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Public Good and a Prosperous Wales – the next steps

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

Overview	Notes from the thematic workshops in relation 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. Introduction

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 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.
- 1.3 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.
- 1.4 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 outputs from these sessions are detailed in the following sections of this report.
- 1.5 Details of all the written responses are set out in the main report and should be read in conjunction with this report.

2. HE Governance: The legislative framework for HECs in Wales: the amendment of governing documents

8th June 2018 (am)

- 2.1 The following organisations were represented at the workshop:
- Wrexham Glyndŵr University
 - University of South Wales
 - HEFCW
 - Universities Wales
 - UCU
- 2.2 The views of Chairs of Universities Wales have also been incorporated within these notes following a one-to-one session with them.

Question 1: 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?

- 2.3 There was general agreement that amendments to HEIs' governing documents considered to be in the public interest should continue to be subject to the oversight and approval of the Privy Council. The group considered that the Privy Council perform a valuable role and has extensive experience in higher education matters and as such it would be wise to retain this oversight at the present time. There appeared to be a general feeling amongst attendees that the current system "isn't broken" and should be kept for now.
- 2.4 Stakeholders felt that any changes in Wales should not go as far as the reforms in England under HERA 2017 which, amongst other things, have removed the requirement for Privy Council approval of amendments to governing documents. Under the reforms introduced by HERA 2017, HEIs in England are now able to amend their own governing documents as long as they remain a charity.
- 2.5 Stakeholders expressed a need for caution in making significant changes to the current arrangements at this point in time. It was felt that if major changes were made now, HEIs may miss them amongst the wider PCET reforms being proposed. The group were of the view that a more sensible approach would be to retain current arrangements as far as possible and only make minor changes where these were considered necessary.
- 2.6 It was felt that changes to the Privy Council role could be made in the future if this was considered necessary and that if any such changes were made, this should be done in defined piece of legislation for this purpose. Stakeholders were of the view that, ideally, this would not be done for at least 3 years as this would enable proper discussion and consideration to take place.

Question 2: Do you consider the proposed extension of the 2006 reallocation approach for the amendment of HEIs' governing documents to be appropriate? If not, why?

- 2.7 Discussions highlighted a need for clarity in respect of the proposed operation and purpose of the 2006 reallocation approach.
- 2.8 In respect of the proposed extension of the 2006 approach, the following key themes emerged from discussion:
- Some stakeholders were concerned that the extension of this approach could potentially be used to impose additional control on the governance arrangements of Welsh HEIs and impact on the autonomy of institutions. These stakeholders were of the view that the Law Commission proposals (which advocated an extension of this approach) were not intended to dictate governance arrangements but to provide clarity and consistency across all types of HEIs and to provide a means to simplify procedures for the amendment of governing documents.
 - Concerns were expressed that reallocation of provisions in line with the 2006 approach could be time consuming and create a significant amount of work for institutions. In response to this concern, the Welsh Government noted that the 2006 approach was voluntary for institutions and that the intention was not to change this. It was also noted that the purpose of the reallocation approach was to allow provisions that were outside of the public interest list and currently in a university's instrument and articles of government or charter and statutes to be moved to lower level governing documents. This was so that any future amendment to these provisions would be simplified and would not need to be referred to the Privy Council for approval.
 - Clarity was sought on whether the extension of the 2006 approach referred to the extension in the list of public interest matters that would be subject to Privy Council oversight and approval or an extension of the approach to all types of HEIs. The Welsh Government noted that the contents of the 2006 guidance and public interest list largely reflected the arrangements for chartered universities. The intention behind the proposals set out in the technical consultation is to extend this process so that it operates effectively and reflects the arrangements of all HEIs regardless of their constitutional underpinning. Furthermore, it was noted that the intention behind proposals to review the existing public interest list were geared towards ensuring that the matters contained in the public interest list remained up to date and appropriate in light of other proposed changes to the legislative framework for HECs. It is proposed that the review and possible revision of the list will be undertaken by the Commission in consultation with stakeholders.

- Stakeholders felt that the spectrum of proposed guidance could be broad, and that there needed to be clarity on its purpose and coverage.
- The group considered that the current public interest list was reasonable and reiterated their concerns about how changes might be implemented.
- The group were of the view that there should be greater consistency in terms of the governance and regulatory arrangements between HE and FE given the whole PCET remit of the Commission. It was felt that the proposals for HE governance could not be looked at in isolation and that a consistent approach (such as similar public interest principles) could also be considered for FE institutions. It was agreed that this issue would be fed back to the PCET Project team.

Question 3: 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?

- 2.9 HEC representatives noted that Schedule 7/7A of ERA 1988 is the provision that constrains higher education corporations from having flexibility to amend their instrument of government and update their governance arrangements. The Schedules place statutory requirements in relation to the instrument of government of HECs in Wales. In particular, the Schedules prescribe requirements concerning the membership of the governing body, the number of members and the appointment of members to the governing body [Post meeting note: under the existing legislative framework, the Welsh Ministers are able to amend or repeal Paragraphs 3-5 and 11 (Membership, Numbers, Appointments and Interpretation) of Schedule 7A by order. This can be done without changes to extant primary legislation]. It was also noted that even if Schedule 7/7A was repealed for Welsh HECs, there would still be a need to gain the approval of the Privy Council for changes to the instrument and articles of government.
- 2.10 Some attendees expressed the need for caution. It was felt that clarity is needed in terms of the vision, strategy, roles and responsibility of the Commission and the wider PCET sector before these types of changes can be fully considered. There was a general feeling amongst attendees that the operation of the new Commission needs to be right first and that these types of issues could be reviewed later. It was also felt that institutions needed time to consider the impact of the new Commission without also having to make governance changes. It was argued that time was needed to enable proper consultation around these issues.
- 2.11 Concerns were raised about the removal of Schedule 7/7A before the detail of the Commission's regulatory and assurance arrangements were known. Stakeholders felt that it may be unwise to make these

changes now as they could have unintended consequences on stakeholders. Instead, consideration of other options such as the previously discussed 2006 approach may be preferable. Should the provisions of Schedule 7/7A be repealed, the group were strongly of the view that robust arrangements would need to be put in place that allowed the Commission to assure institutional governance arrangements in the absence of the statutory prescriptions. This is necessary to protect the interests of students, staff and other stakeholders and to preserve the good reputation of Welsh HE. The need for consistency with FE was again raised and in particular the need for all providers to be subject to similar regulatory arrangements and assurance principles.

Question 4: Do you agree with the Commission's proposed role in relation to the consideration of amendments to HEIs' governing documents?

- 2.12 There was general agreement that the Commission should be part of the process for considering amendments to HEIs' governing documents as this would align with its wider governance assurance functions. However, this view was caveated with the issues raised in earlier discussions.
- 2.13 It was felt that oversight by the Commission should be from the start of the process as this would allow advice to be provided and aid understanding of proposed amendments. It would also help to speed up the later stages of the amendment process.
- 2.14 It was suggested that the proposed procedure should include an early informal stage where the institution is required to consult with staff and student stakeholders. It was noted that under HEFCW's current processes, there is an expectation placed on institutions to do this. It was agreed that these views would be fed back to the PCET project teams considering the assurance functions of the Commission.
- 2.15 Whilst the group were in general agreement that the Commission should play a more significant role in the process for amending governing documents, this was not considered an immediate priority. Instead there was a feeling that this should be considered once the Commission had been established.

Question 5: To support the proposed approach, do you agree that:

(a) The Welsh Government should issue guidance on the procedure for amending governing documents?

- 2.16 There was general agreement that there would be value in the Welsh Government issuing guidance on the process for amending governing documents for HEIs as this does not currently exist. It was felt that work on this guidance could start now and doesn't need to wait until the Commission was established.

(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?

- 2.17 There was general agreement to this proposal in principle. If it is taken forward, the group felt that the Commission would need to review the public interest list to ensure that it remained current, appropriate and that it reflected arrangements at all types of institutions. However, there was a strong view that any review of the 2006 public interest matters could not happen in isolation and that there is a need to define the scope and policy context for such a review. Stakeholders commented that it could be complex to identify what matters are considered to be in public interest in the wider Welsh policy context. It was felt that this would require a great deal of work to determine and define in the proposed guidance.
- 2.18 It was felt that that changes which help to reduce bureaucracy were generally positive.
- 2.19 As noted above, attendees felt there needed to be greater consistency between FE and HE given the whole PCET remit of the Commission and a similar list of public interest matters could also be considered for FEIs. However, in relation to the potential extension to FE, it was noted that the 2006 public interest list sets out those matters considered to be in the public interest which should be retained in a HEI's instrument and articles of government or charter and statutes and therefore continue to be subject to Privy Council oversight and approval. Under the existing legislative framework for FEIs, changes to their governing documents do not require approval by the Privy Council and as such the 2006 public interest list would not apply in the same way as it does to HEIs.

(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?

- 2.20 Whilst the group did not disagree with this proposal in principle, attendees noted the need to ensure that guidance issued by the Welsh Government to the Commission and guidance issued by the Commission to providers align. As an alternative approach it was suggested that any significant guidance could be conveyed to the Commission through the remit letter rather than formal guidance.

Question 6: Do you consider that the proposed approach would safeguard the public interest in the governance arrangements of HEIs in Wales?

- 2.21 As noted above, the group expressed concern about removing existing statutory prescriptions placed on HECs without fuller details of the Commission's assurance arrangements that would replace them.

3. HE Governance: The legislative framework for HECs in Wales: the Welsh Ministers' powers to dissolve a HEC in Wales

8th June 2018 (pm)

- 3.1 The following organisations were represented at the workshop:
- Wrexham Glyndŵr University
 - University of South Wales
 - HEFCW
 - Universities Wales
 - Colegau Cymru
 - Grŵp Llandrillo Menai
- 3.2 The views of Chairs of Universities Wales and UCU have also been incorporated within these notes following a one-to-one session with them.

Question 1: Which option do you consider to be the most appropriate and why? Are there other options that should be considered?

- 3.3 The group welcomed the opportunity to discuss options in respect of the Welsh Ministers' powers to dissolve a HEC in Wales. Attendees felt it was important to either remove or address the current lack of limitations associated with the exercise of these powers. Amongst attendees, there appeared to more widespread support for Option 3 (the "HERA 2017" model) although some saw Option 2 (the FE Model) as the preferred approach. One stakeholder saw Option 4 (setting conditions for the exercise of powers) as the preferred long-term option with conditions to be set by the Commission once it has been established. The main points from the discussion on options are summarised below:
- 3.4 A number of attendees felt that the current Welsh Ministers' powers to dissolve a HEC in Wales without the consent of the institution should be removed in a similar way that had been done in England under HERA 2017. It was argued that this would provide consistency with arrangements across the UK and with chartered institutions that are not subject to these or equivalent provisions. Concerns were expressed about the retention of powers as they only apply to three institutions in Wales.
- 3.5 Stakeholders supporting Option 3 felt that there was a need to explore further the reasons for retaining powers to dissolve institutions without consent. Whilst these attendees recognised the need for a sanction of last resort and for the Commission to be able to intervene, they felt that this would be better achieved through the use of other regulatory sanctions that applied to all institutions rather than through dissolution

powers that only apply to a small number of institutions in Wales. Reference was made to HEFCW's existing regulatory powers such as the ability to withhold funding or withdraw an institution's Fee and Access Plan. It was noted that dissolution powers (without consent) had never been used in Wales or, to the knowledge of the group, in England. As such, attendees supporting Option 3 questioned whether they were needed.

- 3.6 Some attendees felt that there were other established mechanisms that could effectively deal with institutional failure or mismanagement. These included the existing insolvency procedures and regulation by the Charity Commission. However, other attendees argued that these types of arrangements may not deal with all potential types of failures or provide adequate protection and best serve the interests of wider stakeholders such as students and staff. It was also felt that these arrangements could lead to tensions between actions that are considered right for the institution itself and those that are considered to be in the best interests of stakeholders. It was argued that this could also lead to the governing body taking action that is not in the long-term interest of the institution, for example seeking to "borrow" themselves out of financial trouble.
- 3.7 Concerns were expressed that ambiguity in the provisions around dissolution could mean that they are exercised for political or strategic reasons.
- 3.8 It was felt that the Commission should have sufficient powers of intervention across all PCET providers. Such powers could include a range of measures that could be applied as appropriate depending on the circumstances of any potential failure. It was thought that this could include dissolution or an equally powerful sanction of last resort. Discussion highlighted the significant impact that the withdrawal or withholding of funding would have on institutions as an example of a sanction of last resort. Attendees felt that there was a need to define what was meant by "last resort".
- 3.9 Concern was also expressed about the risk of ONS reclassification for HEIs should dissolution powers be retained. It was argued that whilst the changes made under the Further and Higher Education (Governance and Information) (Wales) Act 2014 ('the 2014 Act') had resolved the situation for FEIs, there was no guarantee that the introduction of similar provisions for HECs would have the same effect and reduce the risk of reclassification.
- 3.10 Stakeholders supporting Option 2 were of the view that this model would provide greater consistency and coherence across PCET providers by establishing similar arrangements for both FECs and HECs. This could be desirable given the whole PCET remit of the Commission. It would also address the current lack of qualification in respect of the exercise of dissolution powers. It was argued, however, that whilst there would be greater consistency between FE and HE, there would still not be full parity with chartered institutions under this option.

- 3.11 It was felt by some attendees that the FE model established under the 2014 Act (whereby the Welsh Ministers can direct an institution to resolve to dissolve itself) would be helpful in cases of merger, but there was a need to consider the role of the Commission and how this model would interact with its wider intervention functions in terms of the circumstances under which powers might be exercised. It was noted that under the current arrangements for FE, section 57 of the FHEA 1992 sets out the conditions under which the Welsh Ministers may intervene in the conduct of an FEI. The way in which the Welsh Ministers may intervene range from softer interventions to more significant sanctions including the power to direct an FEI to resolve to dissolve itself. The FEI must comply with any such direction. The operation of these intervention powers are set out in the FE Statement of Intervention published by the Welsh Government in 2017.
- 3.12 In respect of Option 4, it was noted that the suggested approach whereby the Commission sets the conditions for the exercise of dissolution powers once it has been established would mean that these conditions would not be prescribed in legislation but rather would be set on a non-statutory basis. Furthermore, it was noted that under this type of approach, consideration may need to be given to amending ERA 1988 to ensure that Commission has appropriate power to set and enforce such conditions.
- 3.13 Stakeholders preferring Option 4 also indicated that Option 3 could be supported but that this would be heavily caveated on the Commission being provided with appropriate regulatory functions and robust powers of intervention that would allow it to address serious institutional mismanagement or governance failures. They felt that if there were clear powers for the Commission to intervene in the event of failures, they would be less concerned about the amendments to the current legislative framework which remove the Welsh Ministers powers to instigate the dissolution of a HEC. However, as the regulatory framework, assurance functions and powers of intervention for the Commission have not yet been set out, they expressed caution about taking forward Option 3.
- 3.14 It was felt by some stakeholders that retaining dissolution powers would provide a means to take action when the interests of learners are compromised and when there is a need to protect public funding and the wider public interest. Others questioned whether the dissolution of an institution did anything to protect public funding. It was argued that action should be focussed on ensuring that institutions have strong governance arrangements in place and addressing identified issues rather than dissolving institutions.
- 3.15 The potential for future structural mergers in Wales was raised during discussions. In these circumstances it was felt that there is often a conflict between what is considered to be in the best interest of students and the individual institution. Those expressing this view felt that Welsh Ministers powers needed to be retained in some form to

be able to facilitate such structural mergers where it was in the best interest of students and the Welsh HE sector.

- 3.16 It was argued that if the Commission's assurance and regulatory functions are right, there should not be a need for dissolution powers.
- 3.17 Some stakeholders were of the view that, regardless of the option taken forward, all PCET sectors should be subject to similar regulatory arrangements and that there should not be different provisions and approaches for different sectors. It was also necessary to codify and define what constitutes serious institutional mismanagement or governance failures.
- 3.18 Concerns were expressed about a number of perceived governance failures that had occurred in the HE sector in recent years and the significant impact that these failures have had on staff and students. It was felt that the ability for staff members to advise governors and institutions is often overlooked and to address this position, the Welsh Government needs to think seriously about the role of staff on governing bodies and committees and ways to ensure there is appropriate staff representation.
- 3.19 The need to ensure that arrangements take into account the potential for new providers was noted as these could be the most vulnerable of all.
- 3.20 The group stressed the need to preserve institutional autonomy regardless of the option taken forward. Some stakeholders argued that retaining powers for the Welsh Ministers to dissolve a HEC without consent would jeopardise the autonomy of these institutions.
- 3.21 Attendees raised the potential risks of making changes such as this at the same time as taking forward wider PCET reforms. It was felt that issues that need to be addressed might more appropriately be done outside of this consultation.
- 3.22 Some attendees felt it was difficult to fully consider issues such as these without understanding the functions and role of the Commission. It was also queried whether the current regulatory arrangements under the Higher Education (Wales) Act 2015 would be carried forward or replaced.

Question 2: Under what conditions or circumstances do you consider it appropriate for dissolution powers to be exercised?

- 3.23 The discussion highlighted a range of circumstances or conditions under which it might be appropriate to exercise dissolution powers in the event that they are retained. These included:
- Merger;
 - Financial mismanagement or malpractice;
 - Serious quality concerns;
 - Illegal practices such as fraud;

- Serious institutional failures or mismanagement (it was noted that these would need to be more clearly defined);
 - Insolvency;
 - Serious reputational damage to the individual institution or to the sector as a whole.
- 3.24 In considering these conditions, the group were of the view that dissolution powers must be considered in the context of, and must align with, the wider regulatory framework and intervention functions of the Commission. Furthermore, these powers should be only be considered as a last resort when all other options had been exhausted.
- 3.25 If conditions are to be set under which dissolution powers could be exercised, it was felt that this would need to be set out in detail. For example, what is meant by things such as serious institutional failure or financial mismanagement (including future student numbers forecasts being too high) would need to be defined. Without this detail it would not be possible to effectively deliver what is needed.
- 3.26 It was also stressed that appropriate student protections needed to be established in the event that dissolution powers are ever used. It was noted that mechanisms such as Fee and Access Plans allow for arrangements for the protection of students to be put in place.
- 3.27 It was suggested by one stakeholder that, in the vast majority of cases, dissolution powers would be exercised for reasons of financial mismanagement. In particular, there was concern that institutions do not always pay due regard to the changing demography in Wales and the Commission should have a role in challenging the way institutions are predicting future student numbers. Concern was also expressed that budgets and financial forecasts are sometimes based on information that would not stand up to robust scrutiny and that independent governors do not always have the necessary skill set and expertise to be able to challenge these forecasts.
- 3.28 As noted above, there was a view that further structural change may be necessary in the Welsh HE sector to ensure that universities in Wales are able to compete across the UK. In this regard, concern was expressed that an option which results in the Welsh Ministers being able to dissolve a HEC only if the institution instigates the process itself (Option 3) would be problematic in the event that future structural mergers are necessary and would therefore be difficult to support. Those expressing this view felt that institutions often oppose merger out of self-interest rather than acting in the best interests of students or the Welsh HE sector and indicated that they would support future mergers where it was in the best interests of students and/or the Welsh HE sector. They felt that the Welsh Government/Ministers needed to have the ability to take forward structural change in these circumstances. In this regard, they did not consider the inconsistency between HECs and chartered universities in respect of dissolution powers to be a significant issue as they felt

that any potential structural merger that would involve chartered institutions in Wales had already taken place.

Question 3: 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?

- 3.29 There was general agreement that the Commission should have a key advisory role in relation to significant sanctions such as these. It was felt that the Commission would be best placed to make a judgement and that decisions should not be taken for political or strategic reasons.
- 3.30 It was felt that the Commission should play a fundamental role in providing the evidence base for the exercise of dissolution powers should they be retained. In addition, the Commission should have a longer-term role in the development of a suitable framework for the use of such powers.
- 3.31 The need for these powers to align with the wider regulatory framework and the intervention functions of the Commission was noted throughout discussions at the Focus Group.
- 3.32 Attendees also considered that the Commission should seek to establish a more consistent approach across all PCET providers in terms of the standards they are expected to meet. However, it was argued that the new arrangements should allow for differentiation in the way the Commission interacts with different types of providers based on things such as their size, mission, commissioning arrangements and legal constitution.

4. HE Governance: Criteria and procedural arrangements for granting Degree Awarding Powers and University Title in Wales

13th June 2018

4.1 The following organisations were represented at the workshop:

- University of South Wales
- HEFCW
- Universities Wales
- Grŵp Llandrillo Menai
- QAA
- Colegau Cymru
- Wrexham Glyndŵr University

4.2 The views of Chairs of Universities Wales have also been incorporated within these notes following a one-to-one session with them.

Question 1: 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?

4.3 There was general agreement on the proposed approach set out in the technical consultation, i.e. that no significant changes should be made to the current procedures and criteria for granting DAPs and UT in Wales at the present time. In particular:

- attendees broadly agreed with the policy rationale set out in the technical consultation and in particular the need to take account of the following matters in considering any changes that might be appropriate in Wales:
 - the different policy context that exists in Wales and other parts of the UK;
 - the relative size of the HE sector and low frequency of applications in comparison with England;
 - the need to consider any changes to DAPs and UT arrangements in the context of the wider PCET reforms that are being proposed in Wales to ensure that they do not lessen the current level of protection for students or negatively impact on the quality and reputation of Welsh higher education; and
 - the need to allow time for the new processes in England to be fully embedded and evaluated.

4.4 It was noted that the Privy Council has longstanding experience, knowledge and expertise of higher education and as such is able to provide strong and effective oversight. Stakeholders highlighted that,

to date, dealings with the Privy Council had generally been good with the Privy Council providing valuable advice and assistance across a range of HE governance matters. Stakeholders expressed the view that before any changes are made in respect of the Privy Council's role there was a need to ensure that equally robust arrangements were put in place to replace the current arrangements.

- 4.5 Stakeholders were of the view that current arrangements were well established and had worked well over a number of years. It was felt that they provided a robust framework to ensure the quality and reputation of Welsh higher education and to protect the interests of students. As such there was not a strong argument to change them at the present time.
- 4.6 Stakeholders did not rule out change to arrangements in the future but did not consider it appropriate now as there is a need to take account of wider PCET reforms in Wales and the impact of reforms in England before making any decisions on any changes in Wales.
- 4.7 Views were sought on any issues or concerns in respect of the current arrangements for DAPs and UT. It was noted that applications for DAPs take between 18 months and two years. It was suggested that this could be perceived as a disadvantage of the current arrangements but that this needed to be balanced against the need to ensure the robustness and security of the process. QAA noted that they are looking at ways to streamline the process in response to the new arrangements in England and that this could also have benefits in terms of the length of the process for Welsh applicants.
- 4.8 There was general agreement that the Welsh Government should retain its existing role in relation to the issue of guidance for DAPs and UT applications in Wales. It was felt that this role could potentially be transferred to the Commission in the future but for the time being should remain with the Welsh Government.
- 4.9 The technical consultation sets out that criteria against which DAPs and UT applications are assessed is currently set out on non-legislative basis which provides flexibility for future revision without legislative change, should this be considered necessary. There was a general consensus that the Commission should have a role in the consideration of any future changes to criteria and that this should be done in consultation with stakeholders.
- 4.10 It was noted that the Commission would need to have the necessary functions and powers to enable it to undertake this role and provide advice.
- 4.11 A view was expressed by one stakeholder that any future changes to DAPs and/or UT criteria should be subject to appropriate scrutiny by the Welsh Ministers and/or the National Assembly for Wales.

Question 2: Do you agree with the Commission's proposed role in relation to the consideration of DAPs and UT applications in Wales?

- 4.12 The technical consultation proposes that the Commission plays an enhanced role in the provision of advice on applications for DAPs and UT in Wales. Such a role for the Commission could include having responsibility for the commissioning of advice on the quality and financial sustainability of applicant institutions and of the assessment against prescribed criteria before making a recommendation to the Welsh Government in respect of the approval or rejection of applications based on the outcomes of those assessments. This role is currently performed by the Welsh Government. There was general agreement for the proposed enhanced role for the Commission as set out in the technical consultation. It was felt that this aligns with the proposed wider assurance role of the Commission. It was also felt that this role would be beneficial in terms of enabling the Commission to gather wider information of post-16 provision across all sectors.
- 4.13 Concern was raised by the group about the need to ensure that the Commission has sufficient resource to be able to undertake all of its functions.
- 4.14 The Welsh Government noted the intention to give the Commission statutory responsibility for securing the assessment of DAPs and UT applications and that this would potentially be through the proposed DQB (which has not yet been identified). It was also noted that the Commission would need to have the necessary functions and powers to enable it to provide advice to the Welsh Ministers on these matters. No significant concerns were raised by the group in relation to these proposals.

Question 3: 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?

- 4.15 Clarification was provided that the intention behind this proposal was not to introduce similar changes to validation arrangements that had been introduced in England under HERA 2017. Instead, it is proposed that the Commission be given the ability to review and improve the effectiveness of current arrangements for the delivery of HE in FE. Concern was expressed that this could be interpreted as providing the Commission with open powers to review and revise UT and DAPs and introduce a HERA style approach in Wales. Clarification was given that the introduction of HERA style validation arrangements would require changes to primary legislation which is not being proposed in the technical consultation.
- 4.16 There was a general consensus that the Commission should, as part of its remit, continuously review and improve the effectiveness of all post-16 arrangements, including the delivery of HE in FE.

General Comments

- 4.17 It was noted that under current arrangements UT applications in Wales are considered under criteria set out in guidance issued in 2004. The 2004 document was issued as joint guidance for Wales and England, but it now only relates to UT applications from institutions in Wales due to subsequent changes in England. QAA confirmed that it plays a role in the assessment of applications for UT but noted that this role is not reflected in the 2004 guidance. WG informed the group that revised DAPs guidance for institutions in Wales had been issued in 2017 and the intention had been to undertake a similar revision of the 2004 UT guidance. However, this had been put on hold in light of the PCET consultation which is seeking stakeholder views on a range of HE governance matters, including procedural arrangements for DAPs and UT applications in Wales.
- 4.18 Views were sought on any potential implications for Wales arising from the new arrangements in England and in particular whether these could impact on the effective operation of DAPs and UT arrangements in the interim period and beyond. The QAA informed the group of the intention to maintain the current infrastructure to ensure that Welsh applications could continue to be considered in the interim period. Any future procedural changes would be considered by the QAA Wales Committee. The Welsh Government has observer status at these meetings. QAA also noted that ACDAP currently works with different application and assessment criteria for DAPs across the UK and did not see this as an issue going forward.
- 4.19 Current DAPs guidance and criteria refers to the Quality Code which would need to be revised in light of changes to existing arrangements.
- 4.20 A lack of clarity was highlighted in respect of degree apprenticeships both in terms of the process and the understanding of arrangements across sectors. It was noted that the technical consultation included a distinct section on apprenticeships and that this concern would be fed in to the appropriate project team.
- 4.21 Concern was raised over different arrangements for DAPs across the UK, and the potential implications on student support.
- 4.22 It was noted that the Commission would need to ensure that appropriate expertise of both FE and HE was present in its Board membership to ensure that these functions could be effectively discharged. It was agreed that this would be fed in to the appropriate workstream.

5. Learner Protection

14th June 2018

5.1 The following organisations were represented at the workshop:

- Estyn
- HEFCW
- Coleg Cymraeg Cenedlaethol,
- NUS Wales
- Careers Wales
- NTfW
- Wrexham Glyndŵr University
- QAA

General Views

- 5.2 There was widespread support for the proposals from all parties – especially in terms of general principles supported by context / sector specific actions.
- 5.3 The NUS reported that the technical consultation had stimulated a significant level of debate in their own conversations, especially about the level of prescription – which they had previously supported to a greater extent. This was echoed by other participants and there was a call to ensure that the Commission could retain flexibility to deal with changes in context over time – in relation to changes student expectation and needs for example.
- 5.4 All parties present recognised the differences in entitlement between learners in school and other settings as a challenge in terms of bringing school sixth forms into the remit of a holistic system.
- 5.5 In addition, HEIs were seen as leading the way in terms of Learner Voice and it was felt that this level needed to be retained as the minimum standard (with appropriate arrangements by sector), which might be difficult for FEIs and schools in particular. Currently the language used varies across sectors and needs to be brought into a common vocabulary.
- 5.6 Generally, there is a need to keep the learner at the centre and to highlight the benefits of learner involvement as well as regulating for it.
- 5.7 Careers guidance is their main focus and ensuring all students have equal access to information.
- 5.8 One participant asked about Prevent, but this was countered as being part of UK legislation and so not relevant here.
- 5.9 One comment was made that the consultation document was difficult to engage with and was lacking in detailed options to reflect upon.

Q8. In the regulation section of the ROA¹, are there other matters that should be included? If so, what are they? Should any be removed? If so, which ones?

- 5.10 There was complete agreement with the generic principles, but a call to avoid too much detail in the legislation, although links to supporting guidance could be included.
- 5.11 The point was made that Learner Voice was not overtly included (although Learner Protections was).

Q16. What information about learning providers and research and innovation communities with approved ROAs should the Commission make publicly available?

- 5.12 Some discussion about the fact that research and innovation communities are included here, as they are often considered as being separate from the learner community.
- 5.13 If ROAs are approved, they should contain sufficient assurance that Learner Protection is in place. It would then be for organisations themselves to publish plans and information. From a commission perspective, it should be enough to know that these are in place.

Q34. Do you agree that learner protection arrangements should align with a common set of principles to ensure consistency for learners across the PCET sector?

- 5.14 General agreement with the principles, but there is a need to consider the challenges of implementation across all sectors. Principles need to be high level – ensuring that arrangements are in place, rather than enshrining detail in policy. To do otherwise might take away from the flexibility to provide proactive intervention - to deal with a course closure, for example. There needs to be a recognition that arrangements may differ according to location and the scope for transfers, taking account of rurality for example, and where opportunities may be more restricted.
- 5.15 It was suggested that there need to be time implications here. If a course does not run, how long should providers be allowed to put on equivalent provision for learners affected?
- 5.16 Welsh-medium courses tend to be smaller groups and structures need to be put in place to ensure that Welsh medium provision can grow. Plans need to be in place to ensure that if a course is not run because of numbers, it should not be possible to withdraw provision without a viable alternative.

¹ Regulation and Outcome Agreement

- 5.17 The principle that everything is learner-centred should extend to learners being involved in a wider range of the development and implementation of LPPs, reviews and evaluation.

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

- 5.18 General agreement that the principles are appropriate, and no additional ones seen as required. The principles need to be owned by the Commission and not set in legislation as there needs to be the capacity for reviewing and updating in the longer term. Providers might need a set of sector-based “expectations” that come under these; developed in partnership with the Commission. There is an additional question about how we monitor delivery against the principles.
- 5.19 NUS Wales was consulted on the initial draft and at that point were quite happy with them. With fresh eyes, language needs to be changed to close the loop to include involvement, implementation, monitoring and evaluation to ensure full and continuing engagement. However, they are driven forward, arrangements need to be broad and accessible to the wider student body across all sectors. Accessibility could be monitored through the evaluation process – which needs to provide a means of checking and sharing within each sector.
- 5.20 The question of complaints arose and the need for a clear pathway for learners to raise complaints or voice concerns. This should be the Commission in the first instance, although they could refer on to another body for investigation – such as the OIA, as an independent body. There is a difference between systemic problems (QAA responsibility) and those affecting the individual (OIA) and these should be treated differently.
- 5.21 There should be a move away from a regulator focusing on enforcement and compliance to partnership and collaboration. The commission might need to provide funding for the OIA to support.
- 5.22 There are some challenges around the “supportive” principle for work-based learners in the workplace – in terms of the mechanisms for wellbeing and mental health amongst protected groups. In terms of mental health, there is a need to avoid duplication, where support is available through the NHS or other support. Hence there is a need to identify the most appropriate support and signpost to it, rather than the institution trying to provide everything with limited resource.

Q36. 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?

- 5.23 The proposal was seen as very detailed, especially when the suggested sub-bullets were considered. (There was some discussion about whether the content constituted prescription versus suggestions for possible inclusion here). The high-level principles were again seen as appropriate, but delivery would need to be developed on a case by case basis to relate to individual circumstances. Otherwise it could stifle a providers' ability to protect learners effectively – sometimes innovation arises from a crisis.
- 5.24 There is no reference to CMA guidance or financial security, especially for HE students and apprentices; e.g. tuition fees.
- 5.25 It was acknowledged that the sub-points are examples, rather than prescriptions, but that needs to be made clear. For example specifying staff.
- 5.26 Need for some overt reference to Welsh language in LPPs, especially around sixth forms.
- 5.27 Para 127 suggests sixth forms do not need to have a progression element.
- 5.28 Para 128 discusses transfer between schools but not between school and college. "Exploring in future" needs to be strengthened. Lots of challenges around ensuring progression, especially around use of ULNs – may need to be in place pre-GCSE so learners use it like a National Insurance number. Currently learners can end up with 2 or 3 ULNs, given by different providers, because of data sharing problems.
- 5.29 The flow of information needs to be improved to avoid individuals having to re-sit modules when transferring to another provider.
- 5.30 Inclusion of careers advice and guidance was welcomed.

Q37. What sanctions, if any, should the Commission have in relation to Learner Protection and Progression Plans?

- 5.31 This was seen as a difficult challenge. Consensus was that some financial sanctions may be necessary (maybe 10% withheld), but that it should not be linked to core funding, which could affect provision. Hence should be linked to incentivised funding.
- 5.32 One provider felt that if LPPs are to benefit learners, then all providers must be assumed to have developed them. Without the leverage of sanctions of some sort, LPPs might not be fit for purpose and so some sanctions need to be put in place, albeit as a measure of last resort. The point was made that a progressive approach was needed to avoid reaching the point where sanctions might be necessary. One suggestion was to agree the quality of LPPs at the outset, to avoid any ambiguity. Sector bodies could provide templates for the plans and subsequent support for implementation.

- 5.33 The issue of sanctions in relation to school sixth forms was seen as potentially problematic, although it was assumed that the Commission would interact through local authorities on such matters. Likewise, local authorities could be expected to provide support for LPPs in school sixth forms, in a similar approach to current support for safeguarding. One participant suggested that there was a need for an overall co-ordinating body to represent school sixth forms.

Q38. Do you agree that the current complaint resolution arrangements should remain in place for school sixth forms?

- 5.34 Participants agreed that learners should have access to an independent body and that this should be beyond the school governors and local authority. Given the limitations of the Ombudsman's role, there was general support for looking at the OIA, although this would both mean widening their remit and would also enshrine a UK body into Welsh policy. It was felt that there was an argument for the OIA being the final arbiter across all sectors, to provide a consistent experience and level of service.

Q39. 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?

- 5.35 There was general support for this proposal in terms of high-level principles to underpin more flexible discussions around delivery in practice (which would necessarily include some flexibility). There was a call for more consistent terminology to allow understanding of the role of learner voice and involvement and hence to drive meaningful learner representation.
- 5.36 Participants felt that school sixth forms may pose a challenge here, given that they are not exclusively PCET providers and so would need to adopt dual standards.
- 5.37 For work-based learning providers there are also challenges in terms of the practicalities of engaging with learners in the workplace.

Q40. Do you agree that learner representatives should be involved with developing the outcome agreement element of the ROAs?

- 5.38 There was general agreement with this suggestion and a desire to see involvement go beyond a contractual obligation to include learner voice. As elsewhere, it was agreed that the nature of the involvement might vary according to sector but should nevertheless sit below a high-level principle of true involvement. One participant suggested the introduction of student starters and contracts.

Q41. 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?

- 5.39 There was extensive debate about the table included in the document at chapter 157. One participant felt that it seemed to relate to characteristics of providers, not the learner voice. Another wondered whether it could be reshaped to state that everybody needs arrangements for learner representation and these are the principles?
- 5.40 One work-based learning representative was concerned that it would be difficult to ensure a learner representative body in a WBL setting. This was agreed (along with ACL) by other participants, although it was seen as important to have a means of work-based learners communicating with others in their sector or community of practice. It was further suggested that lessons could be learnt from Trades Unions and there could be scope for using the National Society of Apprentices to provide representation.
- 5.41 NTFW were said to be keen to engage with this agenda – possibly on a regional basis.

Q42. If so, do you think responsibility for establishing the proposed national framework should sit with the Commission?

- 5.42 It was proposed that the framework needs to be owned by a collaborative network of providers, which could then reflect individual circumstances. One stakeholder felt that a line needed to be drawn between setting the principles and implementing them.

Q43. Should the Commission work with all educational providers in Wales to ensure the establishment of learner-led representative bodies are adequately resourced and supported?

- 5.43 Participants felt that there needed to be annual, formal partnership agreements – with providers and learners agreeing arrangements – annually in writing. This would allow for high-level principles to be complemented by local arrangements. By signing the agreement, the provider and learner body would agree an allocation, with the Commission as the arbiter for any appeals.
- 5.44 There was uncertainty around what the implications would be for WBL contracts.
- 5.45 The point was made that different learner bodies require different levels of resource to function. Individual arrangements will need to be made to reflect numbers and function. School sixth forms might need a secretariat function rather than funding.
- 5.46 The key is to ensure sufficient support to empower the student body to play an active role.

Welsh Language Questions:

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.

- 5.47 Generally, statements on commitment to bilingualism within the document were welcomed, although there needs to be a focus on embedding that commitment throughout.
- 5.48 One point made was that Welsh medium HE provision was not ring-fenced, whilst it should be recognised that there are additional costs and challenges for Welsh medium delivery and there need to be incentives and support for institutions in relation to this. It was agreed that the number of Welsh medium students had not grown as quickly as expected and that changes in funding do challenge the sustainability of Welsh-medium provision.
- 5.49 A' Level provision in Welsh was said to be well developed (especially in school sixth forms) and there had been some good examples of FE/sixth form collaboration on this. Vocational courses, however, faced different challenges.
- 5.50 Work-based learning faced challenges of capacity in finding skilled staff, but the sector had improved in terms of identifying demand for bilingualism. It was agreed however, that Welsh speaking learners need the opportunity to network in the medium of Welsh.

RIA Impact Questions

What financial costs or savings do you think these proposed reforms will give rise to, in each of the different parts of the sector and in Wales, in the short term (as the changes take effect) and in the longer term?

What other positive or negative impacts might be felt across different parts of the sector in the short term and longer term?

- 5.51 One participant questioned whether the Commission should provide funding for those areas where LPP is not so well developed at present. There was also a question about whether providers could be confident that the Commission will at least maintain budgets at current levels of LPP.
- 5.52 It was pointed out that Welsh medium provision in high cost subjects should be ring fenced to avoid savings at the expense of other activities.

5.53 There were noted to be some useful phrases around “proportionate approaches” – as some changes could be really expensive for smaller providers.

5.54 Other points made:

- Collaboration will be essential to avoid costs
- Funding may be needed to avoid costs to students in the event of course closures
- There was said to be an issue of research students losing tutors and having to relocate as a result
- Providers may also need contingency funds to cover eventualities such as claims against strikes
- There may be short-term costs of transition – for example:
- Cost of consultants to support change
- Location and staffing
- ICT and data protection
- Management systems.

6. Strategic Funding and Planning

15th June 2018

6.1 The following organisations were represented at the workshop:

- NTfW
- Pembrokeshire College
- HEFCW
- Colegau Cymru
- Qualifications Wales
- Coleg Cymraeg Cenedlaethol
- Wrexham Glyndŵr University
- Agored
- Universities Wales

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

- 6.2 Attendees took the view that the proposed ROA offered a too detailed model for the sector in advance of establishing a Commission which should be enabled to decide upon the model itself. A strong argument was made by several attendees that the Commission, as an arm's length organisation, should be provided with the legislative authority to decide upon the regulatory arrangements between itself and the organisations which it regulates.
- 6.3 Several attendees expressed concerns around the level of detail offered within the consultation paper adding that, whilst it had been appropriate to set out three possible options within the White Paper, ultimately the Commission should be given the authority and legal basis to decide on the most appropriate regulatory model once established.
- 6.4 Rather, it may be worth considering some key principles and give consideration to the following issues in terms of the relationship between the Commission and learning providers:
- that the arrangements be proportional to the level of funding made available to each learning provider
 - how any outcome agreement would operate within the context of existing HEI fee and access plans (or whether they would serve to replace these)
 - that future funding arrangements should be aligned with the strategic objectives of the Welsh Government and the Commission
- 6.5 Attendees expressed concerned about the possible introduction of a two-tier system as a result of the proposal to only include charitable organisations within the scope of the Commission's regulatory oversight.

- 6.6 It was suggested that if a learning provider has secured a current delivery contract with the Welsh Government to deliver work-based learning provision then they should be included within the regulatory oversight of the Commission. It was further argued that the consultation paper was unclear as to whether the current proposal sought to exclude particular organisations. An argument was made that providers to be covered by the regulatory scope of the Commission should include both charity-based organisations (e.g. the HE sector is entirely charity based) as well as profit making organisations (e.g. most WBL providers are profit making). This would serve to retain a provision of choice for learners.
- 6.7 In terms of the advantages of the proposed model, attendees argued that the proposed regulative model broadly covered the requirements already set in place for the HE sector, and so would not pose any significant challenges for them. However, it was more difficult to comment on the Outcome Agreement model given that it was unclear how this would be aligned with the fee and access plans required of HEIs.

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

- 6.8 There was a consensus view that the legislative framework for the proposed new Commission should provide it with the necessary powers and jurisdiction to set out its own regulatory and outcomes agreement model for learning providers, and that this level of detail should not be set in stone within the Act. By way of example, one attendee referred to the 2015 HE Act adding that this had awarded HEFCW as an arms-length body the powers to decide itself on the arrangements for the HE sector. As a result, attendees broadly did not think it appropriate to offer another model for managing the relationship between the Commission and learning providers. Rather there was broad agreement that the Commission should decide upon the most appropriate model itself rather than for this to be defined by legislation.
- 6.9 One attendee observed that the proposed ROA model sought to consider both regulatory and outcomes agreement via one model and that it was not helpful to have them merged in this sense. This attendee proposed to separate both elements and called for consideration of a model whereby providers would have to satisfy regulatory requirements (such as financial viability, governance and quality) in order to become eligible for funding. The Outcomes Agreement, it was argued, should be separated thereby allowing a degree of flexibility to the Commission to respond to different needs.
- 6.10 Some attendees called for greater clarity on points made within the consultation document on whether a learning provider should be based in Wales or deliver in Wales, adding that the proposals offered contradictory views on this matter. A discussion was held on whether

learning providers which would come under the scope of the Commission should be based in Wales and/or deliver in Wales. A call was made for the Welsh Government to consider how it handled specific circumstances e.g. a college outside of Wales being approved as a provider by the Commission.

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?

- 6.11 Attendees argued that the regulatory requirements set out in the consultation document were broadly acceptable on the basis that they were already included as part of contracting and funding agreements. No specific matters were thought to have been excluded and no attendee called for any to be removed. By way of example, it was suggested that work-based learning providers were already responding to the call to set up appropriate governance arrangements (e.g. governing bodies) set out in their contracting agreements. In the same manner, HEIs and FEIs were already meeting these stipulations.
- 6.12 A call was made for a degree of proportionality to be taken on board in the monitoring of regulatory requirements imposed upon providers i.e. that the level of scrutiny of learning providers be proportionate to their size and levels of funding awarded.
- 6.13 Some attendees suggested that the regulatory requirements proposed could present challenges for sixth form providers, although it was recognised that Local Authorities would be required to meet these. None of the attendees represented the LA or sixth form sectors however to be able to comment further.
- 6.14 A further point was made by some attendees that the underpinning legislation should allow the Commission to be able to respond to different future governance arrangements across learning providers rather than assume that the same governance arrangements will still exist in the future.

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?

- 6.15 Attendees expressed a broad consensual view that the Commission should be awarded the legislative powers to be able to set its own regulatory framework and review this without requiring any legislative changes, as opposed to the framework itself being stipulated within the legislation. In this sense, attendees argued that the Commission should have the power to review its regulatory framework and come to its own view as to whether a ROA should be ongoing or reconsidered from time to time. This would allow it to respond to

externalities over time. One attendee argued that until a Bill was drafted and consulted upon, it was difficult to judge whether it would be under- or over- prescription.

- 6.16 As a point of principle, attendees broadly accepted that it would be sensible for the regulatory section and outcome agreement to be reconsidered on a regular basis but would not want this to be set in stone within the legislation.

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

- 6.17 Attendees offered a number of ideas and principles for the Welsh Government to consider on the nature of the powers which the Commission needed to be awarded. It was noted that the consultation document did not offer any suggestions on the powers which the Commission could obtain, and as a result the conversation was fairly broad in nature.
- 6.18 It was suggested that a good starting point would be to consider the regulatory powers awarded to other similar bodies such as OfCOM and Estyn as well as the powers awarded to HEFCW via the 2015 HE Act. There was broad consensus that the powers awarded to the Commission should be comparable, at least, to those set out in the HE Act.
- 6.19 A discussion was also held on whether the Commission should be awarded different levels of powers for regulating different types of providers given that the model for one sector, such as the HE sector, many not be appropriate for another, such as sixth forms. Whilst there was support for this approach, some concerns were also expressed that it could lead to the Commission working in 'silos' as opposed to working strategically and flexibility across all funded sectors. Attendees suggested that the Commission should be awarded the powers necessary to ultimately decide upon this approach.
- 6.20 A further point made by attendees was that the powers awarded to the Commission should not undermine any existing powers awarded to learning provider by other regulators, so that learning providers who have to comply with these regulators do not find themselves in a compromising situation. Local Authorities were highlighted as an example given that they are required to meet their own statutory requirements.
- 6.21 It was also suggested that the powers awarded to the Commission should be proportionate so as to avoid any extreme positions (be that too little or too much power) and commensurate with the level of funding being awarded to providers. It was noted that across the HE sector, it was still a challenge to secure the necessary powers to influence providers without 'being overbearing' and there was a general call for using funding as 'pointy carrots not blunt sticks'. It was also recognised that the amount of public funding provided to different

sectors, as a proportion of that sector's overall income, varied e.g. public funding accounted for a smaller proportion of the HE sector's income compared to FE and WBL.

- 6.22 Attendees recognised that the Commission needed to be awarded the necessary powers to be able to review the financial positions of learning providers, adding that this was already the case for HEFCW and HEIs. In particular, the Commission should have the necessary powers to intervene at an early enough stage if learning providers were in financial difficulties, in order to protect the interest of learners. In the same manner, the Commission should be granted adequate powers to intervene and, if appropriate, end a funding agreement with any learning provider on the grounds of poor performance or quality issues.

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

- 6.23 Attendees were in agreement that this level of detail should not be stipulated in advance of establishing the Commission, but rather that the Commission should be awarded the necessary powers to be able to consult on the information which it should collect and publish as well as the necessary powers to collect and publish that data. One attendee argued that this was important as data and information requirements might change over time, therefore the Commission could respond to these requirements without having to make legislative amendments.
- 6.24 Another point raised by attendees related to the nature of the information collected and published, and a common argument was made for the information to be comparable across all sectors e.g. it would be important for learner outcomes, learner progression and sector salaries, to be published in a comparable format across all provisions be they WBL, FE or Sixth Form provision for instance. This would ensure that learners and parents had access to useful information.
- 6.25 Some attendees cautioned against a proposed Bill which would set out the need to prepare a 'state of the nation' annual report, despite this being suggested within the Weingarten report. However, a more mixed view was conveyed by attendees as to whether the information published ought to be contextualised or simply presented as raw data.

Question 18: What are your views on the Additional Matters' section of the consultation paper?

- 6.26 Attendees strongly disagreed with the proposal to award the Commission the power to apply penalties in the forms of fines or financial sanctions as it was considered counter-productive to use front-line delivery funding in this manner and would only serve to

award the Commission with ‘draconian powers’. HEIs were particularly concerned about how such powers would be viewed by students, who may consider that student fees were being used to pay fines. Rather it was argued that the Commission should adopt a more supportive and collaborative approach: if it needed to fine learning providers then arguably it would have failed in its role. Attendees were more open to the idea of the Commission having the powers to clawback finances – this type of language and way of working was more acceptable and akin to the current arrangements.

- 6.27 It was noted that Qualifications Wales as a regulatory body had the powers to issue sanctions and fines and it was reported that the finances raised was allocated to the Welsh Consolidated Fund. Thus, should the Commission be awarded similar powers then there was a need to consider how finances raised would be used.
- 6.28 Attendees favoured an approach whereby the Commission rewarded positive behaviours via incentivisation adding that the strategic use of funding can be effective in driving behaviours, provided they took into account institutional autonomy. Attendees were aware that incentivisation funding was currently in use across parts of the sector. It was also argued that the Commission should be allowed to provide incentive funding via a flexible approach and be given the powers necessary to move funding from one sector to another without any restrictions in order to meet strategic needs. This would have implications for current funded provisions, given that funding is currently ring-fenced for each.

Welsh Language:

In what way should the proposed policy be formulated or changed so as to have:

positive effects or increased positive effects on opportunities for people to use the Welsh language?

no adverse effects on opportunities for people to use the Welsh language?

- 6.29 Attendees were in agreement that the Welsh-language should be mainstreamed into the work of the Commission and were supportive of any change to increase and improve Welsh medium provision across the PCET sector. Attendees also noted that the Commission would be bound by the requirements set out within the Welsh Language Standards.
- 6.30 It was also observed that it was important for the Commission to ensure that it had an appropriate level of expertise internally to lead on the Welsh language. The Commission should be adequately equipped to drive and contribute towards the enhancement of Welsh-medium and bilingual provision across the school, FE, WBL and HE sectors.

- 6.31 A further point made related to the level of priority given to Welsh language and Welsh medium provision by the Commission: it would be important to protect levels of Welsh-medium funding within the Commission, via clear statutory responsibilities and allocated resources.
- 6.32 A mixed view was conveyed as to whether the Commission required a specific committee to take responsibility for Welsh-medium provision although there was broad agreement that Welsh language issues should be mainstreamed across the work of the organisation.
- 6.33 A final point raised related to the work of the National Centre for Learning Welsh – attendees questioned whether the work of the Centre fell into the remit of the Commission and the PCET sector more generally, although no consensus was reached as to whether it should or not.

Regulatory Impact Assessment:

What financial costs or savings will proposed reforms give rise to in the short term and long term?

What other positive or negative impacts might be felt across different parts of the sector in the short term and longer term?

- 6.34 It was observed that the level of financial costs or savings for different parts of the sector will largely depend on the detail of legislation accepted and the final approach taken by the Commission in terms of how Outcome Agreements will be delivered in practice. Should the approach be bureaucratic and cumbersome then it will result in additional work for providers. It was suggested that the implementation of Outcome Agreements in other countries tends to suggest that they are ‘resource hungry’ so learning providers can anticipate an increase in the financial resources required to meet their requirements. Any changes in funding methodology introduced by the Commission would impact upon providers’ resources – some attendees anticipated an impact on productivity as a result of having to allocate staff resources to deal with these changes.
- 6.35 There could be long-term cost-savings for learning providers if the Commission looks to simplify and streamline the reporting required of them, but not if multi-reporting requirements continue. For instance, providers who currently run two operating systems to satisfy the funding and reporting requirements of both FE and WBL provision may see an increase in their short-term costs (associated with the migration of two systems into one) but a decrease in their long-term costs. Other long-term savings could be realised if the Commission succeeds to remove competition between learning providers.
- 6.36 Attendees also argued that for the HE sector, the need to meet UK reporting requirements, such as in the case of TEF, will continue thereby reducing any possible cost-savings which could potentially

come about as a result of simplification which would be driven by the Commission.

- 6.37 At a broad level, the introduction of a new Commission is welcomed across the sector as it offers an opportunity to work holistically across the PCET provision, thereby securing long-term savings. However, if the current approach of silo funding is maintained and the current regime is simply 'transported' to the Commission, then the opportunities of long-term savings are reduced.
- 6.38 Attendees felt unable to comment in further detail about the overall possible savings or costs to the PCET sector in light of any detail about the direct costs of establishing and operating a new Commission. It was recognised that the costs associated with establishing the Commission would be high, but that long-term gains could possibly outweigh this. One attendee suggested that the Welsh Government should disclose the full costs associated with establishing and running the Commission to enable the sector to come to a better-informed view on this matter.
- 6.39 Several attendees observed that the Commission was being established at a time when greater synergies and collaborative working are being established achieved across the HE and FE sector, and a few examples were cited whereby WBLs were in current discussion with FEIs and HEIs about future collaboration.
- 6.40 Cost-savings were likely to be generated in the future due to not having to re-tender provision as frequently although it was acknowledged that this chance would be driven by the removal of EU funding requirements as opposed to the establishment of the Commission.

Concluding remarks and additional views

- 6.41 The key message conveyed by attendees at this focus group relates to the importance of the new Commission being enabled to maintain arms-length autonomy from the Welsh Government and to be awarded the necessary powers to undertake its own decisions about many of the elements posed by the consultation document. It is important that the legislative framework does not limit the Commission from being able to set its own regulatory framework and respond to future needs and circumstances.
- 6.42 It is also important that the establishment of the new Commission serves to achieve more than just consolidate current funding resources and is given the appropriate powers to identify and fund the strategic needs and priorities of the PCET sector.

- 6.43 Three other key points were raised during the course of the discussion, all relating to the remit of the Commission:
- whether the Commission should have a remit to cover workforce regulatory aspects and skills development
 - whether the non-medical health workforce e.g. nurses (currently covered via the Health Education and Improvement Wales (HEIW) e.g. nurses) should be included within the Commission's scope
 - whether Young Offender learning provision should be included within the Commission's scope.

7. Quality Assurance and Enhancement

18th June 2018

7.1 The following organisations were represented at the workshop:

- HEFCW
- Neath Port Talbot Council
- Catholic Education Services
- NUS Wales
- NTfW
- Universities Wales
- University of South Wales
- Grŵp Llandrillo Menai
- Coleg Cymraeg Cenedlaethol.

Q44: Do you agree with the proposed overall principles for the quality framework?

- 7.2 It was argued that the list of principles is 'a funny mix', in that some principles or aspects of some principles relate to what the framework should be/do whilst others seem to set out what should be in it. It was thought that some of the detail contained in the list of principles possibly belongs to a subsidiary list e.g. that the framework should examine value for money, external quality assessment etc.
- 7.3 Some contributors felt that the principles should be more ambitiously 'enhancement led' and long term in nature. In making this case, however, it was recognised that the QAA quality framework has long used this kind of language², but the Estyn framework talks of 'improving' quality. HE representatives were clear that the QAA 'quality code' is and is likely to remain the key driver for HEIs in that it provides for comparability with HE institutions across the UK and more widely, which is crucial for 'branding' and reputational purposes. It will, therefore be crucial that any Welsh PCET system wide quality framework is framed at a high enough level to 'knit in with' wider UK/European arrangements.
- 7.4 The point was made repeatedly that different parts of the PCET system serve different markets. HEIs, for example, operate in a

² The QAA defines quality enhancement as "the process of taking deliberate steps at institutional level to improve the quality of learning opportunities.... Quality enhancement is therefore seen as an aspect of institutional quality management that is designed to secure, in the context of the constraints within which individual institutions operate, steady, reliable and demonstrable improvements in the quality of learning opportunities" (QAA 2006). In advice to audit teams the QAA goes on to say: "The definition of 'enhancement' QAA has adopted for institutional audit leaves room for institutions to follow their own definitions of 'enhancement'. Some institutions may define enhancement as 'continuous improvement', others as 'innovation' and there may be other definitions" (QAA 2007).

national and international context (albeit that the mission of all HEIs is not the same), whereas FEIs tend to be focused on regional skills markets and sixth forms focused local areas. This makes it difficult to come up with a single quality framework unless it is sufficiently high level and flexible to allow contextualisation.

- 7.5 It was noted that ‘the words “assessment” and “assurance” are used interchangeably’, which was said to be inappropriate because the terms mean different things to different parts of the PCET system.
- 7.6 It was said that ‘a lot of the framework statements are quite passive’.
- 7.7 The Estyn self-evaluation framework and tool-kit will be very different to what is proposed in the consultation document and there was some concern about a ‘disjoint in the education landscape’, particularly as it relates to schools with sixth forms.

Principle i

- 7.8 The idea of learner engagement and learners being ‘partners’ in the design and implementation of QA&E processes was unanimously welcomed. It was argued, however, that learners also need to be involved in the ‘evaluation’ of QA&E processes.
- 7.9 In welcoming the involvement of learners, however, it was acknowledged that this will probably be easier to achieve in the HE sector than in other parts of the PCET system, because there is already an established tradition of student engagement in HE. FE students tend to be more difficult to engage, though some FEIs have better developed student engagement arrangements than others. Difficulties of engagement are even greater within the WBL sector, where learners generally have less contact with providers and also have to respond to employers’ demands as well as those of providers. Learner engagement in schools was said to have improved over recent years.
- 7.10 As a result of different PCET sectors being at different points in the learner engagement journey, it was felt that having established the high level principle, the WG should leave it to TERCW to develop and implement learner engagement practices, working with students and the sector, including via more formalised student representative arrangements in FE, schools and WBL.

Principle ii

- 7.11 It was thought that the word ‘standards’ might be interpreted differently by HEIs and other PCET sectors. For schools and FEIs, for example, standards would be taken to relate to attainment rates and value added, whereas it has quality assurance connotations in HE. The principle would work well without the inclusion of the word ‘standards’ or with the phrase ‘where applicable’ added if it was to be used.

- 7.12 It was recognised that the principle as phrased would accommodate adherence to international quality assessment standards for HEIs and differing ‘institutional mission’.

Principle iii

- 7.13 Whilst the principle, as expressed, was thought to be acceptable, some argued that it rather flew in the face of later statements about a single quality assurance body.

Principle iv

- 7.14 It was argued that the framework itself cannot ‘assure’, but it can ‘ensure’. It was also thought that this principle could be less ‘passive’ and be explicit that the framework should ensure that high quality teaching is assured.
- 7.15 Whilst the principle was broadly acceptable as expressed, it was argued that the framework should not seek to ‘shove everybody into the same box’, but rather that it should accommodate differences in the approach to assuring teaching quality across different parts of the PCET sector. For example, it was noted that direct observation is a feature of the system for assuring the quality of teaching in schools and FE, but the scale of HE means that a similar approach would not be practicable. In HE a more realistic approach to assuring the quality of teaching would be ensuring that appropriate peer observation arrangements are in place and that staff are engaging effectively with Advance HE.

Principle v

- 7.16 No definition is given of ‘value for money’ in the consultation document and those from the HE sector had misgivings about the use of such a vague term in the context of guiding principles for a quality framework. It was noted that a debate is raging about how to measure value for money in HE in England and that the concept of ‘value for money’ is complex and multi-faceted, potentially taking into account things such as the cost of delivering different kinds of provision, the length of courses (two year degrees) fees (in HE), the return to ‘graduates’ (in terms of earnings) and to the Treasury (in terms of taxation).
- 7.17 Nevertheless, contributors from other sectors perceived that referring to value for money among the guiding principles would arm the Commission with the wherewithal to identify and tackle inefficiencies in the system e.g. relating to very small sixth forms/classes. It was also seen as a legitimate thing for the Commission to consider the returns it would get from its investment in the PCET system.
- 7.18 Consensus emerged that the idea of value for money needs to be woven into the principles underpinning the quality framework, but in

taking things further WG/TERCW need to be explicit that the term will be interpreted differently across different PCET sectors and potentially, when considered from different stakeholders' perspectives e.g. learners, regions, government etc.

- 7.19 The term 'sustainable outcomes' needs to be defined, particularly given that the principle refers to sustainable outcomes for a range of different stakeholders. It will be for the Commission to come up with these definitions rather than their being something that need to appear in high level principle statements.
- 7.20 It was thought that the phrasing of principle v probably draws on the FE quality framework and, therefore, found more resonance with FE representatives.

Principle vi

- 7.21 The principles were thought to be broadly appropriate, but there needs to be the capacity for them to evolve over time to allow for changes to the external context. It was thought that there is a risk to setting out principles for the quality framework before the Commission is established, because the Commission itself should probably have ownership of doing that. At the very least, there needs to be scope for the Commission to adapt or evolve the principles underpinning any quality framework.
- 7.22 Whilst there is a need for the framework to be flexible and allow room for evolution, it also needs to be high level and enduring enough not to become the subject of political wrangling. This should be helped by the arm's length nature of the proposed Commission.

Principle vii

- 7.23 Whilst the principles were thought to be broadly appropriate at a high level, they need to accommodate differences across different sectors within the wider PCET system. For example, it was noted that quality/performance measurement systems in FE, WBL and Sixth Forms focus heavily on 'outcomes [qualifications] and student achievement'³, whereas the same is not true of HE. This owes much to HEIs themselves being awarding bodies, whereas other parts of the PCET sector deliver qualifications awarded by other organisations. Their position as awarding bodies means that HEIs focus upon 'processes that drive standards' rather than qualifications achieved⁴. This was seen as an important distinction between HEIs

³ Albeit that there has been a backlash in the compulsory education phases to using outcomes as the only measure of the value of an education system

⁴ In Weingarten parlance, therefore, HE is more concerned with inputs, whereas other PCET sectors are more concerned with outputs.

and other PCET providers, particularly given recent criticism relating to 'grade inflation' in HE and the potential for unintended consequences of seeking to introduce consistency across the whole PCET sector.

- 7.24 There was some difference of view about the use of outcomes to assess the quality of provision, with one contributor questioning: 'if a quality framework doesn't result in improved outcomes, what's the point?'
- 7.25 These differences in approach to quality/performance measurement need to be acknowledged and 'different sub-frameworks for each sector' will need to be developed by the Commission.
- 7.26 The wording of principle vii was said to be inconsistent with what is said in other parts of the quality assurance and enhancement chapter of the consultation document in that it refers to 'agencies' in the plural rather than 'a single designated body', as is proposed elsewhere (item 177).

Principle viii

- 7.27 It was argued that the principles should be clear that quality assurance arrangements for HE 'need to be internationally recognised'.

Principle ix

- 7.28 In the context of the reference to thematic and geographic reviews, it was noted that attempts to undertaken regional reviews of things such as Adult Community Learning and 16-19 (i.e. non HE) provision have 'created an industry of bureaucracy and partnership meetings' without yielding any tangible benefit. In particular, there was reluctance to have such reviews linked to quality assessment and the principle would be more palatable if it read: 'the framework should promote collaboration, and identify and share best practice across the whole of the PCET system. It should include thematic and geographic reviews that look at the effectiveness of the entire system ...' etc. In essence, 'formative' 'programmes of work' rather than 'reviews' which make judgements were seen as a means of facilitating the exchange of good practice across PCET sectors.
- 7.29 It must, however, be recognised that thematic reviews/programmes of work will inevitably have resource implications for providers and will work best if they are funded, along the lines of thematic enhancement reviews undertaken in Scotland.

Principle x

- 7.30 The addition of the word 'improve' might make principle x resonate more naturally for schools and FEI, though the HE sector seemed to

prefer the use of the word 'enhance'. Some argued that use of the word 'improve' implied shortcomings in the first place. It was thought that this is something the Commission should be left to determine.

Principle xi

- 7.31 The wording needs to be changed slightly to read '... learning providers should normally be given ...'. It would be inappropriate to give providers whose performance could compromise learners' outcomes the opportunity to continue without intervention.
- 7.32 It would not be unreasonable to expect the Commission to set out definitions of what interventions might entail for each sector (drawing on legislation/regulations, as appropriate). Footnotes could be added to the principle once that has been done.

Q45: With the exception of school sixth forms should a single body be designated to undertake external quality assessment of all PCET provision?

What reasons might there be for or against a single designated body?

What might be the positive or negative impacts of establishing a single designated body?

- 7.33 Contributors very much welcomed the idea of a common quality framework for the PCET sector and could see that designating one external quality assessment body could bring advantages e.g. in reducing duplication and administration and in bringing greater coherence across the whole PCET sector. It was agreed that this is something that the Commission should be empowered to do in the longer term.
- 7.34 However, whilst this was seen to be fine as a long-term aspiration, it was not thought practicable in the short term because there is no organisation in the UK with experience of undertaking quality assurance across the full range of PCET sectors. All options for putting the expertise in place quickly (developing existing organisations, setting up a new organisation or going out to Europe to find a suitable provider) would be expensive and potentially risky. There was a consensus that the Commission should be able to engage different organisations (implicitly QAA and Estyn) to do the work, but to require them to work together in order to deliver a more coherent whole. It was argued that this would achieve the spirit of what is sought, without moving to a single agency model.
- 7.35 An additional benefit of doing this would be that it would allow better integration of sixth forms within the framework from the outset. There was a feeling that moving to a single designated body for all but sixth forms would 'leave sixth forms in a bit of a limbo'. There was a consensus that sixth forms should be within the scope of the

Commission's quality framework, with criticism levied at the consultation document in that it is equivocal about the position of sixth forms - 'it says sixth forms are in and that they're not'.

- 7.36 It was noted that the primary focus of school inspections is Key Stage 4, with sixth forms treated as an addendum to all intents and purposes and this means that sixth forms are not subject to the same level of scrutiny as other elements of the PCET sector. This would seem inconsistent given the level of overlap in the kind of provision now being offered by school sixth forms and FEIs. It was noted in this context that OFSTED has been given greater powers in England to inspect post-16 provision.
- 7.37 It was argued commissioning QAA and Estyn to work together would present real opportunities for improvement through putting in place arrangements to share good practice and knowledge. A good place to start might be those areas of overlap between the two organisations in a Venn diagram sense, or areas where FE and HE might come together to solve issues of mutual concern e.g. the challenge of transitioning BTEC students into HE.
- 7.38 It was recognised that continuing with a twin track approach to inspection, involving both QAA and Estyn, would disadvantage FEIs in that they would continue to be subject to inspection by two separate bodies. However, it was thought that the Commission should be in a position to ensure better integration through its approach to commissioning. Key to this would be the Commission's relationship with QAA and Estyn and the powers it has to set out what it wants of these organisations. Consideration would also need to be given to how diocesan inspection arrangements (and charity law) are accommodated.
- 7.39 Another concern is that any designated body (or bodies) should have the expertise and reputation to ensure comparability with UK and international quality assurance arrangements (through ENQA compliance), particularly with regard to the HE sector. One contributor argued that any designated body will need to be able to do for HEIs what the QAA currently does.
- 7.40 One contributor thought that the fourth bullet under para 177 reflects misunderstanding of the UK Quality Code in that it is co-owned by the sector and the assurance body does need to meet its requirements. It was suggested that the paragraph could be better phrased, perhaps to say that the reviews need to take account of the UK Quality Code rather than the organisation itself.

Q46: Do you agree with the proposed definition of quality enhancement? What would you change?

- 7.41 It was noted that the definition of enhancement includes the word ‘enhance’, which was seen as something rather circular and clumsy as a result.
- 7.42 It was thought particularly important that the framework expressly encompasses quality enhancement as well as quality assurance.
- 7.43 Slightly different definitions of quality assurance and quality enhancement are used in each PCET sector. Whilst it would be quite legitimate for the Commission to have its own definition, it will need to recognise that sectors within the PCET landscape may use slightly different definitions as well. It was said that the QAA already does this.
- 7.44 It was thought that the definition could usefully read ‘... activities strategically designed ...’ to emphasise the purposeful nature of the processes and activities to which it refers. It was also argued that the words ‘deliberate and systematic action’ could be added to the statement to make it slightly less passive.
- 7.45 Another potential addition suggested was that the statement should talk of improvement leading to ‘sustained high performance’, essentially linking improvements in quality to outcomes.

Q47: Do you agree with the proposed scope of the Commission’s role in relation to quality enhancement? What would you change?

- 7.46 The principle of the Commission taking a strategic lead on quality enhancement is useful, but the legislation need not define too closely how that should be done. It was argued that the level of detail set out in the consultation document (here and elsewhere) is too great for a consultation intended to pave the way for the legislative process. Some of the things covered in the consultation document need to be left to the Commission, otherwise WG runs the risk of framing the legislation too tightly and, as a consequence, needing to legislate further at a future date. The WG needs to be clear about what needs to be included within the Bill and that which the Commission needs to take forward once the Bill has been enacted. As one contributor put it – ‘go high level and allow scope underneath’.
- 7.47 Having said this, one contributor cautioned against putting forward a ‘framework bill’ and that warned that WG needs to be sufficiently clear about its expectations in relation to duties, functions and powers.
- 7.48 It was noted that some of the issues raised during this consultation process that are not necessarily of relevance to shaping the Bill need to be communicated to the Commission to ensure that it does not set about asking the same questions again.

- 7.49 It was suggested, for example, that paragraph 187 would be more appropriate if it were to read ‘... working with other agencies and with institutions to enhance the quality of learning opportunities for students’. It was thought that the latter part of the paragraph, together with the bullet points that follow could be deleted.
- 7.50 One contributor argued that consideration needs to be given to how QA&E will relate to ROAs. It was expected that elements of the QA&E assessments/plans would form part of ROAs rather than being separate and unconnected documents/agreements. Contributors felt that more information was needed on what ROAs would look like to be able to comment further in this regard.
- 7.51 It was noted that careful consideration will need to be given to how the Commission might go about doing the kinds of things listed at paragraph 187.

Q48: How could the Commission’s role in workforce development be tailored to reflect the needs of different sectors and providers?

- 7.52 Again, it was felt that this section of the consultation offered detail but not clarity about what the Commission’s role should be.
- 7.53 Contributors welcomed the prospect (as suggested in the consultation document) that the Commission will be interested there being higher quality professional development opportunities available to practitioners in Wales – noting this as a potential point of distinction from England. It was agreed that the Commission should have oversight of workforce development arrangements across the PCET sector, but that it should not necessarily get involved in delivering CPD, but rather provide the steer and wherewithal to plug gaps that are identified. In essence, it was argued that the Commission should have a ‘coordinating’ rather than a ‘doing’ role in this regard.
- 7.54 The point was made that professional standards exist across different parts of the PCET sector and part of the Commission’s role might be to ensure consistency and integration in that regard. Indeed, the proposal that the Commission’s role might include ‘helping to establish greater parity and portability for qualified teachers between schools and FE sectors was welcomed. In relation to HE professional standards specifically, the importance of portability with the wider UK HE sector needs to be recognised. It also needs to be recognised that much CPD activity undertaken by HEIs is done in liaison with sector agencies e.g. Advance HE, the HE Academy and JISC. Reference was made to a ‘learning analytics’ project put forward by the HE sector.
- 7.55 Notwithstanding what is said above, it was thought that the proposals set out in the consultation document may provide opportunities for expanding workforce development activity among WBL providers. The WBL sector lacks the formal structures present to support HE and, to a lesser extent, FE and sixth forms.

- 7.56 Despite what is said in the consultation that a 'one size fits all' approach would not work across all sectors, contributors were concerned that the Commission should not be drawn into trying to develop a single set of standards to which every sector would be expected to adhere. This should be avoided at all costs.

Q99: How might the proposed policy be formulated to have positive effects on opportunities for people to use the Welsh language

- 7.57 It needs to be made clear from the outset that the Commission has a role to support the Welsh language and what that role is. This would give the Commission authority to act in the interests of promoting Welsh language related activities. For some contributors, this would entail Welsh language related issues being considered as a mainstream issue rather than as a 'bolt on', which by having a separate 'supporting the Welsh language chapter' to the consultation document implies.
- 7.58 There was some support for the idea of a statutory committee with the Commission to oversee its role in supporting the Welsh language and developing Welsh medium provision, whilst other contributors were more ambivalent and would wish any such committee to be considered in the context of the role of the Coleg Cymraeg Cenedlaethol (the Coleg) board.
- 7.59 Some argued that the Commission should be responsible for funding the Coleg, rather than the Coleg being funded from sources which might not entirely share the Commission's ambitions. The counter argument was made, however, that the Coleg should continue to be funded by WG, that arrangement having only recently been put in place.
- 7.60 One contributor argued that the WG's Million Welsh Speakers ambition needs to be referenced in the legislation establishing the Commission.
- 7.61 It was argued that the Commission should be obliged to work with other bodies which have the expertise on Welsh language related aspects of policy formulation and implementation. It was not thought that the Commission itself would necessarily have a high level of expertise in language development and promotion, but it could usefully work with the Coleg, which does.
- 7.62 It was suggested that the ACL element of PCET should be brought into the purview of the Coleg to allow a more holistic approach to be taken, given that it is now working on arrangements for FE and WBL.
- 7.63 Another thing that the Commission could do to have positive effects on opportunities to use the Welsh language was to ensure the availability of external quality assessors able to work through the medium of Welsh.

- 7.64 It was also thought that the sharing of good practice, not only within PCET sectors, but also across sectoral divides.
- 7.65 The importance of the Commission having robust data relating to Welsh medium provision (type, numbers participating, progression through transition stages) was emphasised if it is to plan provision in an informed way.

RIA Impact Questions

What financial costs or savings do you think these proposed reforms MIGHT give rise to, both in the short term and in the longer term?

How should the costs of external assessments be met?

- 7.66 It was argued that reforms of the kind proposed 'never lead to savings' and contributors struggled to identify any savings that might be made. At best, the reforms might be cost neutral, but with a more holistic, system wide approach' leading to better value being derived.
- 7.67 Turning to QA&E specifically, it was thought more likely that the reforms will lead to more cost because the Commission will be expected to do, or to require PCET providers or QA&E assessors to do more than is currently done.
- 7.68 The point was made that FEIs (in the broadest sense) do not pay for inspections at the moment, whereas HEIs (via the offices of Universities Wales) do. It was argued that all sectors of the PCET sector should be on the same footing as regards paying for inspections and that the costs of assessments should be borne by the Commission.

Other matters

- 7.69 There was a consensus that the consultation document as a whole contains far more detail than is necessary to inform the regulation. It is essential that the regulation is drawn up in such a way as to allow flexibility for the Commission to develop and to adapt as time goes on. In essence, the Bill needs to be future-proofed.
- 7.70 It will be important, however, that more detailed matters are considered during the next phase of the Commission's development and that messages relating to these more detailed matters that emerge from the current consultation exercise are taken into account.
- 7.71 It was noted that whilst sixth forms will ostensibly be within scope for the Commission, most of the influence over schools will remain in the hands of local authorities. This may compromise the Commission's ability bring about change to sixth form provision in the short to medium term at least. It also means that there will continue to be a divide between sixth forms on the one hand and FEIs and WBL providers on the other.

- 7.72 There was some concern within the HE sector that the consultation document points to a centrally planned PCET sector, a prospect to which all contributors were averse. The Commission may need to incentivise providers to take the risk of investing in provision for which there is little apparent demand in order to stimulate that demand over time. However, planning and targets should not be the order of the day.
- 7.73 The importance of institutional autonomy and academic freedom was emphasised if Welsh HEIs are to remain 'excellent'. It was argued that it is quite legitimate to ask HEIs to play a part in responding to WG economic priorities, but HEIs operate on a world stage and need to be allowed the rein to do that successfully.

8. Sixth Form

20th June 2018

8.1 The following organisations were represented at the workshop:

- HEFCW
- Catholic Education Service
- Ysgol Maes y Gwendraeth
- NUS Wales
- WLGA
- Estyn
- Central South Consortium
- GwE Gogledd
- ADEW
- Ysgol y Creuddyn and CYDAG

General Points Made

- 8.2 The absence of a clear Welsh Government vision for the PCET sector of the future was seen as a weakness and something that rendered the consultation process rather abstract in places. Contributors were in agreement that Ministers need to be clear about what they want from the Commission and to make their ambitions for the Commission public. Allied to this, several contributors were keen to know how the delegation of Ministerial powers to the Commission can/will be reconciled with democratic accountability. Indeed, democratic accountability was a recurring theme of this workshop, possibly because of the dominance of participants from schools related fields.
- 8.3 There was some scepticism as to how divorced the Commission is likely to be from WG in reality, with the consultation document allowing room for a degree of ambiguity in this regard. The general feeling was that regardless of how arms' length the Commission might be in principle, the fact that it will be funded by WG inevitably means that it will be heavily influenced by WG (arms of rather than arm's length). This was seen as a good thing in that it would help to promote policy coherence (e.g. in relation to pre and post 16 education), but also as a potential risk in that the Commission could be susceptible to undue or inappropriate (political) pressure.
- 8.4 It was noted that in the case of HEFCW, those areas where WG cannot compel HEFCW (or indirectly institutions) are clearly prescribed in legislation e.g. in relation to academic freedom or student admissions.
- 8.5 As a general point, it was noted that whilst sixth forms are to be within the Commission's remit, the consultation document indicates that they are to be exempt from certain aspects of the Commission's regulation (e.g. in terms of LAs continuing to act as intermediaries between schools and governance arrangements remaining unchanged). This

gives a sense of inconsistency to the consultation document and to the proposals more widely. Allied to this point, it was argued that chopping the consultation document into different parts for the workshop sessions masks these inconsistencies and makes it more difficult to identify tensions where they exist.

- 8.6 It was also noted that little reference is made in the consultation document to RSPs, even though RSPs are expected to play a key role in identifying regional skills requirements and influence the shape of PCET provision on different parts of Wales. This was seen as an omission that needs to be addressed.
- 8.7 Several contributors emphasised the importance of undertaking an impact assessment before any final decision is taken to establish a Commission.

Q19: Should the Welsh Ministers cease to have their functions (i.e. duties and powers) under sections 31, 33, and 36 of the Learning and Skills Act 2000 and should the Commission have those functions or functions very similar to those instead?

- 8.8 There was a degree of disagreement about whether Ministers' existing powers should be given to the Commission. Those opposed to the idea argued that:
- Ultimate accountability for the performance of the PCET sector will remain with government, regardless of whether powers are delegated to a Commission or not.
 - Government sets priorities for economic regeneration and skills development and government should, therefore, have a direct input to the PCET system.
 - Government sets the agenda for pre-16 education within schools and government having oversight of sixth forms within schools too would allow continuity and consistency.
 - The Commission could become a buffer for Ministers if it becomes necessary to make cuts to PCET funding or other uncomfortable decisions.
- 8.9 Those who saw merit in Ministers' powers being given to the Commission argued that:
- It would provide a platform for a more holistic vision for and approach to PCET.
 - Would provide a common framework for all post 16 learning.
 - It would help to engender parity of esteem between different PCET sectors (and between vocational and academic study).
 - The PCET landscape is changing with, for example, HE provision being delivered in FE settings and schools and FEIs collaborating to deliver broader curricula. Sixth forms should be part of this process of evolution.
 - It would disconnect decisions about PCET from politics.

- 8.10 It was noted that the Additional Learning Needs and Education Tribunal (Wales) Act 2018 confers responsibilities upon local authorities in relation to the support given to young people aged up to 25, with the pre and post 16 demarcation essentially removed. It was thought that the consultation document is silent in this regard and this was seen as an oversight that will need to be addressed. This implication here is that LAN provision as well as other non-mainstream post 16 provision will need to be brought within the purview of the Commission if sixth forms and other parts of the PCET sector are to be included.
- 8.11 It was argued that careful consideration needs to be given to how PCET provision will link to pre-16 provision, with (as noted above) some contributors seeing the importance of making such links as an argument for not delegating Ministerial functions to the Commission. Contributors spoke of the strides taken to reform the curriculum through 'co-construction' and it was thought that the weight of the WG had been key in driving through changes. Some contributors were disappointed that no reference is made in the consultation document to either the progress made or the approach taken and there was concern that this could mean that the developments in pre 16 education may not be taken on board to a sufficient degree by the Commission. Mention was made in this regard of work done at a local and regional level to develop 14-19 learning pathways.

Q20: Should the Welsh Ministers 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?

Q21: Should 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, be replicated largely unchanged for the new Commission?

Q22: Should section 68 of the Further and Higher Education Act 1992 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?

- 8.12 As previously noted, some contributors regarded it part of Ministers' democratic responsibility to have a role in planning and funding education and training from the foundation phase through to PCET. The importance of maintaining links between pre and post 16 education policy was mentioned time and again, with the 'implications of Donaldson' upon provision in school sixth forms seen as something of particular significance.
- 8.13 Others argued that the only reason that Ministers might need to retain a role in planning and funding PCET would be if the legislation establishing the Commission was too tightly framed, thus denying the Commission the flexibility to discharge its role effectively. It was

thought that WG could channel funding for any additional provision needed through the Commission if and when necessary.

- 8.14 It was also argued that difficulties could arise if too many bodies have roles to play in planning and funding PCET, rather undermining the rationale for establishing the Commission in the first place. One contributor suggested that if the Commission operates to the spirit of the five ways of working within the Wellbeing of Future Generations Act, the connections should be made with different parts of WG.
- 8.15 Whilst views differed among contributors, there was some consensus that Ministers may want to retain some role for a transitional period, whilst any new Commission gets to grips with its remit and the challenges it faces.

Q23: Should the Welsh Ministers hypothecate between elements of the total grant available to the Commission on the basis of type of provision to be funded?

Q24: 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?

- 8.16 It was argued that there would be an element of inconsistency to the idea of creating a Commission to plan and fund PCET on the one hand, and Ministers continuing to dictate how funding should be allocated, on the other. A rigid hypothecation of funding, it was said, would be seen as an indication that the WG does not trust the Commission to do what it has been charged with doing.
- 8.17 It was thought that rigid hypothecation could stand in the way of change, for example, in the case of FE colleges delivering more HE provision. A Commission with oversight of both sectors should have the flexibility to encourage (negotiate and fund) collaborative models of delivery offer advantages, particularly in areas which are not well served by HE institutions that offer particular types of courses.
- 8.18 Having said this, however, it was recognised that there may be a need to 'protect' some aspects of provision, not least sixth forms, which are coming under increasing pressure in some parts of Wales from what was regarded as predatory behaviour on the part of FE colleges. This argument was linked to the need to preserve and grow Welsh medium post-16 provision, which it was argued, is fundamental to the realisation of the ambition set out in 'A Million Speakers'. In essence, school sixth forms were seen as the natural home of Welsh medium post-16 provision, with FE colleges considered poor at making Welsh medium provision available and sometimes lacking in the competence to deliver Welsh medium courses.

- 8.19 One argument for hypothecation between HE and FE funding, at least in the short term, was that there could be a ‘tendency for HE to dominate the discussion about funding’.

Q44: Should anything be added, removed or changed with the proposed overall principles for the quality framework? Do you have any views on the specific proposals on quality assurance regarding sixth forms?

- 8.20 The point was made that the regulatory framework in place now generally works well. Given the that the arrangements currently in place has a number of strengths, it was argued that that a ‘hybrid’ model involving Estyn and QAA might be more workable than the designation of a single body to oversee QA&E across PCET sectors, as proposed. This would fit well with principle iii, as proposed. There was little appetite for a single designated body, at least in the short to medium term, though it should be the Commission to decide upon longer term arrangements.
- 8.21 It was acknowledged that school sixth forms have not historically received the level of attention that perhaps they should by virtue of being encompassed as part of wider school inspections. Whilst it was accepted that the Common Inspection Framework means that school sixth forms now come under closer scrutiny by ESTYN, it was accepted that there may well be merit in the whole PCET sector being subject to a common QA&E regime.
- 8.22 The Commission will need to consider how any new PCET arrangements fits in with the pre-16 self-evaluation and inspection regime. This will be particularly important for schools with sixth forms, which could potentially be subject to two different systems.
- 8.23 The development and roll out of consistent post-16 outcome measures was seen as an important step along the journey to a coherent QA&E system, with individuals commenting on the importance of ‘transparency’ within the system and the need for measures to take account of the progress made by each individual learner when progressing between key stages of pre and post 16 education. The recent recommendations of Professor Donaldson in this regard were broadly welcomed.
- 8.24 Overall, it was thought that the principles represent a good starting point in that they largely reflect the approach taken by QAA and Estyn at present. However, they need to be developed further.
- 8.25 The first principle was welcomed wholeheartedly. Indeed, it was argued that if learners’ interests were the primary driver for provider behaviour, there would be no barriers to collaboration.
- 8.26 It was thought that principle v might cause schools concern in that school sixth form classes can be small e.g. for minority subjects, for Welsh medium provision, in rural areas or if pupils have additional learning needs. In essence, some types of provision will inevitably

more expensive per head than others and value for money cannot, therefore, be judged purely on a cost basis. Value for money needs to be defined, with definitions possibly being 'contextual', allowing definitions to mean different things in different parts of Wales or in respect of Welsh medium provision, for example. In this regard, some contributors felt that WG should be responsible for coming up with definitions rather than leaving it to the Commission.

- 8.27 Allied to the point about value for money measures, it was argued that judgments in respect of school sixth forms need to be considered in the context of the value added by a school as a whole, with the existence of a sixth form sometimes playing a key part in the viability of schools as a whole (e.g. in terms of funding and appeal to better teachers).
- 8.28 Principle nine was thought important in that it implicitly acknowledges that there will inevitably be differences across Wales e.g. between urban and rural areas and the need to accommodate smaller group sizes in more sparsely populated areas.
- 8.29 It was thought that a further principle should be added to the list proposed, capturing the expectation that any quality framework will consider the progression and development of the individual from pre-16 into and through post-16 learning. In essence, a post-16 quality framework should not sit in isolation to what is in place for the pre-16 sector (CIF), but recognise the (pre-16) 'national mission', the role of institutional self-evaluation (within the Estyn CIF) and the recommendations of Professor Weingarten.
- 8.30 Consideration of was thought to be an area missing from the principles proposed. It makes little sense to talk about post-16 QA in isolation from pre-16 arrangements.

Q49: 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?

- 8.31 The way in which this question was framed was probably less than helpful in that reference to the closure of sixth forms put contributors on the defensive and possibly prevented them from appreciating the extent of the powers currently held by Ministers i.e. to publish proposals to add or remove school sixth forms rather than to close sixth forms arbitrarily.
- 8.32 The question led to contributors expressing fear that awarding powers to the Commission to instigate a regulated alteration would undermine democratic authority vested in local authority members and Ministers. Furthermore, there was concern that by instigating changes such as the closure of sixth forms, the Commission (with its focus on post-16 provision) could destabilise whole school structures and even compromise the stability of secondary schools' feeder primaries.

- 8.33 Contributors were clear that the ultimate arbitrator of any disputed proposals for change should be the Welsh Government. Indeed, it was argued any legislative changes should ensure that Ministers cannot abrogate or eschew their democratic responsibilities in the face of controversial proposals such as the potential closure of sixth forms.
- 8.34 Whilst there was some disquiet, on balance, it seemed to be accepted that the Commission, as a regulatory authority, should have the powers to instigate (rather than force) a regulated alteration, particularly if it is to deliver against its mission by ensuring coherence and removing inefficiencies within the PCET sector. In exercising such powers, however, the Commission will need to take account of the wider potential implications of any changes it might choose to instigate.
- 8.35 There was consensus that bringing changes about through negotiation (via ROAs) would be preferable to exercising legislative powers. It was suggested in this context that ROAs should incentivise providers to achieve particular goals or behave in particular ways rather than the Commission using ROAs in a punitive way. Contributors qualified this by saying that until it becomes clear what an ROA will look like and how providers (including schools via local authorities) will be held to account for the courses delivered, it is difficult to comment with any certainty on the whether ROAs are likely to be good things or not.
- 8.36 It was thought anomalous that the Commission will negotiate ROAs with individual HEIs, FEIs and WBL providers, but not with individual schools in respect of their sixth forms. Whilst it was appreciated that the sheer number of schools, as well as their wider responsibilities, makes it impractical for each school to engage directly with the Commission, it was felt that this could impede communication and blunt understanding between schools and the Commission. It was also suggested that in negotiating ROAs with local authorities, it may need to take a regional view, to ensure a balance of provision across local authority boundaries. Models already exist of cross border working between local authorities, including ones to emerge from work done by 14-19 networks.
- 8.37 In this context it was noted that the consultation document indicates that ROAs will provide evidence of the financial viability and financial sustainability of providers. It was not clear to consultees how this could be done in relation to school sixth forms without taking into account the financial viability of individual schools as a whole. It was suggested that it might be more appropriate for the Commission to agree OAs with local authorities rather than ROAs.
- 8.38 Allied to this, there was some concern that local authorities may not have the capacity or expertise, at least in the immediate term, to negotiate and then manage performance in the ways that ROAs will demand. Local authorities are not accustomed to managing and reporting upon school performance in the way that HE and FE

institutions have for a number of years. There will be capacity building implications for local authorities and schools moving onto a ROA footing.

- 8.39 The lack of capacity within local authorities makes it unrealistic to expect the negotiation of ROAs to bring about changes of the magnitude of regulated alterations.
- 8.40 The point was made that the Commission should have the powers to ensure equity for Welsh medium provision in the sense that it should be able to step in and oblige providers to offer certain courses through the medium of Welsh, even if the numbers taking up such provision are low and, in some providers and local authorities' views, unviable.

Q50: What reporting should be required of the local authority to show effective use of funding given for sixth form provision?

- 8.41 This question was seen as being 'hugely specific' for a technical consultation about the role and shape of a post-16 regulatory body. This was mirrored over other over-specific areas and questions elsewhere in the consultation document. There was some fear that going into too much detail at this stage and framing the legislation too tightly could tie the Commission's hands once it is operational. Questions such as this one were essentially thought to be something for the Commission to address during its early days/establishment phase.
- 8.42 Nevertheless, contributors argued that the purpose of any information gathered needs to be set out clearly at the outset. Used in the right way, information about the provision being delivered could be a very powerful tool for determining how provision should be developed. It was also noted that a wealth of information is already collected about the effective use of funding by schools and this should be built upon rather than the Commission starting afresh.
- 8.43 Key elements of information which were identified as potentially important were:
- Learner numbers on courses (rather than courses offered)
 - Information about partnership working between schools and between schools and FEIs, for example where groups are brought together to study minority subjects.
 - Longitudinal information about individual learners' pathways and destinations.
 - Information about the longevity of individuals' employment in particular jobs e.g. within priority sectors or fields.
 - Indicators of the quality of provision.
- 8.44 Contributors emphasised the need for this kind of information at a regional as well as a national level in order to inform partnership working/collaboration between providers. It was also argued that regional information would be helpful in reinforcing the role played by RSPs.

- 8.45 One caveat to a generally positive attitude to the Commission requiring local authorities to report on aspects of sixth form provision was that information should not simply be used to feed a 'reductionist agenda' i.e. to identify apparently inefficient provision without taking into account the context in which such provision is being delivered e.g. Welsh medium provision or minority subjects in rural areas.
- 8.46 It was noted that the Commission will need to put support in place to help schools and local authorities cope with a reporting regime that is new to them.

Q51: Is the role proposed for the Commission when a sixth form is judged as causing concern appropriate, or should it be different in some way?

- 8.47 It was noted that there are existing arrangements in place for dealing with schools which are causing concern. These involve local authorities, regional consortia and Estyn. It will be key ensure that the Commission fits in with these existing structures and arrangements. Once more, the importance of recognising that sixth forms are part of wider school structures was emphasised.
- 8.48 It was argued that the Commission would have a legitimate role to play where a school is in breach of its ROA or (OA), given that ROAs essentially represent a contract (with funding attached) between the local authority and the Commission. Indeed, given the logic of establishing the Commission with powers under the Learning and Skills Act 2005, some thought that the wording of the consultation document (that the commission 'should be kept informed') may not be strong enough. It was suggested that 'should be involved' would be a more appropriate wording.
- 8.49 Others thought that paragraph 210 would give the Commission sufficient power in relation to problems arising in relation to school sixth forms, with paragraph 222 providing for situations where problems might arise in relation to the pre-16 element of a school. Taking this interpretation of the consultation document, it was argued that the role proposed would be appropriate. Again, contributors returned to the importance of considering schools in the round (and the implications for curriculum planning further down a school) should the Commission decide to withhold sixth form funding, as described in paragraph 210.

Q99: How might the proposed policy be formulated to have positive effects on opportunities for people to use the Welsh language

- 8.50 It was argued that the Commission should have the power to force/incentivise awarding bodies to develop Welsh medium teaching and learning resources where demand may not be sufficient to make it commercially viable to do so. It may be that the Commission would

do this through Qualifications Wales rather than directly with awarding bodies.

- 8.51 It was noted that the WG's ambition to create a million speakers has led to English medium schools in some parts of Wales seeking to increase the use made of Welsh across the curriculum in order to normalise use of the language. This is happening on a very haphazard basis, with no clear national or regional strategy underpinning it. Contributors were not convinced that this would lead to a million Welsh speakers because it would not ingrain the skills and habits needed sufficiently. It was argued that the Commission may need to 'take a step back' and consider how schools might go about developing the skills, motivation and appetite to use Welsh in a natural way among pupils. A 'genuinely national strategic approach' is needed, possibly involving investment in technology to facilitate high quality, reliable distance learning approaches that potentially extend across local authority boundaries.
- 8.52 Allied to this, it was argued that existing Welsh medium provision in schools (pre and post-16) needs to be strengthened and colleges need to be supported to develop provision that will allow learner progression through the medium of Welsh. One contributor feared that a 'blanket approach' to increasing the volume of Welsh medium teaching would simply serve to dilute the quality of provision.
- 8.53 It was also argued that more needs to be done to promote the advantages of being able to speak Welsh for individuals' future careers, with messages to this effect being given to pupils from primary, right through secondary and into tertiary education.
- 8.54 It was argued that extending Welsh medium provision is likely to be costly, at least in the initial stages. Additional costs include, for example, transporting learners between provider settings, developing resources, putting in place technology that facilitates remote/distance learning that is better than 'the video conferencing of the 90s'. Provision needs to be made to accommodate additional costs if providers are to play a part in helping the Welsh Government to realise its ambition for a million speakers.

RIA Impact Questions

What financial costs or savings do you think these proposed reforms MIGHT give rise to, both in the short term and in the longer term?

What other positive or negative impacts might be felt across different parts of the sector in the short term and longer term?

- 8.55 The wording of this question suggested to some that the Welsh Government's starting point is wrong in that its first consideration is the financial implications of the reforms proposed rather than the benefits that the reforms would provide for learners. This seemed at

odds with the first of the proposed guiding principles for the Commission's QA&E framework.

- 8.56 It was acknowledged that a central purpose of establishing a Commission is to create a better integrated and more efficient PCET system: in essence to make better use of resources or to 'make money go further'. Contributors accepted this as a central tenet, but cautioned against seeking economies at the expense of quality and access to relevant learning opportunities. It was thought that the Commission 'will want to make an impact' at a fairly early stage in its life and this could well come in the form of 'rationalisation'. The implications of this desire on the Commission's part to prove itself will need to be considered carefully in terms of learner interests and value rather than simply cost.
- 8.57 It was noted that establishing a Commission could be a cost adding exercise, particularly if the WG fails to fully delegate the powers proposed i.e. that the WG creates 'another tier of bureaucracy'.
- 8.58 The establishment of a Commission will inevitably involve additional costs and these costs need to be weighed up carefully to ensure that they can be justified by efficiencies generated within a reasonable time. Even in the longer term, a properly functioning Commission will involve costs, for example to ensure effective learner voice arrangements which do not currently exist across the PCET world and aligning QA&E arrangements.

Other matters

- 8.59 Contributors also emphasised the need for flexibility going forward to ensure that learners' changing needs are accommodated.
- 8.60 It was argued that schools need to develop a representative structure and that students' experience of representation should be similar across schools and FEIs. It was noted that this could build upon developments such as youth parliaments pre and post 16.
- 8.61 It was argued that the WG's expectations in relation to the Welsh Baccalaureate (WB) should be made clear
- 8.62 There was concern that Welsh medium education could become lost in a wider PCET context. It was argued that there is a dearth of Welsh medium post-16 provision in FE colleges and WBL, with school sixth forms representing the bastions of Welsh medium post-16 education (including vocational education) in many parts of Wales. Welsh medium PCET needs to be safeguarded as a cornerstone of efforts to meet the 'Million Speakers by 2050' target.
- 8.63 It was noted that many schools seem unaware of the current consultation, with individual contributors noting that it had not been a substantive agenda item at meetings of, for example, recent headteacher groups. This owes much to the 'swathes' of consultation documents that schools have been required to respond to over recent months and years. Schools simply lack the capacity to respond to

consultations on top of the day job: this was evidence in the low response rate received to the White Paper consultation. It was suggested that the consultation period might be extended: the facilitator noted that the WG would be unlikely to do this.

- 8.64 Allied to this point, it was noted that the WLGA, in submitting its response, will be speaking for 22 local authorities and should be weighted to reflect its representative role rather than simply being counted as a single response.

9. Strengthening the link between planning and funding

22nd June 2018

9.1 The following organisations were represented at the workshop:

- Colegau Cymru
- Swansea University
- Office of the Welsh Language Commissioner
- SW and Mid Regional Learning Partnership
- Grŵp Llandrillo Menai
- WLGA
- NTfW
- Universities Wales
- Adult Learning Partnership Wales
- HEFCW

General Points Made

- 9.2 HE representatives returned time and again to the principle of institutional autonomy for HEIs. The point was made that the UK HE sector is 'hugely successful' and respected worldwide, to the extent that staff, researchers and students 'flock' to work and study in UK HEIs. It was argued that HEIs do not simply plan for the future (in the sense of responding to government priorities), but 'invent the future' through research. It was said that research intensive institutions cannot separate teaching and training from the research undertaken.
- 9.3 This view of HE as an unfalteringly successful sector was challenged, with one contributor suggesting (very politely) that the sector may not be contributing as well as it might to the development of higher technical skills needed by industry. Indeed, it was suggested that this may have contributed to the current proposals for the creation of the Commission being developed.
- 9.4 It was argued that the HE environment is a wholly different environment from the FE sector (in the round) and this needs to be respected, or risk 'killing the goose that lays the golden egg'. Furthermore, the Commission will control only an element of the funding flowing into HEIs, with the bulk generated from fees income and research funding. HEIs also differ from other kinds of provider in that they are awarding bodies. HE representatives cautioned against changing structures without really understanding functionality, describing the proposal to create a Commission as 'moving the deck-chairs'.
- 9.5 That is not to say that HE should not work with government and industry in partnership. Indeed, it was argued that a litmus test of an economy that offers potential for growth is the quality of partnership working between government, industry and HE institutions. In

essence, however, HE representatives did not subscribe to the view that centralised planning of the numbers of learners pursuing particular routes works effectively.

- 9.6 There was some discussion of developments to the nature of apprenticeship training in England, including the emergence of employer providers who influence technical specifications for apprenticeships and the detachment of apprenticeships from qualifications. This was not necessarily seen as a good thing.
- 9.7 It was noted that study/career related information advice and guidance is an area lost in the consultation process as a whole. Indeed, it was thought that too little is done at present to encourage young people in Wales to choose to study and stay in Wales.
- 9.8 One contributor argued that it is difficult to address questions relating to the Commission's potential functions and powers without first understanding the purpose of the proposed Bill. It was questioned whether the intention is to delegate Ministerial functions, which would mean that the lead responsibility for functions would remain with Ministers, or whether the intention is to transfer functions and responsibilities to the Commission which will be accountable to the National Assembly and to Government. It was argued that the answer to this question would determine the level of detail into which the Bill needs to go.
- 9.9 Delegated powers would be capable of being withdrawn by Ministers at any time, whereas transferred powers would require further legislation to change or take back by Ministers. There was some discussion about the legal implications of 'transferring' (rather than delegating) Ministerial powers, particularly if the Commission was to breach the terms of the Learning and Skills Act 2000. One contributor called for 'complete clarity as to the legal status' of the Commission.

Q19: Should the Welsh Ministers 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 should the Commission have those functions or functions very similar to those instead?

- 9.10 By and large, it was agreed as a matter of principle that, if there is going to be a Commission that funds learning across the PCET sector, it seems reasonable that those powers should be removed from the WG and given to the Commission. In transferring these powers to the Commission, however, WG must ensure that appropriate evaluation and accountability arrangements are put in place to ensure that the Commission works in a way that meets the aims of Government. In relation to sixth forms in particular, contributors would be concerned to ensure that in using powers under the Act, the Commission should respect and work within a democratic framework with a degree of local accountability.
- 9.11 It was noted, however, that the Act affords far greater powers of intervention in respect of FE than it does HE. Contributors from the

HE sector were anxious to ensure that the Powers as they relate to HE were not extended by the forthcoming Bill and the pillars of institutional autonomy and academic freedom are not compromised. It was acknowledged that the consultation document makes reference to HEI's institutional autonomy and academic freedom, but HE representatives were eager to ensure that the intentions expressed in the consultation document are reflected in the wording of the Bill when it is drafted. HE representatives justified their misgivings by explaining that it is not proposed to give the Commission all the functions that were transferred from ELW_a to the WG in 2005 e.g. sections 37-39 are not included. It remains unclear what will happen in relation to these functions.

- 9.12 HE representatives cautioned against awarding powers to the Commission that might inhibit HEIs from behaving in ways that allow them to generate funding from sources other than government (including student fees, research grants, private sector investment etc). It was thought in this regard that HEFCW sometimes acts as a break on HEIs now.
- 9.13 Other contributors challenged the idea of HEIs being outside the Commission's sphere of authority. It was argued that the Commission should be able to set targets for schools, FE colleges, WBL providers and HEIs alike, for example for the development of technical competencies where those are required to deliver the WG's industrial ambitions.
- 9.14 One contributor questioned what 'functions very similar' within the wording of the question is intended to mean and whether consultees were expected to suggest what functions very similar might be.

Q20: Should the Welsh Ministers 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?

- 9.15 It was argued that WG should retain a 'high level role' in relation to planning HE, but the arm's length relationship needs to be maintained between government and the Commission and between government and providers. In essence, the WG should not tell the Commission what kind of provision or research it should be funding. The analogy was drawn with the current arrangement whereby WG provides a broad 'steer' to HEFCW via its remit letter, allowing HEFCW to then interpret that steer and cascade it to institutions. Others felt that it would be legitimate for WG to direct the Commission to challenge providers and set targets for the delivery of provision that relates to its economic priorities. This would reflect more closely the possibly overly 'micro' approach taken to funding FE institutions at present, whereby college budgets are negotiated on the basis of the number of learners on courses and achieving qualifications at different levels and in priority areas.

- 9.16 Given that the vast bulk of funding flowing into the Commission will originate with WG, it was seen as unrealistic to imagine that Ministers would award such funding without ‘strings attached’. However, it was argued that its role should not extend beyond influencing the Commission to influencing individual providers or provision. Separate steers from both WG and the Commission could lead to mixed messages and confusion.
- 9.17 It was noted that most funding flowing into HEIs is ‘student led’ and, therefore, reflective of student choice. HEIs have to respond to student demands and are not in the same position as FEIs to respond to government targets for particular types of provision. If Welsh HEIs fail to offer courses that appeal to students, those students will choose to study at HEIs outside Wales. Thus, it was argued that the idea of taking a consistent approach to planning and funding all categories of PCET, regardless of who does that planning and funding, is misguided. There are exceptions to this argument, however, in relation to medicine and, to a lesser extent, nursing, where WG does control the numbers recruited by HEIs.
- 9.18 Notwithstanding the fact that tuition fees represent roughly a half of HEI income, some contributors felt that the Commission could and should use other streams, such as core research funding and other grant funding as levers to encourage HEIs to respond to WG economic priorities. HE representatives did not share this view.
- 9.19 Some perceived that the WG should engage in dialogue with the Commission about its economic priorities and how the Commission will shape learning provision to address skills needs. It will then be for the Commission to negotiate with providers, with reference to local and regional labour market intelligence compiled by RSPs and others, about the shape of the provision required to address skills needs in the context of WG priorities.
- 9.20 As an addendum, it was asked whether providers moving from England into Wales can be funded by the Commission. This question was sparked by the WG’s decision to work with Sheffield University and Airbus in the Flintshire. Contributors’ understanding was that the Commission will only fund registered providers based, or largely based in Wales.

Q21: Should 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, be replicated largely unchanged for the new Commission?

- 9.21 It was thought that, in substance, the powers should be replicated unchanged. Once more HE representatives emphasised the importance of maintaining the arm’s length nature of the WG’s relationship with the Commission and of the Commission respecting institutional autonomy. It was further noted that seeking to change the provisions of the 1992 Act can lead to technical difficulties, as was

the case with the 2015 HE Act in Wales. In essence it was thought that the 1992 Act will allow the Commission an appropriate level of flexibility, as it has done for HEFCW up to this point, including potentially giving the Commission the power to fund other types of provider to deliver HE provision.

Q22: Should section 68 of the Further and Higher Education Act 1992 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?

- 9.22 Once more, HE contributors emphasised the importance of maintaining the clauses surrounding institutional autonomy and academic freedom contained within Section 68 of the Act. It was also noted that these conditions have been replicated in the UK Higher Education and Research Act 2017. Other than that, contributors seemed content with the proposal as set out above.
- 9.23 It was noted, however, that Section 68 of the 1992 Act essentially excludes HEIs from requirements that staff are qualified teachers, though this was more of an observation than a suggestion that the situation should be changed.

Q23: Should the Welsh Ministers hypothecate between elements of the total grant available to the Commission on the basis of type of provision to be funded?

Q24: 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?

- 9.24 There was broad recognition that Welsh Ministers probably should hypothecate at a high-level a) because of a statutory duty to funding of FE and b) in recognition of Ministers' democratic accountability, not least in terms of their statutory responsibilities for funding FE. Another reason for hypothecating along HE/FE lines would be to provide assurance to each of the sectors surrounding future funding – 'to ensure there's no robbing of cheese'.
- 9.25 However, the question was raised whether such hypothecation would be done on the basis of programmes (e.g. apprenticeships and degree apprenticeships) or institutions (i.e. HEIs or FEIs/WBL providers). It was argued that a degree of flexibility will be required to ensure that difficulties do not arise in relation to the funding of provision at the FE/HE intersection, particularly as the distinction between HE and FE becomes increasingly blurred. Indeed, it was argued that a key reason for establishing the Commission is to challenge existing systems and structures. It was suggested that an

alternative might be for the WG to hypothecate funding on the basis of learner age groups (thus addressing statutory duties) or on the basis of learning levels.

- 9.26 Whilst accepting that there is some blurring between HE and FE (and recognising that this might be a goal for some), one HE representative argued that sight should not be lost of the fact that the HE/FE distinction is something recognised at an international level.
- 9.27 HE representatives pointed out that the bulk of the funding flowing from HEFCW (and in future the Commission) is focused on things such as research, the delivery of part time provision and rendering provision which is expensive to deliver viable. The bulk of mainstream HE provision is funded via tuition fees.
- 9.28 Over time, assuming the Commission and the PCET community reaches a level of maturity that allows the discussion of delivery models, some thought that the WG may need to take a more flexible approach to hypothecation. It was argued that continuing to hypothecate funding along HE/FE lines in the longer term will serve to reinforce existing 'silos', hinder the PCET community's evolution and hamstringing the Commission's ability to bring about change. Others felt that the high-level allocation of funding should remain a political decision for the foreseeable future, allowing stakeholders to hold Ministers, rather than the board of the Commission, to account for the consequences of any decisions taken. This has implications for whether or not the duty to hypothecate funding should be built into statute, with mixed views about whether it should or not.
- 9.29 One contributor noted that the heat of the discussion about the idea of hypothecation illustrates the challenge facing the Commission in bring the PCET sector together.

Q25: Should there 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?

- 9.30 There was broad agreement that by retaining powers to directly fund PCET provision, the WG would undermine the role of the Commission and give WG and inappropriate level of control over the Commission. It was also questioned why the WG would need to circumvent a Commission which takes the views of employers via bodies such as the Apprenticeship Board and RSPs and should, therefore, be well placed to make decisions about the shape of learning provision.
- 9.31 Contributors were particularly concerned that WG should not reduce the funding allocated to the Commission in order to fund provision directly itself. The point was also made that the Commission will have QA&E arrangements in place and the WG should not be in a position to circumnavigate those arrangements by funding provision directly.

- 9.32 There were a couple of areas where WG would need to think carefully about the implications of not retaining funding powers, however, specifically medicine and teacher training. Even in these cases though, contributors' preference would be for WG to direct (rather than invite) the Commission to fund particular types of provision, rather than funding such provision directly. It is possible that WG will need to retain some power of mandation to accommodate this. Consideration will also need to be given to avoiding any unnecessary bureaucracy and, possibly, prevarication on the Commission's part in situations where it is mandated by WG to fund particular provision.

Q26: Should responsibility for funding received from additional funding streams, outside core funding rest with the Commission?

- 9.33 It was recognised that it is a challenge to keep abreast of all the different funding streams flowing into PCET across Wales. Indeed, it has recently been suggested in north Wales that a project be established to map out the various projects in existence and the sources of funding supporting them.
- 9.34 It was thought, however, that it would not be practicable for the Commission to have a detailed knowledge of, let alone be responsible for funding which providers receive from various non-mainstream sources. Providers draw money from a myriad of sources, with the prospect of monies increasingly coming from UK government sources (e.g. the Industrial Challenge Fund) as European Structural Funds (which are channelled through an arm of WG) disappear. It was argued that requiring funding from an array of potential sources to be channelled through the Commission also runs the risk of slowing down decision making and increasing bureaucracy. It was noted, for example, that funding from other sources quadruples the grants allocated to ACL by WG and the Commission could be overwhelmed in trying to process such monies.
- 9.35 Moreover, the conditions attaching to non-mainstream funding streams are often different to those attaching to mainstream sources and allow the flexibility necessary in the delivery of some skills related interventions e.g. within employability programmes. Bringing projects funded via these non-mainstream sources under the auspices of the Commission may require that they be subject to the full range of the Commission's registration requirements.
- 9.36 From a HE perspective, it would be a nonsense for the Commission to take responsibility for things such as research funding.
- 9.37 Having said this, contributors thought that, where the Commission's involvement could add value, create efficiencies or lessen bureaucracy, it should have the power to receive/channel funding from non-mainstream sources.
- 9.38 It was argued that there also need to be safeguards in place to ensure that public funding for PCET (including funding flowing from various

WG departments) does not flow to providers that do not meet the Commission's QA&E processes i.e. all publicly funded PCET provision should be subject to the same rigour. It was recognised, however, that some organisations currently in receipt of ESF monies would struggle to meet the Commission's QA&E requirements e.g. third sector organisations and youth services doing valuable work with challenging groups. It was noted that such organisations play an important part in the employability field in particular.

- 9.39 Whilst it was not thought realistic to expect all non-mainstream funding to flow through the Commission, it was thought that the Commission should, as far as practicable, be informed about funding flowing from non-mainstream sources into the PCET system and use its influence to ensure that such funds are integrated with mainstream funds. It could, for example, issue guidance describing how WG departments should liaise with/inform the Commission of PCET activities to be funded from non-mainstream sources. It was not thought, however, that the Commission should have any statutory powers in this regard.

Q27: Should the Commission have the flexibility during a short transition period to operate different planning and funding models across each type of provider, whilst driving forward alignment and consolidation as the Commission matures in its operation?

- 9.40 The Commission will be established at a time of considerable uncertainty as the UK withdraws from the EU. This will have implications not only in terms of the loss of European Structural Funds (which represent a significant source of income for the PCET system in Wales), but also in terms of an economic recession that is likely to ensue.
- 9.41 Given this background, care needs to be taken during the process of transition to provide a degree of continuity in order to avoid destabilising the PCET system. It was thought that it will take some three to five years before the Commission gets to grips fully with its role. Some contributors argued that the clock on the transition period has already started ticking and others argued for bridging/ shadow arrangements to smooth the transition and allow a degree of continuity.
- 9.42 Transition arrangements do not need to be established in statute, though WG might choose to issue the Commission with guidance emphasising the need to assure the stability of the PCET system during a transition period. It should, however, be left to the Commission to decide whether, how and when to reform/align PCET funding models.

Q28: Should there be transition arrangements in place to ensure that core funding to any institution is initially protected? What would constitute reasonable protection?

- 9.43 It was understood that Q28 is primarily concerned with FEs (given the use of the words ‘core funding’) and driven by concerns surrounding the potential negative effects upon some institutions of recent ‘interim’ changes to the FEI funding model. It was thought that introducing further changes during the Commission’s very early days could destabilise the system and stakeholders broadly accepted the need for institutional funding to be protected in the very short term? It was also noted in this context that Ministers have issued a ‘statement of intent’ to work towards a three-year funding model for FEIs and sixth forms. This was broadly welcomed.
- 9.44 In the medium term, however, it was expected that the FE landscape will change. As previously noted, it will be for the Commission to decide how to reform PCET funding models.

Q29: Should the Commission 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?

- 9.45 Contributors thought that it goes without saying that the Commission should keep abreast of intelligence around the apprenticeship levy, along with a range of other policies across the UK and international.
- 9.46 It was not clear to contributors, however, precisely what is being asked in the second part of Q29. If taken to be asking whether the Commission should have the power to move to a voucher system akin to that in place in England, then contributors thought that the Commission should take the advice of the Wales Apprenticeship Advisory Board.
- 9.47 It was not thought, however, that provision needs to be built into the legislation for the Commission to adopt a voucher or any other system for funding apprenticeships.

Q30: Should the Commission continue to work collaboratively with the RSPs to inform provision delivered by learning providers?

- 9.48 There was general agreement that RSPs play a valuable role in working with industry and providers to understand regional skills needs and consider how those might be addressed, albeit that they do not all work in a consistent fashion. It was also acknowledged that they are recognised by government as vehicles for engaging employers and are referenced in a range of recent WG policy statements. However, it was also noted that RSPs are non-statutory, not governed by Nolan principles and not likely to have the longevity of the Commission, which will be established in statute.

- 9.49 There was a broad consensus that it is not necessary to make specific legislative provision for the Commission to consult or collaborate with RSPs in particular. It was argued that RSPs are current constructs and the landscape is likely to evolve over the next few years, particularly given the emergence of City Deals, Growth Deals, economic boards etc. Whilst it is legitimate for WG to charge the Commission with consulting and collaborating with regional and national stakeholders, this should be done by means other than by establishing such duties in statute.

Q31: Should the Commission 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?

- 9.50 It was noted that RSPs have been required to commend FEIs' delivery plans this year, but that the process may not have worked as well as expected in that WG had not been prepared to fund on the basis of delivery plans commended by RSPs.
- 9.51 It was argued that annual skills plans tend to focus on immediate skills needs rather than having an eye to the needs of the economy in 10-20 years' time. It was also thought that some of the information underpinning RSPs' annual skills plans may not be entirely reliable or sufficiently granular to truly build up a picture of skills needs.
- 9.52 There was little appetite for RSP annual skills plans to be used as a basis for allocating or withholding core budgets. Rather, it was felt that the Commission should set out the basis upon which it intends to allocate funding, with annual skills plans taken as one source of evidence to inform guidance, alongside intelligence from other sources. Alongside this, the Commission needs to enter dialogue with providers to ensure mutual understanding.
- 9.53 It was certainly not thought that a power to withhold core funding on the basis of recommendations set out in annual skills plans should be prescribed in legislation. Rather it was thought that the Commission might want to 'prioritise' rather than 'withhold' and this can be achieved via ROAs.
- 9.54 The debate about powers to withhold core budgets gave rise to warnings that care needs to be taken that the forthcoming legislation should not compromise FEIs and HEIs' national accounting classification or their status as charities.

Q32: Are the proposals for monitoring performance and achieving accountability across the PCET system sufficient and appropriate?

- 9.55 Contributors were not altogether clear as to what this question was driving at and found it difficult to answer. On the one hand, it was argued that the proposals are not appropriate and that they run the risk of compromising the status and independence of the

organisations that they are seeking to regulate by virtue of being too prescriptive. On the other hand, it was said that the proposals may be appropriate, depending upon how they are implemented and the extent to which QA&E arrangements put in place reflect differences between different types of PCET providers.

- 9.56 The point was made that there is a question for WG about how it leverages its influence over the Commission. The implication here was that Ministers may find it difficult to cede authority to the Commission, particularly given that they will remain democratically accountable for the consequences of the Commission's actions.

Q33: What more might need to be done to secure the sustainable operation of the PCET system in Wales over the longer term?

- 9.57 Several contributors pointed to the absence of a clear vision for PCET in Wales and a strategy for realising that vision. This was seen as a prerequisite for the logical establishment and effective functioning of the Commission. In the absence of a clear vision and strategy, the Commission is likely to end up floundering around trying to work out what it should be doing. It was thought that a PCET strategy should be formulated by Ministers in consultation (coproduction) with stakeholders including PCET providers – through a process very similar to the current consultation exercise. Such an approach would secure the ownership and buy-in of the sector to the strategy.
- 9.58 Given that the Commission will not come into being until after the next Assembly term, it was thought that political parties need to make commitments to supporting the Commission and to providing adequate funding for PCET in their manifestoes.
- 9.59 Contributors argued that stable funding is needed to give rise to resilient and effective PCET organisations. Much of this will boil down to the quantum of resource available.

Q99: How might the proposed policy be formulated to have positive effects on opportunities for people to use the Welsh language

- 9.60 The FE sector is currently developing a 'new bilingual delivery model' which will incentivise institutions to deliver more bilingual education. It was argued that the funding allocation model(s) adopted by the Commission will need to build-in some kind of incentives that recognise the additional work involved in developing and delivering bilingual teaching and learning programmes.
- 9.61 The work of the Coleg Cymraeg Cenedlaethol (Coleg) to develop capacity across PCET also needs to be built into funding models. One contributor argued that an element of the Commission's budget should be ring-fenced to support the work of the Coleg.

- 9.62 Careful consideration needs to be given to planning and developing a workforce capable of teaching through the medium of Welsh/bilingually. The point was made that there are currently problems in recruiting practitioners with appropriate Welsh language skills, particularly in vocational fields. The consultation document is unclear as to the Commission's relationship with the Education Workforce Council, which has the responsibility for setting standards and regulating staff in the FE sector (in its widest sense).
- 9.63 It was noted that the Commission will be subject to Welsh Language Standards and will, therefore, be required to consider how the policies it develops will impact positively or negatively on the Welsh language. It was suggested that the Commission should also be required to report on Welsh medium/bilingual provision annually.
- 9.64 It was not thought that anything proposed in chapter 6 of the consultation document will have a negative effect on the Welsh language, but if it is decided to hypothecate funding, careful consideration will need to be given to the potential impact of doing so upon Welsh medium/ bilingual provision.

RIA Impact Questions

What financial costs or savings do you think these proposed reforms MIGHT give rise to, both in the short term and in the longer term? What other positive or negative impacts might be felt across different parts of the sector in the short term and longer term?

- 9.65 One contributor viewed the establishment of the Commission as a case of 'rearranging the deck-chairs'. It was argued that creating the Commission runs the risk of diverting attention at a time of significant change which will undoubtedly impact upon the PCET system. The same contributor noted that they had not yet come across a reorganisation exercise that saved money.
- 9.66 Other contributors were rather less negative about the prospect of the establishment of the Commission. However, they believed that it is short sighted to think in terms of cost savings: the Commission will be created with the intention of its having a 20 year plus lifespan and its purpose will be to reshape the PCET system which will in turn lead to improved outcomes. Indeed, it was hoped that in the longer term, more will be spent on PCET, but that the investment made will yield better results, avoid duplication, secure efficiencies and represent greater value for money.
- 9.67 In this context it was noted that reshaping PCET so that more learners pursue technical vocational courses rather than academic courses will inevitably lead to higher costs per capita because technical vocational courses are more expensive to deliver than most academic courses. Whilst the costs would be greater, however, the return to Wales of a more technically skilled workforce would outstrip the additional costs. In relation to sixth forms in particular, the

Commission will need to be cognisant of the extent of cross subsidy between sixth forms and pre-16 elements of provision.

- 9.68 Whilst not opposing the idea of establishing the Commission, there was broad agreement that WG needs to give careful consideration to whether the same outcomes can be achieved/the same vision realised without going through the potentially costly process of setting up a new organisation. Having said this, it was accepted that the structural change may be needed to signal the WG's intentions to reform PCET and to bring about the cultural change required. In this context, it was noted that a number of 'quangos' seem to be springing up of late.
- 9.69 Consideration will need to be given to the costs of setting up the Commission e.g. disruption costs, TUPE costs, relocation costs, the cost of recruiting senior staff etc. It was recognised, however, that most of the Commission's staff will be drawn from existing organisations – the same people wearing different lanyards!

Other matters:

- 9.70 It was also argued that the Commission, when it comes into being, should be accountable to the National Assembly for Wales rather than Ministers and that the appointment of the Chair and Chief Executive of the Commission should be ratified by the National Assembly.
- 9.71 Drawing upon experience of this and other consultations, one contributor observed that it is difficult to envisage the HE and FE sectors working to the similar performance indicators, as envisaged by Hazelkorn and Weingarten. It was thought that some stakeholders are so entrenched in different missions, legislative arrangements and funding methodologies surrounding the HE and FE sectors that the best that can be hoped for is that they work towards a common middle ground. It may also be difficult for some stakeholders to subscribe to the changes proposed in the abstract and it was suggested that stakeholders within the PCET sector need to work together on defined projects in order to sharpen their appetite for change. An example might be the development of degree apprenticeships.
- 9.72 It was noted that there is a poor understanding of what is meant by FE in its wider context. The tendency is to associate FE with FE colleges rather than recognising that it also embraces sixth forms, WBL and ACL as well. This difference needs to be emphasised.
- 9.73 A key message to emerge from the discussion was that the Bill needs to be kept high-level. To be overly detailed would serve to hamstring the Commission at a later stage.
- 9.74 It was suggested that as part of this consultation process, a matrix could be drawn up identifying issues that need to be included within the Bill and those that have been the subject of consultation questions but are more operational in nature and should not, therefore, form part

of the Bill. This would essentially help to separate the wheat from the chaff.

- 9.75 It was argued that WG should avoid naming other organisations in the legislation. It is the functions performed by particular organisations that matter and not the bodies undertaking those functions.
- 9.76 Questions were asked about how it was decided who to invite to the various working groups.

Q44: Should anything be added, removed or changed with the proposed overall principles for the quality framework Do you have any views on the specific proposals on quality assurance regarding sixth forms?

- 9.77 It was thought that a further principle should be added to the list proposed, capturing the expectation that any quality framework will consider the progression and development of the individual from pre-16 into and through post-16 learning. In essence, a post-16 quality framework should not sit in isolation to what is in place for the pre-16 sector (CIF), but recognise the (pre-16) 'national mission', the role of institutional self-evaluation (within the Estyn CIF) and the recommendations of Professor Weingarten.
- 9.78 Consideration of was thought to be an area missing from the principles proposed. It makes little sense to talk about post-16 QA in isolation from pre-16 arrangements.

10. The Commission/Relationship between the Commission and Welsh Government

27th June 2018

10.1 The following organisations were represented at the workshop:

- University of South Wales
- Pembrokeshire College
- HEFCW
- NTfW
- Coleg Cymraeg Cenedlaethol
- Coleg Cambria

Question 4: Is the proposed allocation of responsibilities for strategic planning between the Welsh Government and the Commission appropriate?

- 10.2 Attendees generally felt that the allocation of responsibilities was sensible and consistent with other arms-length bodies. If the arms-length principle is truly accepted, then attendees felt that it was important for the new Commission to obtain a true level of independence and autonomy. In general, they felt that the balance was there in the division of responsibilities between WG and the Commission, but it was important, as the statutory responsibilities were being agreed that it shouldn't be overly prescriptive, and it was important to allow the new Commission the flexibility to adapt to the changing requirements of the future.
- 10.3 The R&I element of the commission is an important one, and there was some concern that the technical consultation focussed on meeting the needs of learners, but perhaps needed to also remember about R&I. With respect to R&I too, attendees felt that although WG ultimately will set the policy, the Commission will have a role in informing policy developments. As such a strong relationship will need to be established between the Commission and WG – but this will be down to personalities rather than statute.
- 10.4 Another general point made was that there is a mismatch between the current definition of PCET in the technical consultation document and the articulation of the role of the Commission. Attendees called for greater consistency in how the Commission would operate across the PCET sector in order to ensure it had sufficient authority.
- 10.5 Attendees agreed that it was difficult to address this question without anything tangible and concrete being in place, but that flexibility needed to be built into the structure and governance arrangements of the Commission. It was pointed out that the 1992 Act which set up HEFCW only had 10 paragraphs on this issue and therefore there was a danger of becoming over-prescriptive in legislation and creating issues and challenges for the future. The structure of the Commission

should not be constrained by too much detail in statute, and therefore the less detail, the more flexible it will be to respond to future needs it was argued.

- 10.6 Attendees also felt that a lot of the discussion was around the machinery and the 'how' the Commission would deliver, without a vision in place, as Hazelkorn's Recommendation 1 suggests is needed. The 'machinery' should respond to the vision and an understanding of what the Commission was being set up to achieve. Attendees did feel that discussing roles and responsibilities and governance arrangements prior to this was to 'put the cart before the horse'.

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?

- 10.7 Again, there was general consensus on this issue with all bar one of the attendees of the view that if the Commission is truly arms-length then wordings such as 'withholding' and 'intervention' suggests a general distrust from the outset and a 'command and control' approach to the relationship between WG and the Commission. It was argued that if this point was reached then there was indeed a huge problem. Again, it was noted that there was no wording of the sort in the 1992 Act for setting up HEFCW.
- 10.8 Attendees generally took the view that there was no need to specify this as it was inconceivable that it should ever come to this.
- 10.9 One attendee felt that there were only two scenarios where this was type of withholding of funding would arise – either the strategic plan wasn't good enough or it wasn't in line with expectations. In either case, this would beg the question why transfer responsibility for PCET out – i.e. if Welsh Government doesn't trust the Commission to deliver, then don't set it up in the first place! In general, the attendees felt that if the vision was clear then this level of detail about withholding approval scenarios simply wasn't needed in statute.
- 10.10 One attendee agreed with the sentiments above but still felt that WG needed to cover all bases and that something was needed to outline what might happen in such a situation. Of the three options outlined in para. 44, it was felt that Option 1 (Welsh Ministers having the powers to fund PCET sector directly for a limited period) had too much scope to undermine an intermediary organisation. There was more of a preference for something around Option 2 (core funding transferred to Commission but holding back an element of funding until strategic plan approved). However, a few attendees felt that care would be needed as this whole aspect of the consultation implies that 'they don't think it's going to work'.

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?

- 10.11 Attendees felt that the Welsh Government would have power to outline their requirements via the annual remit letter, would have power to appoint (and replace) board members and could attach requirements to funding. As such, if the Commission was to be arms-length and not command-and-control, then no additional interventions should be required.
- 10.12 Again, one attendee felt that although it was important not to micro-manage, there might indeed be the need for powers in certain circumstances. A couple of attendees alluded to the recent example of Sport Wales and suggested whether there might be any learning from the issues there to ensure that lessons were implemented. However, there was general consensus that this is a matter of managing the relationship between individuals at Welsh Government and any externally funded body and that the powers already in place (to appoint or replace members, funding requirements and remit letter) were all sufficient.

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?

- 10.13 Attendees generally expressed the view that the strategic plan should address the vision set by government. Whilst government priorities change, and strategic plans have to be amended to respond to that, in general a vision is relatively long-term and doesn't change with every programme of government.
- 10.14 Another issue raised was timing. Although it looks sensible on paper that a strategic plan is generated after a programme of government agreed every five years, the reality is quite different. Some of the comments included:
- The Commission might not be set up initially in line with a change in government, so the five-year strategic plan would always be out of sync.
 - Even though election cycles are five years in Wales now, they can change – for example this year it was a six-year cycle so that it wouldn't clash with the general election
 - Aligning the strategic planning with election cycles of government in itself contradicts the arms-length principle
 - Over-specification on this matter would stifle the Commission's ability to adapt and change as necessary.
 - Terms of office for members is not specified, so points to flexibility for Commission to decide, and the same should be true for strategic planning cycles.

- 10.15 To conclude, most attendees were of the view that strategic plans generally need to be at least three years they also shouldn't be too long-term. The high-level vision from government should be fairly high level and not expected to change dramatically over time. Operationally it was agreed that it would be very difficult for the Commission to work if the length of strategic plans was written into stature. All attendees therefore agreed that it should not be set in stone and that there should be flexibility for the Commission to decide on the length of its strategic plans.

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

Membership

- 10.16 Given the breadth of the PCET sector, attendees felt that the Commission's governance framework had a lot to cover. In terms of the number of members on the governing board, attendees broadly agreed that around 12-15 members would be the ideal.
- 10.17 It was felt that a board of 9 members would be too few given the composition of the sector and the need to cover all the different sub-sectors of PCET, however attendees didn't feel that the board should be too big either and that it would become a 'talking shop' if it was more than 15.
- 10.18 It was suggested that members would need to be independent of the funded learning providers too.
- 10.19 Whilst all attendees concurred with the list of representatives required on the board it was felt that the make-up of the board should not only consider the sector experience of the individuals but should also ensure that the necessary skills matrix was covered. For example, within the board membership, an accountant, a lawyer, someone with HR experience would also be useful. In essence, the board needed the right mix of technical expertise and sector experience.
- 10.20 A couple of attendees also wanted to ensure that if the Commission and WG were to set out a Welsh vision for PCET, then Board members needed to understand the Welsh agenda as this can sometimes be missing. For example, the HEFCW board has a high number of English VCs. Having said this, it can be difficult to find independent board members who understand the context without having any links to any of the learning providers concerned. Getting the balance between sensitivity to the Welsh agenda and maintaining a truly independent board is not easy! However, the Commission will need to ensure that the Board members are people who have knowledge of how Wales is different, particularly as it diverges ever more.
- 10.21 Although these professional skills and understanding of the Welsh context are required, again the attendees were keen to keep matters

flexible and didn't think the statute should over-specify on these issues.

Learner Voice

- 10.22 A specific discussion was held on the current suggestion of 2 learner voices on the board. All attendees felt that it was important that the learner voice could contribute. However, the Commission would be a large and complex organisation and there were concerns raised that tying up two Board level places to learners was not necessarily helpful to ensuring effective governance (and diversity of membership across PCET) nor that it was necessarily the right place for the learner voice.
- 10.23 Attendees appreciated that it was politically important that the learner voice was part of the structure of the Commission but that it was proving difficult at HE and FE institution level to ensure input from learners at Board level (particularly as learners tended to only sit on the Board for a year at a time). Attendees appreciated that it was hard to achieve this aspect and suggested that having a learner presence at Board meetings as observers might be one solution.
- 10.24 A discussion around the NUS (as the most obvious organisation to provide a learner voice representative, whilst not covering all of the PCET sector) was held and attendees suggested that the NUS itself would not wish to be a board member as it might not wish to be implicated in some of the decisions of the Commission's Board. It might be more comfortable with an observer role where it could influence but still obtain its independence.
- 10.25 It was suggested that the WBL sector might have difficulty in ensuring representation via such organisations as the NUS and that having 2 learner representatives to cover the breadth of learners was challenging, with some parts of the sector better placed than others to contribute.
- 10.26 There was broad consensus that the learner voice should be as observer but not members of the Commission. An alternative suggestion for the learner voice were also suggested: As 2 learner voices wasn't enough to cover the sector and that a Learner Voice forum would be a better mechanism rather than Board membership
- 10.27 It was generally agreed that the Commission might wish to try several different mechanisms and try out different ways of ensuring the learner voice, and that it should therefore be left to the Commission to decide (again keeping this out of statute in order to keep flexibility of options).

Statutory Committees

- 10.28 There was consensus around the table that there should be as few statutory committees as possible. The Audit Committee should be statutory and possibly the Remuneration Committee. A couple of the

attendees also felt that the Research and Innovation Wales committee should be statutory.

- 10.29 With all the other listed statutory committees, the attendees strongly believed that it should be left to the Commission to decide.
- 10.30 A more general point was made about the fundamental differences between FE, HE, WBL, Sixth Forms etc and that it might be worth considering splitting the work of the Commission by these specialisms better than by functions. For example, a Quality Committee would need to deal with QAA and Estyn, which is a big ask in terms of expertise!
- 10.31 Whilst attendees could see why a number of the listed statutory committees were there – and felt that committees or other structures would be required to cover the functions, there is a danger that having too many in statute would make the Commission over-bureaucratic (i.e. it would have to add committees to the list of statutory ones rather than adapt existing committees as required). One example given was the HEFCW Student Experience committee which has changed 3-4 times in the past few years in its exact remit. Committees like many other aspects of the Commission needed to be future proofed – and keeping things flexible and without over-specification would help this. The attendees fundamentally believed that the Board of the Commission should decide for themselves the structure of committees.
- 10.32 Another important point made, which all attendees concurred with, was that it was important to give Board members the power to decide on committee structures to avoid Board members becoming too operationally involved in the running of the Commission. All attendees agreed that it was important that there was a clear line between the role of the CEO and the executive team, and the Chair and board members. It is imperative that the CEO and the SME team can be held accountable.

Appointment of Chief Executive

- 10.33 Another point made by one of the attendees was that the technical consultation document currently states that WG would appoint the CE. Whilst this might be the case for the initial appointment, it should be the Commission's responsibility to appoint the Chief Executive role thereafter for accountability to the employer. The Commission's appointment of the CEO would then go for approval of Ministers. So the transitional arrangements may well be different to the process in the longer term.
- 10.34 Another technical point was that the Company Secretary role should be referred to as Board Secretary.

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?

- 10.35 The attendees questioned the need to be so specific about WESB and WAAB, as such boards do not have a legal entity and therefore could change their titles and terms of reference in future. Attendees agreed that it did not make sense to 'straightjacket' the Commission by explicitly naming these bodies in the bill. Neither did they see a need to specify a statutory committee for this area of responsibility, instead preferring to keep flexibility.

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?

- 10.36 Whilst the discussion about restricting statutory committees also applied to this question, with broad agreement across attendees, they also understood why this was suggested as a statutory committee – to ensure that the Welsh language received sufficient status.
- 10.37 The issue of ensuring sufficient interaction with the Welsh language agenda and Welsh language provision agenda was deemed an important one, and particularly the attendees felt that more information was needed on the relationship between the new Welsh Language Commission and PCET – with continued dialogue required as the Welsh Language Commission Bill was going through its legislative process.
- 10.38 The attendees were unanimous in their view that some kind of safeguards or structures were required in order for PCET to fully interact with the Welsh medium agenda. However, this did not necessarily mean a statutory committee – another form or structure would work – and again this did not need to be explicitly described at this stage.
- 10.39 All attendees felt that PCET needed to fully engage with the Welsh language agenda and hoped they wouldn't need a statutory committee as a back stop to ensure this.

Welsh Language:

In what way should the proposed policy be formulated or changed so as to have:

positive effects or increased positive effects on opportunities for people to use the Welsh language?

no adverse effects on opportunities for people to use the Welsh language?

- 10.40 At the moment, one attendee felt that there was a lack of clarity around the relationship between the Commission, the Coleg Cymraeg Cenedlaethol and the Welsh Language Commission – including a lack of clarity about whether funding for Welsh language provision would come via the Commission or not. Another attendee also pointed out how Welsh medium provision had links to two agendas – education and Welsh language.
- 10.41 It was generally felt that PCET had a tremendous opportunity to make a difference with Welsh language provision – particularly as many of the sub-sectors such as sixth form, FE, WBL had predominantly Welsh domiciled students and learners which was different to HE. Several attendees felt that there was an opportunity under the new Commission to:
- develop Welsh-medium provision
 - to strengthen the number of learners using Welsh after compulsory education
 - to encourage learners to use their Welsh language skills.
- 10.42 One attendee mentioned the National Centre for Learning Welsh – and their important role in language use and normalisation within the PCET agenda too.
- 10.43 To conclude there was some concern regarding the lack of sufficient information on the structures that would be in place to fully recognise the Welsh medium education and training agenda. Attendees were of the opinion that ideally, they would like to see the Commission’s responsibilities for the Welsh language spelt out more clearly than is currently the case in the technical consultation document as it was currently difficult to comment in any detail.

Regulatory Impact Assessment:

What financial costs or savings will the proposed reforms give rise to in the short term and long term?

What other positive or negative impacts might be felt across different parts of the sector in the short term and longer term?

- 10.44 Attendees accepted that there would be substantial transitional costs associated with the setting up of the new Commission due to so many technical complexities attached to the process. However, following the

transition, attendees were generally hopeful that the new Commission would be more cost effective.

- 10.45 One attendee felt that there was scope for the organisation to order itself vertically and in doing so to consolidate some of the 'policy machinery' currently in place across several different organisations. Again, the issue of providing flexibility to governance arrangements was the most effective way of ensuring cost-effectiveness without having unnecessary and costly structures or committees in place.
- 10.46 In terms of the Board and sub-committee structure – the view was that the more high level it was, the better it would be for RIA. Attendees were concerned that in general there can be a tendency with Welsh legislation to over-specify and were hopeful of a sensible approach in this instance.

Concluding remarks and additional views

- 10.47 The key message conveyed by attendees at this focus group relates to the importance of the new Commission being able to maintain its arms-length autonomy from Welsh Government. Attendees felt it was important that the legislative framework should be prescriptive on the 'what' rather than the 'how'. In other words, to refrain from too much detail on structure, and concentrate instead on the responsibilities for which the Commission should be held to account on delivering.
- 10.48 This was a key message on a number of the particular issues discussed – the learner voice, WESB/WAAB and welsh language provision – it was agreed that engagement was needed, but there didn't need to be specificity on how this was to be achieved.
- 10.49 Attendees wanted to ensure that the legislative framework could be flexible and adaptive enough so that it was future-proofed with no need for secondary legislation down the road. In this sense any reference to specific bodies should be avoided in a statutory context.
- 10.50 One other point was raised during the course of the discussion, relating to the proposed name of the Commission. There was concern that the current acronym could generate bad PR (around 'turkeys' and Wales!). Instead it was suggested that the name of the Commission should be changed to The Education and Research Commission (ERC).
- 10.51 The 'Tertiary' term is a difficult term, and is politically sensitive, so it might be helpful not to have the word in the title of the organisation.
- 10.52 It was also suggested that the new name should not have the word Wales in it – as a more confident statement.

11. Unions and Education Workforce Council Wales

27th June 2018

11.1 The following organisations were represented at the workshop:

- NASUWT
- NEU
- NAHT
- EWC
- UNISON
- UCAC
- UCU
- Voice the Union

Key Points

School Sixth Forms

- 11.2 Concern was expressed about the consultation document's claim that the majority of responses to the White Paper consultation said that school sixth forms should be treated as part of PCET [para 198], whereas elsewhere in document it suggests there was more of a range of responses . Furthermore, it was not the feeling amongst all union members that sixth forms should be included, and one respondent asked whether and how the responses to the White Paper had been reviewed and considered.
- 11.3 There was considerable criticism and concern about the lack of sufficient consultation with schools on the PCET proposals, and that groups such as these are not the ideal forum for engaging schools. Existing conferences might have been a better approach. There also needed to be more involvement of pupils and parents in the consultation.
- 11.4 It was suggested that there is a risk of school sixth forms being 'swamped' by everything else that is proposed as part of the Commission's remit. This is a real concern given the important role that Sixth Forms play in delivering PCET – notably 70% of A' Levels.
- 11.5 One participant felt that schools just seem to have been 'levered in as an afterthought', which didn't fill school stakeholders with confidence in the ability of the commission to get to grips with the issues affecting schools.
- 11.6 Furthermore, it was suggested that the discussion in the consultation document over whether or not charitable status should be a requirement for providers to receive public funding, seemed 'bizarre' in relation to schools which are not able to have charitable status.
- 11.7 Union members were reported to have expressed concern about the proposed changes and the risks involved in a (perceived) move to a tertiary system. It was also suggested that this could lead to 'mission

creep', with elements of the 14-16 curriculum also being 'swallowed up' by tertiary. The main concerns are around a reduction in the quality of service and job losses. Another possible consequence is that schools get entirely moved out of local authority jurisdiction – the Webb report was cited as evidence of this claim.

- 11.8 It was also noted that it is a lot to ask of sixth forms to manage these reforms alongside all the other changes being implemented within schools.

The consultation process

- 11.9 There was considerable call for the consultation period to be extended. Unions have found that schools are barely aware of the process and where they are aware, they don't have the time to read the lengthy document. Furthermore, to fully understand the consultation document it is necessary to go back to read other documents, such as the Reid and Donaldson reports. It was stated that 'everything about engagement in schools hasn't been right' [sic]. One participant pointed out that even the title [Public good and prosperous Wales] is misleading.
- 11.10 Concern was particularly expressed about some of the comments being made by ColegauCymru and the FE sector about the reforms [outside of these focus groups], and what this will mean for schools in terms of FE dominating. This point was countered by another participant who said there are also concerns within the FE sector that if sixth forms come into the Commission's remit, they could 'swallow' the FE sector. This arises from perception that FE has been left out of other processes, such as the Donaldson review. For both schools and FE, the fact that the consultation process is being run by the HE division within WG adds to aforesaid doubts about the commitment to and understanding of these very different sectors.
- 11.11 There has also been insufficient engagement with the workforce on the proposed reforms – what has been done is with employer representatives of the relevant sectors, rather than employees.
- 11.12 As already noted, the consultation document is lengthy and many of the questions are not relevant to some of the participants. It was suggested that if stakeholders do not follow the format of responding to the consultation questions, there is a danger that their feedback is lost in the process.
- 11.13 Furthermore, this consultation came off the back of the White Paper very quickly, and so participants called into question how much their comments last year had been taken into consideration. It was suggested that there are a lot of questions posed in the previous consultation that haven't been answered in this document.
- 11.14 Whilst the scope of the consultation is wide, the actual document is not that detailed, and it is hard to see how the Commission would operate in practice and what this would mean for the workforce and

other stakeholders. Whilst there was recognition of the need to make the PCET sector more coherent and streamlined, there is a lack of detail over how this might be done and, more specifically, how the Commission will allocate funding.

- 11.15 The consultation document was also criticized for failing to set out the 'vision' that was reported as a requirement for the PCET sector within the Hazelkorn report.

Governance / accountability of the proposed Commission

- 11.16 It was noted that the idea of the Commission having a relationship with local authorities was supported, but that the proposal for the Commission to have the power to close existing sixth forms was a major cause for concern.
- 11.17 It was noted that the location of Sixth Forms is much better decided by local authorities. Taking that decision-making authority away from them means there is a lack of accountability to local communities over opportunities for post-16 learning. One participant asked who the Commission will be accountable to, if they have all this power.

Structure/membership of the proposed Commission

- 11.18 The (limited) proposed resource for the Commission was also expressed as a concern. Even with 15 members (of which two must be learners) the scale of what they will be expected to cover was thought to be unrealistic, particularly when you factor in all the committees - participants were unclear whether the committees would be made up of core Commission members or from additional people. The fear was that the excessive brief proposed for the Commission would lead to prioritization of certain things, with others left by the wayside.
- 11.19 In terms of membership, it was suggested that this needs to include a union member, to represent organized labour. In addition, representation from Sixth Forms, FE and HE is also required.
- 11.20 It was also felt that some of the proposed functions of the Commission don't fit in with funding and quality assurance – which was what was interpreted as the overarching rationale for the Commission – for example, research and student finance.
- 11.21 Participants were also concerned that Commission members would be appointed by Welsh Ministers. A preferred option would be to have elected representatives or nominees. It was suggested that the process adopted for the National Academy for Educational Leadership could be used for the Commission.
- 11.22 There was also concern about membership being comprised of the 'same old people', given the risk that they consequently become detached from the sector, whilst other – potentially suitable – people become disengaged from the Commission.

- 11.23 There needs to be a healthy turnover and a robust and transparent process for changing the membership of the Commission.

Inconsistencies in accountability measures / duties

- 11.24 There was some discussion about EWC being involved in this group – it was not seen as a negative – however, it was noted that it raises the question of the ‘lopsided’ duty placed on some organisations: in the case of the EWC, they are not responsible for registration of the HE workforce. Similarly, Estyn inspects schools but it is not clear whether they will be inspecting FE in the future. It was claimed that there are ‘lots’ of instances of ‘lopsided’ accountability measures and responsibilities, and that the proposed Commission does not address this.

Duplication and competition in PCET provision

- 11.25 Participants called for clarity over the definition of ‘duplication’ and ‘competition’ in this context. The point was made that enabling learners to have access to good quality provision that is close to home could be compromised by a focus on reducing duplication. Defining duplication will need to take into account rurality and the impact this has on travel to learn. Reference was made to a report by the Bevan Foundation on travel to learn.
- 11.26 It was noted that having a genuine ‘mixed economy’ of provision isn’t true in all areas already – for example Blaenau Gwent and Merthyr. Many learners prefer a sixth form setting but are not always able to access it.
- 11.27 The point was made that HE is a marketized sector and so by definition there will be duplication. It was also noted that there is a mismatch between the need for autonomy (as called for by HE and academics), and the principle of collaboration and cooperation to avoid duplication.
- 11.28 There was some support for a more effective planning process for what provision is available and recognition that whilst it’s important to enable learners to do the courses that they want to do, it is also critical that what is offered is relevant to what is available or in demand at the next level – i.e.: there is a need for strategic planning in the provision that is available.

Outcome agreements

- 11.29 The perceived risk of outcome agreements is that future funding may be dependent on outcomes, and this creates a risk that funding is taken away if providers do badly. This would then disadvantage future learners.

- 11.30 It was suggested that outcome agreements ‘miss the point of education’ and that it’s important that the Commission and Welsh Government reconsider why and how they measure outcomes and define ‘quality’. The value of education in itself needs to be taken into consideration and the allocation of funding shouldn’t just be driven by ‘someone’s idea of skills gaps’. It’s important to offer a variety of courses in order to engage as many learners as possible [this contradicted the point made earlier about the need for provision to be planned and based on a strategic assessment of need].
- 11.31 The term ‘outcome agreement’ was thought to feel very alien (in keeping with much of the vocabulary in the document) and was likened to ‘accountability measures’. It was described as ‘running headlong into’ what Welsh Government and others want to do in terms of accountability for schools.
- 11.32 It was suggested that there is a danger of confusing ‘outcomes’ with ‘outputs’. The example was given of learners who go out on work placement and who end up leaving the programme of learning before completing because they have been offered a job – whilst this is a positive outcome for the learner, it would be seen as negative outcome to the provider.
- 11.33 Similarly, the commission needs to consider how it would deal with learners moving between institutions and sectors, which currently have very different funding models. This can lead to a negative impact on the institution losing a learner. Establishing the Commission is a good opportunity to address this issue.
- 11.34 One participant noted that the schools division within Welsh Government was thought to understand better how to measure success in the schools sector, and the Donaldson understood the concept of measuring the value of provision – but this is not the case in this consultation document.

Workforce

- 11.35 It was commented that the section on workforce in the document ‘feels like a bolt-on’ and whilst it is understandable that the Commission should be focused on learners and quality of provision, it is important to have the workforce on board to deliver the reforms. Retention is a real risk.
- 11.36 Furthermore, the EWC already has a remit set out in legislation for standards of teaching in the FE and WBL sectors, and recruitment into the profession and sectors where they regulate. There is a risk that this proposal potentially duplicates a function already being undertaken, or at the least might contribute to further complexity and confusion in the sectors. In addition, it was suggested that professional standards should be developed and ‘owned’ by the professional body (as is the case in many other jurisdictions and professions), and in the case of the FE and work-based learning sectors that would be the EWC. It was suggested that devolving

responsibility for standards to a funding / QA body would be anomalous. Any such change would require a stronger rationale in order for it to be understood and accepted.

- 11.37 There needs to be greater parity between CPD and professional standards within schools and within FE. It was suggested that the consultation process could be a 'vehicle' for reopening this discussion.
- 11.38 One participant was critical that unions had been left out of the list of stakeholders at paragraph 190 [The strategy would be developed and delivered in consultation with learning providers, working closely with partners such as the Education Workforce Council, the new UK higher education agency, and the new National Academy for Educational Leadership], given that they represent the workforce.

Scope of the reforms

- 11.39 Participants recognized the challenge of bringing together a very disparate post-16 sector and suggested that it might be sensible to come up with something more modest than what is being proposed. The reform could be incremental in terms of bringing in the different sectors or in terms of bringing in different fields (e.g. accountability, governance, funding). What is needed is to agree the steps involved in getting to complete coherence.
- 11.40 One participant felt that there needs to be greater clarity over what the reforms are seeking to achieve (going back to the idea of needing a 'vision') as it isn't enough just to let relationships grow organically and legislate afterwards.
- 11.41 It will also be important to secure some quick wins in order to get buy-in.
- 11.42 All sectors are concerned about one particular sector dominating.

Other points

- 11.43 Participants expressed support for collaboration across sectors but felt it would be better under the auspices of local authorities.
- 11.44 One participant queried the rationale for the reference to Health and Care Research Wales.
- 11.45 Another participant expressed concern that creating a new body may take money away from front line delivery.
- 11.46 It was noted that steps need to be taken to ensure that the quality of provision is maintained during the process of change.
- 11.47 Concern was expressed about slimming down provision and making it 'Wales specific', so that it is not relevant outside Wales, thus limiting learners' potential to develop.

- 11.48 Concern was expressed about transparency over pay levels within HE: the Scottish model of pay was thought to be much more transparent.
- 11.49 Participants also noted a fear over local authorities being able to 'top slice' more funding going into sixth forms than was previously the case.
- 11.50 There were concerns that we are still waiting on an agreed strategic vision and direction and that the PCET sector is dependent on this to deliver the reforms. The risk is that if they go ahead with the reforms without a vision then either the reforms will be introduced incoherently or that they will be backtracked or diluted.
- 11.51 It isn't yet clear what governance in schools will look like as they are awaiting the outcome of the consultation from last year.
- 11.52 Unions would have valued an opportunity to pose questions directly to Welsh Government.

Welsh language

- 11.53 One participant queried the relevance of the Cymraeg 2050 aim (given the speed at which technology is progressing and what this is likely to mean for translation technology) and that it is important that the Commission's brief is sufficiently flexible to take into account any wider policy changes around Welsh language.
- 11.54 The key thing is to ensure that the Commission provides opportunities for learners to progress their learning in the medium of Welsh, but importantly, if that is what they want to do – it should all be about learner choice, rather than stipulating an increase in Welsh medium provision.
- 11.55 School sixth forms are typically very strong on Welsh medium provision, and this needs to be protected and built upon as there is still opportunity to increase the variety of courses available through the medium of Welsh.
- 11.56 There is a need for greater clarity on the role of the Coleg Cymraeg Cenedlaethol, specifically whether it is to be funded by the Commission and how far it is to be independent of the Commission.
- 11.57 Another issue is the importance of keeping high flying Welsh speakers in Wales, and the Commission needs to think more ambitiously, beyond simply focusing on Welsh medium provision per se, but on things like developing a vet school and additional medical schools in Wales.
- 11.58 The Welsh language is also a significant issue in terms of workforce planning and recruiting Welsh medium teachers is a challenge. There is also the related issue around the limited number of Welsh speaking practitioners being 'creamed off' by the best institutions.

11.59 In summary, there needs to be greater clarity from Welsh Government over what is being asked of the PCET sector in terms of meeting the 2050 target.

RIA

11.60 The RIA needs to consider:

- The specific costs of the actual body in all its workings
- The broader costs around decisions the body might make and what this means for the sector.
- Whether we need a body – could the objectives be achieved without a new organization? (The example was given of Scotland shelving their Education Bill on the grounds that they could have done things more quickly within existing structures).
- The longer-term cost of things like collaboration, which is often judged as cost-neutral, even though it involves things like attending meetings, which in turn requires staff cover.
- Travel costs associated with moving staff and learners (taking into account factors like rural roads/congested roads, which will result in local variation).
- The impact on local authorities of all this change – it's vital that the PCET reforms avoid creating an incentive for local authorities to get rid of Sixth Forms.
- The impact on schools' workload – saying that all the bureaucracy will be gone to the local authorities is not realistic, as they will simply pass this onto schools.

11.61 It was noted that in the event that the Commission does all that the consultation document says it will do, it will potentially be very costly.

11.62 One participant noted the need to avoid the situation that occurred with the ALN Act RIA, when not all aspects of the ALN agenda were taken into account and as a result the whole process was deemed to be flawed.

12. Regulatory Impact Assessment

29th June 2018

12.1 The following organisations were representing at the workshop:

- HEFCW
- Colegau Cymru
- Universities Wales
- NTfW
- Estyn
- Welsh Government

General points

12.2 Some participants had experience of RIAs before and welcomed the commitment to consult stakeholders as part of this RIA process.

12.3 It will be important to consider the costs across WG, the proposed new body and across the sector.

12.4 One participant noted that OECD guidance states that impact assessment must be contextualized. In order to do this, we need to clarify why the decision has been made to regulate in this way. It was suggested the reasons include:

- Market failure: we need to be explicit about how the current position is failing and why we need to create a better system for everyone. This has to be identified and understood in order to justify intervention and change. The clear statement that the current system is failing 16 to 19 year-old learners was claimed to be missing from the consultation document.
- Lack of equity and social mobility: we need to consider whether the proposals will improve equity of access and attainment. This will include things like meeting Welsh language demands and gender equality.
- Failure in the current regulatory frameworks (as noted in the Reid and Donaldson reviews).

12.5 It is important to be absolutely clear about all three of these statements, in order to conduct an effective RIA.

12.6 It was noted that the National Assembly's Finance Committee recently conducted a review of the effectiveness of evidence submitted as part of RIAs [Inquiry into the financial estimate accompanying legislation], which identified key concerns including:

- Not enough options are typically considered and costed
- Costs are not predicted over a sufficient length of time
- There is typically insufficient focus on social and non-monetisable costs

- 12.7 The point was therefore made that it is vital that the RIA considers a range of options for PCET reform, although one participant said that the focus is ‘technically’ on option 6(a). This point was countered by another participant however who expressed a need for ‘caution’ over 6(a) being the assumed position and that it might be possible to address some of the problems cited above (market failure, inequity etc) through existing systems – i.e. we shouldn’t throw away current assets.
- 12.8 In keeping with some other groups, the point was made about a lack of clear ‘vision’ for the PCET sector and the need for clarity over what the reforms are seeking to achieve. Only then can the RIA be undertaken holistically. It was noted that RIA of the reforms needs to be assessing impact against clear outcomes – which we don’t yet have without a vision.

Likely financial costs or savings from reforms

- 12.9 The challenge for projecting likely monetizable impacts are that the proposals themselves are not sufficiently detailed.
- 12.10 It will be important to consider the implications for competition law in relation to HE provision and the impact on competition for universities, as part of the RIA. It is vital to ensure that the legislation does not incite or impose collaboration requirements on providers – for example sharing commercial information – that could inadvertently impose collusive behaviour and therefore contravene competition law.
- 12.11 It’s also crucial to set out the potential impact clearly and transparently – and in full. The RIA needs to concentrate on the costs for stakeholders as these are likely to be significant and the most challenging to estimate.
- 12.12 For example, if significant changes are made to inspection and QA regimes, it will be crucial to consider these in the assessment of projected costs.
- 12.13 We also need to factor in possible opportunity costs, such as those associated with the amount of time it will take the collective sectors to work through the proposed changes. Brexit will also involve other opportunity costs to consider.
- 12.14 In terms of the 16-19 cohort, it will be important to look at changes in unit costs, i.e. whether it is cheaper to put learners through course in larger classes – assuming this is what is achieved through rationalization and reduction in duplication.
- 12.15 We also need to consider the comparative costs of academic versus vocational routes and how the reforms might affect this.
- 12.16 The effects of the reforms on costs of work placements is another factor to consider – this could be a cost or a saving.
- 12.17 There are likely to be costs associated with merging multiple different HR systems.

Other likely positive or negative impacts from reforms

- 12.18 It was suggested that it might be appropriate to consider the impact the reforms have on course selection (as a result of, for example improved career information, increased choice and availability) and reduction in the number of students taking the wrong courses and then dropping out – this could be translated into a monetized saving too.
- 12.19 The impact of the reforms on disadvantaged people (e.g. those from different social/ethnic backgrounds or with disabilities) is something that needs to be considered as the current system isn't inclusive and this needs to change. Therefore, we need to explore:
- What needs to be done to make the system more inclusive;
 - How much this will cost.
- 12.20 Beyond the obvious stakeholders (learners, providers, employers) there are wider stakeholders who may be affected by the reforms, such as parents (in terms of providing financial support) and primary schools (in the event that Estyn's role and remit changes).
- 12.21 The RIA will also need to take into consideration the findings from wider impact assessments, for example EIA, Welsh language impact assessment and equalities impact assessment as some of these may have costs arising from them.

Views on proposed evidence to assess costs, savings, benefits and other impacts

- 12.22 The outlined methodology for the RIA was described as 'extremely comprehensive', but that in the context of the consultation document, it is difficult to appraise it meaningfully. It was suggested that the length of the consultation document was 'monstrous' making it challenging to 'see the wood for the trees', and that by just aggregating the different elements of the proposal, the costs would be 'nonsensical'.
- 12.23 We therefore need to be clear about what elements of the overall proposals are separable, in order to put together a meaningful RIA approach. There has not yet been a process of rationalizing, moderating and harmonizing the different elements of the reform – and this needs to be done first before finalizing the RIA approach.

13. Research and Innovation

29th June 2018

13.1 The following organisations were represented at the workshop:

- Universities Wales
- TWI
- Admiral Group
- HEFCW
- Colegau Cymru

General Comments

13.2 Some concerns were raised in general about the chapter on Research and Innovation. Attendees felt that it was very operational and very current in nature – discussing recent ideas and concepts rather than focussing on what should be included in statute as key principles for R&I for the future.

13.3 Attendees also felt that several sections contradicted each other and generally were a little confused about what the chapter was actually outlining as a proposed way forward. They also expressed some frustration with the questions themselves and mentioned that they struggled, even with their own institution's written responses, a) to understand clearly enough what was being proposed in order to be able to comment fully and b) to know what comments should be expressed under which question.

13.4 In particular, the attendees felt there was some overlap between Q57 and Q59 and that there was also a risk that some other issues that merited discussion didn't fit under any question.

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

13.5 Firstly, the principle of setting up RIW within the Commission was discussed. Attendees welcomed the strong R&I element in the document but would like to see Welsh Government outline an overall vision for the Commission and the place of R&I in Wales (and within that context). Attendees felt that the ambition for the setting up of both the Commission and RIW needed to be encapsulated in a vision – with a clear recognition of the importance of the R&I base within HEIs in Wales in particular. Attendees also believed that this vision about the place of research in Wales should be about how it can be globally competitive (particularly when looking at the funding increases of UKRI and UK Government of late): 'We need to be there and be competitive'.

- 13.6 The Reid Review makes the case for this and provides an outline of how it could be achieved – both in terms of supporting and funding R&I and in outlining the role of FEIs, and there was general consensus amongst attendees that the recommendations of the Reid Review were sensible and should be implemented.
- 13.7 In addition, attendees from the HEI sector in particular were keen that autonomy and freedom was provided to RIW to build a competitive research base in Wales. At the moment, with some of the details in the R&I proposals, there was concern that Ministers would wield too much influence over what should be an arms-length organisation, to dictate research and innovation delivery.
- 13.8 Both the ‘Research’ and ‘Innovation’ aspects merited equal status with ‘application of knowledge as important as acquisition’ according to one attendee, and RIW should be able to foster relationships with a range of organisations working in both R&I. Although R&I are complementary, attendees agreed that there needed to be clear principles of how to handle two functions of equal importance to building a successful economy in Wales.
- 13.9 RIW set up within the Commission was described as a clear structure that organisations could understand and approach so attendees were quite supportive of this, but one attendee wanted clarity on the levels of funding RIW would be able to administer, and the split between R&I.
- 13.10 In terms of the more detailed proposals on RIW within the Commission as a statutory committee, this was generally supported, with HEI representatives feeling that this addressed some of their previous concerns about governance of RIW. Whilst the FE sector agreed with the tripartite approach to RIW membership (1/3 HE/FE; 1/3 Business and 1/3 public bodies), the HE sector had more concerns about this. They outlined how the statutory RIW committee would require a wide variety of expertise and the tripartite approach could set up ‘silos or tribes’ within the RIW. The HE sector would prefer to see more flexibility in the membership and look to appoint individuals with a wide range of experience rather than an approach which suggested they were there as sector representatives. Other attendees agreed that the membership of RIW should be appointed by Ministers or even NAFW rather than by sectors, and that it was important that there was no sector bias in the roles. Similarly, several attendees felt that an external perspective from outside of Wales was important, particularly in terms of Research, which operates in a UK-wide space: ‘we need to avoid silos – and there is too much detail in the membership as it currently stands’.
- 13.11 Industry representatives agreed that the membership of RIW needed to be experienced, specialists and with a global perspective. The views of industry also needed to be represented, and they felt that it was important that all personnel on the RIW weren’t just individuals who had never worked outside the academic or political environment.

- 13.12 Attendees also pointed out that it can be very difficult to appoint the relevant people to this type of R&I committee due to the small pool of people in Wales with the relevant background and expertise. As a result, the legislation needed to be flexible enough to adapt – this was particularly important in the current situation where the actual scope for RIW was not clear and could change over time.
- 13.13 A couple of attendees were also very concerned with the idea of the Chair of RIW being the Vice-Chair of the Commission. If the Vice-Chair then became Chair of the Commission every year, then Research (and HE experience) would over-dominate the Commission and this wasn't a sensible approach.
- 13.14 Attendees were concerned that there were stipulations in this chapter that RIW would that did not provide the 'freedom and autonomy' that should be provided to a real arms-length organisation – particularly at a time when there is a lot happening in R&I in the UK and a need for any organisation responsible for this to be very external-facing. Various attendees raised concerns about:
- The stipulation that RIW can't engage with UK departments unless Welsh Ministers allow it
 - The requirement for Ministerial sign off for many funding decisions
 - Too much detail in the document relating to the here and now (e.g. reference to accessing funds such as the possible Future of Wales Fund) that won't necessarily stand the test of time in a legislative framework and therefore should not be named.
 - Stipulations that Universities would have to demonstrate how they align research with training and courses in order to access funding. Whilst individuals didn't disagree with this as a principle/concept, they were concerned that stipulating it as a requirement to access funding that was different to what English Universities have to do for UKRI funding would make it an uneven playing field for Welsh HEIs.
 - Some confusion in the language of the document and conflating the discussion re: setting up the Commission/RIW with the operational aspects set out in the Reid Review.
- 13.15 There was some disagreement between industry and HE representatives. Industry representatives felt that Universities weren't doing enough to collaborate with FE and that the current environment didn't encourage this collaboration enough. HE representatives on the other hand felt that the whole ethos behind TERCW was to bring FE and HE together, and the advantages that it would bring.
- 13.16 Attendees wanted the RIW to ensure an 'out of sylo' perspective of funding and how it is issued. Again, attendees reiterated the importance of the RIW committee and the need to ensure plenty of individuals with a very strong background in research funding to give advice to the Commission. Industry voice and not just academic voices should be part of the RIW committee.

Question 58: Do you agree that Research and Innovation Wales (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.

- 13.17 Attendees generally struggled to understand what was being proposed in terms of the scope of RIW and felt that the proposals in this chapter about this was confusing and inconsistent throughout, with the language, at times being quite derogatory.
- 13.18 Some of the concerns included:
- Large aspects of R&I funding seems to be ‘in scope’ but engagement is not
 - Chapter states that Health research is out of scope, but then includes organisations such as the NHS as possible members of RIW and potential funding recipients.
 - Innovation funding could be within RIW, or outside or a bit of both – REID recommendation states that clarity of purpose is needed for this.
- 13.19 In general attendees felt that the scope of RIW should follow the vision/strategy, and that without such a vision in place then it was difficult to know what should be within the Commission and what should stay outside.
- 13.20 Attendees also felt that the powers were currently with the Welsh Ministers, almost to decide on a whim, where various aspects of R&I should sit and that there needed to be autonomy. The functions of RIW should be reviewable from time to time, but there should be more clarity and continuity in terms of the scope: ‘RIW’s functions should be listed in statute so that its budgets can be clear and that there are clear accountable lines for expenditure’.
- 13.21 One attendee was keen to point out that Research can often take decades and that focus and strategy should not be changed regularly: ‘Although there are attempts here to make this an arms-length body, they are more like T-rex arms flapping about with no real purpose’ (!) Attendees felt that this went to the fundamental heart of the discussion on scope and that at the moment it was too vague, and that what was described in terms of scope sounded less like arms-length and more like Ministerial control. Attendees were strongly of the view that there was a danger of subjecting RIW to Ministerial control. In this respect, an attendee pointed out that the Haldane Principal, of ensuring experts decided on research funding was 150 years old, but that Ministers would always veer towards more short-term solutions.
- 13.22 In practical terms too, attendees felt that RIW would become very slow and inflexible to respond if funding always had to receive

Ministerial approval. With innovation funding in particular, being fleet of foot and nimble is paramount to stay competitive.

- 13.23 Attendees felt that the lack of clarity around the funding scope proposed made it impossible to comment in more detail at the moment. Instead, they wanted to see how a clear scope for RIW would benefit the R&I community in Wales. Generally, attendees felt that WG needed to retain the ability to fund innovation in relation to economic development and the EAP – and that Ministers should have short levers to fund such activities at their discretion.
- 13.24 The RIW/Commission should have responsibility for more long-term structural planning of research and innovation with a clear education/training scope. Two attendees were concerned that the scope should be not too wide and too large – it could end up being a mammoth if all R&I responsibilities were given to TERCW.
- 13.25 Some attendees questioned whether the Commission/RIW should have/want the power to fund commercial organisation to deliver ‘public good’ research. Attendees also felt that a lot of what was currently potentially in scope were DET rather than SHELL responsibilities, and that this would restrict DET’s capacity in future to deliver on its priorities.
- 13.26 Attendees argued that the Commission is set up for PCET responsibilities and that RIW would be a statutory body within the Commission, again with a PCET focus.
- 13.27 The recently launched Economic Action Plan puts a clear focus on innovation, with the funding clearly placed within DET structures. This chapter suggests that this has not been decided and that a lot of its R&I functions could be within PCET. Attendees argued that ‘if it all goes in to the Commission, it will need to be very well resourced’.
- 13.28 Attendees agreed that WG needed to decide where its R&I strategy should sit, and if they did want it to sit in PCET then the lines/boundaries needed to be clear: ‘we must have a policy vision, and then we can work it out’.
- 13.29 The HE sector questions how ‘public good’ research was defined and argued that some of the SMART funding could be included in this. They were also keen to point out that there were a lot of rules and regulations currently included in the funding of HEIS in order to ensure research integrity (e.g. concordats for research for public good).
- 13.30 The HE sector felt that there was generally too much detail in this chapter ‘anything written for now needs to be taken out – anything too time specific’ and that some thought needed to be given to the scope of RIW so that it could, in its arms-length approach, be truly empowering so that clear benefits could be achieved to productivity in Wales as a result of R&I investment.

- 13.31 Attendees were happy with the general duty to consult, but again the list of organisations wasn't needed – and this should be an operational decision for the Commission/RIW.
- 13.32 Attendees from the HE sector also felt arts/social science research was general neglected from the discourse, with the main focus on science based research. HE funds good research based on REF and this needed to be clear.
- 13.33 Whilst the funding approach outlined in the Chapter was based in toe recommendations in the Reid Review (and attendees felt that REID offered a well-considered solution for Wales), there was confusion as to why the funding approach needed to be here at all, and that this was an issue for the Commission/RIW to include in its strategic plan, and not something for inclusion in a legislation framework which needs to last for decades.
- 13.34 To conclude, attendees were concerned at the lack of clarity in terms of the scope of RIW and were also concerned that what was being set out was less independent and did not provide RIW with the autonomy to work with others and make decisions quickly and clearly. Attendees felt that further work was required on the drafting before this could become clear in legislation, but agreed that whilst they expected Ministers to have a view on research spend priorities they did not expect Ministers to have such powers over specific funding decisions.

Question 59: Do you agree with the proposals for the relationships between the Welsh Government, the Commission and Research and Innovation Wales (RIW) and the relationships with funding recipients and the R&I community? Please explain why.

- 13.35 As the previous questions seem to address the relationships between WG, the Commission and RIW, the focus of the responses here is on the relationship with funding recipients and the R&I community.
- 13.36 Attendees expressed concerns with the list of 'main recipients of potential funding' outlined in paragraph 300 as includes the NHS (although Health is out of the remit) and also 'Others' which doesn't make sense to include.
- 13.37 Attendees didn't feel there needed to be such a specific list in statute, and also that 'if you fund all those you would need a commensurate level of funding'.
- 13.38 This was one example of where attendees felt the document lacked clarity – as some sections seem to back Reid Review's recommendations, then other sections, such as this one, lists organisations outside the remit/scope of a PCET focused organisation.
- 13.39 The three funding modes outlined in this Chapter were discussed. Again, attendees didn't feel that this level of operational detail was

required in statute. Funding modes would be agreed by the Commission/RIW as part of a strategic plan.

- 13.40 Attendees did feel that the legislation could commit to some of the principles set out such as dual support but generally agreed that the level of detail in terms of funding modes simply didn't need to be there, was confused and too specific.
- 13.41 The paragraphs relating to 'balance of funding' were described as 'an unhelpful narrative' that seemed to suggest that QR funding was used interchangeably with the term curiosity funding, and this was simply wrong. This section also seemed to suggest a 'battle' over funding between QR and 'challenge-driven' and that this was misleading. Some went as far as to describe it as 'mildly offensive' at worst, and pejorative at best. Attendees expressed concern about the way it had been written and the understanding of WG officials of the purpose of QR funded research.
- 13.42 Again, it was agreed that these types of paragraphs simply not needed in statute.
- 13.43 To conclude, attendees felt that research and innovation which supported educational delivery should be the primary purpose for inclusion on a statutory basis in TERCW – and that this was probably the aim of Welsh Government, but that the clarity wasn't there at the moment.
- 13.44 The Commission itself then needed to be mandated to 'do what it does well', and this would include not stipulating at this point about how funds were allocated.
- 13.45 A specific issue was raised around Sêr Cymru II – at the moment the chapter on R&I suggests that this would not be included under the new Commission, but the HE sector feels that it should.
- 13.46 Furthermore, one attendee then asked about the Seren network and whether that would be in scope of the new Commission as it mainly operates within the PCET space.
- 13.47 Attendees generally felt that this chapter was more complex than many others in the consultation document and that there are great opportunities for the new Commission to bring together support for R&I but that the lack of clarity on the proposed approach caused difficulties at the moment.

Welsh Language:

In what way should the proposed policy be formulated or changed so as to have:

positive effects or increased positive effects on opportunities for people to use the Welsh language?

no adverse effects on opportunities for people to use the Welsh language?

- 13.48 Attendees didn't feel they could comment in any detail on this due to confusion about what was being set out. Generally, they also felt that any issues they had to raise regarding the Welsh language in general had already been raised in previous focus groups with no need to discuss again now.

Regulatory Impact Assessment:

What financial costs or savings will proposed reforms give rise to in the short term and long term?

What other positive or negative impacts might be felt across different parts of the sector in the short term and longer term?

- 13.49 Again, attendees felt that this had been discussed in great detail, not least as some had been in the RIA specific focus group that morning.
- 13.50 In terms of R&I, there was a danger that a lot of resources were currently being absorbed 'looking inward' and discussing processes and structures. There were many developments, happening quickly in the 'R&I space' at a UK and international level at the moment, and there was a concern that WG resource was being distracted from delivery at the moment. There was a concern that Wales wasn't currently making the policy gains that it should and that the consultation process for setting up the new PCET Commission 'should not be an excuse for inaction'.
- 13.51 Ultimately, attendees wished to see more money spent on R&I in the context of PCET, but without knowing which model the Commission would ultimately follow or what the scope of the RIW would be, it was very difficult to know the cost. Attendees didn't want to lose the skills and expertise currently in the system.
- 13.52 Attendees were also surprised to find out that within HEFCW, R&I is basically the remit of two individuals only, and that to deliver R&I within the new PCET Commission adequately, then considerable staffing would be required to cover all the potential scope outlined.
- 13.53 Staffing would also need to be enlarged to respond and keep pace with the opportunities currently out in the R&I space in the UK, and many of the Reid Review's funding recommendations for innovation would also need to happen.

Concluding remarks and additional views

- 13.54 Attendees generally welcomed the consultation process and found that the workshop was causing them to collaborate already with new partners and organisations and making them think.
- 13.55 Attendees suggested that WG needed to think about how the Commission would be set up – whether it was also done at once (a big bang) or whether it should be an evolutionary process.
- 13.56 Finally, the issue with the acronym TERCW was raised again – with ERC a much preferred name for the Commission.

14. Employer Engagement Event – South Wales

4th July 2018

- 14.1 This write up summarises the views of three attendees who participated in the employer engagement event held at Cardiff.

General views

- 14.2 Attendees welcomed the Welsh Government proposals to establish a new, single entity which would have responsibility for all post compulsory education. In particular it was thought that this would result in education and skills provision being housed within 'one place' and would result in greater transparency for employers.
- 14.3 It was observed that the proposed remit of the Commission's membership was similar to that of the Cardiff Capital Region City Deal in that the areas covered were well aligned.
- 14.4 It was observed that the proposals were 'all encompassing' and covered significant territory but were nonetheless lacking details about the Welsh Government's long-term vision for skills and education provision. The nature of the proposals were considered to deal with the 'mechanics' of provision as opposed to the content of provision. It was also observed that there could be danger of the proposals being 'watered down' as a result of the consultation process.

Implications of the proposals upon employers

- 14.5 Attendees observed that the consultation document was 'quite technical' in nature and as a result was not deemed to be particularly relevant or digestible for employers. In this sense it was argued that employers would benefit from receiving a summary briefing note tailored for employers, adding that the communications toolkit (circulated at the event) would be appropriate. In light of the difficulties securing employer attendance at the three employer engagement events it was also suggested that it may be worth the Welsh Government considering attending existing network meetings, such as those of the Regional Learning Partnerships / City Deal Partnerships. Attendees would also welcome being kept updated of developments over time by the Welsh Government, suggesting that updates could be provided to employers at key milestones within the process.
- 14.6 One employer did not consider the consultation document to be particularly relevant for them given the focus of it being upon process related issues rather than the Welsh Government and Commission's vision for skills and education provision. Another, who had distributed the consultation document to its membership employers, observed that they equally did not think it was relevant to them given its focus

upon learning providers and their relationship with the Commission. These employers decided that they would not formally respond to the consultation exercise as a result.

- 14.7 One employer took the view that the proposals would not have any bearing upon their business or workforce as they dealt directly with work-based learning providers who responded to their needs. They did not consider that any of the proposed changes would restrict the work-based learning provider from meeting their requirements in the future.

Proposed reforms to apprenticeships and work-based learning

- 14.8 Attendees believed that the Welsh Government should decide upon the allocation of funding for broad provision (such as HE, FE and work-based learning) in line with its strategic policies but that the Commission should be awarded enough flexibility to be able to vire funding across these budget headings in order to respond to opportunities and needs. Having said this however attendees observed that it would be important for the Commission to be able to operate across sector boundaries in the sense that any silo working across HE and FE for instance should not be encouraged in the way the Commission would be funded. It was noted that the differentiation between FE and HE provision has become 'blurred' in recent years and that the Commission's structure needed to reflect this.
- 14.9 One important point raised by attendees related to the need for the Commission to consider how it funds learning provision. Attendees would welcome a move towards funding outcomes such as employment destinations secured by learners, as opposed to a funding model which rewarded 'bums on seats'.
- 14.10 Attendees argued strongly that there is a current skills mis-match between the needs of employers and the skills and qualifications available amongst those looking to enter the workforce which the Commission should address. Several examples were cited including a lack of engineering learners and students and an over-supply of individuals qualifying with fitness related qualifications. It was suggested that the main issue is the lack of interest and desire amongst pupils on leaving school to enter some of these under-served professions and that learning providers are finding it difficult to recruit to these courses. It was therefore suggested that further efforts are required to link the PCET sector to mainstream education in order to try and encourage young people to pursue careers within difficult to recruit occupations.
- 14.11 It was noted that employers are looking to recruit well rounded individuals who are highly motivated and enthusiastic to work. It was observed that many graduates are currently disillusioned on leaving university and unable to secure graduate level jobs whilst others feel that they are entitled to a graduate level job.

- 14.12 The group also thought that the Commission would have an important role in ensuring that there would be an adequate supply of work-based provision on a geographical basis across Wales. One attendee observed that there is currently a lack of provision in rural areas (including Powys and Ceredigion) but that the Commission could drive the development of on-line provision so as to ensure employees had equitable access to provision regardless of where they lived or worked.
- 14.13 The group considered how the work of the Commission would be aligned to that of Qualifications Wales. Attendees questioned whether there was a need to separate out the planning and funding of provision (the role of the Commission) from the development of frameworks (currently undertaken by Welsh Government) and the preparation of qualifications (undertaken by Qualifications Wales). One attendee questioned whether it was logical to have two different bodies responsible for these different elements or whether the Commission should become responsible for both the planning and funding of provision as well as the development of qualifications and frameworks, but with a clear demarcation and appropriate governance arrangements. Attendees certainly would welcome further clarity on this matter and argued the case for having a single entity with responsibility for all elements: 'why can't you have a single entity for all these – why do they need to be separate?'
- 14.14 In terms of the apprenticeship levy, one employer observed that they didn't necessarily agree with it as it does not offer them any flexibility. It was observed that they are required to pay this levy regardless of whether they use apprenticeship provision or not. It was further argued by this employer that a two year apprenticeship period was insufficient to train an employee and that they (together with other large employers) offer four year apprenticeships to their employees which lead to a HNC qualification. They fund the last two years of this apprenticeship directly themselves and the qualification goes above and beyond the current framework standards set. There is a danger, it was expressed, that apprenticeships are considered by politicians as the latest 'buzz word' in the same manner that degrees were supported some ten years ago as opposed to a meaningful and worthwhile qualification.

Question 3: Do you agree that Wales Employment Skills Board and the Apprenticeships Advisory Board should be brought within the Commission to strengthen links between the Commission and employers.

- 14.15 Attendees agreed with this proposal, adding that it was logical for the responsibilities of these two Boards to be brought into the remit of the Commission. Attendees argued that this proposal would strengthen the remit of the Commission and called for the committee which would be established to be appropriately represented.

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

- 14.16 Attendees welcomed the fact that establishing the Commission would allow for information and data about learning providers who operated in HE, FE and work-based provision to be published in one place. Bringing the data together into one place would make it much easier for employers to access and understand it – at the moment it is difficult for employers to be able to identify what provision is made available across FE, HE and work-based learning as they have to source it from several different sources. It was also argued that the Commission should make available data on provision and learner outcomes in a much timelier manner. One attendee explained that they currently rely on data which is two years old to inform their regional planning.
- 14.17 In light of previous comments about the need to fund provision on the basis of outcomes, attendees thought that it would be crucial that the Commission publishes data on learner employment destinations as this would help inform the decisions taken by prospective learners and inform employers on the number of learners obtaining work in their sector. Indeed, it was suggested that the Commission should revisit the type of data being published and move towards publishing information on learner outcomes including learner qualifications, progression into further learning and progression into employment.

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

- 14.18 Attendees, perhaps unsurprisingly given that two represented RSPs, agreed with this proposal. It was argued that RSPs represented a collective employer voice which would ensure that the Commission could be accurately briefed on the needs of employers. The regional plans produced by RSPs were considered to be well evidenced and research documents which could inform the work of the Commission.

RIA Impact

- 14.19 Attendees did not think that the proposed reforms would give rise to any direct costs or savings for employers, given that the reforms were technical in nature. It was considered impossible to anticipate whether the reforms would have any bearing upon higher fees for apprenticeships in the future.

Protected characteristics and the Welsh language

- 14.20 No specific recommendations were offered by the group on how the proposed policy could be formulated to be changed so as to have any effects upon the opportunities for people to use the Welsh language. Rather the group considered that there was not much of a demand for Welsh language work-based training from an employers perspective. One employer observed that their corporate language of communication as an international business was English and that there was no commercial benefit for them as a business to demand Welsh language training provision. It was anticipated that the demand for Welsh language provision would rather come from public sector employers and learners themselves (as a result of increased numbers participating in Welsh medium education). Finally, it was suggested that it would be appropriate to concentrate efforts to develop Welsh language work-based provision across some key priority sectors such as social care, hospitality and agriculture.

15. Financial and Governance Assurance

4th July 2018

15.1 The following organisations were represented at the workshop:

- Universities Wales
- NTfW
- Wales Audit Office
- Cardiff and Vale College
- Swansea University
- HEFCW
- Colegau Cymru
- Grŵp Llandrillo Menai
- Aberystwyth University

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?

15.2 There was agreement that the Commission probably should be granted statutory powers, especially in terms of high-level principles, but there were fundamental questions about:

- The nature of the powers;
- the desired outcomes;
- a perceived lack of detail in the proposals;
- whether legislation should be dictating policy and;
- the appropriateness in terms of achieving outcomes such as a sustainable sector.

15.3 On participant spoke of the need to understand the nature of the proposed powers – knowing what they are before discussing how they are applied. For them the key word was assurance, kept distinct from management. The legitimate scope of interest was felt to focus on the spending of public money and the needs of students and it was proposed that these should dictate which powers should attach to the activities of the Commission.

15.4 The point was made that FEIs are clearly linked to Government already, but proposals should not be put in place to close that gap and one participant spoke of fears of a “Trojan horse” of controls and measures which might do this.

15.5 There was some discussion about the role of ROAs and a risk that they might be too prescriptive to allow a pragmatic balance between certainty and flexibility. It was felt that the regulatory aspects should be like registration, with the Commission left to define the outcomes aspects. The model was described as “opt in and accept regulatory

control”, but it was pointed out that the highest levels of risk lay amongst those who did not opt in. There was a fear that those who come into the system face levels of regulation that could work against the interests of students.

- 15.6 A representative of the HE sector acknowledged that the Commission needs the powers to work and that it is essential to regulate to the highest standards – but it was felt that this already happens in their sector, so it was difficult to see where change was needed. There was a call to distinguish between providers who are public service organisations and those who are not (under the Wales Act 2017, universities are not). It should also be acknowledged that funding now accounts for a lower proportion of total provider income and that this has an implication for the scope of the Commission’s powers. For example, grants and student support are not counted as funding in other contexts.
- 15.7 Participants expressed a willingness to provide comments and offered help if necessary to draft arrangements – possibly drawing on experience from New Zealand. (As an example, it was reported how New Zealand had introduced a unified approach to financial monitoring across sectors, but with 600 eligible bodies to deal with the process had become unwieldy). This echoed a concern that the sheer number of providers in Wales could provide a severe test for the model and it was noted that England has moved to a risk-based approach. At the very least, it was felt that Welsh Government should be aware of the resource implications of such an approach.
- 15.8 On a separate note, it was proposed that the Commission should have a role in delivering on Welsh Government’s vision in a proactive sense and not focus solely on control and dealing with failure.

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?

- 15.9 Generally, participants felt that there should be similar financial and governance assurance principles across providers, but that there would have to be different arrangements in practice. There was a clear message that there should not be a “one size fits all” approach to statutory powers and that a risk-based view should be taken, for several reasons:
- to account for legal differences in the make-up of provider organisations – something that was said to be acknowledged in the document
 - to avoid unnecessary burden on providers
 - to maintain competitiveness with English universities
 - to account for the inclusion of sixth forms / local authorities and to deal with contracts with FEIs and work-based learning providers.

It was felt that there were some blurred lines between these classifications, as one provider might deliver under several strands. Hence it was suggested that outcomes are the most important consideration, rather than sectors.

- 15.10 This point was expanded upon by an FE provider who felt that regulation differentiated by sector of provision would be difficult, as FE covers several different delivery strands. It was proposed that there was a need to simplify the range of provision-related assurance; taking the best of existing models and avoiding duplication.
- 15.11 It was pointed out that the administration of contracts would be conducted under the terms of the contract – hence the proposal was taking a “belt and braces and pieces of string” approach.

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?

- 15.12 All participants wanted to see more detail of the formal requirements before commenting in detail on this question. There was some discussion about the degree of prescriptiveness and the decision-making process for what must be complied with and what falls into the advisory category.
- 15.13 On balance there was support for a hybrid model as described, but with the caveat of a real need for clarity on the process, for a careful balance and for principles for assurance to be clearly enshrined. Too broad a set of powers would allow the Commission to set regulations in almost any context. There may be a role for intermediary bodies to offer advice and examples of best practice.

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?

- 15.14 Yes – this requires a middle course; although boundaries should be defined before legislative changes. The term “broad framework” is too loose for the purposes of legislation.
- 15.15 There was some nervousness in terms of the risk of ONS reclassification of institutions and their charitable status, if they were tied too closely to acting on government policy. It was seen as fundamental that the governing bodies of institutions should be responsible for providing strategic direction. The skills mix of governing bodies may need to be reviewed in light of this.

Question 64: Do you agree that:

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?

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?

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?

- 15.16 Generally, there was agreement with the principles described here. There was a clear duty to consult with providers (to avoid the risk of a judicial review) and to receive advice and opinion from Government. Ideally, it was felt that this should develop into a two-way discursive flow, to allow providers to feedback into the advice and guidance.
- 15.17 There was some discussion about what should go into legislation or should be developed later. It was felt that care should be taken to retain a degree of flexibility, so that the Commission retained the scope to alter its guidance. Hence this should be at a high level in terms of detail in statute, with the scope to amend the detail. Current financial management is not flexible enough to deal with contextual changes at short notice.
- 15.18 In terms of guidance issued by Welsh Ministers, it was felt that there was a need to understand more about what the guidance would look like and the definition of "take into account". There might be more of a role for the National Assembly to be asked for guidance on what they wanted and for the Commission to take this into account.
- 15.19 There were concerns with regard to whether the proposals provided sufficient safeguards – with one participant suggesting that insufficient checks and balances would be in place without further detail. It was felt that there is a need to decide what is appropriate within the body of the Bill, not at Ministerial discretion. It was suggested that there may be a need to include some external scrutiny of arrangements.

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?

- 15.20 There was agreement with the proposal to secure information as necessary to provide assurance. There will be an expectation that the Commission acts reasonably and in response to legitimate concerns in this context. It was suggested by one participant that reference to

the power to enter premises felt heavy handed, whilst an FE representative reported that similar arrangements are already in place in their sector and it was justified to expect a right of access where considerable sums of public money were at stake. However, it was stressed that this needs to be about assurance and not for other purposes.

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?

- 15.21 The Commission will need appropriate powers regarding assurance, in cases where risks are identified. Participants wanted to see a balanced approach – with powers robust enough to protect the interests of learners, use of public funds and institutional integrity. There were concerns about the use of powers in relation to school sixth forms and whether sanctions could be applied to school governing bodies, when the primary funding relationship is with local authorities.

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?

- 15.22 Participants did not agree with this proposal, believing that it could be a contravention of the transfer of responsibilities from Welsh Government to the Commission. The retention of powers was seen as reflecting existing practice rather than a vision for a new way of working.

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?

- 15.23 There was agreement with this proposal – with a consensus that it makes sense for the Commission to be the regulator for FEIs. It was observed that charitable status has been helpful in retaining autonomy amongst HEIs. There were, however, some concerns about how the legislation might be drafted.
- 15.24 It was noted that HEFCW currently has a duty to ensure that it does not act in a manner inconsistent with charity requirements (or indeed force institutions to do so). It was said that the Charity Commission as the regulator provides good checks and balances and any

rationalisation could lead to the Commission being asked to act as “poacher and gamekeeper”.

- 15.25 This point was taken up by FE representatives, who could appreciate the potential tensions resulting from the Commission having this dual role. However, having one set of returns appeared to be more streamlined and so might be worth the risk.

Welsh Language Questions

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.

- 15.26 There were no Welsh language issues raised in the context of this discussion.

RIA Impact questions:

What financial costs or savings do you think these proposed reforms will give rise to, in each of the different parts of the sector and in Wales, in the short term (as the changes take effect) and in the longer term?

What other positive or negative impacts might be felt across different parts of the sector in the short term and longer term?

- 15.27 A representative of the HE sector highlighted that it was important not to allow any changes to affect the confidence of investors in institutions. It was seen as key to ensure that sufficient funding was allocated to make changes effectively, with the example of ELW^a given as an organisation that was insufficiently funded to deliver transformational change as well as delivering on everyday functions. Building on this, it was suggested that investment at the outset could ensure that the range of new regulatory powers could be used less.
- 15.28 There was also a comment that ROAs could be very resource intensive to put in place as each was a negotiated agreement between Commission and provider. It was debated whether there might be a more cost-effective solution to securing agreement. The model in the Netherlands was cited as an example of how cumbersome this could be.
- 15.29 All providers will need to adopt / adapt MIS systems to fit with the new regime. There was a suggestion that the new regime could build on HEFCW systems, to maximise baseline capacity – a HEFCW + model.

16. Apprenticeships

6th July 2018

16.1 The following organisations were represented at the workshop:

- HEFCW
- NTfW
- TATA Steel
- FSB
- Universities Wales
- Coleg Cymraeg Cenedlaethol
- Estyn
- Cardiff and Vale College
- Open University in Wales
- Cardiff University
- City & Guilds
- Welsh Language Commission
- Social Care Wales
- Qualifications Wales
- TSW
- ECITB
- Dwr Cymru
- Educ8training

Q53. 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?

16.2 There was general agreement that the Commission should be central to delivery of Apprenticeships; however, the key theme running through the whole session was that the Apprenticeship system requires urgent reform and that this needs to happen ahead of the likely timeframe for establishing the Commission.

16.3 The current Apprenticeship system is protracted. It takes too long to convert standards into frameworks. It's particularly challenging to convert English standards into Welsh frameworks, which especially causes frustrations for cross-border providers.

16.4 It was thought that the Commission could play a role in improving efficiencies in the process. It was however noted that the Institute for Apprenticeships (IfA), [the DfE sponsored body responsible for quality assuring apprenticeship standards and advises government on funding for each standard in England] has faced difficulties in terms of the time it takes to get standards approved. The other challenge for England was that this structure wasn't in place when the Apprenticeship reforms began and so the IfA took on an evolving landscape. One participant suggested this was an argument to have

the structures in place first (i.e. the Commission) before making major changes to the Apprenticeship system; however, this was contrary to the majority view in the group, which was that change is required more imminently. One participant suggested that we are unlikely to get a Commission up and running for 3-5 years, and that therefore if we are accepting that the Commission will have a key role to play in developing the Apprenticeship system, then that means accepting that nothing will happen for a while.

- 16.5 Awarding Bodies were reported to have no strong objection to the Commission but that they need clarity on who will develop and approve the frameworks.
- 16.6 It was also reported that Qualifications Wales have no objection to the Commission having a role, although it will be crucial to consider the relationship between Qualifications Wales and the new body as there is a risk of overlapping roles.
- 16.7 It was agreed that there is undoubtedly a need for a body to look at Apprenticeships and that two key questions need to be asked as part of the consultation process:
- What principles need to be set out in the legislation in relation to Apprenticeships?
 - What the Commission should do subsequently in relation to Apprenticeships?
- 16.8 The technical consultation was thought to be potentially too prescriptive at this stage in terms of what is being proposed in relation to Apprenticeships.
- 16.9 The comparison was made with the establishment of Qualifications Wales, where there was limited detail in terms of how the organization would operate set down in the legislation.
- 16.10 One of the reasons that that Apprenticeship system in Wales is so slow is that the Specification of Apprenticeship Standards for Wales (SASW) is too prescriptive. It's important to avoid making this mistake again, by putting into law, legislation that is then binding.
- 16.11 The legislation needs to be sufficiently open to enable the Commission to be flexible to the needs of employers and the Welsh economy and to adapt the Apprenticeship system to react to unforeseeable changes in the wider context.
- 16.12 For example, it was suggested that specific organizations are not named in the legislation (for example the Regional Skills Partnerships) as the legislation may last 30-40 years, and therefore there needs to be flexibility in terms of who /what body fulfils the roles of working with the Commission.
- 16.13 It was noted that the priority is to revoke the terms of the 2009 ASCL (Apprenticeships, Skills, Children and Learning) Act to enable Wales to take ownership of its Apprenticeships, and to act more expeditiously on developing frameworks.

- 16.14 In terms of scope of the new system, it was suggested that we can't afford a system that delivers all apprenticeships to all apprentices – specifically, Wales can't afford an IfA function – and so we need to recognize a need to adopt elements from England, where there are gaps in the Welsh system. It was suggested that caution needs to be taken in going entirely our (i.e. Wales') own way in developing an Apprenticeship system as it may be best to borrow elements from elsewhere (i.e. England). It was generally agreed that Wales needs a fully functioning system that can approve its own frameworks that suit the needs of the Welsh economy. Anything that is adopted from England must be the best bits of the English system and what is known to work well. It was noted that there is a lot of tension between Ofqual, DfE and IfA in England and that this needs to be avoided in Wales.
- 16.15 It was commented that the intention set out in the consultation document is that the Commission will use the WESB and the Regional Skills Partnerships to develop the Apprenticeship system, but in fact this advice is required more by those responsible for developing the qualifications. The point was made that an Apprenticeship is just a framework for the qualifications that underpin it. There isn't a need for another body to oversee the qualifications as we already have Qualifications Wales. It was suggested that the qualifications are the most 'crucial' element of the frameworks, as they make up the funded element.
- 16.16 Nonetheless, given that Apprenticeships are the only 'form of learning' that will transcend all sectors and institutions [sic], it was deemed appropriate across the group that Apprenticeships are overseen by the Commission.

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?

General points

- 16.17 It was suggested that an 83% success rate is a positive and should not be lost in any change to the way Apprenticeships are delivered. The Apprenticeship infrastructure is not good as it is too slow, and the processes are too onerous; however, front-end delivery of Apprenticeships is excellent. However, the point was reiterated that we can't wait seven years [sic] to have a new body to take forward improving the infrastructure, which is 'broken'.
- 16.18 For social care, it was noted that the Apprenticeship framework is vital to upskilling the workforce and what providers deliver as part of the Apprenticeship framework meets employers' needs. It is the lack of speed and flexibility in approving frameworks that needs to be improved, as there are gaps in what is available. The priority is on

meeting the 'extensive' requirements of the SASW and this slows things down. Instead, the focus needs to be on getting the frameworks available, and this may involve taking qualifications from England, where there are gaps in what's available here. It was noted that there are seven organisations involved in translating an employer's training needs into a qualification, and it needs to be much quicker.

- 16.19 Another aspect of the current system that was thought to be problematic is the fact that Welsh Government will only fund qualifications, and not all Apprenticeships are all about qualifications. In England, by contrast, Apprentices can work towards standards that are qualifications based and standards that are not qualifications based.

Commissioning/contracting

- 16.20 The current contracting model was described as a 'nightmare' and it was suggested that a commissioning type model, based on appropriate quality measures would work better. Currently, providers receive their contract and then things can change – for example a new employer moves into the area – and the provider is stuck with the agreed contract that may not meet the needs of the local economy. Contracting is also short term and burdensome in terms of re-tendering. This puts jobs at risk and causes disruption for the providers. The current system is therefore not conducive to high quality. A commissioning model would give providers the stability they need to deliver. It was noted that we need to clarify the type of relationship the Commission would have with providers. Northern Ireland was cited as an example of where there is a commissioning model for FE and tendering model for private training providers. It was thought that in Wales, we need a level playing field for all providers, regardless of sector.
- 16.21 One participant was worried about the references to charity status in the consultation document, which would preclude WBL providers. It was suggested that there needs to be agreed standards set for providers delivering funded provision (e.g. financial stability, quality etc) and that once set, these standards should be the same requirements for all providers in all sectors, regardless of charity or non-charity status. It was suggested that a statement of public good could also be a requirement.

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?

- 16.22 It was noted that if Welsh Government can force the Commission to comply with their requirements, it will be critical to ensure that the

WAS is sufficiently clear and avoids the prescriptive detail of the SASW.

- 16.23 There was some concern expressed over the idea of Welsh Government specifying sectors and priority areas for funded provision. On the other hand, it was also noted that if the Welsh Government priority areas are based on recommendations from Regional Skills Partnerships, this should match the Commission's priorities.
- 16.24 It was suggested that developing the detail of the WAS at this stage would be unwise and unnecessary. All it needs to say in the legislation is that the Commission will have the authority to approve Apprenticeship frameworks. We should not embed the WAS in the legislation as this was the mistake made with the SASW. In any case, if the legislation is to say that Welsh Government would be providing a steer on priority sectors, will have a remit letter for the Commission and will be responsible for appointing members, they will have a significant influence over the Commission anyway and therefore there is no need to set the WAS in stone at this stage.
- 16.25 It was noted that Qualifications Wales has a priority qualifications list that is agreed jointly between them and the Welsh ministers, and that a similar 'half-way house' could be developed for Welsh Government and the Commission in relation to Apprenticeships.
- 16.26 It was suggested that the proposed future flowchart appears more complicated than the current model. It was queried why there is a need for three bodies to fulfil an advisory role [the WAAB, sector experts formally engaging with employers and a statutory advisory committee]. The point was made that the more panels that are established the more admin and bureaucracy is involved. There was some discussion around the representativeness of these proposed bodies, given the RSPs do not tend to be representative of employers in Wales and that it will be important to give a voice to SMEs. Even the trailblazer process in England was criticized for being dominated by large employers. Whilst there is no longer the capacity of the SSCs, it will still be vital to do the 'hard graft' of talking to employers. It was suggested that the flowchart attempts to formalize things too much at this stage and in order to facilitate flexibility, it is just necessary to say that the Commission will work with employers to inform the development of frameworks.

Apprenticeship content

- 16.27 One participant expressed a preference for integrated qualifications within the Apprenticeship framework and advised against differentiating between occupational and technical qualifications within the WAS. This led to some discussion about the challenges of identifying the best mechanism for assessment. There was general agreement that Welsh Government should not set in stone what Apprenticeships should look like and what assessment models should

be used. It should be left fairly high level in the legislation allowing for modification in the future. There needs to be a discussion separate to this one about the architecture of the Apprenticeship framework.

Furthermore, it was suggested that this discussion needs to happen sooner than the timeframe for establishing the Commission, and that Welsh Government needs to start the process of removing the ASCL 2009 now.

Role of the WAAB

- 16.28 It was queried where the WAAB is intended to fit in the proposed future landscape for Apprenticeships. One participant, also a member of the WAAB, pointed out that the WAAB is still very new and so it is difficult to hold a view on whether it moves into the Commission as they are not yet clear on its current function. It was agreed that whatever role the WAAB takes on, it should not simply be a 'bolt-on' or tokenistic employer group but needs to be sufficiently resourced in order to fulfil its intended function. It should also have clear terms of reference and set of principles.

Role of other bodies

- 16.29 One participant asked how the relationship between Farming Connect and the Commission is expected to work, given that Farming Connect – or its successor, post Brexit – is likely to sit outside of the Commission but that it feeds into Apprenticeships. Similarly, the future of the WESB was raised, in terms of what happens to the 'employability' element of the WESB if it moves into the Commission.

General points/issues/concerns about the proposed reforms to Apprenticeships

Pathways vs frameworks

- 16.30 The idea of switching from frameworks to pathways was not met with much approval. It was described as being 'change for change's sake' and could cause confusion, given that the term pathway has other meanings in education.

Employer Engagement

- 16.31 Concern was expressed about the lack of sufficient engagement with employers as part of the consultation process, especially employers in the care sector, which is where so many Apprenticeships are delivered. It was stated that Apprenticeships need to be for employers and that it can be challenging to ensure you are engaging with the right kind of employers given that Wales is a country of SMEs. Another participant responded by saying it is down to the Regional Skills Partnerships to ensure adequate representation on

the partnerships. It was suggested that an engagement strategy is required and that it may be necessary to 'think outside the box' given that round table discussions may not suit all employers.

- 16.32 The point was made that universities are already good at talking to employers about their training needs, and in the context of the new Degree Apprenticeships, concern was expressed that the Commission is sufficiently flexible to enable universities (and other providers) to be 'fleet of foot' in being able to respond to employers' needs. At the moment, although employers come to the HE sector with the qualifications they require, HEIs are stuck as they can't deliver the Level 6 and 7 qualifications that employers want. At Level 5 and below, there is equally a need for a conduit for getting information about employers' needs to those developing the qualifications.
- 16.33 It was noted that Sector Skills Councils, which were supposed to 'do' employer engagement have been stripped back and now the closest thing we have in Wales to meaningful sources of evidence of employer needs are the Sector reviews undertaken by Qualifications Wales; however, these take a lot of time and resource.
- 16.34 The IfA Trailblazer groups were cited a great approach to developing new apprenticeship standards as they are based on employer needs and have led to the development of lots of new standards. One participant stated that Degree Apprenticeships need to be closely matched to the needs of employers and not simply 'lifted off the shelf'.
- 16.35 It was noted that Welsh Water, whilst a big organization in Welsh terms, is fairly unique and so has needed to look over the border to the development of qualifications in England as there are not the bespoke qualifications that they require available in Wales – this was cited as evidence that large companies also struggle in terms of accessing relevant frameworks.

Employer vs learner focus

- 16.36 It was noted on several occasions during the group that we need to put learners first in evolving the Apprenticeship system and that we need to avoid an approach that makes everything about the employers. Having a Commission which includes learner representation should help to improve the learner voice within the Apprenticeship system. In particular there needs to be [remain] a system in place that supports apprentices whose employers go bankrupt.
- 16.37 Others in the group however felt that Apprenticeships are for employers and that employers are the main customer. Apprentices are employed individuals and in that way, they are unique to other learners.

Q99: Effects on the Welsh language

- 16.38 This discussion began with a suggestion that given that providers have to deliver in the medium of Welsh if this is what learners require, the establishment of the Commission is unlikely to have any effect. The expansion of the Coleg Cymraeg Cenedlaethol into FE and WBL was commended.
- 16.39 It was reported that recent research by the Coleg has indicated that learners do not have strong views on the Welsh language and that there could be more pro-active promotion of doing things in Welsh. The number of learners and employers who are completely fluent in Welsh is low, however many have some level of skill and so the focus now should be pushing the use of incidental Welsh in FE and WBL. Public and private sector employers are commonly looking for some level of ability to deal with customers in Welsh and so it is in their interests that FE and WBL providers support employers to meet these needs. It will be important to ensure that the statutory requirements on the Commission support what's being done around the Welsh language. It was suggested that in the same way that underpinning the principle aims of Qualifications Wales is a requirement to promote the Welsh language [specifically, 'the desirability of promoting and facilitating the use of the Welsh language'] and it would be advantageous to have some kind of high-level statement like this for the Commission.
- 16.40 It will be important that the Commission gives due attention to encouraging conversational Welsh in WBL and FE and to increase awareness of bilingual or semi-bilingual opportunities to learners. There needs to be a more progressive approach to the way the use of Welsh language is monitored and recorded, that moves beyond a binary categorization of 'speaker' and 'non-speaker' but recognizes a scale of ability.
- 16.41 It was also noted the Welsh language is part of the Welsh identity and this is valuable to some employers working internationally, in terms of marketing the 'made in Wales' asset. In other sectors, (e.g. health and social care) it is a necessary skill, and therefore given that the Apprenticeship is a skills and competencies-based framework, it should be factored into the requirements. In other sectors, for example, steel, it is not a necessary skill. It was suggested that the Commission should build on promoting Welsh as a skill and then concentrate on developing and promoting Welsh medium provision in areas where it is a necessary skill.
- 16.42 This point was caveated by one participant who pointed out that Welsh is also a right and that Apprentices should have the right to complete their Apprenticeship in the medium of Welsh, regardless of whether Welsh is perceived as a skill by the employer. Currently, it is known that the availability of Welsh medium provision is not always there. Furthermore, even having qualifications available in the medium of Welsh doesn't always mean they are taken up and therefore we need more innovative approaches to making provision

more visible. Part of this is demonstrating to learners the value of Welsh language skills.

- 16.43 The concluding point on the Welsh language was – in keeping with so many other elements of this group’s discussion – was that there is only a need to include a statutory requirement in the legislation that the Commission supports and encourages the Welsh language, and that Welsh Government should avoid being too explicit about the detail.

Regulatory Impact Assessment

- 16.44 It was suggested that it isn’t possible to do any kind of cost analysis until there is more clarity over the resource implications for the Commission. One participant stated that any substantial change typically comes at a cost. Furthermore, we should not be entering into this process of reform to the PCET sector with the aim of saving money. It should be about making the sector more effective and reducing duplication, and not perceived as a money saving exercise.
- 16.45 It was suggested that if the reforms result in the PCET sector being more ‘fleet of foot’ this could lead to economic benefits in time.
- 16.46 A non-monetised benefit could be a better interface between HEIs and FEIs and the development of clearer progression pathways.
- 16.47 For Apprenticeships, it could have positive or negative outcomes. There is a risk of Apprenticeships getting ‘lost’ as they are part of a larger organization; however, the establishment of the Commission could also create an opportunity to elevate the status of Apprenticeships. This in turn to result in social benefits of people progressing into higher earning jobs and increased social mobility, alongside the economic benefits to the country as a whole of having a more highly skills workforce.

Concluding points

- 16.48 One participant stated that the Hazelkorn report had recommended the establishment of a body and the development of a strategy for the PCET sector, and whilst there has been a lot of talk about the ‘body’ there has not been so much discussion about the strategy. This makes it difficult to answer many of the questions in the consultation document without knowing the strategic direction that is being proposed. This point was contested by another participant however who commented that there is a danger that if we develop and legislate a strategy as part of this process, it could hinder what the Commission does in the future.
- 16.49 Participants noted a mismatch in sectoral representation at the group, with lots of HE representatives and insufficient numbers of FE.

17. Impact Assessments

9th July 2018

17.1 The following organisations were represented at the workshop:

- Chwarae Teg
- NTfW
- Cardiff Metropolitan University
- Eyst
- The Red Card Wales
- NPT College
- Disability Sport Wales

General

17.2 As a general point, participants found it a challenge to absorb the whole consultation document for the purpose of responding to equality issues. The majority had skim read it, but there was inevitably a focus on more general issues, along with a desire to play a continuing role in relation to more specific issues.

17.3 Respondents were generally positive about the proposals in the sense that anything that brings greater coherence to the planning and funding process is helpful. One provider made the point that longer periods of funding are helpful to be able to plan for the best provision for all learners. Current provision of ACL and foundation courses was felt to be reactive in many cases and increased planning times were seen as especially helpful to meet the requirements of those with additional learning needs.

Access to learning and employment

17.4 It was felt that the Commission had an opportunity to act to prioritise access issues, using its umbrella role to bring sectors together to improve communications and access (i.e. both an enabling and nudge role).

17.5 Drop-out was perceived to be more of an issue amongst learners from protected groups than learners generally. One of those present had experience of support and assessment and felt that the value of ongoing support should be acknowledged as critical to avoiding drop out amongst protected groups.

17.6 The point was made that we need to consider diversity within diversity and not rely on broad brush categories of learners when devising strategies. Approaches should be based on individual capability planning.

- 17.7 A work-based learning representative suggested that many learners are not aware of opportunities to transfer or progress to other provision and an approach that provided consistency of regulation and assessment would help in this respect. There was general agreement that BMI and disabled learners are very under-represented in apprenticeship learning along with women in STEM subjects, and longer-term planning would allow for learning providers to build more effective and collaborative relationships with employers.
- 17.8 HE representatives acknowledged that young black graduates were less successful than similarly qualified peers in obtaining quality employment and that the sector could do more to address this. Work elsewhere was referenced which had looked at the factors which affect entry to jobs and it was acknowledged that the Commission needs to ensure that all sectors are working to address barriers to employment on completion of learning, as well as initial access to provision.

Progression

- 17.9 The all-age (post-16) remit of the Commission was welcomed, along with a recognition of the need to ensure access to provision for all ages of learner; highlighting pathways across all sectors of provision.
- 17.10 For students generally, one participant felt that young people need to be supported to become more aware of the implications of choices at 14+.

The make-up of the Commission

- 17.11 There were some concerns about the projected membership of the Commission and its ability to be representative of protected groups as well as provider sectors.

Access and support in Sixth Forms

- 17.12 There were some concerns regarding separate access requirements for school sixth forms, given the need to ensure that all learners should be empowered to take whichever route they choose. It was asserted that there is an assumption that support exists in sixth forms which may not be there in practice.

Gender Issues

- 17.13 One participant felt that there had been a lack of a gender lens when looking at issues within the document. Widening participation for women was reported to be a challenge – especially in terms of maintaining continuity of the learner pathway.

Teaching Staff

- 17.14 There was a discussion around the characteristics of teaching staff in the context of equality. For example, it was pointed out that three per cent of teachers in Wales come from a BMI background and so students may lack role models in this respect. There was no consensus on whether quotas should be set for diversity amongst teaching staff, with one participant citing that whilst quotas do not offer a silver bullet, the scale of the cultural challenge is so great that quotas might be considered to create a step change in diversity.
- 17.15 A work-based learning representative said that their primary concern was finding staff who were competent to deliver and that finding Welsh-speaking staff, for example, added a new layer of challenge. Quotas would pose difficulties for many of those present. However, it was felt that generally, providers had become more successful in matching Welsh speaking learners in work-based learning to Welsh speaking environments.

Employers

- 17.16 Relationships with employers were discussed in terms of the need to ensure that a diverse range of employees are engaged post-learning and employers should be challenged to provide access to disabled employees. The point was made that HEIs in particular should go beyond signposting leavers towards “big brand” employers and understand the benefits of working within a smaller organisation. It was generally felt that greater collaboration between employers and providers should be encouraged by the Commission.

Rural issues

- 17.17 Access to choice was seen as the greatest challenge in rural areas of Wales – for example in terms of limitations in non-tertiary areas or for access to higher education.
- 17.18 For providers, provision is more costly in rural areas although this can be mitigated to some extent through online or blended learning, so long as students have access to the relevant technology. Student support can be more difficult to deliver over a sparse rural area as well.

Children’s rights

- 17.19 The issues relating to children leaving care was raised, as the transition between children’s and adult services can be stressful. One participant talked of young people aged around 22 “falling off a cliff” in terms of support. It was felt that apprenticeships could offer a solution for some of this group.

- 17.20 The cutting off of student support at age 25 for work-based learners was said to lead to dropout.
- 17.21 It was said that there are no references to British Sign Language in the document.

Welsh language issues

- 17.22 The creation of the Commission was seen to offer an opportunity to share resources that already exist – for example between FE and HE.
- 17.23 There is still a lack of availability of qualifications in Welsh and many institutions need to deliver CPD for staff to ensure representation in Welsh. Translation costs are also an issue and Welsh speakers could not be expected to act as translators of course materials for delivery.
- 17.24 It was suggested that there should be a focus on driving Welsh beyond the compulsory level into PCET.

Future communication and engagement

- 17.25 All of those present were keen to be involved on the further development of proposals, as an ongoing process- possibly a network of practitioners. Given the size of the consultation document and the cross-cutting nature of the impact assessment, it was suggested that participants should be given the opportunity to react to the impact assessment documents, as it was difficult to react to what was perceived to be a lack of detail.
- 17.26 One person suggested that it would be advantageous to involve the Prison Service in discussions.
- 17.27 Finally, it was shared that it is critical to get the process right and there is a risk of the impact assessment being seen as a bolt-on. It needs to be challenging and constantly evolving; embedding equality in all areas of the Commission's remit.
- 17.28 Most of those present preferred to be contacted by email.

18. Employer Engagement Event – Mid Wales

11th July 2018

- 18.1 This write up summarises the views of two attendees who participated in the employer engagement event held at Cardiff.

Responses to the proposals

- 18.2 Both employers welcomed the proposal to establish a new Commission with overall responsibility for the PCET sector. It was hoped that this development would simplify provision and develop a more consistent offer for employers and their workforce. Both employers welcomed the prospect of provision becoming more learner centred in the future and suggested that the Commission could play a vital role in improving the quality of provision available to them.
- 18.3 One employer noted that they receive conflicting messages from the FE and HE institutions about WBL provision at present and the introduction of a new Commission offered an opportunity to address this confusion and ensure greater consistency across Wales.
- 18.4 One employer also observed that there was a current imbalance in the funding made available to the FE and HE sector, with the FE sector having been 'squeezed out' over the last fifteen years, and hoped that the Commission could address this.

Current Provision

- 18.5 Both employers are extensively involved with apprenticeships and work-based learning. Both take on engineering apprentices. One employer has set itself a target of recruiting 10 apprentices this year whilst the other currently employed 46 apprentices and intended to employ 54 in all in September.
- 18.6 One employer defines an apprenticeship as a four year programme, as opposed to the two year programme set out in the Apprenticeship Framework. In their case they employ apprentices who undertake a full-time pre-apprenticeship programme of learning at an FEI for the first year before then participating in a further three year programme of provision whilst working at the business. Apprentices are expected to achieve at least a HNC qualification at the end of this four year period.
- 18.7 This employer, who drew upon their experience of collaborating with two learning providers, expressed their concern about the significant differences in approach and quality offered by both. One learning provider was considered to offer an exceptionally good service to the employer and workforce as they (in contrast to the other provider):

- visit the employer to enrol learners on site as opposed to them having to travel to the provider campus
 - provide a schedule of provision and assessment deadlines well in advance of the start of the academic year (thereby showing respect for the learner needs)
 - engage in a dialogue with the employer about the provision on an on-going basis to ensure that feedback is taken on board in future provision e.g. the employer had been able to feedback recently that provision had been overly focused on electronic engineering
 - provide monthly progress reports on all apprentices (covering attendance, effort and achievement).
- 18.8 It was thought that inappropriate auditing and inspection processes meant that any weaknesses in provision were not being identified and reported upon - in both cases the employer was aware that the two learning providers it worked with had received good Estyn inspection reports despite there being issues in quality of provision in one case, and therefore questioned the remit and quality of the inspection process.
- 18.9 One employer reported that lower level apprenticeship provision (up to Level 2), for areas such as basic engineering and health and safety, is fairly well catered for but that finding higher level apprenticeship provision is much more challenging. This employer, who considered their business to have very specific and unusual engineering training needs, reported that they find it difficult to source apprenticeship frameworks to meet their needs. In their case they draw upon the provision of a north Wales university who deliver Foundation Degree Engineering courses to degree level as well as a provider from outside Wales who provides apprenticeships which allow their workforce to obtain HNC qualifications.
- 18.10 This employer also finds it difficult to source external specialist tutors who are able to deliver the training which they require, and this had been exacerbated recently when one course tutor at a north Wales university left their position. The other employer, in response to this experience, explained that they collaborate closely with one FE college to co-deliver a specific module which they required on engineering instruments. In this case the employer had provided the necessary equipment to the college as well as equipment manuals – their apprentices were able to use this kit during their training workshop sessions whilst at college.
- 18.11 Other key issues raised in relation to apprenticeship provision included:
- Both employers would prefer for essential skills training to be an optional element of an apprenticeship qualification and argued that individuals should be able to proxy their existing qualifications gained at GCSE and A Levels into their apprenticeship training. Participation in essential skills training should be determined by whether an individual requires it so as to free up the training time to focus on subject skills and knowledge

- Too much emphasis is being placed by colleges upon pedagogy-style learning and this is not particularly well suited to some learners, particularly those who have not excelled within a classroom environment at school. A move towards other styles of learning would be welcome.

Role for the Commission

18.12 Some key messages were conveyed about the role that the Commission could possibly adopt to ensure that the needs of Welsh employers would be better met in the future. It was suggested that there could be scope for the Commission to:

- Make funding available directly to employers to deliver their own WBL provision as both employers would welcome a greater role as a co-deliverer of learning. One employer argued that they currently have to 'shoehorn' staff into specific apprenticeships (particularly higher level apprenticeships) which do not meet their specific needs as an employer. The employer observed that they have significant expertise which would allow them to deliver in-house provision yet are currently unable to access funding to allow this to take place. This type of co-delivery approach would safeguard employers against issues such as the loss of FE tutor expertise, as had happened in the case of one employer.
- Consider offering a 'mix and match' package for employers as part of the new apprenticeship pathways. This could potentially work by adopting a credit based provision as opposed to a qualifications based provision. Employers would be able to draw upon provision from a package of learning modules (similar to the current ILM approach) which could be delivered by either the employer or a learning provider.
- Encourage the FE sector to employ tutors who have worked in industry and who would be required to demonstrate that they refresh their industry experience on a regular basis. Both employers had experience of FE tutors who had never worked in industry and questioned the appropriateness of their experience to deliver WBL provision. It was suggested that tutors should be required to undertake industry placements and for this to be monitored by the Commission via its quality framework.
- Encourage training providers to have a regular dialogue with employers to ensure that provision was meeting their requirements and for feedback to be taken on board.
- Consider good practice adopted outside of Wales. By way of example one employer cited the CATCH training facility established in Grimsby⁵ which was being driven by local employers. The facility is delivering training in response to the needs of employers and it could be worth looking at its structure.

⁵ <http://www.catchuk.org/>

Apprenticeship Levy

- 18.13 Both employers pay the apprenticeship levy and effectively consider this as another 'tax' on their business, as they do not stand to directly benefit from their contributions. One employer explained that they have negotiated with the Welsh Government who have agreed to pay for some of the costs associated with delivering the additional elements of apprenticeship provision which sits outside of the standard apprenticeship framework provision. In their case the Welsh Government has agreed to contribute funding for the additional fees charged by the FE provider to deliver a one year full-time pre-apprenticeship course (thereby allowing learners to access a full week of teaching as opposed to the standard 15 hours or so of teaching time) as well as waiver the additional costs associated with apprentices achieving the HNC and HND qualifications. The employer noted that this has since been incorporated into the apprenticeship framework so that other employers are able to access a similar agreement.
- 18.14 Both employers would welcome a move to have a single assessment body in Wales to be responsible for PCET provision and saw this as a logical development. Whilst they did not have a strong view either way as to whether this ought to be Estyn or another body, they suggested that the assessment principles adopted should reflect upon:
- the need for different assessment criteria across the FE and HE sector
 - for the assessment process to give due consideration to outcomes other than qualifications, such as outcomes which would be more relevant for businesses.

Accelerated Degrees

- 18.15 The two employers held different views about the benefits of introducing accelerated degrees for their businesses, although both acknowledged that they served to increase the choice of learning to employers generally. One employer already had staff participating in accelerated degrees as they undertake their Foundation Degree in Engineering over a period of 11 months per year, taking only August off during the course of the year. This approach worked well for the employer and staff.
- 18.16 In the case of the other employer, it was not clear what the advantages of an accelerated degree would be for them – not least as they currently offer opportunities for under-graduates to undertake paid work placements at the business during their summer leave period as well as sandwich industry experiences. An accelerated degree model would not allow for these opportunities to take place which were considered to bring about benefits for the learner as well as the employer: the business tends to recruit a large number of these learners in due course.

RSPs

- 18.17 Both employers thought that the Commission should continue to work collaboratively with the RSPs to inform provision delivered by learning providers. One employer, as a member of the south-west RSP reported that employers already are able to voice their opinion in this way. RSP members are able to inform the Welsh Government's apprenticeship allocation across their region to some extent as they are consulted on areas where they wish to see an increase as well as a decrease in apprenticeship allocations. This model could continue in the future via the Commission. They are mindful however that their ability to influence provision is restricted by the FE sector's business planning processes.

Relationship between the Commission and employers

- 18.18 Both employers would welcome an ongoing dialogue with the Welsh Government in order to be kept informed of developments relating to the establishment of the new Commission, although cautioned against having to attend 'talking shops'. One employer was keen to see how their feedback as part of this engagement process would be considered by the Welsh Government and acted upon.
- 18.19 Some concerns were expressed about the timescales involved in establishing a new Commission and both employers called upon the Welsh Government to ensure that policy developments, so as to better address skills shortages within the workforce, would not be hindered by legislative requirements to establish the Commission.

Other issues

- 18.20 One employer questioned whether the Welsh Government had any plans to raise the compulsory education age to 18 as has happened in England, as this would have a major impact for employers engaged in work-based learning.

19. Student Finance Related Issues

9th July 2018

19.1 The following organisations were represented at the workshop:

- HEFCW
- Universities Wales
- Open University in Wales
- Union School of Theology
- Cardiff Metropolitan University
- Coleg Cambria
- Wrexham Glyndŵr University

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

19.2 Those present all supported an increase in the availability of accelerated degrees in Wales as part of a broad offer, but with the caveat that they needed to be considered in the context of particular courses and learner segments.

19.3 A number of issues were highlighted:

- Staff time and resources needed to deliver across the whole year, as opposed to current semesters.
- Accelerated degrees might favour more able learners and there would be a need to manage expectations to ensure that less able learners did not overreach themselves.
- Some of those present questioned whether the shorter period in HE would lessen the student experience and social development associated with being a student. One felt that there could be an impact on student wellbeing as some students already struggle to cope with the pressures to succeed.
- The need to retain flexibility and transferability, so that students who found the workload too onerous could reduce their workload or transfer to an alternative course / provider. The availability of four-year accelerated part-time courses might be a useful addition for those in employment whilst learning.
- The package of student support suggested in the Diamond review does not cover the summer months and this needs to be acknowledged in some way.
- Some participants queried whether accelerated degrees were compliant with European standards and whether they met with WG's commitment to the Bologna process regarding minimum time taken to achieve a degree.
- There was a perception that accelerated degree provision works best for technical and vocational subjects where sequential learning is possible – for example technology or engineering.

19.4 It was felt that the market for accelerated degrees would include career changers (especially mature students) and those “earning and

learning” and the latter group might experience difficulties with other commitments (for example childcare during the summer months) or finding time to earn sufficient funds to maintain themselves.

- 19.5 One benefit of accelerated degrees could be that of reduced maintenance costs and possibly some reduction in overall tuition fees for learners, which could increase access to career changers or mature students. However, it was also pointed out that for accelerated degrees, the Diamond maintenance package would need to be amended to reflect the fact that the student would be studying through the summer. It was seen as critical that accelerated degrees were considered from the perspective of benefits to learners and employers and not as part of institutional savings.
- 19.6 The messages from institutions generally was that employers would welcome an increase in availability of accelerated degrees as part of a mixed offer. One challenge highlighted was that employers who offer work experience tend to do so over the summer period and so there might be a potential conflict with teaching in the third semester.
- 19.7 One point made was that an increase in availability of accelerated degrees could be delivered outside of this consultation, as it does not directly refer to this process.

Q90: 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?

- 19.8 It was generally agreed that the current arrangements restrict the development of accelerated degrees in Wales. If HEIs were to deliver accelerated degrees, they would need to charge a higher annual fee. To deliver the same number of credits in two years would incur higher costs in a number of areas. To deliver effectively, costs would need to be based on the current level of £27K – i.e. charges per credit. If providers were charging £18K for a full degree, they would need to cut back on contact time, which would clearly impact on quality of provision.
- 19.9 HEIs will not provide accelerated degrees unless they are commercially viable and attract sufficient numbers of students (although they may be attractive to overseas students). Accelerated degrees should not be seen as a cost savings measure.

Q91: How might accelerated degrees be defined?

- 19.10 For consistency, it was felt that UK-wide definitions of accelerated degrees should be adopted (with the caveat that these are still to be finally agreed). It would be useful to have an agreed definition for UCAS purposes, so that students are clearly aware of what they are applying for, and also for student support purposes. This would be likely to be expressed in terms of the number of credits undertaken per year.

- 19.11 It was pointed out that the Open University already offers part-time courses of 120 credits / year – the equivalent of an accelerated part-time degree.
- 19.12 Although current thinking is around utilising a third semester, it was questioned whether accelerated degrees could be delivered in two semesters, using more contact hours per week. This was contested by some present, on the grounds that delivery consists of more than contact time and some students (notably on STEM subjects) were already receiving 18-20 hours per week of contact time and it would be difficult to increase this without impacting on self-guided learning. There were also concerns around increased staffing costs of this approach.

Q92: 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?

- 19.13 As described above, it was universally felt that there would be additional costs associated with delivery of accelerated degrees and this would feed through into tuition fees.
- Assessment and course development costs would need to be covered, as would additional staff contract time.
 - The cost of student services such as welfare support could increase given, for example, the need to provide support over the summer period.
 - Providers would require more staff to prepare students for their course.
 - Whilst students might gain from the reduced maintenance costs of a shorter period, they could be exposed to higher fees overall and would not be able to earn in the summer to supplement student support. Some may face higher childcare costs too, and this could impact on accessibility.

Q93: Are there any other matters relating to accelerated degrees that you consider should be taken into account?

- 19.14 There could be cultural impacts on institutions as a result of accelerated degrees being taught year-round. For some providers, summer conferences and use of facilities brought additional income and this might need to be accounted for if it were not available. Likewise, maintenance schedules might be affected by extending teaching time into the summer. None of these things were seen as insurmountable, however.
- 19.15 More philosophically, it was asked to what extent Wales wants to accept what was described as “this level of marketisation”, as was perceived to be the case in England. Participants applauded the fact that Wales has not pursued this route to date, but it was

acknowledged that HEIs in Wales need to compete for students and need to be given the ability to offer new provision. For example, HEIs can work with large employers to develop joint degrees.

- 19.16 One participant pointed out that the progression needs of foundation degree students should be considered, considering there might be a degree of overlap in the audience for foundation and accelerated degrees.
- 19.17 For learners, it was emphasised that the test should be whether or not accelerated degrees met their needs and it was agreed that it would for some students.

Q94: 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?

- 19.18 There was unanimous agreement that the Commission should have regulatory oversight of all HE providers in Wales seeking designation of their courses for student support. This was seen as being aligned with the Commission having overall regulatory oversight and there was perceived to be no obvious alternative to this.
- 19.19 One caveat was that the Open University wanted to see alignment with England, in that some regulatory aspects of their provision were dealt with by HEFCE. Others saw no barrier to this, wanting to minimise administrative burden and avoid duplication.
- 19.20 One respondent felt that in addition to regulatory oversight, the Commission should apply a baseline requirement to all providers. It was discussed that HEFCW have recently consulted on a new baseline framework and so all providers should be required to meet this baseline requirement for finance / quality.

Q95: 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?

- 19.21 Again, there was agreement with the proposal; that there should continue to be two categories of course designation for providers in Wales in terms of student support. However, the point was made that financial benefit to the provider should not be the principal determinant of legislation, but that this should be driven by the needs of the student.
- 19.22 One possible concern was that because HEIs can choose which category they go into, in theory HEIs could elect to deliver under a category 2 designation to secure more than £9K per annum in fees. Although this was generally seen as unlikely, it was agreed that there was the potential for this to work against the best interests of students - especially as those accessing category 2 courses would be more at

risk in terms of cost but would receive less support than their equivalents accessing category 1 provision. It was clear to participants that the regulatory burden placed on providers should be based on students' interests and not on financial benefit to the provider. It was felt that the legislative framework offered in the 2015 Higher Education Act might provide guidance.

- 19.23 From an alternative provider perspective, the two categories were welcomed, as they would otherwise struggle to have courses accredited. It was also pointed out that the time taken to accredit a course can be a barrier to category 2 delivery.

Q96: 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?

- 19.24 This question sparked considerable debate. Overall it was felt that option a) was the best, although there were caveats. Participants were looking for consistency of approach with no, or minimum, restrictions on student choice. It was acknowledged that private providers could offer a wider range of choice, but safeguards were needed to ensure quality and minimise risk.
- 19.25 Option b) would require additional regulation to ensure that public investment is used responsibly, and any surpluses generated are invested to support learners or public good. There was unanimous agreement on this and the further point was made that option b) could potentially jeopardise the charitable status enjoyed by HEIs at present.
- 19.26 Option c) applies differentiated regulatory and assurance systems, which can work against the interests of students. However, one contributor felt that this option might lead to greater choice for students – for example if a private institution offered the best fit for a given individual. Another contributor felt that the costs of ensuring option c) was safeguarded might outweigh student choice benefits.
- 19.27 It was felt that providers outside Wales should be required to satisfy the same option for consistency and competitiveness reasons.

Q97. 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?

- 19.28 It was highlighted that some providers cannot apply to be regulated, as this only applies to full-time undergraduate courses at present.

Welsh Language

- 19.29 Currently, registered providers are subjected to Welsh Language standards and this needs to be maintained.
- 19.30 It might be difficult to find the teaching and materials resources to deliver Welsh medium content.

RIA

- 19.31 At present, there is a presumption that charitable institutions provide public good. If the system moves away from that, it might impose a cost associated with social audit to evidence spending of any surpluses generated.
- 19.32 In the short to medium-term, it was felt that the proposals will have costs to providers in terms of additional time and resources needed. However, the broader impacts should be good for Wales as a whole in the longer term.
- 19.33 The Commission needs to be sufficiently resourced to implement properly – there is a potential negative impact of proposals in terms of a risk to current standards if they are not implemented successfully. However, they could have a transformational effect if positive.

20. Employer Engagement Event – North Wales

12th July 2018

This write up summarises the views of two attendees who participated in the employer engagement event.

General Points

- 20.1 It should be noted that one of the contributors was deeply immersed in aspects of the PCET system, apprenticeships in particular, whilst the other was new to the field and saw the workshop as an opportunity to learn as much as anything else. Indeed, this individual commented that the WG 'blinds [employers] with words' and initiatives, to the extent that it is difficult to understand how to engage. This meant that the majority of the comments were made by one individual.
- 20.2 The consultation was not seen as a high priority by employers, partly because of its very technical nature and partly because it is not clear how engaging in the process at this stage is likely to benefit them. Neither of the employer representatives had read the document in its entirety, though one had read the apprenticeships chapter and some other sections.
- 20.3 The acronym 'TERC' or 'TERCW' was not thought to be particularly inspiring. 'RTEC' was suggested as an alternative that not only sounds more convincing, but also has the advantage of placing the word 'Research' at the beginning of the organisation's name, thus, emphasising the key part played by research in driving GDP and leading the way for skills development.

Proposal to Establish Commission

- 20.4 The idea of a Commission bringing together the various elements of PCET was welcomed, not least because it should help to bring about:
- Greater clarity as to who does what within a single PCET funding body: at present it is difficult to pin down who within WG and HEFCW is responsible for what
 - better integration across different provider types
 - promote greater parity of esteem between vocational and academic routes.
- 20.5 Whilst it was accepted that WG departments/divisions may be working more closely together now than they ever have, things need to happen at a substantially faster pace than they hitherto have.
- 20.6 It was also said that the Commission needs to seek 'harmonisation' across the PCET system and not 'standardisation'. The Commission also needs to be careful not to 'lose agility' as a result of bringing together different elements of the PCET sector.

- 20.7 There was an appetite for the Commission to be driven by the WG's economic priorities via a clear (short, sharp, concise) set of objectives set for the PCET system. However, the Welsh economy cannot afford to wait for the Commission to be established before aligning the PCET system to Prosperity for All's ambitions and bringing elements of the PCET system closer together: the WG needs to ensure that a five-year vision for change is acted upon in parallel with the Commission being established. It is not likely that the direction of travel for PCET will change that significantly during the period when the Commission is being established.
- 20.8 Government officials need to think more like businesses in setting up the Commission and need to take a pragmatic approach rather than 'dancing around' the detail of legislative changes.
- 20.9 Contributors welcomed the idea of putting the learner at the centre of the system's design.

Apprenticeships

- 20.10 It was argued that a pragmatic approach needs to be taken in ensuring the 'portability' of qualifications within apprenticeship frameworks. For example, it had been agreed that GCSE English can be used as a proxy for essential skills and apprentices with Grade C or above in GCSE English need not undertake further essential skills training.
- 20.11 It was noted that Wales should avoid making the mistakes made in England through the creation of the Institute of Apprenticeships. It was argued that SMEs are being cut out of driving apprenticeship policy, quite simply because they cannot dedicate the resource to the process that large organisations can.

Funding Apprenticeships

- 20.12 It was argued that the proposal to fund apprenticeships up to level five differently from those at level six and above is flawed in that it will serve to perpetuate the perception of apprenticeships as something separate from (and inferior to) higher education. It was argued that the consultation document says the right things about 'pathways', but then 'sticks a roundabout in the middle of the pathway by talking about levels one to five and level six separately'. This is exactly the kind of division that the Commission is being established to tackle.
- 20.13 In this context, it was argued that young people need to be encouraged to consider apprenticeships as routes to achieving degrees, particularly in STEM related fields. The system as it stands emphasises university as a natural next step at 18 and too many young people are blindly following that route, amassing significant debt as a result and often failing to develop the skills that employers want. Something needs to be done to 'enthuse, engage and recruit' young people and 'funnel' them into STEM (and other)

apprenticeships at various levels from the start of their journeys through the school system i.e. from the age of 4. Young people need to be properly informed from a young age in order to make appropriate learning choices on their journeys through and beyond compulsory education.

- 20.14 Mention was made of Nissan's school enhancement activities in the north east of England, which were said to be paying dividends now in terms of the take up of STEM subjects at school and engineering apprenticeships further down the line – with apprenticeship entrants described as 'oven ready chickens'! Airbus has been advocating for a 'STEM Zone' in north east Wales for two years or more, but nothing seems to have come of that as yet.
- 20.15 Although it has filled its apprenticeship openings in 2018, Airbus has struggled to attract candidates of the right quality in recent years. It was noted that for level 6 apprenticeships in particular, employers and learning providers have to come up with an very attractive product to compete with the draw of full time higher education.
- 20.16 It was noted that food science apprentices can be particularly difficult to attract, with engineering apprentices slightly easier to recruit.
- 20.17 Whilst Airbus benefits from collaboration between FE and HE (via the University Centre at Coleg Cambria), it was thought that that arrangement had to 'work around the system', rather than the system being naturally geared up to work around the company's needs. In essence, the level 6 framework developed by Airbus alongside Coleg Cambria and Swansea University had to be retro-fitted that to an existing apprenticeship framework rather than it being designed as a bespoke product for the company. It was also noted that engineering apprenticeship frameworks will be funded from September, but frameworks such as business administration will not. Whilst employer representatives could understand why WG had to ration funding in this way, it was not thought to be an ideal situation.

Apprenticeship Levy

- 20.18 Both employer representatives were clear that the apprenticeship levy amounts to little more than an additional tax upon employers in Wales. It was suggested that having to pay the levy without any obvious pay-back means that companies cannot afford to take on apprentices. It was estimated that Airbus in Broughton pays a net levy of £1.7m but is able to claw back an element of the £2.4m levy it is charged by sending apprentices to Bristol.
- 20.19 Whilst it was understood that Wales would recoup the levy paid by employers in Wales via a Barnett formula arrangement, it was thought that his was unlikely to offer a transparent solution from an employer perspective. Employer representatives felt that businesses should be able to see the direct benefit of paying the apprenticeship levy.

RSPs

- 20.20 Both employer representatives were aware of the RSP, though only was actively involved with it. The employer representative not involved in the RSP was, however a member of a Deeside and Wrexham HR Managers network and it was thought that this might be a useful vehicle for feeding into the RSP. The point was made that representatives of SMEs lack the capacity to engage with the plethora of organisations and initiatives in existence and, therefore, have to be selective about what they get involved with. Such organisations require a broad understanding of a range of developments rather than a deep understanding of any particular ones (e.g. the establishment of the Commission). The WG, therefore, needs to take a pragmatic approach in setting the agendas for meetings that it wants businesses to attend and to focus on what benefit there will be for businesses in engaging i.e. what's in it for them.
- 20.21 Both employer representatives noted that their organisations have an ageing workforce with a significant number of skilled crafts people/technicians coming up to retirement in the next few years. This points to potential skills gaps in the near future unless more apprentices are brought on now. It was thought that employers would be open to sharing information about workforce demographics if they could be convinced that this would lead to training being put on to address forthcoming skills gaps. RSPs were seen as ideal vehicles for gathering and collating such information and using it to inform their annual skills plans. It was envisaged that the emphasis would be different in each of Wales' regions, given the differing sectoral profiles of the three regions.
- 20.22 Whilst it was not felt that the Commission should withhold funding to respond to recommendations made in RSPs' annual skills plans, it should incentivise providers to behave in particular ways e.g. develop certain types of provision or work collaboratively, where than makes sense. Given this potentially influential role, it was emphasised that RSPs need to have the 'right people' around the table.

WESB/WAAB

- 20.23 The WAAB was seen as a vehicle for considering how apprenticeship frameworks fit with national plans, Prosperity for All most obviously.
- 20.24 It was thought sensible for the functions of both WESB and WAAB to be absorbed within the Commission. Neither the WESB nor the WAAB brands are sufficiently important to necessarily merit keeping.

Research

- 20.25 Mention was made of 'catapult centres', including the Advanced Manufacturing Research Centre at the University of Sheffield, which is involved in the Welsh Composites Centre scheme, alongside Airbus, Coleg Cambria, Swansea University and other partners. This was

seen as the kind of development which would help businesses in Wales get/keep ahead of the curve and, thus, render them less vulnerable, particularly to the potentially damaging effects of Brexit.