



Welsh Government
Consultation Document

Draft Tertiary Education and Research (Wales) Bill

Date of issue: 14 July 2020

Action required: Responses by 04 December 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview	This consultation gives stakeholders the opportunity to contribute to the proposals set out in the draft Tertiary Education and Research (Wales) Bill. The aim of the Draft Bill is to provide a clear and strong governance framework in Wales that will support the oversight, strategic direction and leadership of tertiary education and research in Wales.
How to respond	You can respond to the consultation by using the questionnaire at the back of the document; completing the online form and/or by attending one of the events that will be held between September and November.
Further information and related documents	<p>Large print, Braille and alternative language versions of this document are available on request.</p> <p>This consultation document includes the Education Minister's Written Statement and specific questions that we would like you to consider. To aid this, there are a number of documents available, which are listed below:</p> <ul style="list-style-type: none"> • Information booklet 1 – Shaping the Future of Post-16 Education in Wales • Information booklet 2 – A Summary of the Draft Tertiary Education and Research (Wales) Bill • Full Draft Tertiary Education and Research (Wales) Bill • Draft Explanatory Memorandum – Part 2 of which is the draft Regulatory Impact Assessment • Draft Integrated Impact Assessments • Draft Statement of Policy Intent in relation to subordinate legislation
Contact details	<p>For further information: Post-Compulsory Education and Training (PCET) Reform Team</p> <p>Mailbox Address: PCETReform@gov.wales or DiwygioPCET@llyw.cymru</p>

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE	Consultation on the Draft Tertiary Education and Research (Wales) Bill
DATE	14 July 2020
BY	Kirsty Williams MS, Minister for Education

Following my Written Statement of 9 June 2020, today I announce the consultation on the Draft Tertiary Education and Research (Wales) Bill. The consultation will open today and close on 4 December 2020. The Welsh Government has already engaged widely with stakeholders throughout the development of these reforms and I have been grateful for all your valuable feedback. This has helped us further develop policy and draft the legislation which I believe is now able to provide flexibility for the Commission, once established, to develop and operate as an independent arms-length body.

It is crucial that we get these reforms right and we cannot afford to delay them indefinitely. This legislation presents an opportunity to ensure that the Welsh post-compulsory education and training sector operates effectively in the post Covid-19 context. Having meaningful engagement with our stakeholders on the substance of this Draft Bill will ensure that we shape the system so it's fit to face our future challenges.

The Bill as drafted, dissolves the Higher Education and Funding Council for Wales and establishes a new Commission for Tertiary Education and Research. The new Commission will be responsible for the whole of the tertiary education sector in Wales and will include Research and Innovation Wales as a committee of the new Commission.

The Commission will be placed under a duty to promote the pursuit of a civic mission by further and higher education institutions to improve the economic, social, environmental and cultural wellbeing of the communities they serve and Wales as a whole. This has never been more important than it is now.

The Draft Bill puts learners at the centre of the reforms and includes specific provisions to protect them in uncertain times, as well as, introducing a requirement for the Commission to publish a new code for learner engagement in the governance and management of providers.

The Commission will enable greater cohesion across the tertiary education sector by clearly promoting learner pathways, including how learners transition between compulsory and post-compulsory education. The Commission will be tasked with strengthening collaboration to boost quality and efficiency through more coherent

oversight structures to lead, support, monitor and evaluate the tertiary education sector against national, regional and local objectives. The Commission will be able to do this as we bring funding, oversight and support of Higher Education, Further Education, school sixth forms and apprenticeships, as well as responsibility for currently Welsh Government funded higher level research and innovation, together in one place.

The Draft Bill will require the Commission to publish a strategic plan for tertiary education and research, create a new registration model for tertiary education providers.

The Commission will also assure and promote improvement in the quality and standards of education and training in the tertiary education sector, creating a consistent quality based approach through shared principles and collaboration.

Stakeholder events on the Draft Bill are planned between September and November and I would encourage anyone with an interest in these reforms to engage with the range of opportunities I will make available to help the people of Wales respond to this consultation.

Whilst it will ultimately be a decision for the next Government, chosen by the people of Wales, as to whether these reforms are delivered, I am determined to do all I can to ensure a robust and comprehensive piece of legislation, informed by the results of this Draft Bill consultation, is ready for introduction into the Senedd early in the new term.

**Consultation
Response Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Civic mission

The Draft Bill (Section 7(4)) defines “civic mission” to mean “action for the purpose of promoting or improving the economic, social, environmental or cultural well-being of Wales (including action that may achieve any of the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015.”

1. Do you agree the approach taken to civic mission in the Draft Bill will be useful to the Commission in discharging its functions?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

The needs of the learner

Learner Protection

2. The Commission will need to determine the format and contents of Learner Protection Plans in consultation with stakeholders (Section 114(6) and (7)), including how the plans are to be communicated to learners and prospective learners. Do you agree with this approach?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Learner Engagement Code (Section 117)

3. The Commission’s aim will be to ensure that the interests of learners are represented, and every learner has the opportunity to participate and give their views. Are you confident that the Learner Engagement Code is likely to be inclusive of all learners, and sufficiently representative of the whole of the Post-16 sector?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Information, Advice and Guidance

4. The Draft Bill (Section 93) allows the Commission to fund information, advice or guidance for learners in Wales. Are there further considerations that should be taken into account to ensure that all learners receive advice or guidance to support learner pathways, transition and progression to enable them to make a contribution to, and succeed, in a fair and inclusive society and a thriving economy?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

School sixth form reorganisation proposals

The Commission will have a role in relation to maintained school sixth form reorganisation. The Draft Bill enables the Commission to direct a local authority to bring forward re-organisation proposals, or bring forward its own proposals, in limited circumstances. The limitations on what would trigger such an approach would be consulted on and included in amendments to the statutory School Organisation Code.

5. Do you agree that the School Standards and Organisation code is the most appropriate vehicle for setting out the systems and processes and do you have any views on what those triggers should be?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Strengthening collaboration

6. Part 3 of the Draft Bill provides functions to fund mainstream school sixth forms, further education, higher education, apprenticeships and adult learning and research and innovation related to educational providers. Do you think there are any further funding or other functions that will enable greater collaboration across the tertiary education sector?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Welsh Language/Welsh-medium

We would like to know your views on the effects that the establishment of the Commission (Section 8) would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

7. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Please add any comments in the box below:

Welsh Language/Welsh-medium

8. Please also explain if you believe the provision included in the Draft Bill to establish the Commission could be formulated or changed so as to have increased positive effects on opportunities for people to use the Welsh language.

Please add any comments in the box below:

Welsh Language/Welsh-medium

9. What are your views on the duties to be placed on the Commission in relation to Welsh-medium tertiary education?

Please add any comments in the box below:

Registration

10. Do the proposals for Access and Opportunity Plans (Sections 32-41) go far enough in ensuring that the Commission has the powers to drive transformative change in widening access and opportunity in higher education?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Registration

11. Will the proposed powers for the Commission to monitor, review, and ensure compliance with registration requirements (Sections 22-26) provide sufficient flexibility for it to regulate proportionately and appropriately?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Quality

12. The Draft Bill (Sections 42-60) proposes a more aligned and coordinated approach to quality and inspection across tertiary education. Do the proposed arrangements find the right balance between building upon the current arrangements in higher education, further education and training and maintained school sixth forms and working towards a more aligned and coordinated approach across the tertiary education sector?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Research and Innovation

13. Should the Commission's functions in relation to research and innovation (Sections 95-97) be broadened beyond just registered tertiary education providers?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Apprenticeships

14. The Commission will be responsible for apprenticeship frameworks (Sections 104-107) and the Welsh Ministers will be responsible for the preparation and issuing of core requirements in the Welsh Apprenticeship Specification (WAS) (Sections 101-103). Do you agree with this balance of powers?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Apprenticeships

15. Does the Draft Bill (Part 4) provide adequate strategic drivers to develop and maintain the integrity of apprenticeships in Wales, ensuring they meet industry requirements?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

The needs of the economy and employers

16. The Commission has a duty to have regard to “the reasonable requirements of industry, commerce, finance, the professions and other employers regarding tertiary education and research and innovation” (Section 2(1)(b)). In your opinion, does this duty go far enough and do you think it will have a meaningful impact based on its current formulation?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Funding

A focus on outcomes:

17. The Draft Bill (section 79) provides for an approach to funding based on Outcome Agreements. This will allow the Commission, through its funding decisions and negotiations with funded bodies, to contribute to the achievement of the Welsh Ministers' strategic priorities for tertiary education and research. Please see the Explanatory Memorandum for details of the policy intention underpinning outcome agreements (paragraphs 3.56 -3.58 and 3.145 – 3.147 refer). Does this approach strike the right balance between strategic funding priorities and the needs of individual learning providers?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

Regulatory Impact Assessment

18. The financial implications of the Draft Bill are set out in Part 2 of the Draft Explanatory Memorandum. Please consider whether you think our costings need to take account of anything else?

Please add any comments in the box below:

Regulatory Impact Assessment

19. We would like you to consider the possible costs and benefits to specific bodies, institutions, organisations or individuals as a result of the Draft Bill. Please provide any comments or evidence here:

Please add any comments in the box below:

New Normal

20. Do you think the pandemic causes particular issues for anything we propose in the Draft Bill?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

PCET Reform

21. The Bill is a legislative vehicle to create a new body; the Commission for Tertiary Education and Research. Are there any additional levers that can be used to establish the cultural change needed to deliver the aims of the PCET reform agenda?

Yes

No

Neither Yes or No

Please add any additional comments in the box below:

22. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Please add any comments in the box below:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: