



Llywodraeth Cymru
Welsh Government

POLICY AND STRATEGY, DOCUMENT

Tertiary education reform: background information

Background information on the tertiary education reform.

First published: 19 July 2023

Last updated: 25 January 2024

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/tertiary-education-reform-background-information-html> for the latest version.

Get [information on copyright](#).

Contents

Background

Oversight of the commission

Strategic duties

Regulatory duties

Quality assurance

Learner voice

Funding allocation

Sixth form organisation

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/tertiary-education-reform-background-information-html> for the latest version.

Get [information on copyright](#).

Background

The **Tertiary Education and Research (Wales) Act 2022** (“the Act”) sets out a new vision for the future of post-16 education and creates a new national steward for post-16 education to expand lifelong learning, focus on learner welfare, and supports our colleges and universities. The Act provides for the establishment of a new **Commission for Tertiary Education and Research** (“the Commission”) which will be the regulatory body responsible for the funding, oversight and regulation of tertiary education and research in Wales and dissolves Higher Education Funding Council for Wales (HEFCW).

The establishment of the Commission brings together responsibility for overseeing Wales’s higher and further education, school sixth forms, apprenticeships, and research and innovation in one place.

The intention is for implementation to progress on the basis of the Commission being operational in August 2024 which will coincide with the closure of HEFCW. Whilst the Commission will become operational in 2024, it was established in September 2023. The **Chair and Deputy Chair** of the Commission’s board, **key board members** and **the CEO** have already been appointed.

Oversight of the commission

The Commission will have a Board and an Executive and will consist of a maximum of 17 members comprising a Chair, Deputy Chair, (who is also Chair of the Research and Innovation Committee), the Chief Executive and up to 14 additional members.

The Board’s membership will be based upon skills and experience across the

full range of the Commission's proposed functions. The recruitment process will draw out the essential and desirable criteria necessary to ensure that the Board as a whole has the right mix. Members will be drawn from industry, employers, trade unions, post-16 education, adult learning, apprenticeships, the third sector, research and innovation.

The Act provides for a minimum of two workforce representatives on the Board, although this is not a limit, and more than two workforce representatives can be appointed by the Welsh Ministers.

The inclusion of associate members, drawn from learners, staff member trade unions and the wider tertiary education workforce trade unions, will enable those most affected by the establishment of the Commission to have an opportunity to influence and advise its Board.

Seven board members were appointed for the establishment of the Commission in September 2023 following an open public appointments exercise. The appointments were carried out in accordance with the Governance Code on Public Appointments.

The Commission will ultimately be accountable to the Welsh Ministers for most of its functions. The Commission's relationship with the Welsh Government will be managed through partnership arrangements, with a team established within the Welsh Government to provide support. This partnership team will be the main contact point between the Commission and the Welsh Government.

Strategic duties

The Act sets out eleven strategic duties under which the Commission is required to exercise its functions, which are intended to frame the strategic direction and focus of the Commission and support the delivery of its functions, providing

clarity as to its purpose and overarching remit. These are:

- promoting life-long learning
- promoting equality of opportunity
- encouraging participation in tertiary education
- promoting continuous improvement in tertiary education
- promotion of research and innovation
- promoting collaboration and coherence in tertiary education and research
- contributing to a sustainable and innovative economy
- promoting tertiary education through the medium of Welsh
- promoting a civic mission
- promoting a global outlook
- promoting collaboration between providers of tertiary education and trade unions

These duties, in conjunction with the Welsh Ministers' statement of priorities, will outline the core matters the Commission must consider and take into account when exercising its functions.

The statement of priorities is intended to set the long-term overarching policy direction for tertiary education and research and innovation in Wales. It is anticipated this will usually be based on a five-year programme of government reflecting the Welsh Government's move to term of government business planning; although the first statement might be expected to be more transitional in nature and therefore be subject to review at an earlier stage.

Following the publication of the statement of priorities, the Commission will have a period to produce a strategic plan, following consultation with stakeholders, which will set out how it will deliver on these priorities and discharge its strategic duties. The Commission must take all reasonable steps to implement the strategic plan.

The statement of priorities is expected to be published shortly after the Commission has been established.

Regulatory duties

There are 2 regulatory oversight mechanisms provided for by the Act:

- terms and conditions of funding
- conditions of registration

Taken together these two mechanisms will ensure the Commission has the necessary powers to oversee tertiary education providers that it funds and those whose courses are designated for Welsh Government student support.

The Act requires the Commission to establish and maintain a register of tertiary education providers. In the first instance the register will be the legal mechanism by which the Commission applies regulatory oversight to providers of higher education who will need to register with the Commission to ensure that their relevant HE courses are automatically designated for Welsh Government student support.

The Commission will specify the requirements that must be met for it to be satisfied as to the provider's arrangements for the initial conditions of registration and is also under a duty to monitor registered providers' compliance with ongoing registration conditions. The Commission will also publish guidance for registered providers about ongoing registration conditions.

The Commission will be able to undertake interventions relating to providers' compliance with ongoing registration conditions ranging from supportive interventions such as giving advice and assistance and undertaking reviews, to imposing specific registration conditions, issuing directions and if necessary de-

registering a provider.

The intention is for providers of further education and training and apprenticeships to be primarily regulated through the terms and conditions attached to grant or contract funding received from the Commission. Amendments were made to the Act during scrutiny to help ensure parity between the arrangements for registered and non-registered providers. The Act requires the Commission, when determining the terms and conditions to be imposed in relation to financial resources relating to further education or training, apprenticeships, or courses of HE specified in regulations, to non-registered providers to consider whether to impose terms and conditions which relate to many of the conditions of registration applicable to registered providers.

Quality assurance

The Commission will have a duty to monitor and promote improvement in the quality of tertiary education in registered and/or funded providers. It will have the power to develop and publish guidance and information on criteria and processes for the assessment of quality, the roles and responsibilities of assessors and providers, and professional development of the workforce.

Estyn will retain a duty to inspect further education and training. It will prepare an annual plan setting out the estimated expenditure necessary to carry out inspections. The Commission will provide funding for the exercise of Estyn's post 16 functions.

The Commission will be responsible for ensuring that quality assessments are conducted on each registered higher education provider.

Learner voice

The Commission will prepare, consult upon, and publish a Learner Engagement Code. This Code is intended to ensure learners' interests are represented, that learners have the opportunity to give their views to providers about the quality of education they receive, and to participate in the making of decisions by those providers. Providers, and those funded by the Commission, (as well as local authority maintained school sixth forms) will be required to comply with the Learner Engagement Code. The Commission must monitor compliance with this code.

This means learners can be involved in all decisions relating to their courses which are provided by learning institutions who provide higher or further tertiary education and apprenticeships. This includes courses provided by sixth forms of maintained schools in Wales.

In addition, the Commission's Board will have associate members representing learners and the education workforce enabling learners to have a genuine opportunity to influence and advise the Board.

By introducing the Learner Engagement Code, by including learner representation on the Commission itself, and by strengthening partnership and collaboration arrangements across all tertiary education and training providers, there will be a holistic, sustainable and coherent approach which places the needs and well-being of learners at its centre.

The Commission, working with Welsh Ministers and other agencies, will also be able to influence the provision of consistent, impartial, and timely careers information, advice and guidance to support learner transition and inform career pathways.

Funding allocation

It will be a matter for the Commission to decide funding allocations. The Commission will need to take account of its duties to secure proper and reasonable facilities for further education and training. It will also need to have regard to the achievement of objectives in its approved strategic plan and comply with any terms and conditions the Welsh Ministers attach to their funding to the Commission.

The Commission must consult on, and subsequently publish a statement of its policy on how it intends to exercise its funding powers, having regard to the principle that decisions about funding should be made in a transparent way.

There are a number of decisions that will need to be made about the finance and funding system that the Commission will operate when it is established. The Welsh Government is currently considering the potential options and will discuss the preferred approach with stakeholders in due course.

The new duty to secure proper facilities for specified further education and training for adults will establish a more robust legal requirement to fund adult learning. The aim of the new duty is initially to ensure that adult learning is protected and prioritised on a more equitable basis with further education for young people, to ensure the sustainability of the provision, and in the longer term to provide a basis for expanding access to adult learning.

The policy development for the secondary legislation that sets out the scope of the duty is still ongoing. The regulations themselves will be published alongside a formal consultation.

Sixth form organisation

Local authorities will continue to bring forward their own school reorganisation proposals in line with the requirements set out in the School Standards and Organisation (Wales) Act 2013 and the statutory Code for School Organisation. This has not changed and neither has the duty on Welsh Ministers to consult on the terms of the Code.

The Commission has a role in supporting the organisation of school sixth form provision and a power, in certain limited circumstances, to direct local authorities to prepare plans for sixth form reorganisation, subject to approval by Welsh Ministers. The Commission's role in bringing forward proposals is limited and will be subject to formal consultation on the Code.

The Commission will be required to form a local curriculum offer and be involved in the planning and monitoring of post 16 provision across further education and training including school sixth forms.

The post 16 reforms aim to build on and support the broader principles and key purposes of Curriculum for Wales and support the integrity of the wider school system. The Commission will also have a role in providing a seamless and well-informed approach to transition and career pathways for learners entering post 16 education and training.

As with the reforms to the school curriculum, the sector will be supported to help learners grow as engaged and enterprising citizens, contributing to national and individual prosperity and well-being.

This document may not be fully accessible.

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/tertiary-education-reform-background-information-html> for the latest version.
Get [information on copyright](#).

For more information refer to our [accessibility statement](#).

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/tertiary-education-reform-background-information-html> for the latest version.

Get [information on copyright](#).