level at any rate, for the same learners and also for funding from the Commission and that it is possible therefore that sixth forms and further education providers will compete for the same students and resources. There is a need therefore to understand how the performance contracts and the concept of local curricula that the Commission will develop will work on a practical level with regards to Welsh language provision locally and regionally. Any arrangements made at a local level will have to be based on robust evidence and detailed understanding of the local post-16 provision and an understanding of Welsh medium provision in the area. Therefore, we would be interested to know how the Commission will develop such detailed and local understanding and collaboration with key partners in this regard. Consideration must also be given to the relationship between the work of the Commission developing local curricula and the [Welsh in Education Strategic Plans \(Wales\) Regulations 2019](#), specifically sections 13 and 14 of the Schedule in the regulations.

## **2.8 Welsh Language Standards**

We welcome the intention that the Welsh Language Standards (No. 6) Regulations 2017 will be amended to include the new Commission. It is essential that the Commission complies with the standards as soon as possible. We also see that the requirement that the Commission will comply with the policy making standards reinforces the duty on the Commission to promote tertiary education through the medium of Welsh.

## **3. Tertiary education as a result of the Bill**

3.1 Although we welcome the contents of the Bill in terms of the Welsh language at a general level, it is the implementation of the Bill that will be crucial in achieving such objectives. That is, the matter of crucial importance is the work of implementing the Bill, and ensuring that the objectives and vision of the proposed legislation are realised at grass roots level. We believe that two matters are crucial in this context:

- i. Ensuring a clear strategic direction and robust accountability arrangements when establishing the priorities of the Welsh Ministers, the Commission's strategic plan, and in the registration conditions and outcome agreements of tertiary education providers
  - ii. Ensuring effective collaboration between the Commission and organisations such as the Coleg Cymraeg Cenedlaethol and the National Centre for Learning Welsh
- 3.2 The strategic framework offered in the Bill in terms of setting a direction for the Commission's work and tertiary education providers is common in several different policy areas. The Welsh Ministers will set a strategic direction by announcing priorities for the Commission's work, the Commission will produce a strategic plan based on this, and in turn, this strategic plan will be the basis for financing and arranging tertiary education provision, and in order to review the quality and performance of the provision. We do not disagree with this framework, but each stage of this strategic framework will need to give due consideration to matters regarding Welsh medium provision. The key matter will be establishing robust monitoring and accountability arrangements in order to ensure that the vision and high-level objectives lead to genuine changes at a provider's level in terms of the Welsh language. We believe that the process of producing the Commission's strategic plan and the role of outcome agreements in the relationship between the commission and the providers is vital in this context. Another important element is ensuring that data is collated in a manner that adequately reflects the linguistic outcomes of students in order to measure success and plan provision in the context of the vision of the Cymraeg 2050 Strategy.
- 3.3 We welcome the fact that the Commission will have a duty in terms of promoting Welsh medium tertiary education. We also note the fact that the key role of the Coleg Cymraeg Cenedlaethol and the National Centre for Learning Welsh will continue. The explanatory memorandum explains that Welsh Ministers will continue to provide funding directly to these organisations in the short to medium term. The explanatory memorandum explains that the Welsh Government considers there to be risk, that if the funding for the Coleg and National Centre was allocated to the Commission, the progress made by these organisations in terms of developing capacity of providers to deliver Welsh-medium tertiary education would be lost. It must be ensured therefore that the funding provided to these organisations is sufficient in order for them to achieve the objectives of this Bill, and the more general objectives of the Cymraeg 2050. However, the explanatory memorandum also sets out that there is a risk that Welsh Ministers continuing to provide funding to the Coleg and the National Centre may lead to duplication of work and the inefficient use of resources. This underlines the need for the relationship between the Commission and these intermediate organisations to be clear and that there is clarity in terms of the role and responsibilities of different organisations. It must be ensured that it is possible to support and reinforce the expertise of the Coleg and the Centre, but also ensure that matters regarding the Welsh language are mainstreamed into the Commission's work, and are considered a core part of the Commission's general function

**Papur safbwynt gan y Coleg Cymraeg Cenedlaethol ar  
gyfer Pwyllgor Plant, Pobl Ifanc ac Addysg Senedd Cymru  
ar y Bil Addysg Drydyddol ac Ymchwil (Cymru)**

**17 Tachwedd 2021**

**Y Coleg Cymraeg Cenedlaethol**

Sefydlwyd y Coleg Cymraeg Cenedlaethol yn 2011. Y Coleg sy'n arwain datblygiad addysg a hyfforddiant cyfrwng Cymraeg a dwyieithog yn y sector ôl-orfodol yng Nghymru. Mae'r Coleg yn cyflawni hyn drwy weithio mewn partneriaeth â phrifysgolion, sefydliadau addysg bellach a darparwyr prentisiaethau er mwyn adeiladu cyfundrefn addysg a hyfforddiant cyfrwng Cymraeg cynhwysol o'r radd flaenaf. Er mwyn darganfod mwy am y Coleg ewch i: [www.colegcymraeg.ac.uk](http://www.colegcymraeg.ac.uk).

Gwnaed y penderfyniad i sefydlu'r Coleg gan Lywodraeth Cymru ar y pryd yn 2007 yn wyneb yr angen am gorff cynllunio annibynnol yn y sector addysg uwch i ganolbwyntio'n benodol ar ddarpariaeth cyfrwng Cymraeg a dwyieithog. Roedd y penderfyniad i ymestyn ei gyfrifoldebau i addysg bellach a phrentisiaethau yn 2017/18 yn gydnabyddiaeth pellach o'r angen i gorff penodol gydag arbenigedd yn y maes gael cyfrifoldeb strategol mewn perthynas â'r Gymraeg, yn wyneb y ffaith na all cyrff sydd a lluo o ddyletswyddau eang a phwysig eraill gyflawni'r rôl hon na meddu ar yr arbenigedd a'r profiad i wneud hynny. Mae'r angen hwn o ran gwaith y Coleg yn y maes addysg uwch yn parhau ac megis dechrau mae ein gwaith ym maes addysg bellach a phrentisiaethau.

Mae'r Coleg yn sefydliad annibynnol ac yn elusen gofrestredig. Mae'n meddu ar strwythur llywodraethiant cryf, ac mae ganddo fwrdd yn cynnwys cadeirydd a hyd at ddeuddeg aelod a benodir drwy broses o hysbysebu agored.

## **Crynodeb o safbwynt y Coleg ar y Bil Addysg Drydyddol ac Ymchwil (Cymru)**

### **Yn gyffredinol:**

Mae'r Coleg yn cefnogi'r bwriad i sefydlu Comisiwn Addysg Drydyddol ac Ymchwil ac yn edrych ymlaen at gefnogi'r gwaith o sefydlu a gwreiddio'r corff newydd mewn modd fydd yn cael effaith gadarnhaol ar ddarpariaeth Gymraeg a dwyieithog yn y sector ôl-orfodol.

Tra'n cydnabod bod rhywfaint o darfu yn anochel wrth ddiddymu corff sydd eisoes yn bodoli a symud dyletswyddau eraill sydd ar hyn o bryd yn gorwedd gyda'r Llywodraeth i mewn i gorff newydd, dylid gwneud pob ymdrech posib i osgoi cyfnod amhenodol o ansicrwydd allai lesteirio cynnydd yn y meysydd dan sylw.

### **Cyfrifoldebau'n ymwneud â'r Gymraeg a pherthynas y Comisiwn gyda'r Coleg:**

Nodwn fod cyfrifoldebau wedi eu gosod yn y Bil ar y Comisiwn mewn perthynas â'r Gymraeg a bod rhagor o fanylion wedi eu hamlinellu yn yr [Asesiad o'r Effaith ar y Gymraeg](#) gan gynnwys y ffaith mai'r Comisiwn, ar y cyd â'r Coleg, fydd yn gyfrifol am ddatblygiadau cyfrwng Cymraeg mewn addysg drydyddol. Credwn y dylid ystyried cynnwys rhai o'r pwyntiau a wneir yn yr asesiad effaith ar wyneb y bil er mwyn pwysleisio'r disgwyliad bod y Comisiwn yn gweithredu'n rhagweithiol, yn hytrach nag yn oddefol i wireddu strategaeth Cymraeg 2050 Llywodraeth Cymru, ac yn cydweithio ar lefel strategol gyda'r Coleg i gyflawni hyn.

Ar dudalennau 126-29 o'r [Memorandwm Esboniadol](#) amlinellir cyfrifoldebau llawn y Comisiwn mewn perthynas â'r Gymraeg. Tra'n croesawu'r ffaith fod hyn wedi ei gynnwys yn ddiamwys, mae'r rhan fwyaf o'r dyletswyddau hyn eisoes yn rhan o gyfrifoldebau'r Coleg, ac yn gynyddol felly ers ymestyn cyfrifoldebau'r Coleg i gynnwys y sector ôl-16. Mae'r angen am gorff penodol gyda'r arbenigedd angenrheidiol i weithredu dros y Gymraeg a dwyieithrwydd yn y meysydd addysg uwch, addysg bellach a phrentisiaethau yn parhau mor allweddol ag erioed ac felly dylid ystyried yn ofalus i ba raddau mae'r Bil a'r ddogfennaeth gysylltiedig yn adlewyrchu hynny'n ddiamwys.



Mae'r Coleg yn gweithio'n effeithiol gydag ystod o gyrff sy'n meddu ar ddyletswyddau statudol, gan gynnwys Cyngor y Gweithlu Addysg, Addysg a Gwella Iechyd Cymru, Cymwysterau Cymru ac Estyn, yn ogystal â Cyngor Cyllido Addysg Uwch Cymru (CCAUC). Yn achos CCAUC, mae MoU gyda'r Coleg i hwyluso cydweithio effeithiol. Hyderwn y bydd y ffyrdd effeithiol o weithio sydd eisoes wedi eu sefydlu yn sail cryf ar gyfer creu perthynas gref ac effeithiol gyda'r Comisiwn newydd, ond wrth ddatblygu'r berthynas weithio newydd awgrymir y byddai'n fuddiol sicrhau mwy o ymwneud uniongyrchol ar ran y Coleg gyda phrosesau cynllunio, a sicrhau fod cyfrifoldebau cyllido perthnasol wedi eu dirprwyo i'r Coleg, yn unol â'r trefniadau presennol ar gyfer addysg uwch a'r model sydd yn esblygu ar gyfer addysg bellach a phrentisiaethau.

### **Trefniadau cyllido'r Coleg:**

Nodwn bod y Bil yn cydnabod y dylai'r Coleg barhau i gael ei gyllido gan Lywodraeth Cymru a chrosawn yr ymrwymiad hwn yn fawr iawn. Mae derbyn cyllideb yn uniongyrchol gan y Llywodraeth yn tanlinellu pwysigrwydd y maes ôl-orfodol i'r strategaeth iaith hir-dymor ac ni ddylid tanseilio hyn mewn unrhyw ffordd. Mae'n aneglur ar y pwynt hwn pam fod cyfnod tymor byr i ganolig wedi ei nodi ar gyfer y model hwn o gyllido yn y Memorandwm Cysylltiedig, o ystyried bod amcanion strategaeth iaith y Llywodraeth yn rhai tymor hir wrth gyrchu tuag at greu miliwn o siaradwyr a dyblu defnydd dyddiol o'r Gymraeg erbyn 2050.

### **Ymchwil a'r Gymraeg:**

Croesawn y disgwyliad y byddai'n rhaid i'r Comisiwn gydymffurfio â Safonau'r Gymraeg, ac y byddai'n rhaid felly iddo ystyried y Gymraeg yn ei holl weithgareddau. Nodwn y byddai hynny yn ymestyn i feysydd nad ydynt yn uniongyrchol gysylltiedig â darpariaeth, megis ymchwil academiaidd.

### **Materion cysylltiedig eraill:**

Wrth gefnogi gweledigaeth Llywodraeth Cymru wrth sefydlu'r Comisiwn yr ydym yn ymwybodol fod rhai materion yn codi sydd angen sylw. Yn dilyn ymestyn cyfrifoldebau'r Coleg i'r sector ôl-16, er enghraifft, rydym yn ymwybodol o faterion

sydd wedi eu codi gan gydweithwyr yn y sector mewn perthynas â'r berthynas rhwng ysgolion a cholegau o ran darpariaeth Safon Uwch. Mae hwn yn fater cymhleth a sensitif mewn perthynas â'r Gymraeg a byddem yn dymuno cael sicrwydd y gwneir pob ymdrech i sicrhau na fyddai penderfyniadau yn cael eu cymryd a allai arwain at ganlyniadau nas rhagwelwyd. Mae'r Coleg eisoes yn cefnogi'r Llywodraeth i hyrwyddo'r Gymraeg fel pwnc. Byddem yn barod i ymestyn y gwaith hwn yn amodol ar adnoddau digonol.

Dylid rhoi ystyriaeth ar y pwynt hwn hefyd i berthynas y Bil Addysg Drydyddol ac Ymchwil gyda'r Bil arfaethedig ar Addysg Gymraeg sydd yn elfen bwysig arall o raglen y Llywodraeth hwn. Mae Gweinidog y Gymraeg ac Addysg wedi datgan yn gyhoeddus y rhoddir ystyriaeth i osod rôl y Coleg ar sail statudol yn y bil hwnnw ac felly dylid gochel rhag cyfyngu ar y potensial i gyflawni hynny yn y Bil Addysg Drydyddol.

**Am ragor o wybodaeth cysylltwch â Gwenllian Griffiths, Prif Swyddog  
Ymgysylltu'r Coleg ar [g.griffiths@colegcymraeg.ac.uk](mailto:g.griffiths@colegcymraeg.ac.uk)**

# Agenda Item 9.1

CYPE(6)-07-21 – Paper to note 1

**Jeremy Miles AS/MS**  
Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language



Llywodraeth Cymru  
Welsh Government

Paul Davies MS  
Chair Economy, Trade and Rural Affairs Committee

12 November 2021

Dear Paul,

Thank you for your letter of 18 October regarding essay mills. I agree that essay mills facilitate plagiarism, exploit vulnerable students and have the potential to normalise cheating. I also recognise that some research has shown that students who use essay mills may be vulnerable to blackmail. It is clear that these contract cheating services pose a threat to the integrity and reputation of a university education.

You may be aware that the Higher Education Funding Council for Wales (HEFCW) are pursuing development of a Welsh academic integrity and assessment network. Furthermore, in October 2020, the Quality Assurance Agency for Higher Education (QAA) launched the Academic Integrity Charter. In QAA's own words, the charter 'is intended to provide a baseline position upon which UK providers, as autonomous institutions, can build their own policies and practices to ensure that every student's qualification is genuine, verifiable and respected'. I am particularly glad that all universities in Wales have signed the charter, demonstrating their commitment to this issue.

I agree that a UK-wide approach would seem sensible here and we have been engaging with the UK Government on this matter, and officials from all four governments have met to discuss the issue. However, there was no intention to legislate for Wales, Scotland or Northern Ireland in the upcoming Skills and Post-16 Education Bill. We will continue to work with the UK Government and the other devolved governments to see whether a UK-wide solution is possible. I am also considering how we in Wales can address this problem in addition to a four nations approach or in the case that a four nations approach cannot be established at this time.

I hope the above has helped to clarify my position on this important matter and hope to have more to say in due course.

Yours sincerely,

**Jeremy Miles AS/MS**  
Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Jeremy.Miles@llyw.cymru](mailto:Gohebiaeth.Jeremy.Miles@llyw.cymru)  
[Correspondence.Jeremy.Miles@gov.wales](mailto:Correspondence.Jeremy.Miles@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

CYPE(6)-07-21 – Paper to note 2

**Y Gwir Anrh/Rt Hon Mark Drakeford AS/MS**  
**Prif Weinidog Cymru/First Minister of Wales**

Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee  
Senedd Cymru



Llywodraeth Cymru  
Welsh Government

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

15 November 2021

Dear Huw,

## **Inter-Institutional Relations Agreement: British-Irish Council Summit in Wales**

I am writing in accordance with the inter-institutional relations agreement to notify you of the thirty sixth Summit meeting of the British-Irish Council which I will be hosting in Wales later this week.

The Summit will take place in a hybrid format, with both virtual and in person attendees. The Minister for Education and Welsh Language and I will be representing the Welsh Government.

As well as the usual opportunity for a general update on issues, the Summit will focus on supporting early years education and childcare within Indigenous, Minority and Lesser-Used (IML) Language communities.

Prior to the Summit the Minister for Education and Welsh Language will host a virtual discussion for Ministers on IML Language acquisition in early years.

A communiqué will be agreed by the Council at the Summit detailing the discussions held at the Summit and at the Ministerial discussion of the IML worksector, and I will write again following the Summit to share these with you. I will also update the Senedd with a statement on the Summit next week.

I am copying this letter to the Minister for Education and Welsh Language, Chair of the Children, Young People and Education Committee and Chair of the Culture, Communications, Welsh Language, Sport and International Relations Committee.

Yours sincerely,

**MARK DRAKEFORD**

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Mark.Drakeford@llyw.cymru](mailto:Gohebiaeth.Mark.Drakeford@llyw.cymru)  
[Correspondence.Mark.Drakeford@gov.wales](mailto:Correspondence.Mark.Drakeford@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

CYPE(6)–07–21 – Paper to note 3

**Y Pwyllgor Plant, Pobl Ifanc  
ac Addysg**

**Children, Young People  
and Education Committee**

Elin Jones MS,  
Llywydd

**Senedd Cymru**  
Bae Caerdydd, Caerdydd, CF99 1SN  
SeneddPlant@enedd.cymru  
senedd.cymru/SeneddPlant  
0300 200 6565

**Welsh Parliament**  
Cardiff Bay, Cardiff, CF99 1SN  
SeneddChildren@senedd.wales  
senedd.wales/SeneddChildren  
0300 200 6565

Date: 16 November 2021

Subject: Safeguarding training

Dear Elin,

It seems fitting to write to you this week, during National Safeguarding Week to share our experiences of safeguarding training. We recently completed the two part Introduction to Safeguarding and Child Protection in Wales training delivered by the NSPCC. Deciding to do this training was one of the first decisions we made as a Committee. We believed it was important both on a practical level, to help us know what we should do if during our committee work we encounter any safeguarding concerns; but also as a statement of how important and critical we believe safeguarding to be for anyone who has contact with children and young people.

The training was excellent; and even those Members who had undertaken safeguarding training previously, felt it was useful in the context of their role as a MS. As we understand it, there are no ways for training to be mandated for all MS. However, we want to encourage all our colleagues to take up the opportunity to undertake safeguarding training. We are also issuing a statement (enclosed) to this effect.

We are aware that safeguarding training is provided by a range of different providers within Wales, and that the Member's Learning and Engagement Team within the Senedd can support either individual MS or groups of MS in undertaking the training. We understand that as part of National Safeguarding Week, this team are raising awareness of the opportunities to learn more about safeguarding.

I am copying in the party leaders, and Jane Dodds MS. We know that the party leaders can play an important role in encouraging members of their groups to undertake such training.

Yours sincerely,

*Jayne Bryant*

Jayne Bryant MS  
Chair

Cc:

Mark Drakeford MS

Paul Davies MS

Adam Price MS

Jane Dodds MS

Manon Antoniazzi, Chief Executive

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

## The importance of Safeguarding training and knowledge

16 November

### **The importance of Safeguarding training and knowledge**

During National Safeguarding Week (15-19 November 2021), we are calling on our fellow Members of the Senedd to take up opportunities to undertake safeguarding training.

As a Committee, one of the first decisions we made was to undertake an Introduction to Safeguarding and Child Protection in Wales training course. We prioritised this because we wanted to ensure that during our Committee work, or in our wider work as individual Members, we would have the knowledge and confidence to take the right steps, if faced with safeguarding concerns.

All Members of the Committee completed this training. All of us found it incredibly useful and informative. Whilst some of us had undertaken safeguarding training in previous roles, doing training that looked at the specific, and often unique context of how safeguarding issues may arise in our roles as MS was important. Elected politicians such as ourselves have a unique and often privileged role in society. We come into contact with many children and young people, and we should all have the knowledge to know what to do if during that contact we have safeguarding concerns.

We now feel more equipped to do this, and we would encourage all our fellow Members to seek out such training opportunities.

#### **CYPE Committee**

Jayne Bryant MS, (Chair)

James Evans MS

Siân Gwenllïan MS

Laura Anne Jones MS

Ken Skates MS

Buffy Williams MS

# Agenda Item 9.4

CYPE(6)-07-21 – Paper to note 4

## Y Pwyllgor Plant, Pobl Ifanc ac Addysg

### Children, Young People and Education Committee

Jeremy Miles MS

Minister for Education and Welsh Language

Dyddiad | Date 19 November 2021

Pwnc | Subject: Skills and Post 16 Education Bill supplementary LCM

Dear Jeremy,

We considered this supplementary LCM at our Committee meeting on 18 November. We have a number of queries to help inform our consideration.

As the Committee must report on this LCM by 15 December we would appreciate a response as soon as possible, and no later than Friday 26 November, to enable us to consider it at our meeting on Thursday 2 December.

*Clauses 1 (Local Skills improvement plans) and 4 (interpretation)*

Paragraph 15 of the SLCM notes that the amendments made to clauses 1 and 4 of the Bill “have potentially increased the possibility of Welsh institutions being subject to the duties in respect of local skills improvement plans for England”. As there is no further detail in the SLCM as to how, in practice, the amendments will potentially have this effect, can you provide us with this?

In your previous correspondence with the Committee you indicated that productive discussions at officials’ level were undertaken in relation to amendments to these clauses of the Bill. The SLCM confirms that the amendments which have been made do not address your concerns. Are you able to explain why such discussions have resulted in amendments being made to the Bill which do not address your concerns? Can you confirm whether further discussions are ongoing with the Department of Education and if so whether they are likely to result in further amendments being made to the Bill which will address your concerns?

#### Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN  
SeneddPlant@enedd.cymru  
senedd.cymru/SeneddPlant  
0300 200 6565

#### Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN  
SeneddChildren@senedd.wales  
senedd.wales/SeneddChildren  
0300 200 6565



Can you also provide clarity as to the detail of amendments that you would need to see made to the Bill in order to recommend that the Senedd gives its consent to clauses 1 and 4 of the Bill?

*New clause 25 [Provision of opportunities for education and skills development]*

We noted that a new clause 25 has been inserted into the Bill. This clause provides that any person of any age has the right to free education on an approved course up to Level 3 supplied by an approved provider of further or technical education, if they have not already studied at that level; and that funding must be provided to the approved provider for that purpose. It also imposes requirements on employers in relation to spending funds for people on apprenticeships who are under the age of 25.

Although the Explanatory Notes note that this clause is intended to apply to people in England, this is not reflected on the face of the Bill. Can you confirm whether you consider that the new clause 25 of the Bill requires the legislative consent of the Senedd and if not, why not?

I look forward to receiving your response.

Yours sincerely,



Jayne Bryant MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

# Agenda Item 9.5

CYPE(6)-07-21 – Pŵer to note 5

**Jeremy Miles AS/MS**  
Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref JMEWL/4025/21

Jayne Bryant MS  
Chair Children, Young People and Education Committee  
Senedd Cymru  
[SeneddChildren@senedd.wales](mailto:SeneddChildren@senedd.wales)

25 November 2021

Dear Jayne,

Thank you for your letter of 19 November concerning the supplementary Legislative Consent Memorandum (Memorandum No.2) (SLCM No.2) for the UK Government's Skills and Post-16 Education Bill ("the Bill") laid on 29 October. You raised queries relating to the provision made by clauses 1 and 4 and by clause 25 of the Bill to which I have provided a response below.

## **Clauses 1 (Local Skills improvement plans) and 4 (interpretation)**

The amendments made to clauses 1 and 4 of the Bill at House of Lords Report stage on 12 October had the effect of potentially increasing the possibility of Welsh institutions being subject to the duties in respect of local skills improvement plans (LSIPs) for England. The amendments to clause 1 limit the education and training within scope of the LSIP duties to "English funded" post-16 technical education and training. However, the amendments to clause 4 which define "English funded" include student support provided by the Secretary of State. It is my view that the combined effect of these amendments could potentially result in the courses of Welsh institutions, undertaken by English domiciled students in receipt of UK Government student support, being considered as being "material" to the skills needs of a local area in England. The Bill provides that where post-16 technical education which is material to local area in England then institutions providing that education are to be subject to the LSIP duties set out in clause 1(3), 1(4) and 1(5). The inclusion of financial support for students in the definition of "English funded" provision is of particular concern as this approach potentially brings a wide range of post-16 education and training offered by Welsh institutions within scope of the LSIPs duties.

My officials have been engaged with officials at the UK Government Department for Education for several months and have had productive discussions regarding the application of clauses 1 and 4 to Welsh institutions. The amendments brought forward by the UK Government for consideration at Lords Report stage were an improvement compared to the Bill as introduced insofar as they established a nexus to the funding of post-16 provision by the Secretary of State. However, the amendments did not adequately address the

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Jeremy.Miles@llyw.cymru](mailto:Gohebiaeth.Jeremy.Miles@llyw.cymru)  
[Correspondence.Jeremy.Miles@gov.wales](mailto:Correspondence.Jeremy.Miles@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

fundamental issue of concern, namely the imposition of statutory duties on Welsh institutions which I do not consider to be either necessary or proportionate. The issue of proportionality and the likelihood of Welsh institutions delivering post-16 technical education that is considered to be “material” to a local area in England were raised by my officials when they had sight of draft amendments in early October. However, the timetable for the UK Government finalising their amendments for Report stage did not allow for a full analysis or redrafting of the amendments ahead of their tabling.

I wrote to the Secretary of State for Education on 29 October setting out my concerns, noting that LSIPs are for the purpose of post-16 education being available to meet skills needs of employers in specified areas of England and that the imposition of legal duties on Welsh institutions in respect of these plans is unnecessary. I informed the Secretary of State that I would like to see amendments brought forward to remove Welsh institutions from the LSIP duties.

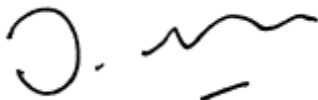
Discussions have been ongoing at official level and much progress has been made in recent weeks to address my concerns. I am pleased to be able to inform you that the UK Government has tabled amendments for consideration at Commons Committee Stage. Those amendments address my concerns and are available here: [skills.pbc.rm.1124.fm \(parliament.uk\)](https://skills.pbc.rm.1124.fm/parliament.uk). I intend to lay a further supplementary LCM as soon as possible to reflect these amendments.

**Clause 25 (Institutions within the further education sector: procedure for designation)**

Clause 25 was added to the Bill at Report stage in the House of Lords. The amendments tabled by the UK Government on 24 November for House of Commons Committee Stage seek to remove this clause from the Bill.

I am also copying this letter to the Chair of the Legislation, Justice and Constitution Committee, Huw Irranca-Davies MS.

Yours sincerely,

A handwritten signature in black ink, consisting of a large 'J' followed by a wavy line and a short horizontal stroke.

**Jeremy Miles AS/MS**

Gweinidog y Gymraeg ac Addysg  
Minister for Education and Welsh Language

# Agenda Item 9.6

CYLL(6)-07-21 – Paper to note 6

Eluned Morgan AS/MS  
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services

Julie Morgan AS/MS  
Y Dirprwy Weinidog Gwasanaethau Cymdeithasol  
Deputy Minister for Social Services

Lynne Neagle AS/MS  
Y Dirprwy Weinidog Iechyd Meddwl a Llesiant  
Deputy Minister for Mental Health & Wellbeing



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/EM/2870/21

Jayne Bryant MS  
Chair  
Children, Young People and Education Committee  
Senedd Cymru  
Cardiff Bay  
Cardiff  
CF99 1SN

22 November 2021

Dear Jayne,

Thank you for your letter of 27 October following the Children, Young People and Education Committee general scrutiny session on 7 October.

We have addressed each of the Committee's additional questions as follows:

## **CHILD HEALTH STRATEGY**

Children's health is a top priority for Welsh Government. Children and young people should be at the centre of excellent, integrated services that put their needs first, regardless of traditional organisational and professional structures. Welsh Government has previously agreed that an individual strategy is not necessarily the best way of achieving this.

The Parliamentary Review of Health and Social Services published in 2018 made a number of recommendations about the future of health and care provision in Wales. The Review called for one seamless system for Wales with one clear and simple vision of what care will look like in the future to meet the needs of the population. The Review recommended that care should be organised around the individual and their families and support provided should be without artificial barriers.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Vaughan.Gething@llyw.cymru](mailto:Gohebiaeth.Vaughan.Gething@llyw.cymru)  
[Correspondence.Vaughan.Gething@gov.wales](mailto:Correspondence.Vaughan.Gething@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

A Healthier Wales: Our long term plan for health and social services published in 2018 was informed by the parliamentary review. It provides for a whole system approach which is equitable and where services will deliver high quality of care, and achieve more equal health outcomes, for everyone in Wales. Services should be designed around the individual and around groups of people, based on their unique needs and what matters to them, as well as quality and safety outcomes.

As part of our development of A Healthier Wales, a Children's Rights Impact Assessment (CRIA) was undertaken and found that children, young people and their families will benefit from safe and effective health care services, the continued provision of which is the Long Term Plan's overarching objective.

Under the Social Services and Wellbeing Act, all health and social services providers are required to undertake population assessments and publish area plans setting out how they meet the needs of particular priority groups – one of which are children and young people.

Health Boards and Local Authorities are reminded of their duties in relation to children and young people in the Social Services and Well-being Act Part 9 Statutory Guidance and the NHS Wales Planning Framework. The Framework includes a number of specific requirements relating to children and young people, including around the delivery of mental health services to children in their area, support for children with SEN, and compliance with safeguarding requirements, with LHBs expected to evidence their compliance in their Integrated Medium Term Plans which are subject to Welsh Government approval.

The Planning Framework is in turn underpinned by a range of Welsh Government strategies and initiatives relating to healthcare for children and young people, such as Screening and Immunisation Policy, Together for Children and Young People, the Healthy Child Wales Programme, and the Welsh Network of Healthy Schools. None of the duties or expectations included in these guidance documents, or the accountability arrangements embedded in the IMTP or Area Planning processes through which healthcare providers demonstrate their compliance with them, will be negatively affected by anything in the Long Term Plan.

The success of the Plan will be judged over time through the wide range of existing health and social care performance monitoring and assurance arrangements, and through regular progress reports on service transformation.

Multidisciplinary working is particularly important in relation to children's health, so the transformation proposed in the Long Term Plan to a system of seamless health and care provision will promote the wider adoption of integrated and effective interventions for children, resulting in greater positive health and wellbeing outcomes over time. The greater emphasis on preventive healthcare approaches will also benefit children and young people directly by increasing health literacy and embedding positive lifestyle choices and behaviours at an early age, whilst a programme of work is currently underway to explore how we create an early years system of health promotion both locally and nationally. In addition, health and wellbeing is also a core area of learning in the new curriculum developed for Wales.

A Healthier Wales is intended to secure the sustainability of safe and high quality health and social care services in Wales into the future and in doing so will directly a number of Articles contained within the United Nations Convention on the Rights of the Child.

The NHS in Wales and Welsh local authorities are the main providers of health and social care services for children and their families. These services support the survival and healthy

development of children as per Article 6, medical and social support to children with disabilities as per Article 23, and the provision of healthcare to children as per Article 24.

In relation to Articles 12 and 13, A Healthier Wales promotes the adoption of a person-centred approach to health and social care provision, putting the requirements and preferences of the individual at the heart of the system to achieve the outcomes that they say are important to them, rather than fitting people to the services that are available as can often happen now. To achieve this, greater emphasis will be placed on providing individuals with a greater say in the services they receive and the different care or treatment options available, and in enabling them to access all of the information held by services about their health and wellbeing, with support from health and social care professionals to help explain what that information means, and how to use it in ways that improve health and wellbeing.

In relation to Article 15, opportunities for children with disabilities or health problems to associate with others should be maximised through the provision of more health services in community rather than hospital settings, whilst a greater emphasis on health promotion and preventative approaches to healthcare will reduce health inequalities and support greater numbers of children to participate in active play and sports and enjoy the wider social opportunities that such activities bring.

In summary, the person-centred approach to healthcare set out in A Healthier Wales, when combined with other Welsh Government programmes aimed at supporting children, already provides the necessary rigour in ensuring that children are given the best possible start in life and supports them as they develop into young adults.

## **HEALTHY WEIGHT: HEALTHY WALES**

We are continuing work on our Healthy Weight: Healthy Wales strategy and the Delivery Plan for 22-24 is due to be launched by the Deputy Minister for Mental health & Wellbeing in early 2022. This plan will consider the opportunities and challenges set out by the Covid-19 pandemic. Recovery has been carefully considered, in particular the short and medium impacts on behaviour across the population. Supporting children and families has remained a cross-cutting focus across actions within the draft plan with a continued consideration of health inequalities and narrowing the gap.

We have invested a further £5m over 2021-22 to bring together internationally evidenced programmes that will support crucial changes. Some key deliverables include:

- The delivery of a refreshed All Wales Weight Management Pathway which places a significant focus upon mental and physical health, with Local Health Boards developing local plans and increasing capacity.
- Transport for Wales have changed the on board catering for the better on journeys across Wales.
- The beginning of positive change in the food environment with the aim of making the healthy choice, the easy choice.
- Commencement of the development of a new All Wales Diabetes Prevention Programme, established pilots for a Children and Families Programme and continued to deliver an Active Wales Programme for the over 60s.
- Establishment of system teams across Wales who will focus on prevention and working with communities to identify and find local solutions.

## **Evaluation**

Welsh Government had hoped to secure an independent evaluation of the strategy, however, this has been delayed due to the pandemic. A pre-assessment evaluation has been commissioned and officials are awaiting bids, to be received w/c 1 November. This will help to pull together the parameters for any future evaluation, where we know that trying to capture the full breadth of the strategy and the impact is going to need to be designed to consider the multi-component nature. This should influence decision making for the 2024-26 delivery plan. There are also a range of evaluations being established across programme delivery.

## **SPECIALIST PERINATAL MENTAL HEALTH INPATIENT SERVICE**

Regarding 'Uned Gobaith', we identified the potential to refurbish unused infrastructure within Swansea Bay University Health Board to develop a bespoke Mother and Baby Unit on the Tonna site, enabling us to ensure a unit was operational as quickly as possible. This site was reviewed by the National Collaborative Commissioning Unit against the standards for inpatient Perinatal Mental Health Services (CCQI March 2018) and confirmed that it would be clinically appropriate on either an interim or a permanent basis.

The Welsh Government has asked WHSSC to undertake a further options appraisal to enable us to make an informed decision on whether continuing to use the refurbished unit at the Tonna Hospital site on a permanent basis, or developing a new build Specialist Perinatal Mental Health Inpatient Unit on the Neath Port Talbot site, would deliver the best outcomes. We have agreed that for the first 12 months of Tonna opening we will use this period to make an evaluation of the access to, and occupation of, that unit to make an informed judgement on what future action is required. This 12 month period concludes in April 2022.

Discussions are being held with NHS England to develop the option of a joint eight bedded Mother and Baby Unit which would offer provision for women from North Wales. The rationale for pursuing a joint eight-bedded unit is based on demand modelling undertaken by WHSSC (refreshed recently) and to provide a sustainable service provision for women in North Wales. We will provide a further update on this work and the timeframe for implementation shortly.

## **CARE LEAVERS**

We remain committed to supporting care leavers to adulthood and independence and this includes improving the quality and range of accommodation options available for our care leavers and continuing the support offered through the St. David's Day Fund.

The £1m St David's Day Fund provides direct financial support to care leavers so they can access opportunities in education, training and/or employment that will help them make a successful transition towards independent living and successful adult lives.

In 2017–18, nearly 2,000 young people benefited from the fund and it continues to help care experienced young people. In the 2019–20 financial year, the fund was doubled to support young people in relation to housing and during COVID, the fund can be utilised to support young people who have been adversely impacted by the pandemic. An additional £1m COVID Hardship Fund has been developed, akin to the St David's Fund, to support any additional needs.

Officials in Social Services and Integration Directorate are working closely with Housing Policy colleagues to take forward our aims in this policy area and to build on the work undertaken in the last Senedd Term. Officials are working collaboratively with the third sector and local authorities with the aim of improving the transition from care to independent living and looking at the range of quality accommodation options available to care leavers.

Through our Third Sector Social Services Grants we are investing in and working collaboratively with the third sector to support young care leavers successfully live independently and address accommodation issues through our Action for Children's Skills+ programme.

Through the £3.6m youth homelessness innovation fund in the Homelessness Prevention Grant we are supporting projects delivering new and innovative housing approaches for young people. These projects are specific to vulnerable young people aged 16–25 at risk of becoming homeless or currently homeless, with a number focused specifically on supporting care leavers. There are currently 25 projects operating across Wales and an external evaluation of their effectiveness in supporting young people will be commencing shortly.

In order to improve the transition for care leavers Welsh Government officials in Social Services and Integration Directorate and those in Housing Policy are jointly undertaking a refresh of the Barnardo's Care Leavers Accommodation and Support Framework for Wales. Once finalised we will ensure there is training on implementation of the framework so that all agencies involved are aware of their roles and responsibilities and young people are better supported.

The accommodation offer for care leavers and young people more generally is of course a key aspect of the wider work to ensure everyone in Wales has a decent affordable home. The pandemic has given us an opportunity to transform housing and homelessness services' and begin the adoption of a truly inclusive approach to ensure no-one is left without a home. We are also strongly committed to moving from a position of reliance on temporary accommodation, to a system focused on prevention and rapid rehousing.

## **YOUTH JUSTICE**

The Youth Justice and Female Offending Blueprints, published in May 2019, sets out a distinct approach to justice services in Wales, one that focuses on early intervention and prevention, seeking to divert young people away from crime in the first place, but also to deliver holistic and rehabilitative support to those who do enter the system.

Responsibility for the justice system rests with the UK Government, however delivery of justice in Wales is highly dependent on devolved services, with health & social services, education, learning & skills and housing, all playing key roles in both the prevention of offending and the effective rehabilitation of young people who offend. While the numbers of young Welsh people in custody has reduced significantly, many are in custody away from their homes, family and communities. The Youth Justice Blueprint sets out a commitment for realising how devolved and non-devolved services can work together to realise children's rights and develop a youth justice system in Wales which is based on rights-based principles.

We are taking a cross-government approach to these issues, with a shared commitment to the Blueprints across policy departments. An internal Welsh Government governance group has been established, with senior officials across relevant policy departments, including



Health, Education, Housing and Social Services. An example of the cross-government approach to this work was Cabinet agreement in January to a vision for the secure estate for Welsh children in justice system which described a new delivery model for secure accommodation whereby children would be accommodated in small homes, close to their communities with access to services and specialist support to meet their needs. The Deputy Minister for Health and Social Services and Minister for Social Justice have subsequently agreed with the Ministry of Justice to work together to deliver an outcome that will see children in the welfare and justice systems in Wales co-located in the same building / site, aligning with the vision and principles set out in the visions paper earlier in the year.

## **MENTAL HEALTH BUDGETS**

We have recognised mental health as an important cross cutting area in our budget preparations. Allocations across Welsh Government make a contribution to supporting children and young people's mental health. We will be providing further details when we publish our draft budget on 20 December.

## **TY LLIDIARD**

The Deputy Minister for Mental Health and Wellbeing has made her expectation clear that the work to make the necessary improvements at Ty Llidiard needs to be taken forward urgently. The Deputy Minister has received assurance that additional monitoring has been put in place and actions have been taken to ensure that the current service is safe and that individuals on the unit continue to receive a good standard of care. The Deputy Minister receives weekly updates regarding Cwm Taf Morgannwg University Health Board's (CTMUHB) progress against the agreed improvement plan for Ty Llidiard. The health board has reinforced that it is fully committed to make these improvements and is working with the Welsh Health Specialised Services Committee (WHSSC) in order to implement the necessary changes. This is a priority area for the Deputy Minister who is following the situation and progress very closely.

The Deputy Minister also receives weekly updates from the all-Wales bed management panel which reviews the capacity and pressures on patient flow at both of our CAMHS units.

The Welsh Government has agreed a wider tier 4 improvement programme with WHSSC that will improve and strengthen support in both of our CAMHS units in Wales. As part of the additional £5.4m committed this year to improve CAMHS, £1.8million will directly support improvements in our two CAMHS units in Wales.

## **Additional information you asked us to provide**

### **ESSENTIAL SERVICES STEERING GROUP 'DEEP DIVE' REPORTS**

We do not hold individual health board reports into essential services and how these have been maintained during the pandemic. However, copies of the Group's reviews of children's and cardiac services are attached for information.

## **VACCINATION PROGRAMMES**

### **COVID-19 Vaccination Programme**

#### **12-15 year olds**

The JCVI found that there was a benefit to offering a vaccination to 12-15 year olds, but that this benefit was minimal from an individual health benefit perspective. They advised that the CMOs were better placed to advise on the wider public health benefits of vaccinating this age group. On 14 September, the four UK CMOs recommended on public health grounds that all children and young people aged 12-15 not already covered by existing JCVI advice should be offered a first dose of Pfizer-BioNTech COVID-19 vaccine. This recommendation was accepted by all 4 nations of the UK.

It was felt the additional likely benefits of reducing educational disruption and the resulting reduction in public health harm provided enough extra advantage to recommend in favour of vaccinating this group.

All health boards in Wales have opted to deliver through Vaccination Centres predominantly, but a blended approach across Wales is being adopted, as vaccination teams may need to go into special schools and some private schools where children and young people may be resident/boarding.

During half-term NHS Wales focused on vaccinating 12 to 15-year-olds, with many centres offering walk-in appointments.

We have administered **over 164,671,000 vaccinations** (data from 16/11) to the 12-15 cohort (take up is **51% as at 16/11**) and have achieved our aim, as set out in the Covid-19 Vaccination Strategy, published on 12 October, to offer all in this age range an appointment by 1<sup>st</sup> November.

We have also seen high numbers of school aged young people recently being infected with Covid-19, and unable to attend for their vaccine appointment, which is affecting the current take-up rate. Following recent changes to the Green Book, these young people will be re-invited 12 weeks after any COVID-19 infection.

We are conscious that some parents or guardians will be unsure as to whether or not to consent to their child receiving the vaccine and this may lead to lower take up in this age range. Appropriate information has been made available for children and young people and their parents to help make up their minds and discussion is encouraged.

#### **16 and 17 year olds**

The JCVI gave advice on 4 August to offer a **first dose** of Pfizer-BioNTech vaccine to all 16 and 17 year olds who hadn't been vaccinated. This was in addition to the existing offer of **two** doses of vaccine to 12-17 year olds who were in '**at-risk**' groups (as set out in the Green Book), those who are household contacts of persons (adults or children) who are immunosuppressed and young people who are within three months of their 18th birthday. We offered those 16-17 year olds a first dose by 20 August.

More recently, the JCVI published advice on 15 November, which recommended all 16 and 17 year olds in Wales who are not in an 'at-risk' group should now be offered a **second dose** of the Pfizer-BioNTech COVID-19 vaccine. The JCVI found that there was more

certainty in the data regarding the benefits from vaccination compared to the risks. All 4 nations of the UK have agreed to accept this advice.

The recommended interval for the second dose should be 12 weeks or more following the first vaccine dose or proven COVID-19 infection, whichever is later.

16-17 year olds will receive sufficient information on the potential risks and benefits of vaccination to allow them to make a valid decision about the second dose based their own personal circumstances. The JCVI has agreed an information leaflet produced by the UK Health Security Agency which can be used to support this process.

We have administered over **70,237 vaccinations** (data from 16/11) to this cohort (take up is at **75.6%**).

### **Other Vaccination Programmes**

Childhood immunisation programmes have continued as essential services during the coronavirus pandemic, with appropriate assurance to parents and infection control measures put in place by practices. Monthly enhanced immunisation reports developed by the Vaccine Preventable Disease Programme in Public Health Wales are being used to monitor the impact of COVID-19 on uptake of routine childhood immunisations across Wales.

Latest quarter data suggests that vaccination uptake in young children and infants has remained stable throughout the pandemic. In the latest reporting period, Apr-Jun 2021, 91% of children were up to date with routine vaccinations by 5y of age (for the same periods in 2019 and 2020, this value was also 91%). The proportion of children up to date with all routine immunisations by four years of age has also remained stable and was 87.8% this quarter and 90.8% in five year olds.

Of all the teenage vaccines, uptake of the HPV vaccine appears to be the most impacted by school closures. Uptake of one dose of Human Papillomavirus Vaccine (HPV) in the 2020-21 school year 8 children (12-13 year olds) is currently 60.1%. Catch-up immunisations will be prioritised for those in this cohort who did not receive immunisations as scheduled. This is the second HPV cohort to include boys.

## **IMPROVING CHILDREN'S HEALTH**

### **Childhood Obesity**

Public Health Wales have been tasked with the development of a Children and Families programme pilot to support weight management at three sites across Wales - Anglesey, Merthyr Tydfil, Cardiff. This has been supported by an investment through Healthy Weight: Healthy Wales of £0.6m per annum until 2024 at which point evaluation of the programme will provide evidence for next steps.

We have been supporting the Veg Power campaign since it first ran in 2019, with the aim of making vegetables more fun for children. The 2021 campaign premiered on ITV on 29<sup>th</sup> May featuring celebrity vegetable voices from Dame Emma Thompson, Amanda Holden, and Jamie Oliver. The ad was supported by over £3m of advertising donated by ITV, Channel4 and Sky Media with additional media donated by 15 other media companies taking the campaign in to print, outdoor, cinema and online. In 2022 we aim to support the Veg Power campaign in providing bilingual resources to 60,000 pupils in Wales, across approximately 250 schools.

### **Preventive Dental Health**

*Designed to Smile* is a targeted national oral health improvement programme for children (0-5 year olds) funded by Welsh Government and targeted at nurseries and schools in areas of social disadvantage where children have the highest levels of tooth decay. Tooth decay can lead to pain and infection with children losing sleep and having time off school. Studies show that children with tooth decay in their baby teeth are three times more likely to have decay in their adult teeth, so we need to make every effort to keep children decay free by 5.

The programme is much more than simply teaching children how to brush their teeth. It is an evidenced based, prevention and clinical intervention programme to avert tooth decay and provide children, and their parents and carers, with the knowledge they need to develop and maintain good oral health from a young age.

It has proved to be an enormously effective public health programme. We have seen a 13.4% reduction in levels of dental decay in 5 year olds since 2008 and we had over 90,000 children in over 1,200 schools and nurseries regularly tooth brushing as part of the scheme prior to the pandemic.

*Designed to Smile* was paused during the pandemic (school closures and infection control measures) but is due to restart in the autumn 2021 term. Community Dental Service staff are in the process of contacting settings to train teaching staff, gain parental consent and provide equipment to re-start the Daily Toothbrushing Scheme. The Fluoride Varnish programme will also recommence.

### **Smoking in Young People**

Smoking impacts on the lives of children and young people throughout their childhood, from pregnancy to adolescence. Supporting children and young people to have a smoke-free childhood is key part of our vision for a smoke-free Wales.

We are currently consulting on our new Tobacco Control Strategy for Wales and the first Delivery Plan which sets out the specific targeted actions that will help us to reduce the harms from tobacco in Wales. The draft strategy establishes our ambition for Wales to be smoke-free Wales by 2030 which means achieving a smoking prevalence rate in adults of 5% or less over the next eight years.

We will be undertaking engagement activities to support the consultation and we will be working closely with key stakeholders to ensure children and young people in Wales have an opportunity to contribute to our consultation.

### **Physical Fitness**

Through our Healthy Weight: Healthy Wales strategy we are developing a new Welsh 'Daily Active' offer for schools. This offer will adopt an age specific whole school approach, underpinned by a model of behavioural change. Central to the development of this new approach is the engagement of children and young people to draw together ideas, which would be incorporated into the design of a future model. This will be more responsive to current evidence, provide greater flexibility and aim to integrate a range of programmes into a coherent offer. A new bespoke Welsh model will build in evaluation from the start to assess health outcomes; and allow greater flexibility to work with schools in order to develop a suite of adaptable approaches and options to complement the new curriculum. Work is underway to establish a Task and Finish Group to lead on this work which is being led by Public Health Wales. It is anticipated that the Task and Finish Group will meet during December 2021.

## Illegal Drug Use

Through our Substance Misuse Delivery Plan 2019-22, which is rooted in a harm reduction approach, we recognise addiction as a health and care issue as opposed to one that is solely related to criminal justice. The overall aim is that people in Wales, including children and young people, are aware of the dangers and the impact of substance misuse and to know where they can seek information, help and support. We invest almost £55m in our substance misuse agenda per annum with £2.75m of this ring-fenced specifically to support work with children and young people.

As highlighted previously, the Welsh Government also invests £1.98m each year in the Wales Police Schools Programme (WPSP), which is match funded by the four Welsh Police Forces. The programme involves police officers going into schools and delivering lessons on a range of areas. The core programme includes substance misuse, anti-social behaviour, domestic abuse, bullying, online safety, sexting, child sexual exploitation and consent, delivering a balanced programme within primary and secondary schools. It focuses 50% on delivering the core content to meet the needs of pupils and schools and 50% with proactive interventions on safeguarding and incident management.

A review of the WPSP was carried out by the Police in November 2019. We are currently working with partners to implement the recommendations from the review and how they can complement and add value to work underway through the Joint Ministerial Task and Finish Group on a Whole School Approach, to improve emotional and mental wellbeing in learners.

We hope this information addresses the additional issues raised.

Yours sincerely,



**Eluned Morgan AS/MS**  
Y Gweinidog Iechyd a  
Gwasanaethau  
Cymdeithasol  
Minister for Health and  
Social Services



**Julie Morgan AS/MS**  
Y Dirprwy Weinidog  
Gwasanaethau  
Cymdeithasol  
Deputy Minister for Social  
Services



**Lynne Neagle AS/MS**  
Y Dirprwy Weinidog Iechyd  
Meddwl a Llesiant  
Deputy Minister for Mental  
Health and Wellbeing



GIG  
CYMRU  
NHS  
WALES



Llywodraeth Cymru  
Welsh Government

# Essential Services Steering Group

## *Review of Essential Children's Services*

### March-May 2021

**Authors:** Mark Dickinson and Janet Davies, Co-Chairs

**Date:** 21 June 2021

**Version:** 3a (FINAL)

**Purpose of Document:**

This paper reports on a Review of Essential Children's Services conducted by the Essential Services Steering Group, with the support of NHS staff and Welsh Government officials.

The background to, conduct of, and key findings resulting from, the review are summarised and a number of recommendations are made.

## Executive Summary

The following children's services were reviewed:

- 1. Immunisation and Screening (for school aged children)**
- 2. Access to General and Specialist Surgical Services**
- 3. Child and Adolescent Mental Health Services (CAMHS)**
- 4. Safeguarding**

This set of services was chosen to provide an overview of services which encompass preventative services and services that meet both acute physical and mental health needs, including specialist/tertiary elements.

Services are typically categorised as 'emergency', 'urgent', 'soon' or 'routine'. Essential services, however, include services from all of these categories. The key point being whether loss of access to services may be life threatening or significantly life impacting. This is particularly relevant for children, where a lack of timely access to preventative or treatment services can result in an adverse lifelong impact.

Although SARS-CoV-2 has minimal direct impact on the paediatric population, the pandemic has had a significant impact on the ability of children to access services, including essential services. It is, therefore, vital that when Boards are faced with prioritising and making difficult choices and decisions that the needs of children and young people are considered within the overriding ethical principles.

It is important to note that there are around 35,000 births a year in Wales. Therefore, any one school year can have a cohort of that size and accessing that number of pupils requires intensive planning.

To inform the review, written and numerical evidence was collected and a series of review meetings were held between members of the Essential Services Steering Group and relevant clinicians, officials and others.

Key themes emerging from the review are summarised below.

### Immunisation and Screening

- There appeared to have been an assumption by health boards that, when schools were closed, school nurses were largely not required. There was, therefore, a widespread redeployment of school nurses in support of the COVID response, with a significant impact on the maintenance of essential immunisation and screening services to children as a result
- Human Papillomavirus (HPV), MenACWY and Td/IPV teenage booster vaccine coverage rates have fallen compared with previous years, with a variable picture across health boards

## **Vision and Hearing Screening**

- From the evidence provided, both vision and hearing screening services have not been maintained to any significant degree

## **General and Specialist Surgery**

- The pandemic has had a significant impact on the ability of children to access both specialist and non-specialist surgical services, across all the surgical specialties
- The impact has been greater for children accessing surgical services in Wales than for Welsh children accessing services in England

## **Child and Adolescent Mental Health Services (CAMHS)**

- CAMHS services (both primary care and specialist CAMHS) were positioned as 'essential services' during the pandemic and a range of measures were put in place including additional investment, expanding support for low level mental health issues, and providing additional surge capacity. There were effective whole system governance arrangements in place and close oversight maintained
- Overall, services remained open and accessible throughout the pandemic but with adapted service models. Whilst referrals to specialist CAMHS remain higher than in pre-pandemic levels, services are more challenged by the acuity of presentations and the higher prevalence of eating disorders
- The overall impact now presents a range of challenges going forward and in recovery planning. For example, recent modelling for Wales suggests for 2021 a potential increase in demand for all-age primary care mental health services of up to 40%, which could translate into some 31,000 referrals. Additional demand in hospital services could see an increase of up to 25%, translating into some 10,000 referrals
- There is a need to consider how to better integrate mental health with physical health services. In all aspects of COVID planning and assurance there were separate arrangements for mental health which created additional challenges and the potential for inconsistency when compared to 'physical health' services

## **Safeguarding**

- Despite the increased levels of vulnerability, and efforts made to continue to deliver relevant services and promote their availability, referral rates to safeguarding fell initially during the first lockdown
- NHS staff involved in safeguarding, including school nurses and members of the National Safeguarding Team (NST) have been diverted, or partially diverted, to support the direct COVID response



- Although essential 'core' safeguarding was maintained, there is concern about the negative impact on work to further develop and improve services, much of which was paused

The following are the primary recommended actions. The emphasis needs to be on the resetting and recovery of services in the aftermath of acute pandemic pressures, but it remains important to ensure that action is also taken to better protect children's services through any further COVID waves. A number of the issues identified are common to those identified in the earlier deep dive into cardiac services. These issues include the need for:

- a focus on the health and well-being needs of the workforce
- access to relevant and timely data and information about the performance of services
- access to support services, including diagnostics and therapies

### **Minimising the impact of COVID – protecting the interests of children**

- Specific action is required to ensure a focus on children in the recovery programme and resulting plans
- Action must be taken to ensure that the interests of children are protected within an ethical and transparent decision making process
- A Children's surgical forum/Clinical Reference Group should be established in all health boards where this is currently not the case
- All NHS organisations should ensure that they are meeting existing statutory responsibilities for children
- Delays in treating/screening/vaccinating children can have a life-long (or significant, but delayed) impact on the health of a child and such risks need to be factored into prioritisation of service delivery and the deployment of staff
- A specific surgical prioritisation tool for children should be agreed for use across Wales
- Decision making and prioritisation must be informed by data that allows the impact on children specifically to be disaggregated. This should include data for 0-16 years, with data for 16-18 years captured separately, to ensure the impact of any transition to adult services is planned for
- The loss of a health-related setting (e.g. schools), should not simply result in a suspension of health related activity that normally takes place in that setting (e.g. school nursing)
- A particular focus is needed on the workforce given the impact of redeployment has seemingly been more profound for those staff working with children

# 1 Background and rationale for the review

During the first wave of the COVID pandemic, the Essential Services Group, with wide representation from Welsh Government and NHS Wales, oversaw the development and approval of an NHS Wales Essential Services Framework (informed by WHO guidance), an agreed list of services deemed to be essential and a range of supporting guidance for NHS Wales.

After the first wave of the pandemic, the full group was stood down, with work being coordinated by a core Steering Group. In late 2020, the Steering Group concluded that there was a need to take stock of the status of the delivery of essential services and to get a fuller understanding of:

- whether (or to what extent) relevant guidance is being complied with across Wales
- what the main challenges are in maintaining essential services in line with the guidance
- whether current guidance remains fit for purpose or needs to be revised or supplemented
- what other action could be taken/recommended that would support both the maintenance of essential services and the recovery of a wider range of services.

To do this, and in view of the wide and varied range of specified essential services, the Steering Group agreed to conduct a series of 'deep dives', to review specific areas, focusing on the above points. The aim was to convene a series of topic-specific sessions, bringing together members of the Steering Group, the relevant WG policy lead(s), the relevant national clinical lead(s) or body(ies) and, where applicable, network managers, informed by the:

- current essential services guidance
- evidence/data relating to service delivery (both 'hard' and 'soft')

It was anticipated that this exercise would identify the need for additional actions and guidance.

The first 'deep dive' was into cardiac services. Having initially looked at a condition specific topic, it was determined that a wider population approach would be undertaken next. The Steering Group, therefore, agreed that the second review should determine how essential services for children had been maintained. The following areas were prioritised:

1. **Immunisation and Screening** (for school aged children)
2. Access to General and Specialist **Surgical Services**
3. **Child and Adolescent Mental Health Services** (CAMHS)
4. **Safeguarding**

This set of services was chosen to provide an overview of services which encompass preventative services and services that meet both acute physical and mental health needs, including specialist/tertiary elements. Children under the age of 18 were in the scope of the review.

It is important to remember what is meant by 'essential' services. As the Essential Services Framework describes, services are typically categorised as 'emergency', 'urgent', 'soon' or 'routine'. Essential services, however, include services from all of these categories. The key point being whether loss of access to services may be life threatening or significantly life impacting. This is particularly relevant for children, where a lack of timely access to preventative or treatment services can result in an adverse lifelong impact. So, for example childhood immunisation services are routine, but are also classed as essential. Within the Essential Services Framework the need to consider timely interventions to prevent irreversible harm, as well as death, is emphasised.

In many ways, children have been disproportionately impacted by the pandemic. Their education and social development has been severely disrupted and the duration of 'lock down' has been for a larger proportion of their lifetimes to date. Although SARS-CoV-2 has minimal direct impact on the paediatric population, the pandemic has had a significant impact on the ability of children to access services, including essential services. It is, therefore, vital that when Boards are faced with prioritising and making difficult choices and decisions that the needs of children are considered within the overriding ethical principles, as articulated in the Welsh Government's 'Coronavirus: ethical values and principles for healthcare delivery framework' (<https://gov.wales/coronavirus-ethical-values-and-principles-healthcare-delivery-framework-html>):

- everyone matters
- everyone matters equally – but this does not mean that everyone is treated the same
- the interests of each person are the concern of all of us, and of society
- the harm that might be suffered by every person matters, and so minimising the harm that a pandemic might cause is a central concern.

## 2 Conduct of the review

### 2.1 Collection of evidence

The collection of evidence and supporting material was co-ordinated by the Welsh Government Women and Childrens Health Team. All areas involved supported the review through the provision of written evidence and participation in review meetings with members of the Steering Group.

An evidence gathering proforma was shared to help structure the information required under the following headings:

- Specification of essential services
- Guidance on essential services
- Assurance of essential services delivery
- Overall assessment of current essential services delivery
- Assessment of threats to essential services delivery during Winter 2020/21
- Specific recommendations to support the maintenance of essential services

Welsh Government policy leads also provided a written report on the provision and oversight of CAMHS services during the pandemic.

In addition, some specific work has been undertaken to gather direct views from children about their experience of accessing health services during the pandemic. In partnership with the organisation 'Children in Wales' an online survey of children was conducted and a focus group discussion held. The overall aim of this work was to consider the views and experiences of children and young people who have accessed or tried to access health services during the pandemic. A notable finding of this work (albeit not limited to access to essential services) was that, of the 34 participants that said they did have health problems that needed regular care or treatment, 16 said that they did not receive their usual treatment in the year since the pandemic started, 11 said that sometimes they had received their usual treatment and only seven said that they had received their usual treatment throughout. A full report on this work is included as Appendix 1.

### 2.2 Review meetings and interviews

#### 2.2.1 Immunisation and Screening (for school aged children)

A review meeting was held on 11 March 2021. Participants included members of the Steering Group, representatives from Public Health Wales and NHS audiology services and additional WG officials. A list of participants

is included as Appendix 2. Participants presented in support of the written evidence provided, answered specific questions and participated in a discussion.

By way of context, it is important to note that there are around 35,000 births a year in Wales. Therefore, any one school year can have a cohort of that size and accessing that number of pupils requires intensive planning.

A key theme arising from the presentation and discussion was the link between the school setting and service delivery and the consequent redeployment of staff. There appeared to have been an assumption by health boards that, when schools were closed, school nurses were largely not required. There was, therefore, a widespread redeployment of school nurses in support of the COVID response (including the COVID vaccination programme). The fact that school nurses are needed to deliver a range of services to school aged children was lost and it is clear that there had been a significant impact on the maintenance of essential immunisation and screening services to children as a result. There was insufficient consideration of how these services could be delivered in other settings. At the time of the review many school nurses had not returned to their substantive roles. Also, when schools were reopened, there had been examples of schools being reluctant to allow access to health staff, as a result of concerns over the increased risk of transmission through increased footfall.

The impact of the loss of the school setting and the redeployment of, or lack of access to staff is described in the evidence paper at Appendix 3 and is summarised below:

### **Immunisation**

- The 2020/21 school year 8 (12-13 year olds) will be the second cohort to include boys eligible for the Human Papillomavirus (HPV) vaccine. Uptake for the boys during the 2019/20 period was 53.4%, however as this was the first cohort of boys eligible for vaccination there is no data from previous years for comparison
- Coverage of the first dose of HPV vaccine in school year 9 (13-14 year old girls) in 2020/21 was 65.0%, down from 86.1% in 2019/20
- Coverage of the second dose of HPV vaccine in school year 10 (14-15 year old girls) in 2020/21 was 55.6% down from 81.3% in 2019-20
- Coverage of the MenACWY vaccine in the 2020/21 school year 10 cohort is 75.8% down from 84.6% in 2019/20
- Coverage of the Td/IPV teenage booster in the 2020/21 school year 10 is 75.7% down from 84.5% in 2019/20
- Coverage of one dose of MMR vaccine in the 2020/21 school year 10 (age 14-15 years) was 95.3% similar to uptake from the year before,

and coverage of two doses was 91.7% which was a slight increase from 91.6% in 2019/20

- Uptake of influenza vaccination in eligible schoolchildren in Wales increased from 69.9% in 2019/20 to 71.3% in 2020/21

With the exception of MMR and influenza this shows a concerning picture, with a variable picture across health board areas.

The Essential Services Steering Group is aware that some of the 2020/21 statistics presented during the review have been challenged on the grounds of data completeness. The review was, however, reliant on the data that had been entered and collated at the time and delays in data entry are themselves of concern.

The rationale for vaccination against Human Papilloma Virus (HPV) at 12-13 years old is that this will provide the best protection possible before the start of sexual activity. Findings from the National Surveys of Sexual Attitudes and Lifestyles (Natsal) showed that 30.9% of males and 29.2% of females had first heterosexual intercourse before the age of 16. It is standard practice to vaccinate people before they are exposed to an infection and the aim is to vaccinate children before they are exposed to HPV. Studies of HPV vaccine indicate that younger adolescents respond better to the vaccine than older adolescents and young adults. Healthy children vaccinated at this age will need only two doses of vaccine rather than three doses if vaccinated at an older age.

The Joint Committee on Vaccination and Immunisation (JCVI) identifies school based vaccination programmes as potentially the most effective setting for improving uptake of immunisations, specifically in adolescents. Schools have become an increasingly important setting for delivery of immunisation programmes. They are an attractive venue for vaccination as they have the ability to reach large numbers of children in a short period of time. Additionally, recommendations from the *Inequalities in uptake of routine childhood immunisations in Wales 2018-19* (Public Health Wales, 2019) demonstrate the positive effect school based vaccine delivery has on reducing inequalities, and highlights the importance of ensuring measures are in place for ongoing checking and offering of outstanding vaccines.

The review was advised that a Task and Finish Group was being established to consider potentially innovative models to deliver an expanded influenza vaccination programme in schools in 2021/22. Options under consideration will include adapting variations of the mass vaccination delivery model for use in school settings. Although this work is primarily aimed at the children's influenza programme, the application of any learning or good practice emerging from these new delivery models could potentially be transformative for the delivery of children's immunisation programmes as whole.

## Vision and Hearing Screening

Screening for reduced vision in children aged 4 to 5 years is primarily undertaken to detect children with amblyopia, a form of abnormal vision system development. The most common predisposing conditions are strabismus (squint) and refractive error (focusing problems requiring glasses). Early detection of amblyopia is necessary to avoid permanent visual impairment by allowing treatment to be undertaken within the sensitive period of neuroplasticity (growth and change) in the visual system. Treatments have been shown to result in improved vision helping children to reach their social educational potential.

The school entry hearing screen identifies children with temporary and permanent hearing loss of a range of types and severity. Due to the high prevalence of temporary hearing losses in children of this age, referral rates vary depending on the season and cold and flu profile of a given year. Detailed breakdowns of outcomes of children referred to ENT and audiology following screening were not available to the review. However, these children may receive grommet surgery, hearing aids or ongoing surveillance.

From the evidence provided, both vision and hearing screening services have not been maintained to any significant degree. This is of significant concern and detailed plans will need to be developed to ensure these children are not entirely missed. Efforts had been made to advise parents to attend high street optometric services or their GP for hearing issues while school services were ceased, but there is no data available to determine if this intervention had any impact.

### 2.2.2 Access to General and Specialist Surgical Services

The review meeting was held on 8 April 2021. Participants included members of the Steering Group, clinicians, representatives from WHSSC, the planned care programme and additional WG officials. A list of participants is included as Appendix 4.

Presentations were made in support of the written evidence provided and questions and discussion followed. The detailed information considered at the meeting is available at Appendix 5.

Key themes arising from the presentation and discussion were:

- Although existing evidence suggests that SARS-CoV-2 has minimal direct impact on the paediatric population, the pandemic has had a significant impact on the ability of children to access both specialist and non-specialist surgical services, across all the surgical specialties
- The impact has been greater for children accessing surgical services in Wales than for Welsh children accessing services in England

- The reduction in both inpatient and day case activity by Welsh providers has affected patients from across Wales, with all health boards having long waiting lists for children services
- Based on the limited data readily available during the review, over a third of Welsh patients on an active waiting list are waiting over 36 weeks, compared with a sixth of Welsh patients accessing treatment in an English centre
- Given the delays, a number of children currently waiting will transition to adult services before they are likely to receive treatment and this needs specific consideration
- There was a particular difficulty in accessing data relating to children waiting for general surgery. In general, figures are combined with adults on waiting lists. Traditionally, paediatric planned care delivery has not been a focus in monitoring arrangements having formed part of total waiting times and activity data. Detailed information for children is, however, collected for specialist surgery by WHSSC
- Although there has been a decrease of more than 50% in surgical activity in children at Cardiff and Vale UHB in 2020 when compared with 2019, the total number on the waiting list has only increased marginally, with the number waiting more than 26 weeks having increased four-fold. This is consistent with the trend in adult services
- The Royal College of Surgeons prioritisation tool was not considered to be appropriate for use in children, with a more holistic assessment being required for children's surgery. A number of different tools have emerged and are, increasingly, being used, but a consistent and equitable approach is not being used across Wales
- Workforce sustainability across health boards is unclear, including the situation with the movement of staff to COVID services during the pandemic who may not be back in their substantive posts. The impact of staff movement on retention is also unknown
- While beyond the formal scope of the review, clinicians warned of the likely difficult winter ahead, with anticipated increases in paediatric medical emergency activity, resulting from an increase in the incidence of other respiratory viruses. This will need to be factored into recovery planning, including HDU and PICU capacity

### 2.2.3 Child and Adolescent Mental Health Services (CAMHS)

Following discussions with mental health policy officials, a comprehensive evidence paper (Appendix 6) was provided and discussed by the Steering Group on 6 May. It is very clear that from the beginning of the pandemic there has been a strong focus on both defining and monitoring the provision of those services deemed essential. CAMHS services (both primary care and specialist services) were therefore positioned as 'essential services'.



Detailed advice was provided setting out the key functions that must be continue, making it clear that any discontinuation could potentially lead to avoidable harm and mortality. Whilst models of delivery may have adapted due to the restrictions, mental health and eating disorder services remained open for referrals.

A Mental Health Incident Group (MHIG) was established to provide assurance of delivery and a monitoring tool developed to track capacity and capability as well as ensuring issues and concerns were highlighted in a systematic way. This is considered to be good practice in ensuring whole system oversight was maintained during a time when routine performance management repowering was stood down.

Keep themes that have emerged include:

- There were and continue to be, effective governance arrangements in place to monitor service demands and challenges
- Data and information was available from a range of sources, including health boards, population surveys and third sector in order to provide a rounded view of the pressures and challenges services were facing
- It is too early to tell what the overall effect on suicide rates will be, but data that are available provide some reassurance
- A range of actions were taken to support services during the pandemic, including:
  - The establishment of a specific website to improve access to specific guidance and advice for mental health services and service users
  - Additional funding for inpatient surge capacity to ensure flexibility in managing demand; strengthening support for lower level issues; accelerated role out of video consultation
  - Refreshing the 'Together for Mental Health Delivery Plan 2019-22'
  - Temporary modifications to the Mental Health Act as an additional safeguard, albeit this has not been needed to be used
- Whilst referrals to specialist CAMHS remain higher than in pre-pandemic levels, services are more challenged by the acuity of presentations and the higher prevalence of eating disorders. There were fluctuations however in children waiting:
  - There was a dip in the number of children and young people (1,842, 368 per month) on the waiting list between April and August 2020. This compared to the same period 12 months ago where there 3,013 children and young people (603 per month) on the waiting list, a decrease of 39 per cent)
  - However, since August 2020 there has been 5,029 children and young people on the waiting list – this equates to 718 per month

- There has been record high number of children and young people on the waiting list for the months of October 2020 to January 2021
- The numbers within primary mental health services at the start of 2020-21, especially April and May, were significantly lower than the norm. There were 350 and 365 referrals for these two months compared with an average of 750 referrals per month during 2019-20. The average of referrals over the last three months (Oct to Dec 2020) was 784 per month
- A review has been commissioned from NCCU to undertake a review of admissions to age appropriate beds as this is thought to have increased. We have been assured that any actions that come from this will be taken forward
- A key aspect of the learning from the pandemic response includes the need to better integrate mental health with physical health services. Whilst the arrangements established to ensure the continuity and availability of NHS mental health services during the pandemic were effective, these arrangements operated alongside and felt more separate from the central NHS Governance arrangements that were established. An example is identifying the need for and process to secure surge in-patient capacity. This work was not included as part of the central mechanism to plan and assure the capacity of broader NHS services and needed to be undertaken separately. In all aspects of COVID planning and assurance there were separate arrangements for mental health which created additional challenges and the potential for inconsistency when compared to the arrangement for 'physical health services'

The overall impact now presents a range of challenges going forward and in recovery planning. For example, recent modelling for Wales suggests for 2021 a potential increase in demand for all-age primary care mental health services of up to 40%, which could translate into some 31,000 referrals. Additional demand in hospital services could see an increase of up to 25%, translating into some 10,000 referrals.

Whilst specialist CAMHS continue to see levels of referral higher than pre-pandemic levels, the key concerns from health boards are the higher acuity and complexity of patient presentations and an observed increase in prevalence of eating disorders.

We sought additional information to better understand the picture with eating disorder services. Following a reduction in referrals during the first wave of the pandemic in 2020, the service are now seeing an increase in the complexity/acuity of patients and an increased prevalence of eating disorders. This has, in turn, led to an increase of the need for Nasal Gastric (NG) feeding. It is not yet apparent whether this increase is temporary following the pandemic societal changes during 2020 or whether this will be

a longer term change for which the service will need to adjust. We were assured that action was in hand to determine potential short and medium term solutions. While there is already an existing commitment to reconfigure services towards earlier intervention and focus on preventative services following a review in 2018, the impact of the pandemic has emphasised the need to focus on fully implementing these recommendations.

Overall, work is underway to update the framework for an all-Wales recovery plan for mental health and substance misuse services, covering all ages and tiers of care. The evidence paper sets this out in more detail.

#### **2.2.4 Safeguarding**

An initial review meeting was held on 22 April 2021. Participants included members of the Steering Group and additional WG officials. A list of participants is included as Appendix 7. A supplementary meeting was then held on 27 April including a limited number of members of the Steering Group and the lead from the Public Health Wales National Safeguarding Team. A list of participants in the supplementary meeting is included as Appendix 8.

The initial meeting was mainly focused on the Welsh Government perspective, with much of the emphasis being on the social services aspects of safeguarding. A paper describing the actions that had been taken is at Appendix 9. Although there is considerable interplay between NHS and local authority safeguarding teams, the delivery of safeguarding by local authorities is outside the scope of the Essential Services Group and, therefore, of the review. To ensure appropriate consideration of NHS services, the supplementary meeting focused on NHS safeguarding from the perspective of the National Safeguarding Team.

Key themes arising were:

- Conditions during the pandemic and, in particular, the consequences of 'lockdown', have provided circumstances in which children have been at greater risk of abuse and neglect and in which the signs of such abuse or neglect have been more likely to have remained hidden. As such, the need for appropriate safeguarding has been high
- From the early stages of the pandemic, WG officials maintained a close oversight the delivery of safeguarding. Locally, assessments were carried out to work out how to keep in contact with vulnerable children and young people
- Guidance was developed and issued at various points. In particular, Welsh Government issued guidance about the continuation of the Healthy Child Wales Programme regularly throughout the pandemic, emphasising that face to face contact should still be made where a

family needs additional support or where safeguarding concerns have been identified. WG received assurance that such visits were being undertaken wherever possible

- Despite the increased levels of vulnerability, and efforts made to continue to deliver relevant services and promote their availability, referral rates to safeguarding had fallen during the first lockdown
- Available data has demonstrated that school is the safest place for children, including through having access to education, friends and to socialise
- Additional funding has been provided to MEIC Cymru to assist with engagement and support
- NHS staff involved in safeguarding, including school nurses and members of the National Safeguarding Team (NST) have been diverted, or partially diverted, to support the direct COVID response
- The NST had operated through the pandemic at 'level 2 – partial operation'. Whilst it is the view of the NST lead that essential 'core' safeguarding was maintained, there is concern about the negative impact on NST work to further develop and improve safeguarding, much of which was paused. This is of particular concern in view of the increase in safeguarding work load that is anticipated as COVID restrictions are eased. The intention of Public Health Wales to return safeguarding to level 3 'full operation' is noted
- There had been issues around the collection and availability on comparable data on the delivery of safeguarding

### 3 Recommended action

The following recommended actions have been developed following the review meetings, the evidence submitted and subsequent discussions. They include both strategic actions, in relation to the future focus needed on children's services, and actions specific to the areas reviewed.

The emphasis increasingly needs to be on the resetting and recovery of services in the aftermath of acute pandemic pressures, but it remains important to ensure that action is also taken to better protect and maintain children's services through any further COVID waves. We are aware that some relevant action is already in train following circulation of the initial findings of the review.

A number of the issues identified are common to those identified in the earlier deep dive into cardiac services. These issues include the need for:

- a focus on the health and well-being needs of the workforce
- access to relevant and timely data and information about the performance of services

- access to support services, including diagnostics and therapies
- the use of virtual service delivery, where viable and appropriate

In addition, there are a many issues, and related recommendations, that are specific to children's services and/or which were particularly highlighted in this review.

### Recommendations:

- It is important to recognise that, whilst direct morbidity and mortality from COVID is much lower in children than other age groups, in other respects the wider impact of COVID on children's lives has been profound (including on their mental health and wider aspects of their physical health). **Specific action is therefore required to ensure a focus on children in the recovery programme and resulting plans**
- Health board recovery plans must include specific elements, with target dates, on the recovery and catch up of:
  - surgical services for children (recognising that, currently, the backlog is continuing to grow)
  - childhood vaccination and immunisation
  - childhood screening
- Recovery plans must factor in:
  - workforce requirements
  - regional models of care
  - the recommendations of the national task and finish group on influenza vaccine
  - the recommendations of national work on moving audiology screening back to audiology
- Whilst acknowledging the hugely challenging nature of the decision making and prioritisation processes that are required in the current context, **action must be taken to ensure that the interests of children are protected within an ethical decision making process**. This must remain the case during recovery and any future curtailments in services in response to COVID or other crises
- It is proposed that a **Children's surgical forum/Clinical Reference Group** should be established in all health boards where this is currently not the case. Guidance from RCPCH sets out the role such a group should (Standards for Childrens Surgery, 2013)
- **All NHS organisations should ensure that they are meeting existing statutory responsibilities for children**, such as those under the Social Services and Well-being (Wales) Act 2014. The designated independent and executive members of the Board need to ensure they are actively fulfilling their roles on behalf of children. Boards need to receive comprehensive information to be assured that children's needs are being addressed.

- It is important to recognise that **essential services are about more than preventing mortality and immediate significant morbidity**. Delays in treating/screening/vaccinating children can have a life-long (or significant, but delayed) impact on the health of a child and such risks need to be factored into prioritisation of service delivery and the deployment of staff
- The current surgical prioritisation tool from the RCS is deemed not to be appropriate for use in children. We, therefore, recommend that **a specific surgical prioritisation tool be agreed for use across Wales**, building on those already in use or emerging. Similar prioritisation tools may also be required for preventative and medical services.
- There is a need to ensure that decision making and prioritisation is informed by **data that allows the impact on children specifically to be disaggregated and considered by age group**. This should include data for 0-16 years, with data for 16-18 years captured separately, to ensure the impact of any transition to adult services is planned for
- There is a need to ensure that the **loss of a health-related setting (e.g. schools), should not simply result in a suspension of health related activity** that normally takes place in that setting (e.g. school nursing). Any suspensions of services should follow evidence and risk based ethical judgements and creative solutions should be found for delivering services in other settings, where possible
- A particular **focus is needed on the workforce given the impact of redeployment** has seemingly been more profound for those staff working with children
- It is important that the findings from the consultation conducted in partnership with Children in Wales are considered carefully. **Boards should familiarise themselves with the content of the full report (Appendix 1) and should also ensure they are seeking feedback from children** routinely and acting on it

## 4 Next steps for essential services

Having conducted two deep dives, into cardiac and children's essential services, the Essential Services Steering Group has taken stock of what has been learned and recommended and has considered the key lessons and most appropriate next steps.

The deep dives have been exceptionally informative and have generated a number of important recommendations. A case could be made for the Essential Services Steering Group to continue to pursue a rolling programme of deep dives covering all the key clinical areas specified in the

NHS Wales Essential Services Framework. A number of factors, however, suggest that this would not be the most efficient or effective course of action:

- As things stand, it appears that the worst waves of the pandemic are behind us and, as such, a primarily backward looking review process is becoming less timely and helpful
- The deep dive process is very resource intensive, both for those involved in conducting and reporting on the reviews and those collecting and presenting evidence to them
- It is already clear that many of the key issues and lessons from such reviews will be common across all essential services

The most important overall conclusion stemming from the work to date is that the primary responsibility for ensuring the ongoing delivery of essential services during future COVID waves and other crises, and for recovering delayed activities, must rest with health boards and trusts.

Going forward, health boards and trusts must ensure that:

- the recovery and maintenance of all essential services covered by the Framework must be explicitly featured in recovery planning (including in specific recovery plans and IMTPs and the oversight of the implementation of those plans)
- future decisions about the prioritisation of the delivery of services (including decisions about staff redeployment) must be taken within a risk based and ethical decision making process that is overseen by boards
- they ensure access to, and make use of, timely and accurate data and information that enables boards to be assured that essential services are being delivered and statutory obligations met, including to children
- where full assurance cannot currently be provided, recovery planning must include the steps to be taken to rectify any gaps

## Appendices

### Appendix 1



YW Patient  
Experience Report.p

### Appendix 2



Review of Children's  
Screening and Immur

### Appendix 3



Review of Screening  
and Immunisation Ess

### Appendix 4



Children's Essential  
Services - Surgery - 8

### Appendix 5



paediatric deep dive -  
Appendix A- April 202



Paediatric planned  
care deep dive summ:



Summary and  
analysis of surgical da



Paediatric  
recommendations - fr

### Appendix 6



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### Appendix 7



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## Appendix 8



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## Appendix 9



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**NHS**  
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Llywodraeth Cymru  
Welsh Government

# Essential Services Steering Group

# *Review of Essential*

# *Cardiac Services*

## December 2020

**Authors:** Mark Dickinson and Janet Davies, Co-Chairs

**Date:** 11 February 2021

**Version:** 1 FINAL)

### **Purpose and Summary of Document:**

This paper reports on a Review of Essential Cardiac Services conducted by the Essential Services Steering Group, with the support of the Wales Cardiac Network and WG officials.

The background to, conduct of, and key findings resulting from, the review are summarised and a number of recommendations are made. Reflections on the review, informed by feedback on earlier drafts of this report, are also included.

# 1 Background and rationale for the review

During the first wave of the COVID pandemic, the Essential Services Group, with wide representation from WG and NHS Wales, oversaw the development and approval of an NHS Wales Essential Services Framework (informed by WHO guidance), an agreed list of services deemed to be essential and a range of supporting guidance for NHS Wales.

More recently, the full group has been stood down (but not abolished), with work being coordinated by a core Steering Group, which has focused primarily on improving assurance of Essential Services delivery. In late 2020, the Steering Group concluded that there was a need to take stock of where we are and get a fuller understanding of:

- whether (or to what extent) relevant guidance is being complied with across Wales
- what the main challenges are in maintaining essential services in line with the guidance (both currently and over the rest of the winter period)
- whether current guidance remains fit for purpose or needs to be revised or supplemented
- what other action could be taken/recommended that would support both the maintenance of essential services and the recovery of a wider range of services

To do this, and in view of the wide and varied range of specified essential services, the Steering Group agreed to conduct a series of 'deep dives', to review specific topic/condition areas, focusing on the above points. The aim is to convene a series of topic-specific sessions, bringing together members of the Steering Group, the relevant WG policy lead(s), the relevant national clinical lead(s) and (where applicable) network managers etc., informed by the:

- current essential services guidance
- evidence/data relating to service delivery (both 'hard' and 'soft')

It was anticipated that this exercise would identify the need for additional actions, guidance etc. The development of this will be led by the Steering Group, with the full Essential Services Group than being used, as required, as a 'virtual reference group' to consider and advice on the actions and guidance.

The Steering Group agreed that the first, pilot, 'deep dive' review should be focused on essential cardiac services, for the following reasons:

- it is a hugely important area in terms of 'burden of disease'
- the services deemed essential have been clearly specified

- there is a clear and highly motivated supporting structure (network, clinical lead, implementation group, policy lead)
- services have been highlighted for specific attention in WG planning guidance and accompanying correspondence (but have not had quite the prominence/profile as cancer services)

## **2 Conduct of the review**

### **2.1 Collection of evidence**

The Steering group chairs engaged with the Dr Jon Goodfellow, National Clinical Lead and Steve Davies, Wales Cardiac Network Manager and Caroline Lewis, WG policy lead who agreed to support the review through the provision of written evidence and participation in a review meeting with members of the Steering Group.

An evidence gathering proforma was developed (that can be adapted for use in future reviews on other topics) and provided to the Wales Cardiac Network for completion before the review meeting. The proforma included sections on:

- Specification of essential services
- Guidance on essential services
- Assurance of essential services delivery
- Overall assessment of current essential services delivery
- Assessment of threats to essential services delivery during Winter 2020/21
- Specific recommendations to support the maintenance of essential services

The proforma was completed and returned by the Wales Cardiac Network and is included as Appendix 1 to this report.

### **2.2 Review meeting – 17 December 2020**

The review meeting was held on 17 December 2020 via Microsoft Teams. Participants included members of the Steering Group, representatives from the Wales Cardiac Network and additional WG officials. A list of participants is included as Appendix 2.

Jon Goodfellow and Steve Davies presented in support of the written evidence provided, answered specific questions and participated in a discussion.

Key themes arising from the presentation and discussion were as follows:

- in general, a level of essential cardiac services has been maintained throughout the pandemic in line with the guidance issued. The current guidance remains fit for purpose and no immediate changes were needed.
- maintaining essential services has been challenging and the pandemic has had a major impact on the delivery of cardiac services beyond those deemed essential in the guidance
- many of the most significant challenges relate to the exposure of longstanding weaknesses in cardiac services including:
  - workforce pressures
  - access to timely, accurate and consistent data about cardiac service delivery
  - timely access to key investigations, including CT coronary angiography (CTCA) as the default test for new suspected cardiac chest pain
- much has been done to successfully introduce remote working and virtual clinics, although progress has been variable across health boards
- returning to pre-pandemic ways of working will not adequately address the backlog of diagnosis, treatment and care that is arising; there is need for a more prudent approach to the acceptance of referrals and the provision of advice to primary care and an overall focus on delivering high value care.

### 3 Recommended action

The following recommended actions have been developed following the review meeting and have been informed by that meeting, the evidence submitted by the Wales Cardiac Network and subsequent discussions. As most of the issues considered within the review concern longstanding issues that have been thrown into stark relief by the pandemic, this is reflected by the medium to long term nature of many of the actions. The actions are more about the recovery of services in the aftermath of current acute pandemic pressures and closely reflect the content of the Wales Cardiac Network's emerging 2021/22 Work Plan and medium term plan. These plans are to be formally signed off, as part of the overall plans of the NHS Wales Health Collaborative, by NHS Wales chief executives, meeting as the Collaborative Executive Group, before the end of 2020/21.

The Network will lead and coordinate much of the activity required, but will need to do so in close partnership with NHS Wales organisations and WG. Some action will require formal system-wide approval. Where possible, leadership and indicative timescales for each recommendation are specified, but in some cases this requires further consideration.

Much of the work described will be influenced by, and will need to align with, the forthcoming National Clinical Framework and National Quality Framework.

### 3.1 Minimising the impact of COVID

Action	Lead	Timescale
Ensure high levels of vaccination in the workforce delivering cardiac services	Vaccination programme HBs	Q4 20/21
Ensure continued strict adherence to infection prevention and control measures throughout cardiac patient pathways	HBs	Ongoing

### 3.2 Workforce

Action	Lead	Timescale
In developing plans for recovery, including the addressing of backlogs, recognise the profound impact that the pandemic has had on the NHS Wales workforce: <ul style="list-style-type: none"> <li>Objectives and targets set should be realistic and achievable</li> <li>A holistic package of support measures should be further developed, implemented and promoted for the NHS Wales workforce</li> </ul>	WG/HBs  HEIW (this is a wider 'whole system' issue that is already being progressed)	Ongoing  TBC
Progress work with HEIW, health boards and WG (via Dee Ripley) to address skill mix and staffing issues in cardiology: <ul style="list-style-type: none"> <li>progress work across NHS Wales and with Swansea University to expand the cardiac physiology workforce (proposals to be taken to the NHS Wales Collaborative Executive Group in February for chief executive approval)</li> <li>develop a case for strengthening the heart failure nursing and community rehabilitation workforce</li> <li>determine if there any further changes in workforce models that need consideration over the medium term</li> </ul>	Network (in close liaison with HEIW)	Q4 20/21  Q4 20/21 Q1 21/22  Ongoing

### 3.3 Data and informatics

Action	Lead	Timescale
<p>Progress work between the Wales Cardiac Network, health boards and NWIS to deliver improvements in cardiac informatics to improve patient care and the management and assurance of the delivery of cardiac services:</p> <ul style="list-style-type: none"> <li>• develop consistent data definitions (including those relating to aspects of waiting times) within the NHS Data Dictionary to facilitate the real time monitoring of the performance of cardiac services</li> <li>• ensure that cardiac services are appropriately included in the non-COVID data hub being implemented by NWIS</li> <li>• ensure further improvements in cardiac data collection, analysis and presentation, including via the use of the National Data Repository (NDR) to populate appropriate dashboards</li> <li>• ensure ongoing development of informatics support for remote consultation</li> <li>• progress work to ensure consistent access to and use of the Welsh Clinical Portal (WCP) by cardiologists to facilitate the management of patients and related communications (including, specifically, the ability to record and access patient risk level and priority level scores/assessments to facilitate a risk based approach to pathways – see below)</li> <li>• ensure the introduction of electronic test requesting (ETR) and the roll out of electronic hospital to hospital referrals within cardiology</li> </ul>	<p>Network (working closely with NWIS)</p>	<p>TBC (in conjunction with NWIS)</p>

### 3.4 High value, prudent healthcare and recovery

Action	Lead	Timescale
<p>Working through the Wales Cardiac Network, develop a 'recovery plan' for cardiac services:</p> <ul style="list-style-type: none"> <li>• maximising remote patient consultations and technology-enabled discussion between primary and secondary care, including via the use of Consultant Connect</li> <li>• adjusting the threshold for accepting referrals from primary care to be seen in clinics (in close liaison with primary care)</li> <li>• engaging with primary care to develop primary care led solutions</li> <li>• ensuring the delivery of advice and guidance to primary care in a timely fashion (e.g. using WCP and e-referrals)</li> <li>• minimising low value investigations in low risk populations</li> <li>• maximising the appropriate use of remote monitoring technologies in the community</li> <li>• appropriate matching of cath lab demand and capacity</li> </ul>	<p>Network (in support of the Heart Conditions Implementation Group)</p>	<p>Q4 20/21 Q1 21/22</p>
<p>Convene an all Wales 'cardiac summit' in March/April to review the emerging whole system recovery plan (primary, secondary and tertiary care) and agree immediate and longer term actions to ensure the provision of:</p> <ul style="list-style-type: none"> <li>• timely diagnosis</li> <li>• responsive acute cardiac care</li> <li>• ability to effectively manage chronic disease, including heart failure</li> </ul>	<p>WG</p>	<p>Q4 20/21 Q1 21/22</p>



### 3.5 Diagnostic services

Action	Lead	Timescale
Ensure that, in prioritising provision of diagnostic services in response to COVID pressures, decisions are made that reflect risk of harm across major conditions, including cardiac	HBs	Ongoing
Assess CT coronary angiography (CTCA) demand and capacity and develop a case to expand capacity to meet appropriate demand and reduce patient recovery times as part of more prudent pathways. To address: <ul style="list-style-type: none"> <li>• radiographer skills/training</li> <li>• access to CT scanner time</li> </ul>	Network	Q4 20/21 Q1 21/22
Ensure that the need for timely cardiac diagnosis is factored into wider consideration of diagnostic service provision in Wales, including consideration of the development and implementation of 'community diagnostic hubs'	TBC	Ongoing

## 4 Reflections following the review

Since the Review of Essential Cardiac Services was conducted, earlier drafts of this report have been received and considered by:

- Essential Services Steering Group (discussed at meeting)
- Essential Services Group members (circulated for comment)
- Planning and Response Group (discussed at meeting)
- Acute Secondary Care Sub Group (provided to members)
- Directors of Planning Peer Group (provided to members)
- Wales Cardiac Network Manager and Clinical Lead
- Welsh Government Policy Lead and other colleagues

Constructive feedback has been received from members of the above groups, both during relevant meetings and subsequently. Some of the feedback received has been reflected in amendments and additions to the above sections of this report. Other feedback has led to the following reflections on the conduct of the review, which will be used by the Essential Services Steering Group to inform the conduct of, and participation in, future similar reviews:

- The review was too focused on the secondary care aspects of cardiac services, at the expense of consideration of primary care and

prevention, in particular. However, it will be important to ensure recovery planning has a holistic, whole system approach. Future reviews would benefit from more emphasis on primary care and more involvement from primary care colleagues.

- Many of the themes, lessons and recommendations arising from the review can be applied, or adapted, more generically across other service areas. This is both a strength of the review and a potential weakness. Future reviews should consider generic issues, but also seek to identify more service-specific insights and generate related recommendations.
- Some questions have been raised about the timing of the cycle of 'deep dive' essential services reviews and how this relates to the timing of the issuing of planning guidance and the development and submission of health board plans. The nature of the reviews, however, necessitates that they are conducted sequentially over a period of time and the timing of their starting was affected by the progress of the pandemic and the point reached in the work of the Essential Services Group. It is recognised that this will result in timing mismatches, but these cannot be avoided.

## Appendix 1 – Written submission from the Wales Cardiac Network



Deep Dive - Cardiac  
Services 151222 FIN

## Appendix 2 – Participants in review

Mark Dickinson, Chair, Essential Services Group, NHS Wales Health Collaborative

Jan Davies, Chair, Essential Services Group, Welsh Government

Steve Davies, Wales Cardiac Network Manager

Cath Bridges, Head of Healthcare Quality and Development, Welsh Government

Nicola Davies, Planning and Delivery lead, Welsh Government

Jon Goodfellow, National Clinical Lead, Wales Cardiac Network

Caroline Lewis, Policy lead, Cardiac, Welsh Government

Julie McCabe, Assistant Director, Delivery Unit

Karen Preece, Director of Planning, WHSSC

Dee Ripley, Deputy Chief Scientific Officer, Welsh Government

Rhian Williams, Head of Patient Experience, Welsh Government

Tom Vedmore, Secretariat, Essential Services Group, Welsh Government

Holly Williams, Secretariat, Essential Services Group, Welsh Government

# Agenda Item 9.7

CYPE(6)-07-21 – Paper to note 7

**Y Pwyllgor Plant, Pobl Ifanc  
ac Addysg**

**Children, Young People  
and Education Committee**

**Senedd Cymru**

Bae Caerdydd, Caerdydd, CF99 1SN  
SeneddPlant@enedd.cymru  
senedd.cymru/SeneddPlant  
0300 200 6565

**Welsh Parliament**

Cardiff Bay, Cardiff, CF99 1SN  
SeneddChildren@senedd.wales  
senedd.wales/SeneddChildren  
0300 200 6565

Jeremy Miles MS

Minister for Education and Welsh Language

Dyddiad | Date 24 November 2021

Pwnc | Subject: Tertiary education and Research (Wales) Bill

Dear Jeremy,

Thank you for giving evidence to the Committee on 18 November on the Bill. As I noted during the session, there were some outstanding questions which we agreed to write to you on. To help inform our scrutiny, we would appreciate a response by Monday 13 December.

## Policy objectives and need for legislation

1. What is Welsh Government's evidence base for believing the Bill will realise Welsh Government's intent? Your cost-benefit analysis by Alma Economics identified gaps in the evidence-base and appears to have had some misunderstandings about the nature of the proposed reforms. For example it indicates that the Commission will bring together the sector under one regulatory umbrella, and cites that this will eliminate confusion around overlapping roles of a number of organisations, it then lists a number of organisations which are outside devolved competence, such as the UK Government Department for Education and Skills; and the QAA.
2. No clear rationale is present in the Explanatory Memorandum on why some options were dropped early on in the process. This makes it very difficult to understanding Welsh Government's decision-making process for this new Bill. Can you explain why there isn't more information on this available to us?

## Commencement and implementation challenges

3. How will the regulatory and funding transition be managed considering providers will need to apply for registration and prepare those applications?

## Welsh Ministers influence over the Commissioner and providers

4. What is the rationale for not giving the Commission powers to establish its own coherent funding framework, but to instead set eligibility for funding based on Welsh Minister's regulations?
5. HEFCW tell us that: "The legislation enables Government to fund research around the Commission through retaining powers under the Science and Technology Act 1965 and the Higher Education Act 2004. The logic for this is unclear". Can you set out the logic for this?

## Barriers to lifelong learning and collaboration

6. What is the rationale for not expecting all providers to meet the equality of opportunity on-going condition for registration? Which providers will be expected to meet this condition?

## Quality assurance and Estyn

7. To what extent have you addressed HEFCW's concerns regarding the consideration of quality arrangements for transnational education, validation arrangements and degree apprenticeships?
8. Post legislative scrutiny of the HE Act found that the quality assurance system for further education providers that delivered higher education meant subjecting institutions to both QAA and Estyn requirements. The Bill appears to continue this situation – can you set out the rationale for this.

## Apprenticeships and sixth forms

9. During the session, you agreed to respond in writing to this question: Do main apprenticeship contractors currently need consent from Welsh Government to pass on funding to sub-contractors, and if not, what's the rationale for changing this in the Bill to require consent?

## Learner Voice

10. How do you envisage Learner Protection Plans will support students who wish to transfer courses when there are often systemic barriers to doing so, such as recognising advanced standing and credit transfer?
11. To what extent will there be consistency of expectation across all tertiary education providers regarding the level of commitment and content of their Learner Protection Plan?

During the session, you also agreed to share with us the legislation implementation plan. Can you confirm when you will be able to share this with us? You also agreed to provide the Committee with a note on how you envisage the relationship between employers, awarding bodies, the Commission and Qualifications Wales will improve through the Bill.

I look forward to receiving your response.

Yours sincerely,

A handwritten signature in black ink that reads "Jayne Bryant". The signature is written in a cursive, flowing style.

Jayne Bryant MS

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

