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Llywodraeth Cymru
Welsh Government

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

23 November 2022

Dear Jayne,

Tertiary Education and Research (Wales) Act 2022

During scrutiny of the Tertiary Education and Research (Wales) Act 2022 ('TERA') I committed to provide the Committee with updates on its implementation. This letter is intended to provide an overview of the work completed to date and the steps being taken to refine the implementation plan.

Approach to implementation

An overarching implementation plan has been prepared which my officials are working to refine and finalise and this is progressing at pace. My officials are engaging regularly with HEFCW to ensure the work is informed by their knowledge and expertise.

The PCET Reform Strategy Board, which I chair and of which key stakeholders from across the sector are members, is due to meet in early December. At this meeting I intend to seek the views of members on the overarching plan, utilising expertise to further test and refine the plans.

We are adopting a phased approach to the implementation of TERA and the creation of the Commission, guided by three core principles:

- Ensuring continuity of provision for the sector with no discernible disruption for providers or learners during the establishment of the Commission,

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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.

- Avoiding undue burden on providers during the implementation phase, for example managing and synchronising the volume and timing of engagement and formal consultation,
- The strategic duties, as set out in Part 1 of the Act, to form the core foundation for the Commission's work from the outset, including the preparation and publication of the Welsh Ministers' statement of priorities.

In addition to the implementation activities and subordinate legislation necessary to provide for the Commission's statutory functions there remains a significant body of work to provide for the necessary consequential amendments to existing enactments and transitional and savings provisions to ensure a smooth transition. My officials are currently focusing substantial resource to scoping this work to ensure the implementation plan is fully informed and to minimise the risk of unintended consequences.

It is important to acknowledge that whilst the Welsh Government will take the necessary steps so that the Commission is enabled to exercise its new functions, the delivery of the reforms provided for in TERA will actually be in the hands of the Commission, which will be best placed to work with the sector and identify how best to implement the provisions, and in what order, to deliver the maximum reforms for the sector and learners.

Whilst the implementation of TERA is central to the establishment of the Commission, its creation will require several other critical activities and a programme of work is being taken forward in relation to finance, governance, system & processes, location and organisational design. Within this work, specific focus is currently being given to developing and agreeing the approach to transferring staff from HEFCW and the Welsh Government to the Commission, working closely with the relevant Trade Unions.

High level implementation timeline

The proposed implementation approach will broadly comprise of six steps, which are also set out in a high level timeline at Annex A to this letter:

- a) Autumn 22 – Summer 23: Implementation period
 During this period the focus will predominantly be on the work being undertaken by the CTER implementation programme, in conjunction with HEFCW and key stakeholders, to complete the necessary implementation activities to create the Commission

During this time I also intend, as per section 9 of TERA, to designate a body to provide the Commission with advice for the purpose of supporting it in the discharge of its strategic duty to promote tertiary education through the medium of Welsh.

- b) December 22: Legal entity date
 I will make the first commencement Order under the Act before the end of 2022, creating the Commission as a legal entity. The Commission will have no functions at this time and will not be properly constituted until the minimum number of member appointments are made.

The creation of CTER as a legal entity will enable the Welsh Ministers to appoint the core members of the Commission and the completion of key corporate implementation activities such as the creation of bank accounts etc.

- c) Summer 23: Establishment date
This will be the point at which the Chair, Deputy Chair, CEO and at least four ordinary members have been appointed and the Commission will be legally constituted.
- d) Summer 23 – April 24: Establishment period
During this time the Welsh Ministers and HEFCW will continue to exercise their existing functions, whilst certain appropriate functions of the Commission could be brought into force for the purpose of preparatory work.

My officials and I are currently considering how to ensure the Commission is appropriately supported during this time and that there is no discernible disruption or confusion for the sector. This work is underway and I will provide the Committee with further details in due course.

- e) No later than April 24: Operational date
Subject to the below point, this is the point at which the statutory functions of the Commission will come into force, and the existing functions of HEFCW and the Welsh Ministers will be repealed. This is also the point at which relevant staff from Welsh Government and HEFCW will transfer into the Commission.
- f) Apr 24 – Summer 26: Transitional period
A core aspect of implementing TERA is the establishment of the new registration and regulation arrangements, as such the transitional period will run until these new arrangements are fully implemented.

In line with the Statement of Policy Intent, published alongside the Act at its introduction, the register will be established in respect of providers of higher education and research from the outset with the intention that the register is populated by summer 2025 and the new regulatory arrangements apply to academic year 2026/27.

In selecting this timeframe for the registration system I am seeking to balance providing the Commission, and the sector, with adequate time to make the necessary arrangements to implement the system whilst also ensuring that the new arrangements are effective on the ground as soon as practicable.

Appointment of the Commission's members

Following the making of the first commencement Order, I intend to appoint the Chair and Deputy Chair in early 2023.

I am pleased to say we had a strong field of candidates for both posts, interviews have recently concluded, and the Committee's pre-appointment hearing with the preferred candidate for each post is scheduled for 15 December.

The recruitment of the CEO, who I anticipate taking up post in summer 2023, is also progressing well, the advert recently closed and applications are in the initial stages of assessment..

We are now actively planning for the recruitment of the ordinary members, with the intention to recruit six members initially to ensure there is sufficient knowledge and experience of the sector whilst leaving flexibility to recruit further members once the Commission is operational.

Looking ahead, I intend to make the necessary arrangements to enable the appointment of the associate workforce and learner members so as to enable these individuals to influence the decisions of the Commission from the point it becomes operational.

Other activities relating to the establishment of the Commission

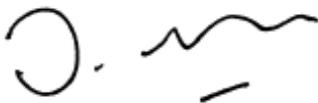
Whilst the Act was undergoing Senedd scrutiny the issue of institutional governance was raised by stakeholders.

I am keen that we take the time to explore the potential to develop core and consistent principles for governance at tertiary education providers in Wales, taking a collective and co-constructed effort. The new strategic duties, as an expression of our shared priorities and values, must be a key influence in how we think about effective, accountable, ethical, civically engaged and transparent governance.

Ideally this work would progress alongside the Commission becoming operational so as to enable the Commission to consider how it could address these matters as soon as practicable. I intend to explore the potential options and timing for this work, and how it may fit with the wider implementation activities and hope to be able to share more details in due course.

I anticipate writing to the Committee again in the New Year with further details of both the implementation plan and the subordinate legislation we will be making to implement TERA. If the Committee have any specific areas of interest I would be happy to provide further information at the appropriate time.

I have copied this letter to the Legislation, Justice and Constitution Committee.

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

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Annex A – TERA Implementation – High Level Timeline

