**WALES
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RESPONSE TO: LGBTQ+ Equality Action Plan

CONSULTATION

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Response to the LGBTQ+ Equality Action Plan

The University and College Union (UCU Wales) represents almost 7,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians, and postgraduates in universities, colleges, adult education and training organisations across Wales. UCU Wales is a politically autonomous but integral part of UCU, the largest post-school union in the world. UCU Wales welcomes this opportunity to respond to Welsh Government's LGBTQ+ Equality Action Plan consultation.

Introduction

Although recent years have seen the welcome introduction of increased formal rights for LGBT+ people in the UK, homophobia and transphobia remain serious issues in the workplace. While visibility-raising initiatives such as Pride can play a valuable role in creating a positive message, it is equally important that government and the sector work together to challenge normative power structures and knowledge-cultures. It is an appreciable fact that many of those in a position of leadership received their education during the 'Section 28 years'. Whereas this should not be seen as diminishing their commitment to equality, change can only occur where it is influenced by the LGBT community.

Welcoming the action focus in the LGBTQ+ Plan, UCU Wales has sought to strengthen its application to PCET settings by identifying existing good practise and occasions for practical challenge. Since oppression is experienced differently, we feel that the established principles already embedded in the social model of change must extend to different groups inside the wider LGBT community. This means that institutions must work to establish the conditions and structures for positive challenge.

In effect, much of the world in which we live is designed for the quiet enjoyment of straight people. Consequently, and drawing a comparison with the social model of disability, action must be taken to adjust institutional culture and practise to enable a diverse set of needs.

Beginning with the need to ensure the physical and mental safety of learners and staff, UCU proposes that;

General

- any spike in complaints during the plan's implementation should be seen as a positive indicator for the first 3 years; it suggests that the institution have succeeded in establishing a set of stable expectations whilst providing the conditions of confidence in which complainants feel that their grievances or suggestions will be heard.

- that universities and colleges work with staff to found meaningful LGBT networks across the institution. Wrexham Glyndwr University provides a possible best practice model in which an enabled network works with university committees and the governing body to establish a good feedback loop. This work does not replace but sits alongside local trade union structures.
- institutions enable these committees to organise around their own priorities and offer meaningful opportunities to influence decision making (for instance, see UCU Wales suggestion around 'agreed bids'). Forums and networks should feed into staff trade union equality collective bargaining.
- developing a strategy for implementation, institutions consult widely, making it clear that challenge is not merely acceptable but positively encouraged. In Universities, this work should sit at school level with findings funneled through the equality and other relevant committees towards the governing body. Communications work must receive adequate resource.

Institutional

- increased facility time and administrative support for both university and trade union representatives.
- assurances around free flow of information and enhanced data collection
- institutions enhance the role and prestige of committee members to mainstream genuine change.
- Welsh Government advice or guidance around safeguarding volunteers who undertake the intense emotional labour attached to delivering the plan.
- greater use of reflective practice in HR. Urgent attention should be given to equalising the contractual arrangements around adoption and surrogacy leave.

Governance

- clarity around where work around where responsibility for implementing the plan sits.
- is it on the agenda in every key decision-making forum?
- who is tasked with driving this work forward? Interviewees argued that institutions need to explicitly assign responsibility
- governing bodies HEI's & FEI's appoint or co-opt a 'critical friend' from outside the institution. Enjoying sufficient expertise and a background in the wider community, this respected member will push back inappropriate proposals from subordinate committees whilst ensuring that LGBT objectives are central to strategic planning. The member will sit on the University Equality Committee or college equivalent and will be free to receive representations from staff and student unions/guilds. LGBT networks will be involved in the appointment process.
- an institution should only apply for a diversity award of quality mark following an extensive consultation with the community whose interests it promotes. The consultation format should be meaningful and accessible.

An institution's ability to carry out this task will be partly determined by its success in regularly reaching out to the wider community. Furthermore, it will serve to test the effectiveness of representative structure

Initial Commentary – Comparing LGBTQ+ with REAP

Whilst UCU Wales engages with the LGBTQ+ plan in its own rights, we cannot ignore the fact that elements of its delivery will sit beside the Race Equality Action Plan. Partly for this reason, it is well worth considering the different methods envisaged in both pieces of work.

Noting the unequal positions of the various groups within the LGBT community, the LGBTQ+ plan adopts a strong, intersectional approach. Differing from the Race Equality Action Plan (REAP), whose fundamental focus was on eliminating multi-generational racism, the LGBTQ+ plan proposes concrete actions built around a hierarchy of oppression, discrimination and need. All in all, the document is crisper and shorter - concentrating on concrete actions as opposed to deep systemic change.

Digging more deeply, whereas REAP emerged from a 12 month process encompassing somewhere in excess of 100 roundtables and structured meeting, the LGBTQ+ plan followed a slicker and more centrally organized line of development. Consequently, while UCU Wales recognizes the expertise and wide-ranging experience of the plan's authors as well as the relative strengths in both pieces of work, the sense of collective agency so evident in REAP can seem oddly absent in the LGBTQ+ plan.

Put crudely, the LGBTQ+ plan has been developed by LGBT experts in consultation with the wider LGBT community. Following on from their practical experience of tackling homophobia and transphobia, the plans approach determines that while sections of the community (white gay and lesbian people) are approaching a position of equality, trans, non-binary and bi-people continue to confront discrete and frequently overt forms of direct discrimination.

As we will see, this hypothesis is not without issue. The absence of high-quality data in HE and FE means that there can be no current certainty around the relative position of groups within the community. Moreover, interviewees suggest that experiences can vary across institutions for reasons of size (with smaller being more progressive) but, most importantly, culture.

However, UCU Wales sees the chief difficulty occurring at the point of delivery. In our submission to REAP, we argued that such an ambitious plan could only be achieved if the space for challenge was opened and normalized. This would engender the conditions of confidence in which people of colour felt enabled to raise their voices and identify areas for practical change. Contrasting this to the LGBTQ+ plan, the engine for change that was so clearly implied in REAP is not at

all apparent. Rather, the emphasis is placed on management and senior leaders to collect data and make the right decisions.

UCU Wales will explore some of the problems associated with this approach in the following sections. For now, it is enough to ask, if the plan requires a nuanced understanding of how various forms of oppression interact, how will institutions develop the equipment without enabling meaningful engagement with those who suffer it?

To illustrate the complexity, one interviewee described how, whilst men generally fared better follow transition, the case was often different for people of colour. Relying upon her own observations, she suggested that the background racist memes of "scary black man" and the "mouthy black woman" served to disrupt established patterns of gender privilege. Put bluntly, it is not at all easy to see how an institution would know, let alone tackle this, unless trans people were enabled to raise their voices.

UCU believes that institutions should behave like a good ally and enable (if not cajole!) those who experience oppression to engage on their own terms.

Existing Good Practise

Glyndwr University currently runs a LGBT staff network. On arriving at the institution, an interviewee described choosing not to disclose her identity on an entrance equality form. This decision was influenced by her previous negative experience of teaching in a male dominated workplace where LGBT issues were dismissed or treated with contempt (i.e., "bi people are just greedy"). However, having taken an active role in the network since arriving, she describes several positive features.

Not being chaired by management, the LGBT network provides a relaxed space which is frequented by a wide range of LGBT staff across the university including leaders, early career staff and people working in HR. The culture is both social (organising LGBT film screenings) and change driven. In explaining how the network fed into the equality committee and wider university planning, she described; "excellent feedback mechanisms", saying that "we can talk about whatever we want to talk about". With respect to the wider culture, it was felt that Glyndwyr was "much more open and supportive than (cultures) outside the institution"

In terms of practical achievements, the network has worked with the equality committee to embed several changes such as gender-neutral toilets and inclusive HR processes. More subtly, there was also a feeling that an open environment meant that students were motivated to come forward and talk about their own identity. The interviewee acknowledged that there was still work to do and felt that data would assist her in better understanding the demographic that she represents (as a sitting equality committee member and trade union officer). However, it was clear from the interview that the excellent systems already in place established enthusiasm for the LGBTQ+ plan and further change.

Drawing some conclusions from Glyndwr, it is clear that a combination of agency, freedom of scope and social focus enabled the interviewee to grow in confidence whilst helping to effect further institutional change. She cited the institutions relatively small size as providing good conditions and agreed that this work might sit better at school level in larger organisations.

Making two initial recommendation, UCU Wales proposes;

1: That universities and colleges work with staff and students to found LGBT networks across workplaces at school or all institution level (depending upon size). Whilst student networks are commonplace across Welsh universities, staff groups are very rate, existing in only one institution as far as we are aware. The situation in FE and work-based learning is far worse.
2: That institutions enable these committees to organise around their own priorities and offer meaningful opportunities to influence decision making (for instance, see UCU Wales suggestion around agreed bids in 'Governance').
3: That in developing a strategy for implementation, institutions consult widely, making it clear that challenge is not merely acceptable but positively encouraged. In Universities, this work should sit with a senior member at school level with finding funneled through the equality and other relevant committees towards the governing body (see Governance). Communications work must receive adequate resource.

Finally, whilst UCU welcomes the impulse towards establishing LGBT networks and groups, we are concerned that these forums should provide additional opportunities for engagement beyond what already exists and feed into the wider process of challenge and change. To that end, while they can augment, they must not replace the function of existing colligate structures such as university and trade union equality committees.

Welsh Institutions – Absent Data and Worrying Signs

It is difficult to assess the degree of LGBTQ+ oppression which exists in Welsh universities and colleges. Except for a thematic study carried out by Estyn in late 2020, there is a lack of research and disaggregated data. Of interest, a 2020 Estyn study found;

"In many cases LGBT learners endure higher levels of bullying than their peers and can experience feelings of isolation that impact negatively on their mental health. However, as part of their effective practice report, inspectors found that LGBT learners thrive in those schools and colleges that promote an inclusive culture. These learners feel as confident as their peers to share their feelings and beliefs."

Estyn suggested that colleges; "review their curriculum, deal properly with bullying, and ensure all staff are trained in addressing discrimination and promoting diversity". Other than that, there is no point of reference considering the position of FE academic staff or HE students.

Clearly there is a need for further investigation and high-quality disaggregated data if institutions are to assess the relative position of groups withing the community. At present very few Welsh Universities and colleges collect disaggregated data around matters of interest for LGBT people. This means that policies risk privileging the anecdotal whilst missing underlying trends which the community feels exist.

Given the paucity of evidence, UCU Wales draws government's attention to a recent piece of work carried out by UCU UK. The report, 'Challenging LGBT+ exclusion in UK higher education', presented findings from a pilot survey carried out by UCU, Cardiff University, the University of Sussex, University of Kent, University of Essex, and Glasgow Caledonian University. The study analysed 122 survey responses from LGBTQ+ members of staff from six different universities across England, Scotland, and Wales.

Key findings include:

1. over three-quarters (77 %) of respondents have thought about leaving higher education
2. almost half (47%) have experienced mental health issues
3. more than four in 10 (41) % have experienced burnout
4. three in 10 (30%) have experienced homophobic language
5. 29% said promotion criteria negatively impact LGBT+ people
6. of those identifying as women, non-binary or other, 26%, 25% and 33% respectively have witnessed derogatory language towards others
7. almost half (47%) indicated that the decolonisation work in their institution does not include working on issues related to gender diversity and sexual orientation
8. all black LGBT+ respondents reported either personal discriminatory experiences or having witnessed derogatory language towards others.

The report recommends several areas for action to address LGBT people's experience of discrimination within the sector. These include clear messaging from institutions that staff should not be subject to homophobic or transphobic treatment; developing campaigns on mental health which centre the experiences of Black LGBT, trans and non-binary people; and linking queer scholarship on black and LGBT lives to decolonising the curriculum initiatives. Further recommendations will be launched in January 2022 after further research and consultation with LGBT staff in higher education.

There is no compelling reason to believe that the conditions identified in Cardiff and other participating universities do not also exist in other Welsh institutions.

Additionally, there is a further issue around UK and international bodies. For instance, when academics apply for research grants the funding bodies still do not routinely collect EDI data nor publish an analysis of how applications and the research topics map against protected characteristics.

Finally, and as demonstrated by the experience of Glyndwyr, staff will be more likely to disclose sensitive information where they find a supportive culture. Consequently, data collection should not be considered a 'one off' event for those who are joining an institution and might be usefully linked to a programme of continuing improvement. Additionally, rather than simply listing a finite number of gender identities, it is recommended that institutions include an 'open box' to cover those who do not feel that they are covered by the categories offered.

The Issue of Complaints

Interviewees agreed that there was a strong relationship between culture and the willingness of LGBT staff to raise their voices. To quote one interviewee "I wouldn't have known how to challenge it (discrimination) in my old institution but probably wouldn't have tried if I did as nothing would have been done".

As the LGBTQ+ Plan is introduced, UCU Wales believes that any spike in complaints in the first three years should be seen as a positive indicator; it suggests that the institution has succeeded in establishing a set of stable expectations whilst providing the conditions of confidence in which complainants feel that their grievances or suggestions will be heard. The 3-year sunset clause will allow for initial data collection, a period of discussion and change implementation.

Similarly, there must be absolute clarity around how issues can be raised and what complainants can expect. Whenever possible, an institution should publish a digest of issues raised as well as providing either a description of action taken or justification for not acting.

Academic Freedom

The new Commission for Tertiary Education and Research will shortly table a definition of individual academic freedom in Wales. Against this background, following a recent exchange of letters between gender critical and intersectional academics at Cardiff University, one visiting lecturer spoke about her post-transition experience and described her feelings in having to work besides colleagues who "have gone on the record to say that I am either mentally ill or faking".

It is the view of UCU Wales that UK Government has tendentiously distorted the character of academic freedom (to ensure freedom of investigation and the exchange of ideas across disciplines) by confusing it with the simultaneously less compelling and more widely drafted freedom of speech. Academic freedom necessarily takes account of evidence, peer review and proportionality. It is at once challenging and collaborative.

UCU UK takes the position that, "Academic freedom also comes with the responsibility to respect the democratic rights and freedoms of others [including those with protected characteristics]**.**

Interviews broadly supported this position, although two respondents took a more robust view; "academic freedom should not extend to discussions around those with protected characteristics". Referring directly to LGBT issues, one interviewee made a compelling case around seeming evidence-based arguments stemming from "historical practice was racist and hailed racist views". By analogy, the interviewee saw a professional imperative to examine the context of any method used to collect evidence in this area. It was also suggested that academic freedom carried a strong ethical dimension, and it was, to some degree, up to the academic to question whether "these are the voices that I want to bring into my classroom".

Whereas the process of decolonisation is more familiar with respect to action surrounding race, UCU Wales finds a strong comparison in relation to LGBT liberation. Consequently, in testing the margin of appreciation, rather than inviting management to police debate, government, academics (and their representatives) and institutions must work together with LGBT people to ensure that academic freedom serves its intended purpose.

Further Observations and Concrete Suggestions

In terms of challenging overt discrimination while the LGBTQ+ plan suggests that it must be everybody's responsibility, its content can sometimes favour managerialism. Put bluntly, given its weakness in terms of collective agency, the plan does not open an effective space for challenge in its current form. This leaves open a space for box ticking and performative gestures.

Proposing a more effective model of institutional allyship, UCU Wales has borrowed from interviewees positive experiences to describe a culture which enables challenge and collaboration over a method that depends upon managers to set things to rights. This is very much in keeping with a social model that runs through Future Generations and Welsh Governments equality thinking – 'nothing about you without you'.

However, lacking the colligate culture enjoyed by many universities, it is difficult to assess the degree to which LGBT staff experience oppression in the Welsh FE environment. Whilst strategic equality plans often exist, there are few opportunities for accountability or free exchange. Further to our recommendations to REAP, the Education Workforce Council should deliver a discrete piece of work to inform policy development in this area.

Also in common with REAP, UCU Wales points to the emotional and workload pressures that frequently fall upon those who volunteer to bring their lived experience to equality work. Sharing our belief that committees and trade unions will require greater institutional support if they are to assist in the adaptation and delivery of the plan, we reiterate the need for:

1: increased facility time and administrative support for both university and trade union representatives. "This should be a core priority and cannot simply be

added to somebody's workload. It's not about commitment – it's about being able to do the job".

2: free flow of information between networks, university committees and governing council

3: institutions enhance the role and prestige of committee members to mainstream genuine change.

4: Welsh Government advice or guidance around safeguarding volunteers who undertake the intense emotional labour attached to delivering the plan

Finally, we felt that there was a need for greater use of reflective practice. For instance, it was pointed out that no institution would run an all-male shortlist. Consequently, one interviewee suggested that all institutional processes should be audited to ensure parity across the piece to ensure that race is brought up to the level of other equality stream. Recognising the difference between the two plans, we feel that our recommendations apply equally to REAP and the LGBTQ+ Plan. In the area of HR, urgent attention should be given to equalising the contractual arrangements around adoption and surrogacy leave.

Governance & Government

UCU Wales identifies governance as playing a crucial role both in developing institutional allyship and creating the space for challenge. We begin with a number of simple recommendations;

1: there must be clarity around where responsibility for implementing the plan sits

2: is it on the agenda in every key decision-making forum?

3: who is tasked with driving this work forward? It was argued that institutions need to explicitly assign responsibility

Aside from Welsh Governments support and the need to formulate a cross-cutting strategy, funding is the key incentive towards promoting institutional engagement and systems change. This lever should operate both to support useful initiatives and change behaviour. As one interviewee said, "There should be a clear duty linked to funding bodies HEFCW (in future, CTER) and Welsh Government. If you say that you're going to get there you should have the money when you arrive. If you employed a builder, you wouldn't pay when you saw a pile of bricks".

During UCU's REAP consultation, whereas the majority of interviewees opposed institution-wide financial penalties, there was unanimous support for writing progress into senior performance objectives and renumeration. It was felt that HFCW's closed-doors approach to resolving poor practices, described as 'meetings without coffee', did not carry sufficient force or visibility to support a culture of change. On responding to a question around how funders reward existing good practice, one interviewee said "Don't worry – they'll be happy to talk about success. You're only going to find the hidden stuff if people think that something will be done". UCU Wales strongly believes that the best way to support institutions is to ensure that the plan aligns with all active streams of government. In PCET, this will include CTER, the ALN Regulations, Social

Partnership and Procurement Act (SPPA) and the Reform & Recovery Plan. Either way, the feeling is that leaders will be less likely to depend upon arguments around institutional autonomy if it is clear that the plan touches upon every aspect of their planning and operations.

Identifying possible performance metrics, UCU Wales proposes;

1: Reduction in the LGBTQ + pay-gap
2: Reduction in awarding gaps
3: Increase in staff diversity
4: Increase in reporting homophobic and transphobic incidents (demonstrating a culture of trust in which staff and students feel confident that their complaint will be dealt with)
5: Reduction in LGBTQ + disparities between professional development opportunities
6: Reduction in promotion gaps
7: Reduction in LGBTQ + disparities in engagement and experience
8: Reduction in non-continuation and progression gaps for students.

In the case of CETR, SPPA and CJC's, alignment can be achieved either through ministerial remit, the appointment of a dedicated board member and/or convening a dedicated subcommittee to report back to the board. This is crucial given that UCU has detected a tendency for organizations to recuse themselves from obligations (such as the Equality Act's Socio Economic Duty) on the basis that they are 'insufficiently strategic'. Whilst mindful of proportionality, we feel that any organization in receipt of significant amounts of public funding should expect to be covered by the plan. Moreover, UCU Wales believes that this expectation should be welcomed with enthusiasm.

Crucially, as well as clear reporting, transparency and accessible information, the experiences of LGBT staff and students must inform metrics around lived priorities. As well as proofing against 'measuring the wrong thing' this can then be linked to institutional governance at every level. Interviews undertaken to support this response suggest that the network already existing in one institution is sufficiently developed to support this work. Related to governance, any prospective cuts to departments or courses which touch upon matters of interest to LGBT people (such as social science and critical studies) must be impact assessed.

Finally, collecting high quality data, establishing a set of workable metrics and establishing meaningful networks are a step on the path but not an end in themselves. The plans action focus can only be achieved if supported by bold leadership.

Having already alluded to the intersection between both plans, UCU Wales would like to make two further recommendations.

1: That the governing bodies HEI's & FEI's appoint or co-opt a 'critical friend'. Enjoying sufficient expertise and a background in the wither community, this respected member will push back inappropriate proposals from subordinate

committees whilst ensuring that LGBT objectives are central to strategic planning. The member will sit on the University Equality Committee or college equivalent and will be free to receive representations from staff and student unions/guilds.

2: An institution should only apply for a diversity award of quality mark following and extensive consultation with the community whose interests it promotes. Not wishing to seem prescriptive, the consultation format must be meaningful, accessible and, disbarring health & safety restrictions, physical. An institution's ability to carry out this task will be partly determined by its success in regularly reaching out to the wider community. Furthermore, it will serve to test the effectiveness of representative structure

Question 1
Do you think the Action Plan will increase equality for LGBTQ+ people and what do you think the priorities should be?

Yes, providing that it is properly resourced, and that LGBT people are meaning fully engaged in the process of implementation. There is a need for more emphasis on collaboration and the space for challenge (see above)

Question 2
Do you agree with the overarching aims? What would you add or take away in relation the overarching aims?

Yes. However (and in PCET), there is a need to align work at the 'bottom' and 'top'. UCU Wales would suggest inserting 'create conditions of confidence in which LGBT people are comfortable to engage'. (see above)

Question 3
Do you agree with the proposed actions? What would you add or take away in relation the actions?

UCU Wales broadly agrees but provides further suggestions (see summary of recommendations).

Question 4
What are the key challenges that could stop the aims and actions being achieved?

A lack of adequate resource and failure to synchronise the work of networks, committees and governance. Any attempt to collapse the LGBTQ+ Action Plans into other action plans (although there is room for alignment). A failure to canvass widely leading to box ticking exercises and performative gestures. A lack of action designed to increase the confidence of the communities (see Glyndwr – best practise) which impacts data collection and take up.

Question 5
What resources (this could include funding, staff time, training, access to support or advocacy services among other things) do you think will be necessary in achieving the aims and actions outlined?

All of the above to which we would add support for networks, committees, civil servants and additional trade union facility time. Support for institutions in identifying and appointing 'critical friends'.

Question 6
Do you feel the LGBTQ+ Action Plan adequately covers the intersection of LGBTQ+ with other protected characteristics, such as race, religion or belief, disability, age, sex, and marriage and civil partnership? If not, how can we improve this?

UCU Wales considers this to be one of the plans key strengths.

Question 7
We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.
What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 8
Please also explain how you believe the proposed policy approach could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Question 9
This plan has been developed in co-construction, and discussions around language and identity have shown that the acronym LGBTQ+ should be used. This stands for lesbian, gay, bisexual, transgender and queer/questioning people, with the + representing other sexual identities. As a result we refer to LGBTQ+ people in the Plan.

What are your views on this term and is there an alternative you would prefer? Welsh speakers may wish to consider suitable terminology in both languages.

UCU has adopted the term LGBT on the basis that 'Q' can denote questioning which can be considered problematic. However, we recognise the existence an active debate and will be led by the views our LGBT members.

Question 10
We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

(See above in the main body of our submission)