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Llywodraeth Cymru
Welsh Government

Jayne Bryant MS
Chair
Children, Young People and Education Committee
Senedd Cymru

29 March 2022

Dear Jayne,

Tertiary Education and Research (Wales) Bill

I would like to thank you for your cogent contributions to the general principles debate of the Tertiary Education and Research (Wales) Bill (“the Bill”) following publication of your committee’s Stage 1 report on the Bill on 4 March 2022.

Further to my letter of 14 March, I have set out responses to the remaining recommendations of the Committee in the Annex to this letter. It has not been possible for me to accept all of the committee’s recommendations in full, however, I have carried the principles and underpinning reasoning through as far as possible.

I hope this letter is helpful in setting out responses to the Committee’s Report. I will also be writing to the Chairs of the Legislation, Justice and Constitution Committee and the Finance Committee with respect to their Stage 1 Reports, and will copy the letters to all three Committee Chairs.

I look forward to continuing to work with Members as the Bill progresses through the Senedd process.

Yours sincerely,

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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.

Recommendation 1. That the Senedd agrees the general principles of the Tertiary Education and Research (Wales) Bill.

I **note and welcome this recommendation** and the support of the Committee for the general principles of the Bill. I would like to thank each member of the Committee for their considered and thorough scrutiny of the Bill.

Recommendation 2. That the Explanatory Memorandum is updated to list the policy objectives for the Bill and how the Bill's provisions seeks to meet them.

I **note this recommendation** and will ensure consideration is given to how best the Explanatory Memorandum could be expanded, when it is updated after Stage 2, to provide further clarity on this matter.

Recommendation 3. That the Welsh Government sets out clearly to the Committee, the Commission and the wider sector how they define parity of esteem, what delivering on parity of esteem would look like, and how they expect the post 16 sector to achieve this.

The reforms brought about by the Bill will enable parity of esteem between vocational and academic pathways to be advanced in a number of ways:

- Firstly, by bringing universities, colleges, and work-based training providers together under a single funder and regulator, it ensures that the main providers of vocational and academic pathways are considered under a single policy umbrella. By facilitating collaboration between schools, colleges, universities and training providers, CTER will discourage competitive behaviour which can create perceived imbalances of esteem between different qualification pathways.
- Secondly, the Commission will have a strategic duty to promote "a variety of levels of study and types of qualification", "a variety of educational settings and modes of study" and "facilitates movements of learners" between different parts of the system. CTER will need to consider equal esteem for all provision and qualification pathways which it funds.
- Thirdly, we intend any changes to the 16-19 curriculum to follow from the Curriculum for Wales reforms by ensuring that students and learners have a wide range of options for progression from 16 onwards in both academic and vocational knowledge, experiences and skills that develop engaged, employable and entrepreneurial citizens.

Recommendation 4. That the Welsh Government publishes a revised Equality Impact Assessment which takes account of the issues raised by the EHRC before Stage 2 proceedings.

I **accept this recommendation** and will publish a revised Equality Impact Assessment.

Recommendation 5. That the Minister provides more information to the Committee and Universities Wales on why they believe the Internal Market Act does not have any implication for this Bill.

I have considered the provisions of the Bill in light of the Internal Market Act and do not consider there to be any implications for this Bill.

Recommendation 6. That the Minister brings forward Amendments to Schedule 1 at Stage 2 to place a requirement on Welsh Ministers that they must have regard to the need to ensure that the Board (as a whole) reflects the breadth of education provision and research, and the diversity of Wales. This should encompass the appointment of all members to the Commission including associate members.

I recognise the intention behind this recommendation, however I do not consider that an amendment to the Bill is necessary. Firstly, as public appointments these will meet the existing protections in relation to equality and diversity and the government's Diversity and Inclusion Strategy for Public Appointments in Wales.

Secondly, Schedule 1 (paragraph 2(2)) provides for a list of skills and experience the Welsh Ministers must have regard to in appointing members of the Board. I am currently considering amendments intended to expand the list of experiences detailed here.

Thirdly, in taking a nation and system-wide approach through the bill and establishing the commission, we are moving away from (the risks of) a silo approach. The approach set out in Schedule 1 reflects this, and is intended to provide for a Board that represents the needs of sector as a whole. Board members are not intended to be appointed as representatives for the traditional individual sectors, institutions or providers. Whilst I recognise the intent underpinning this recommendation, I am concerned that the approach it recommends risks hard-wiring an approach based on individual representatives for each of the traditional sectors.

Recommendation 7. That the Minister brings forward amendments at Stage 2 to increase the worker and learner representation on the Commission, and to make explicit in the Explanatory Memorandum the Government's expectation that the Commission should be seeking to go beyond the minimum set out in the legislation.

I recognise the intention behind this recommendation but I do not accept the need to bring forward an amendment. The Bill provides for minimum membership level in respect of associate members and the option remains to provide for a higher number of such members.

As part of updating the Explanatory Memorandum after Stage 2 I will consider options in respect of setting out expectations in respect of the Commission going beyond the minimum.

Recommendation 8. That the Minister brings forward amendments at Stage 2 to give the learner and worker associate members voting rights on the Commission.

I do not accept this recommendation. The inclusion of advisory board members ('associate members') of learners, staff member trade unions and members of the wider tertiary education workforce trade unions, will enable those most affected by the establishment of the Commission to have an opportunity to influence and advise its Board.

A key benefit of associate members not having voting rights on the Commission is the avoidance of a conflict of interest through the separation between the activities required of those individuals as a member of the Commission and the wider activities of the trade union, NUS or learner representative body itself. There is potential for conflict of interest should the advisory board members have a vote.

Whilst unable to formally vote, their valuable role will be to influence and advise the board representing the views of the workforce and learners. In order to ensure a balance of skills and representation within the Board's membership at present associate board members are in addition to the Board's minimum number.

Recommendation 9. That the Welsh Government ensures that the appointment process for the Chair of the Research and Innovation Committee includes a pre-appointment process by the relevant Senedd Committee.

I note this recommendation and will consider how this recommendation can best be addressed. I do not consider that any provision needs to be made on the face of the Bill to provide for this matter.

Recommendation 10. That the Minister brings forward amendments at Stage 2 to include a strategic duty to promote collaboration and competitiveness in research and innovation.

I agree with this recommendation and am already exploring options for bringing forward an amendment in this areas following consideration of the evidence provided by stakeholders.

Recommendation 11. That the Minister brings forward amendments at Stage 2 to include researchers within section 5(2) regarding the capability of the tertiary education and research workforce.

I note the recommendation and am considering this matter further.

Recommendation 12. That the Minister brings forward amendments at Stage 2 to add a general duty to protection the institutional autonomy of tertiary education providers.

I accept this recommendation. Whilst the Bill already contains a number of provisions which make clear the already well established autonomy of tertiary education providers in their governance and management, I note the views of stakeholders and the Committee and am already exploring options for bringing forward an amendment in this area.

Recommendation 13. That the Minister brings forward amendments at Stage 2 to expand academic freedom beyond higher education provision to include research and innovation, and, to suitably future proof the legislation, provision in all other tertiary education settings.

I do not accept this recommendation. The protections described as 'academic freedom' under this section relate to specific matters including the freedom of providers to determine the content, teaching, assessment of and admissions to higher education courses, and the appointment of academic staff. The latter would incorporate staff appointed for the purposes of research and innovation.

However, the other specific provisions are not appropriate to research and innovation or to other forms of tertiary education. For instance, the assessment of many further education courses is not subject to 'academic freedom', because it is determined by qualification awarding bodies, and the content of many further education courses is subject to local curriculum requirements, both of which are inconsistent with section 15(2)(a).

Admissions to further education courses or apprenticeships may sometimes be determined by policy decisions made by government (and in the future the Commission) in respect of funding or progression, which would be inconsistent with section 15(2)(b).

In addition, teaching staff in the further education sector are regulated by the Education Workforce Council, which is inconsistent with section 15(2)(c).

Recommendation 14. That the Minister brings forward amendments at Stage 2 to ensure that academic freedom covers individual academics, both in their teaching and research.

I recognise the intention behind this recommendation but not consider an amendment is necessary. Section 16 provides for the academic freedom of individual academics at tertiary education providers that provide higher education to question and test received wisdom and put forward controversial ideas in whatever activity they might undertake.

Recommendation 15. That the Minister brings forward amendments at Stage 2 to strengthen the duty on the Commission to promote Welsh medium tertiary education to reflect the ambition of Cymraeg 2050 and the Commission's important role in helping to deliver on one million Welsh speakers. The duty on the Commission must be stronger and go further than "meeting reasonable demand".

I welcome this recommendation and in light of stakeholder evidence, as well as the Committee's report, am already considering options for bringing forward an amendment to this strategic duty, subject to the identification of no unintended consequences.

Recommendation 16. That the Minister brings forward amendments at Stage 2 so that the strategic duty to promote tertiary education through the medium of Welsh is broadened to include the promotion of research through the Welsh medium.

I accept this recommendation. In light of stakeholder evidence, as well as the Committee's report, I am already exploring options for an amendment.

Recommendation 17. That the Minister brings forward amendments at Stage 2 to set out how the Commission will work collaboratively and strategically with Coleg Cymraeg on the planning and delivery of Welsh medium provision, to avoid the potential for duplication.

I accept this recommendation and I am, in light of stakeholder evidence, as well as the Committee's report, already exploring options for an amendment.

Recommendation 18. That the Minister brings forward amendments at Stage 2 to add a strategic duty for the Commission to promote the learner voice.

I accept this recommendation and am already, in light of stakeholder evidence and the Committee's report, considering options for ensuring the importance of learner views is captured within the strategic duties.

Recommendation 19. That the Minister brings forward amendments at Stage 2 to add a social partnership strategic duty for the Commission.

I recognise, and agree with, the intention behind the Committee's recommendation, and will explore whether an appropriate amendment placing a duty on the Commission in respect of social partnership can be brought forward taking full account of the proposals for the forthcoming Social Partnership Bill.

Recommendation 20. That the Minister brings forward amendments at Stage 2 to amend section 13 of the Bill to ensure that the Commission's strategic plan cannot be changed without the agreement of the Commission.

I note this recommendation and will consider how this recommendation can best be addressed.

Recommendation 21. That the Minister brings forward amendments at Stage 2 to amend section 19 of the Bill to ensure that any general directions issued by Welsh Ministers are made by Order subject to the negative procedure.

I do not accept this recommendation. All powers within the Bill have been subject to thorough consideration in respect of the manner in which the power is to be exercised and the appropriate Senedd procedure. In doing so the nature of any existing provision, from which the power has been derived, has been considered, however the historic approach to the original power has not automatically been carried forward if doing so was not necessarily considered appropriate.

The power in section 19 enables the giving of directions to the Commission by the Welsh Ministers in relation to specific matters, as set out in section 19. As such, these directions relate to a single body and specific matters and do not provide for general law-making of a wider nature.

The requirements set out in the Bill in respect of the requirement on the Welsh Ministers to publish the direction, report to the Senedd that a direction has been given and lay of copy before the Senedd are considered sufficient to ensure the accessibility and transparency of directions given to the Commission under section 19.

Recommendation 22. That the Minister bring forward amendments at Stage 2 to provide a more consistent and wide ranging approach to the equal opportunity and widening access duties for all parts of the post-16 sector, and not just those providers who have to register.

I accept this recommendation and am exploring options for bringing forward amendments in relation to equal opportunity.

Recommendation 24. That the Minister provides absolute clarity as to whether a national body for adult community learning will be established.

My intention is to move away from a National Body for Adult Learning in Wales. All adult learning providers funded by Welsh Government, including the Chief Executive and Chair of Adult Learning Wales have been notified of my decision.

All recognise that policy considerations have moved forward since a national body was considered in 2019 with the introduction of the Tertiary Education and Research Bill, which will establish a new Commission for Tertiary Education and Research.

I have approved £2m of funding, and a terms of reference for an external group to progress the review of adult education, and to support the development of a 2 year programme of national co-ordination for adult learning. The inaugural meeting is being held 15th March, and will be Chaired by Sue Pember, from Wales Centre for Public Policy, author of the Welsh Lifelong Learning System report published in December last year. The role of chair will be rotated thereafter to ensure inclusivity across the sector.

I am pleased that key stakeholders including Adult Learning Wales, the Adult Learning Partnership Network, FE, HE and the Learning and Work Institute, among others, are coming together collaboratively to embrace this direction.

Recommendation 25. That the Minister tables amendments at Stage 2 to put a balanced funding duty on the face of the Bill.

I note this recommendation, whilst I consider that the amendment I am exploring in response to recommendation 26 will provide the reassurances being sought by this recommendation but will consider this matter further.

Recommendation 26. That the Minister tables amendments at Stage 2 to place duties on the Commission to publish the details of at least its funding allocations, funding methodologies, funding formulas, and financial outturns, as well as a duty to be transparent in its funding decisions.

I accept this recommendation and am exploring options for bringing forward an amendment.

Recommendation 27. That amendments are tabled at Stage 2 to enable the Commission to provide research and innovation fund to a limited range of non-registered bodies.

I note the recommendation and am considering this matter further.

Recommendation 28. That the Minister brings forward amendments at Stage 2 to make a clear distinction between Welsh Ministers powers to directly fund tertiary education providers to deliver employability provision and the Commission's broader funding powers.

I do not accept this recommendation. Whilst it is essential that any use of the concurrent funding powers by the Welsh Ministers is not counter to the strategic position of the Commission in respect of funding decisions, it is essential that undue restrictions are not

placed on the funding powers if the Welsh Minister due to the risk of unintended consequences.

Simply restricting the power of the Welsh Ministers to provide funding by reference to employability provision risks creating potential gaps in those funding powers that could hamper their ability to fund future employability provision. Funding in respect of employability impacts a wide range of employment sectors including for example the health and social care sector. Hard restrictions or no funding powers for the Welsh Government could affect future funding streams for employability provision, and would risk putting learners and employment sectors in a worse position.

Recommendation 29. That the Minister brings forward amendments at Stage 2 to provide additional safeguards to ensure that any plans brought forward by the Commission for changes to sixth form provision does not have a detrimental impact on Welsh medium provision or provision within a religious school setting.

I note the intention behind recommendation but do not consider further amendments to the Bill to be necessary to ensure these protections. The overarching strategic duty placed on the Commission to promote tertiary education through the medium of Welsh, and the requirement to encourage learners to study through the medium of Welsh and to take all reasonable steps to ensure that there is sufficient tertiary education provided in Wales through the medium of Welsh will apply to the Commission in discharging its functions across the post-16 sector, including any considerations in respect of maintained school sixth form provision.

Additionally, the School Standards and Organisation (Wales) Act 2013 and the statutory School Organisation Code also includes relevant protections and safeguards to ensure that Welsh language provision and provision provided by faith schools is duly considered in any proposals brought forward for re-organisation.

The provisions in the Bill amend the current Chapters 2 and 3 of Part 3 of the 2013 Act and insert a new chapter 3A which enables the Commission to take a more strategic approach and offer a wider perspective to ensure school sixth form provision in a particular area or region is sensible and coherent – this includes ensuring that appropriate provision is available to meet the demand and planned demand for Welsh language provision.

The amendments to the 2013 Act relate to those proposals which affect sixth form education, that is:

- proposals to establish or discontinue a school providing education suitable only to the requirements of persons over compulsory school age, or
- proposals that make a regulated alteration to a school, the effect of which would be that the provision of education suitable to the requirements of persons over compulsory school age at the school increases or decreases.

The Commission will be able to direct a local authority or the governing body of a foundation or voluntary school to make sixth form proposals under section 63A. Section 54 of the 2013 Act will be amended to enable the Commission, in the circumstances set out in section 54(1), to refer proposals to Welsh Ministers if they affect sixth form education.

Under the new section 63C as inserted into the 2013 Act by the Bill, the Commission may make its own proposals in accordance with a direction. In these circumstances should any

objections be raised the Commission's proposals will be subject to the arrangements for the approval by Welsh Ministers as defined in section 63F under the 2013 Act.

In addition to these safeguards and protections, section 63C (3) of the 2013 Act will require the Commission to obtain the consent of Welsh Ministers prior to making any proposal to open or close a voluntary or foundation school's sixth form provision.

Recommendation 30. That the Minister brings forward amendments at Stage 2 to delete section 105 and sets out a different approach to managing due diligence when funding is passed onto third parties.

I agree with the intention behind the Committee's recommendation and am exploring options for bringing forward an amendment to section 105 to ensure arrangements intended to protect public money do not result in unnecessary additional bureaucracy or complexity.

Recommendation 31. That the Welsh Government commissions a review of apprenticeship framework development which considers the wider context beyond the Commission.

We already have in place robust arrangements for developing apprenticeship frameworks which are founded on employer and broader stakeholder engagement.

Three years ago we introduced new arrangements to improve the development process for framework developers, centred on stakeholder consultation including employers, sector bodies, training providers and awarding bodies. Each of these parties feeds into a stakeholder evidence report and which in turn supports the development of a draft framework, prior to Welsh Government issuing the framework.

These are robust and transparent arrangements, which ensure all new and revised frameworks are developed in consultation with key stakeholders and support sectors critical to the Welsh economy. The Commission will need to consider how it wishes to continue framework development and stakeholder consultation.

Recommendation 32. That the Minister brings forward amendments at Stage 2 to ensure that learner protection plans must take account of student / learner welfare and ensuring students can continue to study through the medium of Welsh.

I accept this recommendation and will consider whether this recommendation would be best achieved through an amendment to the Bill or statutory guidance to the Commission.

Recommendation 33. That the Minister brings forward amendments at Stage 2 to section 126 so that Welsh Ministers can only request information from the Commission when it directly relates to Welsh Ministers' functions.

I recognise the intention behind the Committee's recommendation, however, I cannot accept this recommendation. The intention is for the Commission to be a data hub and to become expert in tertiary education enabling the Commission to work alongside the tertiary education providers. The Welsh Ministers will rely on the Commission to perform that role, as they do now with HEFCW. However, Welsh Ministers will be responsible to the Senedd for the spending of public money provided to the Commission and will, from time to time, require access to information on the sector.

Section 69(1)(a) of the Further and Higher Education Act 1992 (FHEA) currently requires HEFCW to provide the Welsh Ministers with such information or advice relating to the provision for their area of higher education as they may from time to time require. The drafting of section 126 is intended to operate in exactly the same way as it does currently, but with a broader scope of providers.

Recommendation 34. That the Minister brings forward amendments at Stage 2 to explicitly require the consent of, or to act on the request of a governing body of a higher education corporation to being dissolved.

I accept this recommendation and am, in light of evidence to committee, as well as the Committee's report already exploring options for an amendment

Recommendation 35. That the Minister brings forward an amendment at Stage 2 to broaden the definition to include adult community learning, in line with the definition in the Explanatory Notes

I do not consider an amendment to the definition to be necessary. Section 139 of the Bill defines tertiary education by reference to higher education, further education and training, which are each also defined in that section. I am content the adult community learning is captured within the definition of tertiary education and that no amendments are required. The current references within the Explanatory Notes to community based adult learning are intended to provide explanation and clarity in respect of the provisions to which the notes refer.

Recommendation 36. That the Welsh Government publish draft regulations on:

- **Categories of registration (section 23(2))**
- **Conditions of registration (sections 25(3); 31(1); 32)**
- **Designation of other providers of tertiary education (section 81(4))**
- **Securing and funding tertiary education (section 91(3); 91(7)(b))**
- **Apprenticeships (section 107(4))**
- **Open University (section 140(1))**

before the Stage 2 proceedings.

I cannot accept this recommendation. In order to ensure stakeholders are afforded ample opportunities to inform the development of the necessary regulations, and to ensure that those regulations reflect any refinement to the Bill following consideration of the Committee's recommendations, I do not anticipate being in a position to share draft regulations with the Committee whilst the Bill is undergoing scrutiny.

Recommendation 37. That the Minister provides greater clarity either as part of the Stage 1 debate or in writing before Stage 2 commences on how the Bill will align with the 2018 Act and will support appropriate provision and support for learners/students with additional learning needs.

It is important to recognise the distinction between the provisions and duties contained in the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the 2018 Act) and the statutory requirements to provide strategic oversight, funding and regulation placed on the Commission while acknowledging the interdependencies and the different roles and responsibilities of those organisations involved.

Perhaps it would be helpful if I first explain the basis for the provisions contained in the Bill relating to ALN and how the 2018 Act, together with provisions in the Bill, supports learners with ALN.

The 2018 Act makes provision for supporting children with additional learning needs (ALN) and young people with ALN in, or wanting to pursue, post 16 education or training. The statutory duties to support individual learners with ALN are detailed in the 2018 Act and the subordinate legislation made under it. The 2018 Act also places more general duties on particular persons to support the effective operation of the ALN system. For example, some of those more general duties are aimed at improving and ensuring the capability of the workforce to deliver additional learning provision, including such provision in Welsh.

Those more general duties include ones on the Welsh Ministers when exercising particular functions under the Learning and Skills Act 2000 related to the provision of post-16 education and training. For example, the Welsh Ministers, in securing the provision of such facilities, must take account of the education and training required to ensure that there are employees and potential employees available who can deliver additional learning provision in Welsh (sections 31 and 32 of the Learning and Skills Act 2000 as amended by section 50 of the 2018 Act).

The approach in the Bill in respect of ALN matters is based upon the provisions of the 2018 Act. The Bill places similar duties about matters affecting the ALN system on the Commission when it is exercising functions related to the provision of further education and training. So, taking the example in the last paragraph, section 93 of the Bill requires the Commission to have regard to that matter, and other specific matters related to ALN, when discharging its duties in sections 90 to 92 to secure the provision of facilities for further education and training.

Similarly, section 99 of the Bill, like the duty on the Welsh Ministers under section 41 of the Learning and Skills Act 2000 as amended by the 2018 Act, requires the Commission, when exercising those functions to secure facilities for further education and training and particular related functions, to have regard to the needs of persons with ALN and to the desirability of there being facilities that would assist in the discharge of duties under the 2018 Act.

So the duties on the Commission related to ALN generally reflect those on the Welsh Ministers in this area as a result of the 2018 Act. There are also a few additional provisions. For example, the duty in section 99 to have regard to those matters related to ALN also applies to the Commission's function of providing financial support for the provision of information, advice or guidance about education or training. This is because those ALN matters could be relevant to the exercise of that function. Another example is the Bill's amendment to section 65 of the 2018 Act to require the Commission and the Welsh Ministers to respond to a local authority's request for information or other help for the purpose of exercising its ALN functions. For example, the Commission or Welsh Ministers may hold additional information which would help a local authority to exercise its ALN functions. The Commission and Welsh Ministers will also be required to have regard to relevant guidance in the ALN Code when dealing with any such request.

I will turn now to how, taken together, the 2018 Act and the Bill support provision for learners with ALN.

The 2018 Act places duties on the governing bodies of further education institutions in relation to meeting the needs of their enrolled students who have ALN.¹ In addition, local authorities have duties towards young people with ALN. This may entail a local authority maintaining an individual development plan for a young person enrolled at a further education institution; in some cases it may involve the local authority securing and funding specialist ALN provision at other institutions for individual learners aged 16 – 25 where this is necessary to meet the learners' reasonable needs for education or training.² Pending the implementation of these provisions of the 2018 Act, the Welsh Ministers will retain responsibility for securing such specialist placements for individual learners.

Under the Bill, the Commission (instead of the Welsh Ministers) will be responsible for securing proper and reasonable facilities for further education and training (which includes ALN provision), having had regard to various matters, including some which are relevant to ALN learners and issues. The intention is that the Commission, in deciding how to exercise these and related functions, takes account of ALN considerations and in turn makes decisions which help to support the effective operation of the ALN system.

One of the matters to which regard must be had by the Commission when securing the provision of further education and training, is the facilities that may reasonably be secured by other persons (section 93(1)(f)). Since local authorities will have ultimate responsibility for securing specialist provision for young people with ALN where that is necessary (as explained above), section 93(1)(f) expressly states that the provision that may reasonably be secured by others, includes provision secured by local authorities under the 2018 Act.

The detailed arrangements for implementing the ALN reforms for post-16 are currently being finalised. This includes the transfer of responsibility for securing post-16 specialist provision for learners with complex needs to Local Authorities. To provide clarity and transparency of approach it is important that the implementation of the post-16 aspects of the 2018 Act and the implementation of the Bill provisions continue to be developed in a joined up and co-ordinated way.

¹ There are also similar duties on the governing bodies of maintained schools about meeting the needs of their registered pupils (including any who are over compulsory school age) who have ALN.

² See section 14 of the 2018 Act and the Additional Learning Needs (Wales) Regulations 2021, regulations 6 – 10.