

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

TER 15

Ymateb gan: NPTC Grŵp Colegau

Response from: NPTC Group of Colleges

Introduction:

The NPTC Group of Colleges came into existence on 1 August 2013 as a result of the merger between Neath Port Talbot College, which was originally two separate colleges until 1999, Afan College and Neath College; and Coleg Powys, which was originally three colleges until 1989, Montgomery College, Radnorshire College and College Howell Harri. The Group covers over one-third of the land mass of Wales. It operates on four community colleges: Afan College, Brecon Beacons College, Neath College and Newtown College. The Group also has smaller centres including: Pontardawe College; Maesteg Construction Centre; Swansea Construction Centre; and a state-of-the-art Sports Academy in Llandarcy Park.

NPTC Group of Colleges is a post-compulsory education provider delivering a vast amount of vocational education and training, including general education AS/A level and GCSE qualifications within the Sixth Form Academy. The Group delivers a wide range of bespoke training for industry and business all over Wales and England via the Business Development Unit. The College also leads Skills Academy Wales, a partnership of eight very experienced training providers who deliver between them a substantial work-based learning contract.

NPTC Group of Colleges is in broad support of the proposed Bill. In submitting our response to the committee, we are seeking to strengthen the provisions within the Bill and ensure that there is parity between any requirements placed on Further Education and that of Sixth Forms and higher education.

Key Issues:

Part 2: Registration and regulation of tertiary education providers

It is acknowledged that the Commission will have a number of means to oversee tertiary education providers including maintaining a registry.

Further clarity is requested in relation to Clause 25 (1)(b) which states the necessity of "effectiveness of the governance" of the institution, as a condition of registration approval. The implementation of this aspect does pose several questions including whether an over-arching code of governance will be produced and how this will differ from current guidance.

The composition and constitutions of various Boards of the institutions will vary greatly amongst providers e.g. maximum terms of office for trustees.

A consolidated governance code, will require significant time and expertise to ensure this is applied across all institutions. It will also require the Commission to have the requisite skills to adjudicate on what is effective governance.

Clause 43 - also requires further clarity in relation to who will adjudicate appeals by the Governing Board to review registration decisions.

Part 2: Intervention in the conduct of further education institutions

Further clarity is required in relation to Clauses 67 & 68 as it could be interpreted as a repeal to the freedoms and requirements afforded by the Further and Higher Education (Governance and Information) (Wales) Act 2014. Clarity will be needed as to how this impacts the NPISH status of FE.

Further explanation is also required regarding how this interacts alongside the role of WG as Principal Regulator of the FE institutions as exempt charities. A review of the constitution of the Institutions will be needed if this clause is enacted.

Despite the creation of the new regulator, the Bill assigns considerable power back to WG. This could have considerable impact on how CTER and individual institutions regulate themselves and make decisions. The stipulations around sector autonomy and academic freedom are noted in the guidance, however these stipulations are not referred to in the Bill itself and so will not be legally binding.

Part 2: Quality Assurance and Improving Quality Arrangements

The production of a quality assurance framework and a consistent approach to quality across the tertiary education sector is welcomed. It is hoped that the agreement of an annual inspection plan, in conjunction with the designated body, will ensure a joined-up approach to quality assurance.

The Bill clearly identifies a distinction between the quality assurance processes within further education and higher education. Currently quality inspection/assurance arrangements and processes differ significantly between Estyn and that of the QAA. With the former including many lesson observations during the inspection process, where there are none in the latter. Similarly, even within the current inspection cycle, there is little reporting of the performance of post-16 provision included in School Sixth Forms. There is a need to ensure greater parity between the quality assurance processes of both FE, School Sixth Forms and HE and it is requested that this aspect is clarified in the Bill.

Part 6: Information Advice and Guidance & Competition Assessment

Under the Commission a duty will be placed on providers to monitor and share data across the sector. This is welcomed especially in relation to post-16 providers receiving transition information and examination attainment consistently and in a timely manner.

In relation to aspects of 'Competition Assessment' contained within the Bill, it is anticipated that this aspect would need to be carefully managed by the Commission. It is requested that there is a transparent process, with clear criteria and full explanations given, should a decision be made to 'ultimately refuse some of the funding provided to support delivery of a particular course'.

WBL: Apprenticeships

The establishment of a new Wales specific apprenticeship system that is flexible and responsive to learner and employer needs supporting the Welsh economy is very welcome. The requirement for Apprenticeship Frameworks to be flexible to meet new and emerging technologies is also welcomed.

However, it must be recognised that the development of new Frameworks needs employer input that is representative of the whole employer network,

not just medium to large organisations. The Wales Apprenticeship Advisory Board must ensure that evidence provided is a true reflection of industry needs and not just a representation of those employers who were able to engage in the completion of RLSP surveys.

It is not clear if there is a charge to the new registration and whether the requirement to procure for the work-based learning contracts will continue. It is requested that due consideration and further clarity are given to these points within the implementation of the Bill.

Part 7: Governance of the Commission

In relation to the governance of the Commission, Option 2 (the preferred option) would ensure Board members are selected based upon their skills, knowledge and experience, rather than to represent a particular sector. However, while, board members should not represent sectors, the required skills matrix must include skills and knowledge from different sectors.

It is also imperative that the student voice features strongly within governance. We would disagree with the position that students should be observers rather than Board members. The learners' viewpoint is needed, and it is surprising that the preferred option, would argue against this. This College disagrees with this position as NPTC Group of Colleges has found that the learner voice has improved strategic decision making.

Furthermore option 2 doesn't appear to feature the input of an audit committee. It is recommended that this is reconsidered to ensure effective independent scrutiny can be maintained.

Financial Considerations

There are too many vagaries and unknowns to fully appreciate the financial impact, but increased regulations and compliance regimes will inevitably lead to additional costs to administer them.

The Bill proposes both Ministerial and Commission intervention across several areas with the understanding that the Commission is able to respond swiftly to changes in priority. While this is to be applauded, there are financial implications to this; within the tertiary education sector we have nationally negotiated academic employment contracts that are not conducive to non-

academic year patterns of working; most providers have many buildings/facilities that are not cheaply transformed; the awarding bodies are slow to embrace change and require much staff time to progress.

Linked to this, the Bill gives Welsh Ministers the ability to fund unregistered private providers if there is a specific skill shortage or national need. With recent troubling news articles regarding the awarding of contracts under special conditions by central government during the pandemic fresh in mind, it would appear that this ability could be open to abuse. Moreover, it disadvantages registered providers, who will incur costs in maintaining eligibility, while a private provider can be 'helicoptered' in and can profit from public funds with an untested quality profile. This could also undermine the credibility of the teaching/lecturing profession. If specialist provision is required, then this should be done in conjunction with registered providers, who can oversee the work of private subcontractors, if necessary, to ensure there is consistency of quality of delivery and grade profiles, across all delivery at a given level.

Regarding the mandatory initial and ongoing conditions of registration, financial sustainability is rightly included. However, assurance must be provided that those organisations who are required to operate with local government pension scheme members (but have no say over the scheme administration / investment decisions), will not be penalized for the non-cash accounting entries and the potential scheme deficits required by FRS102.

The right of the Ministers to prescribe additional initial and/or ongoing mandatory conditions of registration, as described, is vague. While a right may be required, there needs to be defined circumstances under which this would happen and there must be a process of genuine consultation and approval. Similarly with the specification of 'Fee limits' by the Ministers; these will also need to be strictly controlled and implemented, in agreement with the sector to ensure that courses remain financially viable. It is presumed that this is only for courses funded by or through WG and cannot impact upon private commercial provision undertaken by registered providers.

The Commission will clearly have the right to make the best use of its resources, but the identification of provision as 'disproportionate' expenditure needs to be more clearly defined, to protect providers from unexpected, summary cuts in funding.

The Bill doesn't address a key funding issue in respect of Welsh language provision. The current system for Further Education 'rewards' providers in areas where there is already demand for provision in Welsh and staff who are able to deliver. This will not significantly increase delivery in Welsh, the funding needs to be targeted to support the providers in areas of low concentration of Welsh speakers, to develop skills, resources, and demand.

The Bill also fails to address the issue to complete parity between the treatment of the different types of post-16 providers. One example of this is irrecoverable VAT. Colleges suffer from the impacts of this while school 6th forms don't. While the commission cannot change UK laws on VAT, there should be consideration to uplifting FE college funding, to reflect the increased cost of course related materials and facility operating costs.

Integrated Impact Assessments

It is acknowledged that specific impact assessments have been undertaken which cover the Bill. However, upon reviewing the Equality Impact Assessment here is very little reference to certain protected characteristics and no analysis of data to support any conclusions. In addition to this there appears to be a lack of focus on mental health and wellbeing, which are areas that need to be heavily prioritized moving forward.

Conclusion

NPTC Group of Colleges welcomes the introduction of the Bill. The development of the Commission for Tertiary Education and Research to deliver a tertiary education system, centered around the learner and delivering excellence is ambitious. The concept of cross-sector thinking, synergy and collaboration is needed.

While this ambition is welcomed, NPTC Group of Colleges is concerned about the short timescale allocated to consultation, on the general principles of the Bill given its lengthy and complex nature and associated documentation.

It is anticipated that implementation will require significant transition and openness to revision where appropriate.



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Rydym yn croesawu gohebiaeth yn Gymraeg a byddwn yn ymateb yn Gymraeg heb oedi.
We welcome correspondence in Welsh and we will respond to it in Welsh without delay.

