



Welsh Government - Draft Tertiary Education and Research (Wales) Bill

Council of Deans of Health Wales written response – December 2020

Cyngor Deoniaid Iechyd Cymru/The Council of Deans of Health Wales welcomes the opportunity to contribute to this consultation. The Council of Deans of Health represents over 90 UK university faculties engaged in education and research for nursing, midwifery and the allied health professions. Our response relates to this part of the higher education sector. Our eight member institutions in Wales work together with policy makers to help shape the education and research of the future healthcare workforce in Wales.

Key messages

1. Healthcare higher education is regulated by both professional healthcare regulators and higher education regulators. Regulation should be outcome-focused and risk-based. We are concerned that the new Commission for Tertiary Education and Research (the Commission) increases the potential for unnecessary duplicative burden for the healthcare higher education sector in Wales.
2. Intelligence-led regulation is key to reducing regulatory burden. We recommend that the Commission deploys a data-driven approach to understanding risk and informing its regulatory interventions.
3. The Commission should be required to work collaboratively with education providers to enable flexibility and innovation in education, increase student choice, and enhance career pathways.
4. Effective partnership working with key stakeholders, regulators and statutory bodies will better enable the Commission to deliver effective regulation. The remit of the Commission in relation to Health Education and Improvement Wales (HEIW) and UK-wide healthcare regulators is not directly addressed by the Draft Bill and will need to be resolved prior to the Commission's establishment.
5. Healthcare higher education is expensive and resource intensive. For some healthcare disciplines the current commissioned price is inadequate, particularly for high cost programmes in the allied health professions, making delivery unattractive to education providers. The Commission should work with partners such as HEIW to develop a more sustainable funding model for healthcare programmes which considers the true cost of delivery. Universities need clarity about future funding arrangements to plan provision and investment. Only a stable and sufficient funding position will allow universities to create additional student places to meet workforce need.

6. The Council does not support the introduction of Outcome Agreements in Wales. We are concerned that any Outcome Agreement would be based solely on quantitative metrics and not consider relevant contextual factors.
7. The current NHS Wales Bursary has been confirmed for cohorts of healthcare students starting in 2021/22 and 2022/23. The Council supports the continuation of bursary arrangements in Wales.
8. The Welsh Government needs to provide more information about the role and remit of the Commission's Research and Innovation Wales Committee. Once established, the Commission should ensure that its strategic focus and investment priorities include healthcare research.
9. The Welsh Government needs to make a strategic decision about the delivery of degree-level healthcare apprenticeships in Wales. Apprenticeships can serve to complement workforce growth and create more flexible career pathways. However, university-based programmes are the fastest and most effective way to develop the workforce at scale and pace. Investment in priority workforce areas should ordinarily be channelled through university-based education.
10. If degree-level healthcare apprenticeships were to be introduced in Wales, they must be implemented considering the learning from England. This has highlighted difficulties with the implementation and delivery of apprenticeships, including insufficient funding for both educators and providers, overburdensome and duplicative regulation, and small cohort numbers.
11. Whilst the Commission is intended to be independent of the Welsh Government, the Welsh Government must set out measures to ensure that the Commission will be truly independent from Welsh Ministers to provide more assurance to the higher education sector.

Response

Civic Mission

1. Do you agree the approach taken to civic mission in the Draft Bill will be useful to the Commission in discharging its functions?

We note that civic mission is defined as 'action for the purpose of promoting or improving the economic, social, environmental or cultural wellbeing of Wales.'¹ We are broadly supportive of this definition. We also note that in 2019/20 civic mission was further defined in relation to the following four themes: leading place; links with schools; active citizenship; and social enterprise and innovation.² We do not believe the notion of civic mission should necessarily be benchmarked against these four indicators.

¹ The Welsh Government, 2020, [*Draft Tertiary Education and Research \(Wales\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes*](#), p62.

² Ibid., p62

The healthcare higher education sector is committed to the collective civic mission of improving the health and wellbeing of all communities in Wales through educating the future healthcare workforce. It is rooted in local and regional areas and focused on improving health outcomes and driving up economic and social wellbeing in line with Welsh Government plans for health and social care.³

HEIs delivering healthcare programmes already have strong links with local further education colleges (FECs) and schools, which have been developed to ensure widening participation and progression into higher education. Registered professionals, current students, and lay individuals are also involved in the co-design and development of healthcare programmes, in line with healthcare professional regulation.

The needs of the learner

Learner Protection

2. The Commission will need to determine the format and contents of Learner Protection Plans in consultation with stakeholders (Section 114(6) and (7)), including how the plans are to be communicated to learners and prospective learners. Do you agree with this approach?

The needs of learners are central to universities. Any final decision on Learner Protection Plans should include consultation and engagement with the higher education sector, including on the details of these plans.

The Welsh Government should provide more information about the future relationship between the Commission and the Office of the Independent Adjudicator (OIA). We would welcome engagement between the Welsh Government, the Commission and healthcare professional regulators to ensure any developments in this area meet UK-wide healthcare regulation.

Learner Engagement Code (Section 117)

3. The Commission's aim will be to ensure that the interests of learners are represented, and every learner has the opportunity to participate and give their views. Are you confident that the Learner Engagement Code is likely to be inclusive of all learners, and sufficiently representative of the whole of the Post-16 sector?

The remit of the Commission is broad and covers a range of provider types and education levels and pathways. This is likely to impact on levels and forms of learner engagement. Any Learner Engagement Code that seeks to amplify learner voice and engagement should therefore be principles-based.

We note plans to enable 'easier transfer and progression across the whole tertiary education sector.'⁴ However, universities are autonomous institutions. Entry requirements and admissions must be decisions for individual institutions. This is particularly important for healthcare programmes due to healthcare

³ The Welsh Government, 2018, [A Healthier Wales: our Plan for Health and Social Care](#)

⁴ The Welsh Government, 2020, *Draft Tertiary Education and Research (Wales) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes*, p21.

professional regulators' rules regarding recognition of prior learning (RPL) and the need for values-based recruitment in health and social care.

Learners, registered professionals and lay individuals are also already engaged via the co-design of healthcare programmes which is ensured via healthcare professional regulators' approval processes.

Information, Advice and Guidance

4. The Draft Bill (Section 93) allows the Commission to fund information, advice or guidance for learners in Wales. Are there further considerations that should be taken into account to ensure that all learners receive advice or guidance to support learner pathways, transition and progression to enable them to make a contribution to, and succeed, in a fair and inclusive society and a thriving economy?

We welcome the suggestion that the Commission will be able to fund 'information, advice and guidance to people on learning opportunities and related issues.'⁵ Consideration needs to be given to which bodies (the Commission, HEIW, the Welsh Government or other stakeholders) have responsibility in providing information about healthcare careers and recruitment campaigns for healthcare programmes. Sustained, high-profile national recruitment campaigns that demonstrate the importance of healthcare careers and the diverse career options available in Wales are required.

School sixth form reorganisation proposals

5. Do you agree that the School Standards and Organisation code is the most appropriate vehicle for setting out the systems and processes and do you have any views on what those triggers should be?

N/A.

Strengthening collaboration

6. Part 3 of the Draft Bill provides functions to fund mainstream school sixth forms, further education, higher education, apprenticeships and adult learning and research and innovation related to educational providers. Do you think there are any further funding or other functions that will enable greater collaboration across the tertiary education sector?

The Commission should be required to work collaboratively with education providers to enable flexibility and innovation in education and training, increase student choice, and enhance career pathways. Effective partnership working with key stakeholders, regulators and statutory bodies will better enable the Commission to deliver effective regulations. For example, universities should be involved via extensive engagement in the development of the proposed Strategic Plan for Tertiary Education and Research.

The Welsh Government should provide more information on the remit of the Commission in relation to HEIW and UK-wide healthcare regulators. This is not directly addressed by the Draft Bill and will need to be resolved prior to the Commission's establishment.

⁵ Ibid., p46

Welsh Language/Welsh-medium

7. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?
8. Please also explain if you believe the provision included in the Draft Bill to establish the Commission could be formulated or changed so as to have increased positive effects on opportunities for people to use the Welsh language.
9. What are your views on the duties to be placed on the Commission in relation to Welsh-medium tertiary education?

We welcome the fact that the Commission will be subject to Welsh language standards as outlined in the Welsh Language (Wales) Measure 2011 and that it will have a duty to encourage the provision of and participation in tertiary education via the medium of Welsh. This is likely to have a positive impact on the opportunities for people to use the Welsh language.

The healthcare higher education sector is committed to educating healthcare professionals who can deliver services in the medium of the Welsh language for populations who require this, as outlined in *A Healthier Wales*.

The Welsh Government should provide more information on how the Commission would work with Coleg Cymraeg Cenedlaethol and additional funding (Welsh-medium premiums) to ensure that the sector can deliver on the ambitions of *Cymraeg 2050*.

Registration

10. Do the proposals for Access and Opportunity Plans (Sections 32-41) go far enough in ensuring that the Commission has the powers to drive transformative change in widening access and opportunity in higher education?

The Council supports widening participation and access into healthcare careers. Higher education is aspirational and central to social mobility. Universities are proud of their record in widening access and participation in healthcare higher education by providing programmes that are attractive to a broad demographic, including mature students and those from low participation backgrounds. Any final decision on Access and Opportunity Plans should include consultation and engagement with the higher education sector, including on the details of these plans.

11. Will the proposed powers for the Commission to monitor, review, and ensure compliance with registration requirements (Sections 22-26) provide sufficient flexibility for it to regulate proportionately and appropriately?

Registered providers will be subject to 'ongoing regulatory requirements.'⁶ The Welsh Government needs to provide more information on what these requirements will be.

⁶ Ibid., p16.

Quality

12. The Draft Bill (Sections 42-60) proposes a more aligned and coordinated approach to quality and inspection across tertiary education. Do the proposed arrangements find the right balance between building upon the current arrangements in higher education, further education and training and maintained school sixth forms and working towards a more aligned and coordinated approach across the tertiary education sector?

We note that the Commission will have the 'power to produce and publish a quality assurance framework.'⁷ The quality of healthcare higher education in Wales is extremely high and already robustly assured via a range of healthcare professional and higher education regulators and professional bodies. This includes the Nursing and Midwifery Council (NMC), the Health and Care Professions Council (HCPC), healthcare professional bodies, and the Quality Assurance Agency (QAA). Individual HEIs also provide quality assurance via internal university regulations. The business as usual option⁸ does not consider this in relation to this part of the sector.

Intelligence-led regulation is key to reducing regulatory burden and ensuring increased student voice. We recommend that the Commission deploys a data-driven approach to understanding risk and informing its regulatory interventions. Existing healthcare regulation by the NMC and HCPC, which is UK-wide, must take precedence over the Commission, as these regulators control entry to the professional register. Future Commission regulation must be proportionate and must not conflict with healthcare professional regulation or lead to unnecessary and duplicative regulatory burden.

The Welsh Government needs to provide more information on the role and remit of the Commission's Quality Committee⁹ and the Commission's relationship with HEIW, which commissions healthcare education in Wales.

We welcome the proposal that higher education provision will in general not be subject to Estyn inspections, but are concerned that further education provision in higher education institutions could be. This should be the sole responsibility of the Commission.

Research and Innovation

13. Should the Commission's functions in relation to research and innovation (Sections 95-97) be broadened beyond just registered tertiary education providers?

We support the Commission's 'duty to promote the carrying out of research and innovation in Wales' and its 'duty to promote the results of research and innovation carried out in Wales to ensure it reaches a wide audience in Wales and beyond.'¹⁰

⁷ Ibid., p31.

⁸ Ibid., p125

⁹ Ibid., p13.

¹⁰ Ibid., p48.

The Welsh Government needs to provide more information on the role and remit of the Commission's Research and Innovation Wales Committee¹¹ and the Commission's powers to 'impose terms and conditions.'¹² Further information is required on whether the Commission will lead on the Research Excellence Framework (REF) in Wales and its relationship to key healthcare funding bodies in Wales such as Health and Care Research Wales.

Once established, the Commission should ensure that its strategic focus and investment priorities include healthcare research. There are too few funded schemes for nurses, midwives and allied health professionals interested in pursuing a clinical academic research or academic research career in Wales. Equitable access to research infrastructure for healthcare professionals across the UK is important and requires targeted measures to build research capacity and skills in underrepresented geographical areas and disciplines. This ranges from student research placements and internships to doctoral and post-doctoral awards as well as support for transition points.

Apprenticeships

14. The Commission will be responsible for apprenticeship frameworks (Sections 104-107) and the Welsh Ministers will be responsible for the preparation and issuing of core requirements in the Welsh Apprenticeship Specification (WAS) (Sections 101-103). Do you agree with this balance of powers?

We believe that this balance of powers will cause confusion about which body is responsible for apprenticeships in Wales. This is an unnecessary division of powers.

15. Does the Draft Bill (Part 4) provide adequate strategic drivers to develop and maintain the integrity of apprenticeships in Wales, ensuring they meet industry requirements?

The Welsh Government needs to make a strategic decision about the delivery of degree-level healthcare apprenticeships in Wales. Currently, there are no higher-level healthcare apprenticeships in Wales.

New roles and routes into the healthcare professions have the potential to help reduce current workforce pressure, add to the skills mix in the sector, and create more flexible career pathways. However, the experience from England has highlighted difficulties with the implementation and delivery of apprenticeships. This includes insufficient funding for both educators and providers, overburdensome and duplicative regulation, and small cohort numbers. University-based programmes are the fastest and most effective way to develop the workforce at scale and pace. Investment in priority workforce areas should ordinarily be channelled through university-based education.

If the Welsh Government decides to introduce degree-level healthcare apprenticeships, it is important that the funding and regulation are specified. This includes commissioning, contracting, training requirements and competencies. Support must be given to education providers and employers to introduce new routes. We welcome proposals to consult on apprenticeship occupational sectors.

¹¹ Ibid., p13.

¹² Ibid., p47.

Healthcare apprenticeships must be developed in full alignment with healthcare professional regulation. Only education providers regulated by healthcare professional regulators should be allowed to deliver and assess these programmes. Additionally, assessment mechanisms must be integrated within programmes.

There needs to be close collaboration between universities, employers, the Commission, the Welsh Government, HEIW, healthcare professional regulators, the Wales Advisory Apprenticeship Board, and Regional Skills Partnerships.

To better enable the portability of apprenticeship qualifications across the UK, we recommend that the Welsh Government renames apprenticeship frameworks as ‘apprenticeship standards’, as has happened in England.

The Draft Bill outlines the definition of a ‘Welsh apprenticeship’ and arrangements where an employer may change the terms of an apprenticeship so that the apprentice is no longer on an approved apprenticeship. We strongly recommend that there should be no non-approved degree level Welsh apprenticeships in healthcare. We do not believe this is something that would be permitted by healthcare professional regulators, who also have a role in approving healthcare apprenticeship programmes in other parts of the UK.

The needs of the economy and employers

16. The Commission has a duty to have regard to “the reasonable requirements of industry, commerce, finance, the professions and other employers regarding tertiary education and research and innovation” (Section 2(1)(b)). In your opinion, does this duty go far enough and do you think it will have a meaningful impact based on its current formulation?

Our learners have high levels of employment following graduation as their skills, knowledge and behaviours directly meet the skills gaps in local employers and enable the healthcare system to deliver on the health and wellbeing needs of the Welsh population. Our members already have strong partnerships with NHS local health boards; private, independent and voluntary organisations (PIVOs), and other employers. This was most recently highlighted via the positive impact of healthcare students opting into support service during the response to the first wave of Covid-19 in Wales.

We do not believe that regulation of healthcare educator providers via the Commission will provide further assurance to employers. This is because healthcare programmes are already regulated by a range of regulatory bodies.

Funding

A focus on outcomes

17. The Draft Bill (section 79) provides for an approach to funding based on Outcome Agreements. This will allow the Commission, through its funding decisions and negotiations with funded bodies, to contribute to the achievement of the Welsh Ministers’ strategic priorities for tertiary education and research. Please see the Explanatory Memorandum for details of the policy intention underpinning

outcome agreements (paragraphs 3.56 –3.58 and 3.145 – 3.147 refer). Does this approach strike the right balance between strategic funding priorities and the needs of individual learning providers?

Healthcare higher education is expensive and resource intensive. For some healthcare disciplines the current commissioned price is inadequate, particularly for high cost programmes in the allied health professions, making delivery unattractive to education providers. The Commission should work with partners such as HEIW to develop a more sustainable funding model which considers the true cost of delivery.

In England, the Office for Students (OfS) subsidises high-cost education. Subsidies for healthcare programmes were informed by a Higher Education Funding Council for England (HEFCE) commissioned costing study of nursing, midwifery and the allied health profession education in England¹³, which examined the cost of delivery for these subjects. Wales has not undertaken a piece of work like this but should commit to covering the full cost of healthcare education.

Universities need clarity about future funding arrangements to plan provision and investment. Only a stable and sufficient funding position will allow universities to create additional student places to meet workforce need.

Expansion of the healthcare workforce requires capital investment in higher education and a commitment to increased recurrent expenditure to support domestic supply. Capital investment should include: funding to support digital infrastructure and to develop digital content; funding for buildings and facilities; funding for equipment; initiatives to expand the teaching faculty; and funding for evaluation, centralised resources and sharing good practice.

We would like to see an expansion of education provision in Wales. For example, the commissioning process in Wales does not currently support four-year Masters programmes, yet several providers in England do run four-year Masters programmes, including in nursing, occupational therapy and diagnostic radiography. Increased provision of postgraduate pre-registration education, which recruits those who already have an undergraduate degree and demonstrate the ability to undertake postgraduate level study, is an additional way to develop the healthcare workforce in Wales. The Council would recommend developing a mixed economy of provision, including more postgraduate options, that would cater to service need and applicant demographics.

The Council does not support the introduction of Outcome Agreements in Wales. The Welsh Government should provide more information on its plans for Outcome Agreements, particularly in relation to healthcare higher education, where the graduate population so clearly meet the needs of Welsh society and the economy.

We are concerned that any Outcome Agreement would be based solely on quantitative metrics. If Outcome Agreements were to be introduced, they should consider qualitative and contextual information, including type and size of the provider, its applicant background, local circumstances and work already

¹³ KPMG, 2017, [Costing study of pre-registration nursing, midwifery and allied health disciplines](#)

undertaken to meet any targets. The Council would also recommend that an inclusive equality measurement is deployed if Outcome Agreements are adopted.

The current NHS Wales Bursary has been confirmed for cohorts starting in 2021/22 and 2022/23. The Council supports the continuation of bursary arrangements in Wales. Further information is needed about the fee limit that the Commission would set and any implications for international students.

Regulatory Impact Assessment

18. The financial implications of the Draft Bill are set out in Part 2 of the Draft Explanatory Memorandum. Please consider whether you think our costings need to take account of anything else?
19. We would like you to consider the possible costs and benefits to specific bodies, institutions, organisations or individuals as a result of the Draft Bill. Please provide any comments or evidence here:

The cost of compliance and the regulatory burden to universities and potentially local health boards, considering healthcare higher education, are not yet known. Regulation must be proportionate to reduce costs. For healthcare programmes, any regulatory interventions must have regard to UK-wide healthcare professional regulators.

New Normal

20. Do you think the pandemic causes particular issues for anything we propose in the Draft Bill?

The Commission is not due to be established until 2023. At the time of writing the duration of the pandemic and its implications for the creation of this new body in 2023 are unknown.

PCET Reform

21. The Bill is a legislative vehicle to create a new body; the Commission for Tertiary Education and Research. Are there any additional levers that can be used to establish the cultural change needed to deliver the aims of the PCET reform agenda?

N/A.

22. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The Commission is intended to be independent of the Welsh Government. However, the Commission's relationship with the Welsh Government will be determined within 'a strategic planning and funding framework established by Welsh Ministers.'¹⁴ Welsh Ministers will direct the Commission via a Statement which they can revise 'at any time'¹⁵ and 'may attach terms and conditions to their funding to the

¹⁴ The Welsh Government, 2020, *Draft Tertiary Education and Research (Wales) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes*, p11

¹⁵ *Ibid.*, p10

Commission'.¹⁶ It will also be directly accountable to Welsh Ministers, but not the Senedd. The Welsh Government must therefore set out measures to ensure that the Commission will be truly independent from Welsh Ministers to provide more assurance to the higher education sector.

Regarding the proposed governance model of the Commission, we are concerned that the board does not have a reserved place for universities. We note that it is intended that there will be 'a minimum of two tertiary education workforce representatives, one to represent the academic workforce, and one to present the non-academic workforce' on the board. However, these individuals will be 'associate members'.¹⁷ We have additional concerns about the appointment process of board members and associate members, which will be determined by Welsh Ministers.

Finally, the Welsh Government should provide more information about the factors that could lead to the Commission de-registering an institution.

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¹⁶ Ibid., p39

¹⁷ Ibid., p26