

Background

The Tertiary Education and Research (Wales) Act 2022 ('the TER Act'), provided for the establishment of a new Commission for Tertiary Education and Research ('the Commission').

The Commission will be the regulatory body responsible for the funding, oversight and regulation of tertiary education and research in Wales. Tertiary education encompasses post-16 education, including further and higher education, adult community learning and work-based education, apprenticeships, and local authority-maintained school sixth forms. Schedule 1 of the TER Act sets out the requirements for the Commission's board, among other things. Board membership is to include associate workforce members and associate learner members as advisory board members. Advisory board members have an important role in improving the achievement of democratic input into the Commission's decision-making and governance in a social partnership arrangement. Schedule 1 to the TER Act also sets out the process for the appointment of associate members to represent the tertiary education workforce and learners.

Before such appointments can be made, the Welsh Ministers are required to publish lists of one or more trade unions (for the purpose of appointing associate workforce members) or learner representation bodies (for the purpose of appointing the associate learner member(s)) and those listed trade unions/learner representation bodies will be able to nominate eligible candidates to be considered for appointment as associate members of the Commission's board. These lists will be subject to regular review.

The Welsh Government recently consulted on the proposed lists of trade unions and learner representation bodies who may nominate persons to be considered for appointment. The consultation was live between 21 June and 29 September 2023 and attracted 21 responses, mainly from institutions and organisations and these were predominantly based in Wales.

The consultation sought views on whether or not the lists of trade unions and bodies were accurate, sufficiently comprehensive or in need of amendment.

Respondents were invited to review the consultation document and supporting information online and respond to each of the questions via e-mail, postal questionnaire or an online form.

Structure of the consultation

The consultation contained 6 questions that covered different aspects of the proposed lists of trade unions and learner representation bodies, and an open question for stakeholders to raise any other related matters. Included was a specific question that sought stakeholder views on whether the trade unions listed were the right ones, a question on the learner representation body named, a question on learner representation, and also questions on the impact on equal opportunities following the

Board appointments, and the Welsh language. Two questions sought agreement, disagreement or neither. The remainder were open questions.

About the analysis

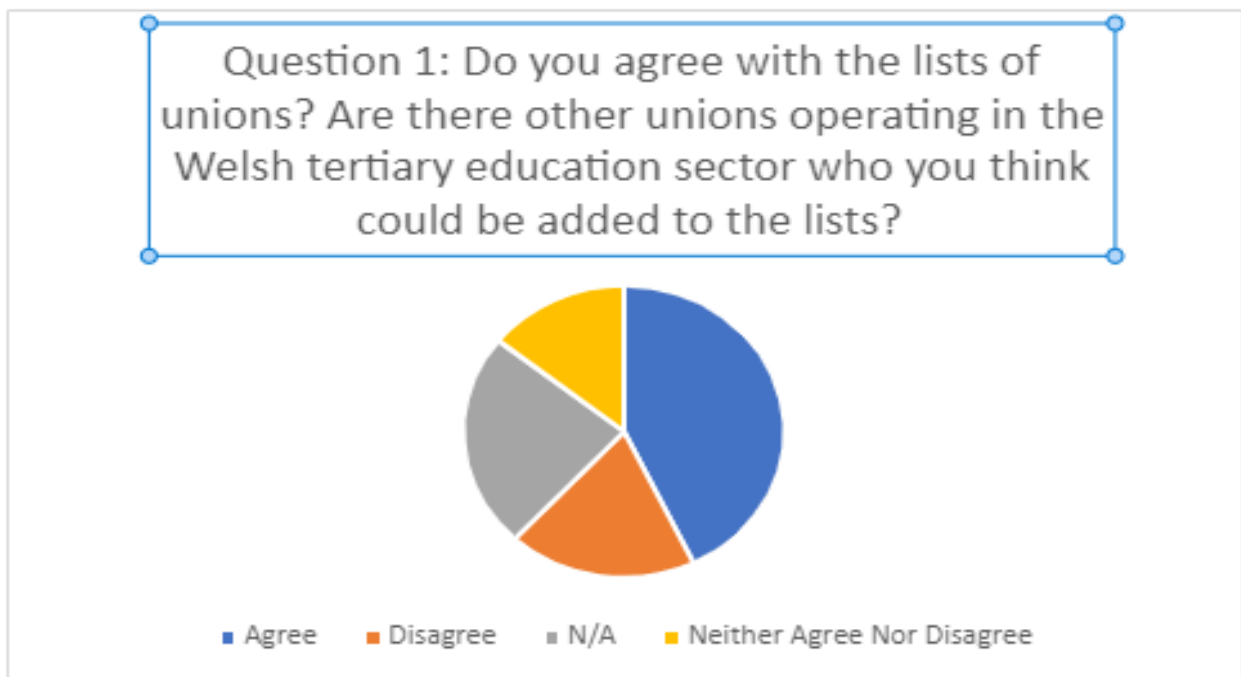
For analysis purposes, all responses were securely saved. Where agreement was indicated, respondents' details were logged along with the details from the consultation response.

The comments received covered a range of themes, not all of which were within the scope of this consultation. Several suggestions and comments were related to the Commission's future approach to learner engagement, and these will be passed to the Commission in an anonymised format for their information and consideration.

This document is intended to be a summary of the responses received. It does not aim to capture every point raised by respondents but highlights the key themes. A summary of the major themes and headlines from the responses is contained in this document and has helped shape the policy.

Question 1:

Do you agree with the lists of unions? Are there other unions operating in the Welsh tertiary education sector who you think could be added to the lists?



Lists of trade unions

- The term *Business and Professional Support Staff* should be used as a descriptor in place of 'non-academic staff' to better reflect the nature of this group.
- The point was made that for Professional and Business Support Staff - UNISON, GMB and Unite are currently the only *recognised* trade unions. However, other unions and organisations thought they should be added to the lists eligible to nominate candidates for consideration for the role(s).
- Some respondents felt that only those trade unions recognised for bargaining purposes, that is: those which consult with their members and can effect change in the workplace through negotiations and discussions with employers within the sector should be on the list, rather than those that simply 'represent' within it.
- Including a descriptor for some unions, but not all, was not the best approach in the view of some respondents. All the trade unions should be treated the same in this respect within the final list. It was also felt that these descriptors could become out of date more quickly than the lists themselves.

Number of Associate Members

- Very few of the unions span significant areas within the sector, with none representing Post Compulsory Education, Training and research as a whole. Several respondents felt the Commission should ensure cross-sector representation and proposed additional associate member representation in all three categories, with one respondent asking for the inclusion of a Welsh speaker for the learner representative. .

Question 2:

Do you agree with the learner representation body named? Are there other learner representation bodies operating in the Welsh tertiary education sector who you think could be added to the list to represent learners?

Q2: Do you agree with the learner representation body named ? Are there other learner representation bodies operating in the Welsh tertiary education sector who you think could be added to the list to represent learners?



■ Agree ■ Disagree ■ Neither Agree Nor Disagree ■ N/A

- The majority of respondents agreed that the National Union of Students (NUS) is the most appropriate learner representation body, as it represents the interests of Higher Education students, and some further education learners and apprentices across Wales.
- Most respondents acknowledged that there is no alternative recognised learner voice body representing Sixth Form students and adult learners.
- Respondents suggested that because of this the Commission would need to use other methods of engagement to ensure the adequate representation of adult learners and sixth form students.
- A number of other learner representation bodies were proposed to expand representation and these included the Royal College of Nursing (RCN), the Open University Students Association (OUSA), the Wales TUC, the Coleg Cymraeg Cenedlaethol and the Centre for Learning Welsh.

Question 3:

How could the Commission best hear and represent the views and voices of the learner?

Suggestions for improving the representation of the learner voice included:

- The Commission needs to establish a culture of championing the learner voice early in its implementation phase, and thereafter into its governance.
- The Commission should give opportunities to learners to present to the Board on matters of interest, and prior to any decisions that would directly affect certain demographics of learners.

- Whilst many areas of the sector have their own internal learner representatives, several felt it would be challenging for a single organisation to represent the voices of all post-16 learners (without additional funding), as many tertiary learners are not within the scope of NUS Wales.
- It is important to ensure 'non-traditional' students are represented. There were suggestions that The National Society of Apprentices, Wales TUC, Adult Learning Wales and the Royal College of Nursing could represent their respective areas.
- One respondent highlighted they have a specific forum for education that covers issues relating to the students in that profession, enabling them to provide insight into the first-hand experiences of these individuals and a wealth of knowledge relating specifically to those learners.
- Alternative provider(s) would like to know how their voice and the voice of their learners will be heard on the Board.
- Several respondents felt that the introduction of a Learner Voice Forum, (currently being trialed by HEFCW) or another similar mechanism, would enable the Commission to hear the voices of students and learners not covered by NUS Wales or any other recognised body. Learner representation should also extend to other committees and include periodic focus groups of learners from across the sector that may be under-represented.
- Accessing the experiences of learners within colleges by consulting their ambassadors, Student Governors and academic representatives was proposed
- Several respondents noted that as a result of a small number of student/learner representatives, it will not be possible for the representative(s) to have lived experiences of individuals from all minority groups; and therefore suggested the Commission rely in addition on other mechanisms, such as a Learner Voice Forum, to ensure representation from students, learners and apprentices across Wales from a variety of backgrounds.

Learner Engagement Code

- Respondents encouraged the consultation around the development of the learner engagement code to include questions about the Commission itself, as well as the role of providers.
- Research on the effectiveness of the Learner Engagement Code should be undertaken.

Opportunities/Mechanisms to participate.

- A few respondents suggested that the Commission should consult with stakeholders and learners to identify the most effective processes to use to engage with learners. Similarly, research should be undertaken into the most effective materials/ways to ensure that students and their representatives are able to engage effectively.
- The Commission should work closely with Coleg Cymraeg Cenedlaethol to ensure the voices of learners studying through the medium of Welsh are heard.

Research by the Commission into learners' views and experiences

- A programme of primary research, commissioned by the Commission on learner experiences relating to the Commission's strategic duties should be considered.
- The Commission could hear the voices of the learner through developing a national annual learner voice survey. This could potentially be developed from the current student satisfaction survey administered within higher education.
- The Commission should identify best practice in how students, learners, Students' Unions, and institutions have worked together at a strategic level to deliver positive change, and to consider how this can shape the governance structures of the Commission.
- The Commission should engage on an annual programme of direct engagement with learners and their representatives within the Commission's remit.
- Invite annual submissions from provider "representative bodies" on the extent to which students are confident that the provider is meeting its obligations under the Commission's wider regulatory framework.

Question 4:

We would like to know your views on the effects that including the appointments of associate members on the Board who represent education workforce and learners, would have on equality of opportunity. What effects do you think there would be on the equality of opportunity? How could positive effects be increased, or negative effects be mitigated?

- One respondent mentioned that by including associate member representation, with nominations sought from trade unions with a democratic mandate to collectively represent the sector's workforce, equality of opportunity is advanced.

Suggestions for improvement included:

- Some respondents suggested that the Commission use additional forums, such as the Learner Voice Forum, to ensure representation from students, learners and apprentices across Wales from a variety of backgrounds.
- It was suggested that, to avoid receiving engagement only from students from more affluent backgrounds and create barriers in participation members of forums should be remunerated for their participation/time.
- Consideration should be given to the protected characteristics as set out in the Equalities Act 2010 when selecting workforce and learner representees to ensure that board members are from diverse backgrounds.
- A number of respondents suggested that the Commission should appoint more associate members to provide a fuller representation of those with protected characteristics.
- To recognise the need for the Commission to provide further support to those who might be younger, or come from diverse and under-represented

backgrounds, so they feel comfortable and empowered to give their views at meetings.

Question 5:

We would like to know your views on the effects that including the appointments of associate members on the Board who represent education workforce and learners, would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

Respondents suggested that positive effects could be increased by:

- Accessing translation services in all meetings.
- Regular engagement and consultation with providers in the sector.
- Appointing staff and learner representatives who represents the Welsh language and work or study through the medium of Welsh.
- Appointing an associate member that represents the Welsh language and the healthcare system.

Question 6:

Please also explain how you believe the proposed policy on including the appointments of associate members on the Board who represent the wider tertiary education workforce and learners could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language.

One respondent suggested that the trade unions listed represent workers in English and Welsh medium settings, so their members' experiences span the full spectrum of workplaces in relation to Welsh language use and policy.

Suggestions for further opportunities included from the following:

- Ensure that there is Welsh speaking representation on the Board.
- Appoint a minimum number to the Board that represents the Welsh-medium sector, or at least is familiar with the requirements of that sector and understands the challenges.
- Hold the Board's discussions through the medium of Welsh.

Conclusion

We received 21 responses to the consultation, from the Tertiary Education sector in Wales. We have carefully considered all responses, and they have informed the revised

list of Trade Unions and recognised bodies. However, we also recognise that the representation by associate members on the Board will not in itself be sufficient to capture the views of learners within such a diverse sector. The suggestions for improving this representation by supplementary means will be passed to the Commission for their consideration.

Work on the Learner Engagement Code is continuing, and comments received from this consultation will be provided to the Commission for their consideration.

Amendments to the lists

The following changes to the lists of eligible Trade Unions and recognised bodies have been made:

Non- Academic workforce list

Supplement the existing list by including:

- Royal College of Nursing (RCN)

Learner Representation Body lists:

Supplement the existing list by including:

- Open University Students Association (OUSA),
- RCN,
- National Society of Apprentices

in addition to the NUS Wales.

Remove Community from the Professional and Business Support Staff list.

Annex 1 - Associate Member Lists

Lists

Lists of Trade Unions

These are recognised trade unions in the tertiary education sector for the groups of workers identified.

Academic tertiary education workforce

- Association of School and College Leaders (ASCL)
- Community
- National Association of Headteachers (NAHT) Cymru
- National Association of Schoolmasters and Union of Women Teacher (NASUWT).
- National Education Union (NEU) Cymru
- Undeb Cenedlaethol Athrawon (UCAC) Cymru
- University and College Union (UCU) Wales

Business and Professional Support Staff tertiary education workforce

- GMB
- Unite
- UNISON
- Royal College of Nursing (RCN)

List of Learner representation bodies

Learner representation bodies

- National Union of Students (NUS) Wales
- Open University Students Association
- National Society of Apprentices
- Royal College of Nursing (RCN)