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Llywodraeth Cymru
Welsh Government

All Members of the Senedd
Senedd Cymru

4 May 2022

Dear Member of the Senedd

Tertiary Education and Research (Wales) Bill - Government Amendments

I enclose details of the Government amendments tabled to the Tertiary Education and Research (Wales) Bill, together with an explanation of their purpose and effect.

I intend to bring forward further amendments at Stage 3 in response to the recommendations of the Children, Young People and Education Committee, as set out in their report published on 4 March, including:

- 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;
- 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;
- 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.

Given the significance of the strategic duties, and the constructive recommendations of the Children, Young People and Education Committee in respect of how these duties could be further refined, I wished to set out the full suite of duties, as they would appear after the application of the amendments I have today tabled. This information can be found at the annex to this letter

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.

Commission for Tertiary Education and Research Strategic Duties

Promoting life-long learning

The Commission must promote tertiary education for the people of Wales that—

- (a) provides opportunities for people to participate in tertiary education throughout their lives from the age of 16;
- (b) includes a variety of levels of study and types of qualification;
- (c) includes a variety of educational settings and modes of study;
- (d) is organised coherently to facilitate movement of learners through different stages of tertiary education and into employment or business;
- (e) otherwise meets the different requirements of those who may wish to undertake tertiary education.

Promoting equality of opportunity

(1) The Commission must promote —

- (a) increased participation in tertiary education provided in Wales by persons who are members of under-represented groups;
- (b) increased participation in the carrying out of research and innovation in Wales by persons who are members of under-represented groups;
- (b) retention of students who are members of under-represented groups to the end of courses of tertiary education provided in Wales;
- (c) reduction of any gaps in attainment in tertiary education provided in Wales between different groups of students where the differences arise from social, cultural, economic or organisational factors;
- (d) the provision of support for students finishing courses of tertiary education provided in Wales who are members of under-represented groups to continue their tertiary education, find employment or start a business.

(2) In this section, “under-represented groups” are:

- (a) in relation to tertiary education groups that are under-represented in tertiary education provided in Wales as a result of social, cultural, economic or organisational factors;
- (b) in relation to research and innovation, groups that are under-represented in the carrying out of research and innovation in Wales as a result of social, cultural, economic or organisational factors.

Encouraging participation in tertiary education

The Commission must—

- (a) encourage individuals who are ordinarily resident in Wales to participate in tertiary education, and
- (b) encourage employers in Wales to participate in the provision of tertiary education.

Promoting continuous improvement in tertiary education

- (1) The Commission must promote continuous improvement in the quality of tertiary education in Wales
- (2) In discharging this duty, the Commission must have regard (among other things) to—
 - (a) the importance of ensuring that members of the tertiary education workforce are capable of providing tertiary education of a high quality;
 - (b) the reasonable requirements of members of the tertiary education workforce for continuous professional development.
 - (c) the importance of the views of learners about the quality of the tertiary education they receive.
- (3) In this section, “members of the tertiary education workforce” are—
 - (a) teachers of persons receiving tertiary education,
 - (b) persons who provide support to such teachers, and
 - (c) persons who provide support to learners to participate in tertiary education.

Promotion of research and innovation

- (1) The Commission must promote—
 - (a) the carrying out of research and innovation in Wales;
 - (b) continuous improvement in the quality of research and innovation carried out by relevant persons, and the competitiveness of that research and innovation compared to research and innovation carried out by other persons;
 - (c) collaboration on research and innovation, both in Wales and elsewhere in the world, between –
 - (i) relevant persons, and
 - (ii) relevant persons and others;
 - (d) the carrying out by relevant persons of research and innovation and of activities related to research and innovation through the medium of Welsh. ’.
- (2) In subsection (1), “relevant person” means –
 - (a) a provider specified in regulations under section 102(4);
 - (b) a collaborating body within the meaning given by section 102(4) when carrying out research and innovation in respect of which consent given by the Commission under that subsection is in effect.

Promoting collaboration and coherence in tertiary education

The Commission must promote—

- (a) collaboration between providers of tertiary education in Wales, schools in Wales and employers;
- (b) coherence in the provision of tertiary education in Wales and the alignment of such provision with research and innovation priorities.

Contributing to a sustainable and innovative economy

- (1) The Commission must promote tertiary education and research in a way that contributes to the development of a sustainable and innovative economy in Wales.
- (2) In discharging this duty, the Commission must have regard (among other things) to the reasonable requirements of industry, commerce, finance, the professions, other employers and workers.
- (3) For the purpose of subsection (1), a sustainable economy is an economy in which the needs of the present are met without compromising the ability of future generations to meet their own needs.

Promoting tertiary education through the medium of Welsh

- (1) The Commission must—
 - (a) encourage demand for, and participation, in tertiary education provided in Wales through the medium of Welsh;
 - (b) take all reasonable steps to ensure that there is sufficient tertiary education provided in Wales through the medium of Welsh to meet demand;
 - (c) encourage the provision of tertiary education through the medium of Welsh by—
 - (i) registered providers in Wales, and
 - (ii) other persons providing tertiary education funded or otherwise secured by the Commission.
- (2) The Welsh Ministers must designate a person to give relevant advice to the Commission.
- (3) In this section, “relevant advice” is advice given for the purpose of assisting the Commission in the discharge of its duties under subsection (1).
- (4) A person may be designated under subsection (2) only if the Welsh Ministers consider the person is suitable to give advice on the following—
 - (a) the promotion, maintenance, development and planning of tertiary education provided in Wales through the medium of Welsh,
 - (b) the promotion of the acquisition and improvement of Welsh language skills,
 - (c) the maintenance, development, planning and provision of activities to support the acquisition and improvement of Welsh language skills, and
 - (d) collaboration between tertiary education providers in Wales in relation to the matters mentioned in paragraphs (a) to (c).
- (5) The duty in subsection (2) does not apply if -
 - (a) the Welsh Ministers consider there is no person suitable to give advice on the matters mentioned in subsection (4), or
 - (b) there is no person who consents to be designated.
- (6) The Commission must have regard to any relevant advice given to it by a person designated under subsection (2).
- (7) The Commission must publish a designation made by the Welsh Ministers under subsection (2).
- (8) A designation under subsection (2) may be removed.

Promoting a civic mission

- (1) The Commission must promote the pursuit of a civic mission by tertiary education providers in Wales that are institutions within the further education sector and the higher education sector.
- (2) The Commission may exercise its functions under this Act to promote the pursuit of a civic mission by other persons (other than the tertiary education providers mentioned in subsection (1)) who are funded by the Commission under this Act.
- (3) In this section, a “civic mission” means action for the purpose of promoting or improving the economic, social, environmental or cultural well-being of Wales (including action aimed at achieving any of the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2)).
- (4) In subsection (3) and in section 10, “well-being of Wales” includes the well-being of—
 - (a) the whole or any part of Wales;
 - (b) all or any persons resident or present in Wales.

Promoting a global outlook

The Commission must promote—

- (a) opportunities in tertiary education for persons ordinarily resident in Wales to study or teach elsewhere in the world;
- (b) opportunities to study or teach in tertiary education in Wales for persons ordinarily resident outside Wales;
- (c) opportunities for the benefits gained from study and teaching of the kind mentioned in paragraphs (a) and (b) to be used for the economic, social, environmental or cultural well-being of Wales;
- (d) collaboration in tertiary education between providers of tertiary education in Wales and those elsewhere in the world;
- (e) opportunities for persons ordinarily resident in Wales and tertiary education providers in Wales to carry out research and innovation elsewhere in the world.

Promoting collaboration between providers of tertiary education and trade unions

(1) The Commission must promote collaboration between providers of tertiary education in Wales and relevant trade unions.

(2) A trade union is a relevant trade union for the purpose of this section if the Commission considers that collaboration between it and tertiary education providers in Wales is likely to assist in the discharge of the Commission's duties under sections 2 to 10, and it is—

- (a) represented by the body known as Wales TUC Cymru, or
- (b) if not so represented, the Commission considers it represents members of the tertiary education workforce (within the meaning given by section 5(3)) in Wales.