
Ymateb i Ymgynghoriad / Consultation Response

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Background information about Estyn

Estyn is the Office of Her Majesty's Inspectorate for Education and Training in Wales. As a Crown body, Estyn is independent of the Welsh Government.

Estyn's principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Learning and Skills Act 2000 and the Education Act 2005. In exercising its functions, Estyn must give regard to the:

- Quality of education and training in Wales;
- Extent to which education and training meets the needs of learners;
- Educational standards achieved by education and training providers in Wales;
- Quality of leadership and management of those education and training providers;
- Spiritual, moral, social and cultural development of learners; and,
- Contribution made to the well-being of learners.

Estyn's remit includes (but is not exclusive to) nurseries and non-maintained settings, primary schools, secondary schools, independent schools, pupil referrals units, independent specialist colleges, further education, adult learning in the community, local government education services, work-based learning including apprenticeships and employability programmes, Welsh for adults, youth and community work training, and teacher education and training.

Estyn may give advice to the Welsh Parliament on any matter connected to education and training in Wales. To achieve excellence for learners, Estyn has set three strategic objectives:

- Provide accountability to service users on the quality and standards of education and training in Wales;
- Inform the development of national policy by the Welsh Government;
- Build capacity for improvement of the education and training system in Wales.

This response is not confidential.

Response

We welcomed the opportunity to provide evidence as part of the Children and Young People and Education Committee's scrutiny of the general principles of the **Tertiary Education and Research (Wales) Bill** ('the Bill'). This consultation response reflects the evidence we provided at the CYPE Committee meeting on the 9 December 2021.

Overall, we welcome the changes that have been made to the draft Bill. Many of the suggestions for improvement that we made as part of the initial consultation on the Bill have been made.

In particular, we welcome the clarity of the strategic duties for the Commission in part 1 of the Bill as introduced. The duty for promoting continuous improvement and collaboration are ones that we strongly support. However, while these duties have been added to Part 1 of the Bill, other parts of the Bill have not been clearly linked back to referencing these strategic duties. For example, in Part 2, chapter 2 it would help if the title for the section on quality assurance referred directly to "Quality assurance and improving quality to support the strategic duty to promote continuous improvement".

We submitted a [detailed response to the consultation on the Draft Bill](#) in December 2020. In that response we set out our overall view that establishing the Commission for Tertiary Education and Research has the potential to improve coherence in post-16 education and training, particularly in terms of the connection between higher and further education, but that the policy thinking relating to the 16-19 education and training age range needs greater clarity. While the addition of a strategic duty to promote collaboration and coherence is welcomed, it is still not clear how the Commission will require this to ensure it happens. Is there a strong enough focus built in to require greater collaboration between providers and other bodies? Our recent [thematic report](#) identifies current challenges and provides recommendations in relation to collaboration between schools and colleges.

In terms of the rationale for the creation of the Commission, the current systems are not driving the changes needed. It is important that the new organisation breaks down the current barriers between different sectors and models collaboration and cohesion. It is crucial to create the right culture of continuous improvement, trust and respect. This may be more challenging within the timescale of creating the Commission. It will be important to create this culture for a new organisation and not take forward old behaviours from previous systems/organisations.

In relation to learners with additional learning needs, particularly high needs learners, we feel the Bill as introduced is not clear about the Commission's role in funding these learners to have appropriate provision. It would be helpful to have clarification about why or how learners with high needs could be funded differently according to the type of provision they need and may have differing quality experiences according to which provider they attend. For example, it would be helpful to consider how consistent quality expectations will be set for providers on

the approved list of independent special post-16 institutions maintained by Welsh Ministers and for tertiary education providers providing relevant courses such as independent living skills. This would support local authorities in commissioning ALN provision for high needs learners.

In light of the Curriculum for Wales and Curriculum and Assessment Act, is there a strong enough focus in the Bill as introduced on wellbeing and the aims of the four purposes to develop young people into capable adults, in terms of effective transition for learners from compulsory to post-compulsory education and training?

We welcome the amendment in the Bill to include sixth forms in the Learner Engagement Code. To ensure the Learner Engagement Code is inclusive, the code will need to recognise and take account of differences in maturity, independence and communication skills of pre and post-18 learners, including those with ALN, communication difficulties and those for whom English is an additional language. The code enshrines the importance of the providing a voice for all learners, so it will be important that the Commission and providers consider the very broad nature of all learners in the PCET sectors, and that learner voice is not homogenous.

We think there is a good focus on the learner through the addition of the strategic duties at start of the Bill – promoting a focus on the learner through the entitlement to life-long learning, focus on equality of opportunity, participation, and continuous improvement. With the remit across tertiary education, the Commission will need to work hard to ensure those under-represented groups of learners are heard.

In general, we welcome the amendments to the Draft Bill which appear in the Bill as introduced. We agree with the amendment to Part 3, section 91 of the Bill as introduced to require the Commission to secure the provision of proper facilities in Wales for relevant education and training for eligible persons over 19 years of age that is suitable to their requirements. This will support the commitments to lifelong learning identified in the Programme for Government.

We welcome the provisions as set out in Chapter 2 of the Bill as introduced for the Chief Inspector to retain statutory powers for education and training at post-16.

There are several regulations which apply to Estyn's role. In all cases, the proposed procedure for the approval of the regulations by the Senedd is 'negative'. These regulations, in general, allow useful flexibility. We agree that this is the appropriate procedure for the regulations proposed in these sections. We feel there is a gap in our current inspection work to support the post-16 education and training workforce. We have powers to inspect the training of the workforce for initial education in sixth forms and for youth and community worker training. Regulations under section 59 (2) 'may include functions with respect to training of or for teachers, lecturers, trainers or other persons engaged in the provision of such education or training'. This would ensure a more coherent oversight and assurance of workforce training across all the sectors we inspect.

The Bill does not distinguish between what has been traditionally referred to as prescribed higher education and those aspects of provision above level 3 that do

not fall within the definition of prescribed higher education provision, generally known as 'non-prescribed higher education', such as higher level technical qualifications in further education and work-based learning at levels 4 and 5. We currently inspect apprenticeships at these levels on core inspections of work-based learning training providers and we conducted a thematic review in 2018 on [the quality of higher apprenticeships in Wales](#). We used our findings from this thematic report to inform the quality assurance of the pilot degree apprenticeships. Our HMI and peer inspectors are experienced in inspecting providers offering apprenticeships in the technical vocational qualifications at level 4 and 5. We have also inspected HNC and HND provision on further education college inspections.

The responsibility for the inspection or review of degree apprenticeships could be also be defined clearly through secondary legislation, under section 55 (1). The Bill as introduced appropriately leaves open the possibility to clarify these responsibilities in future, including Estyn. This would ensure that inspection arrangements for apprenticeships provide an integrated and joined-up approach to the quality assurance and improving quality of all work-based learning apprenticeship provision at whatever level. As part of such arrangements, Estyn could collaborate with the designated quality body for higher education, where the expertise of a quality body such as QAA in reviewing the higher education content of the degree apprenticeships programmes could combine with Estyn's experience of inspecting higher apprenticeships in the workplace.

In our original consultation response to the Draft Bill (Q8), we noted the use of the terms 'encourage' and 'reasonable' in relation to the Commission's strategic duty to promote tertiary education through the medium of Welsh (Section 8 of the Bill as introduced). To avoid ambiguity, it would be clearer and more strategically focused to state that the Commission has a duty to ensure that there is sufficient provision through the medium of Welsh and to delete any references to 'reasonable', which is open to individual or organisational interpretation. In a similar vein, it would be clearer to replace the use of the words 'encourage' in Section 8 (c) of the Bill with 'require' and impose a statutory duty on the Commission to achieve these aims.

Estyn is a Crown body and a non-ministerial civil service department and, as such, is part of the Welsh Government's overall budget. We would prefer that the funding for our core statutory work came to us centrally as one allocation, rather than partly through the Commission, a Welsh Government sponsored body. However, we would welcome a mechanism also being in place to allow the Commission to directly fund us for specific additional in-year work it may identify in relation to its remit. We have this mechanism currently with individual departments of the Welsh Government where they provide us with grant funding for specific purposes. It may be that a central core allocation, which includes funding from the Commission and Welsh Ministers and arrangements to ensure that funding mechanisms do not compromise our independence, may be achievable without changes to the legislation. For example, our current funding comes from a department other than the education or lifelong learning and skills departments and our additional accounting officer is similarly from outside these departments. These arrangements could potentially be extended to include the Commission.

There would need to be a clear memorandum of understanding or similar documentation to determine the range of Estyn's post-16 work for the Commission, and that needed for Welsh Ministers for the provision and sectors outside of the Commission's oversight – for example through two remit letters and joint panel meetings with Welsh Government, Estyn and the Commission to determine the priorities for Estyn's advice and guidance to the Commission and the Welsh Government.

Our scope in inspecting and providing advice to policy makers is broad and covers all education and training provision funded in Wales, other than that currently funded and regulated via HEFCW. Estyn is an authoritative independent voice. We are independent of government and will be independent of the Commission, which is vital so that we can inspect and report on the state of education and training in Wales without fear or favour to provide public assurance and promote improvement. We have a well-established and effective infrastructure to deliver high quality inspection and quality assurance. We have strength in depth and, in our pool of HMIs, we are able to draw on a unique range of skills and expertise, all of which would be available to the support the tertiary sector going forward.

There are sectors of post-16 education and training that are currently out of scope of the oversight of the Commission which we inspect and provide assurance regarding quality, so funding our work centrally would be more coherent. It will be important to recognise in any quality framework the value of independent inspection and advice to support the Commission in its quality monitoring role.

In addition to the areas of post-16 provision that will come under the remit of the Commission, we also inspect other aspects of post-16 education and training such as independent specialist colleges, learning in the justice sector, employability and skills (traineeships and then moving to the Jobs Growth Wales Plus programmes), Welsh for Adults, careers services and initial teacher education for schools. Through our links with these sectors, we have an important role to build capacity in these sectors, being able to share and promote good practice across the wider post-16 sector in Wales. It will be important to consider whether any of these other post-16 sectors should also come under the remit of the Commission.

We are committed to working collaboratively and acknowledge that the relationship with the Commission would require strong communication and liaison, but this is not a concern. We already have strong working relationships with Welsh Government, QAA and HEFCW and have started to develop shared approaches to aspects of quality across areas of further and higher education and training. We believe the provisions in the Bill build on the current strengths in quality assurance across ourselves and QAA and reflect the need for tailored approaches across the tertiary sector. There is strength in diversity and the approach reflects that. Consistent is not the same as homogenous.

We also have strong productive relationships with the sectors that we inspect. There is no reason to suppose that the quality of these would be in any way different with the Commission. We have a long tradition of identifying and promoting best practice through our thematic reviews, case studies and conferences.

If the Committee would like a greater understanding of our current approaches to inspection, identifying and promoting best practice through our thematic reviews, case studies and conferences we can provide this.

Over time we have refined our models of inspection to secure value for money. We already have a full inspection arm, supported by a well-established and efficient corporate services team. No additional costs will be incurred setting up a new infrastructure to support our work.

We are currently working with a reference group to consider amendments to our inspection arrangements before restarting inspections in the spring term. Many important aspects of how we approach our work will remain the same – such as

- our peer inspector programme
- engagement of learners through questionnaires and a wide range of interactions with learners on inspections
- training and deployment of student inspectors on inspections of further education colleges