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Minister for Education and Skills



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref LF/HL/1245/13

David Melding
Chair
Constitutional and Legislative
Affairs Committee

7 January 2014

Dear David,

Education (Wales) Bill – Part 2; Education Workforce Council

Following the General Principles Debate on 3 December and the Stage 1 reports received from the Children and Young People Committee and from the Constitutional and Legislative Affairs Committee I am writing in advance of my appearance before the Children And Young People Committee to respond to both Committees' reports.

As I said in my recent Statement on this year's PISA results, it is important that we now continue with the job of work that we have started to improve educational standards and attainment in our schools. I believe that this Bill will, in many important and significant ways help us to do just that by providing the platform for us to achieve a high performing education system where practitioners work together collaboratively to improve standards of teaching and the quality of learning. I am grateful to your Committee for your thorough scrutiny and the report of your findings.

In light of the evidence put forward, I have already indicated my intention:
to bring forward an amendment to the Bill at Stage 2 to ensure that there is scope to include the independent sector within the requirement to register at a future date if there is clear evidence to support such a move; and
for regulations made under Section 5 to be subject to the affirmative procedure and to inform the Committee when we are consulting on the draft order and associated regulations in relation to Youth Workers and would welcome the Committees input into that consultation.

Your Stage 1 report expressed concerns about Part 2 being of a framework nature. There is a good and necessary reason for the way that the Bill has been structured which I set out below.

As evidence to the Children and Young People Committee has emphasised, there are considerable differences in the current arrangements for the different roles within the education workforce. Evidence has identified the different stages of development; support staff have to date not been subject to any regulation at all, while teachers have well established systems in place. For example, teachers are already subject to full registration requirements, qualifications and appraisal. The structure of the Bill takes into account these differences in current requirements.

The Bill also provides for further categories of workers to be added in future. I have had to be mindful of these variations in the development of this Part of the Bill, and in considering the balance of what can appear on the face of the Bill and what is more appropriately left to subordinate legislation. If we are to be able to respond to these needs and different stages of development of the extended workforce then the agility and ability to respond quickly that is provided by subordinate legislation is not only desirable but is critical to success.

I have, where possible, described in some detail what may be included in regulations and that is on the face of the Bill. I believe this gives a clear indication of our policy intentions, whilst providing the ability to ensure that we have regulations that will support us in our ambitions to raise standards.

In determining the provisions for subordinate legislation I want to assure your Committee that I have applied the Counsel General's guidelines, on whether the affirmative or negative procedure should apply.

Following further detailed consideration, in view of both yours and the Children and Young People Committee Stage 1 reports I have looked again to make further amendments where it is right and appropriate to do so. I intend to bring forward amendments at Stage 2 in the following areas:

Section 7 – In response to the Committee's concerns about the independence of the Council, an amendment will be tabled so that the Council will not be required to obtain consent from Welsh Ministers before advising on the relevant matters set out in section 7(2). I am proposing an amendment to this section that will instead require that the Council notifies the Welsh Ministers of the advice it has provided.

Section 8 – I intend to address concerns raised about a perceived lack of reference to continuing professional development. An amendment to this section will be tabled to refer to the development of careers.

Section 12 - The exercise of the power under this section will be subject to the affirmative procedure, and I will be tabling an amendment to section 53.

Schedule 1, paragraph 3 I propose an amendment to prescribe on the face of the Bill that the initial number of Council members will be 14.

Schedule 1, paragraph 4 (2) and 9 (2) amendments to these paragraphs will be tabled to denote that regulations can refer to a code of practice relating to the public appointment procedure. This will address concerns by some Members about a perceived lack of independence, and gives assurance that members will be appointed fairly and on merit. As indicated in Committee, when making appointments, the Welsh Ministers are in any event committed to following the Code of Practice for Ministerial Appointments to Public Bodies or its equivalent that will be in force at the time.

We know from the PISA results that we need to ensure that our learners benefit from a highly-skilled workforce that is well led. It is practitioners who work directly with learners, and it is practitioners who are responsible for turning national improvement policies and initiatives into reality. We are therefore hugely dependent upon our school workforce to secure the improvement that we seek.

I am confident, with the proposed amendments, we will achieve the right balance and that the provisions in Part 2 of the Bill will provide the appropriate vehicle to support this improvement agenda.

I hope you will agree that I have been positive in my overall response to your report.

I am writing in similar terms to Ann Jones AM as Chair of CYPC.

Best Regards
Huw

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