

Number: WG36142



Llywodraeth Cymru
Welsh Government

Welsh Government
Written Consultation – summary of responses

Public Good and a Prosperous Wales – the next steps

Prepared by Miller Research Ltd

12 October 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

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Overview	Summary of responses to the Welsh Government's technical consultation on Public Good and a Prosperous Wales – the next steps
Action required	None – for information only.
Further information	Enquiries about this document should be directed to: PCET Reform Skills, Higher Education and Lifelong Learning Directorate Welsh Government Cathays Park Cardiff CF10 3NQ e-mail: PCETReform@gov.wales
Additional copies	This document can be accessed from the Welsh Government's website at https://beta.gov.wales/tertiary-education-and-research-commission-wales
Related documents	Public Good and a Prosperous Wales – the next steps https://beta.gov.wales/sites/default/files/consultations/2018-04/180423-tertiary-education-and-research-commission-for-wales-consultation-document.pdf

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Glossary

Acronym/Key word	Definition
ACL	Adult continuing education
ALN	Additional learning needs
ALW	Adult Learning Wales
ASCL	Association of School and College Leaders
BAME	Black, Asian and minority ethnic
CITB Cymru Wales	Construction Industry Training Board Cymru Wales
CMA	Competition and Markets Authority
CQFW	Credit and Qualifications Framework for Wales
CUSP	College University Skills Partnership
CYDAG	Cymdeithas Ysgolion Dros Addysg Gymraeg (Society of Schools for Welsh Medium Education)
DAPs	Degree Awarding. Powers
DWP	Department for Work and Pensions
ECITB	Engineering Construction Industry Training Board
EHRC	Equality and Human Rights Commission
ELWa	(The former) Education and Learning Wales
ESG	European Standards and Guidelines
EWC	Education Workforce Council
FEI	Further Education Institution
FHEA	Further and Higher Education Act 1992
FHEQ	Framework for higher education qualifications
FISSS	Federation for Industry Sector Skills and Standards
GDPR	General Data Protection Regulation
HEC	Higher Education Corporation
HEI	Higher Education Institution
HEFCW	Higher Education Funding Council for Wales
HESA	Higher Education Statistics Agency
IACW	Innovation Advisory Council for Wales
ITE	Initial teacher education
LPPP	Learner Protection and Progression Plan
NAEL	National Academy for Educational Leadership
NAHT	National Association of Head Teachers
NASUWT	National Association of Schoolmasters Union of Women Teachers
NEET	A young person who is "Not in Education, Employment,

	or Training”
NEU Cymru	National Education Union Cymru
NOS	National Occupational Standards
NSOA	National Society of Apprentices
NTfW	National Training Federation for Wales
NUS Wales	National Union of Students Wales
OIA	Office of the Independent Adjudicator for Higher Education
OU	Open University
PCET	Post-Compulsory Education and Training
QAA	Quality Assurance Agency for Higher Education
QR funding	Quality-related research funding
REF	Research Excellence Framework
RIW	Research and Innovation Wales
ROA	Regulation and outcome agreement
RSP	Regional Skills Partnership
RTO	Research Technology Organisations
SASW	Specification of Apprenticeship Standards for Wales
SQAP	Sector Qualification Advisory Panel
SSC	Sector Skills Council
TDAP	Taught degree awarding powers
TEF	Teaching Excellence and Student Outcomes Framework
TERCW	Tertiary Education and Research Commission for Wales
UCAC	Undeb Cenedlaethol Athrawon Cymru (Undeb Cenedlaethol Athrawon Cymru)
UCU	University and College Union
UKPSF	UK Professional Standards Framework
UKRI	United Kingdom Research and Innovation
ULN	Unique Learner Number
UT	University Title
WAAB	Wales Apprenticeship Advisory Board
WAS	The proposed new Welsh Apprenticeship Specification
WBL	Work based learning
WESB	Wales Employment and Skills Board
WFGA	Well-being of Future Generations (Wales) Act 2015

1. Consultation responses

Purpose of the Public Good and a Prosperous Wales – the next steps consultation

- 1.1 This consultation set out detailed proposals for the reform of the post-compulsory education and training system in Wales and for the way in which Welsh Government research and innovation expenditure should be overseen and co-ordinated. The paper invited responses to more detailed, technical proposals for the shape and operation of the new Commission.
- 1.2 This consultation builds on proposals set out in the Welsh Government's White Paper, "*Public Good and a Prosperous Wales – Building a reformed PCET system*", published in June 2017:
https://consultations.gov.wales/sites/default/files/consultation_doc_files/170620_reformed_pcet_system_final_en.pdf
- 1.3 The White Paper responded to the independent report by Professor Ellen Hazelkorn contained in "*Towards 2030 - A Framework for Building a World-class Post-Compulsory Education System for Wales*":
<http://gov.wales/topics/educationandskills/publications/reports/review-of-the-oversight-and-regulation-of-post-compulsory-education-and-training-in-wales/?lang=en>
- 1.4 The Hazelkorn Report recognised that the Welsh post-compulsory education sector comprises a multifaceted and diverse set of institutions, providing for learner needs from 16 years onwards. While recognising that different parts of the system have responded to, and sought to meet, the challenges and needs of citizens and society in the 21st century, the report also raised a number of challenges for planning and funding the post-compulsory sector:
 - there was confusion around the overlapping roles, and duplication of resources, between and across different institutions
 - there was insufficient strategic thinking by government or by the institutions, at all levels, leading to insufficient collaboration and lack of critical mass
 - an overall vision for the post-compulsory system is lacking
 - Wales lacks coherent learning pathways and educational opportunities for learners, whatever their age, gender or specific talents, from school, into/through further and higher education
 - there needs to be a better balance between supply-led and demand-led education and research and innovation provision shifting away from a market-demand driven system to a mix of regulation and competition-based funding
 - there was a significant level of uncertainty within the system generated by the multiplicity of reviews over the past number of years, creating questions about the long-term sustainability of the system and student funding.
- 1.5 A key recommendation of the Hazelkorn report was that the Welsh Government should establish a new arms-length strategic body to oversee the funding and performance of tertiary education and training in Wales.
- 1.6 The White Paper set out evidence in relation to the current performance of the post-compulsory education and training system in Wales and articulated the case for change. It included initial, high-level proposals for a new Tertiary Education and Research Commission for Wales which would be responsible for higher and further education, work-based learning (including apprenticeships) and adult learning. The Commission would also be responsible for overseeing research and innovation

activity in Wales. The Commission would be given responsibility for funding, planning, quality assurance, performance and risk, and delivering stronger outcomes for Wales across the whole post-compulsory education and training system.

Engagement Approach

- 1.7 The consultation document was posted on the Welsh Government consultation website from 24th April to 17th July 2018, attracting 422 responses from institutions, organisations, employers and individuals.
- 1.8 Respondents were invited to review the consultation document and respond to each of 100 questions, using either an e-mailed / postal questionnaire or an online form.
- 1.9 In addition, 19 thematic technical workshops were held, mainly in Cardiff, with videoconferencing available from Welsh Government offices across Wales. These sessions allowed key stakeholders to discuss the detail of the proposals in a collective environment, in an effort to elicit additional depth and insight in relation to the proposals. The views expressed in workshops have not been included in the analysis in this report, which focuses only on responses to the written consultation. Outputs from the workshops are detailed in a separate report.

Structure of the consultation document

- 1.10 The consultation document was laid out under 15 thematic headings, with each section laying out some context, a set of proposals and a series of questions relating to these.
- 1.11 The majority of the questions sought agreement or disagreement with one or more proposals, and supplementary, open questions invited to the detail of the response and implications of the proposals.

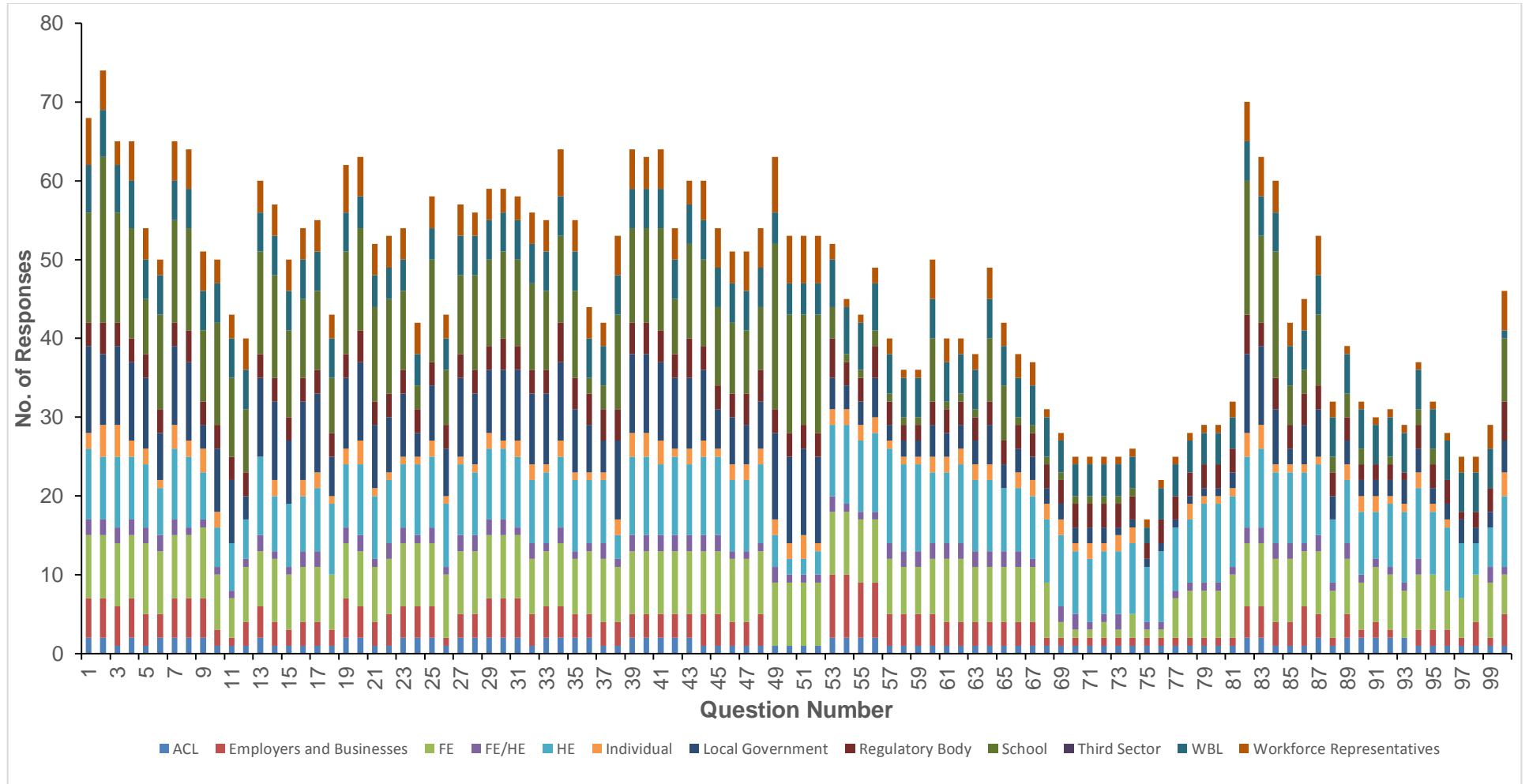
About the analysis

- 1.12 For analysis, all responses were coded with an ID number and the name of the respondent where they had indicated agreement to this and entered into an Excel spreadsheet.
- 1.13 The majority of the responses came from the ACL network where they outlined their general comments on the proposals and raised the same points about the lack of Adult Learning in the proposals. Their comments can be seen in more detail at chapter 20.
- 1.14 For the purpose of grouping respondents into sectors, some organisations, such as teacher unions, were difficult to allocate. Grouping was therefore based on the sector that personnel within the organisation in question would be most concerned about. It is acknowledged, however, that being allied to a given sector in no way precludes respondents from having views across all sectors and these have been represented wherever possible.
- 1.15 Subsequently pivot tables were used to analyse responses by question and sector of respondent, providing:
 - an overview of the breakdown of responses by sector and number of responses
 - predominant themes, areas of consensus and disagreement
 - additional detail and key salient points.

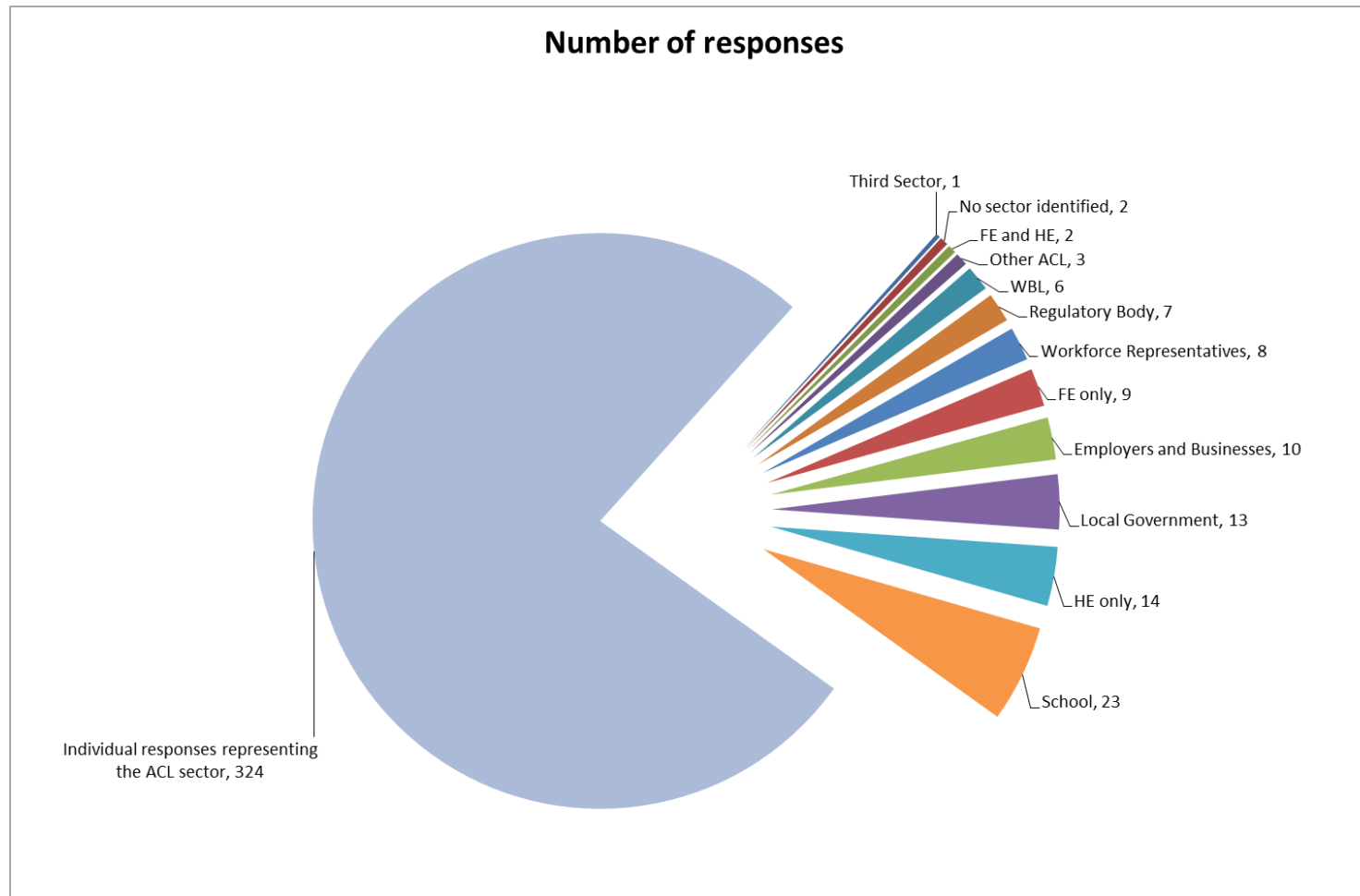
- 1.16 Given that the response analysis accounted for a possible total of more than 400,000 cells in the final spreadsheet, it has been necessary to summarise responses in order to keep this report manageable in length. It has therefore not been possible to fully represent every aspect of all contributions. A comprehensive dataset of responses will be made available in full to the Welsh Government, but full responses may not always appear in this summary report.
- 1.17 The results are laid out in the following chapters, by theme and question.

2. Summary of responses to the written consultation

2.1 Chart 3.1 below shows the number of responses to each written consultation question, broken down by sector. This chart does not include responses that were not addressed to a specific question.



2.2 Chart 3.2 below shows the total number of responses to the written consultation, broken down by sector. All responses are included here.¹



¹ Note: FE/HE refers to organisations that represent or relate to both sectors.

3. Overview of responses to section 1: The Commission

Question 1: Is the proposed governance framework appropriate given the remit of the new Commission?

Responses by Sector.

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	2
HE	9
Individual	2
Local authority	11
Regulatory body	3
School	14
Third sector	0
WBL	6
Workforce representatives	6
Total	68

Predominant view

- 3.1 There was general support for a single PCET sector, but the proposed framework was seen as too prescriptive with the Commission being too closely aligned with the Welsh Government.
- 3.2 Respondents wanted to ensure adequate representation of all sectors, staff and learners on the Commission and its board. Resourcing committees was seen as a challenge with the number of members and committees proposed.

Sectoral analysis

- 3.3 FE and ACL representatives felt that the proposed framework was too prescriptive and that the size of the board will be insufficient to meet the needs of the proposed number of statutory committees. One provider questioned the need for so many committees at this stage: “We acknowledge that audit/compliance and remuneration are essential statutory committees, and given the focus on research and innovation, agree that this should also be a statutory committee. However, specifying the proposed range of others at this stage may not be helpful, and does not allow for ‘future proofing’. We would propose that the Commission is given the legislative powers to establish and abolish the committees it sees fit, as opposed to having to continue with committees when priorities may change, or where different requirements emerge following the establishment of the Commission, and its subsequent evolution.”
- 3.4 It was also stated that the Commission should have the power to decide on appointments to committees. Consideration should be given to a minimum number of ACL, FE and WBL representatives during the early years of the Commission to ensure parity of voice. The National Assembly for Wales should have the power to appoint or approve the chair, rather than Welsh Ministers.
- 3.5 Respondents felt that the Commission should be accountable to the National Assembly for Wales who should be able to provide direct scrutiny rather than solely via Welsh Ministers. It was further suggested that the Commission’s funding should appear as a line in the Welsh Consolidated Fund to allow for this.
- 3.6 One provider feared a conflict of interest in the proposed arrangements: “It should be noted that further to the Charities Act 2011, the Welsh Government is the Principal Regulator for the FE Sector and therefore there may be a potential conflict given the Commission will be accountable to the Welsh Ministers in the exercise of all of its functions. This conflict should be noted and managed.”
- 3.7 HE respondents voiced a range of concerns relating to the degree of detail being put into legislation and representation – suggesting that much of this could be left to the Commission once in operation. There were concerns voiced about the ability and resources of the Commission to provide effective leadership, regulation and funding to all areas of the PCET system.
- 3.8 HEFCW questioned the evidence base for the proposals, including learning lessons from the creation of ELWa. There was also concern over the absence of reference to the WFGA and contribution towards its principles, goals and ways of working. As with other respondents, there were concerns over membership of the Commission; its representation, skillset and resource to cover the work of proposed committees. The leadership and membership of the proposed Research and Innovation committee came in for particular attention.

- 3.9 The NUS called for the creation of an Access and Inclusion Committee as part of the reforms. Such a committee would advise the Commission on access, inclusion, diversity and equity across all post-16 education and training.
- 3.10 Local authority and school sector providers called for their sectors to be adequately represented on the Commission and requested reassurance that the nuanced differences between sectors would be acknowledged. This particularly included acknowledgement of the skills development from pre to post-16 and the need for seamless transition. It was suggested that “as part of this, the proposed committees should draw on evidence-based advice from Estyn to inform their scrutiny and decision-making.” There were some concerns about references to duplication in the context of sixth forms which were seen as a means of “influencing the shape of secondary provision.”
- 3.11 Several commentators were concerned about the lack of reference to, and representation, of staff and trades unions on the Commission.
- 3.12 WBL representatives generally welcomed the proposals, but echoed concerns about accountability lines and called for adequate representation of all sectors to ensure parity of esteem.

Proposals to develop a Welsh language statutory 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?

Responses by Sector.

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	2
HE	8
Individual	4
Local authority	9
Regulatory body	4
School	21
Third sector	0
WBL	6
Workforce representatives	5
Total	74

Predominant view

- 3.13 There was disagreement with the proposal across HE and FE. Whilst the importance of the Welsh language was generally acknowledged, the majority of respondents took the view that the Welsh language should be embedded across all activities and should not be the subject of a statutory committee.
- 3.14 Schools and WBL representatives supported the proposal, given the importance of the Welsh Education Strategic Plan and given the recommendations of the Weingarten review.

Sectoral analysis

- 3.15 On balance, HE providers suggested that a statutory committee was unnecessary, because: it could duplicate the work of Coleg Cymraeg Cenedlaethol; too many statutory committees had been identified and the recommendation in the Weingarten Review that the promotion of the Welsh language should be assessed through pushed metrics by a panel of experts. Institutions were keen, however, to stress the importance of increasing opportunities for students to study through the medium of Welsh. NUS Wales suggested, however, that a committee would “provide the strategic leadership necessary to develop Welsh-medium provision across post-16 education and training”, as long as it did not compromise the role of Coleg Cymraeg Cenedlaethol.
- 3.16 FE Respondents were firmly of the view that the Welsh language should be fully integrated into the Commission and its committees. It was suggested that “having a separate committee risks marginalising Welsh language issues”. One respondent suggested that the Welsh language and development of Welsh-medium provision should be led by Coleg Cymraeg Cenedlaethol, although it was acknowledged that this could be a challenge in terms of governance. NUS Wales suggested, however, that a committee would “provide the strategic leadership necessary to develop Welsh-medium provision across post-16 education and training”, as long as it did not compromise the role of Coleg Cymraeg Cenedlaethol
- 3.17 There was strong support for a statutory committee amongst school sector representatives; citing the need for special consideration of provision in line with targets in the Welsh Education Strategic Plan. Estyn pointed out that “the membership of such a committee would have to reflect the expertise from a wide-range of sectors ... and also possess a relevant understanding of the issues facing the Welsh language in education as well as in the wider context of linguistic planning.”
- 3.18 One local authority representative suggested that Government sometimes needs to ensure that the “levers are in place to bring about

the changes that are being sought”, citing cases where a lack of statute had allowed parts of the sector to not deliver on aspirations.

- 3.19 WBL respondents were also supportive of the proposal “as this will enable the commission to increase the availability of provision, the development of staff, qualifications and resources within post-16 education in Wales”, and the 1m Welsh speakers target.
- 3.20 One ACL respondent made the point that specific pieces of work or research could be covered by task and finish groups. Also, it should be for the Commission to decide in due course whether a dedicated committee was required for the Welsh language.

Proposals to bring the WESB and WAAB function into the Commission

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?

Responses by Sector

Sector	Number of Responses
ACL	1
Employers and businesses	5
FE	8
FE/HE	2
HE	9
Individual	4
Local authority	10
Regulatory body	3
School	14
Third sector	0
WBL	6
Workforce representatives	3
Total	65

Predominant view

- 3.21 General (qualified) support for the proposal although specific organisations should not be named in legislation. Some suggestions that this should be at the discretion of the Commission once established.
- 3.22 There were some doubts about the establishment of a separate statutory committee for this area of work.

Sectoral analysis

- 3.23 Amongst FE providers, there was general support for the proposal. However, it was felt that WESB, WAAB and any other non-statutory bodies should not be specifically named in the legislation in order to ensure the legislation is future proofed and able to adapt to changing circumstances. It was suggested that committee members should have to demonstrate that they had the necessary skills and knowledge to be effective. There were some concerns how (RSPs) would fit, especially in view of emerging alignment with City Regions.
- 3.24 HE sector representatives saw this as an opportunity for HEIs to get closer to employers and understand skills needs in Wales. There were some doubts about these being statutory committees, however.

The arrangement should also come under review following a certain time period, in order to assess whether the new system is working effectively.

- 3.25 The majority of local authority and school respondents agreed with this approach, especially the representation of RSPs and hence links to employers. Estyn suggested that integration of these bodies might be phased after a period, with both boards working closely to support the Commission as it becomes established. However, others disagreed with the proposal as it was seen as over-complicated, leading to concerns about the remit of the Commission becoming excessively wide.
- 3.26 WBL respondents were clear about the importance of strong representation on the demand side and the integration of the responsibilities currently held by WESB and WAAB into the Commission. NTfW urged “the Welsh Government to continue with the WESB in its current form, until such time as the Commission is established, and then bring the WESB (as is) into the Commission”.

4. Overview of responses to section 2: 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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	2
HE	8
Individual	2
Local authority	10
Regulatory body	3
School	14
Third sector	0
WBL	6
Workforce representatives	5
Total	65

Predominant view

- 4.1 It was widely felt that the proposal lacked detail, whilst potentially compromising the arms-length relationship between the Commission and the Welsh Government

Sectoral analysis

- 4.2 HE sector representatives endorsed the need to create effective working relationships between the Welsh Government and the Commission. However, it was felt that the proposals were not yet sufficiently worked up to deliver this. Areas of concern included:
- The balance of responsibilities – “The Welsh Government must set the overall direction for PCET and allow the Commission to work out how to articulate that within their strategic planning processes” (UCU).
 - The power to withhold approval of the Commission’s strategic plan could provide the opportunity to prescribe the contents.
 - More clarity is needed on the grounds for intervention such as withholding funds from providers.

- The need to maintain independence and charitable status: “it will not be sufficient simply to include a statement of principle about autonomy and academic freedom in the legislation; it will also be necessary to ensure that the legislative provisions do not establish structures, roles or relationships that are inimical to that principle” (Chairs of Universities Wales).

HEFCW put forward a timetabled series of actions aimed at framing a process to ensure that the Commission could deliver on Welsh Government objectives whilst maintaining flexibility and provider autonomy.

- 4.3 FE respondents disagreed with the proposal, on the grounds that the Commission needs to be an autonomous body at arm’s length from the Welsh Government. There needs to be a clear PCET strategy for Wales to support this.
- 4.4 Local authority respondents mainly supported the proposal, although it was noted that the Commission’s strategic plan will need to take into account the breadth and range of roles of individual post-16 providers in terms of contributing to Welsh Government policy and plans.
- 4.5 Several school representatives opposed the proposal on the grounds that sixth forms should be exempt from the Commission’s role. However, those who did support it did so with the proviso that different departments in the Welsh Government have effective communication and full understanding of each other’s remits and outcomes.
- 4.6 WBL respondents were vocal about the absence of a PCET strategy and the vacuum that this creates in relation to commenting on developing a strategic plan. The lack of a duty to consult with employers was felt to be a serious omission from plans at present.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	9
FE/HE	2
HE	8
Individual	2
Local authority	9
Regulatory body	3
School	7
Third sector	0
WBL	5
Workforce representatives	4
Total	54

Predominant view

4.7 Disagreement with withholding approval and references to the principle that the Commission should be an arms-length body.

Alternative views

4.8 Those who agreed stressed the need for dialogue and use of powers as a last resort.

Sectoral analysis

4.9 FE respondents generally felt that this situation would directly contravene the Commission being an arms-length body, reporting to the Welsh Ministers. The few who agreed had concerns that any such action should have “no impact on learners on the day-to-day delivery of learning activities, including to the staff and facilities involved in delivery”.

4.10 HE sector representatives saw the risk of this happening as being absolutely minimal and the proposal to put powers into legislation would undermine the arms-length relationship with the Commission. It was pointed out that if the Commission failed to discharge its duties effectively, it would be open to a judicial review and so Welsh Government powers would be unnecessary. A number of respondents felt that the proposals to withhold funding pose a risk to providers and hence to learners as they stand. The NUS referred to this as a:

“nuclear option, (which) would have a detrimental effect on students and could damage the sector at a critical point of change and adjustment.”

- 4.11 Many local government respondents cited the need for high quality dialogue between the respective parties to recognise and understand the political imperatives, the evidence base and the voice of the stakeholders. Having a good lead-in time to the development of a strategic plan could mitigate against the chances of disagreement.
- 4.12 Amongst school sector respondents, whilst there was approval of longer-term funding, most disagreed with the proposal to withhold funding and referenced that it would be a complicated and unnecessary piece of legislation. There were more general concerns about the funding of sixth forms through the Commission, as it was feared that this would add to an already complex funding picture for schools. Estyn queried whether “those elements of the Commission’s strategic plan relating to quality assurance and enhancement be part of the Cabinet Secretary’s remit letter for Estyn or be directly funded from the Commission.”
- 4.13 WBL representatives also welcomed the proposals for longer-term funding (although they wondered whether this would include WBL and apprenticeships) but felt there should be no need for the Welsh Government to withhold approval if there was adequate dialogue around the approval of a strategic plan – in stages if necessary.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	2
HE	6
Individual	1
Local authority	6
Regulatory body	3
School	12
Third sector	0
WBL	5
Workforce representatives	2
Total	50

Predominant view

- 4.14 Again, the majority of responses were focused on avoiding the need for intervention, although in extremis, suggestions included taking back powers from the Commission and direct funding of providers.

Sectoral analysis

- 4.15 HE representatives felt that similar arrangements to the current provision should be sufficient and focus on holding the members of the Commission (e.g. governing body) to account, and the body should be trusted to deliver. Funding is a sufficient lever. Appointed members should ensure compliance with equality and diversity, Welsh Language Standards, Future Generations, audit requirements, etc. There should be 'Special measures to remove the Chair'.
- 4.16 FE respondents commented that the Commission should not report to the Welsh Government, but the National Assembly for Wales. KPIs should be agreed and monitored annually, linked to the plan. In extreme cases, Welsh Ministers could intervene in the removal of appointed posts on the Commission.
- 4.17 ACL, local authority and school responses noted that the Welsh Government could take back the powers from the Commission whilst duties and responsibilities can be re-established. This could be linked to a period of direct funding.
- 4.18 WBL representatives suggested that the Welsh Government could direct the Commission to prioritise specific elements of PCET delivery through an annual remit letter.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	2
HE	9
Individual	3
Local authority	10
Regulatory body	3
School	13
Third sector	0
WBL	5
Workforce representatives	5
Total	65

Predominant view

4.19 There was a widespread welcome for longer planning cycles, although the decision should be for the Commission and there should be flexibility built in. The majority view was that a five-year cycle was appropriate, although it was suggested that a seven-year cycle could de-politicise the Commission and its activities.

Sectoral analysis

- 4.20 HE sector respondents generally agreed that there should be some flexibility in the planning cycle, but many wanted to see longer-term strategic visioning (10-15 years), in line with the Wellbeing of Future Generations Act (WFGA), perhaps supported by a five-year planning cycle with annual monitoring and review. There were some mixed views on whether an alignment of the planning cycle with the five-year political term of Government was a positive or not. In either case there would need to be provision for short-term flexibility to deal with specific circumstances. JISC noted that “a 10-year cycle approach to infrastructure has previously been taken by HEFCW in its ‘Enhancing Learning and Teaching through Technology strategy’ and more recently by the Welsh Government in its new Digital 2030 strategic framework for post-16 digital learning in Wales.”
- 4.21 The FE sector welcomed longer-term planning and generally felt that a seven-year cycle would be more appropriate. It was considered important that the cycle should be supported by indicative budgets to

allow for planning in line with priorities. One respondent suggested that a rolling five-year cycle would be advantageous, whilst another suggested flexibility in the early years of the Commission.

- 4.22 School sector respondents were split between those who favoured a three-year cycle and those preferring a five-year one. Estyn suggested setting the time period with the agreement of Ministers, whilst building in flexibility to respond to changes in the economic landscape, for example.
- 4.23 WBL representatives generally felt that it should be for the Commission to decide, although several favoured at least a five-year cycle, given that some apprenticeships can take this long to complete.
- 4.24 One ACL representative welcomed a shift away from “trapping providers and policy makers in a culture where they are required to think only in the short-term”.

5. Overview of responses to section 3: 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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	1
HE	9
Individual	2
Local authority	10
Regulatory body	4
School	13
Third sector	0
WBL	5
Workforce representatives	5
Total	64

Predominant view

- 5.1 For the sector to make a considered consultation response, more detail is required about the proposed reforms and measures.
- 5.2 WBL providers emphasised the importance of removing the requirement in the ROA for charitable status.

Sectoral analysis

- 5.3 Amongst ACL respondents, some questioned how ROAs would apply to informal and community-based learning. Others were broadly content with what was proposed for the regulatory part of the ROA. One ACL respondent suggested that the regulation element of the ROA needs to include processes to ensure the quality of community and learner engagement, by institutions. It was expected that these processes would raise the value and importance which institutions place on meeting community needs.
- 5.4 Several FE respondents commented that they required further details of the proposed requirements or a draft or sample ROA in order to form an opinion. One respondent noted that any provider operating in Wales should be eligible to receive funding from the Commission,

rather than limiting it just to those that operate wholly or principally in Wales.

- 5.5 Some respondents in the HE sector also stated that the technical consultation provides insufficient detail on how the ROAs would operate.
- 5.6 The Open University in Wales expressed concerns about the implication of the proposed regulatory requirements for providers operating at a UK level: “We have a particular concern about paragraph 68 which is currently worded in a way that could exclude the OU in Wales from receiving funding as the OU is not a body that operates “wholly or principally in Wales.” As Wales’ largest provider of part-time undergraduate higher education, we seek early reassurance that this wording will be modified to enable the OU to receive funding from the Commission.”
- 5.7 Other concerns expressed by HE respondents include:
- Additional administrative burdens and the pursuit of outcomes limiting the flexibility and creativity of the sector.
 - Duplication with other regulatory arrangements for universities, such as those set out in the Higher Education (Wales) Act 2015 and the Further and Higher Education Act 1992, and in the registration/regulation section of the Fee and Access Plan.
 - Conflict with other statutory duties and legal requirements for HE, such as:
 - Charity law requirements, which prevent charities from implementing government policy or carrying out directions of government.
 - HE legislation, which is based on the principles of institutional and academic autonomy.
 - National accounting classification and the risk that increasing government control over provision could lead to reclassification.
 - Competition law and the danger that encouraging or imposing collaboration between providers could result in collusive behaviour that infringes competition law.
- 5.8 One HE respondent welcomed the inclusion of learner protection arrangements and learner complaints procedures.
- 5.9 Suggested improvements to the regulation section of the ROA included:
- Separating regulation from outcomes (learning from the introduction of ROAs in Scotland.)
 - Including the role of student partnership and engagement in quality assurance and enhancement.
- 5.10 The majority of respondents from schools and local authorities felt that the proposed ROA was not required for sixth forms, given the existing regulation and governance structures in place for schools: “in

the context of schools, regulation is not necessary as it is already in place in accordance with its own governance and overseen by the local authority and regional consortium.”

- 5.11 One local authority respondent suggested that in addition to supplying the Commission with specified data concerning course provision, providers should also be required to provide data on outcomes of courses, including destinations. Another suggested including an additional requirement relating to the availability of appropriate Welsh-medium provision in a local area.
- 5.12 Additional requirements to be included in the regulatory part of the ROA suggested by schools and FE respondents included:
- Criteria encouraging collaboration between providers
 - Including “care, support and guidance” for learners.
- 5.13 Several school respondents requested greater detail on how quality would be measured: “greater detail is required in order to establish how sufficiency of the quality of the education, training and research and innovation delivered by or on behalf of the provider is actually evidenced – numbers of learners applying and completing courses are not necessarily evidence of quality.”
- 5.14 Other concerns raised by school respondents included:
- The suggestion that providers would need to be charities given that this would contravene the School Standards and Framework Act 1998, which prohibits community schools from being charities.
 - Insufficient thought given to the proposed relationship between sixth forms and the Commission being managed through local authorities, implying that local authorities would also need to be charities.
 - The importance placed on “institutional autonomy” throughout the consultation document: “such dogmatic insistence on autonomy has no place in an education system which prizes collaboration and cooperation.”
- 5.15 Estyn questioned “how any regulatory requirements designed through the ROA would be evaluated as part of our inspection framework for PCET sectors.”
- 5.16 The majority of WBL respondents approved in principle of the ROA and “the move towards a simple system of registering providers for regulatory purposes”. The main concern was over the proposal to differentiate WBL providers from the rest of the PCET sector, by not requiring PCET providers to draw up ROAs: “this reinforces the ‘parity of esteem’ issue amongst the PCET sector and lead[s] to a ‘two-tiered’ system.”
- 5.17 The other main issue noted by many WBL respondents related to the proposed requirement on providers to have charitable status and the implied notion that commercial providers are inherently unable to contribute to public good.

5.18 Several WBL respondents suggested amendments to the regulatory requirements:

- Including measures of employer engagement / industry need, and measures to increase minority group representation (e.g. BAME/females in engineering sector)
- Prioritising measures of quality over completion rates.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	9
FE/HE	1
HE	6
Individual	3
Local authority	3
Regulatory body	3
School	9
Third sector	0
WBL	5
Workforce representatives	5
Total	51

Predominant view

- 5.19 Schools, local authorities and WBL providers highlighted concerns that a requirement for charitable status might limit providers' delivery of high quality and industry- relevant training.
- 5.20 FE and ACL noted the need for charitable status if utilising grant funding, but not if contracted provision is in place.

Sectoral analysis

- 5.21 Two out of the three ACL respondents to this question disagreed with the proposed requirement for providers to have charitable status, on the grounds that robust governance and accountability measures would provide a sufficient level of assurance: "Regulation through the

Commission and clear outcome agreements tailored to individual community need should ensure public value without this change being required”.

- 5.22 The ACL respondent in favour of requiring charitable status felt that it “provides a more robust audit trail for scrutiny.”
- 5.23 FE respondents universally agreed that charitable status should be a requirement, although many caveated this viewpoint by referring to WBL providers and the need to support WBL provision via an alternative route: “Charitable status should be required in order to receive grant funding. Other types of provision to providers without charitable status should be via contract. Contracted provision should be available to the providers who can offer the best quality outcomes.” (ColegauCymru)
- 5.24 Many HE respondents pointed to a tension in requiring charitable status to receive public funding. A number suggested that it limits innovation and diversity: “While the University is in agreement that public funds should be protected, we do however feel the current regulations are too rigid and limit the business development opportunities for universities particularly as the sector is seeking to deliver new methods of delivery that support flexibility for learners”.
- 5.25 It was also noted that charitable status does not necessary protect the interests of learners. Several felt there needed to be a consistent approach across the PCET sector, by implication including WBL providers. It was suggested that the narrow requirement of charitable status could be expanded to include providers that are not-for-profit or contribute to the well-being of people in Wales.
- 5.26 Local authority sector respondents called for more clarity on how this proposed requirement would relate to local authorities, given the suggestion that ROAs would be entered into between the Commission and local authorities, who would represent the relevant schools in their area/region. In keeping with some HE respondents, one local authority representative suggested having “a slightly wider definition [in the requirements] ... to include charitable status, not-for-profit organisation or social enterprise.”
- 5.27 School respondents universally opposed the proposed requirement to have charitable status.
- 5.28 WBL representatives called for more clarity over what the proposals for an ROA model will mean for existing competitive tendering and sub-contracting arrangements in place for the WBL sector.
- 5.29 Respondents expressed concerns that requiring charity status could:
- Preclude private sector employers from delivering “high quality and industry-relevant learning.”
 - The loss of providers delivering courses in niche trades and new technologies.
 - Loss of talent from the sector by requiring unpaid boards with charitable status

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	2
FE	7
FE/HE	1
HE	5
Individual	2
Local authority	8
Regulatory body	3
School	13
Third sector	0
WBL	5
Workforce representatives	3
Total	50

Predominant view

- 5.30 Many disagreed that RTOs should be eligible for funding from the Commission under the Regulation and Outcome Agreements.
- 5.31 Funding to RTOs should be on a contractual basis only.

Sectoral analysis

- 5.32 Across all of the sectors there was primarily disagreement that RTOs should be eligible for funding from the Commission under ROAs. It was suggested that funding awarded to RTOs should only be on a contractual basis with specific measurable outputs linked to projects.
- 5.33 Some school and HE respondents suggested that because RTOs do not provide teaching, they should not require a ROA, given the proposed regulatory requirements set out in paragraph 74 of the consultation document.
- 5.34 HEFCW suggested that this question highlights a need for clarification over the rationale and vision for the Commission: “this depends on the vision and purpose of the new Commission. If its focus is educational, then the funding which the Commission channels through RIW for research and innovation activity should clearly relate to this educational purpose”.

- 5.35 Almost all school and local authority sector respondents felt that RTOs should not be eligible for funding from the Commission under ROAs, and a minority felt that RTOs should not receive any funding from the Commission.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	5
FE/HE	1
HE	6
Individual	0
Local authority	8
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	3
Total	43

Predominant view

- 5.36 Funding RTOs under ROAs could result in a reduction in the number of RTOs receiving support to only a few, and core funding being reduced further. A separate mechanism outside the Commission should be established.
- 5.37 Should be set within the terms of the specific contract.
- 5.38 The terms and conditions of grant could continue to be used to support research and innovation activities, under statutory funding powers equivalent to the FHEA 1992 and/or powers to contract.

Sectoral analysis

- 5.39 ACL and FE sector respondents largely felt that the accountability mechanisms for RTO funding should be determined and set within the terms of each specific contract.
- 5.40 Many respondents from the HE sector expect terms and conditions of grant to continue to be used to support research and innovation

activities, under statutory funding powers equivalent to the FHEA 1992 and or powers to contract. Teaching/training provision should be covered by a set of base requirements that apply to all providers.

- 5.41 Local authority representatives commented that a separate mechanism outside the Commission should be established. It was suggested that other Welsh Government departments should be funding the functions of RTOs. A repeated quote was that “this could develop into millions chasing the few and core funding being reduced further. A separate mechanism outside the Commission should be established”.
- 5.42 Many school respondents feared that this “could develop into a complex process and reduce the impact of already restricted funding still further”. It was felt that a separate mechanism outside the Commission should be established.
- 5.43 The majority of WBL respondents felt unqualified to answer this question; however there was a suggestion that once research topics are identified these should be clearly defined and a tendering process should be applied to keep the focus on priorities, quality and cost.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	1
HE	5
Individual	0
Local authority	3
Regulatory body	3
School	8
Third sector	0
WBL	5
Workforce representatives	4
Total	40

Predominant view

- 5.44 ROAs should apply to organisations with charitable status only.

Sectoral analysis

- 5.45 Some HE sector representatives queried the basis for exempting providers from the charitable requirement, and whether the ROAs provide the best way forward. It was suggested that a registration model provides a more promising basis for managing relationships than the outcome agreement model. HEFCW suggested that this was a matter for the Commission to determine.
- 5.46 It was also suggested that the regulatory requirements should depend on the type of activity and that arrangements to ensure a consistent set of principles should be applied to all providers delivering higher education, with specific provision for those in receipt of public funding or designated to receive student support, as the case may be.
- 5.47 The majority of FE sector respondents disagreed with the proposal, commenting that ROAs should apply to organisations with charitable status only. All other provision should be contracted.
- 5.48 Local authorities recognised the difficulty in setting regulation which includes both providers with charitable status and providers with non-charitable status. It was suggested that further clarification on how this might work is required. One respondent quoted that “there would need to be clarity regarding the role of profit-making organisations delivering education and training in Wales”.
- 5.49 Schools responses were generally negative in response to the proposal. A workforce representative body noted that school sixth forms would not be able to achieve charitable status and liaising via the local authority could be challenging for schools. Estyn felt that there was a compelling case for treating all providers the same, with fee limits being a possible exception.
- 5.50 The majority of WBL responses believed that any learning provider regulated by the Commission (regardless whether or not they are in receipt of public funds) should be subject to the same level of rigour and scrutiny as any other.

Question 13: Is the ROA the best way forward? What are the advantages and disadvantages?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	7
FE/HE	2
HE	10
Individual	0
Local authority	10
Regulatory body	3
School	13
Third sector	0
WBL	5
Workforce representatives	4
Total	60

Predominant view

5.51 There was a mixed response to the proposal, with some significant opposition to the ROA model as currently described, although a focus on outcomes was welcomed.

Sectoral analysis

- 5.52 HE sector respondents were most likely to disagree with the proposal as a way forward. There was considerable disquiet about the proposals and a concern that more detail would be required to fully understand them. In particular, it was not clear how the ROA model would sit alongside or replace the Fee and Access Plan. There was broad support for an outcomes-based approach, to ensure that checks are in place to ensure financial sustainability of the system.
- 5.53 Aberystwyth University, for example, reflected on the usefulness of current dialogue with HEFCW and wanted to ensure that the Commission would continue to work collaboratively with HEIs on target-setting against national priorities.
- 5.54 HEFCW did not favour a single ROA, believing that the functions of regulation and an outcomes agreement should be separate. JISC suggested that any ROA model should support innovation around learning, teaching and the student experience and should use analytics to feed into continuous improvement.

- 5.55 The QAA, however, saw the ROA as a positive development, given the experience of using ROAs in Scotland. The UCU however, disputed that they had worked well in the Scottish context.
- 5.56 NUS Wales voiced support for an outcomes-based approach but expressed disappointment at the lack of detail provided.
- 5.57 FE sector representatives generally supported the response from ColegauCymru which suggested that “the management of all relationships needs to be reasonable and proportionate to the element of risk posed by individual providers. The process must not be overly complex or duplicate existing procedures. The drafting of the proposed legislation should not be overly prescriptive.” Respondents also noted that it would be useful to see an example of what a draft ROA might look like in order to form a more detailed opinion.
- 5.58 Coleg Cymraeg Cenedlaethol added that “there is merit in a regulation and outcome agreement model so long as it is flexible enough to enable response to change. The main advantage of such a model is being able to set particular requirements on providers. This is especially important in the context of the Coleg and the Welsh language.”
- 5.59 Another respondent called for ROAs to be as consistent as possible across the PCET sector; introduced at the same time for all providers and not ‘piloted’, for example, with FE providers.
- 5.60 Local government representatives had mixed views, with some seeing the change as an extra layer of bureaucracy, whilst other welcomed the proposal. Bridgend CBC suggested that it would be useful to include reference to regional compacts as a means of better aligning sixth form and FE provision in areas of mixed provision.
- 5.61 All responses from the school sector disagreed with the proposal – primarily because there was a view that it offered no advantage over the current system and would prove bureaucratic and unnecessary.
- 5.62 Employer representatives generally supported the proposal as a means of ensuring due diligence and reflecting Welsh Government’s economic priorities.
- 5.63 The majority of the WBL sector responses suggested that the learning provider must be focused on outcomes and all either agreed or were content that the ROA offered the best way forward.

Question 14: What powers may the Commission need to ensure that learning providers and local authorities carry out their responsibilities under the ROA?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	1
HE	7
Individual	2
Local authority	10
Regulatory body	3
School	13
Third sector	0
WBL	5
Workforce representatives	4
Total	57

Predominant view

- 5.64 The withdrawal of funding was seen as the ultimate power, but only as a last resort.
- 5.65 There was some concern how this would apply to school sixth forms.

Sectoral analysis

- 5.66 HE sector respondents felt that the consultation document did not set out proposals for powers, as would be expected from a Technical Consultation. It was also thought to be difficult to see how the Commission will work effectively through the local authorities to deliver their statutory duties in relation to school sixth forms.
- 5.67 One institution wanted to see a performance framework established and run prior to sanctions being discussed for non-compliance. HEFCW called for legislative powers that are “clear and easy to operate”, feeling that current sanctions available under the 2015 Act are both slow and difficult to implement.
- 5.68 NUS Wales wanted to see appropriate powers to ensure providers meet their responsibilities but cautioned against interventions which might threaten institutional autonomy or academic freedom.
- 5.69 The majority of the FE sector respondents saw the withdrawal of funding as the overarching power available to the Commission. ColegauCymru also felt that it should have the powers to engage with

the governing body and to impose fines in line with its duties as a regulator. One response was concerned about the relationship between the Commission and school sixth forms in terms of the power of intervention, as an inability to intervene could undermine the PCET model.

- 5.70 One individual thought that powers could include withdrawal of future support and clawback of funds to allow learners to be transferred to other providers, but also the release of additional funds to reward excellence.
- 5.71 Local authority and school sector respondents thought that current arrangements could persist, where the Welsh Minister delegates the power to local authorities to manage and challenge the planning and funding of post-16 provision in their schools. Also, some additional school sector responses suggested that regulation for school sixth forms already exists through the governing body, local authority and regional consortia. Bridgend CBC considered that de-registration could be used in very serious cases, along with suspension of funds or fines. However, none of these should be used before extensive dialogue, and informal and formal notices.
- 5.72 Estyn felt that powers might include control of funding, influence over the membership of executive and governing bodies and the right of access / ability to request an inspection at any time. The NEU was concerned to ensure that the exercise of any powers safeguarded both learners and learning professionals.
- 5.73 The ECITB suggested that a supportive approach should be adopted by the Commission in the first instance to help local authorities and providers to meet their ROA obligations. Should this approach prove ineffective then the power to intervene in the provision by such means as quality audits, restricting learner numbers, and ultimately withdrawing funding or terminating ROAs should be available to the Commission.
- 5.74 The WBL sector responses were largely in line with the FE sector; that powers should be based on the ability to withhold funding and in areas where there is consistent failure to achieve their responsibilities under the ROA, then the learning provider will need to face tougher sanctions, including the loss of registered status. However, this should only be considered when options for dialogue are exhausted.

Question 15: Is there another model that we should consider? If so, what is it and what would be the benefits?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	2
FE	7
FE/HE	1
HE	8
Individual	0
Local authority	8
Regulatory body	3
School	11
Third sector	0
WBL	5
Workforce representatives	4
Total	50

Predominant view

5.75 There was general support for the current model, although some providers wanted to see more detail before making a judgement.

Sectoral analysis

- 5.76 HE sector respondents expressed a range of views, but the majority reflected the perceived strength of the current model and the need to adopt a long-term view, favouring either continuation of current arrangements or adoption of a registration model. Several HEIs felt that the proposed model was based on a single-year approach, whilst the Commission itself would have a five-year plan. Cardiff University wanted to see “greater alignment with the Well-being of Future Generations goals as advocated by Weingarten”.
- 5.77 HEFCW reiterated the point that registration and outcomes should be two separate functions, recommending that these should be separated into a register (to be updated annually) and a longer-term outcomes agreement. It was also stressed that a transparent register of providers would be particularly important.
- 5.78 There was some concern that the changes proposed were too transformational and that this came with a significant risk to provision.
- 5.79 Other suggestions included:

- 5.80 Replicating the College University Skills Partnership (CUSP) model across Wales to drive collaboration between HE & FE (and other) providers.
- 5.81 Welsh Government and the Commission continue to learn from experiences in Scotland in order to ensure these organisations work to their full potential for Wales.
- 5.82 The FE sector found that it was difficult to answer without further information on ROAs, although one response suggested it was a fair approach as long as the outcome model takes account of institutional and regional differences, including poverty.
- 5.83 Local authority and school sector respondents largely agreed with the retention of the current model for school sixth forms. Several were concerned about the imposition of a new tier/layer of bureaucracy that will increase pressure on a decreasing budget for education.
- 5.84 Estyn, along with others, pointed out the need for post-16 sectors to develop improved self-evaluation skills that focus more closely on “developing learners who embody the aspirations for Wales”.
- 5.85 Many of the WBL responses were content with the move towards a ROA Model.
- 5.86 FISSS proposed a combined model where some general funding was allocated as well as funding tied to the ROA, to ensure stability in the system and to avoid the risks to learning providers.

Question 16: What information about learning providers and research and innovation communities with approved ROAs should the Commission make publicly available?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	7
Individual	2
Local authority	10
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	4
Total	54

Predominant view

- 5.87 There was widespread agreement on the need to publish full data relating to providers and their performance against targets.
- 5.88 Much information is already available (StatsWales, Higher Education Statistics Agency and Unistats).

Sectoral analysis

- 5.89 HE sector representatives generally recognised the need to publish sector information – with the possible caveat that this information may need to be contextualised. Universities Wales suggested that the detail should include: “degree awarding powers, university title, regulated status, how the provider is funded, any courses specifically designated, company registration, and charity status”. Other providers pointed out that there is already a significant amount of data made available through HESA and Unistats.
- 5.90 FE sector representatives broadly agreed that the sector is used to having outcomes published and benchmarked with competitors, so this should be available for comparison. ColegauCymru suggested that “this should include (but not be limited to) name of organisation/institution, funding award, expected outcomes, terms of the ROA, timeframe, details of direct allocation where applicable (e.g. HE and sixth forms)”.
- 5.91 School and local authority representatives generally agreed that the same level of information should be in the public domain for all providers and communities. Workforce representatives in the sector suggested that this should include outcomes and destinations, as well as the quality of teaching and learning and should be as transparent as possible.
- 5.92 Estyn suggested that learners and parents should have access to a means of comparing alternative providers and that this should include: “outcomes and destination data, and evaluations of quality of provision and care, support and guidance for learners, information around course fees and costs, and potentially learner voice/opinions in the form of survey data”.
- 5.93 The ACL sector agreed and added that the same level of information should be in the domain for all providers and communities.
- 5.94 A response from the WBL sector noted that end-users would most likely want to know what courses/reports the provider has successfully delivered and what their success rates are. There was broad agreement that information should include success rates, learner destinations, employment and earnings data and information on the learner voice and employer voice.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	8
Individual	2
Local authority	10
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	4
Total	55

Predominant view

5.95 Regulatory agreements could be reviewed annually in the first three-year cycle, whilst outcome agreements need to be in place for at least three years to allow institutions to plan effectively.

Sectoral analysis

- 5.96 HE sector representatives felt that three-years as minimum would allow for planning and time to see longer term impacts - especially for the outcomes section of agreements. Elements of the regulatory section of the ROA could be subject to a light touch review more frequently in order to ensure a provider is keeping to standards and to longer term external changes.
- 5.97 FE sector respondents felt there should be at least a three-year cycle to allow for planning. It was acknowledged by some, however, that shorter term reviews might be necessary in the early stages of the Commission to adapt if necessary.
- 5.98 The majority of local authority and school sector responses focused on a shorter-term approach and agreed that an annual review for the first three-year cycle was appropriate, with agreements adjusted subsequent to that.

- 5.99 Estyn suggested that a five-year review term could be appropriate, with the option for providers to call for an earlier review where this would be in the best interests of learners.
- 5.100 WBL sector representatives acknowledged that the regulatory section of the ROA should be reconsidered on an occasional basis, possibly aligned to the Commission’s strategic planning cycle.
- 5.101 Employer representatives were in favour of ongoing, regular reviews of agreements to reflect the changing context for delivery.

Question 18: Please let us have your views on the issues listed in the ‘Additional Matters’ section of this paper.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	2
FE	7
FE/HE	0
HE	9
Individual	1
Local authority	5
Regulatory body	3
School	7
Third sector	0
WBL	5
Workforce representatives	3
Total	43

Predominant view

- 5.102 Many responses focused on collaboration to ensure that development of ROAs and monitoring arrangements are appropriate and avoid duplication.

Sectoral analysis

- 5.103 HE sector representatives offered a range of responses, concentrated on collaboration at all stages in developing ROAs and monitoring outcomes. The University of South Wales made the point that “further powers to ensure that universities meet agreed outcomes do not appear to be needed or desirable in our view, and the Commission needs to avoid excessive regulation at all costs”.
- 5.104 JISC suggested strengthening this section by building in a continuous service improvement element, allowing the Commission to play a role

in promoting enhancement of the teaching and learning across the sector. QAA stressed the opportunities to make use of existing monitoring information, such as the REF with regard to research.

- 5.105 FE sector representatives felt that the Commission would require appropriate powers to manage compliance and audit, including penalties to be used as a last resort.
- 5.106 Local authority respondents expressed concern at the volume of work facing the Commission if it were to monitor all providers – suggesting that regional consortia may have a role to play in this.
- 5.107 School sector respondents were generally opposed to the proposals in the context of sixth forms; suggesting “the proposals are entirely inappropriate for school sixth forms. They represent a disproportionate response to addressing the need for change which is unnecessary given the level of oversight and accountability already imposed upon schools”.
- 5.108 Estyn, however, wanted to learn more about the evidence required to monitor the impact of ROAs.
- 5.109 WBL providers generally felt that their sector was already subject to regular contract management processes and so would support the achievement of ROAs. There were concerns about the resources available to conduct monitoring, however.

6. Overview of responses to section 4: Strengthening the link between planning and funding

Question 19: Do you agree that the Welsh Ministers 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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	7
FE/HE	2
HE	8
Individual	2
Local authority	9
Regulatory body	3
School	13
Third sector	0
WBL	5
Workforce representatives	6
Total	62

Predominant view

- 6.1 There was overall agreement with the proposal to transfer powers, with the proviso that Ministers should retain the right to intervene in exceptional circumstances

Sectoral analysis

- 6.2 ACL respondents were split between supporting and opposing proposals to transfer powers.
- 6.3 HE contributors agreed with the transfer of existing powers in relation to the FE sector, although it was noted that the mandatory duties in relation to FE and school sixth forms would imply major resource commitments. There were some concerns about any extension of transfer of powers to HE, as it was felt that this would undermine the 1992 Act. It was also suggested that in the event that these powers were transferred, the Welsh Government would need to have the power to ratify or reject the Commission's plan.

- 6.4 FE respondents generally agreed that these functions should be transferred in full to the Commission, to ensure consistency across the sector. One, however, felt that it would be more appropriate to delegate powers to the Commission rather than transfer in law.
- 6.5 Local authority and school sector representatives generally disagreed with the proposal – preferring that the Minister should retain these functions. The NASUWT in particular voiced a range of concerns relating to sixth form support, funding for outcomes and the costs to local authorities of implementing the proposals.
- 6.6 Estyn supported the consolidation of powers into the Commission suggesting “There definitely needs to be more coherence around funding for sixth forms. Local authorities across Wales fund sixth forms in different ways. For example, some fund courses, other authorities fund programmes of learning, and others fund according to numbers.”
- 6.7 WBL providers were strongly in favour of the transfer of duties and powers to the Commission, in line with taking responsibility for the planning and funding of provision across the PCET sector.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	7
FE/HE	2
HE	9
Individual	3
Local authority	10
Regulatory body	4
School	13
Third sector	0
WBL	4
Workforce representatives	5
Total	63

Predominant view

- 6.8 It was generally felt that there was a strategic role for the Welsh Government, but that it should not compromise the role of the Commission in relation to its duties.

Sectoral analysis

- 6.9 HE respondents largely agreed that the Welsh Ministers should retain a “role of evidence-based advice and guidance” but were opposed to any action that would compromise the current arm’s length relationship with providers or risk academic or institutional independence. However, there was agreement with the proposals with the protection provided by the 1992 Act.
- 6.10 FE contributors were generally opposed to a ministerial role in that it would duplicate the Commission’s powers, other than oversight and scrutiny of the Commission itself: “There must be no duplication between the role of Welsh Government and the role of the new Commission. Unless there is good reason, Welsh Government oversight and scrutiny of the Commission (including approval of its strategic plan) should provide a sufficient role in planning.”
- 6.11 One provider felt that there was room for the Welsh Ministers to maintain an overall approval role, and hence retain ultimate accountability.
- 6.12 Local authority and school sector respondents mainly agreed that there was a clear role for the Welsh Ministers to approve funding and to maintain the accountability and consistency of the Commission and providers. Some sector representatives felt that the Welsh Ministers could provide a safeguard against intervention from the Welsh Government departments with their own priorities and there was one suggestion that some elements of funding should be hypothecated to ensure a “mixed economy of provision” across sectors.
- 6.13 It was also suggested that the Welsh Ministers could provide links to pre-16 education, ensuring planning, provision and advice and guidance for post-16 pathways. Estyn felt that it might be appropriate for Ministers to “retain a role relating to final approval for either closure of an existing sixth form in a school or the creation of new sixth form provision”.
- 6.14 WBL representatives generally felt that “if the Commission is going to be responsible for the planning and funding of provision across the PCET sector, then these roles must be transferred to it.”

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	1
HE	8
Individual	1
Local authority	8
Regulatory body	3
School	12
Third sector	0
WBL	4
Workforce representatives	4
Total	52

Predominant view

6.15 There was a majority view that powers should be replicated largely unchanged.

Sectoral analysis

- 6.16 ACL respondents largely felt that the powers should be replicated largely unchanged, although one respondent caveated this by referring to section 66(1) on consultation and stating that “the relevant education providers should also be consulted, along with appropriate employer representation.”
- 6.17 As before, HE respondents generally opposed any action that would compromise the current arms-length relationship with providers or risk academic or institutional independence. There were some questions about the relationship between the Welsh Government and Research and Innovation Wales, which would have similar powers in relation to funding research. It was also pointed out that there is no specific mention of ITE in the proposals (previously funded by HEFCW)
- 6.18 FE contributors agreed with the proposal, with some adding that FE bodies (and employers) should be included in any consultation within section 66(1).
- 6.19 School and local authority respondents were split between supporting and opposing the powers being replicated largely unchanged;

however most did not expand upon or explain their viewpoint. One school sector respondent wanted to flag up the need for the Commission to monitor the effectiveness of the Apprenticeship Levy in meeting the needs of employers and prospective apprentices.

- 6.20 Roughly half of WBL respondents supported the proposal, whilst the remainder claimed to be unqualified to answer the question.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	7
FE/HE	2
HE	8
Individual	1
Local authority	7
Regulatory body	3
School	12
Third sector	0
WBL	4
Workforce representatives	4
Total	53

Predominant view

- 6.21 General support for the transfer of current powers, but not for any changes which could affect the arms-length relationship with HE providers as set out in Section 68.

Sectoral analysis

- 6.22 ACL providers were split in their views on this question. Those against the idea of Section 68 being replaced by a new power relating to all post-16 provision was concerned about it creating another layer of bureaucracy.
- 6.23 HE respondents generally wanted to see the same powers that the Welsh Ministers currently have to allocate funding to HEFCW transferred directly to funding the Commission. Further, to ensure that

any power to impose terms and conditions should only relate to the use of the funding grant and not to other funds. There was support for the simplicity and high-level nature of the 1992 Act and a call for this to be maintained. There was also some uncertainty regarding how the transfer of powers will work with ROAs as proposed, with a call for greater clarity about the proposed link between outcome agreements and funding.

- 6.24 FE Contributors agreed with the proposal, without any specific inclusions or exclusions.
- 6.25 Some local authority representatives in North Wales were opposed to the proposal, citing fears of additional bureaucracy and a drain on resources. Others expressed concern about the implications for young people with additional learning needs.
- 6.26 School representatives were almost unanimously opposed to the proposals, on the grounds that they could lead to a reduction in funding per learner in school-based sixth form provision. One respondent was concerned about the degree of fit between RSP annual skills and employment plans and school sixth form provision at a local authority level. Estyn raised a slight concern about funding for non-prescribed HE provision, which is significantly delivered by FEIs and funded through their allocation at present.
- 6.27 WBL representatives all agreed with the proposal.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	8
FE/HE	2
HE	8
Individual	1
Local authority	8
Regulatory body	3
School	10
Third sector	0
WBL	4
Workforce representatives	4
Total	54

Predominant view

- 6.28 Mixed views on the proposal, with a desire to maintain current arrangements on one hand and a view that funding should be demand-led, on the other.

Sectoral analysis

- 6.29 HEIs were generally supportive of the proposal, especially in terms of hypothecation between FE and HE funding. HEFCW did not generally agree with hypothecation, with the exception of some initial hypothecation to support research whilst the Research and Innovation Committee became established. However, it took the view that hypothecation was a matter for the Commission and not for legislation and would need to be able to change over time and be responsive to changing priorities.
- 6.30 Most FE contributors were opposed to hypothecation on the grounds that it should be up to the Commission to decide. Some supported an initial level of hypothecation by the Welsh Government, until the Commission is well established. Those in favour felt that it would ensure sufficient funding is allocated to the various PCET sub-sectors.
- 6.31 School and local authority representatives were typically against any changes to the current allocation of funding and so welcomed the retention of hypothecation for their sector. Estyn was concerned to retain flexibility of the Commission and hence the responsiveness of providers and therefore cautioned against hypothecation being overly prescriptive.
- 6.32 One local authority respondent agreed with the proposal but wanted to be clear that there would be adequate stakeholder engagement ahead of allocations, with any changes phased in to avoid destabilising provision.
- 6.33 WBL representatives mainly disagreed with the proposal, on the grounds that funding should be demand-led. One respondent felt, however, that this could be done within a hypothecated budget for the sector.
- 6.34 ACL commentators primarily supported an element of hypothecation by the Welsh Government; however, one respondent added; “we would be concerned if this removed protections and funding from areas such as adult community learning. This underlines the need for clarity about the role and priority to be given to adult learning by the Commission.”

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.

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	8
FE/HE	1
HE	9
Individual	1
Local authority	3
Regulatory body	3
School	3
Third sector	0
WBL	4
Workforce representatives	4
Total	42

Predominant view

- 6.35 There was general support for the proposal with some caveats – especially around the role and responsibilities of the Commission. There were some concerns about the implications for adult learning.

Sectoral analysis

- 6.36 HE respondents welcomed the idea of some certainty in funding for FE and HE providers to allow for planning. A note of caution was also sounded in terms of the risks posed by any reduction to HE budgets and also the need to maintain investment in research and innovation. There was support for the implementation of the Diamond review recommendations in order to sustain Wales' competitiveness in education and research. HEFCW, however, felt that this was a matter for the Commission to decide.
- 6.37 FE and ACL representatives supported hypothecation (for a limited period) but were wary of losing protection and funding for ACL. ColegauCymru wanted clarification of the role of the Commission in relation to ACL, with a desire to see “a differentiation between adult upskilling and further learning, which should be part of the Commission's remit, and adult learning with a social mission, whose primary function is engagement.”

- 6.38 One individual respondent questioned the concept of managing funding differently at different levels and proposed that the funding model should prioritise learning linked to the demands of the economy.
- 6.39 Local authority respondents generally supported the proposal, whilst schools sector representatives stressed the view that schools should not be treated in the same way as FE.
- 6.40 Estyn supported the overall approach to hypothecation but felt that consideration should be given to the performance and quality of WBL providers. NEU Cymru were concerned about the impacts on the Commission of differentiating FE and HE funding.
- 6.41 Social Care Wales were concerned that the proposal did not “differentiate sufficiently to allow hypothecation towards work-based learning, unless the intention is to do this through the commissioning and contractual arrangements or through FE being the principal WBL contract holders.” They wanted more clarity on the issue.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	8
FE/HE	2
HE	9
Individual	2
Local authority	7
Regulatory body	3
School	13
Third sector	0
WBL	4
Workforce representatives	4
Total	58

Predominant view

- 6.42 There was a strong consensus against this proposal, as it was seen as undermining the Commission and possibly diverting funds away from Commission budget.

Sectoral analysis

- 6.43 The HE sector was united in opposing the proposal, seeing funding as a matter for the Commission. Additional funding could be administered through the Commission to meet the urgent needs of learners.
- 6.44 FE respondents were unanimous in their opposition to the proposal – seeing it as risking duplication or distortion of priorities. The Commission could also administer additional funding for specific cases, but these should be kept to a minimum to avoid additional bureaucracy.
- 6.45 ACL respondents saw the proposal as compromising the principle of the Commission being responsible for funding and operating as an arms-length body. One respondent recognised the usefulness of such a power in the case of strong public interest.
- 6.46 One individual respondent felt there would be a case for the power, if a 5-year funding model with no flexibility was put in place.
- 6.47 Whilst a number of local authorities and schools acknowledged the need for direct funding for in-year requirements in the national interest, others felt that this could be administered by the Commission rather than direct from the Welsh Ministers.
- 6.48 Employer representatives did demonstrate some support for the proposal, but only in extreme circumstances with full transparency.
- 6.49 WBL representatives were against the proposal, questioning the circumstances which could give rise to a need for it. It was felt that any intervention by the Welsh Government would undermine the Commission and it would be better to ensure that the Commission was sufficiently funded to deal with short-term needs.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	8
FE/HE	1
HE	8
Individual	1
Local authority	6
Regulatory body	3
School	7
Third sector	0
WBL	4
Workforce representatives	3
Total	43

Predominant view

6.50 There was general opposition to the overall proposal, especially for ESF and similar funding. However, respondents acknowledged the rationale for funding from the Welsh Government being channelled via the Commission.

Sectoral analysis

- 6.51 The HE sector generally felt that funds currently sourced from diverse areas of the Welsh Government should be channelled through the Commission, whilst other sources, such as external research grants should continue through their source channels. Future replacements for EU structural funds could be channelled through the Commission depending on the detailed arrangements for their administration. HEFCW expected additional funding streams to be channelled through the Commission where possible, and at least where funding came from within the Welsh Government.
- 6.52 FE respondents reported drawing funding from a range of sources – both private and public. The majority view was that taking all funding (especially ESF) into the Commission would be unnecessarily bureaucratic.

- 6.53 ACL respondents were keen to see a replacement body for the Wales Programme Monitoring Committee to take responsibility for the successor to ESF funding.
- 6.54 Local authority and school representatives generally opposed the proposal, on the grounds that additional funding should sit with regional bodies such as the North Wales Growth Bid. Others, such as the NEU, wanted more clarity on where replacement funds for EU programmes would come from.
- 6.55 WBL representatives were strongly in favour of all Welsh Government funded employability and skills programmes coming under the remit of the Commission. Some were concerned that some funded programmes which support work-based learning might sit outside the Commission's remit (Working Wales Programme, for example).

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	2
HE	9
Individual	1
Local authority	10
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	4
Total	57

Predominant view

- 6.56 Respondents (with the exception of schools) generally supported the idea of a transition period but had some concerns over its duration.

Sectoral analysis

- 6.57 HE sector respondents supported the need for flexibility in planning and funding models and some suggested that these should continue beyond any transition period, sounding a note of caution over the time needed to align funding arrangements across sectors.
- 6.58 FE sector representatives acknowledged the possible need for transition but were concerned that this should be strictly time-limited. It was also suggested that this was a matter for the Commission and outside of the remit of the consultation.
- 6.59 ACL respondents and the UCU supported the concept of flexibility during a transition period, but some were concerned about the definition of a “short” period.
- 6.60 Local authorities generally agreed the proposal and the need for gradual change. Schools sector representatives generally opposed the principle because of a perceived negative impact driven by uncertainty.
- 6.61 WBL representatives agreed, with the proviso that the transitional period did not exceed the duration of current agreements. Employer representatives generally supported the proposal, with the caveat that equitable investment in skills must be maintained throughout.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	2
HE	8
Individual	1
Local authority	9
Regulatory body	3
School	12
Third sector	0
WBL	5
Workforce representatives	3
Total	56

Predominant view

- 6.62 Respondents voiced strong support for the proposals, to avoid any uncertainty that might impact on the interests of learners.
- 6.63 A transition period of at least three years was favoured.

Sectoral analysis

- 6.64 The HE sector agreed with the need to protect current funding streams to deliver on obligations to students and policy priorities and to align with the recommendations of the Diamond Review. HEFCW felt that transitional arrangements should provide initial protection and continuity for individual providers, but that this level of detail should not be in the legislation.
- 6.65 FE sector representatives saw this as highly important to ensure transition protection, with any major impacts on funding to be phased over a longer period. The detail should be a matter for the Commission, however.
- 6.66 Local authorities and schools wanted to see core funding protected with any changes in funding occurring within an agreed set limit for at least three years, to allow for planning change and for learners to complete courses.
- 6.67 One WBL provider wanted to see a 2-year transition period to transition learners and allow a reasonable return on committed investment. The general response was as for Q27.
- 6.68 Employer representatives expressed some concern that no similar commitment would be made for work-based learning – acting against parity of esteem.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	2
HE	9
Individual	2
Local authority	8
Regulatory body	3
School	11
Third sector	0
WBL	5
Workforce representatives	4
Total	59

Predominant view

6.69 It was strongly agreed that the Commission should review intelligence around the Levy – as with all other information relevant to the sector.

Sectoral analysis

- 6.70 HE sector respondents were concerned that the Commission maintains a UK perspective, as there is currently no level playing field between Wales and England in relation to university access to levy funds, putting Welsh HEIs at a competitive disadvantage and not meeting the needs of Welsh employers and learners. It was felt that there needs to be an emphasis in Wales on encouraging SMEs to engage with apprenticeships (possibly through sharing) and to redress gender imbalances in some sectors.
- 6.71 Responses from the FE sector pointed out the need for the Commission to keep abreast of developments across all sectors as part of its remit. There was also a response that the current system is confusing for UK employers who face different systems in England and Wales.
- 6.72 Local authorities and schools supported the proposal as they perceived the system to be ineffective in Wales at present. One commented that “the Welsh apprenticeship system should reflect the needs of Wales and not be based upon policy designed in

Westminster for the whole of the UK. The Welsh Government should have the power to designate apprenticeship frameworks. Welsh employers contributing to the Apprenticeship Levy need to see that their contributions are being used in Wales.”

- 6.73 Estyn supported the proposal, adding that it could offer “timely and first-hand evidence to support the Commission”. It warned of the risk of employers using the levy to fund low-level qualifications to achieve a return on contributions. UCAC strongly agreed with the proposal, highlighting that Wales is at a disadvantage with regard to the Apprenticeship Levy at present.
- 6.74 Employers were supportive of the proposal. CITB Wales felt that the Apprenticeship Levy could be instrumental in helping the Welsh Government to meet its apprenticeships targets. One option would be to ring fence levy contributions to ensure their use on skills.
- 6.75 WBL representatives agreed that the Commission should continually review the levy and any other form of training levy. However, it was pointed out that more than half of all employers accessing apprenticeships are SMEs and therefore not subject to the levy and it is vital that these are not adversely affected by the levy issue.

Question 30: Do you agree that the Commission should continue to work collaboratively with the RSPs to inform provision delivered by learning providers?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	2
HE	9
Individual	1
Local authority	9
Regulatory body	4
School	11
Third sector	0
WBL	5
Workforce representatives	3
Total	59

Predominant view

- 6.76 It was generally agreed that the Commission should consult with RSPs, given their understanding of regional skills needs. However, this should not be set in legislation, as RSPs are not statutory and may have a limited lifespan and form one of a number of organisations that might contribute to planning.

Sectoral analysis

- 6.77 HE sector respondents agreed that collaboration with RSPs was beneficial, but that it should not be set in legislation, given the non-statutory nature of these. It was also pointed out that there is a lack of representation in Mid Wales at present. The role of other organisations, such as HE research communities, should not be overlooked for their contribution to understanding global changes.
- 6.78 The Learned Society of Wales suggested that further consideration might be given to the means of receiving advice and future proofing, for example through intelligence from the research community and industrialists.
- 6.79 The UCU pointed out the need to balance the needs of RSPs with those of individuals in order to re-engage the hard to reach and those living in poverty.
- 6.80 FE sector representatives felt that the Commission should determine its own relationships with appropriate bodies to inform its understanding of demand from employers. The accountability and robustness of RSPs was questioned by some contributors.
- 6.81 The local authority and schools sector representatives supported collaboration with the RSPs, citing their role in providing local intelligence and strategic direction. It was suggested that PSBs could also be brought in.
- 6.82 Employer representatives had mixed views, with some seeing RSPs as a means of avoiding top down planning, whilst others were sceptical of the capacity of RSPs to deliver.
- 6.83 WBL representatives acknowledged the relationship between employers and RSPs (notwithstanding resource constraints) but stressed the need to engage SMEs as well as large employers.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	5
FE	8
FE/HE	1
HE	9
Individual	2
Local authority	9
Regulatory body	3
School	11
Third sector	0
WBL	5
Workforce representatives	3
Total	58

Predominant view

- 6.84 There were concerns about withholding core budgets on the basis of responding to annual skills plans, in terms of the granularity of the plans and the ability to resource their actions.
- 6.85 There were also concerns about future proofing, in that skills plans might be subject to amendment in the future.

Sectoral analysis

- 6.86 HE sector respondents opposed this being set in legislation and felt that core HE funding should be allocated in line with the Diamond Review, with further consultation on proposed changes to core budgets. The Commission should, however, work with RSPs, but trust providers to respond to feedback. It was also seen as working against provision being learner-led. HEFCW responded that this could create issues for the sustainability of learning providers and their ability to plan for the long-term.
- 6.87 The FE sector representatives felt that there should be no need to act in this way if the Commission was functioning effectively against a strategic plan informed by all sources, including annual skills plans. It was also suggested that the proposal would challenge the autonomy of the Commission. One respondent felt that links to annual skills plans could be a negative shift, as “FE and WBL have a good track

record of flexing their delivery to suit priorities and the allocation of funds should remain with the Commission to meet these demands.”

- 6.88 The local authority and school sector representatives suggested that the current funding allocated to RSPs should be transferred to the Commission. There was an observation that where plans are not specific to sixth forms, schools could not be held accountable for delivery against them.
- 6.89 The NEU called for safeguards to be in place to ensure that learners could access good quality courses close to home, which would require workforce planning and continuity.
- 6.90 WBL respondents supported the proposal but queried the use of “each sector” in the question and suggested that a significant proportion of core funding across the whole PCET sector should relate to employer demand.
- 6.91 Employer representatives cautiously accepted the proposal subject to confidence that annual skills plans were based on detailed LMI. They also wanted clarity regarding the extent to which funding could be withheld.

Question 32: Do you consider that the proposals above for monitoring performance and achieving accountability across the PCET system are sufficient and appropriate?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	7
FE/HE	2
HE	8
Individual	2
Local authority	9
Regulatory body	3
School	11
Third sector	0
WBL	5
Workforce representatives	4
Total	56

Predominant view

- 6.92 There were some concerns about this, with a consensus in favour of the Commission retaining sufficient flexibility to develop and consult on the detail of powers.

Sectoral analysis

- 6.93 HE sector respondents wanted to see more detail in order to ensure that monitoring and accountability could be effective. There were specific points that the system needs to take into account, such as the advice of the Weingarten Review that the Welsh Government should focus on sector level intervention, allowing providers to operate autonomously within a system of assurance and accountability, and not management. NUS Wales commented that they did not believe the proposals were “ambitious enough”.
- 6.94 The FE sector responded that the proposals would allow insufficient autonomy for the Commission. Some respondents also felt that there were complexities to planning that had not been considered.
- 6.95 One individual respondent commented that performance measures needed to be more specific to understand the impact of provision and value for money delivered.
- 6.96 School representatives stated that a high level of scrutiny would be needed by the Welsh Government and performance and accountability needed to be transparent. NEU Cymru were concerned about inconsistencies in regulatory requirements across the PCET sector not being fully addressed by the proposals.
- 6.97 Employers generally agreed with the proposal, stressing the need for quality assurance and monitoring of performance, with consistency across sectors.
- 6.98 WBL representatives felt that the question was unclear: NTfW commented that “assuming that what is meant is, are the proposals outlined in ‘The relationship between the Commission and learning providers’ and ‘Strengthening the link between planning and funding’ across the PCET system sufficient and appropriate, then yes they are.”

Question 33: What more might need to be done to secure the sustainable operation of the PCET system in Wales over the longer term?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	7
FE/HE	1
HE	9
Individual	1
Local authority	9
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	4
Total	55

Predominant view

6.99 There were a wide range of responses to this question including; maintaining arms-length operation, learning from other mergers, ensuring adequate resourcing, adopting a flexible approach and effective impact assessment.

Sectoral analysis

- 6.100 HE sector respondents wanted a sense of proportionality – referencing the fact that many institutions derive the majority of their funding from elsewhere. Any changes need to be considered in the context of their impact on operational efficiency and maintaining a sustainable operation. One HEI saw the establishment of the new Commission as an opportunity to ensure “adequate and sustainable levels of funding and proportionate regulation” across the PCET sector. HEFCW expressed support for continuing the reconfiguration of the HE sector into fewer, stronger providers, along with a recommendation to extend this into other PCET sectors.
- 6.101 NUS Wales urged the Welsh Government to ensure that every institution regulated by the Commission has a fully-funded learner voice structure.
- 6.102 The FE sector stressed the need for the Commission to be established as a genuinely arms-length body, independent of the Welsh Government. One contributor highlighted the importance of

achieving an effective internal culture in the new Commission – citing lessons to be learnt from other organisational mergers in Wales and elsewhere.

- 6.103 Employers expressed a desire for greater employer involvement across all sectors and sizes of business. CITB Wales called for a more cohesive system to allow for easier transfer between academic and vocational routes and for a national framework with long-term goals.
- 6.104 WBL representatives wanted to see a PCET strategy in line with Hazelkorn. In the absence of this, it was said to be hard to set actions to ensure sustainable operation.
- 6.105 Many school sector representatives called for sixth forms to be left under their current jurisdiction. Others emphasised the need for clear governance and audit and compliance control to be put in place.
- 6.106 ACL commentators highlighted the need for more focus on adult learning and ensuring investment in education across all ages.

7. Overview of the responses to section 5: 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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	8
FE/HE	2
HE	9
Individual	2
Local authority	10
Regulatory body	5
School	11
Third sector	0
WBL	5
Workforce representatives	6
Total	64

Predominant view

- 7.1 The focus on learner protection was widely welcomed, along with the benefits of establishing a common set of principles to allow for consistency and easier transfer and progression between sectors.

Sectoral analysis

- 7.2 The HE sector generally felt that it enjoys clear and robust arrangements for protecting learners in the event of programme, subject or site closure and these are subject to QAA scrutiny. Protection arrangements should reflect the degree of risk to the student and take account of part-time and distance learning and under-represented groups. It was also noted that other protections also apply to universities, including consumer law. HEFCW welcomed the prominence given to learner protection in the document, calling for principles to be high level and enabling of flexibility. Adopting the principle that arrangements should focus on the learner, it would be consistent to apply a common set of principles across all settings. The

QAA, however, pointed out that the effectiveness of arrangements is more important than consistency for its own sake. NUS Wales strongly backed the principle of equal entitlement and rights to learners across all sectors. However, they voiced a note of caution in defining principles too tightly at an early stage and saw it as vital for them to be developed in partnership with providers.

- 7.3 FE sector commentators supported the proposal to ensure that all learners are treated equitably. One pointed out that “effective transfer of information between sectors on transfer is a major weakness currently”.
- 7.4 Local authority and school respondents acknowledged the importance of the topic and wanted to ensure that learners are involved in development and implementation of learner protection arrangements and any actions in relation to course closures. There was also a call for clear communication of arrangements at the outset, and for monitoring and complaints resolution procedures to be put in place. Two schools were against the proposals on the grounds of additional bureaucracy. Estyn welcomed a common set of principles and pointed out that currently, different groups of learners in the same institution might experience different routes for complaints or listening to their views. One teaching union noted that “pockets of good practice” referred to in the document were drawn mainly from practice in schools and saw this as reinforcing an argument for schools to be outside the remit of the Commission.
- 7.5 Employer groups welcomed the proposal, anticipating consolidation of provision in the sector which could impact on learner choice. It was felt that more formal protection could provide stability during periods of uncertainty and protect financial investment. There were calls for employer protection (i.e. compensation) in the event of course closure. and some learner protection from the impacts of Brexit on employers and providers.
- 7.6 Employer representatives and WBL providers welcomed the proposal, although Social Care Wales called for additional safeguards for vulnerable learners in the PCET community, in the context of WBL providers enjoying less financial stability than FEIs or HEIs.

Question 35: Do you agree with the principles suggested? Are there any that should be omitted or additional principles which should be included?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	7
FE/HE	1
HE	9
Individual	1
Local authority	8
Regulatory body	4
School	11
Third sector	0
WBL	5
Workforce representatives	4
Total	55

Predominant view

- 7.7 The development of a consistent set of high level principles was welcomed, but detailed arrangements should be worked out later.
- 7.8 A number of respondents felt that the principles should be co-produced rather than being set in legislation.

Sectoral analysis

- 7.9 ACL respondents stated that a learner-centred approach must form the heart of all learner protection arrangements; recognising the needs of the most vulnerable in particular.
- 7.10 There was general support for the proposals from HE sector respondents, with the proviso that they remain high-level, flexible and proportionate. It was stressed that the HE sector already has a high level of monitoring and compliance and it was questioned what additional level of compliance the Commission might add to this. One called for “an overriding principle of a commitment to ensure that the learner is to be placed in no worse a position than at the outset of studies should change be unavoidable”. NUS Wales strongly advocated the inclusion of “preventative” as a key principle, to avoid

the risk that “having a protection plan could become a self-fulfilling prophecy”.

- 7.11 FE sector participants felt that this should be part of the Commission’s corporate plan, rather than being set in legislation, and should be developed through partnership work, including with learners. Protection arrangements should reflect the degree of risk to the student and take account of part-time and distance learning and under-represented groups.
- 7.12 One individual response placed an emphasis on purpose – ensuring that the purpose of any programme accessed needs to be clearly shared with the learner “prior to, during and as part of their learning”.
- 7.13 Local authorities were in favour of the proposals, although one respondent was concerned about complaints resolution, which currently offers the opportunity for learners to complain via school governors, local authority systems or via the Public Service Ombudsman for Wales. It was suggested that there was little to be added by the Commission. The need to take account of existing protection under the Learning and Skills (Wales) Measure 2009 was also raised.
- 7.14 The school sector had mixed views on the proposal, with one provider citing the increasing levels of scrutiny already impacting on providers and fearing further bureaucracy.
- 7.15 Estyn strongly supported the proposals.
- 7.16 One employer representative expressed caution about each institution being required to have an LPP plan, suggesting that this could be covered in the terms of individual contracts. The issue of finding a replacement employer for an apprentice in mid programme was also highlighted as a challenge which could not be guaranteed.
- 7.17 WBL bodies welcomed the proposal but made a point about apprentices not coming within arrangement affecting other sectors (such as the ALN Bill). Also, under timely and effective processes, a need was identified for an effective cross-sector MIS. There was also a question about who would take on the appeals process under compliance and monitoring.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	1
HE	8
Individual	1
Local authority	6
Regulatory body	4
School	2
Third sector	0
WBL	5
Workforce representatives	4
Total	44

Predominant view

- 7.18 There was broad agreement with the suggested content and the consistency that it should bring across all PCET sectors.
- 7.19 Several respondents wanted to see better data sharing arrangements to protecting learners transferring between school sixth forms and other providers.

Sectoral analysis

- 7.20 HE sector representatives felt that much of the suggested content of LPP Plans was already embedded in existing policies and there were concerns about increased administrative burden as a result. HEFCW took the view that “learner protection and learner progression are two different things and it is probably not appropriate to combine them in this way”. With regard to progression – it was suggested that the use of the ULN to track students and the CQFW to accumulate credits would assist here. The need to track learners through effective data transfer was made by a number of respondents.
- 7.21 There was a call for progression plans to be used to promote positive opportunities for changing provider or picking up learning after a

period of absence. The increased use of technology and learning analytics was proposed by JISC to support LPP, through early warning of disengagement of mental health problems, for example.

- 7.22 FE respondents were keen to stress the need for progression plans for school learners progressing to FE and other sectors – especially in terms of data transfer. It was also felt that the proposal focused on protection to the detriment of progression.
- 7.23 NUS Wales felt that the proposals were prescriptive at present and could better be reframed as expectations to support the principles. In common with other respondents they expressed a need to include clear references to the Consumer Rights Act 2015, the role of the CMA and student contracts.
- 7.24 Local authorities wanted to see more effective planning by schools working with other providers to deliver a seamless transition for learners leaving school. One requested more cross-referencing to existing legislation, such as the Learning and Skills (Wales) Measure 2009.
- 7.25 School respondents did not agree the need for school sixth forms to produce LPP plans, although one teaching union proposed local pilots to devise process for learner protection in the context of transfers from school to non-school settings.
- 7.26 Estyn questioned proposals to avoid being prescriptive about LPP plan formats, as these might lead to a lack of transparency and comparability. They also called for an information-sharing methodology to accompany learners transferring between providers, especially between school and other settings.
- 7.27 One employer representative identified a lack of reference to the additional needs of learners and also suggested that careers advice should be independent of the provider.
- 7.28 One ACL representative welcomed the proposed content of the LPP plans – especially the attention to well-being and mental health and the needs of non-traditional learners.

Question 37: What sanctions, if any, should the Commission have in relation to Learner Protection and Progression Plans?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	2
HE	8
Individual	1
Local authority	4
Regulatory body	4
School	3
Third sector	0
WBL	5
Workforce representatives	3
Total	42

Predominant view

7.29 It was agreed that some kind of leverage needed to be available as a last resort in the case of providers who failed to take LPP plans seriously. However, it was questioned whether sanctions would work in the best interests of the learner.

Sectoral analysis

- 7.30 HE sector respondents put forward a range of responses to this question, although the most common response was an inability to comment without understanding what sanctions were being proposed. Universities Wales believed that existing legislation provides a framework for developing proposals.
- 7.31 HEFCW suggested that providers should address learner protection as part of gaining registration, while the OIA said that “In our experience the sharing and dissemination of good practice in handling complaints among providers has a positive impact on learners’ experiences if things do go wrong, which is a better outcome for all involved than relying purely on sanctions.”
- 7.32 NUS Wales echoed that sanctions should be a last resort and their use would indicate concerns about the Commission’s inability to act

earlier. More clarity was needed on what sanctions implied and financial sanctions were not seen as an appropriate solution.

- 7.33 FE sector respondents felt that the ROA could be removed from charitable status providers and contracts ended for non-charitable status providers. One provider cautioned that sanctions “might not always be appropriate” and to exercise care in terms of their application. It was also noted that sanctions could cause inefficient provision to remain open and that would imply additional costs to the provider.
- 7.34 Local authorities thought the ability to withhold or claw back funds would be appropriate.
- 7.35 The OIA was seen as having a role in feeding back to the Commission about learner complaints, thereby informing action to prevent the need for sanctions.
- 7.36 Some employers thought that funding could be suspended to any provider with inadequate LPP arrangements. One, however, was keen to ensure that alternative providers could be identified to avoid any undue impact on learners.

Question 38: Do you agree that the current complaint resolution arrangements should remain in place for school sixth forms?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	1
HE	3
Individual	2
Local authority	10
Regulatory body	4
School	12
Third sector	0
WBL	5
Workforce representatives	5
Total	53

Predominant view

7.37 The school sector considered that sixth forms form an integral part of schools and so should remain subject to the common set of arrangements for all learners within the school setting.

Alternative views

7.38 The counter argument from some non-school sector respondents was for consistency across all PCET providers, with a right of access to a single independent body for complaints.

Sectoral analysis

7.39 One HEI responded with the view that it was not feasible to ask the OIA to take responsibility for school sixth forms and so there was not an alternative to the current arrangements. HEFCW felt that local authorities could not provide independent resolution for school learners and that the OIA might be more appropriate for all learners. QAA agreed that the OIA might be “more student-centred and accessible to young people, and therefore more appropriate”. The OIA welcomed the proposal to extend its role but questioned whether it should extend to school sixth forms, given that “the existing landscape is already complex”.

7.40 NUS Wales felt that consistency across all sectors should be a point of principle, especially questioning the ability of local authorities to provide independent resolution of complaints.

7.41 FE sector respondents called for consistency across all PCET providers and felt that having different arrangements in place for schools could expose the Commission to unnecessary risk. If the role of the OIA was to be extended, it should include school sixth forms.

7.42 One individual respondent suggested increasing the remit of the public service ombudsman to “give assurance of a fit for purpose system that reviews complaints to reach sound outcomes”.

7.43 One local authority highlighted that decisions and appeals had very rarely taken place under the Learning and Skills (Wales) Measure 2009, but if complaints were to occur, then there should be common arrangements across all sectors.

7.44 School sector respondents were almost unanimous in feeling that current arrangements were effective and should remain in place, giving the argument that sixth forms are an integral part of their schools. Current arrangements using governing bodies, local authorities and the Ombudsman were seen as robust. The Special Educational Needs Tribunal was also available for relevant cases. Estyn reinforced this view, stating that “current arrangements in school are generally appropriate and do not give cause for concern”. If existing arrangements could adhere to a common set of principles with those applied by the OIA in other sectors, then there would be no need to change.

- 7.45 Employer and business representatives agreed with the proposal, although Social Care Wales called for a system-wide approach where the needs of learners and future employers could be better served by a more collaborative response from providers.
- 7.46 WBL respondents did not agree, stating that if the OIA is to take on the role of dealing with unresolved complaints, then schools should be included as part of the PCET sector.

8. Overview of the responses to section 6: 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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	2
HE	10
Individual	3
Local authority	10
Regulatory body	4
School	12
Third sector	0
WBL	5
Workforce representatives	5
Total	64

Predominant view

- 8.1 There was widespread support for this proposal as a move towards greater consistency across the PCET sector.

Sectoral analysis

- 8.2 HE respondents expressed strong support for the proposals, in the spirit of consistency across the sector. Several felt that their institutions were leading in this area through current practice and could contribute to development of principles. There was some caution expressed in terms of avoiding undue prescription – allowing for innovation and arrangements appropriate to context. The NUS called for “a consistent set of values in relation to apprentices and student representation” and suggested that the principles might be viewed as characteristics of an effective representative body. NUS Wales welcomed the proposals and stressed the need to develop frameworks in partnership. Whilst it was accepted that the HE model would not work across all sectors, it was essential that arrangements should deliver the same level of representation. In the case of WBL, it was suggested that trade union models could be looked at.
- 8.3 FE respondents were unanimous in their support and called for consistency across all sectors. Some felt that this was a matter for the

Commission to deal with. Some respondents wanted to ensure that principles and values were based on meaningful engagement and the use of learner voice to actively shape provision and support services through partnership rather than consultation. The need to address the requirements of Welsh speaking learners when developing the framework was also raised. ColegauCymru felt that “the Commission should be required by statute to provide a mechanism for learner voice”.

- 8.4 Local government and school respondents agreed with the proposal and called for consultation with all PCET learner groups, including sixth forms. Schools felt that current arrangements in sixth forms were very successful and are embedded within Estyn’s inspection arrangements. One respondent pointed out that some students undertake a combination of FE and school sixth form provision and they needed recourse to a common process for complaints.
- 8.5 Employers and WBL respondents agreed with the proposals.

Question 40: Do you agree that learner representatives should be involved with developing the outcome agreement element of the ROAs?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	2
HE	10
Individual	3
Local authority	10
Regulatory body	4
School	12
Third sector	0
WBL	5
Workforce representatives	4
Total	63

Predominant view

- 8.6 There was strong agreement with this proposal, as a means of bringing consistency across the PCET sector and ensuring learner-centred delivery.
- 8.7 Some HEIs questioned the use of ROAs but agreed the proposal within this context.

Sectoral analysis

- 8.8 In the HE sector, there were questions about the use of ROAs, but support for learner involvement where they are used. The QAA pointed out that this is established practice in Scotland and should be an expectation of the approach in Wales. HEFCW acknowledged the importance of learner involvement in the development of outcome agreements but felt the need for the Commission to take account of the variation across sectors.
- 8.9 FE representatives strongly supported the suggestions, but voiced concern that it should apply to school sixth forms equally. This could include grouping learners within a local authority area to help shape ROAs. Support needs to be given to learner representatives to allow them to contribute fully.
- 8.10 Local government representatives all supported the proposal, although one stressed the need for learners to be representative of their sectors, rather than acting as individuals.
- 8.11 Schools were concerned about how learners would be involved in outcome agreements when these would be negotiated with the local authority. It was also suggested that local authorities would need to set up youth councils or similar mechanisms to ensure representativeness.
- 8.12 Employer representatives all agreed with the proposals.
- 8.13 WBL respondents agreed in principle but had some reservations about learner access to commercially sensitive information in developing outcome agreements.
- 8.14 Workforce representatives agreed with the principles and values for learner voice representation but there were reservations regarding the way to do it. The UCU was not convinced that the ROA is effective as research on the TEF has shown that learner voice can be very different to the voice of others. The sector saw learner voice with high importance, alongside other key stakeholders such as the workforce.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	2
HE	9
Individual	3
Local authority	10
Regulatory body	4
School	13
Third sector	0
WBL	5
Workforce representatives	5
Total	64

Predominant view

8.15 There was widespread agreement with this proposal, but some concerns about maintaining flexibility in delivery and avoiding duplication of existing mechanisms.

Sectoral analysis

- 8.16 The HE sector welcomed the proposal, with several respondents citing current practice in HEIs. It should apply to all PCET providers, whilst recognising that some providers would have further to travel to deliver on this. HEFCW proposed that the Commission should work with NUS Wales and NSOA to embed the principle and values across the system. They also acknowledged the challenge for WBL providers to adhere to a formal framework in this respect. There was a question about how proposed frameworks would map to existing arrangements (such as Wise Wales, Youth Parliament, NUS Wales etc.) and avoid duplication. JISC pointed out the potential for digital approaches to supporting engagement. NUS Wales welcomed the proposal, again emphasising the need for a partnership approach to develop appropriate models for each sector. A view which was also held by NAHT who noted the NUS-HEFCW partnership as an example of where this has worked best. The example of Scotland was also seen as a useful model to draw on.
- 8.17 FE representatives agreed the need to require a mechanism for learner voice, whilst retaining the flexibility to respond to sector or

provider context. Again, the role of NUS Wales and WISE Wales was seen as essential.

- 8.18 Local authority representatives were strongly in favour of the proposal, with one questioning why school sixth form students should be treated differently because of their setting.
- 8.19 A majority of school respondents disagreed with the proposal, citing the success of existing arrangements in schools and the difficulty of a designing a single framework to suit all sectors. The NASUWT argued against learner involvement in school governing bodies and saw learner voice representation in the context of a lack of workforce involvement in proposals. Estyn questioned the proposal on the grounds of a lack of clarity and cautioned against a national framework which could duplicate the role of existing bodies such as the NUS.
- 8.20 One employer representative agreed with the proposal for a national framework but raised the need for clarity around the situation where training was shared between an employer and a provider. Another raised the issue of ensuring that less confident or articulate learners were included in the engagement process.
- 8.21 WBL providers welcomed the proposal on the grounds of supporting parity of esteem with non-vocational settings.

Question 42: If so, do you think responsibility for establishing the proposed national framework should sit with the Commission?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	7
Individual	2
Local authority	10
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	4
Total	54

Predominant view

- 8.22 There was near unanimous agreement with this proposal, but a strong message that it should be co-produced through close consultation with providers and learner representatives.

Sectoral analysis

- 8.23 HE respondents agreed with the proposal, but in collaboration with student bodies such as NUS Wales and Wise Wales. QAA also proposed a role for an independent quality body to host the framework. NUS Wales felt that although it should be up to the Commission to develop the framework, work could begin ahead of that amongst providers to lay the foundations for effective learner representation.
- 8.24 FE sector representatives agreed that the Commission was best placed to establish a framework, although Coleg Cymraeg Cenedlaethol pointed out the need to utilise the experience of existing partnerships such as Wise Cymru and to learn from the experience in Scotland.
- 8.25 One individual respondent agreed but called for a “focus on quality of experience and impact on knowledge / progression”, which they suggested might be lacking in the Commission.
- 8.26 Local authority representatives all agreed with the proposal, with the exception of one who felt that responsibility could sit with an external organisation already working on learner voice.
- 8.27 Employers and WBL respondents also agreed with the proposal.
- 8.28 Support for the proposal was also consistent within workforce representatives. The national framework must be part of the regulatory framework, therefore allowing the Commission to act if requirements are not by providers. The NAHT recognised that providers would need direct involvement in the creation of the framework to ensure that it is fit for purpose in each sector.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	8
Individual	2
Local authority	10
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	4
Total	55

Predominant view

8.29 There was widespread agreement with this proposal, although school sector representatives were concerned about funding being top-sliced to resource learner bodies.

Sectoral analysis

- 8.30 Whilst there was widespread support from HE providers, some were concerned that this would require significant support in some cases and they could be disadvantaged through additional support being given to providers with no track record of supporting learner representation. The NUS strongly supported the resourcing of learner bodies across all PCET sectors, as a regulatory requirement.
- 8.31 FE sector respondents agreed with the proposal, whilst recognising a need for flexibility to allow for different contexts (especially WBL) and for funding to ensure the proposals are supported.
- 8.32 Schools and local authorities had concerns about how learner-led bodies would be funded (avoiding top-slicing), the imposition of additional bureaucracy and that fact that there are existing accountability lines in place with local authorities and consortia. Qualifications Wales highlighted the potential for overlap between the roles and responsibilities of various bodies in the context of qualifications, which needed to be worked through.

- 8.33 The workforce representative UCU recognised the omission of the term training within the proposals, suggesting the exclusion of training providers from the Commission. They held that this must not happen.
- 8.34 Employer bodies had mixed views, with one agreeing to resourcing, but without setting detailed criteria and another suggesting that existing organisations such as NTfW had the knowledge and experience to support this. Social Care Wales expressed concerns about increasing representation in sectors with high levels of turnover of learners – especially in WBL.
- 8.35 WBL providers welcomed the resource and support for increasing learner representation but voiced some difficulties regarding the arrangements for learner bodies in their sector, because of the dispersed nature of their learners in workplaces and the fact that many are employed individuals rather than full-time learners. It was suggested that existing representative bodies such as NUS and NSOA could ensure representation at PCET system level.
- 8.36 One individual commented that this should be led by the NUS, with resources provided.
- 8.37 One ACL respondent called for the establishment of a national adult learner forum to ensure a single voice for adult learners.

9. Overview of responses to section 7: 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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	2
FE	7
FE/HE	0
HE	9
Individual	1
Local authority	5
Regulatory body	3
School	7
Third sector	0
WBL	5
Workforce representatives	3
Total	43

Predominant view

- 9.1 General agreement with the proposed overall principles for quality, although a strong view that these should build upon existing frameworks, especially QAA and Estyn.
- 9.2 The HE Sector raised concern about the Commission acting as both funder and quality assurance regulator and had some wider issues with the proposals.

Sectoral analysis

- 9.3 HE sector representatives acknowledged the benefits of a single framework across all providers, but that details should be a matter for the Commission and not legislation. There was concern raised about the framework being too prescriptive and a lack of key criteria aligned with the ESG. It was noted that HEIs operate well-established arrangements in a UK and international context and needed to retain comparability to compete. There are also existing arrangements for external quality assessment by trusted providers. Several respondents questioned a number of points of detail including, for example, relating to the interaction with the Teaching Excellence and Student Outcomes Framework, the concepts of value for money and

sustainable outcomes and alignment with English HEIs. Many of these points were echoed by HEFCW, which also raised the point of quality assurance for RTOs.

- 9.4 Concern was raised about the Commission acting as both a funder and quality assurance regulator, which could threaten the independence and impartiality of decision making. It was suggested that placing responsibility for quality assurance with an “independent and internationally credible quality assurance agency” would help address this.
- 9.5 NUS Wales welcomed the proposals but recommended that the Commission be tasked with developing the framework through a partnership approach.
- 9.6 FE respondents agreed with the proposals as they acknowledged a new approach was required. However, it needs to build upon Estyn, QAA and other frameworks with clearly defined KPIs. A framework should be developed for each sector to acknowledge the varied contexts of different providers, within a common set of principles across the whole PCET sector. It was suggested that legislation should simply require a framework, with the Commission tasked with developing it.
- 9.7 School sector respondents agreed with the proposal, calling for the Estyn framework to be retained pending the Donaldson Review.
- 9.8 Employer representatives generally agreed with the proposals, acknowledging the need for consistency across the PCET sector. The need for a quality benchmark was highlighted, to avoid poor, but improving providers appearing higher than those with consistently high quality. The proposal to consult employers on quality of provision was especially welcomed. Social Care Wales highlighted the current variation in quality of provision in WBL and FE, with some “being unacceptable” and welcomed the prospect of achieving consistency across all settings in PCET. It was highlighted that the measure of vertical progression might not be appropriate in a sector where training progression is linked to promotion and so may offer limited opportunities for individuals.
- 9.9 WBL contributors were in agreement with the principles and developing a common approach, although it may be challenging to deliver this in consideration of the strengths of existing arrangements in different sectors.
- 9.10 Workforce representatives agreed that the proposed single body for overseeing external quality assessment should not apply to sixth forms. UCAC called for further consultation with the relevant stakeholders, including the workforce, in the further development of these principles due to the elaboration and clarification that is needed with regard to current proposals. The NASUWT portrayed significant discontent with their lack of involvement in creating such proposals: “The Union is appalled that this strategy has been considered and proposed without the involvement of, or reference to, the

organisations that represent the workforce, that is, the recognised trade unions. “

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.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	8
FE/HE	2
HE	10
Individual	1
Local authority	5
Regulatory body	3
School	10
Third sector	0
WBL	5
Workforce representatives	5
Total	54

Predominant view

9.11 There was agreement with the aspiration for a single arrangement for quality assessment, but this was felt to be a medium-term goal and not something to be included in statute. A partnership approach including Estyn and QAA was supported by many.

Sectoral analysis

9.12 HE respondents were wary of the suggestion, as they operate in a UK context and in different circumstances to other PCET providers. Any pan-PCET body would also need to sign up to European standards to ensure international compatibility. HEFCW felt that the proposal was a long-term aspiration, for which there is no single body with the current capability to deliver for all PCET providers.

9.13 It was suggested by QAA that in the shorter term, quality assurance could be undertaken by more than one body on a joint working basis under a single quality framework – which would allow for sixth forms to be integrated more effectively.

- 9.14 NUS Wales did not agree that a single body could carry out assessments across all PCET providers in the short-term. It suggested the retention of roles for QAA and Estyn and the encouragement of collaboration between these.
- 9.15 FE providers acknowledged the need for consistency across all providers but felt that this should include sixth forms. It was seen as something that should lie outside of legislation. Grŵp Llandrillo Menai felt that it was more important to establish consistency across FE and school sixth forms than bringing FE and HE together. They went on to suggest that they “would support HE moving towards EQA which makes more use of first hand evidence and feel this has the potential to be transformational for HE”.
- 9.16 One individual respondent questioned why school sixth forms had been excluded from the proposals, given the commonality of curriculum with many FEIs.
- 9.17 This was echoed by one local authority, which questioned the proposal especially in the context of local authorities that are fully or nearly completely tertiary alongside others which retain sixth forms but with A Level teaching in FE as well. It appeared inconsistent for learners to experience different arrangements in these settings.
- 9.18 School sector respondents supported the proposal to ensure consistency and raise public confidence for all PCET settings outside of sixth forms. Some local authority respondents questioned the differentiated approach which exposed A Level learners to different systems in schools and colleges.
- 9.19 UCAC was strongly against any system which separated sixth form inspections from those for the whole school and also questioned the idea of moving to a quality assurance body which might lack knowledge of Welsh-medium provision and its context.
- 9.20 Estyn did not agree with the proposal and reported international research which identified only one existing (and experimental) model for a single body to use inspection to drive improvements across the sectors covered by PCET. It proposed three options: a joint Estyn QAA framework, collaboration based on the strengths of individual organisations or a single contract with a core provider contracting aspects of the sector that it did not cover.
- 9.21 Employer bodies were divided on the proposal, with CITB Cymru, FISSS and the ECITB supporting it whilst Social Care Wales did not see the proposal as practical beyond high level principles and agreements.
- 9.22 WBL representatives recognised the advantages of designating a single body but felt that it was challenging to identify a single body to cover all PCET providers.
- 9.23 The NEU was concerned over the lack of clarity in this section, as it was not clear to them as to whether Estyn would cease to inspect FEIs. With concerns over another body starting from scratch with FEIs

the union wanted “to ensure that any new body is able to take into account the inconsistent functions which different bodies within the PCET are under a duty to exercise”.

Question 46: Do you agree with the proposed definition of quality enhancement? If not, what would you change?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	1
HE	9
Individual	2
Local authority	6
Regulatory body	3
School	9
Third sector	0
WBL	5
Workforce representatives	4
Total	51

Predominant view

- 9.24 There was agreement with the proposed definition “as a starting point”, but a view that it should be in the remit of the Commission to decide.
- 9.25 A number of concerns raised over the wording and focus of the proposed definition.

Sectoral analysis

- 9.26 HE sector respondents were wary of the definition of quality enhancement calling for a more detailed definition to be developed over time with a focus on “deliberate strategic action”. Such a description is utilised within the QAA definition which was widely supported by the sector and echoed by NUS Wales. Several HE sector representatives found the language of the definition both tentative and unambitious. It was felt that the language used should be more positive, with the inclusion of teaching as it is in providers’ power to influence teaching.
- 9.27 The NEU had concerns that the definition was cyclical and the UCU recommended partnership working with education professionals to

allow for the development of a working definition and genuinely address the quality of provision.

- 9.28 FE providers accepted the broad definition but felt that the Commission should decide on the detail. It was also seen that there should be a focus on quality improvement rather than enhancement; to use 'enhance' within the definition was deemed inappropriate.
- 9.29 An individual respondent agreed with the definition, but felt that the element of continuity was missing, along with an acknowledgement of the time taken to develop quality systems through continuous improvement and waste elimination.
- 9.30 Local authority representatives agreed with the proposed definition but wanted a reference to self-improving systems.
- 9.31 School respondents generally agreed with the definition. Estyn responded that it was "very broad and seems appropriate".
- 9.32 WBL providers did not object to the proposed definition, but wanted more reference to continuous improvement, to acknowledge the constantly changing landscape of change and improvement.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	1
HE	9
Individual	2
Local authority	5
Regulatory body	4
School	8
Third sector	0
WBL	5
Workforce representatives	5
Total	51

Predominant view

- 9.33 There was support for the Commission to take a supportive and guiding role in collaboration with an arm's length body.
- 9.34 There were widespread fears that the proposals are too prescriptive.

Sectoral analysis

- 9.35 HE sector respondents felt that the proposals were too prescriptive in their approach to enhancement and that continuing to work to support designated quality bodies would be more appropriate. Universities Wales called for the “Commission to take a coordinating role rather than taking on the work in-house”. HEFCW considered that the Commission should be able to take a strategic view across the PCET system with the ability to determine the nature of its activities. There was a call for greater clarity on how quality enhancement would link to the regulation / registration process, to avoid any potential duplication of effort.
- 9.36 The UCU held that “to assume that a new Commission will succeed without a clear policy from Government on the roles and remit of the various parts of PCET would be to set the Commission up to fail”. Clarity was also required by UCAC in terms of the responsibilities for sixth forms, the relationship with local authorities and consortia as well as the National Academy for Educational Leadership. The UCU also questioned the absence of an evaluation of ELWa’s failure, which offered the potential to reveal lessons learnt and prevent repetition. The NEU was concerned that the current review of regional consortia had not been taken into account in the consultation.
- 9.37 QAA welcomed the proposal to legislate responsibilities for quality enhancement, but also felt this should rest with an “internationally credible quality assurance body or bodies”. Another response suggested the use of Advance HE for such a role.
- 9.38 FE providers agreed with the proposal, with the proviso that the Commission did not duplicate existing work and took responsibility for sixth forms. They were also clear that no non-statutory bodies should be specified in the legislation.
- 9.39 Some local authority representatives were concerned about excluding sixth forms from some elements of the proposals. Others were supportive but wanted practitioners to be able to play more of a role in leading educational improvement.
- 9.40 School sector responses proposed that the existing Estyn framework should continue to provide quality enhancement for the sector. Should the Commission hold a statutory role in relation to quality enhancement, the sector required clarity on the responsibilities for sixth forms.
- 9.41 WBL respondents agreed that quality enhancement should be an integral part of quality assurance activities but felt that the Commission should identify the full range of activities that would apply to each sector once the overall strategic plan has been agreed.
- 9.42 Social Care Wales believed that “any qualifications offered in sixth forms and in WBL or FE should have the same quality enhancement

systems. This should not be changed, based on where the qualification is offered.”

Question 48: How could the Commission’s role in workforce development be tailored to reflect the needs of different sectors and providers?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	8
FE/HE	1
HE	10
Individual	2
Local authority	6
Regulatory body	4
School	8
Third sector	0
WBL	5
Workforce representatives	5
Total	54

Predominant view

9.43 Responses suggested this was something for the Commission to decide. There was an identified need to engage with relevant organisations such as the Education Workforce Council and Advance HE to devise a model for the sector which avoids duplication.

Sectoral analysis

9.44 HE sector respondents were keen to ensure that the Commission avoided duplicating the work carried out by existing bodies and focused on gap filling where necessary. Universities Wales identified that the Commission has responsibility for funding and regulation of PCET learning providers and should not take on workforce development itself. Further, the Apprenticeship Levy paid by HEIs could be utilised for workforce development. Cardiff University identified a need to commission research in this area, to avoid a ‘one size fits all approach’ to the different sectors. By doing so, the Commission would be able to identify gaps in provision and engage directly with parts of the system which are not covered by the Education Workforce Council (EWC) and Advance HE. HEFCW advised the Commission to work in partnership with both of these organisations. Swansea University indicated that by taking such an

oversight role there is “opportunity for greater ownership and control to ensure the overall goals can be effectively delivered by the developing workforce.”

- 9.45 JISC indicated that enhancing the digital capability of staff is a crucial area of developmental needs across the PCET sector – something which could feature in the strategic approach.
- 9.46 FE sector responses suggested a need to engage with the EWC, employers and other relevant organisations. The sector agreed that this is a role for the Commission to decide.
- 9.47 School sector responses included the need to understand current professional learning models being delivered across the PCET sector, including the national post-16 leadership programme provided by regional consortia. This could enhance transferability across sectors. However, there was a counter-view that the school workforce for pre and post 16 was essentially the same and so pre-16 arrangements also needed to be taken into account to avoid the replication of work.
- 9.48 WBL respondents called for alignment of CPD across PCET sectors and greater equality of access to CPD opportunities. The EWC was identified as ideal to own and monitor professional standards. There was support for the regulation of standards for the WBL workforce in order to enhance the status of the profession.
- 9.49 In agreement with the dominant view, workforce representatives recognised that the Commission needed to engage with the relevant bodies to reflect the needs and deliver for the profession in Wales. The NEU warned that outlining the role of the Commission in terms of workforce development is critical, as “if we do not have workforce to meet the needs of learners the TERCW will not be able to deliver on its aims”.
- 9.50 Employer representatives wanted to ensure the inclusion of industry representatives to enable dialogue to inform a true reflection of workforce needs.
- 9.51 Social Care Wales recognised that the term teacher is used in respect of the strategic role of the Commission, yet this only accounts for a small group of professionals in terms of PCET practitioners. When considering the portability of teaching staff between FE and schools “the occupational competence, qualifications and experience of people delivering learning in schools” needs to be taken into account.

10. Overview of responses to section 8: Sixth forms

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	0
FE	8
FE/HE	2
HE	4
Individual	2
Local authority	11
Regulatory body	3
School	21
Third sector	0
WBL	4
Workforce representatives	7
Total	63

Predominant view

10.1 Local authority, WBL and school consultation responses stated it should be achieved as part of the negotiation of Part II of ROAs.

Alternative views

10.2 FE responses reported that powers should be consistent across the PCET sector as a whole.

Sectoral analysis

10.3 FE respondents agreed that sixth form reform should be included with the proposed reforms and their regulation should be aligned with other parts of the PCET sector, allowing for parity across the sector. ColegauCymru pointed out that participation in school sixth forms continues to fall and current governance arrangements of sixth forms should not be absolute as this would inhibit innovation and change. Grŵp Llandrillo Menai considered that the Commission should review regional post-16 provision and use thresholds in ROAs to maintain sustainable provision, for example minimum sixth form numbers per centre, numbers per class.

10.4 NUS Wales had a number of concerns that the proposals in might create a two-tier system, given that FEIs, HEIs, WBL and ACL

providers would have a direct line of communication with the Commission to negotiate, discuss and develop their ROA, whilst sixth form providers would not. This could potentially lead to a blanket approach being taken within a local authority area, implementing a ROA that does not consider individual institutions' specific requirements and the regional socio-economic variances, which in turn could harm the learner experience within sixth forms. NUS also expressed concerns over Local Authorities' ability to resource the effective development of ROAs.

- 10.5 Local Authorities generally agreed that working with the LA through the negotiation of Part II of ROAs would be the best way forward.
- 10.6 The sector also raised concerns over the impact that the closure of sixth forms would have on both school culture and learners themselves. It was agreed that sixth form closures should remain via the negotiation of Part II of the ROAs in order to retain impartiality.
- 10.7 Workforce representatives were especially vocal on this issue: Voice the Union stated that giving such powers to the Commission "imposes a further layer of regulation and authority over schools in addition to local authorities and consortia". NASWT maintained "that the statement in the current consultation presents an argument of convenience to support the inclusion of school sixth forms within the remit of the Commission, rather than a true reflection of the outcome of the previous consultation exercise." The union identified 20 areas in the consultation document where there is a qualification around school sixth forms. The NAHT indicated the recent school organisation regulations which are against the closure of small rural schools due to the adverse wider community impact. The Union noted that small school sixth forms may fulfil a similar local community role.
- 10.8 School responses stated that sixth forms should not be part of the Commission's remit, given the complexity of them as organisations. It was felt that local authorities are better placed to make the decisions as they understand the landscape of their schools.
- 10.9 Estyn recommended that "any powers to instigate a regulated alteration in terms of a sixth form need to be specified clearly in order to ensure transparency, consistency and fairness."
- 10.10 Cydag proposed that through the regulation and outcome agreements, targets should be given to individual schools in all areas to increase the number of subjects offered through the medium of Welsh in the sixth form. Welsh-medium schools very much supported the views put forward by Cydag.
- 10.11 The Learned Society of Wales suggested that the Commission should incorporate sixth forms at a later date to allow it to focus on other areas.
- 10.12 WBL representatives believed that school sixth forms should be treated on the same terms as other providers and this would be "better achieved through the agreement, monitoring and review of the ROA with the local authority".

Question 50: What reporting should be required of the local authority to show effective use of funding given for sixth form provision?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	0
FE	8
FE/HE	1
HE	2
Individual	2
Local authority	11
Regulatory body	3
School	15
Third sector	0
WBL	4
Workforce representatives	6
Total	53

Predominant view

- 10.13 Schools and local authority responses suggest that systems are already in place to show effective use of funding for sixth form provision.
- 10.14 FE, HE and WBL responses called for requirements to be consistent with the rest of the PCET sector.

Sectoral analysis

- 10.15 Schools recognised that local authorities already have systems in place to monitor and report on the effective use of funds in school sixth forms. Most of the sector agreed that the Commission should not have any part in the running or funding of school sixth forms. However, one recognised that it would be useful for the Commission to have an overall data analysis function for all PCET providers which would entail the local authority submitting data on the number of staff, learners, courses and learner achievements.
- 10.16 Local authority respondents also recognised that these systems are already in place, as part of the Local Authority Planning and Reporting system, and meetings with the Welsh Government. Cardiff called for all funding to be returned to local authorities, as separate grants for sixth forms was not a successful model. Others stated, however, that if the Commission delivers funding it should be consistent with all other PCET providers.

- 10.17 FE sector responses noted the need to ensure that reporting is consistent and aligned across the PCET sector. The FE sector agreed that reporting arrangements for sixth forms should be clarified during the preparation of legislation and that schools should declare separate accounts for sixth forms. Coleg Gwent proposed that “reporting should be at an individual sixth form level and ROAs should require segregation of funding and separate performance assessments of 6th forms”. ColegauCymru questioned the retention of a percentage of funding by the local authority for centrally retained services.
- 10.18 HEFCW suggested that the outcome agreement process would need to be developed between the Commission and each school (and not with the local authority). HEFCW suggested schools should be brought in through an appropriate transition period. HEFCW did not believe that the proposed “half inclusion” of schools in proposals would be operable.
- 10.19 NAHT queried references to developing collaborative partnerships of school sixth forms and maintained that “formal mergers and federations should only be undertaken with full consultation and only if it can be proven to be of most benefit to learners”. The local authority should also be responsible to provide evidence of the level of funding that is retained and for what exact purpose.
- 10.20 WBL providers stated that local authorities should “report in exactly the same way as other elements of the PCET sector”.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	0
FE	8
FE/HE	1
HE	2
Individual	3
Local authority	11
Regulatory body	3
School	14
Third sector	0
WBL	4
Workforce Representatives	6
Total	53

Predominant view

- 10.21 There were mixed views, with calls for consistency across all sectors from much of the sector whilst school and local authority representatives supported the retention of existing arrangements.

Sectoral analysis

- 10.22 FE representatives called for powers to be equitable across all providers to ensure consistency. Coleg Gwent suggested the power to withhold funding, whilst Grŵp Llandrillo Menai called for strengthening of powers to include setting of deadlines for improvements to take place and powers to effect closure.
- 10.23 HEFCW reiterated an earlier view that school sixth forms should be transitioned into the Commission.
- 10.24 NUS Wales called for a new framework to allow for the Commission to deal directly with sixth form providers on the same basis as other sectors.
- 10.25 Local authority respondents predominantly agreed that “the Commission should work with both the LA and Regional Consortium to enhance the quality of provision and outcomes where improvement is identified”. Other responses identified this as a role for the local authority with support from regional consortia, delivered through Estyn in line with Schools Causing Concern.
- 10.26 Within the schools sector the dominant view was that there are already systems in place for local authority and regional consortia to deal with and support schools. An additional layer of bureaucracy was deemed unnecessary with no additional benefits to learners, as schools are already subject to intense scrutiny. One school suggested that a three-year cycle should be considered before any decisions were made regarding effectiveness.
- 10.27 Estyn warned of potential duplication with their existing follow-up arrangements and the need to have a single clear message to schools in special measures.
- 10.28 There was agreement within the WBL sector that the proposed level of intervention is appropriate.
- 10.29 Workforce representatives called for greater clarification of powers to allow all providers to understand the potential impacts on both provider and learners.

Question 52: Are there any other powers the Commission should have as regards sixth form provision?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	0
FE	8
FE/HE	1
HE	3
Individual	1
Local authority	11
Regulatory body	3
School	15
Third sector	0
WBL	4
Workforce representatives	6
Total	53

Predominant view

10.30 No additional powers outlined, but reinforcement from across the PCET sector (except schools) that there should be consistency and parity across the sector.

Alternative views

10.31 School responses stated that the Commission should play no part in regulating school sixth forms.

Sectoral analysis

- 10.32 FE sector respondents recognised the need for consistency and parity across the PCET sector, including powers over sixth forms. ColegauCymru, for example suggested that “consideration should be given as to whether the Commission should be able to set a legally enforceable threshold regarding the size of sixth forms in order to be eligible for funding.” Grŵp Llandrillo Menai went further, proposing that if the Commission cannot close ineffective sixth form provision, then there is no valid reason for setting it up.
- 10.33 Swansea University was concerned about avoiding duplication of Welsh-medium provision across sixth forms and FEIs, which could impact on critical mass for some Welsh-medium schools.
- 10.34 NUS Wales raised concern about the equality of provision across the post-16 sector, and the limited information provided about

mechanisms which will support sixth form students to organise and develop their own education.

- 10.35 Local authority respondents were in agreement that sixth forms should be on an equal platform, with local authorities to be treated by the Commission in the same way as FE colleges. The Commission should seek to enhance the sharing of practice and high-quality provision across local authority boundaries; encouraging the establishment of hubs of excellence within the ethos of a self-improving system.
- 10.36 School respondents disagreed with the suggested powers, proposing that the Commission should play no part in regulating school sixth forms on the grounds of adding another layer of bureaucracy.
- 10.37 Estyn proposed that quality assurance at the local authority level would be effective, backed by an annual report of all sixth forms.
- 10.38 WBL sector respondents agreed with the dominant view that school sixth forms must be regulated on comparable terms with all other elements of the PCET sector.
- 10.39 Workforce representatives generally opposed the inclusion of school sixth forms, especially the ability for the Commission to instigate a sixth form closure. Rather, the Commission's powers with regard to sixth forms should be limited to recommendations to local authorities, consortia, Estyn and Welsh Government. UCAC called for caution, given the level of reform that is taking place within schools over the coming years.

11. Overview of responses to section 9: 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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	8
FE	8
FE/HE	2
HE	9
Individual	2
Local authority	4
Regulatory body	5
School	4
Third sector	0
WBL	6
Workforce representatives	2
Total	52

Predominant view

- 11.1 Agreement across the PCET sector that the Commission should play a central role in delivering Welsh apprenticeships as this helps to support parity between academic / vocational.
- 11.2 Where disagreement exists, concerns tend to be about the scope and role of the Commission.
- 11.3 Caution raised about renaming to 'Pathways' as this may create confusion.

Sectoral analysis

- 11.4 HE sector respondents agreed that the Commission should play a central role, including the funding of all apprenticeship providers with parity with WBL. Many of the HE sector regarded it to be important that employers / providers are empowered to develop Apprenticeship Pathways as needed and required for the future workforce, but this was tempered by the need to avoid duplication or confusion. Cardiff University sounded a note of caution in terms of ensuring that outsourced commissioning of pathways could deliver the required

quality, but also suggested that the Commission could use the certification process to track outcomes.

- 11.5 There was agreement and support across the rest of the PCET sector (FE, ACL, local authority and schools) for the Commission to play a central role in delivering Welsh apprenticeships, including pathways and certificates. One respondent felt that the definition of apprenticeships needed to be revised to reflect provision such as Higher-level Apprenticeships or the forthcoming Degree Apprenticeships.
- 11.6 Estyn supported the central role of the Commission in delivering apprenticeships in Wales but felt that apprenticeship pathways needed to be revisited to ensure quality and relevance.
- 11.7 Qualifications Wales suggested that changes to practice in England could jeopardise the range of provision in Wales and limit the introduction of new qualifications. It was suggested that any move to replicate the work of the Institute for Apprenticeships in England could lead to overlap of conflict with Qualifications Wales. The body put forward a range of suggestions in relation to ensuring effective changes to the apprenticeship system.
- 11.8 The WBL sector generally agreed that apprenticeships should be included in the Commission but the extent of the role which the Commission should play was debated. Many within the sector highlighted the importance utilising expertise from each sector to ensure that industry needs are met, due to the complexity of the area. To do so, development of a pathway should remain with the current issuing authorities as they have considerable experience and history of employer engagement. Also, the issuing of apprenticeship certificates should remain with SSCs as this takes a large amount of resource and is already performed to a high standard.
- 11.9 Concern was raised over the definition and terminology within the proposals. NTfW opposed the definition of apprenticeship used in the consultation as “the direction of travel for the Apprenticeships Programme in Wales is towards ‘higher-level skills’”. The majority opposed the use of ‘pathway’ as this currently refers to sub specialisms in Apprenticeship Frameworks, recommending the use ‘route’ instead.
- 11.10 NTfW also called for urgent action to develop a ‘made in Wales’ approach” to apprenticeships. This sense of urgency was widely felt within the WBL and employer sectors, who agreed that Qualifications Wales should be given the role of maintaining, developing and issuing apprenticeship frameworks.
- 11.11 CITB Wales held that “separating apprenticeships would send a message that vocational qualifications are a lesser option than academic routes. Such a separation would also reduce opportunities for partnership working and sharing of best practice throughout the sector”. FSB Wales considered this issue to be of significant importance for many firms in Wales and regarded it as inappropriate

to discuss in this consultation due to the immediate pressures on the system. A separate consultation was proposed.

- 11.12 Workforce representative NAHT indicated that these courses must be based on quality, as a poorly designed course could further widen the gap in esteem for vocational compared to academic disciplines.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	8
FE	8
FE/HE	1
HE	10
Individual	2
Local authority	3
Regulatory body	3
School	1
Third sector	0
WBL	6
Workforce representatives	1
Total	45

Predominant view

- 11.13 Frameworks need to be more flexible to meet the needs of employers and to respond to changing circumstances.
- 11.14 Processes need to be made more agile and responsive to enable the above.

Sectoral analysis

- 11.15 HEI respondents welcomed the simplicity of funding arrangements in Wales at present, as opposed to the voucher system in England. Several called for increased clarity around the commissioning of frameworks and rationale for priorities and an acceleration of the EOI process for degree apprenticeships. One HEI stated that the initial assessment and induction processes, and the tripartite relationship between learner, employer and provider currently works well within the system. Other HE responses called for the improvement of the

delivery paperwork and compliance requirements with rigorous testing prior to launch of new degree apprenticeships.

- 11.16 HEFCW wanted to see greater integration across levels to allow progression through apprenticeships. It also raise the need for compliance in the context of Essential Skills and its potential impacts.
- 11.17 FE respondents discussed the need for frameworks to be more flexible and to be responsive to employers' needs. The restriction of apprenticeships to priority sectors implies that some employers are contributing to the levy but are unable to access provision. Consideration of the needs of cross-border employers was also seen as needed.
- 11.18 One individual respondent wanted to see more demand-led influence from employers, with employers able to choose from a range of providers to achieve a best fit.
- 11.19 Estyn applauded the success of the current apprenticeship programme in terms of skills and employment outcomes but warned against the progression impacts of too great a focus on higher-level programmes to the detriment of economically inactive or vulnerable learners.
- 11.20 WBL sector respondents indicated a number of elements which currently work well. The strong relationship between providers and the Welsh Government works well and RSPs play a vital role in representing the needs of Industry. It was recommended that Wales should retain the Apprenticeship Standards link to the National Occupational Standards (NOS). Many of the sector agree that the engagement with stakeholders by SSCs is beneficial. One WBL representative indicated that many of the rigid requirements of SASW were fought against unsuccessfully by SSCs, something that the Commission and the WAS has the opportunity to address with simple progression routes.
- 11.21 The WBL sector agreed that the current provision of issuing and certifying works well as each sector has its own body that is subcontracted to provide certifications. However, teams within this role in the Commission would have to maintain the levels of knowledge of each industry necessary to pass candidates.
- 11.22 Employers and businesses suggested a range of improvements. There needs to be consistency of training and delivery between England and Wales as a lack of portability would harm Welsh industry and competitiveness. Many within the sector called for greater alignment with labour market demands (content and how it is delivered) to meet the needs of employers. There was a subsequent recommendation for the reintroduction of SQAPs to provide dialogue directly with employers. Adequate resource should be allocated for Qualifications Wales as the issuing authority. An engineering company who utilise apprenticeships called for a "bold step for apprenticeships" in Wales consisting of a minimum wage for

apprenticeships and “regional centres managing the link between apprentices, standards, schools, the employers and the government”.

- 11.23 The UCU contended that “the Welsh Government needs to undertake a root and branch review of apprenticeships in Wales”. Given that a significant section of the economy comprises of small and medium sized enterprises “the Government to seriously consider a Welsh framework that will meet the needs of the Welsh Economy, its citizens and the workforce”.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	7
FE	8
FE/HE	1
HE	9
Individual	2
Local authority	3
Regulatory body	3
School	1
Third sector	0
WBL	6
Workforce representatives	1
Total	43

Predominant view

- 11.24 Agreement with the proposal for the WAS, but with concerns over the level of powers retained by the Welsh Government.
- 11.25 Essential that the Commission is given the flexibility to allow for sectoral differences and to adapt to changes in the needs of the labour market.

Sectoral analysis

- 11.26 HE respondents raised concern over the level of control that the Welsh Government would be able to exercise over the Commission, especially in terms of directing it to comply with the WAS. There was widespread agreement that it is critical to ensure stakeholders are

part of the process of developing the proposals and are protected from short-term expectations going forward. HEFCW stressed the need for ensure that only high-level arrangements are set out in legislation/regulation to allow for flexibility.

- 11.27 FE responses suggested that WAS should be a part of the Commission's responsibility but could be externally managed. Consensus was that this would be a matter for the Commission, in consultation with all relevant stakeholders.
- 11.28 Pembrokeshire County Council explored the need for robust governance arrangements for the Commission and WAAB. High level arrangements should be outlined in legislation to allow flexibility to address the needs of the economy – including the foundational economy.
- 11.29 Estyn felt that the Welsh Ministers should use existing regulators such as Qualifications Wales to support the Commission in determining the high-level requirement for the WAS. This would avoid any conflict of interest on the Commission's part.
- 11.30 WBL responses did not see any issues, as long as there is consideration for sectoral differences with niche frameworks. There were calls for technical expertise in order to judge the detailed content of the proposed Apprenticeship Pathways. ACT Training indicated that WAS could be managed by another body such as Qualifications Wales but should still be under the Commission's responsibility.
- 11.31 Employers and business agreed with the proposals. Their view was that the Commission must ensure that an adaptive and flexible system is reached, allowing for adaption to the labour market (e.g. match the pipeline of infrastructure projects to skills provision and WFGA). The FISSS welcomed "a more responsive set of powers that enable faster change and adaptation to the changing labour market".
- 11.32 The workforce representative UCU believed that the WAS would be an appropriate vehicle to deliver for Wales as long as the apprenticeship definition is refined.

Question 56: Do you foresee any issues, or have any comments about the reformed apprenticeship system we have proposed?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	7
FE	8
FE/HE	1
HE	10
Individual	2
Local authority	5
Regulatory body	4
School	2
Third sector	0
WBL	6
Workforce representatives	2
Total	49

Predominant view

11.33 No significant issues raised, a range of comments and further detail required about engagement of employers and alignment with UK wide policies and employers.

Sectoral analysis

11.34 HE representatives required additional information especially around how employers submit proposals and the relationship with RSPs. Flexibility was said to be key; the details should not be specified in legislation as this would inhibit development and innovation. Employers will need to be given a stronger voice, ensuring that the system meets their needs and making the register publicly available would allow employers to find the right provision. NUS expressed disappointment at the lack of information and assurances that the learner voice will be fully recognised in the delivery of apprenticeships.

11.35 In contrast, the UCU raised concerns that the Welsh Government is viewing apprentices as learners rather than “employees who are engaged in learning”. This union also indicated that if the employment choices of apprentices are ignored, then this would negate significant information which informs the development of pedagogy (cites the work by Professor Bill Lucas as a starting point for the Welsh Government agenda).

- 11.36 FE responses agreed that the Commission needs the powers covering the WAS and a duty to create a framework. It was perceived by ColegauCymru and a number of FE providers that “the employer-led system proposed is stronger than the current situation”. The provision needs to be representative of employers within any particular region.
- 11.37 Local authority responses agreed with the approach, noting that consideration is required for the promotion of apprenticeships with young people across pre-16 education and WBL/School Partnerships could be a feature of ROAs. There is a need for seamless transition between post 16 options. One local authority also suggested that the Apprenticeship Levy funding could be reallocated to incentivise employers to support apprenticeship programmes.
- 11.38 Employers and businesses welcomed a commitment to Qualification Wales as a basis for future reform and industry being at the top level of the apprenticeship system. Concerns were raised by Cogent Skills, about the levels of expertise and specialist knowledge required from each sector which presents a risk that some areas may be neglected or overlooked by the Commission. Arrangements need to consider and align with UK wide policies and employers and more consultation is required on the architecture of the system. SQAPs could feed into the WAAB, providing a channel for employer voice. RSPs have mixed representation across Wales and Social Care and Child Care need to be involved in WAAB.
- 11.39 The WBL provider ACT agreed that the Commission needs the powers covering the WAS and the duty to create a framework, but this should not be prescriptive, allowing for flexibility to support an employer-led system. WBL providers consistently agreed that the Commission must consider UK wide policies and employers and employees that work worldwide.

12. Overview of responses to section 10: Research and Innovation

Question 57: Do you agree with the general proposal and detailed construction of RIW within the Commission? Please explain why.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	7
FE/HE	2
HE	12
Individual	1
Local authority	2
Regulatory body	3
School	1
Third sector	0
WBL	5
Workforce representatives	2
Total	40

Predominant view

- 12.1 Agreement with the general proposals and aim of the construction of the RIW.
- 12.2 Widespread support for Professor Reid’s review – the RIW should take on these recommendations.
- 12.3 The composition and appointment of members should be determined by the Commission.

Sectoral analysis

- 12.4 The HE sector agreed with the general proposals but disagreed with many areas of the detailed arrangements for the RIW. There was concern with the proposed level of detail and increase in Welsh Government control which was not seen as consistent with what is to be an arms-length body. The specific make-up of the RIW committee should be left to the Commission to determine, allowing for flexibility.
- 12.5 Alongside other HE representatives, HEFCW stipulated that the overall vision needs to be specified more clearly as it does not “recognise the importance of developing and maintaining a strong and excellent research base within Universities in Wales”. The sector regarded research in Wales with the highest importance; Wales

needs a competitive research base which provoked demands for a more ambitious RIW vision. There was firm support for the Reid Review recommendations of strengthening the Welsh research base and creating a single overarching brand for innovation activities.

- 12.6 These sentiments were further reflected in disagreement with any changes to the levels of QR funding and mechanism with which it is distributed. The sector opposed the implied decrease in the level of QR funding, as this provides underlying support for the Welsh research base and could leave Wales at a disadvantage against English research, as QR funding in England is set to increase.
- 12.7 The sector also disagreed with the governance arrangements set out in the proposal. The representation on the Commission from the HE sector was said to be disproportionately low when considering that it contributes the most to the research and innovation agenda in Wales. The sector concurred that QR funding should be in line with the recommendations of the Diamond and Reid Review. HEFCW summarised thus: “the structure, as proposed, would not provide RIW with sufficient knowledge of the HE sector, or of the complexities of funding methodologies, to enable it to take well-informed decisions.”
- 12.8 The Innovation Advisory Council for Wales expressed concern that the proposed arrangements would blur the lines between research and innovation and that this called amongst other things, for an assurance that budgets for research and innovation were more evenly matched. Though Wales has a strong reputation for research excellence, there is underperformance in translating this into commercialisation and creation of economic opportunity. To merge the two would only increase these issues. “The opportunity that establishing Research and Innovation Wales could bring to the fore is to set out the stall for the proper structures, systems, skills and investment needed to strengthen and advance development of the innovation eco-system”
- 12.9 NUS Wales agreed that members should be determined once the Commission has been established.
- 12.10 FE sector respondents broadly agreed with the majority of the proposal. It was pointed out, however, that the Reid Review impacts on the RIW proposal, but timings did not allow it to be taken into account. It was widely felt within the sector that the Commission should decide the number of members of the committee and that there should be adequate representation of the FE sector (equal representation to HE).
- 12.11 An Individual noted that by enabling autonomy this will allow the function to respond to global opportunities.
- 12.12 Schools reported a lack of clarity as to whether there would be any opportunity for school 6th forms to benefit.
- 12.13 Estyn welcomed the aim of creating synergy between research and innovation, “however, this synergy would benefit from being extended

to similar projects covered by other directorates within Welsh Government.”

- 12.14 The employer ECITB supported the construction of the RIW on the basis that the “RIW will facilitate a more joined up approach between HE, research organisations such as UKRI and Industry” where synergies of intelligence-sharing could be reached.
- 12.15 WBL representatives emphasised the need for RIW to have strong links to industry and public service bodies.

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.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	6
FE/HE	2
HE	11
Individual	1
Local authority	2
Regulatory body	2
School	1
Third sector	0
WBL	5
Workforce representatives	1
Total	36

Predominant view

- 12.16 There was dominant agreement that the RIW should have a wide funding scope which allows for flexibility and agility. In doing so, this should not reduce the QR funding which contributes to Higher Education research.

Sectoral analysis

- 12.17 The HE sector widely agreed that the best way of achieving the Reid review recommendations is by having a RIW committee that is given the autonomy and flexibility to work with all innovation partners. The sectors welcomed further clarity about the introduction of additional criteria for un-hypothecated funding. It was warned that to deviate

from the UK-wide QR funding allocation system would affect Welsh universities' ability to recruit and retain researchers, therefore putting Wales' research base at a competitive disadvantage to the rest of the UK. The sector agreed that QR funding of Welsh universities should keep pace with English universities as lower QR funding had hampered competitiveness in leveraging external funds.

- 12.18 HEFCW indicated that funding programmes that provide incentives for enhanced collaboration between universities and businesses in Wales might be included in the Commission's remit; whilst funding programmes that fund business activity (currently the remit of the Welsh Government) should not. Another respondent within the HE sector indicated that the Industrial Strategy Challenge Fund is an example of how the government can encourage business-university collaboration while meeting the future needs of Wales.
- 12.19 Some HE respondents noted inconsistencies within the document; one point indicated that funding will be focussed on HE level research, but other sections propose a widening of funding to a broad range of organisations.
- 12.20 NUS Wales also believed that the proposed funding scope should not be prescriptive; the RIW should have the agility and flexibility to respond to new challenges and opportunities.
- 12.21 The IACW cited that "a dedicated focus on developing and strengthening creative capacity and capability has a high chance of delivering a highly distributed system of innovation." The Council sets out a number of success factors for doing so, such as setting the tone for an 'all together' approach and optimising the "potential of the Wellbeing of Future Generations Act to position Wales globally as a 'foresight nation' better linking economic goals with societal and environmental challenges". Others within the employer sector agreed with the broad funding scope, as an increase of funding for challenge-led research relates to specific need.
- 12.22 FE sector respondents were unclear on how to answer this question. Some felt that innovation funding should cover a range of published priorities whereas others believed that this is for the commission to decide. There was also a call for this matter to be the subject of further consideration with the input of specialists.
- 12.23 Both an individual respondent and a local authority respondent agreed with the funding scope.
- 12.24 Most within the WBL sector did not feel qualified to answer but Instructus felt that funding should be carefully implemented in partnership with the Commission and the Welsh Ministers.
- 12.25 The workforce representative UCU welcomes the funding remit detailed within the proposals. By including FE colleges this will allow for research and innovation activities to be further embedded within local communities.

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.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	6
FE/HE	2
HE	11
Individual	1
Local authority	2
Regulatory body	2
School	1
Third sector	0
WBL	5
Workforce representatives	1
Total	36

Predominant view

- 12.26 The RIW should operate at an arm's length from the Welsh Government and have greater control over funding decisions, to allow for autonomy and freedom.
- 12.27 There was continued support for aligning the RIW with the Reid Review's recommendations.

Sectoral analysis

- 12.28 There was agreement within the FE sector that both the Commission and RIW need to be operating at 'arm's length' from the Welsh Government and should be free to engage directly with potential funders/investors and stakeholders as they see fit. Allied to this, the Chair of RIW should be appointed by the National Assembly, rather than Welsh Ministers. Also, the statutory procedures put in place should support the vision for research and innovation as outlined within the Reid Report.
- 12.29 In support of the dominant view, the HE sector agreed that the proposed relationships do not reflect the formation of an arms-length body. Rather, the specific make-up of the RIW Committee should be left to the Commission to determine. There was also support for a close working relationship between the RIW and UKRI, which will enable Wales to engage with UK-wide opportunities. The sector also

stressed that the proposals are far too detailed for inclusion in primary legislation, this level of detail will limit RIW's ability to respond flexibly to changing circumstances in the future. The proposal stipulates that the RIW should not be expected to engage directly with the UK Government. Many of those within the HE sector regarded this to be an unnecessary restriction on the freedom and autonomy of the RIW.

- 12.30 HEFCW was concerned that "the requirement for all funding commitments to be approved by Welsh Government would be extremely bureaucratic and time-consuming. It would result in substantial delays and prevent RIW from operating in an efficient and timely manner."
- 12.31 NUS Wales agreed with the proposals for the RIW as a semi-independent but integral part of the Commission. They recommended that appointments to the RIW should be made by the Commission and funding must be allocated at an arm's length.
- 12.32 The IACW claimed that the proposed scope is too inward-looking and that there is no space for business, enterprise and the wider public sector. Other employers and businesses agreed with the construction of the RIW but recognised that it needs to have sufficient flexibility and autonomy to define its own structures and priorities that reflect the institutional make-up of research and innovation activity. Both this sector and workforce representatives raised concerns over the Welsh Government maintaining separate powers to fund this activity, this suggests that RIW will not be properly enabled to fulfil its objectives.

13. Overview of responses to section 11: Finance 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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	7
FE/HE	2
HE	9
Individual	2
Local authority	4
Regulatory body	3
School	8
Third sector	0
WBL	5
Workforce representatives	5
Total	50

Predominant view

- 13.1 Overall agreement with the proposal.
- 13.2 HE stakeholders generally wanted more detail prior to taking a view on proposals.
- 13.3 General agreement that a “one size fits all” approach is not appropriate.

Sectoral analysis

- 13.4 HE respondents were generally opposed to this proposal or stated that they would require further detail of the proposed powers before they could comment. The main concern related to the potential loss of institutional autonomy. It was suggested that the system should be based on assurance principles (which do not raise significant legal challenges for universities) and not management principles (which do). An assurance system would ensure that robust systems and arrangements are put into in place and adhered to but would leave the institution free to determine what those systems are and how they operate. It was noted by some that the diversity of PCET providers

(and the different risks within the system) means that a one-size-fits-all approach to sector oversight would not be possible.

- 13.5 HEFCW was broadly in favour, stating: “Yes, 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.” Nonetheless, HEFCW felt that in relation to sixth forms, the relationship should be between the Commission and the local authority and that school sixth forms should be brought into the Commission’s remit incrementally.
- 13.6 FE representatives were generally in favour, assuming some flexibility of approach to different sectors. One FE respondent who disagreed felt “these powers of intervention and assurance as expressed in statutory powers should rest with [the Welsh Government].”
- 13.7 With the exception of one school, all local authority and school sector respondents supported the proposal, although several added a caveat that these powers would exist within the relationship between the Commission and local authorities rather than the Commission having a direct relationship with individual schools.
- 13.8 Employers and training providers were in favour of the proposals and many suggested that these powers would be essential to enable the Commission to deliver on its purpose. Social Care Wales expressed concern about duplication of powers with Qualifications Wales and the lack of consideration of how this may affect the tendering and contractual status of WBL providers.
- 13.9 WBL providers agreed with the proposals on the basis that the Commission would not be able to discharge its duties without such powers.
- 13.10 Workforce representatives generally agreed with the proposals except in regard to sixth forms. The sector believed that these matters should remain as the responsibility of the local authorities. UCAC also called for greater detail and clarity on the intervention powers of the Commission.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	2
HE	9
Individual	2
Local authority	3
Regulatory body	3
School	1
Third sector	0
WBL	5
Workforce representatives	3
Total	40

Predominant view

- 13.11 There was general consensus that this was the best approach, with the exception of the school sector. Whilst welcoming a set of common financial and governance assurance principles, many felt that the Commission should be able to apply different arrangements according to the specific structures and commissioning arrangements of the providers.
- 13.12 Option 2 was seen as the most appropriate choice².

Sectoral analysis

- 13.13 The HE Sector welcomed a set of common principles for all providers but cautioned against a one-size fits all to implementation. Several respondents wanted a risk-based approach to monitoring, where clarity and transparency is inherent.

² In considering how the Commission's financial and governance assurance functions might operate, the Consultation document sets out three options: Option 1 – All PCET sectors would be subject to the same requirements, monitoring and enforcement arrangements; Option 2 – All PCET sectors would be subject to similar assurance principles but provision would be made to allow different arrangements and requirements to apply to different types or categories of PCET providers in line with the commissioning arrangements under which they operate; Option 3 – All PCET sectors would be subject to different requirements.

- 13.14 FE commentators universally agreed with the proposal but wanted differentiation between regulated (ROA) organisations and contracted organisations.
- 13.15 The single school sector respondent did not support the proposal, fearing duplication and sweeping changes to the way that sixth forms are funded and run.
- 13.16 One ACL-focused respondent wanted more clarity on arrangements for different sectors, noting the absence of detail for ACL and careers advice and guidance.
- 13.17 Employer and industry representatives agreed to the construction of broad guiding principles, but also highlighted the need to contextualise these in recognition of the different environments and risks which each sector of PCET face. Social Care Wales recognised the difficulty in achieving this consistency without fundamentally changing the governance, nature and status of some providers. The UCU suggested the use of an appropriate sub group to ensure that differing arrangements articulate the general principles.
- 13.18 The WBL sector agreed that a consistent set of principles would ensure parity and negate any perception of a differentiated regulatory system.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	2
HE	10
Individual	2
Local authority	3
Regulatory body	3
School	1
Third sector	0
WBL	5
Workforce representatives	2
Total	40

Predominant view

- 13.19 Strong agreement with the proposal and the hybrid options of choices 2 and 3³.
- 13.20 School respondents were the exception.

Sectoral analysis

- 13.21 The HE Sector was generally in favour – with some respondents preferring option 2 and others the hybrid 2/3 suggestion. HEFCW stressed the importance of embedding “the flexibility to adapt requirements and conditions to different types and category of PCET provider”. There were calls for the principle of assurance to be enshrined more clearly in the proposals. Opinion was mixed with regard to the extent of which good practice guidance is enforced; some favoured the imposition of consequences for ignoring good practice and others held that an institution should not be bound to follow good practice. The sector wanted to be consulted on what constitutes good practice.
- 13.22 FE commentators unanimously agreed with the proposal, highlighting the benefits of sharing good practice.
- 13.23 The small number of local authority representatives supported the proposal, without elaboration.
- 13.24 The single school sector respondent did not support the proposal, fearing duplication and sweeping changes to the way that sixth forms are funded and run.
- 13.25 It was pointed out that there were existing providers of good practice guidance – such as Estyn – and these should be utilised.
- 13.26 Both employers and WBL representatives agreed with the proposal on the grounds that it would ensure organisations are aware of the expectations of the Commission. Social Care Wales indicated that if this approach was to be taken then robust quality assurance is needed to ensure that principles are accounted for and arrangements are reflective of published good practice. The UCU noted that “there must be known consequences of ignoring advice on good practice”.

³ The consultation document sets out a number of options for how the proposed Commission’s financial and governance assurance functions might operate, including Option 1 – Status Quo – all current arrangements could be carried forward, for example conditions and requirements set out in contracts, grant award letters, financial memorandum and financial management code; Option 2 – The Commission would prepare and publish a formal set of requirements and conditions in a similar way to the current FE financial memorandum or HE financial management code; Option 3 – The Commission would adopt a less formal approach setting out a broad principles, best practice and guidance that PCET sectors are expected to take into account.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	9
Individual	2
Local authority	3
Regulatory body	3
School	1
Third sector	0
WBL	5
Workforce representatives	2
Total	38

Predominant view

- 13.27 Strong agreement, with the proposal being seen to provide the right balance of prescription and delegation of powers.
- 13.28 School respondents were the exception.

Sectoral analysis

- 13.29 The HE sector supported the proposal on the grounds that it would maintain an arm-length status and also provide flexibility for the Commission, whilst acting within clearly defined parameters.
- 13.30 Option 2 was generally seen as preferable, although there was support for Option 1⁴. It was felt that the framework written into

⁴ The consultation document sets out a series of options for the development of a PCET financial and governance assurance framework, including Option 1 – The Commission would be provided only with the necessary enabling functions to undertake assurance activities with full discretion on the operational detail afforded to the Commission; Option 2 – As well as providing the Commission with enabling functions provision should be made in legislation to set out a broad financial and governance framework with the Commission given discretion to develop its financial and governance assurance requirements within that framework; Option 3

legislation should be “broad and high level”. Many cited the importance of obtaining the appropriate balance between matters determined by the Commission and the content of legislation, something that will require careful consideration and discussions with stakeholders.

- 13.31 HEFCW supported option 1 on the basis that the Commission will be best placed to define the arrangements, to expand on such matters at this stage “would result in overly prescriptive and inflexible legislation.”
- 13.32 FE, employer and industry representatives and WBL providers all supported the approach. The FISSS suggested it would enable the Commission to “learn and adapt its processes based on experience and feedback from the PCET providers.”
- 13.33 School representatives did not support the proposal – seeing it as an additional tier which would add to the workload of school leaders.

– As well as providing the Commission with enabling functions the Welsh Ministers should prescribe details of the matters to which assurance arrangements can or must relate.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	9
Individual	2
Local authority	5
Regulatory body	3
School	8
Third sector	0
WBL	5
Workforce representatives	4
Total	49

Predominant view

- 13.34 Almost unanimous support for a) and b), with concerns about c).
- 13.35 Particular concerns amongst HE respondents, with many citing the importance of maintaining a scrutiny role for the National Assembly in relation to financial management.

Sectoral analysis

- 13.36 The HE Sector wanted to maintain a scrutiny role for the National Assembly in relation to financial management, something which was regarded as a crucial safeguarding measure. It was seen as important to agree this before legislation was formed.
- 13.37 There was support for consulting with providers, but other stakeholders, including learners, should also be engaged with. This

should not result in excessively long delays in responding to the needs of institutions.

- 13.38 Universities Wales did “not agree that the proposed process for developing and amending the financial and governance assurance framework is appropriate”.
- 13.39 The FE sector was almost unanimous in agreeing to the proposals, with two caveats: one that a finance committee should be established separate to an audit committee to enable discrete pillars of scrutiny, the other caveat was that guidance issued to the Commission should not be too onerous and allow independence. The Commission should also be able to consider and disregard such guidance.
- 13.40 Employer and industry representatives broadly agreed to all proposals with slight reservations regarding (c). WBL respondents generally agreed but were also cautious about the arrangements providing sufficient safeguards.
- 13.41 The majority of school and local authority representatives agreed with the proposals, although one felt that school sixth forms should be excluded.
- 13.42 ACL representatives were in agreement with all sections of the proposal but could not comment on additional safeguards until the role of the Commission was more clearly defined.
- 13.43 In line with the dominant views, workforce representatives agreed with the regulatory principles as long they are applicable to every sector within the PCET system. ASCL commented that these proposals are not applicable in relation to school sixth forms.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	8
Individual	0
Local authority	3
Regulatory body	3
School	7
Third sector	0
WBL	5
Workforce representatives	3
Total	42

Predominant view

- 13.44 There was qualified support for the proposal across all sectors, subject to appropriate use of powers and a risk-based approach to exercising them.
- 13.45 There were, however, several comments that elements of this fell outside the scope of the consultation.

Sectoral analysis

- 13.46 HE sector respondents emphasised the need to maintain institutional and academic autonomy and to achieve a balance in terms of the proposed powers of the Commission being appropriate and proportionate.
- 13.47 Several HE respondents suggested that such powers should only be discharged as a last resort once all other interventions have been exhausted.
- 13.48 HEFCW quoted that “In order for it to be able to discharge its functions effectively, it will be critical that the Commission can request information from all PCET providers, undertake periodic assurance reviews, enter premises and inspect documents/materials in support of its financial and governance assurance functions. The general principles that: the Commission operates reasonably, or potentially

faces judicial review; and reports to/is scrutinised by the Welsh Ministers, will be sufficient to ensure that the Commission does not overstep what is reasonably required to undertake its duties”.

- 13.49 One HE respondent felt that the approach would largely be a continuation of current practice, whilst Wrexham Glyndŵr University stated that “provided they are no more onerous than current arrangements, but engagement should be equitable across all categories of providers and proportionate to the scale and size”.
- 13.50 The FE sector respondents generally supported the proposals in principle, with the proviso that duplication and bureaucracy were minimised and the right to enter, for example, should only be used in relation to specific concerns. Several FE respondents felt that some elements of the question went beyond the scope of the technical consultation. For example, ColegauCymru stated that “duplication and/or overly bureaucratic systems should be avoided. Establishing the Commission should provide an opportunity to streamline and simplify processes for requesting information in addition, the right to enter premises, for instance, should be qualified so as to be linked to the specific requirement of assurance”.
- 13.51 The school sector agreed the general principles, assuming that “proposals should be read as operating within the relationship between the Commission and local authorities rather than the Commission having a direct relationship with individual schools”. Several school respondents assumed that the proposals would not apply to sixth forms at all, with one citing potential for duplication with Estyn.
- 13.52 WBL providers acknowledged the need for compliance but called for a risk-based approach and the avoidance of heavy-handedness, with several respondents stating that they “believe, this is a necessary part of any process which aims to provide financial and governance assurance. However, [they] would caution against this becoming an overly-bureaucratic process and suggest a risk-based approach” – Educ8 Ltd, TSW Training Ltd, NFTFW and Vocational Skills Partnership. Instructs added that “there is no point in the [C]ommission setting expectations if no one checks they are being applied”. The organisation advises that this process is applied on a risk basis to avoid too many checks taking place.
- 13.53 Employer and industry representatives recognised that compliance is a key part of the process and therefore had no issues with the proposals. The FISSS stated that this should run alongside inspections and visits and should remain as a desk-based review unless there is further cause for concern.
- 13.54 Workforce representatives supported the proposals whilst adding some key recommendations. The Commission needs to apply appropriate safeguards whilst avoiding the creation of a regime of unnecessary bureaucracy,

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	2
HE	8
Individual	2
Local authority	3
Regulatory body	3
School	1
Third sector	0
WBL	5
Workforce representatives	3
Total	38

Predominant view

- 13.55 There was strong support for this proposal from all sectors except for schools.
- 13.56 There was a caveat that powers should not exceed those currently in place.

Sectoral analysis

- 13.57 The ACL representative agreed these powers need to be stipulated in legislation.
- 13.58 The FE sector respondents also agreed with the proposal but wanted to ensure that the powers are defined in legislation to give the Welsh Ministers ultimate oversight and that ColegauCymru has the opportunity to review the proposed powers.
- 13.59 The HE sector respondents broadly agreed with the principle but wanted more clarity about what powers would be retained by the Welsh Ministers, to ensure that the Commission's powers of intervention reflected its areas and levels of responsibility: "yes, in principle, although we would welcome more detail on this proposed range of powers, triggering events and scrutiny of the exercising of these powers so as to ensure proportionality." (Cardiff University)
- 13.60 HEFCW stated "we agree that the Commission should have a range of intervention powers at its disposal to deal with a failure to comply with financial and governance assurance requirements. These intervention powers should be sufficiently robust to enable the Commission to protect the interests of learners, public funds and the reputation of the PCET system in Wales, whilst being flexible enough to allow the Commission to intervene in a timely and proportionate manner".
- 13.61 The single school sector respondent disagreed with the proposal, seeing it as bureaucratic and unnecessary and against the interests of learners.
- 13.62 UCU called for intervention at the earliest possible stage so that jobs and staff are not put at risk due to inadequate governance. The union also argued strongly that "FE guidance should have training for the role front and centre in the guidance- yet again our views were ignored".
- 13.63 The WBL sector supported the proposal for a range of powers, to reflect need across different sectors. Multiple WBL respondents stated: "yes, as has been identified with the Commission's approach to its financial and governance assurance functions, there can be no 'one size fits all'. This is similarly true of the interventions needed by the Commission to support a learning provider to improve its performance in these areas".

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	7
FE/HE	1
HE	8
Individual	2
Local authority	3
Regulatory body	3
School	1
Third sector	0
WBL	5
Workforce representatives	3
Total	37

Predominant view

- 13.64 There was opposition to this proposal, with a broad consensus that powers should transfer to the Commission.
- 13.65 Comments were largely limited to FE and HE sector respondents.

Sectoral analysis

- 13.66 The FE sector respondents were mainly opposed to the proposal, wanting to transfer powers to the Commission with only a minority of respondents supporting the proposal that the Welsh Ministers should retain their powers of intervention under section 57 of the 1992 Act: “Welsh Government to remain as the principal regulator” (NPT College).
- 13.67 Amongst HE sector respondents, all agreed or agreed in principle with the approach, with some caveating this by requesting assurance that the powers of the Commission would reflect its responsibilities.
- 13.68 Some felt that the issue was more relevant to the FE sector and cautioned against what this proposal would mean for HE: “this is primarily a matter for the FE sector to comment on. However, it is not immediately clear to us that the powers of the Commission will reflect its responsibilities, and there is a clear danger that this could have a

knock-on impact for exercise of its functions in relation HE.”
(Universities Wales).

- 13.69 It was suggested that the Commission could inform the Welsh Ministers if it had serious concerns. “It will be important that the general approach to intervention is broadly aligned across the various sectors within the PCET system. In HE, intervention largely involves engagement with an HEIs Executive or Governing Body, with involvement by Welsh Ministers only in limited circumstances (e.g. withdrawal of an HEI’s Fee and Access Plan)” (HEFCW)
- 13.70 Some WBL sector respondents agreed with the question, other providers felt unqualified to comment, but noted a lack of consistency if the Welsh Ministers transferred other powers but not this one.
- 13.71 All employers, local government and the union respondents agreed to the proposal, with some adding that they saw no reason to change these arrangements.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	7
FE/HE	0
HE	8
Individual	2
Local authority	2
Regulatory body	3
School	1
Third sector	0
WBL	5
Workforce representatives	1
Total	31

Predominant view

- 13.72 There was a cautious endorsement of the proposal to explore the transfer of the regulatory role for FE to the Commission.
- 13.73 The current arrangements for HE were felt to be working and so no need for change was identified.

Sectoral analysis

- 13.74 FE respondents were mainly in favour of the proposal, wanting to transfer powers to the Commission, although some identified the needs for consideration and further consultation with the FE sector and the Charity Commission prior to any legislative changes: “Yes. In principle, ColegauCymru is of the view that the proposed Commission should have full regulatory and governance functions. Full and careful consideration should be given to rationalising the mechanisms for regulating all institutions in the sector”. A minority however, felt that the Welsh Government should remain as the principal regulator. FE respondents who expressed a view on HE typically supported the proposal to retain the current requirement for HEIs in Wales to register with the Charity Commission.
- 13.75 HE sector respondents were strongly in favour of arrangements for HE remaining unchanged. It was suggested that current proposals needed to be strengthened beyond the Commission “having regard” to charitable status of institutions.
- 13.76 One HE respondent identified a need for consistency between HE and FE, expressing support for the retention of current arrangements, but with the following caveat: “however, we feel that it important to treat both HE and FE charities in the same way: either both become exempt charities with the proposed Commission being the Principal Charity Regulator, or they register directly with the Charity Commission.” (Aberystwyth University) Conversely another respondent in this sector felt that a difference in approach between FE and HE was “perhaps ... unavoidable in some areas such as this” (Wrexham Glyndŵr University)
- 13.77 HEFCW supported the transfer of roles from the Welsh Government to the Commission on the following grounds: “were the Principal Charity Regulator role for FE institutions not to be transferred, this would cause potential problems in the event of intervention, as the new Commission, Welsh Ministers and the Charity Commission would all need to be involved.”
- 13.78 HEFCW were also broadly in favour of the HE sector to come under the same regulatory arrangements, although it was not considered a priority at this stage: “as we consider it to be important that the general approach to regulation is broadly aligned across the various sectors, we would also support the transfer of the Principal Charity

Regulator role for HEIs to the new Commission. However, in the context of the other significant changes involved in the establishment of the Commission this is not considered to be a high priority for implementation from the start. Such a change could be implemented once the Commission was established and operated for a few years.”

- 13.79 The union representative responding to this question also proposed synergy between FE and HE but using an alternative model: “both FE and HE institutions register with the charity commission and the regulator role lie with the commission” (UCU)
- 13.80 Most WBL respondents were of the view that the Welsh Government should retain the Principal Charity Regulator role for FE institutions, in the interests of consistency, given that they hold this function for all charities in Wales.
- 13.81 School sector respondents called for consistency across FE and HE, in line with recommendations in the Hazelkorn report. “One of the issues raised by Professor Hazelkorn is inconsistency across the PCET sectors. One of the underpinning principles of these PCET reforms is to bring greater consistencies. As such, it would be more appropriate to have a consistent approach to the charitable status of FE and HE – for example for the Commission to become the principal regulator for all.” (Estyn)

14. Overview of responses to section 12: 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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	2
FE/HE	2
HE	9
Individual	2
Local authority	2
Regulatory body	3
School	1
Third sector	0
WBL	4
Workforce representatives	1
Total	28

Predominant view

- 14.1 There was widespread agreement with the proposal.
- 14.2 The Privy Council was almost unanimously seen as the best body to do this.

Sectoral analysis

- 14.3 Overall, there was agreement with the proposal from across all the sectors that responded to the consultation question. It was widely agreed that the Privy Council was the best body for this approach, with the required knowledge and experience.
- 14.4 The HE Sector was understandably most engaged in this question. Some expressed concern regarding points of detail, for example Cardiff University was concerned that any changes to governing documents should happen only “infrequently and in exceptional circumstances”.
- 14.5 However, a few responses questioned the introduction of the public interest requirement and the Commission having a role in this. For example, Universities Wales quoted, “Yes, except for introducing the public interest requirement. We agree with the views expressed

unanimously by members of the HE focus group, that current arrangements for changing the governing documents and the role of the Privy Council should not be fundamentally changed at this stage”.

- 14.6 The UCU noted a recent example where the University of Leeds attempted to undermine employment rights, therefore “ensuring that the Privy Council has final approval on changes ensures additional scrutiny where such attempts are made”.
- 14.7 ESTYN agreed the proposal, stating that: “The Privy Council has a wide knowledge and experience of higher education matters. Current arrangements are robust”.
- 14.8 NTfW and other WBL providers endorsed the proposal – suggesting that: “It appears to us, that the Privy Council has the depth and breadth of experience to undertake this role, in order to provide the required level of oversight, and such should continue to provide approval where appropriate”.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	1
FE/HE	2
HE	8
Individual	1
Local authority	2
Regulatory body	3
School	1
Third sector	0
WBL	4
Workforce representatives	1
Total	25

Predominant view

- 14.9 The responses to this question were mixed, with a balance against the proposal and a general view that this could be considered later.

Sectoral analysis

- 14.10 The majority of HEI respondents felt that arrangements for amending governing documents should not be changed at this stage – although there was a prevalent view that this could be revisited once the Commission was in operation. Universities Wales responded “No, we agree with the views expressed unanimously in the consultation event, that arrangements for amending governing documents should not be changed at this stage”. Points for future consideration should include the list of matters considered to be in the public interest and how the list would be used. UW questioned whether the proposed approach would simplify matters and identified a significant risk of the proposals leading to poor legislation.
- 14.11 Aberystwyth University felt that an extension of the approach could be beneficial if it led to a reduction in the elements which need to be set out in the Royal Charter and Statutes, while retaining a requirement to have such governing documents.
- 14.12 Wrexham Glyndŵr University commented that extension of the approach would mean that a more consistent approach would be established between HECs and Chartered Institutions.
- 14.13 The Open University felt that the role of the Privy Council should not be fundamentally changed at this stage.
- 14.14 UCU, however, felt that this issue was not a priority and should be considered by the Commission once operations had settled down after transition.
- 14.15 Coleg Cymraeg Cenedlaethol identified a risk that this proposal could prevent other (more important) proposals receiving adequate consideration. Hence it felt that the proposal should be considered outside of the remit of the consultation.
- 14.16 Estyn agreed with the proposal – suggesting that it would provide both greater autonomy for HEIs and align with FEI arrangements.
- 14.17 WBL providers and employers simply agreed with the proposal.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	1
FE/HE	1
HE	8
Individual	2
Local authority	2
Regulatory body	3
School	1
Third sector	0
WBL	4
Workforce representatives	1
Total	25

Predominant view

14.18 There was general opposition to making this change at present, although it could be revisited once the Commission was established.

Sectoral analysis

14.19 The majority of HE respondents felt that arrangements for amending governing documents should not be changed at this stage – although there was a prevalent view that this could be revisited once the Commission was in operation. HEFCW quoted, “There is merit in the Commission considering proposals for making these changes at a later stage to enable improved consistency. However, there are no significant issues arising from the current arrangements and there may be significant practical implications for institutions to manage these changes as well as the other consequences of the proposed legislation”. There was also some uncertainty about the exact meaning of the proposal in relation to “extending the approach” to all HEIs.

14.20 One response was in favour of the change, as it would bring about alignment between HECs and chartered institutions. This was with the caveat that anything put in place to replace existing requirements would have to be robust.

- 14.21 Estyn proposed that it “would be useful to simplify and unify the process for HEIs to make amendments to their governing bodies providing matters of public interest and public investment are protected”.
- 14.22 The UCU was extremely wary of this proposal but did not wish to add comment at this time.

Question 72: Do you agree with the Commission’s proposed role in relation to the consideration of amendments to HEIs governing documents?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	2
FE/HE	1
HE	8
Individual	1
Local authority	2
Regulatory body	3
School	1
Third sector	0
WBL	4
Workforce representatives	1
Total	25

Predominant view

- 14.23 There was a majority of responses from the HE sector in favour of this proposal, but with some concerns and caveats on both the detail and the timing.

Sectoral analysis

- 14.24 Overall the responses were in agreement with this question and the majority of these responses were from the HE sector. Across the sectors there were some comments and concerns. Universities Wales agreed in principle, but wanted to more detail on proposals, for example in relation to the Commission’s role in advising the First Minister as lead Privy Counsellor. Wrexham Glyndŵr University agreed the proposal as it would allow early engagement of institutions with the Commission to discuss amending their governing documents. It pointed out the additional need to consider the role of the

Commission in respect of amendments to FEIs' governing documents.

- 14.25 Others agreed in principle but were not clear on the detail of the proposed role of the Commission. The Open University in Wales, for example, responded: "We agree in principle that the Commission could have a useful role in this area but would need to see more detail on specific proposals in order to comment further".
- 14.26 It was suggested that there was a need for greater clarity regarding the relationship between the Commission and the First Minister (as lead Privy Counsellor) and the mechanisms for enabling this so as to maintain the independence of the Privy Council. Aberystwyth University had "concerns that the proposed formal role for the Commission in relation to the consideration of amendments to HEI governing documents would impose an additional tier of bureaucracy in the process".
- 14.27 Another respondent commented that the suggested arrangements would enable both the Welsh Government and the Commission to control HEI governance arrangements more closely, by extending approval beyond public interest to include good governance.
- 14.28 An additional comment from the responses suggested that it would be useful to simplify the process for HEIs to make amendments to their governing bodies, providing matters of public interest and investment are protected.

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?

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?

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	1
FE/HE	2
HE	8
Individual	2
Local authority	1
Regulatory body	3
School	1
Third sector	0
WBL	4
Workforce representatives	1
Total	25

Predominant view

14.29 a). The majority of responses were in favour of this proposal, whilst views within the HE were mixed, and the timescale questioned.

14.30 b). The main response here was yes, but not at this time.

14.31 c). There were concerns that guidance may be used to direct or control HEIs.

Sectoral analysis

14.32 With regard to a) there were concerns that the nature and use of proposed guidance needed to be discussed fully, which was beyond the scope of this process. Cardiff University stipulated that guidance should be accessible to a wider audience, in order to reach interested stakeholders such as learners and parents.

14.33 Generally, however, HE sector respondents opposed the issue of the Welsh Government issuing guidance; mirrored by a minority who

agreed on the basis that this was completed through the consultation with stakeholders at the appropriate time. Wrexham Glyndŵr University agreed with the approach “as there is currently no written guidance”.

- 14.34 Those who commented from other sectors agreed with the issuing of guidance but also recognised that this was not a matter of urgency for the Commission, who should be allowed “to consult and move forward on these proposals in the near future.” (NUS Wales)
- 14.35 A majority of responses to b) called for a review in consultation with stakeholders “at an appropriate time” due to the complexity of the area, something which would be best to be considered by the Commission once the operation is clearer. Aberystwyth University indicated that “the consultation should be undertaken by the Welsh Government on behalf of the First Minister as lead Privy Counsellor for HE matters in Wales, and any revised guidance issued on that basis.”
- 14.36 With regard to c), respondents again felt that this was not the right time to discuss this. Respondents were not clear on the rationale for the Welsh Government advising on such matters. Cardiff University indicated that “the review periods should be of an appropriate length to not create unnecessary reactions to matters that have short-term interest”.
- 14.37 WBL providers held that this should be a matter for the Commission to decide, in consultation with stakeholders.

Question 74: Do you consider that the proposed approach would safeguard the public interest in the governance arrangements of HEIs in Wales?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	3
FE/HE	0
HE	9
Individual	2
Local authority	1
Regulatory body	3
School	1
Third sector	0
WBL	4
Workforce representatives	1
Total	26

Predominant view

- 14.38 There was a majority of responses against the proposal and questioning the timescale from within the HE sector, whilst other views were more mixed.

Sectoral analysis

- 14.39 Within the HE sector, it was generally felt that this was not the time for such changes, as significant work was required to deliver on the proposals. It was also questioned whether the introduction of the proposed changes would actually safeguard the public interest, as it was suggested that there was a risk of diluting the definition of what was in the public interest, losing credibility in the process. Cardiff University summarised thus: “We believe the proposed approach can work. However, the Commission will need to be mindful of the potential risk that the definition of public interest is extended and mutated to achieve the short-term interests of different stakeholder groups and becomes diluted or polluted to the point of losing credibility.
- 14.40 The Learned Society of Wales responded “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”. UCU agreed the time was not right: “yes, but again at an appropriate time, not at the same time as establishing the commission”.
- 14.41 Several respondents from the FE sector felt that the proposals were reasonable, and ColegauCymru suggested that all HEIs should have a local FE Principal on their governing body to embed links.
- 14.42 Estyn responded that the proposals should provide appropriate accountability and a suitable scrutiny process for HEIs in Wales.

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.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	1
FE/HE	1
HE	7
Individual	0
Local authority	1
Regulatory body	2
School	0
Third sector	0
WBL	2
Workforce representatives	1
Total	17

Predominant view

14.43 Respondents welcomed this proposal and the removal of the Welsh Government's powers to dissolve an HEC against its will.

Sectoral analysis

- 14.44 The majority of responses came from the HE sector for this question and overall there was strong support for the proposed change as current arrangements were seen as both inconsistent (in that incorporated HEIs cannot be dissolved in this way) and carrying risk of ONS re-classification.
- 14.45 There was a view from some respondents that the proposals could go further and remove all powers to dissolve institutions. Others, however, felt that the power of dissolution should be available to the Welsh Government following a recommendation from the Commission (having duly consulted with the HEC in question). It was suggested that the Commission could face a judicial review if powers were used, which should only be as a last resort.
- 14.46 The Learned Society of Wales suggested that "it would be sensible to consult the HEC in question as well as the Commission in the event of such drastic potential outcome".

- 14.47 HEFCW summarised thus: “There should be powers of dissolution available to the Welsh Ministers to enable the implementation of future policies which would require structural changes such as mergers. We agree that these powers should only be exercised following recommendation by the Commission. In practice the Commission is unlikely to be able to make such a recommendation, and not be subject to legal challenge or appeal, without having consulted with the HEC as part of the process.
- 14.48 NUS Wales suggested that any decision to dissolve an HEC will necessarily be subjected to scrutiny by the National Assembly and extensive consultation with the sector and other stakeholders – thereby providing a sufficient safeguard.
- 14.49 The UCU warned that “due care would need to be taken if this was enacted as it would leave the commission open to a challenge through judicial review, as has been seen in previous merger discussions in South East Wales”.
- 14.50 Social Care Wales commented that “the current system should remain in place and Welsh Ministers should consult with the Commission and the HEC in question”.

Question 76: Which option do you consider to be the most appropriate and why? Are there other options that should be considered?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	1
FE/HE	1
HE	9
Individual	0
Local authority	1
Regulatory body	3
School	0
Third sector	0
WBL	4
Workforce representatives	1
Total	22

Predominant view

- 14.51 HE sector respondents considered Option 3⁵ to be the most appropriate, as it would establish equivalence between HECs in Wales and England and align HECs and chartered institutions more closely.
- 14.52 WBL commentators favoured Option 2, as this provided the greatest alignment with the rest of the PCET sector, including chartered institutions.

Sectoral analysis

- 14.53 Responses from the HE sector predominately focused on option 3 being the most suitable / appropriate option, to address disparities between HECs and chartered institutions in Wales and between HECs in Wales and England. The current lack of alignment between HECs and Chartered universities was raised as an issue requiring urgent attention, aside from the consultation.
- 14.54 Some respondents, however, called for the retention of dissolution powers in some form, favouring options 2 or 4 as a result.
- 14.55 One respondent also questioned how powers of dissolution supported the best interests of learners in the case of insolvency, suggesting that current insolvency law was more effective.
- 14.56 Wrexham Glyndŵr University felt that significant emphasis was being placed on institutional failure or mismanagement as a driver of mergers, rather than focusing on more positive reasons that the Commission might support them. Given that there are only three HECs in Wales, this was felt to be inappropriate.
- 14.57 On the other hand, respondents from the WBL sector favoured option 2; the FE model, as it was most closely aligned with the rest of the PCET sector, including chartered institutions. For example, NTfW quoted: "Option 2 – The FE Model. NTfW believes that this option provides the greatest alignment to the rest of the PCET sector including chartered institutions, as well as retaining the ability to direct HECs to dissolve, albeit as a last resort, thereby ensuring safeguards for learners and the reputation of the PCET sector in Wales. In addition, this approach will ensure parity with HE institutions in England".

⁵ Please see the Summary of option appraisal on page 117 of the Consultation document for further details.

Question 77: Under what conditions or circumstances do you consider it appropriate for dissolution powers to be exercised?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	5
FE/HE	1
HE	8
Individual	0
Local authority	1
Regulatory body	3
School	0
Third sector	0
WBL	4
Workforce representatives	1
Total	25

Predominant view

14.58 Respondents felt that dissolution powers should only be used as a last resort. The most commonly cited circumstance for when dissolution powers should be exercised was institutional failure and the need to protect the interests of learners.

Sectoral analysis

- 14.59 Amongst the HE sector respondents (the largest group responding to this question), the prevailing view was that dissolution powers should only be invoked as an absolute last resort, when all other options have failed; many stated that it should only be done with the express agreement of the HEC.
- 14.60 For example, Cardiff University quoted “We agree that the power to dissolve should be used to facilitate merger or transfer as a last resort sanction, but with the interests of the reputation of higher education in Wales at the heart of any decision”. Several other respondents had similar views, with one stating that the “dissolution powers must be exercised only at the instigation or with the consent of the HEC. They should never be exercised to dissolve a HEC against its will”.
- 14.61 Wrexham Glyndŵr University felt that the only circumstances under which the power of dissolution should be used would be a voluntary merger. It felt that other mechanisms would deal with

mismanagement or severe financial difficulty and was clear that in all circumstances the protection of students should be paramount.

- 14.62 The FE sector respondents universally called for consistency in dissolution powers; with FE or across the PCET sector as a whole.
- 14.63 WBL sector respondents tended to think that dissolution powers should only be invoked once all other interventions (e.g.: through the ROA mechanism) have failed, and where there is a clear need for further intervention to protect the interests of learners and/or deal with serious cases of institutional failure.
- 14.64 Social Care Wales queried whether issues of poor quality should also be included under institutional failures (as cited in paragraph 401 of the consultation document).
- 14.65 The workforce representative UCU regarded the use of dissolution powers as “an absolute last resort, when all other options have failed”.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	6
FE/HE	1
HE	8
Individual	2
Local authority	1
Regulatory body	3
School	0
Third sector	0
WBL	4
Workforce representatives	1
Total	28

Predominant view

- 14.66 Whilst dissolution was seen as an absolute last resort, the inclusion of the Commission in the process could add an extra layer of confidence.
- 14.67 There is a risk that inclusion could expose the Commission to legal challenge and could delay an intervention when rapid action was required.

Sectoral analysis

- 14.68 On balance, HE sector respondents favoured the proposals for HE and suggested that they should be extended across the PCET sector for consistency. However, several respondents strongly voiced the view that powers should never be used against any institution against its will. The Learned Society in Wales responded: “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”.
- 14.69 The majority of responses from the FE sector were in favour of the proposal (on both counts). However, NPT College thought that extension to the FE sector could jeopardise its NPISH status as enshrined in Further and Higher Education (Governance and Information) (Wales) Act 2014”.
- 14.70 WBL providers agreed to both aspects of the question. A workforce representative recognised that thought will need to be given on how to protect the Commission from legal challenges.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	6
FE/HE	1
HE	10
Individual	1
Local authority	1
Regulatory body	3
School	0
Third sector	0
WBL	4
Workforce representatives	1
Total	29

Predominant view

- 14.71 There was widespread agreement with the proposal from the HE sector.
- 14.72 FE respondents felt that consideration should be given to transferring powers to the Commission.

Sectoral analysis

- 14.73 The HE sector representatives wanted more time for the Commission to become established before reviewing any systems for approving degree awarding powers, in terms of minimising reputational risk. Also, there were some concerns that any changes would imply a possible lowering of the threshold for securing awarding powers – as was the case in England.
- 14.74 The UCU responded: “Yes, we need time for the new Commission to establish itself and look at the long term needs of Wales and the international reputation of the sector in Wales- we do not want to open up to the private sector as they have done in England as we are concerned that this approach poses a significant risk to quality and the international reputation of HE”.
- 14.75 HEFCW was also wary of the path taken in England and the implications for Wales and Welsh learners: “Yes, we consider that the changes in the Higher Education and Research Act in England, which lower the threshold for applications for degree awarding powers are inadvisable and are likely to result in higher risks to the quality of provision. We note, however, that this will place a pressure on the reciprocal arrangements for student support between Wales and England, in that the Welsh Government could be providing support to a Welsh domiciled learner to study at an institution which would not meet degree awarding powers criteria in Wales. This matter will need further consideration”.
- 14.76 On the other hand, FE sector respondents were unanimous in believing that the transfer of powers to the Commission should be explored. It was also suggested by NPT College that, “the Commission should consider enabling QAA approved FE institutions applications for TDAP to be more achievable”.
- 14.77 Estyn supported the proposal, applauding the fact that the HE sector in Wales is not market driven. In its view, maintaining the status quo would allow time for reflection on wider governance and regulatory arrangements in Wales.

Question 80: Do you agree with the Commission’s proposed role in relation to the consideration of DAPs and UT applications in Wales?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	6
FE/HE	1
HE	10
Individual	1
Local authority	1
Regulatory body	3
School	0
Third sector	0
WBL	4
Workforce representatives	1
Total	29

Predominant view

14.78 There were mixed views regarding the proposal amongst HE sector representatives, whilst FE respondents felt that all relevant and related powers should be held by the Commission.

Sectoral analysis

- 14.79 HE sector representatives expressed a range of views on this matter. Universities Wales felt that “Welsh Government has a longstanding relationship with the Privy Council Office and so there was no good reason to require the Commission to build new relationships and establish a new process”. Further, it cautioned against following the market liberalisation approach taken in England, to avoid risks to learner protection. Although some HEIs agreed with this wholeheartedly, others expressed more support for the proposal; Swansea University, for example, acknowledged there was a role for the Commission here, provided the final decision rested with the Privy Council. HEFCW supported the proposal, with the proviso that “no significant changes should be made overall to the current procedures and criteria”.
- 14.80 FE sector respondents were unanimous that powers should be held by the Commission. The WBL sector all agreed with the question with many stating “Yes”.

- 14.81 Estyn felt that the document provided a case for the introduction of “flexible or limited subject DAPs, particularly in light of the introduction of accelerated degrees and increasing HE options”.
- 14.82 NUS Wales believed that an increased role for the Commission in relation to “DAP and UT in Wales could potentially result in increased flexibility and responsiveness”, although any changes would need to be made in consultation with the HE Sector.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	8
FE/HE	1
HE	9
Individual	1
Local authority	2
Regulatory body	3
School	0
Third sector	0
WBL	4
Workforce representatives	2
Total	32

Predominant view

- 14.83 There was widespread agreement with this proposal, albeit with notable calls for greater clarity about the proposed arrangements.

Sectoral analysis

- 14.84 There was overall agreement across all the sectors, although some key points and considerations were highlighted. Universities Wales called for more clarity on the proposals to ensure that arrangements did not “require providers to operate or collaborate in a particular way this could present a challenge to institutional autonomy or may have consequences under competition law”. University of South Wales echoed this, stating that “the University cannot support this proposal at this stage as it remains unclear. HE in FE should operate in the same way as HE more widely. Provision is subject to the same quality

requirements at present". QAA suggested that any review should be independent of the Commission, as it has an interest.

- 14.85 NUS Wales requested further information on the proposal before making comment.
- 14.86 FE sector respondents supported the proposal, especially in the context of vocational HE, although some felt that this lay outside the remit of the technical consultation.
- 14.87 Estyn supported the proposal "in order to support the drive for greater consistency, improvement of quality and effectiveness.
- 14.88 WBL respondents called for an urgent review of arrangements in the context of the development of Degree Apprenticeships.

15. Overview of responses to section 13: 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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	8
FE/HE	2
HE	9
Individual	3
Local authority	10
Regulatory body	5
School	17
Third sector	0
WBL	5
Workforce representatives	5
Total	70

Predominant view

- 15.1 Agreement across the PCET sector that the Commission should be placed under a specific duty to have due regard to the Welsh language, especially with the vision of a million Welsh speakers by 2050.

Sectoral analysis

- 15.2 There was widespread agreement across all sectors that the Commission should be placed under a specific duty to have regard to the Welsh language in the exercise of its functions and many made the additional comment that the Commission should be subject to the Welsh Language (Wales) Measure 2011.
- 15.3 Amongst ACL responses a minority (one out of four) respondents were against the proposal.
- 15.4 FE respondents were universally in favour of the proposal and several felt that this should be via a Welsh Language Measure or subsequent legislation.
- 15.5 HE respondents were also all in favour, with a caveat from one respondent that the wording of the question lacks clarity: “within the body of the document it references an intention that the Commission

should be subject to new Welsh Language Standards; if this is the focus of the question then would agree. If it is another intention then there needs to be greater clarity in the question ... If the question is focussed on the value of having Welsh Language as a “cross-cutting theme” then we can see some merit in that.”

- 15.6 HEFCW supported the proposal but cautioned against setting the relationship between the Commission and the Coleg Cymraeg Cenedlaethol in stone in the legislation: “HEFCW oversaw the establishment of the Coleg Cymraeg Cenedlaethol, working with other partners, and welcomes the extension of the Coleg’s role to incorporate further education. We consider that the Coleg should maintain its independence from Government by moving back under the oversight of an arm’s-length body. This is particularly important given that the remit of the Coleg will now align with that of the new PCET Commission. However, we do not consider that specific bodies should be mentioned in legislation.”
- 15.7 Amongst local government and school respondents there was almost universal support for the proposal; in many cases placing the Commission under Welsh language duties was seen to be crucial. One school respondent proposed what these specific duties might involve:
- “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.”
- 15.8 Many respondents expressed their support for this proposal very strongly: “NUS Wales welcomes the commitment for the long-term strategy for the Welsh Language. We believe passionately that every student in Wales should have access to an inclusive education where no student is disadvantaged due to their characteristics or background. An inclusive education is one where all students have the opportunity to study through the medium of Welsh.”
- 15.9 Employers and businesses agreed that a responsibility for Welsh language provision should be integrated within the Commission. The WBL sector also recognised that “by having specific duties toward the Welsh language, the Commission will be better placed to oversee the achievement of all issues outlined in question 83.” (Vocational Skills Partnership)
- 15.10 Workforce representatives widely agreed with the proposals, recognising “that the Welsh language is an important part of the distinct culture of Wales and the PCET sector.” (UCU)

15.11 It was suggested that the Commission should be listed under the Welsh Language Act and would be essential in supporting the Welsh Government target of one million Welsh speakers by 2050.

Question 83: In having regard to the Welsh language, do you agree the Commission should be expected to consider matters such as:

- a) the Welsh Government’s vision for a million Welsh speakers by 2050;
- b) the adequacy of existing provision of education through the medium of Welsh;
- c) how it can support existing provision through the medium of Welsh;
- d) how current provision through the medium of Welsh can be developed;
- e) promoting the Welsh language throughout the PCET sector?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	4
FE	8
FE/HE	2
HE	10
Individual	3
Local authority	10
Regulatory body	3
School	11
Third sector	0
WBL	5
Workforce representatives	5
Total	63

Predominant view

15.12 Agreement across the PCET sector that the Commission should be placed under a specific duty to have due regard to the Welsh language, especially with the vision of a million Welsh speakers by 2050.

Sectoral analysis

- 15.13 Responses to this question were mixed, with many respondents stating that the Commission should be expected to consider some but not all of these matters.
- 15.14 Amongst ACL, there was considerable inconsistency, and one respondent advised against including the specifics of what the Commission should be expected to consider: “While valuable, these are all goals for the current administration and are liable to change in the future, therefore they should not form part of the legislation to set up the Commission. The Commission, when established, may decide that these are specific pieces of work to be undertaken. There is a risk that the current consultation seeks to bind the future of the Commission to current government policy.”
- 15.15 Amongst FE respondents mixed views were also expressed:
- a few favoured some of these matters but not all
 - one who agreed with the proposed scope but felt it should not be exhaustive
 - many were opposed to including these matters, given the risk of tying the Commission to the goals of the current Welsh Government administration, which “are liable to change in the future, therefore they should not form part of the legislation to set up the Commission. The Commission, when established, may decide that these are specific pieces of work to be undertaken. There is a risk that the current consultation seeks to bind the future of the Commission to current government policy.”
- 15.16 In HE there was general support for the proposed scope of the Commission’s regard for the Welsh language, although some respondents noted some challenges to be considered, including:
- limited current opportunities for bilingual study and patchy Welsh medium support at best
 - lack of availability of certain essential digital platforms and applications that use and accommodate the language, e.g.: common plagiarism detection systems do not operate with the Welsh language.
 - need for clarification of what is meant or intended by “consider” and, in turn:
 - concerns about the apparent intention for the Commission to become involved in detailed matters of the curriculum;
 - clarity over what measures ‘adequacy’ is to be measured against.
 - concern about the absence of the term ‘bi-lingual’ and the implication that providers will no longer be delivering bi-lingual provision, which in turn may:
 - impact on the willingness of staff to develop their language skills, and

- remove the ‘safety net’ of the ability to deliver bi-lingual education for those starting to use the Welsh language to deliver the curriculum.
- 15.17 HEFCW supported the proposals, emphasising the need to collaborate with other organisations to deliver on this remit: “Given the focus and challenge of the Cymraeg 2050 objective, it is important to involve individuals already in the learning environment. Higher Education, supported by the Coleg Cymraeg Cenedlaethol, has enabled growth in Welsh medium provision and plays a crucial part in Welsh for Adults provision, working within the new National Centre for Learning Welsh. Given Welsh Government’s ambitious objective to increase the number of Welsh speakers, working efficiently to maintain and expand the current provision should remain a priority”.
- 15.18 Local authority respondents were universally in favour of the proposed matters. With one exception, who opposed each of the matters, schools were also all in favour of the proposed scope, with one articulating the need for collaboration with Coleg Cymraeg Cenedlaethol and Qualifications Wales to achieve specific Welsh language goals.
- 15.19 Most WBL respondents supported the proposals and submitted the following standard response: “we believe that the Commission should be expected to consider ALL matters highlighted in the question ... the PCET sector in Wales provides a significant opportunity for achieving the Welsh Government target set for a million speakers by 2050 due to the ability to maintain and progress the level of Welsh learnt by pupils in compulsory education into post compulsory education streams ... Historically, the offer of Welsh-medium and bilingual provision within PCET has been limited and patchy at best; which is due to a number of factors including the limited availability of qualifications; the limited availability of resources (both in terms of physical resources and staff able to teach and assess in Welsh); and a perceived lack of demand from employers and learners.”
- 15.20 One WBL respondent called for pragmatism in delivering on this Welsh Language duty: “[The Commission] should not be forced to pursue the Welsh Language agenda where it is not sensible to do so.”
- 15.21 NUS Wales impressed the urgency of the need to increase the availability of courses in the medium of Welsh, which the Commission needs to address.
- 15.22 Employers and businesses strongly agreed the Commission should consider all of these matters. CITB went further to state: “the Commission should not only consider but align all work to the matters listed above.”

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.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	2
HE	9
Individual	1
Local authority	7
Regulatory body	4
School	16
Third sector	0
WBL	5
Workforce representatives	4
Total	60

Predominant view

15.23 The PCET sector broadly agreed the Commission should regulate and fund the Coleg, however, the HE sector reinforced the need for an independent body, appropriately funded.

Sectoral analysis

- 15.24 ACL and FE sector responses agreed that the Coleg should be regulated and funded by the Commission. For example, Colegau Cymru stated that “the Coleg Cymraeg Cenedlaethol should be regulated and funded by the Commission in respect of its FE and HE work”.
- 15.25 HE sector respondents supported close collaboration and cooperation between the Coleg and Commission in line with the recommendations of the Diamond review, within a robust independent appropriately funding structure for the Coleg. HEFCW suggested that “funding should include two elements, one to support the core infrastructure of the Coleg and the other ring fenced for the purpose of enhancing and facilitating Welsh medium provision, across the PCET system”.
- 15.26 The majority of school and local authority sector responses proposed that it was “crucial to provide learner progression through the medium of Welsh across the age range”. Hence local authority respondents

felt that the Coleg should be fully embedded and accountable to the Commission and funded outside of core funding.

- 15.27 Schools responding in North Wales supported the principle of continuing to finance the Coleg independently, in order to “promote an appropriate level of joint challenge and joint support between the different bodies”.
- 15.28 WBL respondents believed that the “Coleg should be responsible for improving and increasing the provision of Welsh-medium and bilingual provision across the PCET sector”. It was felt that the extension of the work of the Coleg to include FE and WBL was already working towards what was proposed. NTfW suggested that the Coleg should remain as an independent body, funded by the Commission.
- 15.29 Employers and businesses responding held the Coleg in high regard, describing it, for example, as “invaluable to facilitating the pathway to Welsh Government”. The extension of the Coleg’s work to WBL and FE was seen as a positive development with support for the continuation of such work and the Commission taking over the funding for this activity.
- 15.30 Workforce representatives broadly welcomed the extension of the Coleg’s role, specifically in relation to meeting Welsh Government aims. UCAC outlined the principles of financial certainty, institutional freedom, clear accountability and stability in terms of funding and accountability, which the Coleg needs to have.

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.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	8
FE/HE	2
HE	9
Individual	1
Local authority	2
Regulatory body	3
School	5
Third sector	0
WBL	5
Workforce representatives	3
Total	42

Predominant view

- 15.31 Majority of the PCET sector responses felt that the National Centre should fall under the remit of the Commission to ensure a consistent, holistic and cohesive strategy to achieve the Welsh language aims in the sector.

Sectoral analysis

- 15.32 The majority of responses agreed with the proposal and shared similar views and responses.
- 15.33 Whilst some HE respondents considered that the National Centre should fall under the Commission to provide alignment with current arrangements, others felt strongly that it should remain an independent body with a direct relationship to the Welsh Government.
- 15.34 The Learned Society of Wales proposed close collaboration between the Centre and Coleg Cymraeg Cenedlaethol, coupled with a statutory committee for Welsh-medium provision across the PCET sector to provide guidance in this area.
- 15.35 FE sector respondents also had mixed views on whether the National Centre should be part of the Commission or not. For example, on one hand ColegauCymru and others stated, “this should be external and not regulated by the Commission”, whilst Coleg Gwent responded that “the National Centre for Learning Welsh should be funded and regulated by the Commission as part of the PCET sector”. Coleg y Cymoedd made the point that the Centre should be treated consistent with ACL as “they have similar social values”.
- 15.36 The local authority sector responded clearly that the National Centre should be accountable to the Commission and the school sector shared this view.
- 15.37 UCAC stressed that funding arrangements and accountability would have a profound influence on the relationship between the National Centre and the Commission. It proposed that the National Centre needs to have long-term financial certainty, institutional freedom, clear accountability to the Minister with responsibility for the Welsh language as well as the Cabinet Secretary for Education.
- 15.38 WBL sector responses suggested the importance of the National Centre becoming part of the Commission and acknowledged the important role played by the Centre in gap filling areas that the PCET sector failed to address. Its role in upskilling PCET practitioners was also stressed.
- 15.39 Employers and businesses supported the inclusion of the National Centre for Learning Welsh within the Commission. CITB Cymru supported an oversight role from the Commission of both the National Centre for Learning Welsh and the Coleg in order to create clear, consistent learning pathways in Welsh.

16. Overview of responses to section 14: 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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	5
FE	7
FE/HE	1
HE	9
Individual	1
Local authority	5
Regulatory body	4
School	3
Third sector	0
WBL	5
Workforce representatives	4
Total	45

Predominant view

- 16.1 The Commission should take ownership of datasets and should review and revise them.
- 16.2 Reporting burdens should not increase as a result of this.
- 16.3 The Commission should utilize data for comparison across sectors.

Sectoral analysis

- 16.4 FE sector respondents universally agreed that the Commission should take responsibility for datasets. It also strongly recommended that these datasets should be revised and reviewed before collecting more data. One stated that financial datasets, for example, needed a complete overhaul.
- 16.5 Though many factors were raised by HE representatives, there was a general consensus that the Commission should take ownership of such datasets. This would provide an opportunity to review the existing provision in the view of establishing sector-wide efficiencies. HEFCW recognised that the new body will want to use linked data from schools, FE and HE to track progression and outcomes; this will not be possible if all the relevant data is not made available to the

new body. In addition, HE sector respondents concurred that in transferring ownership, reporting burdens should not be unnecessarily increased. It was also recommended that the new arrangements align with wider higher education reporting arrangements.

- 16.6 The UCU looked forward to the results of the Weingarten review, in anticipation of it recommending new guidelines in line with GDPR and the collection of data only when it can be evidenced as enhancing learning.
- 16.7 There was agreement within local authority that the Commission should take ownership.
- 16.8 The opinion within schools mirrored that of the HE sector. For the Commission to take an oversight role, it will need access to the various datasets in each sector.
- 16.9 Estyn saw this as an opportunity to review post-16 data collection, in particular the quality of the data and the comparability of data across sectors. They perceived the priority to be a consistent set of measures that allow for the fair and useful measurement of outcomes.
- 16.10 Employer representatives supported the proposal, acknowledging the need for a robust evidence base on which to base decision making. The FISSS called for data linked to PCET provision to be published as National Statistics. This was echoed by Social Care Wales, which also felt it was interesting that the proposal suggested that the Commission would collect data, rather than using data collected by others and highlighted the need to ensure that appropriate data sharing agreements were put in place to maximise the value of such data.
- 16.11 There was large support for this within the WBL sector. They also encouraged an increase in the amount of publicly available data on institutional and student performance as this will allow organisations have a stronger basis for research and skills planning. In doing so, the sector recognised that a considerable amount of preparatory work will need to be undertaken, however this would strengthen the quality and availability of research in Wales.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	8
FE/HE	2
HE	9
Individual	1
Local authority	6
Regulatory body	3
School	9
Third sector	0
WBL	5
Workforce representatives	5
Total	53

Predominant view

- 16.12 Agreement that such a duty is in the best interests of learners, ensuring a seamless transition between institutions.
- 16.13 There are cases in which the sharing of information is already taking place, it was recommended that one consistent national approach be developed.

Sectoral analysis

- 16.14 There was generally an agreement within the HE sector that this duty should exist. The ability to track learner progress and understand the capabilities of students are key reasons for their support. The sector recognised that a unique learner identifier already exists. In fulfilling this duty, it is required that the learner is assured of the purposes for sharing these data and that they are properly safeguarded. There were concerns about how the data are used across providers and the significant level of error that trials have experienced.
- 16.15 Cardiff University suggested that this presented an opportunity to think beyond hard-coded datasets and consider a cloud-based solution for all learners that relevant bodies could be given access to.
- 16.16 NUS Wales stressed the importance of the collection of accurate data which will allow for "tailored responses to underrepresentation and disadvantage". They believed that the duty should be placed on

providers to monitor and share this data however this duty should avoid increasing providers' workload.

- 16.17 There was unanimous agreement with the proposal amongst FE sector representatives, who believed that a smooth transition is “paramount” for the learners’ best interests.
- 16.18 Local authority representatives agreed that there needs to be a consistent national approach. This group wished to be consulted on the range of characteristics before agreeing, ensuring that it does not breach GDPR.
- 16.19 School representatives noted that it is already common practice to share information between school sixth forms, and in the best interests of learners to support integration with a new provider.
- 16.20 Estyn agreed that “a smooth and timely transfer of learner profile information, including qualifications achieved, learning needs, disabilities and difficulties would be a very positive step forward and improve efficiency and effectiveness of collaborative working between pre- and post-16 providers.” Estyn also suggested the use of a sanction if information was not passed in an accurate and timely manner. The NEU indicated that by sharing information in such a manner this will allow for critical adjustments to be made by the provider.
- 16.21 Employer representatives were strongly in favour of the proposal.
- 16.22 The WBL sector supported this as an “ideal scenario”, whilst acknowledging the need for effective data-sharing protocols.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	6
FE/HE	1
HE	8
Individual	0
Local authority	3
Regulatory body	3
School	2
Third sector	0
WBL	5
Workforce representatives	2
Total	32

Predominant view

- 16.23 The use of one system is supported, limiting the duplication of existing datasets.
- 16.24 There needs to be transparency within the new data regime.

Sectoral analysis

- 16.25 The FE sector contributed that data requests and storage should be reasonable and should not duplicate existing data sets.
- 16.26 The HE sector indicated that data relating to HE provision is collected on HEFCW's behalf by HESA. As such, any powers relating to data collection must include the option of having an organisation collect data on behalf of the Commission. Legislation should not be restrictive on how data is collected, data should be able to be collected by different systems where appropriate. The sector supported these changes as they represent an opportunity to review this landscape, simplify and standardise data use.
- 16.27 HEFCW envisaged that HESA would remain the organisation for collecting HE data for reasons such as having comparable information across the UK, the recent data collection review by HESA and the ability to link across HE, FE and schools' data. They also recommended that legislation is not prescriptive in terms of data collection to allow for changes in the education landscape.
- 16.28 NUS Wales cited that the driving principle behind any new data regime must be transparency. Data must be readily available and accessible.
- 16.29 The majority of schools declined to respond to the question, although one representative body suggested that these duties should not relate to school sixth forms.
- 16.30 One school/FE representative welcomed further detail on the extent to which their supply of LLWR data might be impacted. Furthermore, they would welcome a discussion on the sharing of data to researchers and other prescribed persons.
- 16.31 WBL providers recognised the poorly implemented IT systems across the public sector and therefore urged caution when moving toward an integrated system. Representatives noted that the MIAP development (Managing information across partners – a programme that was superseded by the Learning Records Service), promised to be a 'whole systems' approach to managing learner data - it would be beneficial that any infrastructure or lessons learnt were not lost in the Commission's approach. The Commission needs to be clear to all learning providers, what the technical requirements of any IT system would be well in advance of any migration of data.

17. Overview of responses to section 15: Student finance issues

Question 89: Could an increase in the availability of accelerated degrees better meet the needs of employers and learners in Wales?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	3
FE	7
FE/HE	2
HE	8
Individual	2
Local authority	3
Regulatory body	3
School	3
Third sector	0
WBL	5
Workforce representatives	1
Total	39

Predominant view

- 17.1 Accelerated degrees could contribute to a diverse mix of HE provision, which is needed to meet the needs of employers and learners in Wales. This has the potential for widening the access of Higher Education.
- 17.2 Further scrutiny and a separate consultation is needed.

Sectoral analysis

- 17.3 The first dominant view was an opinion which was widely supported across all sectors. It was recognised that to meet the needs of employers and learners, a diverse mix of HE provision is required. Accelerated degrees were perceived to have the potential to be a strong contributor to said broad mix of provision.
- 17.4 Though there was predominant support for accelerated degrees a number of issues were raised by representatives of the HE sector. Firstly, there were concerns raised that accelerated degrees are being driven forward with very little evidence of demand and are unlikely to be suitable for all degree subjects. However, it was noted that several institutions in Wales already provided a two-year degree and there was a need to meet employer requirements for such provision. HEFCW supported the concept of accelerated degrees but felt that

the ability to develop these was outside the scope of this consultation. HE providers responding also felt that accelerated degrees could be attractive to those with existing work experience – allowing them to reduce a four-year course to three.

- 17.5 There were a number of concerns regarding the implications that such a degree would have on student workload and experience. Also, NUS 'Pound in your Pocket' research highlights that a large proportion of students work alongside their studies; this proposal would limit their ability to do so, according to NUS Wales. UCU indicated that such accelerated study would impact on learners' ability to combine study with periods of reflection and critical thinking, would reduce ability to take part-time employment during studies and would compromise staff working conditions. Similar concerns of the impact this may have on providers were relayed by HE sector respondents.
- 17.6 In light of these concerns it seems apparent that more scrutiny is needed. HEFCW was "surprised at the level of detail included in the consultation document, which is disproportionate to the issue, and should be dealt with separately." NUS Wales this "lack of clarity, consideration and consultation with students again highlights the need to develop a Welsh specific definition and solution."
- 17.7 The OIA, however, was positive about accelerated provision and felt that it could offer a welcome extra choice for students, provided that institutions have sufficient quality processes in place and a focus on outcomes. The Open University echoed support for flexibility but had some concerns about the implications for students – for example around the level of maintenance grants.
- 17.8 One local government respondent welcomed the flexibility that accelerated degrees might bring to the system - suggesting the trialling of provision in a sector believed to demonstrate demand.
- 17.9 Estyn welcomed the prospect of accelerated degrees, for their potential increased flexibility and the financial benefits of a competitive cost structure. It was also suggested that these would appeal to those already in employment.
- 17.10 Both FE and WBL sector respondents supported the greater availability of accelerated degrees due to the widening of access which may better meet the needs of individuals, whilst also recognising it as an important development in meeting employers' needs. Both the faster supply of graduates to the workforce and the quicker pathway that accelerated degrees could provide for upskilling staff were reasons for their view.
- 17.11 Social Care Wales commented that the quality of provision was the most important factor: "We have had excellent examples of working closely with many universities across Wales to ensure that degree programmes (specifically in early years and child care) more closely meet the needs of employers and therefore of learners, this had less to do with the time spent and more to do with the content and engagement with employers"

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	1
FE	6
FE/HE	1
HE	8
Individual	2
Local authority	2
Regulatory body	2
School	2
Third sector	0
WBL	5
Workforce representatives	1
Total	32

Predominant view

- 17.12 This should be the subject of separate consultation.
- 17.13 The existing fee cap arrangements can inhibit the wider provision of accelerated courses; fees will need to be adjusted to ensure that such a degree is viable for institutions.

Sectoral analysis

- 17.14 ACL, FE and HE sectors were in agreement that it is inappropriate to use a technical consultation to consider such a policy shift; rather that this should be the subject of further consultation and scrutiny.
- 17.15 Feedback from the HE sector was generally in agreement with the proposition that current fee limits inhibit the provision of accelerated degrees. One respondent had a clear analysis that an accelerated degree requires greater resource than a traditional degree programme; for example, with the need for an additional semester in the summer and in recognition that students will complete a higher number of credits each year. Hence there would be a need to charge a higher fee. One HEI was confused by the question, stating that they are bound by annual fee limits and that this would be problematic for the provision of accelerated degrees. Many of the sector responses indicated that fee limits should reflect the resource required to deliver accelerated degrees, to enable them to be viable. One gave the example of a provider in England charging £12,000 p.a. for

accelerated degrees. As a counter argument, one provider cited that they already run a two-year degree course based on a trimester system. The limiting factor for them had been lack of market interest.

- 17.16 The UCU did not believe that fee limits are the issue, but that there are practical and educational issues to be considered.
- 17.17 The limited number of local authority respondents and schools who responded were in agreement with the question.
- 17.18 One individual's concern over the lack of legislation was expressed as a greater issue, with the belief that the market will find its own price for accelerated degrees.
- 17.19 One employer representative recognised that new arrangements are needed to match the higher in-year cost of accelerated degrees. The rest of the sector did not feel qualified to answer.

Question 91: How might accelerated degrees be defined?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	2
FE	7
FE/HE	1
HE	6
Individual	2
Local authority	2
Regulatory body	2
School	0
Third sector	0
WBL	5
Workforce representatives	1
Total	30

Predominant view

- 17.20 The definition should align with definitions used elsewhere within the UK.
- 17.21 This should be the subject of separate consultation.

Sectoral analysis

- 17.22 Those within the HE sector supported the use of HEFCE's working definition of accelerated degrees, citing the importance of adopting a definition which aligns with the rest of the UK to avoid market confusion.
- 17.23 Respondents from the FE sector were in agreement that this subject is outside the remit of this consultation and a separate consultation is required.
- 17.24 One individual commentator questioned the need to define accelerated degrees or to treat them separately from other provision.
- 17.25 Local authority representatives indicated the time period in which the degree is completed in to be an instrumental way of defining accelerated degrees.
- 17.26 Within the WBL sector many felt un-qualified to answer the question. One agreed with the dominant view of adopting a definition which is consistent across the UK, but it may be beneficial to adopt the definition of accelerated degrees from the Higher Education and Research Act 2017. Another WBL respondent felt that it should be defined in traditional degree terms but stipulate that it is delivered over a shorter calendar term.

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?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	1
FE	7
FE/HE	1
HE	8
Individual	1
Local authority	2
Regulatory body	2
School	1
Third sector	0
WBL	5
Workforce representatives	1
Total	31

Predominant view

- 17.27 This should be the subject of separate consultation.
- 17.28 Accelerated degrees do not present opportunities for reduced costs because of logistical and structural challenges.
- 17.29 Maintenance support should include the summer period in order to cover the duration of study.

Sectoral analysis

- 17.30 HE sector respondents raised a number of concerns with regard to the cost and inefficiencies of accelerated degrees. The extra cost of hiring additional teaching staff over the summer months and the logistical and structural challenges would make accelerated degrees costly for universities. The likely smaller class sizes indicate the potential inefficiency of such a degree, causing further concern within the sector.
- 17.31 The HE sector agreed that maintenance support levels would also need to be higher for those completing an accelerated degree due to the increased number of weeks in academic study. Universities Wales indicated that the current maintenance package for a three-year degree does not include the summer period – this should be within the assessment of how much the student needs to live on.
- 17.32 NUS Wales raised concerns that the accelerated degree could “potentially harm students” as this would limit their ability to work and support their living costs.
- 17.33 FE sector representatives were generally in agreement that further consultation is required on this issue, although some felt that flexibility was seen as both a good thing and acceptable.
- 17.34 One individual saw potential benefits of accelerated degrees – such as using blended learning and “learner centric approaches”. Further, it would provide an opportunity for cost appraisal, as “delivery costs appraisal would give providers an excellent opportunity to review their costs and content to ensure that only value adding activity is provided.”
- 17.35 There were mixed views amongst local authority representatives. One believed that fees should not be increased due to the accelerated degree being undertaken in a shorter amount of time whereas another respondent stated that the price should reflect the costs incurred over the duration of the degree.
- 17.36 Estyn was concerned to ensure that learners wishing to pursue accelerated degrees should not be discouraged because of high course and maintenance fees.

- 17.37 CITB Cymru Wales welcomed the proposals but called for a balance between the interests of the learner and that of the provider.
- 17.38 Most WBL representatives did not feel qualified to answer this question. One felt that the fee for accelerated degrees must be realistic for providers to manage the necessary changes but also should offer students a significant reduction in the total costs of graduation.
- 17.39 It was consistently recognised that there would be additional costs associated with delivery of accelerated degrees and this would feed through into tuition fees.

Question 93: Are there any other matters relating to accelerated degrees that you consider should be taken into account?

Responses by sector

Sector	Number of Responses
ACL	2
Employers and businesses	0
FE	6
FE/HE	1
HE	9
Individual	1
Local authority	3
Regulatory body	1
School	0
Third sector	0
WBL	5
Workforce representatives	1
Total	29

Predominant view

- 17.40 Student finance issues should be the subject of separate consultation.
- 17.41 An accelerated degree has the potential to negatively impact learner experience and inhibit depth of learning.

Sectoral analysis

- 17.42 HE sector respondents indicated that flexibility needs to be built into the provision, to account for those who may be on the accelerated degree path, allowing them the option to lower the intensity to the 'traditional' full time route. Notable concerns within this sector included the implications for the overall learner experience and depth

of learning due to the accelerated nature of the degree. Some HE providers cited a lack of ‘appetite’ for the accelerated degree.

- 17.43 NUS required “clarification as to whether accelerated degrees are in line with European Standards and Guidelines and the Bologna Process.”
- 17.44 JISC indicated that “Digital technology could be used to overcome some of the practical hurdles to delivery of accelerated degrees – allowing, for example, some modules to be delivered using online distance or blended learning during the summer period between years 1 and 2.”
- 17.45 There was universal agreement amongst FE sector respondents that this should be addressed within a separate consultation.
- 17.46 There was mixed opinion within local authority representatives. One raised concerns over learner wellbeing due to the short periods of engagement. Another recommended an increase in the number of employed degrees on offer as this would allow students to gain skills whilst they study.
- 17.47 One individual responded that there would be a need to ensure that learners entering accelerated provision were “level ready” – requiring collaboration between FE and HE.
- 17.48 The majority of WBL representatives felt unqualified to answer, but one suggested that flexible pathways between accelerated and full-time three-year degrees could be offered.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	2
FE	7
FE/HE	2
HE	9
Individual	2
Local authority	3
Regulatory body	3
School	2
Third sector	0
WBL	5
Workforce representatives	1
Total	37

Predominant view

17.49 There was widespread support for the proposal.

Sectoral analysis

- 17.50 An overwhelming majority of respondents across sectors agreed that the Commission should have regulatory oversight of all HE providers in Wales.
- 17.51 The HE sector fully supported the proposal, welcoming a model which applies core regulatory requirements, citing that it makes sense for Wales to have one body which is responsible for maintaining the quality and delivery of PCET. In doing this, the categories for designation need to be clear, with explicit requirements for being part of these. It was also raised that the Commission will need the resources and appropriate framework to fulfil this effectively.
- 17.52 Coleg Cymraeg Cenedlaethol agreed with the proposal but felt that this was a matter for the Commission to consider.
- 17.53 Estyn supported the principles, stating that “it would be an advantage to create a more coherent and efficient regulatory system”.
- 17.54 Within the other sectors, those who responded simply expressed their agreement with the proposal. One single response from the school sector disagreed with the proposal, without an explanation for this view.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	2
FE	7
FE/HE	0
HE	8
Individual	1
Local authority	2
Regulatory body	3
School	2
Third sector	0
WBL	5
Workforce representatives	1
Total	32

Predominant view

- 17.55 There was general agreement with the proposal, but with a range of caveats and risks noted.
- 17.56 Many respondents called for a focus on the needs and interests of students in considering the matter.

Sectoral analysis

- 17.57 HE sector respondents agreed that there should continue to be two categories, but not as currently used. The predominant view within the sector was that regulatory requirements should be common to all providers, not be based on financial benefits for providers, and with the interests of the student driving decisions.
- 17.58 HEFCW believed that the Cabinet Secretary's ambition to create a whole system "must be underpinned by learners having full confidence that the providers that they study at, regardless of the level of support that is invested in those providers by the public purse, are of good quality and are financially sustainable".
- 17.59 FE representatives generally supported the distinction but argued that it should not be based on whether study is full or part time. Respondents echoed the HE sentiment that regulatory requirements should be based on the needs of students, not on any financial benefit for providers. One FE representative raised concerns that distinguishing in such a way "contravenes equality principles".
- 17.60 Estyn responded that it "cannot see the rationale for the two categories at present. In terms of equality and fair access, it would seem right that there is only one designated category".
- 17.61 Employers' representatives generally supported the distinction.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	2
FE	5
FE/HE	0
HE	8
Individual	1
Local authority	2
Regulatory body	3
School	0
Third sector	0
WBL	5
Workforce representatives	1
Total	28

Predominant view

- 17.62 Course designation should not remain as a function of Welsh ministers; these functions should instead be transferred to the Commission.
- 17.63 Options a and b⁶ were seen as the most suitable as they would ensure consistency.

Sectoral analysis

- 17.64 Opinion was divided within the HE sector. Overall options a and b were seen as preferable on grounds of consistency. Option c should be considered if regulatory requirements will be fully satisfied by the regulatory framework which replaces it. There is an expectation that more robust measures will be put in place for providers without charitable status. However, it was pointed out by one provider that

⁶ The consultation document proposes that for approval of a ROA providers in Wales should satisfy one of the following options: Option (a): providers seeking course designation in either category would be required to be charities; Option (b): no requirement for providers seeking course designation in either category to be charities; Option (c): providers seeking category 1 designation would be required to be charities (as is currently the case for regulated institutions under the 2015 Act) whereas providers seeking course designation in category 2 would not be required to be charities.

industry diversification may imply that the option for an organisation to not be a charity may be important.

- 17.65 There was a strong feeling within some HE representatives that funds received from public funding should not be used to benefit shareholders of for-profit organisations and that charitable status should be the defining aspect of HEIs. There was also the question of possible reputational risk to the HE sector as a whole if providers were not all subjected to the same checks on quality, financial sustainability, management and governance. The UCU was concerned about the societal impact that providers without charitable status may have - "Wales has a proud record of investing in education for its population, we should strongly resist any attempt to undermine that culture."
- 17.66 In contrast, other HE representatives held that if providers can satisfy the robust standards required, there is no reason why they should not be allowed to enter the market. HEFCW did not object to providers without charitable status, on the basis that these providers should be "committed to investing surplus funds into activities that support learners or were for the public good, demonstrating this through a public good statement."
- 17.67 The view of HEFCW was that if Welsh Ministers wish to support Welsh students to study at alternative providers in other parts of the UK then they should retain the power to specifically designate providers for student support, but this should meet the same regulatory requirements that are set out by the Commission.
- 17.68 The majority of FE sector respondents supported the ColegauCymru view, which rejected the proposal that course designation should remain a function of the Welsh Ministers, stating that these functions should instead be transferred to the Commission. It was also felt that option a was the most appropriate as would bring a greater level of consistency. One respondent felt that this question lay outside the remit of the consultation, however.
- 17.69 There were also differing opinions amongst local authority respondents, with one citing that there are no requirements for HE providers to be charities whereas the other selects option a.
- 17.70 Schools did not present a view.
- 17.71 Though the majority of WBL representatives felt that they were unqualified to answer, one held that consistency is key. Two agree with option c as it provides the most flexibility.

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	5
FE/HE	0
HE	7
Individual	0
Local authority	3
Regulatory body	1
School	0
Third sector	0
WBL	5
Workforce representatives	2
Total	25

Predominant view

- 17.72 There was a call for a system of registration for all providers to ensure they meet regulatory requirements.
- 17.73 A full equality impact assessment is required to ensure that equality is not an issue.

Sectoral analysis

- 17.74 The majority response amongst HE sector respondents was a call for a system of registration for all providers. At present, not all providers are eligible to apply for regulated institution status, even though they may be good candidates for automatic course designation. In addition, there was support for a system of registration to ensure that all providers meet regulatory requirements.
- 17.75 Some HE providers recognised that the current arrangements require institutions to apply for specific designation of part-time courses. This appears to disadvantage a distinct population of students in Wales who are at greatest need of flexibility.
- 17.76 There was unanimous agreement amongst FE sector respondents that there should be a full equality impact assessment of these proposals.
- 17.77 The Education Achievement Service questioned “if strategy is to align to economic priorities, should the Commissions have some influence

over designated degree status and learner funding aligned to sector needs and incentives to enhance and retain skills in Wales.”

- 17.78 The NEU believed that consideration should be given to financial incentives to help ensure social justice to learners in the PCET sector. They indicate that supporting those who are NEET⁷ is critical to this.
- 17.79 Social Care Wales stressed the importance of the role of workforce regulators or other professional bodies.

⁷ A young person who is "Not in Education, Employment, or Training".

18. Overview of responses to section 16: Impact assessment

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?

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	3
FE	6
FE/HE	0
HE	4
Individual	0
Local authority	2
Regulatory body	2
School	0
Third sector	0
WBL	5
Workforce representatives	2
Total	25

Predominant view

18.1 Many respondents felt it was necessary to undertake an Equality Impact Assessment, but most were unable to articulate any specific impacts that the reforms may create.

Alternative views

18.2 A minority of respondents suggested that the reforms were unlikely to have any impact on those with protected characteristics.

Sectoral analysis

18.3 Across ACL and FE sector respondents most cited a need for an equality impact assessment of the reforms, along with annual equality statements or reports. Several suggested that the approach to impact assessment should be guided by best practice from the Equality and Human Rights Commission Wales.

18.4 In HE, there was also some call for equality impact assessment. Cardiff University was one of the few respondents that outlined *how* the reforms might impact on those with protected characteristics:

“inclusive and accessible HE provision can assist with addressing broader issues of inequality and disadvantage in Wales.” Cardiff University also called for a review of previous initiatives for tackling gender disadvantage in order to decide where to focus priorities for the Commission moving forward.

- 18.5 Amongst local authority, employers and business and WBL respondents, the prevailing view was that the reforms are not likely to have an impact on those with protected characteristics. One local authority respondent identified a need to be flexible in order to meet the needs of rural and deprived communities and Welsh language learners: “the proposals may impact differently in particular areas of Wales with specific effects on rural and deprived communities and on the ability to access learning provision through the medium of Welsh. Thus, the Commission would need to be mindful that a “one size fits all” approach will not work and that localised approaches will be needed to increase positive effects and mitigate negative effects”.
- 18.6 FISSS suggested a mechanisms for assessing the impact on those with protected characteristics: “Positive effects could be increased by requiring outcome data to be published related to different groups, and by including relevant measures in the ROAs agreed with providers, and by making it a core function of the Commission that it encourages both diversity of applicants and provides sufficient support in its programme management and funding allocations to support for example students with additional needs.”
- 18.7 Estyn identified a lack of due consideration to the forthcoming reforms within the ALN Act: “We would expect the Commission to liaise with other commissioners such as the EHRC. It might be opportune to consider what requirements are placed on the Commission to monitor and report on access to and achievement in PCET by groups with protected characteristics and other under-represented vulnerable groups”.

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.

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	1
FE	7
FE/HE	2
HE	5
Individual	0
Local authority	2
Regulatory body	3
School	0
Third sector	0
WBL	5
Workforce representatives	3
Total	29

Predominant view

- 18.8 All agreed that the Welsh language should be central and incorporated into all aspects of the Commission's work by also providing guidance across all sectors.
- 18.9 A number of respondents from across multiple sectors expressed concern about the establishment of a Welsh language committee, given the risks that it could result in Welsh being marginalised from the core work of the Commission.

Sectoral Analysis

- 18.10 Amongst ACL and FE responses, there was widespread call for the Commission to be subject to the Welsh Language Standards. Several in these sectors cautioned against establishing a Welsh language committee: "the Commission should be subject to the Welsh Language Standards and the Welsh language must be incorporated into all aspects of the Commission's work rather than solely the remit of one committee, risking marginalisation." (Adult Learning Wales)
- 18.11 Provided that the Welsh language is incorporated in such a way, Coleg Cymraeg Cenedlaethol are "confident that the Commission

could play an appropriate role in terms of the development and implementation of linguistic policy in Wales including the Welsh Government's Language Strategy."

- 18.12 HE sector respondents generally agreed that the Welsh language should be central to the Commission's work, and not a bolt on consideration. Aberystwyth University recommended the availability of ring-fenced funding to incentivise Welsh-medium students, support Welsh-medium posts and courses. Ring fenced funding was also supported by Estyn who advocated the use of ROAs to include specific requirements for local authorities in terms of maintaining and incentivising the Welsh-medium provision. One HE sector respondent suggested that by increasing requirements in the private sector for spoken Welsh, graduates would be encouraged to learn Welsh to succeed in the private and public sectors in Wales.
- 18.13 NUS Wales advocated the creation of a committee within the Commission to oversee the development of the Welsh language, but also noted that "the creation of a committee isn't enough" and suggested that a dedicated board member of the Commission should be responsible for promotion and developing a bilingual culture within the Commission.
- 18.14 The school respondent identified "a need to ensure that the Commission itself has robust linguistic policies for determining its own use of the Welsh language, including in its own staff recruitment policy and any work it commissions from others." In addition, this respondent noted: "the absolutely central – and unique – role of sixth forms must be recognised for the way they offer Welsh medium post-16 education within a Welsh-speaking atmosphere and ethos that creates fluent and confident speakers. That fact in itself means that some level of protection should be ensured for sixth forms, especially in Welsh medium schools."
- 18.15 The local government respondent suggested that Welsh-medium policy should be "formulated in collaboration with the RSPs [Regional Skills Partnerships] who have identified Welsh Language provision and skills needs."
- 18.16 The WBL respondent cautioned against making the use of Welsh language a requirement of all qualifications, training or apprenticeships, on the grounds that it could be "prohibitively expensive and would potentially lead to a reduction in training". Instead, it was suggested that funding could be made available for training "where a need is identified by the Commission and supported by employers."

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

Responses by sector

Sector	Number of Responses
ACL	1
Employers and businesses	4
FE	5
FE/HE	1
HE	9
Individual	3
Local authority	4
Regulatory body	5
School	8
Third sector	0
WBL	1
Workforce representatives	5
Total	46

Sectoral analysis

- 18.17 A small proportion of ACL respondents added their own points to the generic ACL response drafted by Adult Learning Wales and submitted by a number of its members (see Section 18 below for details of this generic response). Most of these comments focused on concerns about the reduction of ACL provision and suggestions for how the ACL sector needs to be supported to expand as part of the wider PCET reforms.
- 18.18 Specific calls for reform of ACL included:
- Halting ongoing cuts in ACL provision and increasing the number and range of courses available.
 - Increasing the number of academic/higher level courses, specifically.
 - Greater availability of courses for free or at a reduced price for people in receipt of benefits.
 - Removing the barriers to ACL for people in receipt of benefits: “DWP/JCP can stop students studying or kick them off their part time courses, for studying while on benefits. This should stop.”
 - A broader categorisation of disabled learners.
 - A mechanism for addressing the loss of ESF funding for ACL provision, post-Brexit.
- 18.19 One respondent stressed the importance of higher-level ACL provision delivered in the evenings, to cater for those in work who are interested in a career change, to enable the wider population to be

equipped for the ever-changing employment landscape and to contribute to a successful and vibrant community in Wales.

- 18.20 Some of these included very personal experiences of how ACL had benefitted respondents: “without adult learning I wouldn’t be where I am today, I am very grateful for the work they do and the chance they have given to me to improve the life for me and my children.”
- 18.21 Amongst FE respondents there were two recurring themes:
- Insufficient focus on ACL in the proposals “[ACL] in either its upskilling function or social mission element, has not been adequately addressed throughout this consultation.” (ColegauCymru)
 - The unnecessary inclusion in the consultation of a numbers of issues and questions: “A number of the questions asked would seem to ‘stray’ from the legislation needed to establish the Commission – and therefore could potentially be dealt with more efficiently through a series of further consultations.” (Gower College Swansea)
- 18.22 Other points raised included:
- Ensuring accountability measures are sufficiently robust without stifling the ability of the Commission to operate effectively.
 - Safeguarding robust governance and consistency around subcontracting and franchising across the whole PCET sector and particularly in HE and WBL).
 - Minimising bureaucracy; “[need to] avoid creating a “monster” organisation with unnecessary bureaucracy, and learn from the past, e.g. ELWa.” (Coleg Cambria)
 - Establishing appropriate internal structures and culture from the outset.
- 18.23 A common theme for HE respondents was the notion that HEIs work internationally and that the proposal reforms should not undermine their competitive position in a UK and international market: “If the PCET reform leads to Welsh HEIs appearing and becoming less competitive, this could have a big impact on the HE business/funding. This means being able to excel in the TEF [Teaching Excellence and Student Outcome Framework], League Tables and the REF [Research Excellence Framework]. The impact of changes in funding streams and changes in regulation on institutions’ ability to do well in these indicators must be modelled and understood.” (Aberystwyth University)
- 18.24 It was noted that the Commission needs to accommodate the differences between different areas of the PCET sector. One respondent commented: “the consultation document fails to recognise that FECs and HEIs are different in a key way: the latter (HEIs) are awarding bodies, the former (FECs) not, so a quality system therefore has to assess processes on the one hand, and outcomes on the other. Preservation of institutional autonomy in making awards is critical.” (University of South Wales)

- 18.25 One HE respondent questioned the viability of creating a single quality body that oversimplifies the scope of the HE sector and fails to recognise the international stage on which the sector operates and the quality processes and measures that already exist for the sector (e.g.: the Framework for Higher Education Qualifications, The UK Quality Code for Higher Education, UK Professional Standards Framework, The European Association for Quality Assurance in Higher Education): “We have serious doubts about the idea of a single quality body, as we do not see who that would be who would be able to offer the credibility to the sector that current arrangements with the QAA do ... the concept of a framework, based on principles and within which recognised bodies operate distinctively, has more appeal”. (University of South Wales)
- 18.26 In keeping with comments on specific elements of the consultation, a number of HE respondents cautioned against too much detail going into the legislation: “The consultation document places a great deal of emphasis on matters of technical detail ... an overly-prescriptive approach in the legislation could lead to inflexibility and future difficulty, whereas a focus on principles would provide the flexibility that would be necessary for effective implementation over time.” (Chairs of Universities Wales)
- 18.27 Other comments included a request for the legislative timetable for implementation of the reforms and for a statement of vision for the post-compulsory sector.
- 18.28 HE sector body respondents noted a number of concerns about:
- Insufficient detail on legislative areas such as how the proposed ROAs would operate or the transfer of UK provisions to the Welsh statute book
 - “The proposals as [they] stand are too prescriptive, provide too high a level of Welsh Government control, and do not provide for an arms-length approach.”
 - The proposed governance structure of the Commission is unwieldy and unlikely to be effective
 - Regulation and Outcome Agreements as a model for relationship management
 - A lack of clarity on how the Commission will be funded and how the Commission will in turn fund providers
 - The need to avoid a one-size-fits-all approach such as the proposals for a single quality body
 - The lack of an outward-facing approach to the proposals, as demonstrated by the proposed restrictions around Research and Innovation Wales which would hinder the delivery of research and innovation activity in Wales and potentially harm Wales’ international reputation for research excellence.
- 18.29 HE sector body respondents expressed a need for:
- a registration model with baseline requirements for all providers to maintain the quality of higher education provision in Wales and

ensure there are better protection and representation arrangements for all learners across Wales

- Welsh Government to involve stakeholders on official groups to develop draft legislation to deliver these proposals.

18.30 Amongst local government respondents, additional comments included:

- The suggestion that school sixth forms are initially (or permanently) excluded from the new tertiary funding structure.
- Concern about an insufficient focus in the document on ACL and the need for financial commitment from the Commission and Welsh Government to enable learners from disadvantaged communities and under-represented groups to return to education and be financially supported to do so.
- The need to provide grants for disadvantaged adult learners in ACL, FE, HE and WBL, particularly given the implications for the Welsh economy of migrant workers leaving Wales due to Brexit.
- The recommendation that the Commission should oversee any successor programme to ESF funding for education in Wales, post Brexit.
- The need for the Commission to identify how Welsh-medium will be expanded in line with local authority Welsh in Education plans, the requirements of the Welsh Language Act and other relevant legislation.
- Removing the word 'Tertiary' from the proposed title of the new Commission, given the proposals to continue supporting a mixed post-16 economy, including sixth forms.
- A query over how the Commission plans to:
 - Take into consideration educational developments pre-16 to share best practice that might be relevant to post-16, for example the work of school cluster groups and transition between phases
 - Keep abreast of pre-16 curriculum reform and its impact on continued skills development post-16 other than sixth forms
 - Bring together other key post-16 stakeholders currently working separately (for example, Careers Wales and the Seren Network) to ensure a coherent and considered approach to all things relevant to post-16.
- A query over whether the Commission will act as a lobby group for post-16 aspects on a national platform, for example, on attaining universal acceptance of the Level 3 Welsh Baccalaureate in parity with A Levels by all UK universities.
- Concern about how ROAs would be sufficiently sensitive to recognize the diversity of provision that exists in local authority areas.
- Concern about a lack of consistency or common ground between the PCET proposals and elements of the National Mission: "How, for example, do these arrangements ensure that the 'four purposes' will not cease to be relevant at 16 and that the principles of the new curriculum are continued? Similarly, the

proposals will place Welsh medium education at post-16, particularly in more rural and isolated communities under significant threat.”

- Suspicion that the proposals will lead to a decrease in sixth form provision and concerns about the impact this would have on the schools, their capacity to recruit and retain teachers and its status within a community: “we cannot support proposals that put the quality of the offer in sixth forms at risk in this way or one that puts restrictions on pupil and parental choice.” (Education Achievement Service)
- Concern about an extra layer of bureaucracy and cost to local authorities and schools at a time when funding is already tight.

18.31 Representative bodies made a range of additional comments including:

- The need for the involvement of employers in research and a permanent employer representation on the Commission board / support for the incorporation of the WESB and WAAB “so that communication can be effective within one independent organisation”
- The suggestion that the Commission links with schools to provide careers advice and guidance for students aged 14-16
- An emphasis on collaboration between providers rather than competition for funding
- Concern about “a funding dichotomy”, whereby FEIs are reluctant to permit students to undergo work experience because good students may be offered employment without finishing their course, and funding for these students would then be withdrawn. This means that courses may become unviable partway through, or that courses without work experience then deliver students with insufficient work-based skills
- The absence of detail of how synergy (for example in terms of qualification frameworks or progression opportunities) between the progress young people make to the age of 16 and the next steps they take in learning
- The need for closer working between Estyn and other inspection and regulatory bodies to ensure accountability, drive improvement in outcomes for learners and support progress towards the vision in Prosperity for All
- Doubt over the rationale for research and innovation to be included in the scope of the Commission, and concern that the organisation’s remit would be too broad
- Recommendations for the process of amending Apprenticeships: “any amendments to the way in which Apprenticeships are managed and administered should be subject to a business case approach which ensures the new processes suggested reduce costs, increase quality and drive efficiency and value.” (Federation for Industry Sector Skills and Standards)
- Concerns about the proposed title of the Commission:

- Possible confusion over the term 'tertiary', which specifically refers to just sixth forms and FE in Wales, whilst the European definition of tertiary is everything beyond secondary education
- Query over the use of the word 'Commission': "There is no proposal for a Commissioner within the consultation and thus 'Commission' is not meaningful." (HEFCW)
- Concern about including 'Wales' in the title, which would "undermine one of the key proposals within Reid in terms of having a presence in London and changing the perception of Welsh research". (UCU)
- Suggested alternatives include: "Education and Research Council (Cyngor Addysg ac Ymchwil) or Education and Research Board (Bwrdd Addysg ac Ymchwil)"
- Potential need for an observatory function to monitor institutional and student behaviours and the needs of the whole knowledge base across UK Research and Innovation, the new Commission, and Research and Innovation Wales
- Using the new National Academy for Educational Leadership as a model of engagement and a system for ensuring continuity of input from the school sector
- A need for the Commission to clarify its remit and how it differs from other 'middle-tier' organisations, particularly those relevant to schools (Estyn, regional consortia, local authorities, Examination Boards, Qualifications Wales and EWC, amongst others) to avoid duplication/overlap and confusion
- A need for the timetable for proposed changes to be sensible, proportionate to the current scale of education reform in Wales, particularly for schools
- The need to develop fully funded learner voice structures within every regulated institution across Wales.
- The need for close collaboration between the Commission and other relevant bodies (Qualifications Wales, Estyn, Welsh Government and the Office of the Independent Adjudicator) to ensure communication of respective remits and approaches to complaints coherently
- A perceived focus on HE over other PCET sub-sectors.

18.32 Most school respondents expressed concerns about proposed changes to sixth forms and highlighted the important role that sixth forms play in the overall school community. Key points included:

- The notion that schools provide a connected, coherent approach to the curriculum beyond compulsory education
- The impact on recruitment and retention of teachers in schools that are no longer delivering A Levels: "We would be saying to all teachers in Wales that you will never teach A levels if you come here to work and if you want to do so, it will be in a college of FE. Therefore, why would anyone wanting to teach A levels, train to be a teacher and come to work in Wales?"

- Concern that the consultation document proposes significant changes to sixth form provision but that the consultation has been via a very complex legal document and that many schools may not have understood its significance: “As headteachers we feel that representatives should have attended our meetings to explain the consultation process and to canvas our opinion.”
- Concern about the loss of sixth form students in schools and the wider contribution they make to the school community: “sixth form students act as great role models and encourage younger children to aspire to achieve. Equally, the school environment offers sixth form students fantastic opportunities to volunteer and contribute to the school community.”
- Fear that despite a commitment to “retaining a mixed economy of provision which meets the needs of different localities and learners” in the introduction to the consultation document, there is a risk that if the Commission is to have a significant role in the funding, viability and running of school sixth forms, it could “take decisions about universal tertiary education in the future, to the detriment of student and parent choice.”
- A belief that the proposals are overly bureaucratic and unnecessary, particularly given that school sixth forms are already subject to intense and increasing scrutiny from Welsh Government, Estyn and the regional consortia are appropriately resourced.

19. Generic responses to the consultation

19.1 The following generic response was put forward by 324 Adult Community Learning representatives.

As someone who values Adult Community Learning, I fully support the following response by AOC|ALW members and its Voluntary Movement. I wish you to consider it as my own personal response:

Response to proposals for the establishment and operation of the Tertiary Education and Research Commission for Wales:

The case for adult community learning provision in Wales

Addysg Oedolion Cymru | Adult Learning Wales is the only national provider of adult learning in Wales and we welcome the Welsh Government's recent consultation document "Public Good and a Prosperous Wales- the next steps" and the associated proposals for improving post-compulsory education and training in Wales.

A Truly Effective Post-Compulsory Education System

The document states that "a truly effective post-compulsory education system is one that meets the needs of all learners. This includes school leavers preparing for their adult lives and careers, young people needing a second chance after disengaging from education, older adults retraining to meet the needs of a changing labour market and people of all ages who want to become more educated in areas of interest to them."

It is fundamental that the role of Adult Community Learning meets learner needs and widens participation in Further and Higher Education through creating opportunities for progression.

Second Chance Learning

Addysg Oedolion Cymru | Adult Learning Wales provides access to education from entry level units to basic skills qualifications as well as qualifications at CQFW levels two and three for adults from all backgrounds, but with a particular focus on those who have missed out on learning or those who need a second chance. The organisation can provide many success stories in relation to a wide range of learners; including those described above and many more.

Adult Community Learning

There is minimal reference to Adult Community Learning in the proposals as they currently stand, despite its effectiveness in meeting a diverse range of learner needs. As an organisation we believe that greater consideration of Adult Community Learning provision and its key role in delivering the aspirations outlined within the proposals is required.

Whilst Addysg Oedolion Cymru | Adult Learning Wales will submit a detailed organisational response to the full consultation document, we believe that our concerns regarding the lack of representation for Adult Community Learning need particular emphasis. There is an understandable emphasis on statutory delivery and the pressure on resources but given its vital contribution to a range of Welsh Government policies, Adult Community Learning should not be overlooked.

Lifelong Learning

We welcome the commitment shown to lifelong learning; however, we strongly urge that Adult Community Learning should have a clear voice within the proposed Commission, preferably through dedicated representation.

The Cabinet Secretary for Education has challenged academic institutions to “recapture a sense of civic mission”; reaching beyond the classroom and working with the community to promote knowledge, learning and skills across society; a role that is very much at the heart of Addysg Oedolion Cymru | Adult Learning Wales and everything that we do.

We fully support the belief as outlined in the Welsh Government’s policy document “Adult Learning in Wales” that:

- the benefits of adult learning are “much broader than skills,”
- there should be an emphasis on skills for both life and work,
- “improved social integration” should be included as an expected learning outcome.

Addysg Oedolion Cymru | Adult Learning Wales has embraced the skills agenda whilst retaining a firm commitment to education for an active society, health and wellbeing, and promotion of community development and co-operative solutions.

As the only national provider of Adult Community Learning, we recognise the importance of lifelong learning in securing informed, flexible, intelligent, healthy and resilient individuals, workforces and communities.

We are confident in our organisation’s capacity and capability to respond effectively to the challenges outlined within the proposals for reform. We therefore urge that the essential role of Adult Community Learning is more forcefully recognised within the proposals, such that Adult Community Learning continues to have a clear voice and recognised role in respect of the wider strategy for post-compulsory education and training in Wales.

General Comments

ACL sector (Learning and Work Institute, National Centre for Learning Welsh)

- Urge the Government to continue to review the implementation and the resource it requires
- Impact of Brexit – does the sector have the capacity to respond to this and the far-reaching reforms of the Commission?
- Omission of lifelong learning and the needs of adult learners
- Consideration should be given to a staged implementation as the Commission may be taking on too many new responses at once.
- National Centre for Learning Welsh – “it would be advisable for the Centre to have a direct relationship with the Minister responsible for the Welsh language within the Welsh Government, because of the Centre’s importance in delivering the Cymraeg 2050 objective.”
- “our initial view is that it is premature for the Centre to transfer to the Commission, without more information being available about the Commission and about the new Welsh Language Commission. There are creative, community elements to the Centre’s work that cannot be measured and supported by the post-16 sector’s method alone. It would be reasonable not to make any further structural change to the Welsh for Adults learning sector until the Centre will have had more opportunity to do its work and when, say, we have 3 years of reliable data in order to measure its impact.” – National Centre for Learning Welsh.

FE Sector

- Coleg Cymraeg Cenedlaethol – To establish an effective working relationship with the Commission and the Coleg, the Commission needs to have specific responsibilities in the context of Welsh medium education and training – there should be more details about the proposed commission in terms of Welsh language, its relationship with the Coleg and the Commission for Post-Compulsory Education and Training. “we trust that the new Commission will highlight, at all levels, an awareness of the direction of linguistic policy in Wales and the Commission’s important contribution towards realising this policy direction.”

HE Sector

- Support for proposed governance arrangements of TERCW – this is appropriate to support a joined-up PCET sector.
- Importance of sufficient higher education representation in RIW committee, an area of concern with the current proposals.
- Commission to be an arms-length body with an adaptive role. Universities Wales believed that the proposals are too prescriptive as they stand, therefore not providing for this arms-length approach.
- Strong endorsement of the findings of the Reid Review (supported by Cardiff University, Chairs of Universities Wales)

- Develop an overarching vision for Research and Innovation Wales and align with the wider research eco-system
- Streamline reporting requirements
- Focussing on protecting the interests of learners and learner voice is welcomed.
- Build on the existing strengths of quality arrangements within HE
- Wide support for the direction of travel proposed in the current document.
- Medical director NHS Wales – important to strengthen the strategic co-ordination of HSSG and innovation funding with Welsh Government funding overall. – establish a relationship with RIW as soon as it is created. Link the Commission appropriately with member of UKRI.
- Support the ambition for rationalising funding mechanisms and contracting arrangements to gain the best value for Wales (HEFCW), HEFCW also had a number of reservations about the proposals.
- There is less of an emphasis in the consultation on the significant challenges and opportunities around innovation – but this is crucial to economic and social progress. “opportunity has to be better aligning research and innovation” (Innovation Advisory Council for Wales)
- Open University currently has arrangements in place with funding councils to meet regulatory and reporting requirements – they would like this to continue under the auspices of the new Commission.
- Universities Wales support the aim of proposals to improve oversight of the sector, but several issues need to be addressed- therefore proposals are not ready to proceed to legislative drafting. Also stated that “there is too much detail on areas which should be left to the Commission to decide and yet insufficient detail on important legislative areas such as how the proposed Regulation and Outcome Agreements would operate”.
- Benefits- potential for the PCET sector to be responsive to skills needs, opportunity to secure the implementation of the Diamond and Reid Reviews. “At this stage we need the Welsh Government to deliver meaningful stakeholder involvement on official groups that will look at and develop draft legislation to deliver these proposals in an effective, successful way. We believe the core purpose of these proposals needs to be revisited and the proposals amended in response to this core purpose.”
- UWTSD- support measures to simplify and harmonise FE and HE processes.
- One individual with significant experience in the sector, noted that monitoring has long been a problem. The proposed TERCW “is a great way of indicating any underlying elements by practicing a more inclusive range of indicators. Having looked at the PCET across Europe I know what works for 1 need not work for another. I also realised that the statistics can be evasive, but any narrative

needs to reflect the misdirection. Lastly good practice can be shared but bad practice has to be eradicated.”

- One Local Government indicated that the provision offered should be; accessible to all, inclusive and encouraging, offer flexibility, ensure progression pathways, hold equal status between academic and vocational subjects and include careers guidance.
- NASUWT holds “concerns that the proposed scope and powers of the Commission have gone far beyond what is required, and that many other duties have been incorporated into the role of the Commission unnecessarily.” Also maintained the view that FEI’s should return to Local Authority control. Concerns are raised by the Union that the commission represents the creation of a quango which would have a complete lack of democratic accountability. The proposals seems at odds with reforms taking place in the school sector. There is a lack of vision for the Commission, something that the Welsh Government should retain the responsibility for and its harmonisation with the education sector. This lack of vision has caused confusion and complications of the proposals. Also noted concern over the lack of engagement with the school sector throughout the consultation process. “stakeholder focus groups held by Miller Research UK have omitted to invite the workforce unions to all but one of the seminars and again failed to properly engage with school sixth forms.” Also raised concerns about a disproportionate emphasis on learner voice; they should participate meaningfully in decisions that affect their lives. The Union also questioned whether there can be a mixed economy of provision when some local authorities have abnegated the choice of pursuing PCET in a school sixth form. NASUWT found that insufficient time was provided to respond adequately to the consultation, this “casts grave doubt on the credibility of the consultation itself.” The Union asserted that the legislation for the Commission cannot be rushed, there must be full and careful consideration of all impacts and unintended consequences.
- ASCL Cymru – “There is a real danger here that we will end up with yet another middle-tier organisation, run at significant expense, creating more work of school leaders at a time when they are already accountable to an ever-increasing number of other organisations.” Also recognised the large amount of change and current crisis in recruitment and retention in the teaching profession – therefore ASCL cannot support due to potential redundancies and a disincentive for teachers to work in Wales. Donaldson’s review indicated the significant importance of sixth forms to the whole school. The post- 16 funding mechanism is not suitable for school sixth forms. Clear opposition to an additional layer of bureaucracy “We would therefore urge the Welsh Government to reconsider its proposals”.
- UNISON Cymru – workers’ protection and trade unions must be fully engaged in the process. The imbalance of funding between

FE and HE needs to be corrected so that they are well resourced to prepare for the future reskilling agenda.

- The Education Workforce Council raised concerns “that this second consultation repeats errors we pointed out in our response to the first consultation, in that, there is a failure to grasp the full picture of regulation in the PCET sector.” (these comments are listed)
- Estyn supported the overarching intention for a consistent approach in the post-16 sector. Yet also recommended a closer consideration of how proposals may detract from current quality assurance arrangements and support the development of the new curriculum.

Third Sector

- Chwarae Teg outlined key messages;
 - “Gender equality should be mainstreamed throughout the structures and activities of the Commission.” i.e. within a gender balanced Commission
 - Equality impact assessment to inform the design of the new Commission, including a critical analysis through a gender lens taking into account the different ways that men and women engage in post compulsory education
 - Measures to be put in place to ensure that both the Commission and providers are engaging in activity to advance equality

WBL

- NTfW – fully supported the creation of a body to provide oversight to the PCET sector, yet “there is still much detail to work through if the new body is fully able to undertake its functions effectively.”

Welsh Language

- Welsh Language Commission suggested a meeting to discuss the next steps

Employers and businesses

- FSB Wales believed that this is a positive step towards broader integration – “This could be a benefit to the Welsh economy and businesses, as well as learners, if it allows for more joint working, and a greater focus of funding and strategy in areas of best return for the Welsh economy.” Also adds a number of issues/ recommendations.
- Jenkins and Davies Engineering – stated that after the introduction of the Apprenticeship Levy their overall contribution has risen, yet the support from the ECITB has reduced. The respondent claimed that they “would love to see Wales taking a bold step for apprenticeships”, this could take the form of; guaranteeing each school leaver not going to further education an apprenticeship, the Welsh Assembly paying a minimum wage to apprentices and to have regional centres managing the link between apprentices, standards, schools, the employers and the government. “Now, wouldn’t this be something.”
- FISSS – This will impact the supply side but there is limited discussion on how the demand side can be stimulated, employers

need to fundamentally change the way they view and value the people they employ. Also recognised that the aim of achieving outcome targets and setting the policy delivery might be in conflict with supporting innovation and meeting learner and employer needs. Also identified that “the PCET strategic plan might benefit from being a more explicit part of the wider Welsh economic plan.” – vital that outcome agreements reflect sectoral skills needs. – “the Federation and our members would be happy to help the Welsh Government / Commission in defining these.”

20. Annex 1: Organisations responding the consultation

20.1 The following organisations submitted a response to the consultation:

- Aberystwyth University
- ACT Training
- Adult Learning Wales
- Association of School and College Leaders (ASCL Cymru)
- Bridgend County Borough Council
- British Academy
- Carmarthenshire 11-18 headteachers
- Cardiff and Vale College
- Cardiff University
- Catholic Education Service
- Ceredigion County Council
- Chair of Universities Wales' Pro Vice-Chancellor Research Network
- Chairs of Universities Wales
- Chwarae Teg
- City and County of Cardiff
- Cogent Skills
- Coleg Cambria
- Coleg Cymraeg Cenedlaethol
- Coleg Gwent
- Coleg Y Cymoedd
- ColegauCymru
- Construction Industry Training Board (CITB Wales)
- Conwy County Council
- Cymdeithas Ysgolion Dros Addysg Gymraeg (CYDAG)
- Denbighshire County Council
- Deputy for Education – Carmarthenshire County Council
- Educ8 Group
- Education Achievement Service
- Education Workforce Council
- Engineering construction Industry Training Board (ECITB)
- Estyn
- Federation for Industry Skills and Standards (FISSS)
- Federation Small Business Wales (FSB)
- Gower College Swansea
- Grwp Llandrillo Menai
- Gwynedd and Anglesey 16 plus education consortium
- Higher Education Funding Council for Wales (HEFCW)
- Innovation Advisory Council for Wales
- Instructus
- Jenkins and Davies Engineering
- JISC
- Learned Society of Wales

- Learning and Work Institute Cymru
- National Association of Head Teachers (NAHT)
- National Centre for Learning Welsh
- National Training federation for Wales (NTfW)
- National Union of Students Wales (NUS Wales)
- Neath Port Talbot College Group (NPTC Group of Colleges)
- Newport City Council
- North Wales Regional 14-19 Group
- Open University in Wales
- Pembrokeshire College
- Pembrokeshire County Council
- Qualifications Wales
- Royal College of Nursing Wales
- Skills and Health for Justice
- Social Care Wales
- St Brigid's School
- Swansea University
- The National Association of Schoolmasters Union of Women Teachers (NASUWT)
- The National Education Union Cymru (NEU Cymru)
- The Quality Assurance Agency for Higher Education (QAA)
- TSW Training Ltd
- Undeb Cenedlaethol Athrawon Cymru (UCAC Cymru)
- UNISON
- Universities Wales
- University and College Union (UCU)
- University of South Wales
- University of Wales Trinity St David (UWTSD)
- Vocational Skills Partnership
- Voice the Union
- Welsh Language Commissioner
- Welsh Local Government Association (WLGA)
- Ysgol David Hughes
- Ysgol Dyffryn Conwy
- Ysgol Glan Clwyd
- Ysgol Gyfun Gwynllyw
- Ysgol Gyfun Gymraeg Plasmawr