

EB 16

National Assembly for Wales

Children and Young People Committee

Education (Wales) Bill : Stage 1

Response from : University and College Union Wales (UCU Wales)

### **Introduction**

1. The University and College Union (UCU Wales) represents more than 7,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians and postgraduates in universities, colleges, prisons, adult education and training organisations across Wales.
2. UCU Wales is a politically autonomous but integral part of UCU, the largest post-school union in the world: a force working for educators and education that employers and the government cannot ignore.
3. UCU Wales was formed on 1<sup>st</sup> June 2006 by the amalgamation of two strong partners - the Association of University Teachers (AUT) and the National Association of Teachers in Further and Higher Education (NATFHE) who shared a long history of defending and advancing educators' employment and professional interests.
4. UCU Wales welcomes the opportunity to respond to the Education (Wales) Bill.

### **Registration of the Education Workforce and the creation of the Education Workforce Council**

5. It is agreed that there has been a significant change to the education workforce in Wales, in the past ten years and that collaborative working practices have shifted the boundaries between education sectors. Barriers to co-operation and mobility of the education workforce need to be removed. It is appropriate, therefore, that FE lecturers and should be given the professional recognition and status afforded to their counterparts in schools.
6. The creation of a professional body that represents educational practitioners from across the educational workforce would help to enhance public perception of the roles and value of the wider workforce. Like many other professional bodies, it should seek to promote and maintain professional standards, agreed by practising professionals in that field. We would like to see reference to professionalism reflected in the title of the new body.

13th September 2013

7. We welcome the proposal to create an Education Workforce Council, that supports and promotes the practices of the wider education workforce, and that the council should comprise of a majority of registered or recently registered practitioners. We would like to suggest that “recently” should be defined as within the last twelve months. It is agreed that professionalism, suitability, standards of conduct and training and development of the education workforce are important factors in achieving a high performing education system. However it is crucial that such standards are set by practising educational professionals, who have clear understanding and experience of educational principles.
8. With this principle in mind, we ask that the responsibility for appointing members of the Council should be delegated to practicing educational professionals and that members of the Council be voted into office by the Education Workforce.
9. The importance of the council being seen as a credible body for educational professionals is crucial in avoiding similar opposition to that levelled at the Institute for Learning (IfL) in England, which was criticised for having a narrow, managerialistic view of professionalism, which was distanced from the experience of teachers.<sup>1</sup> We would not wish to see any such difficulties transferred to the Education Workforce Council. This is an opportunity to create a professional body that will support and develop the skills and credibility of education professionals and so promote top quality teaching and learning standards in Wales.
10. In the event that members are to be appointed Welsh Ministers as outlined in Schedule 1 3(2), we would hope that Ministers will consult with the relevant teaching unions.
11. In recent years UCU members have experienced a shift in the definition of educational professionalism, from one of trust and autonomy in professional judgement, to one of the ability to meet targets and achieve outcomes. UCU would like to see the role of defining professional standards in education, returned to qualified and experienced educational practitioners. Whilst it is important that the Education Workforce Council enhances public confidence in the profession, it is unlikely that this will be achieved unless educational professionals themselves have confidence in their own professional body. Therefore we agree that the council must consist of a majority of practising education professionals. This will help to ensure that the Council, in its capacity to provide advice to its members, promote careers, produce codes of conduct and investigate professional conduct, will be able to do so with the benefit of having appropriate experience and understanding of professional issues in education at its core.
12. Although there has been an increase in the flexibility of the education workforce across the school and FE sectors, it is acknowledged that there

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<sup>1</sup> Initial submission from UCU to the Independent Review of Professionalism in the Further Education (FE) and Skills Sector. <http://www.ucu.org.uk/iflfee>

are still some distinctions, which for the purposes of this Bill require the creation of differing categories within the education workforce. However, in the interests of providing flexibility, there should perhaps be consideration for individual needs, as well as the workforce as a whole. For example, currently a teacher with QTS can transfer easily to become a lecturer employed by a Further Education Institution (FEI), if they so wish. The same cannot be said of a lecturer with comparable qualifications and experience, who wishes to take up employment as a teacher in a maintained school, without having to undertake further qualifications and training. This could perhaps be an area that the Education Workforce Council could address in the future.

13. With regard to fees for registration and membership with the Council, UCU Wales is not opposed to this in principle; it is a requirement of many other professions. However, where compulsory fees and registration are a requirement of those wishing to practise, care should be taken to ensure that it does not cause financial difficulties for members and that the body must provide a democratic and accountable service that supports and promotes the education profession.
14. UCU's preferred model would be similar to the Higher Education Academy whose mission is to:

"use our expertise and resources to support the higher education community in order to enhance the quality and impact of learning and teaching".<sup>2</sup>

The academy is a voluntary, non-fee paying organisation which promotes the sharing of good practice. It provides a framework for professional standards and a professional recognition service, as well as events and workshops to help advise and support educational professionals in HE, throughout their careers.

15. Professionalism is important to our members, who clearly demonstrate this through the commitment that they show to their students, despite increasing workloads and lack of resources, and the fact that many of them give up their free time to ensure that the best possible results can be achieved. We would like to see a body that fully supports and promotes professional recognition, provides appropriate guidance and opportunities for meaningful professional development, and supports a network of professional links for the sharing of good practice.
16. If fees are to be payable, they should be proportionate to salary. It is acknowledged that currently, teacher's fees to the GTCW are reimbursed in part, as set out in the School Teachers Pay and Conditions Document. If this arrangement is to continue, then in the interests of equality, similar arrangements should apply to all other categories of the education workforce. It would be inappropriate to compel registration to a professional body, set up in the interests of promoting the equality of professionalism across differing strands of the workforce, only to operate

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<sup>2</sup> <http://www.heacademy.ac.uk/about>

unfair practice against some members of that body, thorough differing fee subsidies.

17. Alternatively, consideration should be made that all or part of the registration fee is paid by the employer, demonstrating their commitment to educational professionalism and high quality teaching and learning.
18. UCU Wales would, however, be totally opposed to the payment of fees to a body, to which membership was compulsory in order to practice, if that body did not reflect the professional ethos of its members.

### **Appraisal of registered persons**

19. There is currently an agreed Performance Management and Review scheme in use in FE, which allows lecturers access to the upper pay scales. Incremental progression within grade is not subject to satisfactory appraisal, although incremental progression can be withheld if an individual is subject to a disciplinary procedure. In our opinion, the persons best placed to make decisions as to what constitutes appropriate appraisal of educational professionalism, are practicing educational professionals. If however, this were not the case, we would like to see the current arrangements for appraisal in FE, reflected in any future regulation that might be made and that relevant teaching unions are consulted on the regulation of the appraisal of registered persons.

### **Code of conduct and disciplinary functions of the Council**

20. It is accepted that professional bodies have disciplinary functions to deal with unprofessional conduct and professional incompetence in order to promote and maintain both professional and public confidence. However there are concerns that disciplinary action or inquiry should not be made public unless a decision is upheld to permanently bar an individual from registering with the Council. The consequences of negative publicity can be very damaging. This is particularly important considering that 55% of accusations against teachers in Wales between 2006 and 2011 were false, malicious or unfounded.<sup>3</sup> Whilst it is quite right to take the allegations of young people seriously, teachers also need to be protected. The increase in student charters and the rise of the student voice is enabling the wishes and concerns of young people to shape the future of their education, but it is not acceptable to ruin the professional reputations of those who are later exonerated
21. With regard to registration appeals and disciplinary orders, it would also seem an opportune moment to introduce the right of appeal to the Council in the first instance, rather than having to go straight to the High Court.
22. We are concerned that section 29 and 30 make reference to conditional registration orders and suspension orders "without limit of time". If orders are made that affect a registered persons professional standing, clear decisions need to be made about the length of time that the order

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<sup>3</sup> <http://www.bbc.co.uk/news/uk-wales-16927479>

remains in force. It is not acceptable to hold a person's professional status in question for an unlimited period of time.

23. In order to promote confidence in the new body, from those who will be required to register, care should be taken, regarding the provisions in the Bill for Welsh Ministers to make regulations about the nature of disciplinary hearings and the Code of Conduct . We have concerns that if Ministers have responsibility for drawing up the Code of Conduct, this may be regarded as contrary to the principles of having a professional body, made up of educational professionals, for the benefit of education professionals. We believe that the Council, as members of the respective education professions and having knowledge and experience of relevant professional ethics, should have the responsibility for this task.
24. Again, if it is considered more appropriate for Ministers to prepare and publish a code of conduct and to regulate the disciplinary functions of the Council, we would wish this to be carried out in full consultation with the relevant teaching unions.
25. It is noted that the aims of the Council are to:
- Contribute to the improvement of standards of teaching and the quality of learning in Wales; and
  - To maintain and improve standards of professional conduct amongst teachers and others in the education workforce who support teaching and learning.

The main proposals outlined in the Bill, for the functions of the Education Workforce Council focus around registration, conduct and discipline. We agree that professionalism and standards of conduct are pivotal to the success of the education workforce. The way that the majority of teachers and lecturers already conduct themselves on a daily basis, is testimony to that. However, we would like to see a more equal emphasis on the importance of providing a body that actively promotes and makes provision for the continuing professional development of its members, throughout their careers, in order to create a professional body that is supportive rather than punitive.

### **Information Duties**

26. It is accepted that the Council will need to maintain records about people that are required to register. We recognise that there is a need for certain bodies to have access to information held on the Register, however we have concerns about exactly who these bodies would be and the nature of the information that would be released. We would like to see further information regarding the powers that Welsh Ministers will have to require the Council to provide information to other persons and bodies, who such other persons or bodies might be and the nature of the information that may be required.

### **Assessment of post 16 SEN**

27. It is agreed that the status quo is not the way forward and that all children should be able to access education services that allow them to achieve their potential. Therefore the proposal to improve the links between schools and FEI's and to reduce bureaucracy is to be welcomed.
28. Changes to the assessment and appeals procedures will hopefully provide better access to appropriate learning pathways, to those with learning difficulties/disabilities. One of the consequences of this may be that there is an increase in the number of students with SEN who choose to take courses provided by FEI's, which may result in greater demands on financial and staffing resources. We would ask that the scope of the impact of such changes be fully explored and consideration be given to the need for staff development and teaching resources in Further Education to ensure that students with SEN/LLDD are able to access quality provision.

### **Harmonious term dates**

29. It should not be forgotten that staff in FEI's, particularly lecturing staff, are also subject to working within term dates and may well have childcare responsibilities of their own. Teaching commitments mean that annual leave cannot normally be taken during term times and therefore if term dates of the FEI differ to those of the school that the lecturer's children attend, taking annual leave to care for children, is not an option. Historically colleges have usually adopted the term dates of the local authority in which they are located and it is hoped that FEI's will be encouraged to continue this practice. In terms of the 14-19 agenda it is also desirable that Schools and FEI's have common term dates.

### **The appointment of HMCI and HMI**

30. We have no concerns over this section of the Bill. As education is devolved to Wales it would seem that the First Minister would better placed to make decisions about appropriate appointments.