

National Assembly for Wales

Children, Young People and Education Committee

QW 04

Qualifications Wales Bill

Evidence from : Association of Teachers and Lecturers

About ATL Cymru – the education union

The Association of Teachers and Lecturers represents over 160,000 education professionals across the four constituent parts of the United Kingdom. It draws its membership from teachers and lecturers, leaders and support staff in maintained and independent schools, and Further Education Colleges. As well as campaigning vigorously to protect and enhance members' pay and conditions ATL also believes that the education profession has a key role in developing education strategy and policy. ATL Cymru represents over 6,500 education professionals in colleges and schools across the whole of Wales.

ATL Cymru response

We are very pleased – and relieved – that the Qualifications Wales Bill creates an **independent regulator** separate from the Welsh Government (WG).

We remain concerned about any proposals which to make Qualifications Wales an **awarding body**.

Key points

- We are keen to know more detail about the nature of the relationship between the WG "**sponsor unit**" and Qualifications Wales (QW). We believe that openness and transparency are essential. If QW are to fulfil their role they must be allowed to do so **independently**.
- All requests to QW for advice from WG must be **reasonable** and have a clear mechanism, in order that QW can meet its primary functions as a regulator.
- QW should **not** be asked to **review its own powers** as a possible awarding body. Although it will be central to discussions on this, there would be a clear conflict of interest if it were to do so.
- There must be a clear **duty to consult with stakeholders**, including learners and representatives of the teaching profession.
- There should be clear measures, or at least guidance on the face of the Bill, to show how QW is meeting its aim of building **public confidence** in the qualifications system in Wales.
- We believe it is vital that in creating 'restricted qualifications' and 'priority restricted qualifications' WG and QW do not restrict the **range of**

subjects on offer to learners, or the type of '**offer**' centres receive from awarding bodies to support learning.

- The Bill must take due notice of any relevant issues arising from the forthcoming Donaldson Review of the curriculum.

Consultation questions

The Explanatory Memorandum prepared by the Welsh Government describes the Bill's main purposes in the following terms:

The Bill provides for the establishment of Qualifications Wales as the independent regulatory body responsible for the recognition of awarding bodies and the review and approval of non-degree qualifications in Wales. Qualifications Wales will also, along with the Welsh Ministers, be responsible for preparing a list of priority qualifications, designated as such by reason of the significance of the qualification, having regard to the needs of learners and employers in Wales. The intention is, through the establishment of Qualifications Wales, to strengthen the oversight of qualifications and of the qualification system in Wales.

The Bill is intended to address the four main limitations of the current system. These are outlined in the Explanatory Memorandum as:

- there is no single organisation that is dedicated to ensuring the effectiveness of qualifications and the qualification system;
- there are no powers to prioritise qualifications and to thereby focus regulatory activity where it is most needed – with the result that there are large numbers of regulated qualifications but limited resources to ensure effectiveness;
- there are no powers to select a single provider of a given qualification to ensure that learners across Wales take the same qualification; and
- the capacity to drive forward the strategic development of qualifications within the current arrangements is too limited - creating a risk that Wales' qualifications will not be held in as high esteem, nationally and internationally, as those in other nations.

The Bill provides Qualifications Wales with the following principal aims, and it must act compatibly with these when exercising its functions:

- a) Ensuring that qualifications, and the Welsh qualification system, are effective for meeting the reasonable needs of learners in Wales; and

stakeholders. Paragraph 101 of the Explanatory Memorandum (EM) explains: "The Bill requires Qualifications Wales to publish information on its stakeholder engagement activity (section 42(3)), and it is hoped that this will encourage further engagement as well." We believe there needs to be a duty to consult on the face of the bill, rather than merely the 'hope' expressed within this paragraph. We would like to see an indicative list of stakeholders with whom QW is expected to consult, including trade union representatives.

Awarding powers

We believe confidence in the Welsh qualification system cannot be achieved if QW were given awarding powers at any time in the near future, and we hold very strong reservations about QW awarding its own qualifications. We believe this would undermine confidence in the system as it confuses the role of regulator and awarder which needs to be maintained in a system which awards qualifications of the same name over three countries. Regulating powers are essential for QW, but so is the need to maintain portability. We do not want to jeopardise this confidence.

Reviewing powers should be restricted. Under paragraph 68 of the EM it says: "It is expected that, in due course, the organisation will be responsible for performing a formal review to address the question of how it could become an awarding body." We do not think that this responsibility should be one undertaken by QW.

If you believe there is a need for the Bill, what are the main issues that need to be resolved?

We have addressed these above.

How significant is this issue? (Please select one option)

| | |
|--|---|
| 1 – <i>This is a key, urgent problem.</i> | x |
| 2 – <i>This is a problem that needs to be addressed.</i> | |
| 3 – <i>This is a minor problem</i> | |
| 4 – <i>Not a problem.</i> | |

Question 2 - Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum?

We are reasonably satisfied that the Bill as drafted sets out the stated objectives in the EM. We would, however, like to share a few concerns which need to be addressed in evidence sessions during the Stage One process:

Independence

We would like to see further information on the nature of the relationship between QW and the WG 'sponsor unit', to ensure that

QW can operate as an independent regulator. We would like greater clarification as to how this will work in practice. We believe all conversations between WG and QW should be “minuted” and published on a regular basis to ensure transparency. This requirement should be on the face of the Bill.

It is also critical that there is a mechanism for both bodies to raise issues/concerns with each other formally, should the need arise.

Public confidence

Section 3 states the two principle aims of the QW Bill. This includes “1 (b) promoting public confidence in qualifications and in the Welsh qualification system.” However there are apparently no measures associated with this aim.

This is not necessary a problem in itself, as it could be presumed that a robust body to regulate qualifications would promote ‘public confidence’. However, the EM does suggest some measurements for this, which are not extensively explained. For example, 331 of the EM states: *“Measurement of confidence can also be informed through existing surveys currently undertaken by the Welsh Government and other partners. The new body may be able to utilise these or commission new ones. A further measure of general public confidence will be media reporting.”*

The nature of this media reporting as a measure should be clarified as there are many ways to assess media ‘reporting’.

As ‘promoting public confidence’ is one of the two principle aims, we would like to see a more expansive explanation within the EM of how this will be measured – including a guarantee that there will be questions about confidence in Welsh qualifications in the National Survey and other appropriate mechanisms. The Bill should contain powers to create guidance on this at the very least.

Vocational Qualifications

It is currently unclear which qualifications will fall under the jurisdiction of Qualifications Wales. During Committee evidence, the Minister for Education and Skills, Huw Lewis AM said: “All vocational qualifications are part of this deal and that huge proliferation around vocational qualifications is something that the body will start to get to grips with.”³

However, within Annex C, the glossary of the EM, it states: *“Apprenticeships issuing authority [...] Currently, issuing authorities are primarily sector skills councils and standard setting bodies. The Bill does not make provision in*

³ <http://www.senedd.assembly.wales/documents/s35116/11%20December%202014%20-%20Draft.html?CT=2>

relation to Qualifications Wales but should the Welsh Ministers decide to do so, they would be able to designate Qualifications Wales as an issuing authority in due course."

We would therefore seek clarification on which qualifications are to be included in the jurisdiction of the QW under the QW Bill.

Curriculum

We have some reservations about the relationship between the Welsh Government 'sponsor unit' and QW, in particular in relation to the curriculum. Whilst we can see the merit of 'regular dialogue' in relation to policy, we would want to seek assurances about the independence of QW to operate without constant interference from the unit in WG.

The EM states: "60. It is envisaged that regular dialogue on policy – for example with regard to the curriculum and skills strategies, workforce capacity and performance measurement indicators – will take place between senior officials of the Welsh Government and Qualifications Wales. This will not, however, undermine the independence of Qualifications Wales in developing and implementing regulatory policy in relation to qualifications."

However, it is not clear how QW will be encouraged to act independently. We would like assurances that QW would be free to take strategic decisions without constant reference to WG.

Therefore, it is important that while the curriculum is revised in light of the forthcoming Donaldson Review, it does not receive constant changes from Welsh Government, otherwise QW will be unable to ensure appropriately robust qualifications which rightly reflect the current curriculum.

If not, how do you think the Bill should be amended to take account of this?

We believe many of these issues could be cleared with clarity within the EM, but the power to create guidance around the measures of public confidence could appear on the face of the Bill.

How significant is this issue? (Please select one option)

| | |
|--|---|
| <i>1 – This is a key, urgent problem.</i> | |
| <i>2 – This is a problem that needs to be addressed.</i> | x |
| <i>3 – This is a minor problem</i> | |
| <i>4 – Not a problem.</i> | |

Question 3 - Are the sections of the Bill as drafted appropriate to bring about the purposes described above?

| | |
|--|---|
| <p>It appears that the Bill has been extensively drafted to include all the powers that QW should need. We have said we are broadly supportive of the QW Bill, but have outlined our key reservations above.</p> | |
| <p>If not, what changes do you believe need to be made to the Bill?</p> | |
| <p>We would again highlight the need for clarity around some aspects, including the role of the "sponsor unit" and the measurement of success.</p> | |
| <p>How significant is this issue? (Please select one option)</p> | |
| <p>1 – <i>This is a key, urgent problem.</i></p> | |
| <p>2 – <i>This is a problem that needs to be addressed.</i></p> | x |
| <p>3 – <i>This is a minor problem</i></p> | |
| <p>4 – <i>Not a problem.</i></p> | |
| <p>Question 4 - Has the Welsh Government correctly identified the four main limitations of the current arrangement, and will the two principal aims the Bill sets for Qualifications Wales, as well as the eight matters which it must have regard when exercising its functions, effectively address these limitations?</p> | |
| <p>The Welsh Government has certainly identified issues with the current system, and sought to over-come them within the Bill. We have outlined some of these, above.</p> <p>We would, however, have concerns about how exactly 'public confidence' can be measured objectively. We do not accept that QW is the best placed body to decide if it should be an awarding body, as outlined in the EM.</p> <p>As the EM states: "323. In support of the principal aim of ensuring the effectiveness of the Welsh qualification system, Qualifications Wales will be specifically under a duty to review the inter-relationships between different bodies, including its own relationship with awarding bodies. This will, for example enable Qualifications Wales to be in a position to advise Welsh Ministers on the feasibility of Qualifications Wales becoming an awarding body in the longer-term."</p> <p>We do not think that QW would be best placed to advise Ministers on whether it should be an awarding body, although QW will of course be well placed to offer some advice to Welsh Ministers on this.</p> | |
| <p>If you believe there are problems in this area, how do you think they could be resolved?</p> | |

| | |
|--|---|
| | |
| How significant is this issue? (Please select one option) | |
| 1 – <i>This is a key, urgent problem.</i> | |
| 2 – <i>This is a problem that needs to be addressed.</i> | x |
| 3 – <i>This is a minor problem</i> | |
| 4 – <i>Not a problem.</i> | |
| Question 5 - What are your views on the proposals for determining 'priority qualifications' and, within these, 'restricted priority qualifications'? | |
| <p>We would like to see more detail about how 'priority qualifications' and 'restricted priority qualifications' are expected to work. We would not have a problem in theory with all pupils taking the same exams.</p> <p>We would however have serious concerns if there were any limitations in terms of choice for learners to pursue their preferred subjects, and would seek assurances that the restricted list is extensive. We would also seek assurances that all awarding bodies make appropriate adjustments for students with disabilities – and ensure child friendly assessments in any re-formatted, eg. Braille, large print etc.</p> <p>We would also seek assurances that safeguards are put in place to ensure that there is a robust review system to ensure that the awarding body has the best possible offer in place for children and young people in Wales. The awarding body must be expected and able to offer the best support to teachers and others in schools and colleges to ensure that they can develop their CPD and gain expertise – and therefore offer the best support to learners.</p> <p>We would have concerns that a single provider could, under the wrong circumstances, provide less of an 'offer' to centres.</p> <p>Paragraph 41 of the EM outlines how awarding bodies 'market' themselves: <i>"41. Once qualifications have been accredited, awarding bodies are then able to market and award the qualifications in Wales as being accredited by the Welsh Government. The processes underpinning the award of a qualification include, for example, the design, production, translation and distribution of question papers, tasks, mark schemes, teaching support material and other resources (circulars, continuing professional development sessions, one-to-one sessions), recruitment and training of examiners, organisation of examiner and moderator meetings, production of data to inform awarding decisions, production of results, handling</i></p> | |

| | |
|---|---|
| <i>of post-results enquiries and the production of certificates.”</i> | |
| We would seek assurances that this level of input is ensured by QW when assessing the suitability of a single-provider for a restricted qualification. | |
| If you think there are problems in this area, how do you think they could be resolved? | |
| Some of this detail could be resolved within the EM. | |
| How significant is this issue? (Please select one option) | |
| <i>1 – This is a key, urgent problem.</i> | |
| <i>2 – This is a problem that needs to be addressed.</i> | X |
| <i>3 – This is a minor problem</i> | |
| <i>4 – Not a problem.</i> | |
| Question 6 - What are your views on the commissioning type process Qualifications Wales would undertake under the Bill, in respect of restricted priority qualifications? | |
| <p>The commissioning processes by QW must be undertaken in such a way that it ensures that the needs of the learner are paramount within this process. It seems that this Bill is extensively drafted in that regard, rather than just a framework Bill.</p> <p>As above, we would seek assurance that the ‘offer’ to centres is considered as part of a robust process. We welcome the assertion in paragraph 85 of the EM, that QW: “creates a means to engage more closely with teachers and learners; to both specify requirements and monitor delivery against these requirements”.</p> <p>We cannot emphasise enough the need to ensure that a robust ‘offer’ from awarding bodies to schools is in place. Indeed, we believe QW will not be meeting its requirement listed in 3 (2 (d) if it does not seek a robust ‘offer’.</p> | |
| If you believe there are problems in this area, how do you think they could be resolved? | |
| There could be more detail in the EM. | |
| How significant is this issue? (Please select one option) | |
| <i>1 – This is a key, urgent problem.</i> | |
| <i>2 – This is a problem that needs to be addressed.</i> | |
| <i>3 – This is a minor problem</i> | X |
| <i>4 – Not a problem.</i> | |

| | |
|---|---|
| Question 7 - How will the Bill change what organisations do currently and what impact will such changes have, if any? | |
| <p>We would want to see minimal impact that this Bill has on learners and teachers / lecturers in practice.</p> <p>We have already stated above concerns about restricting the range of subjects available to learners – which could have a serious impact on their future prospects. We would also like to emphasise the importance of a duty to consult with stakeholders, including learners and professional representatives.</p> | |
| If you believe there are problems in this area, how do you think they could be resolved? | |
| We have already outlined our proposal for a duty to consult. | |
| How significant is this issue? (Please select one option) | |
| <i>1 – This is a key, urgent problem.</i> | |
| <i>2 – This is a problem that needs to be addressed.</i> | |
| <i>3 – This is a minor problem</i> | X |
| <i>4 – Not a problem.</i> | |
| Question 8 - What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them? | |
| <p>Cost Creating QW must be viewed within the context of a difficult financial climate within the education sector, including in-year budget cuts. However, we can see the need for an independent regulator to ensure that the Welsh exam system is seen as independent and can be robustly compared to that of other countries.</p> | |
| If you believe there are problems in this area, how do you think they could be resolved? | |
| The Bill should be accompanied by a commitment to increase funding to education. | |
| How significant is this issue? (Please select one option) | |
| <i>1 – This is a key, urgent problem.</i> | X |
| <i>2 – This is a problem that needs to be addressed.</i> | |
| <i>3 – This is a minor problem</i> | |
| <i>4 – Not a problem.</i> | |
| Question 9 - Do you have any views on the way in which the Bill falls within the legislative competence of the National Assembly for | |

| |
|--|
| Wales? |
| We believe this Bill does fall within this area. |
| <p>Question 10 - What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?</p> <p>In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.</p> |
| <p>Whilst we are pleased that the QW Bill has regulation making powers which are subject to 'affirmative procedure' we would seek some more clarification on the type of procedure which would be used.</p> <p>We would prefer that this stated that scrutiny takes place in 'full session' of the Assembly – during a Plenary debate, or Committee of the Whole Assembly. The EM currently states: <i>"322. Qualifications Wales will be held to account by the National Assembly for Wales either in full session or by Committee"</i>. We would prefer the EM be amended to read: <i>"Qualifications Wales will be held to account by the National Assembly for Wales in full session"</i>.</p> <p>This will help ensure robust scrutiny of the subordinate legislation.</p> |
| <p>Question 11 - What are your views on the financial implications of the Bill?</p> <p>In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.</p> |
| We have outlined our concerns about the financial implications of the Bill above. |
| <p>Question 12 - Are there any other comments you wish to make about specific sections of the Bill?</p> |
| <p>Qualifications Wales' role WG must be clear about the roles of the different bodies concerned with education will have. The EM contains an impact assessment under Part 9 (Paragraphs 249 - 314). Some elements of this are misleading. For example, 296 states that the aim of QW is to</p> |

"improve the education outcomes of learners in Wales", yet this is not directly the case. The aim of QW is to verify those outcomes.

Whilst this could be seen as a minor mistake in the EM, which needs amending, it is important that roles are clearly defined and communicated, as we have already stated, in order to avoid confusion or duplication.

Disability

We believe it would be beneficial to explicitly reference the needs of disabled learners on the face of the Bill. Section 3 (2), which lists the ways in which the principle aims could be met should list 'reasonable adjustments' for disabled learners, to ensure these are not only provided, but considered from the start when QW are assessing the suitability of qualifications and awarding bodies.

Information and advice

We think that all requests for information and advice should be 'reasonable' and that this should be on the face of the Bill. Section 46 of the Bill states:

"Provision of information or advice

If requested to do so by the Welsh Ministers, Qualifications Wales must provide the Welsh Ministers with such information or advice, on matters relating to any of its functions, as is specified in the request."

We believe the Bill should be amended say '**reasonable** information or advice'.

We would also seek clarity about information and advice to third parties – including the National Assembly for Wales. Listed within benefits of the "preferred option", the EM states that "179. The body would be able independently to perform research activity and advise Welsh Ministers, the National Assembly for Wales, or any other individual on the matter of Wales' qualifications."

We would note that section 41 (3) of the Bill contains the power to carry out or commission research, but we are unclear about the process for the National Assembly for Wales to obtain this "advice".

We believe it is important these mechanisms are placed on the face of the Bill to ensure, for example, that the Children, Young People and Education Committee (in whatever future shape) can seek advice from QW. It should also ensure any requests for advice are reasonable, as we have stressed above.