

Consultation Response Form

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Summary

The Learned Society of Wales appreciates the Welsh Government's wish to develop an overarching vision for post compulsory education and training. It is important that all individuals are given encouragement and opportunity to develop their talents and acquire the necessary knowledge, understanding and skills for life's journey.

Both Professor Hazelkorn and Professor Weingarten have stressed that any new body should be arm's length from government. We strongly agree. The autonomy of British universities is widely valued and is a key reason for the excellent reputation which the sector enjoys globally. But higher education in Wales is of course subject to legislation passed by the National Assembly for Wales, and properly is accountable to its various stakeholders and to wider society for its performance, delivery and effective use of public investment.

Academic Freedom

Currently HEFCW has particular responsibilities for higher education in Wales and has certain powers which form the framework for its relations with the universities. We would not wish the relationship of the TERC to be any more intrusive than the status quo. HEFCW has obvious expertise in higher education and its funding. It will be essential for the new body to possess those same skills.

Current funding arrangements for Welsh universities place a premium on income from student fees. It has become a very challenging, uncertain and competitive environment. The development of strategic policies in each institution must therefore take account of those factors and manage the inherent risks. The TERC, through its support and provision of funding can help mitigate the risks and facilitate prudent planning by the institutions.

It is vital that the TERC functions to maintain the academic freedom and research independence of the higher education sector, in line with the Haldane Principle.

QR funding and Research and Innovation

QR-funding provides the foundations on which the competitive, project-based funding streams from other sources depend.

The QR fund must be protected in line with the recommendations of both the Diamond and Reid Reviews.

It is clear that the proposed RIW would be in an excellent position to oversee QR, to interact with external bodies such as UKRI, and to advise the proposed Commission and Welsh Government.

Arts, Humanities and Social Sciences

In order to work towards fulfilling the seven well-being goals of the Wellbeing of Future Generations Act, Wales will need a diversity of graduates. The contribution of the arts, humanities and social sciences to a prosperous economy, vibrant culture, cohesive communities and a globally-responsible nation deserve recognition. These subjects help deliver the skills on which the economy depends, and which are needed in order to realise a resilient Wales. Research and scholarship in the arts, humanities and social sciences should also be considered by Research and Innovation Wales on a basis of full parity of esteem with STEM disciplines.

The Welsh Language and Studies Relating To Wales

The Welsh Government, universities and further education colleges in Wales have a unique responsibility for Welsh language, Welsh cultural matters and research and teaching on Wales itself. It is important that teaching and research through the medium of Welsh across all academic disciplines are properly funded and developed; the PCET sector has an important role in fulfilling the government's ambition to reach a million Welsh speakers by 2050. The Coleg Cymraeg Cenedlaethol is providing outstanding support for Welsh-medium provision and the importance of long term commitment for the organisation cannot be over-emphasised.

It is likewise critically important that Welsh PCET institutions are expected and encouraged to safeguard and promote studies relating to Wales through both Welsh and English in both its national and international contexts by developing teaching, research and publications across a wide spectrum of academic disciplines.

Life-long Learning

The development of enhanced opportunities to study and to develop skills through the life-course will be an important function of the PCET body. It is noted that at present, there is no recommendation for a standing committee on life-long learning, or part-time provision, and it is the view of the Society that this area requires consideration and a specific sub-committee.

Evaluation Research

It is to be hoped that the Welsh Government will undertake systematic evaluation research of the structures and policies that are implemented. This evidence-based research would be invaluable to assess the work and function of the Commission, and for transmitting its successes to PCET sectors beyond Wales.

Health of Disciplines

Sustaining healthy, innovative and evolving disciplines will help to meet national skill and knowledge needs, within both higher education and the research base. A long term, strategic view is needed, not solely based on student choice, market demand and immediate research priorities, to ensure a strategic overview of the needs of the knowledge base is maintained. The Learned Society of Wales stands ready to explore these potential observatory and curatorial roles further with government and to bring in our sister academies in the UK.

The Commission

Question 1:

Is the proposed governance framework appropriate given the remit of the new Commission?

General Comments

The Welsh Government policy document *Public Good and a Prosperous Wales – the next steps* provides a far-sighted background in which to consider the future form of PCET in Wales. Essentially the policy is all about improving the 'quality of life' of people in Wales which includes economic, health, cultural and social dimensions, in line with the ambitions of the Wellbeing of Future Generations Act.

The education system in Wales must be configured to best support these needs. We need a system that not only responds to current needs but also to future needs, which in turn requires knowledge of, for example, potential new technologies, or new health care advances or emerging cultural thinking. We need a system that provides the highest quality education and training which is outward looking and responsive.

PCET funding in Wales currently is directed at a range of bodies such as school sixth forms, skills providers, further education colleges and universities. There is much competition for scarce resources and little evidence of a coordinated approach across the PCET sector. What is required is a 'team Wales' approach where provision responds to clear evidence-based strategy and where the funding system promotes collaboration and efficiency.

It is clear that a single, arm's length, Commission overseeing regulation and funding of the PCET sector is a sensible way forward. There is much to be learned from considering and reflecting on the way that ELWA was established and run, and why it failed; the lack of an integrated approach was a key contributing factor, and must be avoided this time.

The Commission

The proposals for the Commission are sensible. It is of the utmost importance to get this right, otherwise Wales will go backwards. For a fairly small size organisation the brief is very broad and the work of the Commission would require a number of sub-committees.

The proposal for a statutory Research and Innovation Committee represents a much needed way forward, recognising that high quality research must be internationally competitive.

The Chair and membership of the Commission will be crucial to its success and future shape. It is essential that the members are people who understand Wales, but who have an international outlook. It is important that they understand how to gather and evaluate evidence and are able to see Wales' role in the wider world. They should be able to appreciate current needs and evaluate evidence of future need. Should the membership be drawn from inward looking cliques, interested only in generating funding for their own silo, the Commission would most certainly fail. Members should not be representatives of sectors, but members in an individual capacity and appointments should be based on excellence.

Given the scale and scope of the proposed reform, monitoring and reviewing progress of the work, capacity and effectiveness of the Commission will be essential. Evaluation research of the organisation and its structures should be commissioned from the very start to better ensure that the Commission is able to adapt to needs. This evidence-based research would be invaluable to assess the work and function of the Commission, and for transmitting its successes to PCET sectors beyond Wales.

It is noted that at present, there is no recommendation for a standing committee on life-long learning and it is the view of the Society that this area requires consideration and a specific sub-committee.

Question 2:

Do you think that the Welsh language and development of Welsh-medium provision should be supported through a statutory committee within the Commission's statutory governance framework?

A statutory committee for Welsh language and Welsh-medium provision would also be able to address life-long learning (Welsh for Adults) aspects of Welsh language skills provision, in addition to Welsh-medium provision in further and higher education in Wales.

The role of the Coleg Cymraeg Cenedlaethol is an important one and highly relevant to the work of the Commission. The recent Welsh Government task and finish group review of the future role of the Coleg Cymraeg Cenedlaethol recommended that the responsibilities of the Coleg be extended to further education and work-based learning, and a planning group co-constructed by the Coleg and government have prepared proposals which will be submitted to ministers later this summer.

To establish an effective working relationship between the Coleg and the Commission, it is important that the government provides the Commission with specific responsibilities for Welsh-medium education and training in the PCET sector. Furthermore, we would expect that the Welsh language would be mainstreamed throughout the work of the Commission, and that there would be awareness at every level of the wider Welsh language policy issues, and of the contribution of the Commission to realise these policy ambitions.

It will be necessary for the Commission to have appropriate structures in place. This is an aspect of the proposals that needs to be developed further, in order to clarify the roles of the Coleg, the Commission, and the government, and the relationship between the three parties.

The current governance arrangements of the Coleg Cymraeg appear to be very effective and it may be better for the Commission to fund the Coleg via a remit letter arrangement. Should this responsibility reside with the Commission, sufficient resources, appropriate structures and internal policies must be in place to ensure appropriate capacity to fulfil this role.

Question 3:

Do you agree the Wales Employment Skills Board and the Apprenticeships Advisory Board should be brought within the Commission to strengthen links between the Commission and employers?

Yes, it makes sense for these activities to be brought within the Commission. Ultimately, however, it should be for the Commission to decide how to gain such advice. We suggest that the activities of these bodies should be absorbed in a second phase once the Commission has been established and is able to evaluate the best means of receiving advice. In the meantime, there should be structures and opportunities to engage with employers, to ensure that their requirements are considered.

The Relationship between the Welsh Government and the Commission

Question 4:

Is the proposed allocation of responsibilities for strategic planning between the Welsh Government and the Commission appropriate?

Yes, this appears sensible. The Welsh Government should define the high-level policies, objectives and general direction in order to direct public funds. The Commission should be responsible for the distribution

of this investment, and should consult extensively with stakeholders and Government to develop a strategy which has widespread support and ownership. We suggest that policies should be less prescriptive than those of recent years to allow the Commission to best fulfil its role.

Question 5:

Are the proposals for dealing with funding appropriate, in the event of the Welsh Government withholding approval of the strategic plan? What safeguards or interim measures should be considered?

Full and proper consultation, on a continuous basis, should ensure that the strategic plan is always agreed between the government and the Commission. In the event of conflict, the proposals put forward appear sensible.

Question 6:

Apart from withholding approval of the strategic plan, what intervention powers may be required by the Welsh Ministers to ensure that the Commission complies with its duties and fulfils the terms of its strategic plan?

Ministers could have special powers to remove and replace the Chair or any member of the Commission. It could have the equivalent of 'special measures' which are already in use in Wales.

Question 7:

Would a five-year cycle be an appropriate length of time for the Commission's strategic plan to cover or should flexibility be allowed?

A five year planning horizon would be sensible, particularly in the first instance.

It is essential, however, to have a degree of flexibility to respond to changing circumstances. The Commission must be nimble, in particular in research and innovation and in responding to skills needs. This requires regular discussions between the Commission and Welsh Government. Both bodies should make use of the intelligence about new and developing opportunities from key industrialists, international researchers and other experts in Wales and, if necessary, be ready to adjust the strategy and the priorities.

The Relationship between the Commission and Learning Providers

Question 8:

In the regulation section of the ROA, are there other matters that should be included? If so, what are they? Should any be removed? If so, which ones?

ROAs are an important mechanism to harness the distinctive strengths and complementary missions of each institution. Lessons can be learnt from the introduction of ROAs in Scotland. The Regulation and Outcome should be viewed as separate activities, and there should be a clear distinction in the way they are handled.

Question 9:

While we recognise that, in light of their contractual obligations, work-based learning providers would not require charitable status to receive public funding, should other types of learning providers be required to have charitable status in order to receive such

funding? What might be the advantages and disadvantages?

Each should probably be considered on its merits. If an activity contributes to the well-being of the people of Wales it would be right to use public money to support it. Suppose a company which specialises in innovation wishes to offer short courses to innovative students which in turn could help boost the economy or improve health outcomes, then public funding could well be justified. Ultimately, this is an issue for the Welsh government to consider.

Regarding non-charitable HE providers, please see the response to Question 96.

Question 10:

Should RTOs be eligible for funding from the Commission under Regulation and Outcome Agreements? If so, how might the regulation element of ROAs need to be modified to reflect the fact that RTOs do not provide learning?

There are already examples of RTOs in Wales receiving public support, for example through the Sêr Cymru programme. The funding, however, is channelled through a university and it is important that arrangements of this kind can continue. The funding for research and innovation in PCET sector should not be diverted to fund RTOs, and funding should come from another income stream. The Reid Review recommends the establishment of industry-led innovation hubs which would receive funding via HEFCW or the Commission; this development will require further thinking. This is an important and rapidly evolving area and we suggest that the Research and Innovation Committee of HEFCW should give it urgent consideration with the aim of maximising the benefits for Wales.

Question 11:

If they should not be funded under ROAs, in what circumstances and by what mechanisms should they be funded? What mechanism(s) could be put in place to ensure the appropriate use of any public funding that RTOs might receive?

See response to Q10.

Question 12:

If learning providers that did not have charitable status could enter a regulation agreement, how might that differ from the regulation element of the ROA entered into with other learning providers?

No comment

Question 13:

Is the ROA the best way forward? What are the advantages and disadvantages?

We understand the thinking behind the concept of ROAs; a similar HEFCW scheme appears to have worked reasonably well in relation to the universities. We are concerned, however, as to whether or not the scheme is applicable to all the activities to be overseen by the Commission. It would probably work for normal mainstream courses where long term certainty would be welcome but we are concerned that there is 'no one size that fits all' solution. We also have reservations regarding how administratively intensive the programme would be. As a similar Outcome Agreement model has been in place in Scotland for some years for both further and higher education, it would be prudent to consult with the SFC to learn how the current agreements have been developed.

Question 14:

What powers may the Commission need to ensure that learning providers and local authorities carry out their responsibilities under the ROA?

No comment.

Question 15:

Is there another model that we should consider? If so, what is it and what would be the benefits?

One of our major concerns is the scale of change which would be involved when the Commission comes into being and the very high risk a 'big bang' approach entails. If the new Commission is established it must function successfully from day one, otherwise there is a danger that Wales will lose further ground.

At present the funding and regulation of higher and further education and sixth forms work reasonably well and are well understood by all. We would strongly recommend an evolutionary approach which starts with the current funding methodologies of the different components and which develops over time, steered by the Commission and the Welsh Government.

The strategic changes could be incentivised through a funding scheme over a five year period.

Question 16:

What information about learning providers and research and innovation communities with approved ROAs should the Commission make publicly available?

This should be for the Commission to decide.

Question 17:

Once approved, should the regulatory section of the ROA be ongoing, or should it be reconsidered from time to time? If so, how often should it be reconsidered? How often should the outcome agreement element be re-negotiated?

There are parts of agreements like this that can be agreed long term and parts which require a shorter term response. It should be left to the Commission to decide.

Question 18:

Please let us have your views on the issues listed in the 'Additional Matters' section of this paper.

Most of this is for the Commission to decide. We would, however, urge the Commission to use funding for incentivising activities and behaviours rather than for penalising institutions. History shows that this is much more effective.

Strengthening the link between planning and funding**Question 19:**

Do you agree that the Welsh Minister should cease to have their functions (i.e. duties and powers) under sections 31, 32, 33, 34, 35 and 36 of the Learning and Skills Act 2000 and that the Commission should have those functions or functions very similar to those instead?

Yes.

Question 20:

Do you consider that the Welsh Ministers should retain a role in respect of the planning, provision and funding of 16 to 19 and post 19 education and training? If so what should that role be?

The Society's view that the new body should be arm's length and have the freedom to develop strategy, policy and have the freedom to distribute public funding. The Welsh Ministers, together with the Commission, will need to be able to respond to new opportunities or challenges which may arise unexpectedly. The important principle is that Welsh Ministers, the Commission and learning and research providers work together as one team. Clear accountability is needed for learners.

Question 21:

Do you agree that the powers in section 65 and 66 of the Further and Higher Education Act 1992, along with powers in sections 86 and 87 of the Education Act 2005, should be replicated largely unchanged for the new Commission?

No comment.

Question 22:

Do you agree that section 68 of the Further and Higher Education Act 1992 should be replaced with a new power that allows Welsh Ministers to allocate funding to the Commission for all post-16 provision? Are there any specific inclusions or exclusions that should be considered as part of this new power?

Yes.

Question 23:

Do you agree that the Welsh Ministers should hypothecate between elements of the total grant available to the Commission on the basis of type of provision to be funded?

This would be sensible initially. It is important to ensure that institutions have some guarantee of stability during the changeover to the new Commission. A period of three years, perhaps involving a review after two years, might be appropriate. It would enable a more orderly evolution of the new system.

Question 24:

Do you agree that the hypothecation should be split at a FE/HE level to give the Commission as much flexibility as possible, but to acknowledge the fact that we propose specific statutory responsibilities in relation to the funding of further education, which should pass to the new Commission? These do not have a current counterpart in relation to higher education.

Hypothecation could certainly be split at the FE/HE level. There must be provision to allow or indeed incentivize collaboration in line with distinctive strengths and synergies of institutions.

There could also be merit in the hypothecation of QR funding, in view of the REF and the need to increase Wales's grants from UKRI. This would allow a more ordered transition for research and learning providers.

There is a need to develop a model in which competition does not preclude healthy collaboration and partnerships between institutions and other organisations to support, innovate, and overall enhance the available provision, and which enables institutions to plan for the long term.

Question 25:

Do you agree that there should be a power available to the Welsh Ministers to directly fund PCET provision (including higher education), having first shared any such proposals with the Commission, and where there is a strong public interest in doing so?

Yes, it is essential to retain such power for exceptional and specified purposes. Situations will inevitably arise in learning and research, where direct funding after consultation with the Commission will be the best way forward. It would enable the whole system to respond more quickly to unexpected developments when necessary.

Question 26:

We know there are additional funding streams, outside core funding. If you receive such funding can you indicate whether you think responsibility for the funding you receive should rest with the Commission?

Responsibility for these streams must lie with the learning and research providers. Research grants from UKRI or the EU will be the responsibility of the institution holding those grants. The range of responsibilities of the Commission will need to be well defined and there must be encouragement for Welsh institutions to access all relevant funding streams. The Commission will, of course, ensure that each institution has adequate governance arrangements for such streams.

Question 27:

Do you agree that the Commission should have the flexibility during a short transition period to operate different planning and funding models across each type of post-16 provider, whilst driving forward alignment and consolidation as the Commission matures in its operation?

Yes, we believe that this is a very important point. To have a brand new model, applicable to all, on day one of the Commission would guarantee chaos and failure. Far better would be to start with the existing models and introduce changes in an organized and fully considered way, over a period of perhaps five years.

The current HE and FE funding bodies could start the process of change now, before the Commission is formed. For example, the Research and Innovation Committee of HEFCW, with new membership and modified terms of reference, is ideally placed right now to conduct the activities proposed for Research and Innovation Wales. This could then be absorbed into the Commission upon its formation and would 'hit the ground running'.

Question 28:

Should there be transition arrangements in place to ensure that core funding to any institution is initially protected? What would constitute a reasonable protection?

Yes, some guarantee of stability is essential over the first three to five years.

Question 29:

Do you agree that the Commission should be expected to keep under review intelligence around the apprenticeship levy and consider new ways of allocating funding across the system if the Levy is not seen to be meeting the needs of employers in Wales?

Yes and it should be for the Commission to decide how this is to be done.

Question 30:

Do you agree that the Commission should continue to work collaboratively with the RSPs to inform provision delivered by learning providers?

Yes, this would be sensible. Welsh Ministers and the Commission, however, may wish to give further consideration to the way they receive advice. It is important to know about immediate regional needs but it is also important to understand what changes, for example in technology, are on the way so that provision can be arranged ahead of need. Much of this intelligence can come through the research community in the universities and through leading edge industrialists, and the Commission will have an important role in considering regional needs in the context of national and global trends in such areas as technological change and shifts in labour markets.

Question 31:

Do you agree that the Commission should be able to withhold some of the core budget for each sector to be allocated based on the recommendations set out in the annual skills plans?

Yes.

Question 32:

Do you consider that the proposals above for monitoring performance and achieving accountability across the PCET system are sufficient and appropriate?

Yes, but every effort should be made to minimize bureaucracy. Institutions must have the freedom to operate in the way they best see fit and there is no 'one size fits all'.

Question 33:

What more might need to be done to secure the sustainable operation of the PCET system in Wales over the longer term?

It is important that each part of the PCET system is as good as, or better than, the corresponding parts in the UK. The Commission must strive for excellence and impact and evidence success through evaluation research. This will not happen without adequate public investment, which in turn serves to lever in greater financial resources from other areas. The cuts in the public funding of further and higher education over recent years have left these sectors significantly weaker and there is a long way to go to catch up. Addressing the funding gap with the rest of the UK must be a priority.

The funding and regulatory regime in higher education should, as a matter of urgency, address the sustainability of subject diversity by safeguarding strategically important but vulnerable subjects (eg. modern languages, the subjects related to the study of Wales) and ensuring that the sector continues to offer a broad choice of subjects across a diverse range of providers. Strategic decisions about subject provision to meet national need should not be determined solely by market demand and student choice.

There is a need to develop a model in which market competition does not preclude healthy collaboration and partnerships between institutions and other organisations to support, innovate, and enhance the available provision, and which enables institutions to plan for the long term.

It is important the Welsh higher education continues to build on the strong international UK and Wales brand. The Commission will need to work within the UK-wide higher education infrastructure, including data and quality assurance bodies and for research. With the increasing number of opportunities to collaborate and secure investment into Wales from the rest of the UK and the world, a sustainable long-term PCET system must enable universities to be responsive to those opportunities.

Protecting the Interests of Learners

Question 34:

Do you agree that learner protection arrangements should align with a common set of principles to ensure consistency for learners across the PCET sector?

We welcome the student-centred approach of the proposals. As acknowledged in the consultation, a one-size-fits-all approach is not likely to be appropriate. Given the diversity of providers across the PCET sector, providing learners with the same level of protection will not mean the same protection arrangements at every provider. Instead arrangements should be proportionate to the risk to student.

Question 35:

Do you agree with the principles suggested? Are there any that should be omitted or additional principles which should be included?

The suggested principles suffice. We recommend that it is for the Commission to develop a common set of principles for learner protection plans, co-constructed with learners. There could be many unintended consequences and great care is needed.

Question 36:

Do you agree with the suggested content for inclusion in a Learner Protection and Progression Plan? Is there anything that should be added or omitted?

Yes.

Question 37:

What sanctions, if any, should the Commission have in relation to Learner Protection and Progression Plans?

It is difficult to provide a view on this question given the consultation document does not outline what sanctions are being considered.

Question 38:

Do you agree that the current complaint resolution arrangements should remain in place for school sixth forms?

No comment.

Strengthening the Learner Voice and Representation

Question 39:

Do you agree that consistent principles and values should be developed for learner voice and representation and that learning providers should be required to adhere to these?

Yes, however each institution should develop its own mechanism for capturing the learner voice; the existing HEFCW model offers a good template. Learner representation needs to be broadly reflective of the demography of the body of learners across the PCET sector.

Question 40:

Do you agree that learner representatives should be involved with developing the outcome agreement element of the ROAs?

Yes. The current Student Union / University Relationship Agreements provide a productive and constructive model which should be incorporated in the ROAs.

Question 41:

Do you agree with the proposal to develop a national framework for learner voice and representation? Do you think this would work for all learning providers?

Learner representation needs to be broadly reflective of the demography of the body of learners across the sectors. This applies also to the proposed obligation on the Commission to consult learners. Any national framework must be co-constructed and must involve students from the outset.

Question 42:

If so, do you think responsibility for establishing the proposed national framework should sit with the Commission?

Yes.

Question 43:

Should the Commission work with all educational providers in Wales to ensure the establishment of learner-led representative bodies are adequately resourced and supported?

Yes.

Quality Assurance and Enhancement

Question 44:

Do you agree with the proposed overall principles for the quality framework? Should anything be added, removed or changed?

Yes, we broadly agree.

The proposals do not fully take account of the European Standards and Guidelines (ESG), which set a common quality assurance framework across the European Higher Education Area, enable the assurance and improvement of quality, support mutual trust, recognition and mobility within and across national boundaries, and provide information on quality assurance in the European Higher Education Area

Quality assurance arrangements must be internationally recognised and respected, and the QAA, the UK-wide quality assurance agency for higher education is leader in this respect, and there is no benefit to seek to replicate their work.

The proposal that the Commission is both a funder and a quality assurance regulator, potentially threaten the impartiality of decision making. This could be avoided by placing a greater responsibility for quality with an independent and internationally credible quality assurance agency.

The proposals are silent on the commitments expressed by both the UK and Welsh Governments to the Bologna process.

Question 45:

With the exception of school sixth forms, should a single body be designated to undertake external quality assessment of all PCET provision? Please explain the reasons for your response, and any particular positive or negative impacts that you anticipate.

We would urge caution here. The quality of provision in higher education should be judged against that in the UK and Europe in the first instance, under the European Standards and Guidelines. Further education or local skills-based courses might require a more locally relevant judgement. It may be best for the present quality evaluation systems to be retained initially, as they carry the confidence of their sectors, giving the Commission time for in depth consideration of the most suitable way forward.

Question 46:

Do you agree with the proposed definition of quality enhancement? If not, what would you change?

Yes.

Question 47:

Do you agree with the proposed scope of the Commission's role in relation to quality enhancement? If not, what would you change?

Yes.

Question 48:

How could the Commission's role in workforce development be tailored to reflect the needs of different sectors and providers?

This would be for the Commission to consider.

Sixth Forms

As stated in our response to the 2017 consultation on *A reformed post-compulsory education and training system*, we believe that the incorporation of sixth forms should take place at a later date.

The challenges faced by the Commission during the early years will be huge and it should not be burdened further by the absorption of sixth forms. Following early experience, however, the Commission will be in a good position to advise on incorporating sixth forms while not damaging the quality of provision.

Question 49:

Should the Commission have any other powers to instigate a regulated alteration in terms of a sixth form such as closure, or is this better achieved via the negotiation of Part II of the ROAs?

No comment

Question 50:

What reporting should be required of the local authority to show effective use of funding given for sixth form provision?

No comment

Question 51:

Is the role of the Commission when a sixth form is judged as causing concern appropriate, or should it be different in some way?

No comment

Question 52:

Are there any other powers the Commission should have as regards sixth form provision?

No comment

Supporting and Developing Apprenticeships in Wales**Question 53:**

Do you agree that the Commission should play a central role in delivering Welsh Apprenticeships? In particular, should the Commission have the power to issue Apprenticeship Pathways, as well as Apprenticeship Certificates?

We agree that the Commission should play a central role in delivering Welsh Apprenticeships. This would go some way to help ensure parity of esteem, and could contribute to progression routes through the PCET sector. To help ensure consistency across the sector, ROAs should be introduced for work-based learning providers once existing contracts expire.

Question 54:

Which elements of the current apprenticeships system work well and should be retained and where can delivery be improved by removing complexity and onerous statutory requirements?

The Commission should aim to achieve integration within qualification development, and ensure consistency with integrated delivery approach.

There are useful models to consider in other parts of the UK – for example the degree-level apprentice schemes at the University of Sheffield which could serve as examples of best practice, bringing together the PCET sector with industry.

Question 55:

Do you foresee any issues with the Welsh Ministers being able to determine the high level requirements for the operation of the apprenticeship system in the manner currently being proposed via the WAS?

The powers of the Welsh Ministers should be to set the overall context for the scheme, and the operation of the apprenticeship system to be determined by the Commission.

Question 56:

Do you foresee any issues, or have any comments about the reformed apprenticeship system we have proposed?

It is important that, in line with its responsibilities in other areas, that the Commission is able to be flexible and responsive.

Research and Innovation**Question 57:**

Do you agree with the general proposal and detailed construction of RIW within the Commission? Please explain why.

In order to adequately respond it is important to consider a vision of research and innovation in Wales. Currently there is good research in Wales, as measured by REF 2014, and Wales leads the UK in terms of research impact.

We know, however, that the capacity for international research in Wales is low compared to the rest of the UK. International quality research is highly competitive and requires outstanding people to bring in grants and generate output. Leading experts not only bring in resources [£3 for every £1 of QR] but create jobs and contribute to the culture, quality of life and to our economy. Many form collaborative links with individuals and groups world-wide and there are many examples where this brings benefits to Wales. The QR fund is the driver of international quality research as is well recognised in the Diamond and Reid reviews; it is part of the crucial 'dual support' system enabling Wales to win large grants from the UK and European Research Councils. Such research, in Wales, has a good balance of curiosity driven work and 'challenge' driven activity. In the past, researchers have gained large funding for Wales from the EU and in future more effort will be directed towards programmes such as city and rural deals and industrial challenges. The Reid Review recognises the need to increase research capacity in Wales and makes sensible and important recommendations about how this can be achieved.

The QR fund must be protected in line with the recommendations of both the Diamond and Reid Reviews. QR-funding provides the grounds on which the competitive, project-based funding streams from other sources depend. We strongly support the observation of the Reid Review that "The Welsh Government's decision, following Sir Ian Diamond's review, to protect QR funding levels over the next few years will provide underlying support for the Welsh research base. But more recent decisions by the UK Government may well bring an increase in QR funding for English universities, leaving Wales at a disadvantage yet again unless it keeps pace with English QR." We do not agree with any proposed reforms that would reduce the level of QR for universities. The fund should not be diluted and it should be confined to higher education. Top quality researchers, many from the most deprived parts of Wales and many from overseas, are attracted to the Welsh sector by a good environment and good infrastructure which allow them to perform at the highest level.

It is clear that the proposed RIW would be in an excellent position to oversee QR, to interact with external bodies such as UKRI, and to advise the proposed Commission and Welsh Government.

Innovation is complementary to research, and is 'the development of new or improved products, processes or thinking which lead to an improved quality of life'. Innovation can come from a myriad of directions

including, in the context of PCET, from higher and further education, schools, public service, business and social groups. Wales needs to build a culture of innovation right through society and needs to ensure that ideas can be capitalised upon when clearly beneficial. Innovation with clear impact should be the focus for RIW.

The funding of innovation thus needs to be broad-based, able to support not only to innovation centres but individuals and groups. The Reid Review recognised the importance of adequate funding for innovation, from schemes such as HEIF, in England, to large targeted innovation centres and smaller schemes which respond to individuals and groups. RIW would be in an excellent position to oversee and to coordinate this important activity, and to implement the Reid recommendations.

UK and Welsh Government often support research and innovation involving both industry and educational establishments. Examples include 'semiconductors' in south east Wales and steel production in the west. There is likely to be much more activity here as City Deals and Industrial Challenge programmes are developed. If requested by Welsh Government the RIW could play a key role in these initiatives. It would be important, however, that such schemes are funded with supplementary support, and do not take scarce resources from research and innovation. There would also need to be complete clarity about the boundaries of responsibilities between RIW and the business support side of government.

Given the potential breadth of activity and expertise required, it is felt that the proposal of up to 10 members (including the Chair) is too low, and that 15 members would provide more scope for a broader base.

It would be appropriate, given the importance of higher education within the REF and its capacity to bring large grants to Wales, for perhaps one half of members (up to 8) to have experience in higher education matters to best cover such a wide brief. The other half of the membership will have to cover further education, and we suggest to have experience of business and industry, and other relevant bodies.

Membership should not be limited to people resident in Wales – appointments should be made on merit and members should not be representatives of sectors, but rather members in an individual capacity. It will also be important to avoid subject or sector silos, and members (and the RIW) must have a holistic approach.

It will be important as well to ensure a balance of the disciplines amongst the membership. As REF2014 demonstrated, AHSS research from Welsh universities has significant impact. The British Academy's recent submission to the Westminster Government's consultation on post-compulsory education system reform in England outlines that:

The arts, humanities and social sciences are vital to a thriving economy, vibrant culture and cohesive society. They help deliver the skills on which the service sector, which makes up 80% of the UK's economy, depends, and which are needed in a world where technological, socio-economic, geopolitical and demographic changes are already transforming the way we work and live. [...]

In terms of delivering a post-18 education system that meets the future economic and social needs of the country, AHSS subjects will play an essential, enhanced role. Many of the key future global challenges are interdisciplinary in nature and require the combination of knowledge and skills from STEM and AHSS.¹

¹ https://www.britac.ac.uk/sites/default/files/ResponseToPost-18ReviewConsultation_0.pdf

We strongly reiterate this argument.

There is an obvious need for Wales to establish a designated body for research and innovation. In order to ensure that there is no 'down time' in anticipation of the RIW becoming operational, much of the work proposed for body could be undertaken by the Research and Innovation Committee of HEFCW in its current form.

Question 58:

Do you agree that RIW should have such a wide funding scope to be able to fund the activities described even if its scope is much more restricted in its final implementation and operation, i.e. should it have such flexibility? Please explain why.

Yes, we agree with this funding scope. Welsh Government now appears to have a range of funding streams and schemes to fund projects and it is clear that better coordination would be desirable. This could be achieved through RIW.

Often, however, Welsh Government needs to respond quickly and decisively, for example when attracting a potential large inward investor or when jobs in an established industry are at risk. Welsh Government must have the freedom to respond in a way that most benefits Wales, be it through the organisation of RIW or through its own procedures or indeed some combination of both. What is needed is a 'team Wales' approach which is responsive and nimble when necessary but which is also able to consider issues in depth over a longer timescale.

There should be a duty upon the Commission and the RIW to work to identify areas in which to build capacity eg. emerging disciplines, neglected disciplines, and funding for research which would benefit the quality of life of the people and future generations of Wales.

Question 59:

Do you agree with the proposals for the relationships between the Welsh Government, the Commission and RIW and the relationships with funding recipients and R&I community? Please explain why.

There are areas where we agree and several where we disagree. First, we believe that there should be substantial dialogue between the Commission and Welsh Government, both in establishing a strategic plan and in its implementation. The Commission and RIW should be sources of invaluable advice to Welsh Government and the remit to the Commission should be the result of two way discussions. Government and the Commission must be nimble and capable of supporting developments at short notice if demanded by circumstances.

The relationship between the Commission and RIW has the potential to be challenging. Given the breadth of material covered by the Commission and the relatively small membership, it is possible that a proper understanding of schemes such as QR or Innovation Centres could be at risk. We would strongly recommend that officers consider the pros and cons of the way Research England has been set up and its relationship with UKRI. We understand that the funding for R&I to Research England for distribution is ring fenced and regularly adjusted for inflation.

Many of the proposed schemes for funding recipients are too detailed, and often confusing, and should be for the Commission and RIW to consider. The Diamond Review and in particular the Reid Review gave

highly detailed consideration to many of the potential funding streams. The panels based their conclusions on a vision for and on the needs, of Wales and consulted widely with their community. The starting points should be the vision and the objectives and it should be for the Commission and RIW to decide how best these can be achieved.

The section of the consultation document relating to business support is confusing, and greater clarity is necessary.

Financial and Governance Assurance

Question 60:

Do you agree that the new Commission should be given express statutory powers in relation to the assurance of financial management, financial health and governance arrangements for PCET providers?

Yes.

Question 61:

Do you agree that all PCET providers should be subject to similar financial and governance assurance principles? Should the Commission be enabled to apply different arrangements and requirements to different types or categories of PCET providers?

Yes. The Commission should be enabled to apply different arrangements and requirements to different categories of providers, as appropriate.

Question 62:

Do you agree with the proposal to enable the proposed Commission to publish a formal set of requirements and conditions as well as to issue guidance to providers and to advise them of good practice?

Yes.

Question 63:

Do you agree with the proposal to provide the Commission with enabling functions and that legislation should set out a broad framework for financial and governance assurance with the Commission given discretion to develop its requirements within that framework?

Yes.

Question 64:

Do you agree that:

- a) the Commission should be placed under a duty to consult with PCET providers and any other persons it considers appropriate in the development of its financial and governance assurance arrangements?
- b) the Welsh Ministers should be able to issue guidance to the Commission with regard to financial and governance arrangements and that the Commission be required to take such guidance into account?
- c) the above requirements would provide sufficient safeguard in respect of the scope and reach of the Commission's financial and governance assurance arrangements?
Are there any other safeguards you consider to be necessary?

Yes.

Question 65:

Do you have any comments or concerns about the proposal for the Commission to request information from PCET providers, undertake periodic assurance reviews, enter premises and inspect documents or materials in support of its financial and governance assurance functions?

The Commission must have the right to request information.

Question 66:

Do you agree that the Commission should have a range of intervention powers at its disposal to deal with failure to comply with financial and governance assurance requirements?

Yes.

Question 67:

Do you agree with the proposal that the Welsh Ministers should retain their powers of intervention under section 57 of the Further and Higher Education Act 1992 and that the Commission should be enabled to make recommendations to the Welsh Ministers as to the exercise of those powers?

Yes.

Question 68:

Do you agree with the proposal that the Welsh Government should explore the possibility of transferring the Principal Charity Regulator role for FE institutions to the proposed Commission? What are your views on the proposal to retain the current requirement for HE institutions in Wales to register with the Charity Commission?

Yes.

HE Governance**Question 69:**

Do you agree that those amendments to HEIs governing documents considered to be in the public interest should continue to be subject to oversight and the approval of the Privy Council?

Yes.

Question 70:

Do you consider the proposed extension of the 2006 reallocation approach for the amendment of HEIs governing documents to be appropriate? If not, why?

Yes.

Question 71:

Do you agree that existing statutory requirements that apply to HECs governing documents should be removed so that the proposed approach can be extended to all higher education institutions?

Yes.

Question 72:

Do you agree with the Commission's proposed role in relation to the consideration of amendments to HEIs governing documents?

Yes.

Question 73:

To support the proposed approach, do you agree that:

a) the Welsh Government should issue guidance on the procedure for amending governing documents?

No, not at this stage

b) the Commission should review the 2006 list of public interest matters in consultation with stakeholders and issue guidance on those matters that will continue to be subject to Privy Council oversight and approval?

No, not at this stage

c) the Welsh Government be enabled to issue guidance to the Commission in relation to the public interest matters that should continue to be subject to oversight and approval?

Yes.

Question 74:

Do you consider that the proposed approach would safeguard the public interest in the governance arrangements of HEIs in Wales?

No, not at this stage. To operate as intended will require significant further work. The process should not be changed at this time and any further work in this area should be deferred to a later date.

Question 75:

We would welcome views on whether this arrangement should continue to operate in future so that the Welsh Ministers would be required to consult with the Commission and the HEC in question or whether provision should be made for these powers to be exercisable only upon recommendation by the Commission.

It would be sensible to consult the HEC in question as well as the Commission in the event of such drastic potential outcome.

Question 76:

Which option do you consider to be the most appropriate and why? Are there other options that should be considered?

We agree that there is a strong argument for the retention of dissolution powers in Wales in some form.
We agree that Option 2 or Option 4 is probably the most suitable.

Question 77:

Under what conditions or circumstances do you consider it appropriate for dissolution powers to be exercised?

When the governance of an institution has failed, with little chance of recovery.

Question 78:

Should dissolution powers only be exercisable on recommendation of the Commission? If so, should this also be extended to the existing arrangements for FE institutions?

Yes, it should be on the recommendation of the Commission, but the process must enable rapid action where necessary. Yes, the arrangements could be extended to FE institutions.

Question 79:

Do you agree with the proposed approach, i.e. that no significant changes should be made to the current procedures and criteria for granting DAPs and UT in Wales for the present time?

Yes.

Question 80:

Do you agree with the Commission's proposed role in relation to the consideration of DAPs and UT applications in Wales?

Yes.

Question 81:

Do you agree that the Commission should consider the effectiveness of existing arrangements for the delivery of HE in FE as part of its wider strategic remit for PCET provision?

Yes. This should include HE/FE partnership arrangements, particularly for delivery in remote places or when a local need is best provided by such arrangement.

Supporting the Welsh Language

Question 82:

Do you agree that the Commission should be placed under a specific duty to have regard to the Welsh language in the exercise of its functions?

Yes.

Question 83:

In having regard to the Welsh language, do you agree the Commission should be expected to consider matters such as:

- the Welsh Government's vision for a million Welsh speakers by 2050;

- the adequacy of existing provision of education through the medium of Welsh;
- how it can support existing provision through the medium of Welsh;
- how current provision through the medium of Welsh can be developed;
- promoting the Welsh language throughout the PCET sector?

Yes. The Welsh Government, universities and further education colleges in Wales have a unique responsibility for Welsh language and Welsh cultural matters. It is important that teaching and research through the medium of Welsh across all academic disciplines are properly funded and developed; the PCET sector has an important role in fulfilling the government's ambition to reach a million Welsh speakers by 2050. We would expect that the Welsh language would be mainstreamed throughout the work of the Commission, and that there would be awareness at every level of the wider Welsh language policy issues, and of the contribution of the Commission to realise these policy ambitions.

Question 84:

What are your views regarding the future relationship between the Coleg Cymraeg Cenedlaethol and the Commission? Please include comments on the relationship regarding funding of the Coleg and its operational activities as well as the accountability of the Coleg to the Commission.

In time it would be sensible for the Coleg to be funded through the Commission in the same way as it used to be funded through HEFCW. The Coleg must provide an input into strategic planning of the Commission.

To establish an effective working relationship between the Coleg and the Commission, it is important that the government provides the Commission with specific responsibilities for Welsh-medium education and training in the PCET sector. Furthermore, we would expect that the Welsh language would be mainstreamed throughout the work of the Commission, and that there would be awareness at every level of the wider Welsh language policy issues, and of the contribution of the Commission to realise these policy ambitions.

It will be necessary for the Commission to have appropriate structures in place. This is an aspect of the proposals that needs to be developed further, in order to clarify the roles of the Coleg, the Commission, and the government, and the relationship between the three parties.

The current governance arrangements of the Coleg Cymraeg appear to be very effective and it may be better for the Commission to fund the Coleg via a remit letter arrangement. Should this responsibility reside with the Commission, sufficient resources, appropriate structures and internal policies must be in place to ensure appropriate capacity to fulfil this role.

Question 85:

What are your views regarding the future relationship between the National Centre for Learning Welsh and the Commission? Please include comments on the relationship regarding funding and operational activities of the National Centre and accountability of it to the Commission.

It would make sense for the National Centre to be accountable to the Commission. The Centre and the Coleg Cymraeg Cenedlaethol should be encouraged to work closely together, and a statutory committee for Welsh-medium provision across the PCET sector may be one way of providing guidance for this. With the previous recommendation to extend the Coleg's responsibilities to include work-based learning it is

important that there is a potential progression route through the National Centre for Learning Welsh's courses, to the Coleg's work-based learning, higher-level professional Welsh provision.

Data, Statistics and Research

Question 86:

What are your views on the new body taking ownership of datasets currently owned by the Welsh Government and other agencies?

The Government already has arrangements for how data is collected and shared – and these existing governance arrangements should be carried over to ensure the data remains accessible.

The development of a significant statistical and research capacity on the part of the Commission would be very welcome. It needs to be recognised, however, that such development would need to be adequately resourced and recognise that some expertise in the analysis of educational data (including post-16 data) resides in the higher education research sector.

The value-added here would be significantly increased if good partnerships could be established with external researchers, within Wales and elsewhere. This is especially so, given that future developments will involve the linking of educational data with that from other spheres (labour market, etc.).

Question 87:

Do you consider that a duty should be placed upon secondary schools and other learning providers and examining bodies to share data about learners' characteristics and attainment, with a new learning provider with which a learner is enrolling?

A duty would improve the educational and analytical capabilities of all stakeholders. However, such a duty would have to be mindful of the capacity for schools, in particular, to share data with other partners. It is also important to note that the Duty should also ensure data is shared from the PCET sector to schools to enable them to track the progress and destinations of their school leavers – a potentially key outcome measure for schools within the new curriculum.

Alongside any Duty the use of a unique learner identifier for schools and across PCET is essential. This will ensure the ability to share data without necessarily using identifiable information about the learner. The ULN already exists, but we have concerns about how well this is used currently across providers.

We recognise the educational value of sharing data across learning providers. A particular and immediate benefit of this would be for learners with particular learning needs, where special provision plans should transfer with the learner to the new learning provider seamlessly.

Question 88:

Are there any further powers, duties or other matters that should be considered in developing proposals for these functions of the new body?

It is essential that this aspect of the Commission is sufficiently resourced.

Student Finance Issues

Question 89:

Could an increase in the availability of accelerated degrees better meet the needs of employers and learners in Wales?

This should be for the Commission to gather evidence and consider.

Question 90:

Do the current legislative arrangements, in particular the absence of distinct fee limit for accelerated courses restrict the development and delivery of accelerated degrees in Wales?

Not as far as we are aware. It would be sensible, though, to adjust the fee cap to make such courses viable.

Question 91:

How might accelerated degrees be defined?

This is an issue that requires thought and should be for the Commission to consider after consultation with the sector.

Question 92:

What are your views about the potential costs associated with delivery of two-year accelerated degrees? In particular what are the potential implications for tuition fees chargeable for such courses and for maintenance support for eligible students?

Accelerated degree programmes are expensive to implement, particularly if the numbers are small. Even before the tuition fee regime there was little demand for such courses. They require additional staff to teach and are expensive to administer.

Question 93:

Are there any other matters relating to accelerated degrees that you consider should be taken into account?

The question of accelerated degrees has been around for a long time and there are big implications for learners and providers. The views of the higher and further education sectors must be taken into account.

Question 94:

Do you agree with the proposal that the Commission should have regulatory oversight of all HE providers in Wales seeking designation of their HE courses for the purpose of student support?

Yes.

Question 95:

Do you agree with the proposal that there should continue to be two categories of course designation for providers of HE in Wales for the purpose of student support?

Yes.

Question 96:

Which of the three options do you consider to be most appropriate and why?

Do you think that HE providers outside Wales should also be required to satisfy one of the three options?

Option A. We believe that charitable status should be a defining aspect of Higher Education Institutions if they are able to receive public funding and income from student support.

Question 97:

Are there any other matters which you consider should be taken into account in respect of the proposed arrangements for the designation of HE courses for the purpose of student support?

No comment.

Question 98:

To help inform our assessment of the possible impact of these proposals, can you foresee any particular impact on those with protected characteristics (within the meaning of the Equality Act 2010) and how they might be particularly affected by these proposals?

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

No comment.

Question 99:

Please also explain how you believe the proposed policy could be formulated or changed so as to have :

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No comment.

Question 100: 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:

The name Tertiary Education & Research Commission for Wales / TERCW is not the best title or acronym for the proposed body, and further consideration should be given to a more appropriate name, which better reflects the function of the organisation.

While the consultation document is exhaustive, there is little consideration given to a vision for the reformed PCET sector. The Well-being of Future Generations Act (Wales) 2015 outlines a clear ambition for Wales, and in keeping with the aims of the Act, there needs to be a mechanism to monitor and then ensure that the individual decisions taken by universities to close or shrink academic departments in response to changing student demand or other market uncertainties do not collectively damage the provision of disciplines that it is in the national interest to maintain. It is likewise critically important that Welsh PCET institutions are expected and encouraged to safeguard and promote studies relating to Wales through both Welsh and English in both its national and international contexts by developing teaching, research and publications across a wide spectrum of academic disciplines.

With the creation of UK Research and Innovation, the new Commission, and Research and Innovation Wales, the need for proper oversight of the health of disciplines across both teaching and research becomes ever more critical, to ensure a strategic overview of the needs of the knowledge base is maintained. This requires an observatory function to monitor institutional and student behaviours and the needs of the whole knowledge base. This is a role which a national academy would be well placed to undertake, subject to appropriate resourcing. The Learned Society of Wales, if requested by government, is willing to consult with the British Academy, the Royal Society and others about how the national academies might fulfil this role across the whole subject base to ensure the long-term benefit to Wales.

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: