

Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Children, Young People and Education Committee

18/11/2021

Aelodau'r Pwyllgor a oedd yn bresennol

Committee Members in Attendance

<u>Buffy Williams MS</u>	
<u>James Evans MS</u>	
<u>Jayne Bryant MS</u>	Cadeirydd y Pwyllgor Committee Chair
<u>Ken Skates MS</u>	
<u>Laura Anne Jones MS</u>	
<u>Sian Gwenllïan MS</u>	
<u>Sioned Williams MS</u>	Yn dirprwyo ar ran Siân Gwenllïan ar gyfer eitemau 5 i 10 Substitute for Siân Gwenllïan for items 5 to 10

Y rhai eraill a oedd yn bresennol

Others in Attendance

Name Redacted	Dirprwy Brif Weithredwr, Cyngor Cyllido Addysg Uwch Cymru Deputy Chief Executive, Higher Education Funding Council for Wales
Name Redacted	Rheolwr y Bil, Llywodraeth Cymru Bill Manager, Welsh Government
NR	Polisi Tîm, Llywodraeth Cymru Policy Team, Welsh Government
Name Redacted	Prif Weithredwr, Cyngor Cyllido Addysg Uwch Cymru Chief Executive, Higher Education Funding Council for Wales
Name Redacted	Cynghorydd Polisi, Swyddfa Comisiynydd Plant Cymru Policy Adviser, Office of the Children's Commissioner for Wales

Jeremy Miles MS	Gweinidog y Gymraeg ac Addysg Minister for Education and the Welsh Language
Professor Sally Holland	Comisiynydd Plant Cymru Children's Commissioner for Wales
Zenny Saunders	Dirprwy Gyfarwyddwr Diwygio Addysg a Hyfforddiant Ôl-orfodol, Llywodraeth Cymru Deputy Director Post-compulsory Education and Training Reform, Welsh Government

Swyddogion y Senedd a oedd yn bresennol

Senedd Officials in Attendance

Name Redacted	Ymchwilydd Researcher
Name Redacted	Ymchwilydd Researcher
Name Redacted	Cynghorydd Cyfreithiol Legal Adviser
Name Redacted	Ymchwilydd Researcher
Name Redacted	Clerc Clerk
Name Redacted	Ymchwilydd Researcher
Name Redacted	Dirprwy Glerc Deputy Clerk
Name Redacted	Ymchwilydd Researcher
Name Redacted	Ymchwilydd Researcher
Name Redacted	Ymchwilydd Researcher
Name Redacted	All Glerc

Cynnwys

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgriadiad o'r cyfieithu ar y pryd. Lle mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgriadiad.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Cyfarfu'r pwyllgor yn y Senedd a thrwy gynhadledd fideo.

Dechreuodd y cyfarfod am 09:15.

The committee met in the Senedd and by video-conference.

The meeting began at 09:15.

1. Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

1. Introductions, apologies, substitutions and declarations of interest

Jayne Bryant MS 09:15:20

- 1 Croeso i gyfarfod y Pwyllgor Plant, Pobl Ifanc ac Addysg heddiw.

Welcome to this meeting of the Children, Young People, and Education Committee today.

- 2 Welcome to today's meeting of the Children, Young People, and Education Committee. The public items of this meeting are being broadcast live on Senedd.tv, with some participants joining via video-conference. A Record of Proceedings will be published as usual. The meeting is bilingual, and simultaneous translation is available from Welsh to English. There are no apologies for today. Sioned Williams MS will be substituting for Siân Gwenllïan MS for items 5 to 10. Are there any declarations of interest from Members? I see no declaration of interest.

2. Craffu ar Adroddiad Blynyddol Comisiynydd Plant Cymru 2020-21

2. Scrutiny of Children's Commissioner for Wales Annual Report 2020 - 2021

Jayne Bryant MS 09:16:04

- 3 We'll move on to our first item on the agenda this morning, which is the scrutiny of the Children's Commissioner for Wales annual report 2020-21. I'd like to welcome the children's commissioner, Sally Holland, and NR NR policy adviser from the office of the Children's Commissioner for Wales—welcome. I'd like to just put on record the committee's and my thanks, as well, to the children's commissioner. I believe this will be your last meeting in front of the committee today. I'd like to thank you for all your hard work and wish you the very best of luck for the future. I believe the children's commissioner is going to make an opening statement; over to you, children's commissioner.

Professor Sally Holland 09:16:53

- 4 Diolch, Gadeirydd, a diolch am y cyfle heddiw i ddechrau gyda datganiad.

Thank you, Chair, and thank you for the opportunity today to start with a statement.

- 5 Because of the number of new Members on this committee, I want to just take a couple of minutes at the beginning of the session to note how I carry out my role as children's commissioner, how I worked with the previous Senedd committee, and then, very briefly, say a few words about the year under scrutiny today.
- 6 As the independent commissioner for children and young people, I act as a critical friend to all public services, including the Welsh Government, helping them to focus on children's needs and experiences, and ensuring that they protect children's rights. I also expect them to engage children and young people as citizens with a right to play a part in shaping society and the services that they receive. My team and I do this through our casework service, our participation work with thousands of children and young people each year, our in-depth thematic work and our policy scrutiny and influencing work.
- 7 This committee is very important to my role. Of course, you rightly scrutinise my work, and you will start that in a minute, but over the last Senedd term, I was pleased to play a complementary role with the committee to take forward scrutiny of Government and other public services and to push through new policy ideas that committee members were able to further through tabling amendments, some of which were definitely successful. I was pleased to work together with the committee on priorities like the 'Mind over matter' inquiry, equal protection from physical punishment, adding a 'due regard to children's rights' duty to key pieces of legislation, and on the excellent children's rights inquiry by the committee. The about-to-be-published children's rights scheme for Government, I think, will reflect your hard work and that of my office and others on that. I look forward to working with this new committee in a similar way, and I know my successor will too.
- 8 To turn to the year under scrutiny today, we know that in an emergency human rights can be particularly vulnerable, so at the start of the pandemic, we concentrated on four priorities. First, we made sure that children and those supporting them had accurate and clear information, through immediately setting up a bilingual information hub and encouraging and supporting public bodies to provide clear information to children. Secondly, we checked on the children most likely to face barriers; we scrutinised and intervened where necessary in secure settings, hospitals, services for disabled children and for looked-after children. Thirdly, we made sure that children's experiences were heard and understood, and obviously continue to do all of these things, most notably through our large and unique surveys of children, but there were lots of other ways we did that too. And, lastly, we ensured Government and other public bodies responded to children and protected their rights. I know you'll have lots of questions about how well this was actually achieved, so I won't say any more about that here, but I'm proud that my team did all of this while delivering our programme of work that was planned before the pandemic, and it's all detailed in my annual report.

- 9 Diolch am wrando ar y cyflwyniad hwn a diolch am yr amser, Gadeirydd.

Thank you for listening to the statement and thank you for the time, Chair.

Jayne Bryant MS 09:20:10

- 10 Thank you very much for that opening statement. Just following on from that, in the light of what you've said, how have you struck the balance between focusing on trying to achieve progress on the normal business of children's policy while also working to address the significant impact of the pandemic on children and young people?

Professor Sally Holland 09:20:33

- 11 I think like all public services, I've had to work hard with my team to get that balance. We've published two reports over the last year, our 'Coronavirus and Us' reports, which explained in detail how we've done that and how well we think other public services have done that. We did a certain amount of rolling up our sleeves, I think, and, like every other public service, changed the pace of our delivery. But I think also being a very small organisation and independent organisation, we were able to bring a certain amount of agility, I think, and were able to move things at a fast pace, which very large institutions find hard to do.
- 12 For example, we were able to launch what turned out to be a very large survey of children and young people about their experiences of lockdown within just two or three weeks of deciding to do that. We were able to achieve the biggest survey, certainly for the first few months, that had been done globally, and that's not proportionate to the population of Wales—I mean in actual numbers. As the pandemic went on, we were able to continue doing that. After Christmas, with children back in lockdown again, as were the rest of the population, we were able to decide to relaunch that survey very quickly. We did do it in partnership with others, including Welsh Government, but we were able to take that lead, make decisions and turn it around quickly.
- 13 We were really concerned about the digital roll-out, so I came into the office on a Monday morning and said to my team in January, 'Government's saying they've put out a lot of devices and access to data. Families are saying they haven't all received it. We need to find out more.' That week, we were able to launch straight away our survey of school leaders and college leaders, get the data in within a week, analyse it and report on that within two weeks.

- 14 I think our smallness helped, but, obviously, I needed to, like all other organisations, look after my team, look after the well-being of my team in all of that, and also I had to look after the safety of our work. We did manage to move ourselves online the next day after lockdown without any loss of service. Unlike, I have to say, a lot of public services, we kept our phone lines open. We didn't close them even for a day. All my staff were able to securely work at home, but we did need to put in risk assessments, put in systems really quickly to make sure—we're doing complex and confidential casework, for example—that people could carry on doing that successfully and confidentially at home in busy home environments, for example, and to make sure that all of our online work was secure, because we know that our public services, like our private services, can be very vulnerable to cyber security as well.
- 15 Because we carried on with our core work—our casework, our listening to children, our focus groups, the work with my advisory panel—we were able to keep feeding into Government and other public services what was actually going on. So, we set up a system with Government senior civil servants where we just collated everything we'd heard every week from children and families and public services, and said, 'These are the key pinch points. These are where the restrictions aren't working for this group. If you say that children have to isolate in this way and they're autistic, they actually cannot get through a day without spending time outside, and they don't have a garden. You need to build in ways of keeping the population and children safe, but also make sure that other rights are guarded against.'
- 16 We discovered, just last Christmas, that some looked-after children weren't going to get to see their families in pre-planned ways, in ways that we felt was an over-interpretation of the guidance. We were able to intervene in cases like that. But I also supported the Government to change and make changes to restrictions as we went. We did work, actually, much more closely to Government than previously—alongside, I would say, a lot of the time—and I think, in a national emergency, we all have a duty to roll up our sleeves and work together, but it didn't stop us scrutinising and standing back and saying, at times, 'You know, actually, we don't think this has been the right way forward for children.' We sometimes did that publicly, but we often did that behind the scenes, and I know that we stopped some potential changes to legislation that took place in every other nation of the UK that didn't happen in Wales. I know we played a key role in stopping the temporary removal of some children's rights relating to looked-after children, children in touch with social services, and children with additional learning needs.

- 17 Okay, thank you. Just with that backdrop as well, do you feel that you have delivered your ambitions for 2020-21 as set out to the previous committee in 2020, for example, there being a 'no wrong door' approach to mental health, and the significant reforms in schools?

Professor Sally Holland 09:26:34

- 18 Yes. They've been two of our top priorities. We managed to deliver on all of our programme last year. When I looked back on my annual report, and I was re-reading it last night in preparation for today—I think every public service will be thinking this—it's hard to think exactly how we did manage to do it all at the time, but we did. We carried on and delivered our parallel Senedd election, for example, for children. Amazingly, schools, despite the pressures they were under, managed to engage thousands and thousands of children in that.
- 19 But, in terms of the 'no wrong door' project, first of all, and then reforms in schools, on the 'no wrong door' project I've got a lot to say about where things are at with that, and you may well have further questions about the state of mental health, as a committee, during this session, but just in terms of delivering the project, we were able to—. We had completed our visits before the pandemic to each regional partnership board in person. We were able to report on that after the pandemic had started. We did delay some of our reports that should have been published in March, just before the pandemic struck. We didn't think it was a good time to land demands on public services at the very end of March 2020, so we delayed reports on how to effectively run school councils, but also our 'No Wrong Door' report until the summer. But we did think it was an important report to get out, so we did get it out, and we've continued to scrutinise on that. In fact, straight after this committee session, I'm going into my seventh and final meeting with a regional partnership board—Cwm Taf Morgannwg, actually—where we're following up and really pushing on that 'no wrong door' approach. We've continually monitored progress on that throughout the last year, and I'm very, very happy and expect to answer further questions about mental health and the 'no wrong door' approach during this session.

- 20 On schooling, remarkably, reforms to schooling did continue during the pandemic, including, obviously, your predecessor committee, which had a huge role in scrutinising the school reforms, as did my office. So, we worked really hard on not only the Act and working with this committee to get a due regard duty into the Act—I'm very pleased that that happened—but also we were able to work on all the bits that came along with the curriculum, all the pieces of guidance, all the extra codes, and continue to do that, so we're still working hard on the relationships and sexuality education code, for example. On education as well, we published, again during this year, our 'Building Blocks' report on the exclusions of under-eights, which we're still—. I met the education Minister yesterday for a monthly meeting, and I'm still following up on that today to make sure that we're working on exclusions. What we need to make sure, and what we're continuing to do, is to make sure that our whole education system meets the ambitions of the curriculum and we've continued to work tirelessly on that.
- 21 So, just like other public services, we haven't just done pandemic responses, because, in the end, our children need those clear structures, whether it's a 'no wrong door', if they need extra help as a child and family, a 'no wrong door' approach from public services, or if it's having an education system fit for the future, then children will need that more than ever after the pandemic, so we couldn't stop doing that work.

Jayne Bryant MS 09:30:42

- 22 Thank you. Members do have some more detailed questions to ask you on the report, so moving on to Laura Anne Jones.

Laura Anne Jones MS 09:30:51

- 23 Thank you, Chair, and thank you, children's commissioner. I'd just like to take this opportunity, if I may, Chair, to thank Sally for all that she's done incredibly well, particularly during the last couple of years.
- 24 How would you describe the financial position of the office as you hand over to your successor? I mean, I just want to ask, you've mentioned a lot just now about the reactive work that you've done during the pandemic, so how significantly did spend increase during that time, because it's notable that the reserves over your term of office have decreased by 50 per cent? So, I just wonder if you could expand on that, bearing in mind that you've got a budget within the commissioner's office of £1.579 million. Thank you.

Professor Sally Holland 09:31:43

- 25 Absolutely. And, as we've just submitted my estimate to Government for next year, all of those figures are very clearly on my mind. Since my start of term, we've actually reduced my general fund by more than three quarters, and that's been a planned approach. I actually don't think that public bodies like mine should be holding large amounts of public money; we should have enough so that we don't go under and we can pay our staff every month and we can deal with emergencies—it's a bit like a household needing to keep money in case your boiler goes, et cetera, if you've got the privilege of being able to do that. But, we had inherited quite a large general fund and I've had a planned policy, agreed with my audit committee, of reducing that gradually. So, I inherited over £400,000 in the general fund and it's now actually at about £50,000.
- 26 One of the reasons that we've had to do that as well has been because of the static nature of my funding over my term of office. So, my funding actually went down by 10 per cent in my first year from the level it had been for many years before I took office, and has stayed at almost exactly the same level since then, whilst costs have gone up, as they have for everyone, particularly staffing costs; they've been my biggest rise. I mirror exactly the civil service agreements because they're done with trade unions, by the UK Government, which has got all the resources to do those negotiations and make sure that they're fair. So, I mirror those exactly. And the costs have gone up considerably. So, just to give you an example, in the last three years, my staffing costs have gone up by 11 per cent, as they have for all public services, and that includes things like—sorry, that's over five years—and that includes things like very marginal pay rises, but also staff just naturally progressing up through the grades. I'm glad that we've got a very stable workforce and a very experienced workforce that are able to do that; most of my staff are at the top of their grades. But also, our pensions costs have gone up by 64 per cent. So, salaries have gone up by 11 per cent and pensions by 64 per cent. So, that's been a huge rise for us.
- 27 So, I've tried everything I could over the last few years to reduce any costs that I could, that are in my power. So, I've reduced my accommodation square footage by 64 per cent, I've also reduced travel and subsistence, things like that, by over 50 per cent in my term of office. But, actually, for the first time, I've had to put in an estimate to Government asking for a modest increase for next year, because I don't want to leave the next commissioner in a position where they don't have enough to do the job, to carry on the job that we've been doing as a team. So, we will need a modest increase, which I've asked Government for. I pre-warned them that that would be coming in in the estimate and I'll have, over the next month or so, an indication of whether we've been successful in that. I do think that will be necessary. I've focused all of my spend on our delivery. I can't find any other ways to make changes, and that's all been approved by my audit and risk committee.

- 28 Some of the reduction of our general fund this year, we did spend more than we had put in our estimate last year, to get back specifically to the last year. That was for a couple of reasons. We increased our provision that we made for dilapidations on our office. So, we've left the office that my office has occupied for its entire history, in Llansamlet, and moved to a smaller, more modern, more sustainable office in Port Talbot. And with hybrid working now, we are able to employ staff actually from anywhere in Wales, which is a really good development for us as an office, and we just have, in fact, done that with our latest appointment. But anyway, we had to obviously make provision for dilapidations—that's what you do when you move office, that's what you have to do. We were advised at the beginning of the financial year that we hadn't made enough provision by an external assessment, so we increased that. In fact, through negotiation on the actual move, we were able to recoup quite a bit of that money, about £50,000 of it, which we have repurposed into projects this year.
- 29 We spent more because we spent on a survey. Although we worked in partnership with the Government, we didn't actually ask them for any contribution for that. We wanted to maintain our independence over it to make sure we could report independently on it, and we wanted to contribute to the pandemic. We felt that was our contribution. So, we did spend about £40,000 of unexpected costs on the two surveys. That included 22 reports to each local authority, bilingual reports, each time on each of the surveys, for example. And we invested in software for Project Vote, in a particular website and software for that, which will carry on with future Project Votes. We're going to run one for the local elections next May, for example. And we had to invest in keeping our staff safe at home, so invest in a new telephone system, for example, that would mean that we could work efficiently and safely at home.
- 30 So, I'm very clear that we are stable financially. We've continued to be. I've got contingency plans for the next year, but I do think I've made a very reasonable case to Government for a modest increase next year.

Laura Anne Jones MS 09:37:59

- 31 Thank you, commissioner. Do you think that you've been effective at discharging the role of accounting officer for your office? You've mentioned some of the challenges now, but what's been your main challenge and what do you think the main financial issue will be for the next commissioner? Thank you.

Professor Sally Holland 09:38:15

- 32 So, I take my role as accounting officer very, very seriously. It's quite a unique role, being a commissioner. There's only about five of us who have the legal status, and it includes the auditor general, who have the status of corporation sole legally in Wales, and that means that the buck stops with me, basically, in terms of the entire organisation. So, obviously, I have to take it very, very seriously, and I do.
- 33 I'm supported by a very strong audit and risk committee, which includes independent members—an ex-, long-standing Member of the Senedd, retired, who was also briefly finance Minister at the time of coalition, I've got an ex-senior civil servant, an ex-head of governance in Welsh Government and other important independent members. So, I do have a really good, strong steer from them, and challenge. I'm pleased to say that we've had substantial assurances from our internal audit over all aspects of our safe operations over the last year, the year in question, and throughout my term our external auditors, Audit Wales, have given us a clean slate in their annual scrutiny of our accounts. So, we take this very seriously.
- 34 In terms of challenges for next year, as I said, costs continue to rise. We've done everything we can. We've moved to a more sustainable office, so I'm hoping the energy price rises won't affect us as much as they would have done in our leaky, 1980s industrial estate building that we were in previously. But I do need to pay my staff properly and things like pension costs—we've got other new tax rises with employer contributions also recently announced that we'll have to make as well.
- 35 So, I think, for the next commissioner, it will be continuing that balance, investing in a very high-quality staff team, but managing other rising costs. But I am confident they're being left with a strong structure, and a strong governance structure, which I've expanded and changed quite significantly during my time as commissioner. I have brought in new, additional advisory panels—an adult one and a very, very strong and successful youth panel as well, who completely hold my tools to the fire at times, as well as giving me very strong strategic advice. And we brought in a very clear evaluation cycle, which you can see in our annual report, which has clear areas that we evaluate, report on and monitor and scrutinise, covering all areas of our work, and we report on that very transparently.

Laura Anne Jones MS 09:41:34

- 36 Thank you. Thank you, Chair.

Jayne Bryant MS 09:41:35

- 37 Thank you very much. Thank you, Laura. Just to remind, we just need to get through so many of these issues and I'm keen to bring as many Members in as possible, so if you can be succinct within that. So, I'll just bring in Siân Gwenllïan.

Sian Gwenllïan MS 09:41:50

- 38 Bore da. A gaf fi ddiolch o galon i chi am eich gwaith diwyd, a diolch i'ch staff hefyd, wrth gwrs, sydd wedi bod yn eich cefnogi chi yn ystod eich cyfnod? A phob dymuniad da i chi ar gyfer y dyfodol.
- 39 Dwi'n gwybod ein bod ni'n trafod yr adroddiad blynyddol, ond dwi am gymryd y cyfle i edrych ar y cyfnod cyfan y buoch chi'n gomisiynydd. Beth ydych chi'n credu ydy'r prif fater lle gwelwyd cynnydd pendant arno fo i wella bywydau plant a phobl ifanc yn ystod eich cyfnod chi?

Good morning. And could I give you heartfelt thanks for your very committed work, and thank your staff as well, who have been supporting you during your period in post? And I wish you all the best for the future.

I know that we're discussing the annual report, but I want to take this opportunity to look at the entire period that you've been a commissioner. What do you think is the main issue where you've seen tangible progress in terms of improving the lives of children and young people during your period in post?

Professor Sally Holland 09:42:37

- 40 Diolch am y cwestiwn. Mae'n gwestiwn mawr, onid yw e?

Thank you for the question. It's a big question, isn't it?

- 41 I think that—. I had this advice, actually, from someone who had worked at a very senior level in Whitehall once, who was then working at a senior level in Wales, who said that the most important changes someone in my position should try to push for are changes in actual legal entitlements, because funding boosts can come and go, so can policy initiatives, but, actually, if you change entitlements for children in the law, then that's much harder to be dismantled.
- 42 So, if I start with legal entitlements, I think, I'd like to start actually with something that children put at the top of my agenda. So, when I started as commissioner, as you will probably recall, I surveyed children and adults who care about them or care for them, to ask them what I should prioritise as commissioner—I did it again three years into post—and children put bullying at the top of my list. Adults didn't; they put it about fifth. So, I put bullying at the top of my list as well, alongside many other things, and I'm really pleased that I was able to bring forward evidence from thousands of children on how the non-statutory guidance was working and not working, and persuaded, I think—again with the support of others like this committee, persuaded—the education Minister that we needed statutory guidance on this, and that it should be rights based. And that guidance came into being. It's still being pushed. Bullying hasn't been eradicated, I'm afraid to say—it's Anti-Bullying Week this week—but there is now a clear set of rights and entitlements and expectations on schools.

- 43 The second key legislative change is the removal of the defence of physical punishment, which, as I said on my day of appointment, in my first interviews, was a top priority for me; I'd campaigned on it before I became commissioner. I'm really pleased that that came in. It wasn't on the Government's list of to-dos when I came in. I spoke to every Minister, including the First Minister, about it several times, found out what people were concerned about, went out, did an investigation, kept going back. Others did the same, and I'm really pleased at how strongly it went through, actually, and that we're on the way to it coming fully into force in the spring. It's a key legal entitlement for children. And with this committee, we've also brought in other entitlements for children, clearly, in the Additional Learning Needs and Education Tribunal (Wales) Act 2018 and in the Curriculum and Assessment (Wales) Act 2021, to pay due regard to children's rights.
- 44 But there have been non-legal things that I'm also pleased about, using my casework, actually, and real concerns about children, at the sharpest end, falling through the gaps between in-patient psychiatric accommodation and social care. I really took some quite harrowing cases to the health Minister and the social care Minister, and, to cut a very long story short, there are now going to be what we call safe accommodation options, which are just below secure, that are jointly provided by mental health and social care settings, throughout Wales, and the funding is there for that. And securing other new funding streams, like the St David's Day fund, which the late Carl Sargeant announced on the day that we launched our report 'Hidden Ambitions', for care leavers, and it still provides really important support to care leavers. And the summer of fun funding this year, which has become now the winter of well-being funding, which I called for in the spring. The Government, instead of putting out lots of different streams of bits and pieces of funding, came together—all the departments came together and put this one set of funding out for local authorities to work with the third sector on. And local authorities have told me that that's really welcome, because they actually were able to be very creative and flexible with that over the summer.
- 45 And I think, finally, I'm pleased with how—. I've changed the workings of the organisation a bit—well, I hope quite a lot. I've talked about the governance structure, but we've also really worked hard on follow through, on implementation. So, rather than just putting out reports and asking people to do better, we've brought in new structures, like our quarterly updates on Government recommendations, so that people like yourselves and others can help us to scrutinise Government and say, 'Well, this one's still on red, this one's now on amber; what's going to happen next?' And working with organisations to make sure that they can implement things that we've called for—so, just to give one example, we're working with two local authorities and two health boards this year on their new duties under the ALN Act to do with children's rights, to pilot some new ways of doing that. And if that's successful, we'll help that be rolled out throughout Wales.

Sian Gwenllian MS 09:47:58

- 47 Diolch yn fawr. Efallai y buasech chi jest yn crybwyll yn fyr beth sydd wedi'ch siomi chi fwyaf yn ystod y cyfnod. Hynny yw, beth fuasech chi wedi hoffi gweld mwy o gynnydd arno fo? A gaf i ofyn i chi hefyd, ydych chi'n meddwl eich bod chi wedi defnyddio eich pwerau statudol yn effeithiol? Rydych chi'n gwybod at beth dwi'n cyfeirio, dwi'n siŵr. A wnaethoch chi'r defnydd gorau o'r pwerau sydd gennych chi er mwyn creu newid yn y maes addysg dewisol? Mi fyddwch chi'n gwybod fy mod i wedi bod yn codi hyn yn y pwyllgor droeon, ac yn bryderus na lwyddoch chi i gael y maen i'r wal efo'r mater yma.

Thank you very much. Maybe you could talk briefly about the things that have disappointed you the most during this period. In other words, what would you have liked to have seen more progress on? And could I also ask you, do you think that you've used your statutory powers effectively? You know what I'm referring to, I'm sure. Did you make the best use of the powers that you have in order to create change in the area of elective home schooling? You know that I've raised this in committee many times, and I've raised concerns about the fact that you haven't succeeded in making progress on this issue.

Professor Sally Holland 09:48:54

- 48 I'll just talk about a couple of other things first, and then come on to elective home education. I think that one of the things that probably I've found frustrating as commissioner is how long things take, and also that sometimes recommendations can be accepted by Government but actually, several years on, we're saying, 'Hang on a minute, this hasn't happened.' I've given a lot of recommendations this year, but some of them relate to recommendations I've made previously, sometimes several years ago—the whole suite of recommendations around care leavers, for example. Some of that has been put into place in practice, but not as an entitlement, and I've already said how important legal entitlements are. So, how long things take is just my overall thing, my overall comment.
- 49 On child poverty, I would have liked to have seen swifter action on things like broadening entitlement to free school meals. The education Minister told me yesterday that they're making good progress on it and to expect an announcement soon, but I would have liked to have seen that earlier. I would have liked to have seen earlier action on bringing services together as I've asked for in 'No Wrong Door', although I have to say that I will be reporting some solid progress when I report on my current round of meetings.

- 50 So, to go to home education, I would say there are two key areas where the Government and I just haven't agreed on ways forward. One is the childcare offer, which I think should have been more universal and particularly have been available to—. I've taken a child's view of the childcare offer rather than a parent's view. I do think it's important for parents to have access to good-quality childcare, especially as an anti-poverty measure, but, actually, I think that, when you think about the child's experience, and parents who are not working, their children actually—[Inaudible.]—probably more than anyone. So, we haven't agreed on that, but I do think the Government has softened its stance on it and I do think they're going to work on that this term.
- 51 The second thing has been how much to regulate home education, elective home education, as you know. I've used a range of tools in my toolbox, as commissioner, on that. So, I've tried to persuade; I've got case studies; I've scrutinised plans from the Government. But we got to the point, actually, during the pandemic, when the Government paused progress on it. I do think they had a real argument to make on competing priorities during the pandemic, but I was really concerned that we were seeing this cycle, again, where we'd actually gone a very long time without making any progress on this, and, in fact, there's been a lot of that. So, I launched the statutory review; I completed the statutory review. I reported on it in February. So, that was the strongest power I had in my toolbox. Whether I should have done it earlier—. I know some committee members think I should have done, but, up until that point, I'd gradually chipped away at the Government and they had agreed that the three priorities I'd set were ones they agreed with. They put forward plans. They said it would be quicker using secondary legislation, so I went along with it and scrutinised very hard to make those as successful as they could be. But, when those plans were paused, I reviewed the whole thing and said that, actually, I felt it had just been a stop-start issue for years, without actually any change for children since the tragic death of NR Seabridge and a number of other difficult cases we've had since. And we still haven't seen that change, which is why I've called for it again.
- 52 As commissioner, I cannot make the Government do anything, actually. And I think, to be honest, that's the right thing, because it's the Senedd, and the Government that comes from the Senedd, that is the democratically elected institution. But I do expect the Government to take me seriously and to take particularly my statutory reports seriously. And they, in a decision published last month, so, it's in the list of decisions, have declared—. Although I'm waiting for the formal response to this year's recommendation, there has been an indication that they will carry on with the secondary legislation route. So, I do expect there to be progress on this this Senedd term and I think it will be better than what we had before. But they haven't, by the look of it, taken my advice to move forward to primary legislation, which I still think would be the most effective route in getting that balance between the state's role in ensuring children have their right to an education and the family's role in doing so, which I think is currently unbalanced.

Sian Gwenllïan MS 09:54:04

- 53 Diolch yn fawr iawn, Cadeirydd. Dyna ddiwedd fy nghwestiynau i, ond dwi'n meddwl y dylem ni, fel pwyllgor, fod yn cadw golwg barcud rŵan ar beth sydd yn digwydd o ran addysg ddewisol yn y cartref. Diolch.

Thank you very much, Chair. That's the end of my questions, but I do think that we, as a committee, should keep a watching brief on what's happening in terms of elective home education. Thank you very much.

Jayne Bryant MS 09:54:18

- 54 Diolch, Siân. We've still got three Members to come in, so I'll bring in Ken Skates next. Ken.

Ken Skates MS 09:54:24

- 55 Thanks, Chair, and, just to echo the sentiments of other Members as well, I'd like to thank the commissioner for everything that she has done. It's been a pleasure working with Sally and her work has been pretty astonishing. But I was just wondering, just briefly, in regard to emerging challenges and changes in terms of the nature of individual cases that have been raised, what have you seen of late in terms of any significant new emerging children's rights issues? Have you seen a change in the nature of the individual cases raised with your office?

Professor Sally Holland 09:55:06

- 56 I think that our office—and actually, other public institutions that I've heard from, whether that's schools, mental health teams, health visitors et cetera, would all say that some children and families have clearly really struggled during the pandemic, and some have sought help later than they would have done otherwise, so we've seen that in physical health, but we've also seen it in social and mental health issues as well. So, we are seeing some pretty difficult and complex situations coming forward where children are really distressed and people are really struggling to find the right way to support them, so we're hearing that. We're seeing that in some of the casework we are seeing, but also hearing that from mental health teams and from universal services like schools as well.

57 I don't go along with the kind of narrative that the pandemic will have ruined the lives of this generation; actually, I think that we can support children to recover from the experiences of the pandemic, and many children actually thrived during the pandemic with the support of others, and contributed a lot to society. But we know—and you know this from my reports—that some groups of children have struggled much more than others during the pandemic, and they are the ones that are going to need that extra support, and that's why we absolutely need our services to work together on this, and we need our education, social care and mental health services, youth services, all of those to really think about how they can best use their best resources and expertise and skills together to respond to children's needs, and we absolutely stop families having closed doors in their faces and being told they've come to the wrong place, or waiting for a long time in a queue for something and then being told, 'Actually, you've got the wrong type of problem.' We need to all gather round families and say, 'We can help you. We can help you earlier.'

Jayne Bryant MS 09:57:18

58 Okay. Ken?

Ken Skates MS 09:57:19

59 Thank you, Chair. That's fine, thank you.

Jayne Bryant MS 09:57:21

60 Okay, thank you, Ken. Moving on to James Evans now. James.

James Evans MS 09:57:27

61 I think I'm on, am I, Chair? Yes. Thank you. Good morning, commissioner. It feels like hello and goodbye, since it's my first time on the committee, knowing I won't have time to work with you. I've got a couple of questions, and my one question: you touched on this earlier, actually, about Welsh Government's delivery on policies, and I was just wondering what structural or systemic issues do you think there are within Welsh Government about delivering on young people's and children's priorities for the Welsh Government?

Professor Sally Holland 09:57:55

- 62 Okay. I think—and I won't be the first person to have said this—that the Welsh Government, well, the Senedd, has over the last couple of terms passed some really excellent legislation that affects children and young people, but we all need to keep a careful eye on the implementation and follow through and make sure that everyone is keeping a careful eye on that, the Government's monitoring implementation of good-intended legislation and that public services are properly funded to implement it as well. So, I think that's one key issue because it's sort of almost—it's not easy, but there's quite an incentive, I think, from a political sphere to keep moving on to the next thing, but actually, it's really important that we build on what we've done already, and it's less exciting to do as a Government than passing new legislation, but it's a really vital piece of work to be done.
- 63 I think the second key weakness I've seen over the years—and again, actually, I've seen some slight improvement in this—is about working together and I had my introductory meeting with Andrew Goodall, the new Permanent Secretary, this week, and he acknowledged and said that the Government must act as a role model to our public services, and not just say, 'You should do more working together', and not do it themselves, because it's a real common Government call, as from people like me, to say, 'You must all work together.' I've said it many times already in this session, but actually, the Government doesn't do that very well itself. So, early on in my time as commissioner, I spotted—because I work across so many areas—that our mental health reforms were working on how to embed mental health support in schools, as were people working on the new curriculum, and they were not working together, and both Ministers responsible vowed to me that they were, but I have to say they were not. I gave that evidence to this committee, and this committee pushed hard on this, and we did end up, actually, with a very effective joint ministerial advisory group on the whole-school approach to mental health and well-being, which is now statutory guidance in schools. But that only happened with a lot of pushing, and I think that was a good experience for Government, and I hope they're going to do it on more things again. We desperately need it. We did need it on elective home education, to return to that. I think that suffered from everyone saying to me, 'Well, that's actually education.' And when I've brought up other aspects of it, education's saying, 'Well, that's not us—that's somebody else.' They needed to have a cross-governmental piece of working on that.

64 They need to do it next on neurodiversity, I would say—neurodiversity amongst children. It's taken, actually, several months to clarify which Minister is in charge of that. We now know who it is—it's Julie Morgan—but she needs, and there has been, I'm pleased to say, set up a cross-governmental team on this. But children's lives don't come in little compartments, and neither should people working on them. We need to look together, and the Government needs to look together, and they need to do that on a Cabinet level as well. They need to look together on how we can tackle it. Child poverty is another area where it cannot be down to one Minister.

65 A lot of people ask me why I haven't called, explicitly, for a children's Minister in the last few years. I, actually, would rather see a sub-Cabinet committee of Ministers who concentrate specifically on children and young people's issues, or the Cabinet making sure that they've dedicated time as a whole to work on children and young people's issues, because, actually, there's nothing that one Minister could cover. There's no area of children's lives, almost, that one Minister can cover on their own.

Jayne Bryant MS 10:01:49

66 James.

James Evans MS 10:01:50

67 Thanks for that, Sally, and that silo working that I've experienced since I've been here in that short time is very systemic within Welsh Government. I could talk about that for hours, but I won't.

68 But one question I do have is that the Welsh Government rejected a call that the appointment and financial responsibility of the commissioner should be passed from Welsh Government to the Senedd. That was rejected by the Welsh Government. So, I want to ask you: what do you think the implications of that are going to be for the next commissioner, so they can actually be truly independent of Government and, obviously, not have their foot in two camps all the time?

Professor Sally Holland 10:02:25

69 This has been a call that I've made consistently during my time as commissioner, as did my predecessor, and I suspect my successor will as well. For me, it's just a fundamental principle, as much as anything. As much as the realities of everyday working, it's a really important principle, because, the fact is, I'm currently appointed and funded by a body that I have a statutory remit to scrutinise and to review. I don't have that statutory remit over the Senedd, so I think that the appointment by the Senedd and funding by the Senedd would be a much more appropriate place for the commissioner to be.

- 70 This is an historic issue. An appointed commissioner was one of the first things that the devolved Government did, and at that time, as you will all know, we had a Welsh Assembly Government—we didn't have a separation of powers—so there was nowhere else for that remit to go. But we've had that separation now for a long time and, I have to say, an overhaul of the legislation surrounding my role is overdue.
- 71 I submitted a paper recently to the Minister for Social Justice, building on my experiences of that statutory review into elective home education and regulation of independent schools and, also, just of my experience over my term of office, explaining where there are holes in my statutory remit. It's not just where I'm appointed, but it's also, actually, some really out-of-date aspects to my legislation. I couldn't have intervened in the very difficult case of an independent school in north Wales, that I intervened in last year, if it hadn't been a boarding school, because I can't intervene in private schools, unless they have a boarding element. That's just an historic anomaly. I can't intervene in any other private institution for children, officially. That includes private children's homes—which house about 75 per cent of our children who are in children's homes—or private mental health institutions, some of which I've had some real concerns about. Actually, in practice, most of those institutions do work with me and do let me in to visit them, but they don't have to in legislation.
- 72 So, I've submitted that paper. The Minister for Social Justice has agreed to look at it closely, but there's a good opportunity for, actually, I think, a whole children's rights piece of legislation to come forward, which incorporates the United Nations Convention on the Rights of the Child into Welsh domestic law and reviews my role.

Jayne Bryant MS 10:05:08

- 73 Thank you. On the back of the question that James has asked you and your response, perhaps you could share with the committee, if you're prepared to, the paper to the Minister for Social Justice.

Professor Sally Holland 10:05:20

- 74 Yes. I'm discussing it with her in our next meeting, which is in a couple of weeks' time, and I think it might be an appropriate moment to share it with you after we've done that.

Jayne Bryant MS 10:05:28

- 75 That would be great. Thank you very much. The next question is from Buffy Williams.

Buffy Williams MS 10:05:38

- 76 Thank you, Chair, and I'd also like to thank the commissioner for her hard work and dedication, especially throughout the last year. My first question is: where should your successor be focusing their attention, and are there priority policy areas?

Professor Sally Holland 10:05:56

- 77 Good question. I think I've already mentioned what I think the priorities should be. I think it's really important to note that, although there'll be a change of commissioner, I don't expect there to be any pause in the work, or change actually, immediately in the work of my office. I think of it as being a bit like a relay race. I've still got four months left in post, by the way, so it's not goodbye at this moment; I'll probably still be writing to you and submitting evidence to you many times before then. I see it as a relay race. I'm going to be running right up until I hand over to the next commissioner, and I'd expect them to start running, pick up the baton, and my strong team behind me will make sure that that happens.
- 78 The new commissioner has a statutory duty to consult with children about their priorities, so I expect them to do that, and my team is all geared up with a strong structure to enable them to do that in their first year. It is an independent role and I would expect each new commissioner to bring their own style and their own professional background and interest, but, on the other hand, I think there are clear issues that they will need to concentrate on—of course, pandemic recovery, which we've already discussed, making sure that the children who have lost out most in the pandemic have that strong recovery, particularly in our education system, but beyond that as well, and child poverty I still maintain is the biggest challenge facing our nation, actually. It underpins so many of the other issues we've discussed today, and it's got to continue to be a focus with such shockingly high levels here in Wales. And I would expect them to continue with my scrutiny of that 'no wrong door' approach, making sure that our services are really working together. As I say, I do have some really positive things to report on what local services are doing on that, but they're not there yet—they're absolutely not there yet. So, that's really what I expect, but I do expect children to have a strong role in setting their agenda too.

Buffy Williams MS 10:08:04

- 79 Thank you. Can the commissioner envisage measurable progress on the deep-rooted issues facing children and young people in Wales, such as child poverty rates?

Professor Sally Holland 10:08:16

- 80 I can't say that there's been a change in child poverty rates. It's stubbornly at the same level it was since I came into post, and I think that there are things that we can do on a number of different levels on that. If I've got time to just quickly talk about those levels, the Welsh Government has a clear role here and they cannot just pass the responsibility for this on to others, including the UK Government. They do have a clear role, and the FM, to be fair to him, has said that quite clearly to me as well: he takes responsibility for mitigating the effects of child poverty in particular. I think that there's a lot more that could be done on that. We have to look at the statistics, and they haven't moved.
- 81 I also think that local—. Mitigation can happen at a local level as well, and we've worked really hard to expect to give guidance to local authorities and schools on how to poverty-proof their work. There's still work to be done on that. Some are doing a marvellous job on this, I have to say, and guidance has been passed by Government on things like affordable school uniform, which we're still having to remind schools about, but it's helping, as is the pupil development grant. So, there's quite a lot of—. There have been some good things in terms of new structures of support out there, but the figures are still the same.
- 82 I also can't ignore, as children's commissioner, that a big impact on child poverty affecting children in Wales is in the tax and benefits system, which I don't have the powers to intervene in. But I have in my legislation a duty to call out issues that affect children from beyond Wales, and I've done my best to do that, working with the other commissioners from devolved nations, to really call out some of those issues. We know, historically, if we look at the last 20 years, for example, that the biggest changes in statistics on child poverty have come when there have been big changes to the tax and benefits system. If you just look at charts of child poverty in Wales, that's clear to see. So, we do need a change at that level, and I particularly cannot ignore the fact that the two-child limit on universal credit is, in my view and the view of the other UK commissioners, an actual breach of children's rights to be treated equally no matter their family background, their size of family, for example. I do think it's tremendously unfair that children, who have no choice in their number of siblings, have a lower income if they happen to be a third or fourth sibling, and I renew the calls I've made to the UK Government to reverse that. But that doesn't let the Welsh Government off the hook, and there is a lot more they can do in terms of supporting families to mitigate those effects.

Buffy Williams MS 10:11:24

- 83 Thank you.

Jayne Bryant MS 10:11:25

- 84 Thank you, Buffy. Commissioner, can I just ask you—? This committee feels that the mental health of children and young people is central to everything it does, as did the last committee. Perhaps you can talk about the progress you've seen during your time, in the last year in particular, and what improvements you see as needing to happen.

Professor Sally Holland 10:11:48

- 85 I saw the press release by the Welsh Conservatives yesterday on this very issue, and I do share concerns about the current rise in waiting lists, specifically for child and adolescent mental health services, for example. I've been scrutinising, actually, individual services to ask them why their waiting lists are at that level. However, I do think it's important to recognise some of the issues underlying those. I actually think that if we could invest—. Having heard from those services, we could invest millions today purely into CAMHS—child and adolescent mental health services—and they wouldn't be able to recruit the clinical staff to meet those children over the next few months. So, that's a big issue for them.
- 86 The other issue is a rise in demand post pandemic; they are seeing a big rise in demand. It is important that children who need to see a clinician see them as soon as possible. Those rates were going down before the pandemic, and I was pleased to see that. Partly from the pressure of this committee, there have been some pretty stringent expectations set on CAMHS services, and many, but not all, of the regions were meeting those before the pandemic—very few of them, but some of them are. What's important to note is that some regions are managing to see children effectively, and they are doing it, I think, because they're doing it in a different way. Because many children don't actually get the support and service they need even when they get to the front of the queue to see a CAMHS clinician. That's because they don't necessarily have a diagnosable, treatable mental health condition. What's important is that children have an earlier, more holistic response. Some children will need to be fast-tracked to a CAMHS appointment if they have a clear condition that needs that treatment and support, and I am concerned at how long some children are waiting for that. But many children will need a much more holistic response, and some of our regions are successfully putting in the structures to enable them to do that.

- 87 I've talked before in this committee about what they've been doing in the Gwent region, for example, where they have the single point of access for children's emotional well-being and mental health panels, which mean that anyone concerned about a child's mental health, whether that's a parent, a GP or a school, for example, can have that situation discussed by a cross-disciplinary panel of people who will make sure that the child gets that right support as early as possible, and you can see the difference in the waiting lists there. Waiting lists can be manipulated, of course. You can reduce waiting lists just by raising your threshold, so I think we all need to keep a close eye on that, as well. What's most important is that children get the support they need early on and at the right level. So, they shouldn't be seeing a psychiatrist if they don't need to, and we don't want to overmedicalise children.
- 88 We are seeing some improvements on that in some regions. I've visited several CAMHS services, including an in-patient unit in north Wales two weeks ago, and there are still a lot of issues in that region, too, but actually some quite exciting developments. There's a service called Bwthyn y Ddôl, for example, which is putting in some quite exciting early interventions and wraparound, even when children are in major crisis, to prevent them having to be admitted to a mental health unit. I also saw some really good examples of where some very short but clear support for schools and parents had stopped children needing to be excluded from school because of very worrying behaviours by young children, or to help children back into school who had major school anxiety. So, there are some green shoots. I feel like I said this this time last year, but some services have made less progress because of the pandemic. I'm quite excited about the possibilities of this, but I would like to see Government expecting more of that kind of approach. That's where I would really like our mental health Minister and others to be pushed—on how services can actually do those effective approaches that are already happening in some regions.

Jayne Bryant MS 10:16:18

- 89 Thank you. I'm just going to bring in James Evans on the back of that question. James.

James Evans MS 10:16:22

90 I probably should declare an interest—I'm the shadow Minister for mental health. Where do you think the third sector play a part in actually helping young people with mental health support? Because I personally, after talking to the Minister, don't think we use places like Mind enough as being almost like the front door for people, and especially young children who are suffering with mental health. You mentioned that some of those young people haven't actually got diagnosable conditions, and sometimes they just need somebody to talk to, somebody to discuss things with. And actually, the people who work in the third sector are highly trained individuals and they can actually make assessments themselves of how important it is that somebody is going to be seen. Where do you think the third sector is going to play a key role here in actually helping young people with their mental health? Because if we rely for everything solely on the NHS, we're just going to get worse and worse and worse. That's my personal opinion on that. Thank you, Chair.

Professor Sally Holland 10:17:16

91 I share that opinion. I think the third sector have got an enormous role to play here, and already do, but could be worked with more in partnership with our statutory authorities. Part of my scrutiny of regional partnership boards has been asking again and again how well they're engaging with and involving the third sector as well as citizens in their work, and they won't get things right unless they do both of those things. There are some very good examples of where, in establishing a 'no wrong door' approach, some of our regions have worked really effectively with the third sector as partners. So, they've commissioned them to do early work—some of that early work that you described, James. So, there are some really good examples of that.

92 I started off in this session talking about how, as a small organisation, we can be quite flexible and responsive, and I think the same is true of the third sector. They can be quick, they can be responsive, they can be innovative, they're less stuck in ways of working and structures, and I've seen them do some fantastic work with older young people on peer support. We've got some really excellent peer-support organisations and some really good early intervention, as you suggest, with younger children as well. Again, I would urge you in your scrutiny to keep pushing our health boards and local authorities, especially the regional partnership boards and our mental health Minister, on how those advantages of the third sector are being built on. It is happening, and where it's happening we're seeing some really good impact.

Jayne Bryant MS 10:19:05

- 93 Okay. Thank you very much, commissioner, and thank you for the evidence that you have given us this morning. I'm sure we'll look forward to welcoming all that correspondence in the next four months, before your term is up. We very much welcome that. But, in this formal setting, once again I'd just like to put on record the committee's thanks for your hard work and dedication over your last term. So, thank you very much.

3. Cynnig o dan Reol Sefydlog 17.42(xi) i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer eitemau 4 a 6

3. Motion under Standing Order 17.42(xi) to resolve to exclude the public from the meeting for items 4 and 6

Cynnig:

bod y pwyllgor yn penderfynu gwahardd y cyhoedd o eitemau 4 a 6 y cyfarfod yn unol â Rheol Sefydlog 17.42(xi).

Motion:

that the committee resolves to exclude the public from items 4 and 6 of the meeting in accordance with Standing Order 17.42(xi).

Cynigiwyd y cynnig.

Motion moved.

Jayne Bryant MS 10:19:30

- 94 We'll now move on to the next item, which is to move into private session. So, I propose, in accordance with Standing Order 17.42, that the committee resolves to meet in private for items 4 and 6. Are Members content? Yes, I see that Members are. We'll move into private session.

Derbyniwyd y cynnig.

Daeth rhan gyhoeddus y cyfarfod i ben am 10:19.

Motion agreed.

The public part of the meeting ended at 10:19.

Ailymgynullodd y pwyllgor yn gyhoeddus am 10:33.

The committee reconvened in public at 10:33.

5. Y Bil Addysg Drydyddol ac Ymchwil (Cymru)—sesiwn dystiolaeth 1

5. Tertiary Education and Research (Wales) Bill—evidence session 1

Jayne Bryant MS 10:33:38

- 95 We are now back for the next item on our agenda, which is the Tertiary Education and Research (Wales) Bill. This is our first formal evidence session on the Tertiary Education and Research (Wales) Bill. I'd like to welcome the Minister for Education and Welsh Language, Jeremy Miles MS, and he has officials with him today, who are Zenny Saunders, deputy director, post-compulsory education and training reform, **NR** from the policy team, and **NR** who's the Bill manager. Good morning, everybody; you're all very welcome.
- 96 We've got a number of questions to get through this morning, so I'll make a start by asking: what are the policy objectives this Bill is intended to work toward?

Jeremy Miles MS 10:34:34

Minister for Education and the Welsh Language

- 97 Thank you, Chair, for that. I think the broad context in which the sector and the Welsh economy in Wales generally finds itself is one of very significant change at the moment, whether that's the response to the climate emergency, whether it's the response to our new relationship outside the European Union, whether it's the response to COVID, whether it's the impact of technological change. I think any of these would be, on their own, a very significant set of challenges and, indeed, opportunities in some ways for Wales. But they're all happening at the same time, and I think it's therefore really important that we enable our post-16 sector to be futureproofed to be able to respond nimbly both to some of these challenges and also to the opportunities they include as well, and to do that in a way that is collaborative, which supports our learners, and which helps drive forward research and innovation across that range of fields and beyond. And so the vision that we have for the Bill and for the sector is one where there's a strategic, coherent, sector-wide approach to how we deliver post-16 education, which has, I suppose, at its heart this idea of a single sector, but with a diversity of providers. I think the Bill is designed to deliver that.

98 There are a number of challenges that the tertiary education sector has consistently faced over recent years. They're not unique to us in Wales. Other nations are facing the same challenges. The approach that we adopt in the Bill draws on the approach adopted by other, similar sized nations—for example, Scotland, New Zealand—and some of those challenges are common, so for us here in Wales it's about an increasingly competitive environment both within the UK and internationally. It's about the existing framework, the existing structures leading effectively to insufficient collaboration, duplication of roles, and that lack of coherent learner pathways around different parts of the post-16 sector, and I think those challenges are exacerbated by the structures and the funding boundaries that we have to date. The Bill is an opportunity to put that right.

Jayne Bryant MS 10:37:01

99 Thank you. So, how exactly will the Bill help to achieve these policy objectives?

Jeremy Miles MS 10:37:10

100 Well, I think if you take the strategic vision and the futureproofing, the Bill establishes a commission—it's a single, national body with that clear remit across all parts of the post-16 education sector, and it has nine duties on the face of the Bill, which, for the first time, actually, enshrine in law that strategic vision that we have for the sector. So, I think, in approaching it from that perspective, it meets those fundamental objectives.

101 But I mentioned to you collaboration in my initial answer. I think the Bill provides the commission with an opportunity, for example, to fund collaborative projects between different sectors, whether that's around quality or widening access or in research and innovation. It provides the commission with the tools to develop so-called articulation agreements, which help smooth the path, if you like, between level 4, level 5 and degree-level qualifications. Whether it's around greater collaboration with apprenticeships, whether it's around improved co-ordination and a sharing of learning and teaching practice across the sector, I think all of that helps with the collaboration priority that I described.

102 But again, as I mentioned, the learner's journey is fundamental to this, and that question of parity of esteem is one that we've all spoken about for many years. The question is how do you deliver that. And I think the Bill provides us with the tools to do that. The fact that both vocational and academic providers are included within the same strategic umbrella of policy auspices, if you like, will encourage that, will encourage more collaboration, less competition, and that is good for parity of esteem. But I think, at the other end, it's about having a common view of quality across all parts of the sector, and that, I think, will also drive parity of esteem for our learners.

103 The question of outcome agreements is a really important part of the Bill. I know the predecessor to this committee was interested in the post-legislative scrutiny of the 2015 Act, for example, on how you complete the chain, if you like, between the national priorities on the one hand and the decisions taken by institutions on the other. In the Bill, the outcome agreement provides that line of sight, if you like, in a very transparent, public way so that we have a balance between the national priorities and their implementation on the ground by our diverse range of institutions.

Jayne Bryant MS 10:39:59

104 Thank you. So, in its paper to the committee, the Higher Education Funding Council for Wales argued that much existing legislation has simply been hard-wired into this new Bill. Why is new legislation needed?

Jeremy Miles MS 10:40:13

105 I want to be clear: there are strengths in the current legislation. The Bill is a departure in many, many significant ways that I'm sure we'll come on and talk about, but there are some strengths in the existing legislation. And so, the task in hand, I think, is to keep the strengths that we have in the current legislative framework and remove the obstacles, and for that to allow the sector to evolve, if you like. So, this is a process of building on those existing strengths, but there are a number of fundamental differences, as I said, which can't be achieved simply by tinkering around the edges, if I can put it like that, really. So, the Bill strikes that balance, in my view, between maintaining the existing advantages but moving us forward and helping the sector to move forward.

106 In establishing the commission, the Bill obviously dissolves HEFCW. So, I thought I'd put on record, if I may, Chair, my thanks to the funding council for the work it's done for many years to deliver for Wales through funding, advising on the sector and regulating the sector. HEFCW and HEFCW staff have used their influence to help deliver Welsh Government priorities, but also a much broader agenda of societal and economic benefits for Wales. So, I just want to put my thanks to them on the record, if I may.

Jayne Bryant MS 10:41:41

107 Thank you, Minister. Just following on from that, you talked about continuity. So, is continuity the reason why there wasn't a more thorough and fundamental clean-slate approach to the legislation? After six years of developing it, it could have been—. You know, you've looked at this for the last number of years.

Jeremy Miles MS 10:42:07

- 108 As I was saying, it's striking the balance, isn't it, between maintaining the current strengths and moving us forward. Just to say, when I came in as Minister, I took a look at the Bill afresh, really, and you will have seen changes in the Bill from the version that was consulted upon. That was partly driven by the very valuable response we got to the consultation on the draft Bill, and also partly by my appetite and enthusiasm for putting our strategic vision, which we've just been talking about, in the Bill itself. It is a Bill of firsts, actually, so I don't think that it is simply replication, really, and I think, in many ways, there are those elements of clean slate.
- 109 So, it's the first time we've put strategic duties on the face of the Bill. It's the first time we've brought all aspects of post-16 education and research and innovation together. It's the first time that we've required proper facilities for post-19 education, rather than reasonable facilities—a technical distinction but important, as members of the committee will know. That's the first time we've done that. It's the first time we've created a stand-alone funding power for the commission to fund apprenticeships. So, I think this is a Bill of firsts, actually, in many, many ways.

Jayne Bryant MS 10:43:30

- 110 Thank you. I've just got a couple more questions. Regulation-making powers leave considerable scope to adjust policy. Will you be publishing draft regulations to allow the Senedd to scrutinise them, and the Bill as a whole?

Jeremy Miles MS 10:43:47

- 111 Yes. There's a range of regulation-making powers in the Bill. Some are subject to negative procedure, some are subject to affirmative procedure, and I guess they come in different categories, really, Chair. Some of them are in the Bill to enable the sector to be futureproofed. Those are powers that may not be used for some time, for example. That's one set. There's a set of technical regulations that will need to be made.
- 112 There are then regulations that have a more substantive policy impact at an earlier stage, and I anticipate it will be helpful from a scrutiny perspective, and from a legislative perspective, for those to be available as soon as they can. So, an example of that would be the regulations in relation to post-19 proper facilities provision. The committee will know that the Wales Centre for Public Policy's doing a piece of work for us in exactly this space to help us understand what the most effective interventions can be to deliver a lifelong learning provision. I'm anticipating that'll be available before the end of the year, and then that will provide us with the context in which to bring forward those regulations. So, there will be some in the more substantive policy area.

113 Just in terms of timings overall, my officials are working on a legislative implementation plan at the moment. Implementation is a big task in relation to the commission, and that, I think, will help—obviously, we'll share that as soon as we can with the committee—to shape some of that.

Jayne Bryant MS 10:45:25

114 Okay, that would be really helpful. Thank you, Minister. And finally from me: what assessment have you made of the United Kingdom Internal Market Act 2020's effect on the Bill's provision?

Jeremy Miles MS 10:45:35

115 I may ask one of my officials to help with that question, if I may, Chair. Zenny, could I ask you to help us with that?

Zenny Saunders 10:45:44

116 Yes. Our lawyers have considered it—a number of months ago now. We have considered it, and we continue to make sure that there's a read-across in relation to it. The advice we've had from our lawyers is that there isn't an implication there, and it doesn't affect the actual drafting of the Bill, as is, at the moment.

Jayne Bryant MS 10:46:02

117 Okay, thank you. That's really helpful. We'll now move on to some questions from Members, and the first set from Buffy Williams. Buffy.

Buffy Williams MS 10:46:14

118 Thank you, Chair. Good morning, Minister.

Jeremy Miles MS 10:46:16

119 Morning.

Buffy Williams MS 10:46:17

120 My first question is: we know that the Bill gives Ministers 47 powers to make regulations, and the explanatory memorandum says a chief executive officer will be in place in January 2023—what is the current time frame for establishing the commission and introducing the powers, and is this achievable?

Jeremy Miles MS 10:46:39

- 121 On the question of the legislation, when we are able to share the legislative implementation plan with the committee, that will help, I think, in terms of the particular regulations and help describe at which points they're most likely to be useful and necessary.
- 122 On the question of the appointment of the CEO specifically, it's my intention, really, to try and maximise the period that an interim CEO is in place before we establish the commission. I think that would be a very helpful way of approaching it. So, we would hope to be in a position to advertise that post in the first half of next year, really, to allow for that appointment to take place at the earliest opportunity.
- 123 In relation to the broader set of questions around the time frame, there is a very significant body of work that will be needed in order to establish the commission. I don't propose to take any short cuts in relation to that. It's obviously fundamental that the commission is both fit for purpose and commands the confidence of the range of providers and stakeholders that it will need to work with in the future. I'm very conscious that we provide our stakeholders with sufficient time to engage fully with that process. I don't want to put them under the burden of unrealistic timescales, but equally I want us to make progress as rapidly as those principles allow us. So, my ambition remains to establish the commission in 2023, but, as you would expect in relation to this kind of body of work, implementation would need to be staged. So, my intention is to establish the body in 2023 and for implementation to take place in 2024 and into 2025. I've established a stakeholder strategy and implementation board. We had our first meeting a week or so ago. That's an evolution of a previously existing forum, and that will have a key role in this, in helping us understand how best to implement in a way that meets the needs of the commission but also commands the confidence of stakeholders.

Jayne Bryant MS 10:49:10

- 124 Thanks, Buffy. Sioned, do you have something on this specific point that you want to come in on?

Sioned Williams MS 10:49:16

125 Ie. Bore da, Weinidog. Jest eisiau gofyn oeddwn i, a dweud y gwir, am sut mae'r cyfranogwyr yma yn medru ymateb i'r ymgynghoriad yn y lle cyntaf, achos, wrth gwrs, fe wnaeth hi gymryd 12 wythnos i Lywodraeth Cymru gyhoeddi crynodeb o'r ymgynghoriad blaenorol, yn amlwg cyn yr etholiad. Felly, roedd y Llywodraeth yn teimlo bod angen cryn amser i asesu'r ymatebion hynny, ond nawr maen nhw'n cael hanner y cyfnod yna—chwe wythnos—i asesu Bil 600 tudalen. Ac o gofio bod yr ymgynghoriad cyntaf cyn yr etholiad, ac felly doedd e ddim yn saff beth oedd canlyniad yr etholiad yna'n mynd i fod, a hefyd, fel rŷch chi wedi sôn yn eich atebion chi i'r Cadeirydd o ran bod yna nifer o *firsts*, fel y gwnaethoch chi eu galw nhw, yn y Bil yma ers i chi gymryd yr awenau, a meddwl hefyd am y flwyddyn eithriadol o galed sydd wedi bod yn y sector yn delio ag effeithiau'r pandemig, ydych chi ddim yn ystyried bod chwe wythnos o ymgynghoriad ar y Bil yma ychydig yn uchelgeisiol, ac efallai ddim yn iawn, ddim yn gymwys?

Yes. Good morning, Minister. I just wanted to ask about how stakeholders can respond to the consultation in the first instance, because, of course, it took 12 weeks for the Welsh Government to publish a summary of the previous consultation before the election. So, the Government clearly felt that there was a need for considerable time to assess those responses, but they now have six weeks to assess a Bill of 600 pages. And given that the initial consultation was held before the election, and therefore it wasn't certain what the results of the election were going to be, and, as you mentioned in your responses to the Chair, there are a number of *firsts*, as you called them, in this Bill since you took the reins, and bearing in mind this exceptionally difficult year for the sector in facing the pandemic, do you not think that six weeks of consultation on this Bill is a little ambitious, and perhaps isn't right?

Jeremy Miles MS 10:50:25

126 Wel, rwy'n credu bod y cyfnod hwnnw yn—. Os ydw i'n deall y cwestiwn yn iawn, a maddeuwch imi os nad ydw i, ond rwy'n credu mai yn nwylo'r pwyllgor mae pennu'r cyfnod hwnnw, gan mai ymgynghoriad y pwyllgor yw e, nid ymgynghoriad y Llywodraeth. Felly, rŷn ni yn eich dwylo chi yn hynny o beth.

127 Ond mae'r pwynt bras rŷch chi'n ei wneud ynglŷn â sicrhau bod digon o amser i randdeiliaid allu cyfrannu at hyn wir yn bwysig. Dyna pam y gwnes i'r sylwadau y gwnes i ynglŷn â'r amseru o ran sefydlu'r comisiwn ei hun. Ac mae'r gwaith mae'r bwrdd ymgynghori a gweithredu wedi dechrau'i wneud, rwy'n credu, yn elfen bwysig i'n helpu ni i siapio hynny i'r dyfodol hefyd.

Well, I think that that period—. If I understand the question properly, and please forgive me if I haven't, but I think that it's in the hands of the committee to set that period, because it's a committee consultation, not a Government consultation. So, I think it's in your hands in that sense.

But the broader ranging point that you made in terms of ensuring that stakeholders have enough time to contribute to this, that's very important. That is why I made the comments that I made about the timetable for establishing the commission itself. And the work that the consultation and implementation board has started to do is a very important element of shaping that in the future as well.

Jayne Bryant MS 10:51:08

128 Yes, thank you for that answer—

Sioned Williams MS 10:51:10

129 Efallai y gallwn ni wneud awgrym i'r pwyllgor yma felly, Gadeirydd, ein bod ni yn edrych ar ymestyn y cyfnod ymgynghori.

Perhaps we could make a suggestions to this committee, Chair, that we do look at extending the consultation period.

Jayne Bryant MS 10:51:19

130 It's because we have 13 sitting weeks to complete the first part, so that's why we are in that position. Perhaps we can discuss that later.

131 Could we move on to Buffy again, sorry? Buffy Williams.

Buffy Williams MS 10:51:39

132 Thank you. How are the organisational practicalities of the transition from one body to a new organisation being managed to ensure that implementation challenges don't negatively impact on the early operation of the new body and sector?

Jeremy Miles MS 10:51:55

133 Just in the way I was starting to touch on in my answer to your previous question, there's been work going on, if I can put it like this, in the background for a while in relation to this, including through workshops with stakeholders, and that is about identifying the strategic requirements for the commission. There are, in parallel with that, a number of projects under way, working with HEFCW, to look at the human resource and organisational design of the commission, and the processes and systems that will be required in order for it to be fully operational. There'll be more projects in that space coming on line in the next few weeks.

134 And then the work that my officials are doing to scope that high-level implementation plan will cover the legislative requirements that you've just touched on, but will also deal with some of the key pillars, as we're calling them, in the Bill, so, for example, around the registration system or around the quality framework, around the extended further education provision I was just talking about. So, those are all part of that high-level implementation plan. As I say, the implementation will need to be staged, so I envisage it being established in 2023 and then the implementation of those pillars occurring in the following year and into 2025. I think, again, just to repeat, that will all be shaped as well by the work of the strategy and implementation board that I've convened.

Buffy Williams MS 10:53:27

135 Do you believe that the requirement for the commission to give Welsh Ministers any information they request could result in registered providers or key partners not sharing information with the commission, particularly when it is commercially sensitive, as stated by HEFCW?

Jeremy Miles MS 10:53:45

136 I think that's one of the areas that we could probably put in the category of building on existing legislation, really, because those are powers that, in a HEFCW-specific way, already exist in the current legislation. So, the new commission, obviously, will be the expert, if you like, in terms of post-compulsory tertiary education across Wales, working alongside the providers, and Welsh Ministers will only ask for the information that they need, in the way that they do at the moment under the current equivalent arrangements with HEFCW. So, it's the Further and Higher Education Act 1992, which some colleagues will be familiar with, that provides the underpinning statutory equivalent for that in the current statutory regime.

137 So, the Bill does extend that, but only in the sense that the commission's remit is broader than HEFCW's remit, so, clearly, the power to require information touches on sectors beyond the higher education sector itself. And I just would say that, as with all information and data sharing, it will clearly need to comply with the data protection principles and data protection legislation. So, colleagues will be familiar with those, I don't need to rehearse those principles. But, those will obviously apply to information requests in future, as they do at present.

Buffy Williams MS 10:55:17

138 Thank you, Minister. Chair.

Jayne Bryant MS 10:55:19

139 Sioned Williams.

- 140 Diolch. Rwyf eisiau gofyn rhai cwestiynau ynglŷn â sut fydd y pwerau fydd gan Weinidogion Cymru dros y comisiwn a rhai darparwyr yn cael effaith ar unrhyw ymreolaeth hyd braich a gallu'r comisiwn i gyflawni ei ddyletswyddau a'i swyddogaethau. Felly, eisiau gofyn oeddwn i: yn ogystal â phenodi'r bwrdd, mae Gweinidogion Cymru hefyd yn meddu ar bwerau i ariannu darparwyr yn uniongyrchol y tu allan i'r comisiwn ac i addasu cynllun y comisiwn yn unochrog, felly i ba raddau fydd y comisiwn yn gorff hyd braich mewn gwirionedd? Onid oes yna rhyw fath o gamddealltwriaeth sylfaenol yn fan hyn, sydd i'w weld efallai yn y memorandum esboniadol, fod yna densiwn wedi cael ei ganfod efallai rhwng rheolaeth polisi digonol a'r cysyniad yma o led braich?

Thank you. I wanted to ask a few questions regarding how the powers that Welsh Ministers will have over the commission and some providers will have an effect on any arm's-length autonomy and the ability of the commission to fulfil its duties and functions. So, I wanted to ask: as well as appointing the board, Welsh Ministers also have powers to fund providers directly outside of the commission and to modify the commission's plan unilaterally, so to what extent will the commission really be arm's length? Isn't there a fundamental misunderstanding here, which is perhaps to be seen in the explanatory memorandum, that there is a tension that has been perceived between sufficient policy control and this concept of an arm's-length body?

- 141 Wel, ar un lefel, mae'r egwyddorion hynny yn egwyddorion y mae pob deddfwriaeth sydd yn creu corff newydd yn gorfod mynd i'r afael â nhw. Felly, mae hwn yn gyd-destun bythol, os hoffwch chi, i'r hyn mae'r Llywodraeth yn gwneud wrth sefydlu corff hyd braich. Y man cychwyn, byddwn i'n awgrymu, yw hyn: pe byddem ni fel Llywodraeth eisiau cadw gafael ar y pwerau yma, byddem ni ddim yn cynnig y Bil. Felly, dyna'r man cychwyn o ran ein *approach* ni i'r cwestiwn. Mae creu'r corff newydd yn mynd i sicrhau bod pwerau a chyfrifoldeb ac ariannu sylweddol yn mynd i'r corff newydd.
- 142 Hwn fydd y corff mwyaf, rwy'n credu, y tu allan i Lywodraeth Cymru, oni bai am y gwasanaeth iechyd, o ran maint y gyllideb a'r impact. Felly, mae angen —rwy'n sicr bod pawb yn cytuno â'r egwyddor bras yma—mae angen taro cydbwysedd wedyn rhwng rhyddid i weithredu ar yr un llaw ac atebolrwydd ar y llaw arall. Rwy'n gwbl sicr na fyddai'r pwyllgor yma yn ei weld yn ddigonol petaswn i'n dod o'ch blaen chi fel Gweinidog a dweud, 'Wel, nid fy nghyfrifoldeb i yw hwnnw, cyfrifoldeb y corff newydd yw e.' Mae angen bod, o ran craffu, o ran atebolrwydd democrataidd, llinell rhwng gweithredoedd y comisiwn a rôl y Gweinidog addysg yn hynny o beth.

- 143 O ran y pwynt penodol roeddech chi'n sôn amdano yn eich cwestiwn, o ran apwyntiadau i'r bwrdd, bydd hynny'n digwydd ar sail y broses dryloyw, agored sydd yn digwydd ar gyfer apwyntiadau cyhoeddus, a bydd Gweinidogion Llywodraeth Cymru yn cytuno i hynny. Mae hynny eisoes yn digwydd, wrth gwrs, gyda HEFCW. Fe wnaethom ni ymateb i adborth gawsom ni gan randdeiliaid yn yr ymgynghoriad oedd yn gofyn i ni dynnu allan o'r Bil y pwerau i apwyntio aelodau'r pwyllgor ymchwil. Felly, rŷn ni wedi gwneud hynny.
- 144 Mae gennym ni hefyd bwerau, fel sydd gyda ni ar hyn o bryd, o dan Ddeddf Dysgu a Sgiliau 2000 i barhau i ariannu rhai elfennau o addysg bellach ac addysg uwch. Dyw e ddim yn bŵer cyffredinol, mae e'n bŵer penodol sydd ynghlwm â rhannau o Ddeddf Diwygio Addysg 1988 ac, ar y cyfan, ffocws y pwerau hynny yw cymwysterau proffesiynol. Os edrychwch chi'n fras ar sut mae'r pwerau wedi'u dyrannu—ac mae hwn yn fras, felly mae eithriadau ar yr ymylon, jest i fod yn glir—mae'r pwerau o ran pethau sydd yn arwain at gymwysterau penodol yn gorwedd o fewn cwrmpas gwaith y comisiwn, ac mae pethau sydd yn y maes *employability* yn dal yn nwylo y Llywodraeth. Felly, dyna'r dyraniad bras. Os edrychwch chi, er enghraifft, ar Jobs Growth Wales, gwaith Working Wales, mae elfennau o'r rheini sy'n gofyn am ariannu uniongyrchol gan Lywodraeth Cymru, ac mae cynnal y pwerau ariannu hynny felly yn caniatáu i ni barhau i ddarparu'r math yna o gynllun.
- Well, on one level, those principles are ones that all legislation creating a new body has to tackle. So, this is a familiar context for what the Government does in establishing an arm's-length body. The starting point, I would suggest, is this: if we as a Government wanted to keep those powers, we wouldn't be proposing the Bill. So, that's the starting point in terms of our approach to the question. The creation of the new body is going to ensure that significant powers and responsibility and funding will be with the new body.
- This will be the biggest body, I believe, outside the Welsh Government, apart from the health service, in terms of the magnitude of the budget and the impact. Therefore, we need—I am sure that everyone agrees with the broad principle here—we need to strike a balance between freedom to operate on one hand and accountability on the other hand. I am certain that the committee wouldn't perceive it as being adequate if I appeared before you as Minister and said, 'Well, that's not my responsibility, it's the responsibility of the new body.' In terms of scrutiny and democratic accountability, we need a line between the actions of the commission and the role of the Minister for education in that regard.

In terms of the specific point that you mentioned in your question, board appointments will happen on the basis of the open, transparent process that happens for public appointments, and Ministers in the Welsh Government will approve those. That already happens with HEFCW. We did respond to feedback that we had from stakeholders during the consultation asking us to remove from the Bill the powers to appoint the research committee appointees. So, we've done that.

We also have powers, as we have at present, under the Learning and Skills Act 2000 to continue to fund some aspects of further and higher education. It's not a general power, it's a specific power that is tied to parts of the Education Reform Act 1988 and, on the whole, the focus of those powers is professional qualifications. If you look broadly at how the powers have been allocated—and this is a very broad look, so there are exceptions at the margins, just to be clear about that—the powers in terms of things that lead to specific qualifications lie within the scope of the work of the commission, and things that are in the field of employability are still within the Government's hands. So, that's the broad allocation. So, if you look, for example, at Jobs Growth Wales and Working Wales, there are elements of those that require direct funding from the Welsh Government, and retaining those financial powers allows us to continue providing that kind of scheme.

Sioned Williams MS 10:59:49

145 Diolch. Cadeirydd, mae jest wedi fy nharo i, achos doeddwn i ddim yma ar ddechrau'r pwyllgor y bore yma, y dylwn i ddatgan diddordeb bod fy ngŵr yn gweithio i Brifysgol Abertawe.

146 Beth yw'r rhesymeg bod Gweinidogion Cymru eu hunain yn gallu addasu cynllun strategol y comisiwn yn unochrog ar ôl ymgynghori? Mae hwn i'w weld yn bŵer sylweddol. Pam nad oes dull mwy cydweithredol wedi ei amlinellu?

Thank you. Chair, it has just struck me, because I wasn't here at the beginning of the committee meeting this morning, I should declare an interest in that my husband works for Swansea University.

So, what is the rationale for Welsh Ministers themselves being able to modify the commission's strategic plan unilaterally after consultation? This appears to be a significant power. So, why isn't there a more collaborative approach set out?

Jeremy Miles MS 11:00:19

- 147 Wel, mae hwn yn tynnu ar yr un pwynt a dweud y gwir. Felly, yr egwyddor, y cysyniad gwaelodol, sylfaenol yn hyn o beth yw bod y Bil yn gofyn i'r comisiwn i ateb blaenoriaethau Llywodraeth Cymru o bryd i'w gilydd yn eu cynllun strategol nhw. Felly, dyna'r egwyddor sylfaenol. Fel y gwnes i sôn yn fras gynnaau, roedd y pwylgor yn y Senedd ddiwethaf yn awyddus i glywed am beth mwy y gellid ei wneud i sicrhau *line of sight*, fel roeddwn i'n sôn, rhwng egwyddorion, blaenoriaethau Llywodraeth etholedig ar un llaw a gweithredoedd yn y sector ar y llaw arall. Felly, os dŷch chi'n cymryd yr egwyddor honno yn sylfaenol, mae angen sicrhau bod y comisiwn yn ymateb i'r egwyddorion hynny.
- 148 Fel roeddech chi'n dweud yn y cwestiwn, bydd gofyn ymgynghori gyda'r comisiwn petasai'r Llywodraeth, petasai Gweinidogion mewn sefyllfa eu bod nhw eisiau gwneud diwygiadau i'r cynllun. Buaswn i'n meddwl mai mewn amgylchiadau cyfyng iawn fyddai hynny yn digwydd yn ymarferol, ond mae gofyn ymgynghori, a byddai unrhyw weithredoedd yn y maes hwnnw yn gorfod digwydd ar sail egwyddorion cyfraith gyhoeddus wrth gwrs; mae hynny'n amlwg efallai.
- 149 Ond beth fuaswn i'n cyferbynnu â hyn yw'r llythyr *remit*—y system honno sydd yn bodoli ar hyn o bryd. Felly, yn gwbl unochrog, fel roeddech chi'n dweud yn y cwestiwn, mae Gweinidogion yn gallu cynnig un o'r rheini yn flynyddol—dyna'r arfer gyffredin—ac mae hynny'n gosod termau ar gyfer ariannu HEFCW ar y foment, er enghraifft, ac mae hynny'n gwbl gyson gydag annibyniaeth weithredol HEFCW. Byddwn i'n dweud bod y system newydd yn fwy strategol, yn fwy hir dymor na hynny, ac efallai'n fwy tryloyw na hynny hefyd.
- 150 Dwi ddim yn credu y gallech chi ddisgwyl i unrhyw Lywodraeth jest ddatganoli'r math yma o gyllideb heb fod gennym ni fel Llywodraeth ryw elfen o reolaeth waelodol, *backstop*, ar yr elfen strategol sydd yn mynd ynghyd â hynny.

Well, this is related to the same point, isn't it? The principle, the fundamental, baseline concept in this sense is that the Bill requires the commission to respond to the priorities of the Welsh Government from time to time in their strategic plan. So, that's the fundamental principle. As I mentioned earlier, the predecessor committee in the last Senedd was eager to hear about what more could be done to ensure the line of sight, as I mentioned, between the principles and priorities of an elected Government on the one hand, and the actions in the sector on the other hand. So, if you take that principle as a baseline, we need to ensure that the commission does respond to those principles.

As you said in the question, there will be a requirement to consult with the commission if the Government or Ministers were in a position where they wanted to make reforms to the plan. And I would think that it would be under very restricted circumstances that that would happen in practice, but there is a requirement to consult, and any action in that area would have to happen on the basis of public law principles of course; that may be obvious.

But what I would contrast with that is the remit letter—the system that exists at present. So, completely unilaterally, as you said in the question, Ministers can propose one of those every year—that's the usual practice—and that sets the terms for funding HEFCW at present, for example, and that's consistent entirely with the operational independence of HEFCW. And I would say that the new system is more strategic, more long term than that, and maybe more transparent as well.

I don't think that you could expect any Government to devolve this kind of funding or budget without us as a Government having some kind of baseline control, a backstop, on the strategic element that accompanies that.

Sioned Williams MS 11:02:44

- 151 Diolch. Ie, yn dilyn ymlaen o hynny mewn gwirionedd, hoffwn i ofyn beth yw'r rhesymeg ar gyfer y *backstop* yma? Beth yw'r rhesymeg dros gadw'r pŵer yna i ddiddymu corfforaethau addysg uwch heb unrhyw gamau i ddiogelu darparwyr, yn ôl pob golwg, ar wyneb y Bil?

Thank you. And following on from that, I would like to ask what the rationale is for that backstop. What is the rationale for keeping that power to dissolve higher education corporations with seemingly no safeguards for providers set out on the face of the Bill?

Jeremy Miles MS 11:03:05

- 152 Rwy'n cytuno â chi: mae'r pwerau hynny yn bwerau *backstop*. Dyna'r peth cyntaf i ddweud. Felly, rŷch chi'n iawn yn hynny o beth yn sicr. Gwnaethon ni feddwl am hyn. Cawson ni sgwrs fer yn y Siambr ynglŷn â'r pwynt hwn. Gwnaethon ni feddwl am beth oedd y ffordd orau o fynd i'r afael â hyn. Mae'r pwerau sydd yn cael eu parhau yn y Bil, yr un pwerau ydyn nhw oni bai am newidiadau technegol ar yr ymylon yn sgil bod corff newydd yn cael ei greu. Yr un pwerau ydyn nhw mewn sylwedd â'r pwerau sydd yn bodoli ar hyn o bryd. Y rheswm yw: yn y sefyllfa waethaf oll, pan fydd y sefydliad efallai ddim mewn sefyllfa i roi gwahoddiad i'r Llywodraeth i wneud hyn, heb y pwerau yma dyw e ddim yn glir i fi sut byddech chi'n gallu sicrhau bod y sefydliad yn gallu dirwyn i ben mewn ffordd drefnus sydd yn diogelu myfyrwyr, er enghraifft.

153 Felly, dyna yw pwrpas hyn. Mae e yn *backstop*. Ac fel roeddwn i'n dweud yn ehangach, byddai defnydd o'r pwerau hyn yn ddarostyngedig i egwyddorion cyfraith gyhoeddus beth bynnag. Ond, chi'n gwybod, rŷch chi wedi codi'r pwynt hwn, ac mae amryw un o'r prifysgolion wedi codi'r pwynt hwn yn uniongyrchol gyda fi. Felly, rwy'n berffaith hapus i edrych os oes pethau eraill y gellid eu gwneud yn y rhan hon o'r ddeddf a fyddai'n rhoi mwy o gysur i bobl mai'r *backstop* hwnnw sydd mewn golwg yn hytrach nag unrhyw beth arall.

Well, I do agree that those powers are backstop powers. That's the first thing to say. You are right in that sense, certainly. We thought about this and we had a short conversation about this in the Chamber. We did think about the best way of tackling this issue. The powers that are retained in the Bill, they're the same powers apart from some technical modifications on the margins given that a new body is being created. They are the same powers in substance as the powers that exist at present. And the reason is: in the worst case scenario, where the institution is not in a position to invite the Government to do this, without these powers it's not clear to me how we could ensure that an institution could be dissolved in an ordered way that safeguards students, for example.

So, that's the purpose of this. It is a backstop. And as I said more broadly, the use of the powers would be subject to the principles of public law in any case. But you've raised this point, and various universities have raised this point directly with me as well. And, so, I'm perfectly happy to look at whether there are other things that we could do in this part of the Bill that would give people more security that this is a backstop rather than anything else.

Sioned Williams MS 11:04:41

154 Ie, achos mae hynny yn golygu—. Gwnaethoch chi sôn ar y dechrau taw cysondeb yw un o amcanion y Bil, ond mae hwn yn rhoi pŵer anghyson dros y darparwyr, onid yw e, achos bod gan rai siarter frenhinol, er enghraifft, felly byddai dim modd ymyrryd yn yr un ffordd. Felly, ydych chi'n derbyn bod hynny'n creu pŵer anghyson?

Yes, because that does mean—. You mentioned at the beginning that consistency is one of the objectives of this Bill, but this does give an inconsistent power over the providers, doesn't it, because some have a royal charter, for example, so you couldn't intervene in the same way with those. So, do you accept that that does create an inconsistent power?

Jeremy Miles MS 11:05:04

155 Wel, os oes gan y pwyllgor awgrymiadau penodol ynglŷn â sut i gryfhau'r rhan yna o'r ddeddf, byddai gyda fi ddiddordeb i glywed hynny, oherwydd rwy'n sicr eisiau parhau'r drafodaeth dŷn ni wedi dechrau ei chael er mwyn inni gynnal ffydd pobl yn y rhan yma o'r ddeddfwriaeth. Mae'n bwysig bod hynny'n parhau.

Well, if the committee has specific suggestions about how to strengthen this part of the Bill, I would have an interest in hearing that, because I certainly want to continue this discussion that we've started to have in order that we can maintain people's confidence in this part of the legislation. I think that's important.

Sioned Williams MS 11:05:34

156 Ocê. Diolch.

Okay. Thank you.

Jayne Bryant MS 11:05:38

157 Ken Skates.

Ken Skates MS 11:05:41

158 Thanks, Chair. Good morning, Minister. I'm just going to ask a few questions about regulatory machinery, if that's okay, beginning with this: to what extent does the Bill create a cohesive and seamless regulatory and funding framework, considering that there are different funding mechanisms for different types of provider and different regulatory machinery?

Jeremy Miles MS 11:06:05

159 Well, I think it does. That is the intention, and I think the Bill delivers on that. I think there are two parts to your question—one is around the funding, and one is around the regulatory intervention, so I'll take each in turn, if I may.

160 So, on the funding, there is a range of things that it's within the power of the commission to do, and a range of things that, because of how education is delivered much more broadly than that, is outside its compass. So, the Bill provides for the commission to fund the full range of tertiary education—so, HE, FE, training and apprenticeships. So, naturally, within that, there is a wide and diverse range of providers—so, universities, FE colleges, local authorities, private providers. So, there's a complex and diverse landscape of provision. The principle in the Bill is that the funding powers are designed to follow the type of education provided rather than the type of provider. So, that is the consistent principle in the Bill, and I think that's a really foundational point in the Bill, really; that drives an awful lot of the other benefits in the Bill.

161 But that coherent funding approach can't remove what are the fundamental differences between different types of tertiary education and how they are funded more broadly. Sorry, I'm not being very eloquent. But what that means in practice is, higher education courses, in the main, are funded by tuition fee income, they're demand led and driven, basically, by student choice. That's one kind of model. In relation to further education, that's funded, secured largely by way of grant funding, and, if you're in the apprenticeship space, apprentices need to be in employment. So there is a range of different ways in which different parts of the sector are structured. And recognising that, the commission's powers are, I think, as coherent as it's possible to be in recognising those different models, because they have to operate within one common funding structure. And I think that's where the integration and the coherence and the collaboration come from. So, that's on the funding side of things.

162 On the regulatory side of things, the policy intention is that, initially, only HE providers will be required to register with the commission, and then there'll be, obviously, conditions of registration around quality, around governance, around financial sustainability, around learner protection. In the FE space, the regulatory mechanism is different, because the funding mechanism is different. So, in that space, the commission is able to impose terms and conditions on the funding, which also includes requirements around financial assurance and quality and so on. So, the mechanism for the regulatory oversight may be different, even though the overarching policy context is the same.

Ken Skates MS 11:09:28

163 Okay. Thanks. Can I just then ask, on a specific point, what the rationale is for only extending freedom of speech and academic freedom to providers of higher education, and not including further education in this?

Jeremy Miles MS 11:09:39

164 Yes. Again, in a way, that's a different manifestation of the earlier point, which is, it's a single sector but with a diverse range of providers. And so—. I suppose I should start by saying both higher and further education institutions across the UK, actually, already have a duty to ensure that freedom of speech is secured for staff, students and speakers under the Education Act 1986. So, that's the kind of base level, if you like, of requirement in all parts of the UK, I think. So, we as a Government believe very strongly in the principle of academic freedom and free speech across the education system, and are generally assured that that is being upheld.

165 In relation to academic freedom specifically, stakeholders in their consultation responses asked us to improve, if you like, the provisions in the Bill in this space, which we've done. The protections of academic freedom for higher education providers really reflect the fact that HE institutions have the freedom, if you like, to determine the content, the teaching, assessment, admissions, appointment of academic staff—all of those fundamental principles and building blocks of HE. That operates very differently in FE, where there's a curriculum, there are Government funding decisions, teaching staff are regulated by the Education Workforce Council. So, I think academic freedom would be slightly incongruous with some of those approaches. So, I think it's really about—. It's about the diversity of provider and also the expectations that we have of different parts of the sector.

Ken Skates MS 11:11:29

166 Okay, thank you. An incentive for universities to apply for registration is likely to be that their students will have access to higher levels of tuition fee support. The student support regulations are therefore a key component of the future system, but they're made under a different Act. Why weren't the powers consolidated into this Bill?

Jeremy Miles MS 11:11:56

167 So, that's an important point. There are two answers to that question, really. One is that it's not principally a consolidation Bill; it's principally a reform Bill. That isn't the main answer, but just to say that. But the real issue, I think, in substantive terms is this: so, the student loan book is essentially managed in a set of relationships between Welsh Government and the Treasury in Westminster. That's the way in which the loan book is managed. And you couldn't, I think, substitute the commission, for example, for the Welsh Government in that relationship.

168 But I think, more fundamentally even than that, the commission will have a very, very substantial budget indeed, but the Welsh Government, obviously, is the body responsible for public finances in Wales at large, and so it will decide how much funding is provided to the commission, obviously. If the commission had powers over student finance and eligibility criteria in that space, that would extend beyond that principle, effectively, and the commission itself would, I think, be able to decide on the extent of the public funding available to the higher education system itself, which I think would be a very different scenario, and I think would have, potentially, much broader public finance implications, and I don't think that would be appropriate.

Ken Skates MS 11:13:19

169 Thank you. It's a complex area. Thanks for your answer on that.

170 I'm just going to turn to some of the concerns from stakeholders and also from HEFCW. What are your views on the concerns of some that the Bill is too detailed, too prescriptive, and therefore risks preventing it from being futureproofed?

Jeremy Miles MS 11:13:39

171 I don't think that is the case. As with all these things, and I know as you know, there is a balance to be struck, isn't there, between being prescriptive and providing flexibility. So, I anticipate, in this space, that regulators probably would argue for more flexibility, and the regulated probably would argue for more restriction. So, that's where you would expect the starting point for this discussion to be. But we have been alert to this during the consultation. So, there's a clear theme in consultation around the access and opportunity plans—currently, the version of that is the fee and access plans—and we heard a lot in consultation about those being too prescriptive, too bureaucratic and so on. So, that's come out of the consultation. And I think, in any number of ways, really, whether it's about registration or about outcome agreements—we touched on that earlier—that is a principle by which you can link strategy to implementation, but how that looks will definitely be co-constructed between the commission and the sector. And so I think there's quite a lot of room for flexibility and evolution in there, for example.

Ken Skates MS 11:14:49

172 Just finally from me, Chair, HEFCW. Minister, you'll be aware that HEFCW believe that the intervention powers that they have under 2015 legislation are very difficult to use in practice. First of all, would you agree with them? And then, consequent to this, how does the Bill address HEFCW's concerns? How are the intervention powers different from the Higher Education (Wales) Act 2015?

Jeremy Miles MS 11:15:19

173 I might ask NR to help us on some of the detail of this, if I may, but the commission will have a recourse to a range of interventions to deal with situations where institutions are either failing to comply or have failed to comply with ongoing requirements. But maybe I can ask NR to help us with a little bit more of perhaps the weaknesses that HEFCW have identified in the current arrangements.

NR

11:15:44

174 Yes. So, I think what you're referring to there is some of the concerns HEFCW had about what they can do within the current regulatory framework in terms of intervening with institutions in respect of quality, specifically. There are a few powers around direction or advice and reviews on quality, and also in respect of compliance with fee and access plans, which cover quite a specific set of things within the plans. I think HEFCW's concern was that the ultimate regulatory step under those plans is, effectively, to reject a plan, which would be catastrophic for an institution and not particularly constructive to good regulation.

175 I think what we've sought to do in the Bill is to enable a more staged approach that the commission could take, and one of the advantages of having the register as the main regulatory framework is that it can cover a much broader range of regulatory matters of quality, governance, finance, equal opportunities, but also the learner engagement code, and then there might be other regulatory or registration conditions in the future. And what the commission can do is take a staged approach. So, firstly, if it had a concern, it could issue advice to an institution, which an institution would have to have regard to. That might be the starting. It could initiate a more detailed review of that provider in respect of its regulatory concern, and that could, again, be quite—. I think that would be quite constructive. It could, ultimately, issue directions to those providers if it felt there was a really urgent need for regulatory action. And then you have the ultimate, sort of nuclear option of deregistration, which we would hope would only be used in the very last resort, if ever. So, we think that that staged approach, across the suite of registration conditions, that the commission can take, is a bit more flexible than the current arrangements.

176 And then I should also say that we also have the outcome agreement provision. The outcome agreement is, effectively, terms and conditions of funding, but that provides another means for the commission to take regulatory action with providers that it funds. So, combined, we think this would, hopefully, give the commission appropriate flexibility, but also provides transparency about what the commission's powers vis-à-vis providers are, and we hope that that strikes the right balance.

Ken Skates MS 11:18:05

177 Thank you. Thanks, Chair. That's all from me.

Jayne Bryant MS 11:18:08

178 Thank you, Ken. Sioned, did you want to come in on this point?

Sioned Williams MS 11:18:13

179 Ie, diolch, Cadeirydd. Jest yn mynd yn ôl ychydig bach i'r hyn rydych chi wedi'i ddisgrifio fanna yn eich atebion i Ken Skates o ran cymhlethdod ac amrywiaeth y dirwedd o ran darpariaeth, os ydyw i'n deall yn iawn o beth rydych chi wedi'i ddweud y bore yma, un o amcanion allweddol y Bil yw sicrhau chwarae teg a chae chwarae gwastad ar draws darparwyr. Felly, eisiau holi ydyw i, efallai, ynglŷn â sicrhau y gofynion ynghylch statws elusennol, ymgysylltu â dysgwyr, llais y dysgwyr ac ansawdd: ydyn nhw'n mynd i fod yr un mor berthnasol i bob darparwr addysg uwch, pan fo'r Bil yn teimlo fel ei fod e'n rheoleiddio yn ôl y math o ddarpariaeth yn hytrach na darparwr? Os allwch chi roi bach o fanylder i fi jest ar hynny.

Yes, thank you, Chair. Just going back a little bit to what you've described there in your responses to Ken Skates in terms of the complexity and diversity of the landscape in terms of provision, if I understand what you said correctly, one of the key objectives of the Bill is to ensure fair play and a level playing field across providers. So, I just wanted to ask, perhaps, about ensuring the requirements in terms of charitable status, consulting the student voice and quality: are they going to be just as relevant for each provider in terms of HE, when the Bill responds to the regulation according to the kind of provision rather than provider? Could you give a bit more detail on that, please?

Jeremy Miles MS 11:19:06

180 Ie, jest i ategu beth roeddem ni'n sôn amdano yn gynharach, mae hyn yn adlewyrchu y ffyrdd sy'n bodoli o fewn y system ehangach o ariannu darparwyr yn y sector yn gyffredinol. Felly, os ydych chi yn brifysgol, incwm y ffioedd dysgu yw un o'r prif ffyrdd rydych chi'n cael eich ariannu. Felly, mae gennym ni, yn y cyd-destun hwnnw, y gofrestr, sy'n golygu eich bod chi'n gorfod bod ar y gofrestr er mwyn gallu manteisio ar hynny. Mae bodoli ar y gofrestr yn cynnig gateway rheoleiddio, onid yw e—bod gennych chi wedyn gyfle i allu rheoleiddio, fel y mae'r Bil yn caniatáu'r comisiwn ei wneud.

181 Yn y maes addysg bellach, gan mai grantiau, ar y cyfan, yw'r brif ffynhonnell ariannol, mae cyfle drwy'r broses grantiau i allu darparu gofynion penodol. Wrth gwrs, bydd rhai darparwyr sydd, ar y cyfan, yn ddarparwyr addysg bellach hefyd yn cynnig rhai cyrsiau, neu elfennau o gyrsiau addysg uwch, a bydd gofyn i'r rheini hefyd gofrestru er mwyn gallu cael mynediad at y ffynhonnell arian sy'n dod yn sgîl hynny. Felly, mae jest yn dibynnu ar beth yw'r brif ffynhonnell ariannu, ac mae hynny'n sail wedyn i'r dewisiadau ŷch chi'n eu gwneud o ran rheoleiddio.

Yes, just to echo what I said earlier, this reflects the ways that exist within the broader system of funding providers in the sector generally. So, if you're a university, income from tuition fees is one of the main ways in which you are funded. So, we have, in this context, the register, which means that you have to be registered in order to take advantage of that. Existing on the register offers a regulatory gateway—you then have an opportunity to regulate, and the Bill allows the commission to do that.

In the FE sector, given that grants, on the whole, are the main source of funding, there is an opportunity through the grants process to provide specific requirements. Of course, some providers who are, on the whole, FE providers will also offer some courses, or course elements in the HE sector, and they will have to register as well in order to have access to the funding streams that come in the wake of that. So, it just depends on what the main source of funding is, and that's the basis for your decisions in terms of regulation.

Jayne Bryant MS 11:20:38

182 Okay. Thank you, Sioned. We'll now move on to questions from James Evans. James.

James Evans MS 11:20:44

183 Thank you, Chair, and good morning, Minister, good to see you. I've got two questions, Minister, one on lifelong learning and one on collaboration. So, on lifelong learning, Minister, the Bill talks about the importance of lifelong learning, and that's right, but in the Bill, it does only say that the commission needs to secure reasonable facilities for those over the age of 19, and not proper facilities. So, on the face of it, those who are over 19 are probably going to get a lesser standard of education and opportunities. So, how is this in line with the ambition of your Bill for lifelong learning?

Jeremy Miles MS 11:21:24

184 Well, this is really, from my point of view, a very, very important part of the Bill, and I'm really pleased that the first strategic duty of the Bill, when you read it, is one that requires the commission to promote lifelong learning. I've spoken many times elsewhere about the importance of Wales being a nation that provides people with a second chance, and I think this is pretty fundamental to that. It reflects what I know we're all very proud of, which is our tradition of adult education in Wales, so I think it's a big step to put that into law in the way that the Bill does, and I was very keen to make sure that, when I approached the Bill afresh, it had that focus in it.

185 In line with our commitment to expand lifelong learning, the Bill actually provides not solely for the requirement to provide reasonable facilities, which is the existing provision in law post 19, by the way, but extends the requirement to provide proper facilities, which is a higher level of obligation, to those post 19 who are eligible learners, and the definition of 'eligible persons' is set out in regulations. These are the regulations I was talking about at the very start. And when I was talking to you about the report that the Wales Centre for Public Policy is providing for us, and the regulations defining those—sorry, just to belabour the point, but just so we're clear what this does, the regulations that define eligible persons—is the mechanism in the Bill that allows the progressive expansion of lifelong learning for the first time. So, it isn't simply 'reasonable facilities', it's broader than that.

186 So, the question you might—. I think implicit in your point is: if there are proper facilities between 16 and 19, why are there not proper facilities for everybody post 19? The starting point for that is that the cohort of people post 19 is, obviously, much larger, and so there needs to be a progressive expansion of lifelong learning through that age range, and that's what the regulations provide us with the flexibility to do. I think we will want, together, to return to the substance of that while we have the benefit of the report from WCPP. It'll be published before the end of the year and I'm sure the committee will have strong views on it.

James Evans MS 11:23:47

187 Thank you for that, Minister. My second point is on collaboration. So, commission consent is required before Welsh providers can share commission funding with collaborating bodies. Welsh Ministers can set regulations regarding giving consent. Is this a new requirement, and to what extent could it be an additional barrier to collaboration when, obviously, one of the big challenges is to try and drive collaboration between people?

Jeremy Miles MS 11:24:15

188 Well, I think, perhaps with the term 'collaborating bodies', anything that seems like a consent requirement might look like a barrier, but actually, in substance, it extends collaboration in the following way: the commission will not have a direct regulatory or funding relationship with collaborating bodies. They are bodies who are collaborating with other bodies who have that direct relationship—so, they're once removed, if you like, from that relationship to the commission. And there might well be, how we'd anticipate, collaborating bodies working with registered HE providers, for example, and others. So, what the mechanism provides is an extension of that funding beyond the direct relationship into third parties, so it enhances that ability to collaborate, but I'm sure you would all expect that in the absence of that direct relationship between the commission and that third party, there is some mechanism for that to be consented, just on the basis of value for money and public funding principles, and that is what the Bill provides.

James Evans MS 11:25:26

189 Thank you, Chair. Thank you, Minister.

Jayne Bryant MS 11:25:27

190 Thank you, James. Moving on now to some questions around quality assurance, Laura Anne Jones. Laura.

Laura Anne Jones MS 11:25:36

191 Thank you, Chair, and morning, Minister. I just wanted to talk to you about quality assurance and Estyn, and the fact that the Bill doesn't provide for a single cohesive quality assurance system that can be built by the commission itself, and perhaps that it's too prescriptive regarding how the quality assurance system will work, in particular in relation to Estyn. The Bill makes provision for the quality assurance framework, but maintains the two current, separate quality assurance mechanisms of reviews of higher education and the inspection of Estyn of other post-16 provision. Welsh Government originally consulted on the potential of one quality assurance body for the whole tertiary sector, so what is the rationale, Minister, for the approach taken in the Bill to the quality assurance system, because that's obviously of considerable interest to universities who have argued for the need to align with the UK-wide quality assurance system and retaining the role of the quality assurance agency? Thank you.

Jeremy Miles MS 11:26:40

192 So, if I may, I'll just answer some of the specific points and then take a step back to look at how we got to this point, really. So, on the specific questions, there are detailed provisions in the Bill around the role of Estyn in particular. The need for that is to ensure that Estyn is able to operate within the law, basically, so it provides a statutory underpinning for the role of Estyn in relation to the provision of, for example, FE education, and, obviously, officials have been working closely with Estyn around what they would need in order to be able to discharge those responsibilities. So, that's why those are set out, I think, reasonably fully on the face of the Bill.

193 And on the other point around the existence of more than one approach to quality assurance and more than one body, if you like, the Bill delineates the responsibilities of Estyn and the designated body for HE provision, again, by type of provision, rather than by provider. So, just as the funding does that, so does the quality assurance. So, there will already be, for example, FE colleges in Wales providing higher education who are inspected both by Estyn and through the HE quality assurance processes, so that is already a feature.

194 I think how the Bill takes that forward into a more coherent whole is that the Bill requires Estyn, for example, to agree its plan of inspections for provision within the compass of the commission's remit, obviously, agreeing that with the commission on the one hand. And obviously, the designated body is actually doing the quality assessment on the commission's behalf, so the root of all of this, really, is the commission's oversight of quality assurance generally.

195 As you say, we did consult on a different approach, but, essentially, we've listened to stakeholder feedback in relation to this area, and as I was mentioning earlier, the approach is evolutionary, if you like, and we absolutely recognise the existing strengths in the role that Estyn plays, that QAA plays, but I think a holistic understanding, which the commission will have, both in terms of its commissioning arrangements with Estyn and its designation arrangements with the higher education body, I think the fact that all comes back to the commission allows that coherent picture of quality right across the sector, regardless of the nature of the provider, if you like. I think it's also important to say, by the way, that HE in Wales will, as a consequence of this, remain part of the UK-wide quality assurance infrastructure, although this will enable greater alignment with Welsh priorities, so, I myself think that strikes the right balance.

Laura Anne Jones MS 11:29:43

196 Minister, on that, on the Estyn thing, isn't the Bill effectively replicating the Estyn duties that are already included in existing legislation?

Jeremy Miles MS 11:29:54

197 Well, as I say, some of it is about that, isn't it? We are building on the strength that Estyn delivers in that space now. And, as I was saying, it's an evolution from that. We've listened to what stakeholders have told us about that, but there's still strength in the existing system.

Laura Anne Jones MS 11:30:09

198 Thank you, Minister. What is the rationale for the commission to be able to address the quality of education for any tertiary education provider in Wales, even if they're not registered or funded or connected in any way with the commission? And to what extent do you believe this is proportionate?

Jeremy Miles MS 11:30:26

199 Well, I do think it's proportionate. I think, on the question of quality, you could imagine public interest circumstances in this space, it seems to me, in there being some external inspection of provision that may be beyond the regulatory remit of Estyn directly, or the funding remit of Estyn directly. So, there are circumstances where providers who are not within the compass of Estyn, if they're not providing quality education, might have a reputational impact on the system at large. So, it's to deal with those, I think rare, circumstances, hopefully, but there may be public interest reasons for that to be justified.

Laura Anne Jones MS 11:31:06

200 Minister, just lastly, the post-legislative scrutiny of the Higher Education (Wales) Act 2015 found that there were, or could be, instances of publicly funded bodies delivering higher education provision that the Higher Education Funding Council for Wales had no legal powers of oversight over. To what extent are you content that this won't be the case in this Bill and that there will be oversight of all publicly funded tertiary education?

Jeremy Miles MS 11:31:30

201 Well, I can give the committee the assurance that I'm content that all publicly funded tertiary education providers in Wales will be subject to oversight through the Bill. So, we have the register, which provides for higher education providers who want designation for Welsh Government student support, and we've got providers in receipt of any other form of grant funding, for example FE institutions, who can be regulated via the terms and conditions of that funding. So, I'm happy to give the committee the assurance that I'm content with that.

Laura Anne Jones MS 11:32:03

202 Thanks, Chair.

Jayne Bryant MS 11:32:04

203 Okay, thank you, Laura. We'll now move on to some questions around apprenticeships and sixth forms from Ken Skates. Ken.

Ken Skates MS 11:32:13

204 Thanks, Chair. With regard to apprenticeships and sixth forms, first of all, the Welsh Government obviously wants apprenticeships to be more responsive to employer demand. The Bill, though, is silent on any mechanisms and structures to help inform or resource the development and review of frameworks. Can you just outline the rationale for this?

Jeremy Miles MS 11:32:35

205 Well, the current—. As I know that you know very well, the current arrangements for delivering on apprenticeships is clunky, if I can put it like that, and it's based on legislation that we know is outdated, really. So, the ambition in the Bill in relation to apprenticeships is to, again, strike the balance, as we are seeking to do in so many of these policy areas, between maintaining the link to national economic priorities on the one hand but enabling the provision and design of frameworks to be nimble, flexible and engaging stakeholders fully on the other hand, so that we can make sure that national priorities are nimbly delivered in a responsive way. That's the underpinning principle in the reforms that the Bill brings forward. And the commission therefore is going to be able to review and implement its own processes and its own mechanisms for developing and for reviewing the frameworks. I anticipate that framework developers would be commissioned to refresh frameworks and there'd be a review cycle for that, and there'd be a role—a significant role—for stakeholders as part of that to help in the process of reviewing development. So, in a sense, on the earlier questions about 'Isn't the Bill too prescriptive?', the point here is to allow that to develop flexibly.

Ken Skates MS 11:34:04

206 Thank you, Minister. And just regarding sixth forms, sixth forms are going to be within the scope of the Bill. What has the feedback been from that sector?

Jeremy Miles MS 11:34:13

207 I think the sector has been broadly supportive of the proposals. So, I mentioned at the very very start that we'd been inspired by what's happened elsewhere in the world, in particular for example New Zealand. They haven't, I think I'm right in saying, included the equivalent of sixth forms in their provision, so we are doing something new in this space. I think the sector has been broadly supportive of the proposal. I think school leaders and college principals recognise that there is an opportunity here to both promote a more coherent workforce development, professional learning and best practice, but also to make a reality of that journey that we all want learners to be able to be on, which is a seamless journey between pre and post 16, and I think including maintained sixth forms within the legislation brings it within that kind of coherent ambit then. I think that will absolutely foster that collegiate way of working that I think is a key ingredient to that seamless learner journey.

Ken Skates MS 11:35:24

208 Thank you. And how confident are you that changes in the Bill regarding the specification of apprenticeship standards for Wales will be enough to bring about a more responsive approach?

209 I am confident that we've struck the right balance, really. I was saying a little bit earlier about how clunky the current system is, and, under the Bill, frameworks will have to comply with the core requirements in the Welsh apprenticeship specification. That will be issued by Welsh Ministers, obviously following consultation with the commission and with other stakeholders, and that is the vehicle, if you like—the specification is the vehicle—for Welsh Ministers to be able to articulate those cross-cutting policy priorities, really, to make sure that we are reflecting the changing economic circumstances. So, I think it strikes that balance.

210 Okay. And qualifications obviously are a part of apprenticeship frameworks. They're regulated by Qualifications Wales, and they're created using, usually, private awarding bodies. How does the Bill improve the various interfaces between employers, awarding bodies, the commission and Qualifications Wales?

Jeremy Miles MS 11:36:34

211 We would expect the commission to work closely with Qualifications Wales and the awarding bodies in developing the frameworks for apprenticeships, for example, but perhaps, Chair, with your indulgence, we could write to the committee and give a little bit more colour about the relationship that we envisage might be possible.

Jayne Bryant MS 11:36:51

212 That would be really helpful.

Ken Skates MS 11:36:53

213 Yes, that would be very helpful. Thank you. Sorry, Chair, I'm just conscious of time, but just one last question on apprenticeships: what do the funding powers for apprenticeships, as set out in this legislation, mean for the current contractual arrangements, and what's the long-term future for the apprenticeship procurement exercise under this Bill?

Jeremy Miles MS 11:37:12

214 Okay. We've done a procurement exercise for apprenticeships to be delivered at levels 2 to 5. The contract for that was commenced in the summer, at the beginning of August, and it extends for the next four years. So, that's one aspect of the future landscape over the next few years. Funding for universities for degree apprenticeships are currently via a grant, but, clearly, universities are autonomous organisations, so that and the fact that the new contract is going to be in place now for the first four years means that, in the short term at least, it'll be difficult to align. But, just to provide context for that, by 2025, which is the four-year period, that will be probably at the end of the first academic year in which the commission's operations are going to be fully felt, if you like, and so the contract will be coming to an end very early in the operational life of the new commission. So, it will provide an opportunity at that point.

Ken Skates MS 11:38:20

215 Excellent. Thanks, Minister. Thanks, Chair.

Jayne Bryant MS 11:38:24

216 Okay, thank you, Ken. I'll just bring in James Evans on that same subject. James.

James Evans MS 11:38:28

217 Just really quickly, Minister, on apprenticeships, your counterpart in Cabinet, the economy Minister, brought forward the young person's guarantee this week, and I just want to know how you're working together to make sure that this Bill works hand in glove with what your colleague wants to do, to make sure you're all singing off the same hymn sheet in Government and there's no silo working between departments.

Jeremy Miles MS 11:38:51

218 The economy Minister and I work very closely together. The young person's guarantee is one example of that. Clearly, it has a dimension that is around education, and it has a dimension that is around training and also about employment, so that can only be delivered with the kind of joined-up working that we already have. But I think, more broadly than that, if you look at the employability plan that Vaughan Gething has announced, the principles in that align very nicely and very clearly, I think, with the principles in the vision that we have on the face of this Bill. So, that doesn't happen by accident; that's the product of a lot of co-design and joint working, and I can assure the Member I agree with him that that is the only way we can deliver on these objectives.

James Evans MS 11:39:36

219 Okay, thank you.

Jayne Bryant MS 11:39:37

220 Moving on now to Sioned Williams. Sioned.

Sioned Williams MS 11:39:44

221 Diolch, Cadeirydd. Dwi eisiau sôn tipyn bach i ddechrau ynglŷn â darpariaeth cyfrwng Cymraeg. Beth fydd rôl y Coleg Cymraeg Cenedlaethol mewn addysg drydyddol, a sut bydd y comisiwn a'r coleg yn rhyngweithio'n ymarferol? Wrth gwrs, rwy'n croesawu'r ffaith bod y Bil addysg yma yn gosod dyletswyddau ar y comisiwn mewn perthynas â'r Gymraeg, ond ydy disgwyl bod y comisiwn yn cymryd pob cam rhesymol i ateb galw rhesymol, sef yr hyn mae e'n dweud ar dudalen 3 y Bil, yn mynd yn ddigon pell, ŷch chi'n credu, o ystyried yr angen i greu miliwn o siaradwyr Cymraeg erbyn 2050? Allwch chi gynnig eglurder, os gwelwch yn dda, ar y berthynas rhwng y comisiwn newydd a'r coleg Cymraeg, gan gydnabod bod gennym gorff cenedlaethol ac annibynnol yng Nghymru sydd yn meddu ar gryn arbenigedd yn y maes hwn ac eisoes yn gyfrifol am hyrwyddo a chynyddu darpariaeth Gymraeg a dwyieithog yn y sector ôl-orfodol yng Nghymru? Diolch.

Thank you, Chair. I wanted to talk a little bit, initially, about Welsh-medium provision. What will the role of the Coleg Cymraeg Cenedlaethol be in tertiary education, and how will the commission and the *coleg* interact in practice? Of course, I welcome the fact that this Bill sets duties on the commission with regard to the Welsh language, but is there an expectation that the commission will take every reasonable step to meet reasonable demand, which is what it says on page 3 of the Bill? Does that go far enough, do you think, considering the need to create a million Welsh speakers by 2050? So, could you provide clarity, please, on the relationship between the new commission and the *coleg Cymraeg*, acknowledging that we do have a national independent body in Wales that has a great deal of expertise in this field and is already responsible for promoting and increasing Welsh-medium and bilingual provision in the post-compulsory sector in Wales? Thank you.

Jeremy Miles MS 11:40:46

222 Wel, oherwydd y cyfrifoldebau ehangach hynny yr oeddech chi'n sôn amdany'n nhw sydd ar waith eisoes ac wedi bod am flynyddoedd, wrth gwrs, dyna pam mae cyfrifoldebau'r Coleg Cymraeg Cenedlaethol yn ehangach, mewn un ffordd, na chyfrifoldeb y comisiwn. Mae'r coleg wedi'i sefydlu i ddarparu trosolwg annibynnol, cynllunio strategol, rheolaeth, cefnogaeth ac ati, ac mae ei *remit* wedi cael ei ehangu yn ddiweddar, ac mae'r rhaglen waith yn sôn am y posibilrwydd o ehangu pellach fyth a chreu sail statudol i'r coleg. Felly, mae angen i'r comisiwn a'r coleg weithio ar y cyd yn strategol ynglŷn â darparu addysg ôl-16 yn y Gymraeg. Mae'r Bil yn creu'r hyblygrwydd i alluogi hynny i ddigwydd mewn ffordd sydd yn arloesol, byddwn i'n dweud, ac sydd yn hyblyg iawn. Mae hynny'n wir gyda'r berthynas â'r coleg, a hefyd yn wir gyda'r berthynas rhwng y comisiwn a'r ganolfan genedlaethol, er enghraifft. So, mae amryw o ddarparwyr yn benodol ym maes y Gymraeg sydd yn gwneud cyfraniad ehangach, os hoffwch chi, i'r nod y gwnaethoch chi sôn amdano yn y cwestiwn ynglŷn â Chymraeg 2050. Felly, mae'r berthynas yn mynd i fod yn un bwysig iawn.

Well, because of those broader responsibilities that you mentioned, and the things that are already in place, and have been for years, that's why the responsibilities of the *coleg Cymraeg* are more broad-ranging, in one way, than the responsibilities of the commission. The *coleg* was created to provide independent oversight, strategic plans and management and so forth, and its remit has been broadened recently, and the programme of work talks about the possibility of further expansion and creating a statutory basis for the *coleg*. So, the commission and the *coleg* need to work strategically together to provide post-16 education through the medium of Welsh, and the Bill provides the flexibility to allow that to happen in a way that is innovative, I would say, and which is very flexible. That's true of the relationship with the *coleg*, and it's also true of the relationship between the commission and the National Centre for Learning Welsh. So, there are a variety of providers specifically in the field of Welsh-medium provision that make a broader contribution, if you like, to the aim that you mentioned in the question as regards Cymraeg 2050. So, the relationship is going to be very important.

Sioned Williams MS 11:42:13

223 Gwnaethoch chi gyfeirio yn fanna at yr eithriadau yma yn y Bil ar gyfer pŵer Gweinidogion ynghylch cyllido a sicrhau'r ddarpariaeth cyfrwng Cymraeg yma. I ba raddau y gallai'r rhain rwystro'r comisiwn rhag cyflawni ei ddyletswyddau strategol ac amcanion ei gynllun strategol mewn perthynas â darpariaeth cyfrwng Cymraeg?

You referred there to these carve-outs in the Bill for Welsh Ministers' powers around funding and securing Welsh-medium provision. So, to what extent might these hinder the commission's abilities to deliver its strategic duties and its strategic plan objectives in relation to Welsh-medium provision?

Jeremy Miles MS 11:42:39

- 224 Dwi ddim yn credu y bydd e'n gyfyngiad. Mae dwy elfen, fwy neu lai, yn hyn o beth, hynny yw y gallu gan Weinidogion Cymru i ddarparu ffynhonnell arian i'r comisiwn gyda thermâu penodol o ran y Gymraeg. Dyna un elfen o hyn. A'r ail elfen yw'r gallu i barhau i ariannu'r coleg Cymraeg. Oherwydd y cyfraniad y gwnaethoch chi sôn amdano yn eich cwestiwn blaenorol i'r strategaeth iaith ehangach, mae'n bwysig bod y pwerau hynny yn parhau. Ond, fel gwnaethoch chi sôn, mae cyfrifoldeb penodol strategol ar y comisiwn yn hyn o beth, a hefyd, rwy'n sicrhau eich bod chi'n gwybod, yn y memorandwm esboniadol mae amryw o enghreifftiau o sut allai hyn edrych ar lawr gwlad fel canlyniad i ateb gofynion y ddyletswydd benodol honno. Ond mae'n gwbl angenrheidiol, wrth gwrs, fod y comisiwn yn cydweithio â'r coleg a'r ganolfan genedlaethol er mwyn sicrhau hynny.

I don't think it will hinder it. There are two elements in this, the first of which is the ability of Welsh Ministers to provide a funding stream to the commission with specific terms related to Welsh-medium provision. That's one element. The second element is the ability to continue to fund the *coleg Cymraeg*. So, because of the contribution that you mentioned in your previous question to the broader language strategy, it is important that those powers continue. But, as you mentioned, there is a strategic responsibility on the commission in this regard, and, as I'm sure you know, there are various examples in the explanatory memorandum of how this could look in practice as a result of meeting the specific duties. But it's vital, of course, that the commission does collaborate with the *coleg* and the national centre in order to ensure that this is secured.

Sioned Williams MS 11:43:47

- 225 Ond sut fydd hynny'n cael ei gyflawni? Dyna'r cwestiwn, yntefe? O ran y pwerau fydd gan Weinidogion, a'r ffordd o gyllido'r ganolfan a'r coleg yn uniongyrchol, a wedyn y dyletswyddau ar y comisiwn i wireddu hyn, allwch chi roi bach mwy o fanylder i ni am sut ŷch chi'n gweld y cyfan oll yn rhyngweithio yn rheoliadol?

But how is that going to be achieved? That's the question, isn't it? In terms of the powers that Ministers will have, and in terms of the way that the centre and the *coleg* are funded directly, and then the duties on the commission to achieve this, could you give us a bit more detail about how you see all of that interacting in a regulatory way?

Jeremy Miles MS 11:44:20

- 226 Dwi ddim yn gweld bod tensiwn rheoliadol yn hynny. Beth rŷn ni'n creu yw dyletswydd newydd, fel petai, i fynd ynghyd â'r pwerau sydd eisoes yn bodoli ac eisoes ar waith. Mae gyda ni'r ffynhonnell i ariannu'r coleg Cymraeg, mae gyda ni'r ffynhonnell i ariannu HEFCW, ac rŷn ni'n creu dyletswydd ffres, os hoffwch chi, i ymestyn mewn amryw o ffyrdd ar wyneb y Mesur y ddarpariaeth Gymraeg. Bydd hyn yn edrych yn wahanol. Os ydych chi'n edrych ar beth yw'r allbwn o'r hyn, bydd hyn yn edrych yn wahanol, rwy'n credu, mewn rhannau gwahanol o'r sector.
- 227 Felly, os hoffwch chi, ar un pegwn, os gallaf i ddefnyddio'r derminoleg honno, mae gyda chi, efallai, chweched dosbarth mewn ysgol cyfrwng Cymraeg mewn cymuned Gymraeg, ble mae'r ddarpariaeth, y gweithlu, yr adnoddau a'r cymwysterau i gyd yn cael eu darparu trwy gyfrwng y Gymraeg. Felly, dyna un senario. Ar y pegwn arall, mae gyda chi, efallai, fwy o amrywiaeth, os hoffwch chi, er enghraifft ym maes addysg bellach. Mae rhai yn gweini cymunedau sydd â'r rhan fwyaf yn siarad Cymraeg neu'n ddwyieithog. Mae rhai, efallai, lle mae'r defnydd o'r Gymraeg yn lleol ychydig yn llai, a buasech chi'n disgwyl—ac mae hyn yn digwydd ar lawr gwlad—fod y ddarpariaeth yn fwy anghytbwys efallai mewn rhannau o'r sector. Felly, mae'n dibynnu ar ble mae'r man cychwyn, os hoffwch chi, o ran y ffordd y bydd y ddyletswydd honno'n edrych ar lawr gwlad.

I don't see that there is a regulatory tension there. What we're creating is a new duty, as it were, to accompany the powers that already exist and are already in place. We have the funding stream for the *coleg Cymraeg*, and we have the funding stream for HEFCW, and we are creating a new duty, if you like, to extend in a variety of ways on the face of the Bill the Welsh-medium provision. This will look different. If you look at the output from this, it will look different, I think, in different parts of the sector.

So, on the one hand you have sixth forms in Welsh-medium schools in Welsh-speaking communities, where the provision, the workforce, the resources and qualifications et cetera are all provided through the medium of Welsh. So, that's one scenario. On the other hand, you have a greater variety, if you like, for example in FE. Some institutions serve communities that are predominantly Welsh speaking or bilingual, and there are some where the use of the Welsh language is less, and you'd expect—and this does happen in practice—that the provision would be more unbalanced in some parts of the sector. So, it does depend on where the starting point is, if you like, in terms of how that duty will look in practice.

Sioned Williams MS 11:45:59

- 228 Diolch. Y cwestiwn nesaf, efallai, yw sut mae'r Bil yn darparu ar gyfer pwerau a dull gweithredu cyson o ran darpariaeth cyfrwng Cymraeg ar draws y mathau hyn o ddarparwyr addysg drydyddol. A fydd yna wahaniaeth? Rŷch chi'n awgrymu efallai y bydd yna oherwydd y pwynt dechrau, ond a fydd yna wahaniaeth yn y modd mae darparwyr hyfforddiant preifat a darparwyr addysg uwch yn cael eu trin mewn perthynas â darpariaeth?

Thank you. The next question, perhaps, is how the Bill will provide for consistent powers and a consistent approach to Welsh-medium provision across these types of tertiary education providers. Will there be a difference? You suggest that there will be a difference because of that starting point that you mentioned, but will there be a difference in the way that private training providers and higher education providers are treated in respect of Welsh-medium provision?

Jeremy Miles MS 11:46:33

- 229 Byddwn i ddim yn disgwyl gweld mai sail y gwahaniaeth yw'r math o ddarparwr. Byddwn i'n gweld mai sail y gwahaniaeth yw'r ddarpariaeth; hynny yw, beth yw'r ddarpariaeth ar hyn o bryd, ydy hi'n ddigon da—os gallaf i ddefnyddio'r derminoleg law fer honno—ac os nad yw hi, o ran, er enghraifft, y ffynhonnell ariannu a'r telerau yng nghyd-destun hwnnw, beth mae'r comisiwn yn gwneud i yrru gwelliant yn hynny o beth? Felly, mae'r ddyletswydd yn gyson ond mae'r dull o'i gweithredu yn wahanol, a'r peth pwysig yw mai'r ddarpariaeth sy'n gyrru'r gwahaniaeth, nid pa fath o ddarparwr yw e.

I wouldn't expect to see the type of provider forming the basis of the difference. I would expect to see the difference arising from the provision; that is, what is the provision at present, is it good enough—if I can use that shorthand term—and if it's not good enough, for example, what, in relation to the funding source and the terms of that, is the commission doing to drive improvement? So, the duty is consistent but the implementation method is different, and the important thing is that it is the provision that drives the difference, not what kind of provider is involved.

Sioned Williams MS 11:47:20

- 230 Diolch, ac un cwestiwn i orffen, ar lais y dysgwyr. Fe godais i gyda chi yn y Siambr, os ŷch chi'n cofio, fod Undeb Cenedlaethol Myfyrwyr Cymru wedi galw am gynnwys llais y dysgwr yn adran fframwaith strategol y Bil ac iddo fod yn amod cofrestru. Os mai nod y Bil yw creu system sy'n canolbwyntio ar y dysgwr, pam mae e felly'n absennol o'r gyfres o ddyletswyddau strategol?

Thank you, and one further question to conclude, on learner voice. I raised with you in the Siambr, if you recall, the point that NUS Wales have called for the learner voice to be included in the strategic framework section of the Bill and for it to be a condition of registration. If the Bill's aim is to create a learner-focused system, why is it absent from the suite of strategic duties?

Jeremy Miles MS 11:47:49

231 Mae'r *learner engagement code* yn un o'r pethau arloesol yn y Bil sy'n cryfhau llais a gallu'r dysgwyr i fynd i'r afael â chael cynrychiolaeth ar draws y sector, a dyna'r ffordd hefyd i sicrhau, o ran y comisiwn, fod hynny'n digwydd mewn ffordd sydd yn cefnogi dysgwyr yn gyffredinol. Bydd cydymffurfio â gofynion y cod yn un o'r telerau fydd yn rhaid cytuno â nhw a'u hateb o ran cofrestru a hefyd o ran ariannu. Felly, bydd unrhyw ddarparwr ar y gofrestr sydd yn derbyn cefnogaeth ariannol trwy law'r comisiwn yn gorfod darparu sicrwydd bod dysgwyr yn cael llais. Ond rŷch chi'n iawn—ac fe wnaethoch chi sôn am hyn yn y Siambr—mae NUS Cymru wedi sôn am hyn yn uniongyrchol wrthyf i fel rhan o'r bwrdd gweithredu roeddwn i'n sôn amdano fe ar y cychwyn cyntaf. Felly, mae fy swyddogion wrthi'n trafod gyda'r NUS i ddeall mwy o fanylion am y consárn sydd gyda nhw, ac yn sicr fe fyddwn i'n croesawu ystyriaethau a barn y pwyllgor yn hyn o beth hefyd.

The learner engagement code is one of the innovative things in the Bill that strengthen the voice and ability of the learner to seek representation across the sector, and that's also the way to ensure, in terms of the commission, that that happens in a way that supports learners generally. Compliance with the requirements of the code will be one of the terms that will need to be agreed and met in terms of registration and in terms of funding. So, any provider on the register who receives financial support through the commission will have to provide assurance that learners have a voice. But you're right—and you mentioned this in the Chamber—NUS Cymru has mentioned this to me directly as part of the implementation board that I mentioned at the outset. So, my officials are now in discussion with the NUS to understand in further detail their concerns, and certainly I would welcome the deliberations and views of the committee on this issue as well.

Sioned Williams MS 11:49:06

232 Diolch, Cadeirydd.

Thank you, Chair.

Jayne Bryant MS 11:49:07

233 Thank you, Sioned. Thank you, Minister. I've just got a couple of further questions, Minister. Just going back to a point that James Evans raised earlier on the consent issue, there's no current contractual relationship between Welsh Government and apprenticeship subcontractors. Do main contractors currently need consent from Welsh Government to subcontract and pass on funding, and if not, what's the rationale for changing this?

Jeremy Miles MS 11:49:37

234 Chair, if I may—I try not to do this too much—I may write to you in relation to that. It's a point of detail that I don't have at the tip of my tongue at the moment, if that's okay.

Jayne Bryant MS 11:49:47

- 235 That's fine, Minister. I know you have a number of things to write to us on, so we'll look forward to that. That's not a problem. And just a final question from me, then, is: what's the rationale for maintaining the Learning and Skills Act 2000 local curriculum entitlements and Welsh Ministers' powers in relation to them? To what extent is this a barrier to creating a single, cohesive, lifelong system?

Jeremy Miles MS 11:50:16

- 236 I think we can distinguish between the powers that are going to the commission and the powers that Welsh Ministers are retaining. I think it's under the Learning and Skills (Wales) Measure 2009, which amended the 2000 Act, but it does amend the 2000 Act that you referred to, and that is, I think, the source of the distinction. The balance to be struck here is one in which Ministers retain the powers effectively in primary legislation to vary the learning domains, which are the key building blocks of that curriculum, but the delivery and design within that will be with the commission, effectively, so there's a blend of responsibilities, if you like. And the rationale behind that, of course, is to ensure that the tools are in the right place, if I can put it like that, to ensure that seamless curriculum journey pre 16 and post 16. I think the committee will know that Estyn is doing a piece of work at the moment in reviewing the post-16 curriculum, and that will provide a body of evidence that will enable us to look at the post-16 curriculum as well in this space.

Jayne Bryant MS 11:51:17

- 237 Thank you, Minister. I can see that no other Members of the committee have any further questions, so that's the end of the session. Thank you and your officials for joining us today and for answering our questions. A transcript will be sent to you for checking, and, as you've mentioned, there are some points that you'll be writing to us on. If there is anything further, we will write to you as well to clarify some other points, following our private meeting. We will now proceed into private session, as agreed under item 3.

Daeth rhan gyhoeddus y cyfarfod i ben am 11:51.

The public part of the meeting ended at 11:51.

Ailymgynullodd y pwyllgor yn gyhoeddus am 13:15.

The committee reconvened in public at 13:15.

7. Y Bil Addysg Drydyddol ac Ymchwil (Cymru)— sesiwn dystiolaeth 2

7. Tertiary Education and Research (Wales) Bill— evidence session 2

Jayne Bryant MS 13:15:18

238 Good afternoon and welcome to the continuation of the Children, Young People, and Education Committee. We are taking our second formal evidence session this afternoon on the Tertiary Education and Research (Wales) Bill. This is our session with representatives from the Higher Education Funding Council for Wales. You're very welcome, it's good to see you here. We have [NR] who is the chief executive of HEFCW, and [NR] deputy chief executive of HEFCW, the Higher Education Funding Council for Wales. So, welcome, everybody.

239 We'll move straight into questions. We've got quite a tight timescale again this afternoon. I'm just going to start around policy objectives. Can you briefly set out HEFCW's role and involvement in both the Hazelkorn report and the drafting of this Bill, please?

Name Redacted 13:16:18

240 Certainly. Thank you for the invitation. Just a caveat before we start: we're still ploughing our way through the Bill and the associated documentation, so there might well be things that we have missed, which we will comment on and then regret saying. But we are planning to submit to your call for evidence and that will be a submission that is cleared by our full council, as well; we've cleared that with them this morning.

241 In terms of us and our role in all of this, obviously, we're a Welsh Government-sponsored body, subject to all sorts of legislation. We're not in the higher education sector; we don't represent them, we fund and we regulate them and we influence them to try to deliver Welsh Government priorities. And just as we're not the sector, neither are we the Government, of course. We're funded by them, we have a remit from them, but we are independent of Government, which allows our expertise to be deployed over a long term for the benefit of Wales. And we have a good track record. When we advocated for the establishment of a new arm's-length body, it was grounded for us in a clear sense of wanting to better meet the needs of Wales; it wasn't a reflection of perceived inadequacies.

242 In terms of our role in this, we have been supportive of these proposals since we submitted our views to Ellen Hazelkorn some six years ago, and you've got that in paragraph 2.8 of our written submission. So, we come at this as an organisation that has been an arm's-length funder and regulator in Wales for nearly 30 years. This is our day job, and without wishing to sound in any way arrogant, we do have expertise to offer.

243 In the period between the publication of the Hazelkorn report and the publication by Welsh Government of the draft legislation about this time last year, we were engaged with only as an external stakeholder, in common with many other organisations, and we had very limited opportunity to bring our expertise to bear. In our response to the draft legislation last December, we expressed disappointment that the legislation, as then drafted, represented what we thought was a missed opportunity, and I'm afraid that that remains the case for us, which is putting us in a slightly uncomfortable position giving evidence here this afternoon, of course.

Jayne Bryant MS 13:18:49

244 Thank you for your opening remarks there and the answer. Just moving on to the point you raised around the missed opportunities, in your evidence to the committee, you question the evidence base for the use of outreach agreements in the Bill to deliver benefits. Can you expand on this point, please?

Name Redacted 13:19:08

245 Yes, certainly. The explanatory memorandum published with the Bill cites that a key advantage of the proposed approach on outcome agreements would be the ability of the commission to take a whole-system view—and I quote—to

246 'promote coherence across the tertiary education sector as whole.'

247 It's not clear to us how the outcome agreement approach would achieve this. We currently operate fee and access plans, which are a similar tool—they're not the same, but they're similar—and we've given evidence in the past to the post-legislative scrutiny of the 2015 HE Wales Act that the fee and access plans have a range of limitations, the most significant of which is the time that has to elapse between a provider developing a plan and the point at which we can see whether or not it's been delivered. That is years—four years or more, at times—because they have to develop it well in advance of the year they're going to implement it, and we have to wait until the data is available afterwards to see what's happened. They also, of necessity, focus on the individual institutions' intentions and provide relatively little means of incentivising commitments to collaborative development and delivery, because it's their plan and it's about them. I'm an observer on the board of the Scottish Funding Council, which operates an outcome agreement process that we understand to be similarly challenged. So, I think we would say you shouldn't really expect such an approach to provide significant policy leverage in the short term. These are a long-term and slow tools.

Jayne Bryant MS 13:20:41

248 Thank you. Do you believe legislation is necessary to achieve the policy objectives of the Bill and are these policy objectives clear to you?

Name Redacted 13:20:54

249 If we go back to Ellen Hazelkorn's analysis, that outlined the issues, I think, perfectly well. It's not about Brexit. It's not about COVID. Hazelkorn predated both of those. Neither is it just about the challenge that's facing higher education. As we indicated in our 2020 response, the thrust of the Hazelkorn report was, and I quote,

250 'to establish a clear vision for the PCET sector in Wales, with a clear intention that the sector should be cohesive and integrated, with administrative arrangements which facilitated better the meeting of employer and student needs, and removed the tensions around current interfaces between the sectors.'

251 That's the prize. It's a vision that doesn't seek homogeneity but harmony, which focuses on complementarity rather than competition. Is legislation necessary? Well, you can get so far by establishing clear expectations around behaviours, but in the end, to really capture that prize and to deliver better on the nine strategic duties that have helpfully been added to the front of the Bill, new, harmonised and simplified statutory arrangements are required.

Jayne Bryant MS 13:22:03

252 Thank you. In your view, has the Bill taken the right approach in restating powers and duties from other pieces of legislation, such as the local curriculum requirements?

Name Redacted

13:22:15

253 One of the more significant difficulties we have with the draft legislation is the retention of pre-existing legislative machinery. The statement of policy intent, which was published a little bit after the Bill was published, gives an indication of the number of existing powers that will be restated one way or another in this new regime, and we think that's quite a substantial amount of existing legislation carrying on.

254 In our view, it fails to provide a legislative platform that will drive the establishment of a single, cohesive post-compulsory education and training sector. So, there's an argument about continuity, but I think we've got so much continuity that actually, what we have, in large measure, is the pre-existing arrangements bolted together. Again, we're not arguing for homogeneous providers, but we are arguing for harmonising the machinery of regulation to deal with the complexities of the current arrangements and barriers.

255 I think what we have here is the prospect of substantial transitional disruption, potentially significant transitional costs, which have been laid out in the explanatory memorandum but probably will be higher than they have indicated there, as they admit. I think, unless we can secure some adjustments to some of these proposals, we'll have missed the opportunity to make the step change in arrangements. I think we could have been more ambitious.

Jayne Bryant MS 13:23:49

256 Thank you. And finally from me, do you want to tell us anything further on the policy objectives, the evidence base for how the Bill will realise change, and the need for legislation?

Name Redacted

13:24:00

257 I think—and again I think we've referenced this—the Hazelkorn report outlined the backdrop quite well. I think the explanatory memorandum focused on one aspect of that, really, which was the challenges facing the higher education sector. Challenges face all of the sectors, but we didn't see that in the explanatory memorandum, so I think there was a slightly sort of biased focus in there. Maybe that actually underpins the fact that we've got machinery that doesn't actually step back and take the ambitious step of having a harmonised regulatory and funding approach. So, I think, somewhere along the way, the point of Hazelkorn has been missed a bit, and so we have something that is not quite going as far as it could. But we will be very happy to work over the coming months to try and suggest adjustments that might help.

Jayne Bryant MS 13:25:02

258 Okay. Thank you. We'll now move on to questions from Members. The first set of questions are from Buffy Williams.

Buffy Williams MS 13:25:13

259 Thank you, Chair. Hi, David.

Name Redacted 13:25:15

260 Hi.

Buffy Williams MS 13:25:16

261 My first question is: HEFCW had to implement the Higher Education (Wales) Act 2015. Can you tell us what the regulatory and legal challenges were, and if you believe this Bill might lead to a repeat of any of those challenges in your view?

Name Redacted 13:25:33

262 Thank you. I'm happy to hand over to **Name**

Name Redacted 13:25:37

263 Thank you **Name Re** So, it took us approximately two and a half years to put in place the initial processes and systems for implementing the 2015 Act. And that was between March 2015 and September 2017. And it was a further two years before the full process was established, with the first fee and access plans for 2017-18 being monitored in 2019. So, that was an implementation timescale without the added complexity of establishing a new organisation.

- 264 An example of one of the challenges that we had in developing the machinery was a requirement to develop a new financial management code, which, effectively, duplicated a document that we already had, though not precisely. And that Act was very prescriptive about the content of the financial management code, which, after consultation, was to be approved by the Minister and then laid before the Senedd—a time-consuming process, and the process for amending the code was also equally time consuming, so inhibited the natural development of these sorts of documents.
- 265 So, we welcome the brevity of detail in this legislation relating to the commission's role in the oversight of financial and governance matters. We think that's a positive development and has taken account of the challenges in the 2015 Act. And that approach allows the commission to determine appropriate and proportionate processes, subject to consultation, and to deliver those functions and amend them in future, as necessary.
- 266 The current timescale for the commission to start operating in 2023 is undoubtedly challenging and, based on the experience of the 2015 Act that I've just described, it will take much longer for all of its functions to be fully implemented. In saying that, I'm not saying that the establishment of the commission should be delayed, because it will need to exist, with employees in place, before the work of developing the regulatory machinery can begin. All of these will be new and they should be developed by the commission staff, who'll need to conduct appropriate consultations with stakeholders, and, of course, be subject to scrutiny and final approval by the commission's own board. As the commission will be accountable for operating these procedures, they should also be responsible for their development. So, in that, we are saying the processes shouldn't be developed outside of the commission. So, the commission needs to exist to get this work started. And, given the compressed timescales, there will need to be transitional arrangements, so that the existing powers for funding and regulating that we have can continue in the commission until the commission has fully formed processes for its own powers.

Buffy Williams MS 13:28:54

- 267 Thank you. Can you talk us through your concerns about the sharing of information with Welsh Ministers, and outline what changes you think are needed?

Name Redacted 13:29:06

- 268 Okay. I'll take that one **Name**

Name Redacted 13:29:09

- 269 Thanks.

Name Redacted 13:29:10

270 In our opinion, maintaining the trust of providers so that they can share information, including commercially sensitive information, and share that with us in confidence, is essential for maintaining a proper understanding of the challenges, risks, opportunities that providers are facing. It'll be important for the commission to be able to secure the same trust with all the post-16 providers and, in practice, that will mean that not all of the information held by the commission would be shared directly with the Government and Ministers.

271 We believe—though, again, subject to not having fully gone through the detail of the Bill—that, as drafted, the legislation may require all the information that the commission holds to be made available to Welsh Ministers. That's our reading of section 128. In saying that, of course it's essential that Ministers and relevant Government officials are made aware of risks faced by providers, particularly where they might impact on Government priorities, or where Government resources may be required to address the risks. But the detailed oversight of providers should sit with the commission. And an example of this sort of information would be financial forecasts that are provided to us in confidence, and that establishes a much better understanding of the challenges that lie behind those figures.

Buffy Williams MS 13:30:37

272 Okay. Thank you. In your evidence, you raise concerns with losing staff and expertise as a result of uncertainties during the transfer to the commission. Can you tell us more about your concerns?

Name Redacted 13:30:51

273 It's been six years since the recommendations were made to establish a commission, but there's still no certainty for HEFCW staff about future employment and roles in the commission. What is clear is that HEFCW itself will be dissolved when the commission is established. We're concerned that the arrangements for the transfer of HEFCW's activities and staff to the commission are so uncertain that we risk losing the staff and their expertise. And the uncertainty for staff is not predominantly about securing a role in the commission, but rather a concern about how the organisation will operate and implement the proposed legislation. And staff retention will both be a risk for HEFCW until its dissolution and also for the new commission.

Buffy Williams MS 13:31:45

274 Thank you. Thank you, Chair.

Jayne Bryant MS 13:31:47

275 Thank you, Buffy. Moving on now to questions from Sioned Williams. Sioned.

- 276 Diolch, Cadeirydd. Dwi eisiau gofyn cwpl o gwestiynau ynglŷn â dylanwad Gweinidogion Llywodraeth Cymru ar y comisiwn a darparwyr. Gwnaethoch chi ymateb i ymgynghoriad drafft y Bil gan ddweud mai thema sylfaenol y ddeddfwriaeth yw bod Llywodraeth Cymru yn amharod i gofleidio'r cysyniad o gorff hyd braich. Beth yw manteision bod yn gorff hyd braich, a pha newidiadau felly y byddai eu hangen i gyflawni hynny yn y Bil hwn?

Thank you, Chair. I want to ask some questions about the influence of Welsh Ministers on the commission and providers. You responded to the Bill's draft consultation saying that there is an underlying theme in the legislation, namely that the Welsh Government is reluctant to embrace the concept of an arm's-length body. What are the benefits of being an arm's-length body, and what changes would therefore be needed to achieve that in this Bill?

Name Redacted

13:32:37

- 277 I'll pick that up. And just apologies—I've got some comms issues, so, if I disappear, Name will have to start mid-sentence.
- 278 The point of the arm's-length body is to provide the expertise for, in this context, regulation, funding and oversight of the post-16 providers. A lot of that is detailed technical expertise, and with that expertise available through the commission to Ministers and Government officials, our view is there should be no need for the Government to work around the commission, or to work through the commission, in ways where there is no choice for the commission in how to respond. As an arm's-length body, the commission should be trusted to implement the Minister's remit and strategies approved by Government. It also allows the Government not to become embroiled in the operational issues, in the way that Bethan was just describing, associated with funding, regulating and monitoring the performance of providers. And respect for that expertise and a relationship built on trust are fundamental and spelt out explicitly in the Welsh Government's own framework agreement, which governs the way it relates to arm's-length bodies. So, it creates the space for the expertise to do what it needs to do, and for the Government to be comfortable that that's happening without having to do it itself.

279 As is the case with us at the moment, the commission will be captured by a raft of legislation, would have its strategic plan and annual operating plans approved by the Minister, would be accountable to the Minister and to the Senedd, would have to respond to Welsh Government policy priorities, and would depend on the Minister for a funding settlement annually. And our view is that those arrangements should provide sufficient line of sight, as I think the term is, and there's no need for further control mechanisms and further means for the Government to intervene directly in what's going on at the level of providers. And there are numerous examples in this draft legislation of that happening. And the danger is that introducing those sorts of provisions, which allow—if we can use a slightly pejorative term—a Government to interfere at an operational level, actually creates unclear governance arrangements, unclear responsibilities, causes confusion, can cause delay, and would undermine the ability of the commission to deliver properly for the benefit of Wales, because it wouldn't be clear whether providers were responding to the commission and the steers and the influence that it can bring to bear, or the Government. So, we think it's generally sensible, if you've got an arm's-length body, to let it do the business.

280 It's probably just worth saying another thing: providers, in the main—and, certainly, at the moment all of them in Wales—are charities, and their trustees have to make decisions that deliver the charitable objectives of the provider. So, if the legislation increases the extent of control that the Government can directly exert on providers, that's arguably not compatible with charities legislation, could undermine the non-profit institutions serving households status of the providers and potentially bring their accounts on to the Government books. We've seen that happen with FE in Scotland and, to put it politely, it's resulted in very significant challenges, so, again, best avoided. I could give you a list of all the instances, but we won't; our documentation shows some of them. But the final point, really, to make is that, in most of those instances, it's not clear to us what the underlying rationale is for the Government to wish to retain or to introduce those powers. And without a very clear rationale, our view is, for the reasons I've identified, that it would be better if we could adjust those provisions.

Sioned Williams MS 13:36:15

281 Diolch yn fawr. Roeddwn yn mynd i ofyn beth roeddech chi'n meddwl oedd y rheswm tu ôl i hyn, ond rydych chi wedi ateb y cwestiwn yna. Beth yw eich barn chi felly am ail ddatgan y pŵer i Weinidogion Cymru ddiddymu corfforaeth addysg uwch? Gallwch chi ddweud wrthym ni efallai am y rôl chwaraeodd y pŵer hwn wrth greu Prifysgol De Cymru, fel y gallwn ni ddeall ei chwmpas posib hi?

Thank you. I was going to ask what you thought was the rationale for this, but you've answered that question. What's your view therefore on the restating of the powers for Welsh Ministers to dissolve a higher education corporation? Could you tell us about the role that this power played during the creation of the University of South Wales, so we can understand its potential scope?

Name Redacted 13:36:43

282 So, in circumstances where a body wishes to merge with another—an HEC wishes to merge with another university, for example—there would be an instance where you would want to dissolve the HEC, because it's no longer necessary as a legal entity. So, Government having the power to do that under those circumstances I don't see as a problem. The difficulty with the legislation as proposed is for Ministers to dissolve an HEC against the will of the governing body, and we see that as a significant problem. We're not entirely sure that there's a clear rationale for that put in the explanatory memorandum, and let's not forget there are only three providers in the system that are HECs, so why does—? Whatever the rationale—and there's talk of a backstop; I'm not sure backstop to what. But why does that apply to only three of the institutions in the whole system? Totally unclear to us, unless we've missed it. And, actually, this kind of echoes a provision in the 1992 Act, and this was tested by Welsh Government about 10 years ago, and the legal advice was, in the end, 'It's not operable.' Unless the governing body actually supports the dissolution, it's effectively impossible for the Government to exercise this power. So, if that's the case, it doesn't seem to make an awful lot of sense to put it in the legislation in the way that it currently is.

Sioned Williams MS 13:38:27

283 Diolch. Allaf i ofyn i chi beth yw eich barn chi felly am y pŵer fydd gan Weinidogion Cymru i addasu cynllun strategol y comisiwn? A yw'r pŵer hwn yn ffafriol i gyflawni'r nodau diwygiadau?

Thank you. Could I ask you what your view is on the power that Welsh Ministers will have to modify the commission's strategic plan? Is this power conducive to achieving the aims of the reforms?

Name Redacted 13:38:38

284 Well, I think that, essentially, goes back to the conversation we were having a minute ago about arm's length. If you've got an arm's-length body that you trust and which has the expertise and which develops a strategic plan through a process of consultation with all relevant stakeholders, it's not at all clear to me that it's useful or sensible for the Government unilaterally—albeit it has to consult the body, but in consulting it doesn't have to take any notice, so unilaterally—to change the strategic plan, particularly because it could put stuff in there that the commission is actually incapable of delivering. It's the commission that will know what's possible, not the Government. So, again, that would be an area where we would suggest that some amendment would be helpful.

Sioned Williams MS 13:39:27

285 Diolch. A oes unrhyw bwyntiau eraill mewn perthynas â'r egwyddor hyd braich hoffech chi eu codi?

Thank you. Are there any other points in relation to the arm's-length principle that you'd like to raise?

Name Redacted 13:39:35

286 Well, I think the thrust, really, of what I'm saying is: you either want an arm's-length body or you don't. If you do, do it properly, and, if you don't, don't. I mean, that's fine; it's within the remit of Government to propose any legislation, but this seems to be a bit hybrid, and I don't think that's—it's not clean, and operationally that would be difficult.

Sioned Williams MS 13:39:57

287 Gwnaethoch chi ddweud yn eich tystiolaeth ysgrifenedig, yn eich tyb chi, fod yna gamddealltwriaeth sylfaenol, efallai, a bod tensiwn yn bodoli rhwng rheolaeth polisi digonol a'r cysyniad lled-braich. Ai dyna ych chi'n meddwl yw gwaelod y mater fan hyn, bod yna ryw fath o gamddealltwriaeth wrth wraidd nod yr egwyddor yma yn y Bil?

You said in your written evidence that, in your opinion, there was a basic misunderstanding, perhaps, and that there is a tension between adequate policy control and the concept of being an arm's-length body. Do you think that that's the bottom line here, that there's some sort of misunderstanding at the core of the aim of this principle in the Bill?

Name Redacted 13:40:26

288 I think there's definitely a tension. Whether it's a misunderstanding or whether it's intended, I can't comment—it's not clear to me from the explanatory memorandum. But I think it's very clear that there's a tension between the concept of an arm's-length body and some of the clauses that actually prevent that arm's-length body from owning that space, albeit that it will be constrained in many ways, as I've described this afternoon, by legislation and by remit and by funding and all the rest of it. It's not going to go rogue—there's no space for it to do that. So, it's a slightly peculiar tension.

Sioned Williams MS 13:41:04

289 Diolch yn fawr. Diolch, Cadeirydd.

Thank you very much. Thank you, Chair.

Jayne Bryant MS 13:41:06

290 Thank you. Now moving on to questions from Ken Skates. Ken.

Ken Skates MS 13:41:12

291 Thanks, Chair. I'm going to ask some questions about the regulatory machinery. **NR** I'm just going to read a quote from you in terms of your response to the draft Bill:

292 'It hard-wires in the pre-existing arrangements, making the delivery of key anticipated benefits of greater cohesion and consistency unattainable.'

293 That's a pretty strong statement saying that it could be unattainable. Is that still your view?

Name Redacted 13:41:41

294 I'm going to say 'yes' and then let **NR** explain why I've said 'yes'.
[Laughter.]

Name Redacted 13:41:47

295 We can't clearly see how the legislation, as drafted, will allow the commission to develop a consistent approach across all the post-16 provision. And of course we appreciate that such an approach will take time to develop, but the extent of prescription in the legislation that largely mirrors existing arrangements means, from what we can see, that there's very little room for the commission to develop a more joined-up approach.

296 The concern is that it increases the risk of creating silos or separation within the commission itself, largely along the lines of current activities, rather than encouraging a consistency of approach across all modes of provision that would require the commission staff—I'm talking about an operational model where staff could have some level of understanding across all of the post-16 provision. Again, we have examples, but what we've seen as the benefit of a harmonised system is minimising the friction at the interfaces between separate systems, and, in the end, that's for the benefit of learners. And we have that at the moment, and different funding regimes are unhelpful in avoiding such areas of friction. And, as **NR** said earlier, we're not looking—. A harmonised system doesn't mean homogenous institutions—everybody providing the same thing. But a harmonised regime can support a range of provision and the current education system in Wales shows that. We have a diverse range of higher education providers, but they're funded and regulated within the same machinery.

Ken Skates MS 13:43:37

297 Okay, thanks. I'm just going to ask about research and innovation in general. Your written evidence suggests that you have concerns that Ministers could influence research activity through modifying the commission's strategic plan. Can you just elaborate on that and also, it may sound obvious, but just identify what would be so wrong in Ministers influencing research activity, particularly given that policy is set by Government? How would that adversely impact outcomes?

Name Redacted 13:44:11

298 I think one of our concerns is to—. And the explanatory memorandum doesn't really provide the rationale for the research section of the Bill, and in particular why Government would continue to need to be able to fund independently of the commission. If the commission is to be responsible for the strategic funding of research and innovation of post-16 providers, as well as the regulatory oversight of those providers, then it could be the sole conduit of Welsh Government funding for those providers. If there are circumstances for funding where funding should continue to be provided directly, then a reasonable expectation might be for the commission to be consulted and asked to advise prior to the funding decisions being made.

299 One of our concerns would be that if the intentions of the Bill were to reduce the ability of the commission to sustain the unhypothecated research funding streams that HEFCW currently provides, which are provided as part of dual support funding for higher education research. So, HEFCW provides the infrastructure funding—we call it 'QR', quality research funding—but the dual support comes from the research councils' project-based funding. There have been reviews—the Diamond review and the Reid review—that recognise the need for sustaining that unhypothecated funding. So, our concern would be that if, in the Act, it's specifying areas of research to be funded, it introduces a risk that that's funded in place of the unhypothecated funding, which is focused on long-term research development. That would be our main concern.

Ken Skates MS 13:46:13

300 You mention as well that Ministers will retain some powers to fund research through other existing legislation. Can you tell us more about this and how those powers are used now, as far as you're aware, anyway?

Name Redacted 13:46:27

301 I certainly don't know the details of the actual legal powers that are used, but there is certainly funding that is provided directly to universities for research, albeit that a significant amount of that will be European-sourced funding at present. I think, again, looking at the report that Graeme Reid prepared on Government research and innovation funding in Wales, he noted in his report that it had not been possible—total amount of research funding provided by Government to higher education providers. We think the commission is an opportunity. If the commission is either the main source of funding or is required to be part of such funding decisions, that would be an opportunity for better co-ordination of the investment being made by Government in higher education research provision.

Ken Skates MS 13:47:31

302 Okay. Thank you. Broadly speaking, a register is used in England, isn't it, to regulate higher education providers. Is it successful? Are you able to give us an indication, as far as you're concerned, of how effective it is?

Name Redacted 13:47:48

303 It's certainly taken time for the Office for Students in England to establish their registers. Our sense of the regulatory approach that they have linked to the registration of providers is that it's very compliance based, it's largely data driven, and there's very little engagement with institutions other than when risks and significant risks have arisen. So, the approach we believe is certainly very different to our engagement approach, which is regulatory, funding and engagement. The registration regulation approach in England, we believe, has made it difficult for the Office for Students to use regulation as a policy or to drive policy priorities.

Ken Skates MS 13:48:48

304 Okay. Thank you. And are you able to offer, in a very helpful way, any suggestions on how the regulatory and funding machinery could be improved within the Bill?

Name Redacted 13:49:01

305 We certainly think that at least applying the same baseline expectation for all providers should be considered in the Bill. So, regulatory machinery that, at least at a baseline level, applies across, we think, would be an improvement. At the moment, the registration is only a requirement for providers in receipt of student support. So, it's essentially higher education provision that would require registration and the regulatory machinery that comes with that.

Ken Skates MS 13:49:43

306 I'm just going to go back to research, just really briefly, and innovation, if you could just help us understand a little more, or me understand a little more, whether there could be detrimental consequences emanating from the Bill for research and innovation. And in particular, if we just use one example, the Advanced Manufacturing Research Centre in Broughton. That was taken forward in partnership with industry and higher education institutions predominantly on the English side of the border, but also with input from Welsh institutions and, of course, with the local area boards that really led on that project. Is it your view that a project of that significance would be less likely as a consequence of the change that will come from the Bill, or would there be no difference? Because, essentially, what matters is the research that comes from universities and through universities working in partnership with industry. If there's no change, does it really matter that much in terms of the quality of the research and the impact that it has on the economy?

Name Redacted 13:50:56

307 I'll answer, and if Name Redacted wants to add. I wouldn't say that it's less likely, but, again, going back to the commission being part of that discussion and bringing the understanding that it has of what provision there is in Wales, what providers can bring to it and an understanding of what Government priorities are for establishing that research. I think there is scope to be much more joined up and take advantage—more advantage—of the skills that should be available to Government within the commission.

Ken Skates MS 13:51:32

308 That's helpful. Thank you. NR

Name Redacted 13:51:35

309 Just a little bit to add to that. To come back to one of your earlier questions, I don't think there's any difficulty with Government setting broad priorities for any of this, to be honest. The debate becomes the level of detail at which those broad priorities are expressed. If we look at things like semiconductors and the semiconductor businesses that are growing around south-east Wales, actually, the research underpinning for that really came from funding from the funding council, long before I was at the funding council, in unhypothecated research funding, 15 to 20 years ago, whatever it was. I think we just need all of us to remember that, whilst we might be able to see broad priority areas, our capacity at a meso level as an intermediary body, let alone at the Government level, to actually see where the new knowledge is going to come from is pretty limited. It's the people who are at the chalkface, as it were, who need to be able to be fleet of foot. And I think the more we try to get specific and fund individual projects and things like that, the more we run the risk, actually, of removing the capacity for the research machinery to respond to opportunities as they arise, and to see those opportunities for new knowledge that somebody in my position can't possibly see.

Ken Skates MS 13:53:06

310 Thank you. Thanks, Chair, that's all from me.

Jayne Bryant MS 13:53:08

311 Thank you, Ken. We'll now move on to some question from James Evans. James.

James Evans MS 13:53:13

312 Thank you very much, Chair, and good afternoon. In your view, to what extent do you think the Bill will make an effective contribution to the lifelong learning goals of the Welsh Government?

Name Redacted 13:53:30

- 313 At the moment, as the Bill has different requirements for each part of the system, as I've already mentioned, it appears to us that it will make it challenging for the commission to facilitate the establishment of a cohesive PCET sector. It might make it difficult for the commission to engage consistently with providers across the sector, and the commission might not be able to get assurance that all providers meet similar basic requirements. Replicating current processes, albeit within one organisation, might maintain a provider-focused approach, rather than one that is learner led. So, at the moment, with the caveat that we're yet to go through the full detail of the Bill, we can't fully see those opportunities.

James Evans MS 13:54:23

- 314 Okay. Thank you. Do you still have the concerns that you set out in your draft Bill response regarding the equal opportunities registration condition potentially not being applied to all providers?

Name Redacted 13:54:39

- 315 Yes, the emphasis on responsibility to encourage participation, we feel, should be placed on all providers in the post-16 sector. So, we feel that the commission should have regulatory powers to achieve that for all the providers, and not just those who are in receipt of student support. So, an understanding of why the other providers shouldn't also be on the register is what we would be asking.

James Evans MS 13:55:10

- 316 Okay. A key part of the Bill is also around collaboration as well, so, in your experience, what helps drive collaboration between providers? Do you think the Bill reflects that, and to what extent do you think the Bill will improve collaboration between different providers?

Name Redacted 13:55:30

- 317 Regulation, which is largely what the Bill covers, attaches to individual providers, and, of course, while regulation is required for maintaining quality of provision, learner experience, sustainability of providers, it's not an effective tool for incentivising collaboration. It's certainly not as effective as the use of funding, albeit funding with appropriate terms and conditions incentivises collaboration. So, I think the commission will need to have sufficient funding to be able to allocate grants for strategic collaborative initiatives and have the flexibility to use that funding. HEFCW having flexibility in our funding powers has been critical to supporting the sector during the pandemic, so flexibility and the ability to provide funding to incentivise strategic collaboration will be important.

318 Having said that, while we believe that the commission should have similar flexibility to that which HEFCW has at the moment, there should be an obligation for the commission to maintain a reasonable balance of funding, given the range of provision that the commission will be funding, and an expectation that the commission maintains a reasonable balance across all the post-16 provision, including research, will be important to ensure stability in the distribution of funding, certainly in the early stages of the commission.

James Evans MS 13:57:07

319 On funding, the Bill requires providers to gain permission of the commission to pass on funding to collaborative bodies, so does HEFCW require providers to seek its permission to pass on funding, and could this requirement be a barrier to collaboration between providers?

Name Redacted 13:57:27

320 There are many circumstances where institutions may pass on funding, and we don't provide approval for most of these arrangements. However, our terms and conditions of funding do cover this and clearly state that the providers remain accountable for the funds that we provide and they must retain sufficient oversight so they can ensure that the funds are used for qualifying purposes under the Act. So, that's the mechanism for ensuring a clear line of sight, so the funding that goes through us to providers and forms part of our accountability and assurance processes.

321 Our reading of the section in the Act that requires approval from the commission is that it seems too prescriptive, but even then, they don't seem to us to cover all the scenarios where there could be collaborative arrangements. The section, I think, is seeking to address the provision of consent by the commission for funded providers to pass funding on to collaborating organisations, but as currently worded, it seems a very burdensome approach and will probably be problematic for the commission to implement and for providers to comply with. In addition, I think the Welsh Government will set the parameters for such approvals and that further complicates the mechanics and raises issues, again, about arm's-length arrangements. So, we think the legislation needs to be much higher level to ensure that the commission can respond appropriately and with flexibility to mitigate the risk that that section is trying to address. As I said, we address it in the terms and conditions of funding, which appear to us probably to be more effective. This is a section where we think, in practice, it will be very burdensome and challenging to implement.

James Evans MS 13:59:33

322 Okay, thank you very much. Thanks, Chair.

Jayne Bryant MS 13:59:35

323 Thank you, James. Moving on to questions from Laura Anne Jones. Laura.

Laura Anne Jones MS 13:59:41

324 Thank you, Chair. Good afternoon. I just want to ask you a couple of questions to start off with on quality assurance and Estyn. Can you talk us through your views on the approach to quality assurance in the Bill and whether you believe the Bill will allow the creation of an effective quality assurance system for tertiary education? And you set out the approach of designating a higher education quality assurance body, that will be less flexible than other potential arrangements. Can you tell us more about that view? Thank you.

Name Redacted

14:00:15

325 Sure. Good afternoon. The legislation places a duty on the commission to assess, monitor and promote improvement in the quality of education and training. That's fine, that's very similar to the requirements on us now from the 1992 Act. But, having said that, it also goes on to specify what Estyn must inspect, it requires the commission to fund Estyn to do that, and gives Estyn powers to do it whether the commission wants them to or not. And so what you end up with, actually, is a replication of the current Estyn responsibilities hard-wired into the new legislation, along with the responsibilities of the commission. So, they both have statutory powers in the same space and both have responsibility for quality. In our view, that hard-wires complex and excessively detailed arrangements with confusing duplication of responsibilities into this primary legislation.

326 There's a bit of that that goes on now, actually, between us and Estyn, and we work well with them, but this was the opportunity to remove some of that complexity, and it hasn't been taken. And Estyn's plans would have to be approved by both Welsh Ministers and the commission. So, again, more complexity, more additional work and potential tensions of perspective going on between them. So, as I say, we're not being remotely critical of Estyn, we work well with them, but it's just unclear to us why they've chosen to retain the current arrangements in the discrete sectors that are bolted together, rather than take the opportunity for a fresh and more holistic approach.

327 And then on the issue of designation, the legislation allows the commission to designate, both in the FE and the HE space as I get it—so FE could ask Estyn to do stuff, or they could decide not to, but Estyn will do it anyway. And in the HE space, they could ask a body like the QAA to do it, or they could decide not to. And we have in the past had situations where funding bodies like HEFCW have done the teaching quality assessment themselves and not given them out to another body. So, it could be done. But then if you read the rest of the clauses in that area and the explanatory memorandum, it's very clear they absolutely expect that a body will be designated in the higher education space, and they name QAA in the explanatory memorandum. So, it's not just what's on the face of the Bill, it's what's in the explanation that also pertains. And our view is that this is just overcooking it. We think that section 49—I won't read it out, but section 49 is great. It basically says, 'The commission's got to do this, and it might or might not allow other people to help.' That's enough. And the rest of it could be left to the commission to sort out, consulting as appropriate with stakeholders, and so on and so forth. So, this is an attempt to specify a level of detail that is unnecessary and, incidentally, also still misses the issue about responsibility for quality of transnational and international provision not delivered in Wales and therefore not necessarily covered. So, there are also gaps, and this is what happens: if you try to specify, you inevitably end up missing something. And if you're taking the approach of specifying everything, the bits you miss are left out forever. And once you've got legislation, the only way you can morph it is to change it through a primary process again, you can't just do it slightly differently, because you've got to stay within the letter of the law, as it were.

Laura Anne Jones MS 14:03:52

328 Thank you. You've answered pretty much all my questions in one go, actually. Thank you, NR

Name Redacted 14:03:57

329 Okay.

Laura Anne Jones MS 14:03:58

330 Basically, what you're saying is there's duplication and there's a missed opportunity here to clean things up, happening already, which seems to be a shame. But what you just said on the last point, about the transnational education and getting the quality arrangements for transnational education and degree apprenticeships et cetera, it's not being addressed. And it was a question I didn't ask the Minister earlier—it's the only question I forgot to ask. So, can you just expand on that, because obviously that's quite important?

Name Redacted 14:04:30

- 331 I'd make two points, I think. It's not yet clear to us from our reading of this how some transnational education will be captured by these quality arrangements, and it matters. If you think about where the risks are, actually that's where there's quite a lot of risk. And so, we think either we need to understand better where it is captured, or it needs to be made more explicit. Or, alternatively, the whole lot needs to be made less explicit and the commission can then be more flexible in its interpretation of what's in and what's out.
- 332 In respect of the degree apprenticeship stuff, again, it's interesting that the Minister this morning talked about parity of esteem in the context of the quality regime, and there will be an overarching quality—I forget the exact phrase they use—but a sort of quality statement, which is fine, but then, what you've got is actually different regimes operating underneath that, which are conceptually quite different. So, the HE quality regime essentially assumes that they will do the right thing and tests the systems for making sure they do.
- 333 The Estyn inspectorate regime is essentially saying in order to be sure it's happening, you have to get into the classroom. Now, these are very different conceptual approaches to quality. They can sit comfortably under a sort of motherhood-and-apple-pie overarching statement, but if you're talking about parity of esteem, I'm not going to say here which I think is better, and actually, they both have strengths and weaknesses, of course. But they're not the same, so it's not clear to me how that actually fosters parity of esteem between vocational and academic activities.

Laura Anne Jones MS 14:06:10

- 334 Thank you very much. Thanks, Chair.

Jayne Bryant MS 14:06:12

- 335 Thank you, Laura. Moving on to questions from Sioned Williams. Sioned.

Sioned Williams MS 14:06:18

- 336 Diolch, Cadeirydd. Dwi eisiau sôn tipyn bach am lais y dysgwr i ddechrau. Yn eich barn chi, i ba raddau y bydd y darpariaethau yn y Bil yn creu system sy'n canolbwyntio mwy ar y dysgwr?

Thank you, Chair. I want to talk a little now about the learner voice to start. In your view, to what extent will the provisions in the Bill create a more learner-focused system?

Name Redacted 14:06:36

- 337 So, I think my sense of it is that the only place where I can see a manifestation of a more learner-focused approach in this Bill is in the provisions for learner engagement and learner protection.

- 338 On the issue of learner protection, my reading of it is I think there are two issues being conflated. One is how to protect students against the impact of a course closing, and the other is how to facilitate transfer from one course to another. They're not the same thing. There might be occasions when the solution to one is actually the other—so, if a course closes, transfer—but they're not the same thing. On the former, the issue about courses closing, the provisions essentially echo arrangements in England where in practice, it's been very difficult to establish learner protection plans that are terribly meaningful, because firstly, it's almost unheard of that a provider will leave students dangling; they always see the students through a course, even if the course is closing. Of course they would; they do care about their students, and also the reputational damage of leaving them hanging would be very damaging.
- 339 So, it doesn't often happen, but if there were difficulties, the specific circumstances of the course and the students, and the location of study and the subject studied, all of these come to bear. So, actually, a learner protection plan at an institutional level would be at such a high level that it would be almost useless in terms of understanding how you would protect the individual students in those circumstances. And of course, some students will be happy to move elsewhere; others will not be able to move elsewhere, and so on. So, there's a complexity that an overarching plan doesn't really get into, so I'm not sure they're hugely useful.
- 340 And in terms of students changing courses, again, historically, very few students wish to. Typically when they do, they wish to change courses within an institution. Again, they don't necessarily—and very rarely—want to up sticks and go somewhere else. The movement between institutions is not helped by the fact that when a student is lost to the institution, the income that is associated with the student is also lost. So, it's not in the initial institution's financial interest to lose the student, and of course, what they should do is make sure the experience is good, so they don't want to go in the first place.
- 341 But I don't see anything really in this legislation that's likely to change that, and also, students often have to repeat periods of study on their new course, quite often for sound academic reasons, they need the underpinning for the rest of the course, but that costs them time and money, and again, I don't see anything in this legislation that addresses that.

342 And then, the final bit on this is about learner voice and strengthening the learner voice, and we have a very strong track record in HEFCW of working with NUS Wales, who are observers on our council. In strengthening the learner voice in HE, we are aware that this is less well developed in other parts of the post-compulsory world, and we would welcome the concept that good learner engagement should be expected across the whole of that provision, and it's not clear to us why there should be provision in the legislation to set different expectations for learner engagement for different providers. The only reason you might is if you're specifying those expectations at too detailed a level, and, obviously, somebody who comes in for one staff development course on one day is going to be engaged with it differently from somebody who's there for three years. But the generic expectation should be the same, and we're not entirely sure why there's this differentiation. It comes back again to that point about parity of esteem. If you have different expectations about the way in which learners can engage, then I'm not sure how that helps parity of esteem. Interestingly, we note that this area of the commission's work is due to be subject to Welsh Government guidance, including, and I quote,

343 'practical steps as to how effective engagement and involvement of learners can be achieved'.

344 That's the Government telling the commission how providers should engage with their students. That's too operational, that really is getting in the mix, and too top-down. Actually, these things only really work if you can get bottom-up engagement from providers with their student bodies to make this work. In our experience, if you try and be prescriptive, it just falls over. Sorry—I'll stop.

Sioned Williams MS 14:11:05

345 Diolch. Wel, eto, rŷch chi wedi ateb y cwestiwn canlynol oedd gen i, ynglŷn â'r cynllun diogelu dysgwyr. Felly, diolch—rŷch chi wedi ateb sawl pwynt mewn un ateb fanna.

346 Symud ymlaen, efallai, i ddarpariaeth gyfrwng Gymraeg, mae'n ymddangos bod y Bil yn caniatáu i Weinidogion Cymru osod telerau ac amodau ar gyfer cyllid a fwriedir ar gyfer darpariaeth gyfrwng Gymraeg mewn ffurf fanylach na'r hyn a ganiateir ar gyfer darpariaeth arall. Yn seiliedig ar eich profiad chi, a yw hyn yn debygol o fod yn ddull effeithiol?

Thank you very much. Well, once again, you have answered the following question that I had, about the learner protection plan. So, thank you for answering several points in one answer there.

Moving on now to Welsh-medium provision, the Bill appears to allow Welsh Ministers to set terms and conditions for funding intended for Welsh-medium provision in a more detailed way than is permitted for other provision. Based on your experience, is this likely to be an effective approach?

Name Redacted

14:11:47

347 We're not at all clear why they want to do this, and again, our experience—and we've worked long and hard with the Coleg Cymraeg Cenedlaethol, and indeed we were instrumental in establishing it—our experience is actually you need to be in there working with the providers. A top-down approach doesn't work, and you need to also be working with the students who might wish to study through the medium of Welsh as well. So, it's a collaborative approach, but essentially bottom-up, understanding what the issues are on the ground, and understanding what the opportunities and demand and supply balance can be, with support, and the *coleg Cymraeg* does an excellent job in that respect. It's not at all clear to me how direct terms and conditions in respect of this particular bit of provision are going to help. Now, it might be we just don't understand it, but we can't see that at the moment.

Sioned Williams MS 14:12:52

348 Diolch. Beth yw eich barn chi am y dull cyffredinol y mae'r Bil yn ei fabwysiadu mewn perthynas â darpariaeth gyfrwng Gymraeg?

Thank you. What are your views, therefore, on the general approach that the Bill adopts in relation to Welsh-medium provision?

Name Redacted

14:13:05

349 We would see it as being helpful to have a clear expectation that the commission would work with the *coleg Cymraeg*, and the *coleg Cymraeg* has a remit now that started in HE but has extended into further education as well, and it's the body that has the expertise in the development and promotion of Welsh-medium education. We don't actually see clearly how those expectations are grounded, so we don't see what the expectations are about the commission working with the *coleg Cymraeg*. It might be that you don't need to specify this in legislation. Part of what I think is that, actually, it would be better if half of this wasn't specified and you just had more flexibility, but I think a clear expectation that the *coleg Cymraeg* is where the expertise sits, and that's where you should support—support the *coleg Cymraeg* and work with it to help develop Welsh-medium education.

Jayne Bryant MS 14:14:08

350 Okay, Sioned? Diolch. Just a quick couple of questions, finally, from James Evans. James.

James Evans MS 14:14:16

351 Thank you. I want to quickly touch on apprenticeships. So, in your experience of degree apprenticeships, what are the main challenges to an apprenticeship system that is responsive to employer demands, and to what extent does the Bill address them and Welsh Government's wider priorities around developing apprenticeships?

Name Redacted 14:14:39

352 Thank you, James. Degree apprenticeships are an example of HE provision that's currently being funded quite differently from other higher education funding provision such as the part-time study that we fund. We don't know what the rationale is for maintaining the difference in the long term, though the Bill includes a section specifically to deal with apprenticeships, which appears complex and potentially might constrain future developments. Our experience of developing degree apprenticeships has highlighted some mismatch between employer demand for degree-level apprenticeships and the Welsh Government's priorities and the frameworks available at that level. There's demand for higher level business management, care provision, where, currently, frameworks are only available for IT and engineering degree apprenticeships.

353 So, there appears to be a policy conflict between, on the one hand, aiming to meet employer needs, but not being able to enable the degree apprenticeship frameworks and make the provision available to do that. Whether the commission are going to be put in a position that they are able to do that—and establishing the frameworks is going to be part of the commission's responsibility—so, trying to manage that mismatch, or rather, avoid the mismatch, will be important. And the position is also complicated, clearly, by options available to students and employers outside Wales. So, if options are not available within Wales, then there are providers in England who will meet the demand. So, Government interventions only really work where there isn't student choice, alternative choice. The commission needs to be able to operate a system that isn't trying to manage a mismatch between what the commission can do and what the Government priorities are.

354 But also, just to note that it's not clear to us that the degree apprenticeship, or the apprenticeship machinery more widely, can evolve to something that is much more of a mainstream part of funding for post-16 provision.

James Evans MS 14:17:08

355 Okay, thank you very much for that. And finally, are there any other points you want to raise in relation to apprenticeships and the Bill generally?

Name Redacted 14:17:19

356 Just a general point. I think I said at the beginning, we intend to respond to your call for evidence, and we'll be sharing that with our council before we do it, whereas the document we submitted for today's hearing had to be produced without our council having the opportunity to look at it. And we've had a steer from our council in the last couple of days we've been with them that when we respond to your call for evidence, we will go beyond what we normally do and try and make suggestions for ways in which the legislation might be adjusted to address some of the issues that we see. Otherwise, all we'll do is end up sounding critical, and we want to be helpful. So, that's just a trailer for you to look forward to our submission in December.

Jayne Bryant MS 14:18:10

357 Many thanks. You've certainly whetted our appetite for your document. We shall look forward to receiving that as well, and I'd just like to put on record my thanks to both [NR] and [NR] for coming to give evidence this afternoon. It's very much appreciated. Just to say that there will be a transcript available for you after this meeting to check over, and thank you very much once again for coming in to give evidence. Diolch yn fawr.

[Name Redacted] 14:18:42

358 Thank you.

[Name Redacted] 14:18:43

359 Diolch yn fawr.

Jayne Bryant MS 14:18:45

360 Thank you.

8. Papurau i'w nodi

8. Papers to note

Jayne Bryant MS 14:18:45

361 We'll now move on to the next item on our agenda, which is papers to note. So, the papers to note are set out on the agenda and in the meeting papers. Are Members content to note those papers? I can see Members are content.

9. Cynnig o dan Reol Sefydlog 17.42(ix) i benderfynu gwahardd y cyhoedd o weddill y

cyfarfod

9. Motion under Standing Order 17.42(ix) to resolve to exclude the public for the remainder of the meeting

Cynnig:

bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog 17.42(ix).

Motion:

that the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(ix).

Cynigiwyd y cynnig.

Motion moved.

Jayne Bryant MS 14:19:02

362 And I now propose for the next item on the agenda, in accordance with Standing Order 17.42, that the committee resolves to meet in private for the remainder of this meeting. Are all Members content? I see Members are content. We'll move into private.

Derbyniwyd y cynnig.

Daeth rhan gyhoeddus y cyfarfod i ben am 14:19.

Motion agreed.

The public part of the meeting ended at 14:19.