

Cyflwynwyd yr ymateb hwn i ymchwiliad y [Pwyllgor Plant, Pobl Ifanc ac Addysg](#) i egwyddorion cyffredinol y [Bil Addysg Drydyddol ac Ymchwil \(Cymru\)](#)

This response was submitted to the [Children, Young People and Education Committee](#) inquiry into the general principles of the [Tertiary Education and Research \(Wales\) Bill](#)

TER 23

Ymateb gan: Undeb Prifysgolion a Cholegau

Response from: University and College Union

The University and College Union (UCU Wales) represents almost 7,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians, and postgraduates in universities, colleges, adult education and training organisations across Wales.

UCU Wales welcomes the opportunity to offer evidence to the Committee.

Policy Headlines

- The Commission must support life-long learning. Funding must support a flexible offer across coherent pathways. Addressing damage which will likely continue well into the summer of 2023, the Commission will need to facilitate the movement of learners from employment or business into different stages of tertiary education.
- It is essential that the bill supports the scaffolding for collaboration. After all collaboration across different areas in the sector will promote the necessary flexibility and mobility for genuine lifelong learning. Funding must thus serve the purposes of collaboration and not competition.
- Acknowledging the need for agility, success can only be delivered through a settled strategy which delivers conditions of certainty. Not only will this incentivise collaboration with business but also provide the Commission with room to embed.
- The bill makes express reference to collaboration but is silent on social partnership. Whether at the point of strategy or high-level planning, social partnership provides the best context in which to respond to rapid and sudden change. Similarly, UCU Wales Welsh Higher Education Executive have

expressed a strong feeling that democratic governance should be a condition of registration.

- Quality assurance must support collaborative quality enhancement. Heavy handed external inspection will shut down the space for professional innovation. The delivery of new qualifications and partnerships necessitates highly motivated and professionally curious educators. Similarly, the delivery of excellent R & D in higher education requires a strong right of individual academic freedom.
- We would like the Commission to regulate in the Welsh national interest. Similarly, the effectiveness of institutional governance must be measured by its benefit to staff & learners and contribution to the Welsh public good

Suggested Areas for Amendment

Section 1 – Social Partnership and Fair Work

Social partnership and fair work constitute a core Welsh Government method /objective which predate both the TER and Social Partnership & Procurement Bill. Consequently, whilst acknowledging the desirability of consolidating legal duties in a single act, the Bill should be aligned to include social partnership as overarching principles.

It should be noted that academic and academic-related staff must be free to criticise and publish without fear for their jobs. Academic freedom, therefore, is dependent upon proper employment conditions for higher and further education staff. Security of employment in the profession constitutes one of the major procedural safeguards of academic freedom and against arbitrary decisions by managements and funders.

UCU Wales supports a vision of a more equitable Wales which also acts as a centre of research excellence. To promote this objective, the commission must work to ensure that institutions develop conditions of employment commensurate to attracting the best expertise whilst nurturing home grown talent

Part 1, S2 (d)

(d) is organised coherently to facilitate movement of learners through different stages of tertiary education and into employment or business;

Lifelong learning and economic development will need the Commission to coherently facilitate movement of learners from employment or business into different stages of tertiary education.

Part 1, S4 (b)

b) encourage employers in Wales to participate in the provision of tertiary education

Whilst UCU Wales welcomes employers' collaboration in terms of planning and development, this requires further clarification. As a point of departure, the since bill operates to fund courses which deliver accredited outcomes/qualifications, this should be made implicit in the clause.

Part 1, S11 (2)

(2) The Welsh Ministers may at any time amend the statement published under subsection (1) (including by replacing it entirely).

The new Commission cannot plan effectively if strategic priorities are subject to sudden or major change. Cross sector collaboration with key stakeholders (particularly business) requires certainty and flexibility. The conditions under which such changes might occur must be more clearly expressed.

Part 1 S13 (2)

(3) The Welsh Ministers must consult the Commission before they modify its plan under 25 subsection (2)(b)

As argued, if the Minister amends the strategy without recourse to consultation, this not only provides conditions of uncertainty but potentially bypasses social partnership.

Part 1 S.15

15 Academic freedom of providers of higher education (1) In exercising their functions under this Act, the Welsh Ministers and the Commission must have regard to the importance of protecting the academic freedom of tertiary education providers in Wales that provide higher education (so far as the freedom relates to higher education). 20 (2) In this section, "academic freedom" includes (among other things) the freedom of tertiary education providers— (a) to determine the contents of particular higher education courses and the manner in which they are taught, supervised or assessed, (b) to determine the criteria for admission of students to higher education courses and to apply those criteria in particular cases, and (c) to determine the criteria for the selection and appointment of academic staff and to apply those criteria in particular cases.

16 Freedom of speech of academic staff at providers of higher education In exercising their functions under this Act, the Welsh Ministers and the Commission must have regard to the importance of protecting the freedom within the law of academic staff at tertiary education providers in Wales that provide higher education— (a) to question and test received wisdom, and (b) to put forward new ideas and controversial or

unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at the tertiary education providers.

Citing potential economic damage if the Welsh Government do not include an individual right to academic freedom, UCU Wales recommends that the bill adopt the Irish Republic [definition](#) (Universities Act, 1997);

“A member of the academic staff of a university shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the university, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favorable treatment by the university, for the exercise of that freedom.”

Whilst the drafters have adopted the formulation, they have done so in the form of a weaker right to freedom of speech. UK government has consistently confused the boundaries between freedom of speech and academic freedom meaning that the former now exists in a vexed context. Moreover, the right to academic freedom entails a far more extensive set of accompanying responsibilities. UCU Wales believes that, since what the Bill describes is in fact an individual right to academic freedom, it should be defined as such. This will avoid the possibility of controversy and complications down the line.

UCU believes that an individual right to academic freedom is essential to developing a sustainable Welsh research base - particularly in the area of blue skies projects. We also note that the decision to express this right as ‘freedom of speech’ departs from the approach taken by some of our closest neighbors (Scotland & Ireland).

Part 2 S.25 (b)

(b) the effectiveness of the governance and management of the applicant tertiary education provider (including its financial management)

The UCU Wales Welsh Higher Education Executive has expressed serious concerns about university governance. Over the past 15 years, they have seen various failures which only come to light long after it is too late. They then carry the can in terms of redundancies and other detriments. There is a strong feeling that democratic governance should be a condition of registration. It is also difficult to align [‘Commitment to Action’](#) with the direction of the proposed Social Partnership & Procurement or arrangements adopted by devolved neighbors (such as the requirements for elected trade union and staff representation in the [2016 Scottish HE Act](#)).

We accept that many of the practices (casualization, excessive workload, de-skilling/professional erosion, non-coherence and cooperation) have their origins in a model of funding and corporate outlook which favours competition over

collaboration. Chaired by Grahame Reid, [Strength in Diversity](#) sets out how Welsh universities can collaborate, build on existing research excellence in Wales, and make Welsh research and innovation more visible across the UK and internationally. In doing so, Welsh universities can be well-placed to collaborate with partners including public authorities in the delivery of regional investment approaches. The report implicitly makes the point that Wales is too small to entertain models which foster excellence through competition by suggesting that institutions need to pool resources ahead of R&D applications. Moreover, the focus on equity within the current Program of Government and '[Shaping Wales' Future](#)' discounts a process which is built around winners and losers.

If the Commission to regulate in the Welsh national interest, the effectiveness of institutional governance must be measured by its benefit to staff & learners and contribution to the Welsh public good.

Part 2 S.52 to S.67

Whereas university quality assurance is effectively covered off in 3 sections, colleges, sixth forms, WBL & adult education commands 11. This evidences a substantial imbalance which might find the regulatory requirements for sixth form (by far the smallest element) driving arrangement for the rest of the sector.

UCU Wales believes that we need to find a better synergy which supports professional autonomy whilst creating the space for collaborative professional learning (as occurs in Finland, Singapore and other education superpowers). Noting that arrangements for HE are covered elsewhere, UCU feels that the inclusion of 'quality enhancement' as a principle on the face of the bill would go some way towards framing a policy objective.