

## **Draft Regulations on Continuing Professional Development (CPD) and FE Principals' Qualification (PQ)\***

### **UCU Response**

The University and College Union represents over 41,000 lecturers working in further and prison education and adult and community learning services. UCU strongly believes that a qualified and trained further education workforce regularly updating and renewing its skills is an essential component for the delivery of high quality learning programmes to young people and adults. UCU (and its predecessor organisation, NATFHE) has been involved in all of the discussions and consultations on changes to initial teacher training in the sector and those around the new requirement for all lecturers to undertake a set amount of continuous professional development (CPD). UCU welcomes the opportunity to comment on the draft regulations for the CPD requirement and for principals' qualifications.

Before making comments on the drafts of the two sets of Regulations, UCU would wish to state that it has considerable concerns regarding the policies around reprofessionalism of the FE workforce and the possible impact of the government's policies for adult learning as set out in the in the Leitch Report and the recent consultation on funding in a demand-led system. We believe the return to market forces to drive the FE system could undo most of the positive moves around professionalism as exemplified by 'Equipping our Teachers' and the FE White Paper's recommendation around a CPD requirement. UCU is already receiving reports that some colleges are moving back to a casualised and temporary workforce because of the uncertainty of future funding. Policies around recruitment and retention of staff ring hollow to FE staff who again are facing a wave of redundancies.

## **Regulations on Principals Qualifications (PQ)**

UCU supports the requirement that all principals should hold an appropriate qualification. We consider that having such a qualification will go some way to ensuring that there is a high and consistent standard for senior sector managers. It should mean that the leadership and management of colleges is improved, and that in turn should mean more positive, proper, realistic and compassionate management of UCU members working in colleges and learning services. UCU members have in the past complained, and at times still complain, about management styles and actions of some principals which can be high-handed and what is often termed "macho" management. Such styles and actions lead to a loss of confidence and low morale among staff which in turn may well have a negative impact on the quality of the delivery of services.

UCU would advocate that to accompany the PQ Regulations, there should be a code of practice or guide to best practice which would give advice and examples on actual implementation of the Regulations. An illustration of this might be advice/guidance on the accreditation of prior learning and/or experience in relation to the PQ. Mindful of the desire of the DfES to attract into college leadership candidates from outside the sector UCU has expressed in the informal consultations and discussions around the Regulations, the need to avoid unnecessary barriers to entry. For example a candidate might have a management qualification of the required standard other than the PQ. There would need to be recognition of this, although there might be a requirement to undertake some contextual/familiarisation unit on the sector in addition to the pre-existing qualification. This could also have a positive impact in terms of equality and diversity, one of the areas that the accompanying Explanatory Letter from the DfES particularly raised. Candidates from black and ethnic minority communities might well have qualifications from outside the sector.

The PQ Regulations should assist in achieving the desired policy outcomes outlined in the FE Reform White Paper ascribed to the introduction of the PQ regulations. We would advise however that there should be regular longitudinal evaluations of the implementation of the PQ for management and leadership in the sector. One performance indicator could be whether there was an upward trend in the inspection grades for leadership and management for those principals holding the PQ compared with those appointed before and without the PQ. Another measure might be the number of days lost to industrial action.

The main unforeseen or perhaps perverse consequence of the requirement contained in PQ Regulations might be the diminution in the number of candidates putting themselves up for senior positions. We are concerned that the implementation of the PQ Regulations should be accompanied by the creation and implementation of succession planning to identify and train those already working in the sector who might and should aspire to leadership and management roles. Regular monitoring and evaluation should be undertaken so that if unforeseen consequences have occurred, these can be swiftly corrected.

UCU recognises the positive work that CEL has undertaken to encourage those from black and ethnic minorities to put themselves forward for senior sector posts and to support them. However the numbers of black and minority ethnic principals and other senior sector figures demonstrate that there is still much to be done until the percentages of such leaders are proportionate to the staff and students of the sector, or even the percentages of these communities to the whole population, and to mitigate any negative impact on equality and diversity arising from the implementation of the PQ regulation. If an Equality Impact Assessment has not been carried on the implementation of the PQ Regulation, then it should urgently be undertaken. If such an Assessment has been carried out, UCU is not aware of its publication, and steps should be taken to disseminate it widely in the sector.

### **Regulations on Continuing Professional Development (CPD)**

UCU strongly believes that teaching and managing in the FE system are activities undertaken by professional staff. UCU considers that essential to the roles, responsibilities and conduct of professional staff are proper and high quality initial training and continuous professional development in both the subject/area taught and teaching. This 'dual professionalism' is understood and recognised by the Institute for Learning (IfL) in its published descriptions and definitions of CPD, including its database which is being constructed specifically for the FE system.

UCU, and before it NATFHE, has fought for lecturers to have professional status which would bring with it opportunities within existing workloads for CPD, for upskilling and being able to keep abreast of one's subject. For a long time these opportunities were absent from FE. Indeed for much of the 1990s in the first period of incorporation of colleges, there was a deprofessionalism of the FE workforce through qualified, experienced and committed lecturers leaving to be replaced by unqualified, temporary and casual part time staff.

The requirement for every lecturer to undertake an annual amount of CPD is welcome as an indicator that the professionalism of FE lecturers is recognised and encouraged. UCU considers that overall such a requirement is reasonable and fully within the parameters of policy and outcomes laid out in the FE Reform White Paper.

UCU has major concerns not with the principle of a requirement for CPD, but the implementation of the proposals and the Regulations. These concerns seem to be amply justified when we hear of some of the ways that some colleges have already begun to interpret not only the possible implementation of the CPD requirement but also the new requirements around initial teacher training. These would seem not to be in the spirit of the government's intentions about how these changes should be implemented. Indeed they would seem to be opposed to the creation and encouragement of communities of practice and professionalism that we understood the changes would encourage.

The concerns UCU has are:

- **Scope of the regulations** It is clear under which primary legislation the Regulations have been issued. It is clear which parts of the sector fall within the remit of the Regulations and which do not. It is clear that the Department and the LSC intend to extend the scope of the Regulations to adult and community learning services and work based learning. However more clarification and guidance is needed in relation to other less high profile areas in the sector such as prison education and provider subsidiary companies which might be separate legal entities.
- **How the 30 hours requirement can be made a contractual obligation** We understand under which primary legislation the Regulations are being introduced - the Education Act 2002. We are concerned that the need to change employment contracts of lecturers may result in an extremely wide range of interpretations, some of which may run counter to the intentions of the DfES.
- **Other contractual issues arising from the 30 hours requirement and the registration with the IfL** A number of important issues will need to be clarified between the FE unions, the AoC as the sector employer body and IfL in relation to other employment issues that may arise from the requirement for 30 hours CPD and that of registering with the IfL. Chief of these is the interface between losing IfL membership, and thus the licence to practise, and losing actual employment. There will need to be firm guidance and advice to the sector both to reassure lecturers and ensure consistent practice across colleges.
- **Workloads** UCU recognises that some CPD has always and will continue to take place outside normal working time. However we are concerned that much of the 30 hours CPD requirement must take place within, not in addition to, existing workloads. There will need to be strong advice and guidance on this.
- **Opportunities for CPD** UCU is extremely concerned that the requirement for CPD is balanced by an entitlement for lecturers to have opportunities to relevant and appropriate CPD. Given the requirement for registration with IfL and the implications for this for licence to practise and employment in the sector, such an entitlement to CPD is imperative. Through its national network of branch learning representatives UCU has anecdotal evidence of some lecturers waiting years sometimes for relevant CPD opportunities. In such cases we would wish to see some form of sanction against those providers who consistently erect barriers to staff accessing CPD.
- **Relevance of CPD** UCU has concerns about the relevance and appropriateness of what is offered as CPD, and possible confusion with staff training no matter how necessary. UCU finds the interpretation/definition of CPD given in the regulations helpful as it interprets CPD as being those activities 'undertaken for the purposes of updating knowledge of the subjects taught or developing teaching skills'. UCU and IfL undertook, with some support from the DfES, a survey of IfL and UCU members on various aspects of past and current CPD delivery and uptake. Among UCU members responding a majority, some 67%, found CPD opportunities around subject/teaching specialism and professional practice were most relevant to their

needs. However 38% of UCU respondents perceived their college's staff development policies to be ineffective in relation to setting out an entitlement for CPD. 47% felt their college staff development policies were ineffective in matching individual identified needs with CPD opportunities and 40% of UCU respondents felt that their college did not recognise the value of self-directed CPD or that organised by professional bodies.

- **Equality issues** There are a number of issues around equality which will need to be addressed before and after the Regulations are implemented. Indeed the Explanatory Letter accompanying the publication of the Regulations specifically asks about the impact of the Regulations on equality and diversity. UCU's concerns will encompass the relevance and appropriateness of CPD opportunities offered. The Commission on Black Staff in FE found that many black and ethnic minority staff felt that once appointed, support was often not forthcoming via training and development programmes. We are also mindful that last year's OFSTED report on race relations found that colleges did not have race/ethnicity sensitive staff development policies especially in relation to logging and recording development and training activities.

Other equality issues around CPD concern accessibility of CPD opportunities - both actual physical access and support and also timing and location of CPD activities. For example, arranging CPD activities at the end of the working day will create barriers to access to those staff with childcare/caring responsibilities. We would also urge that the final version of the Regulations uses non-specific gender pronouns.

As with the PQ Regulation, UCU would urge that there is an Equality Impact assessment on the implementation of the CPD Regulation.

- **Length of CPD requirement** There are concerns as to whether there will be a pro-rata requirement where a member of staff has not undertaken a full year's service - for example staff returning from long term sickness during a year or staff appointed during the year. Again more specific guidance is needed.
- **Definitions of lecturers and the remit of the Regulations** We have concerns that the definition of full-time teachers may raise issues in relation to the position of other FE delivery staff such as assessors and instructors. Our concerns focus around the possibility that some colleges may be tempted to re-designate teachers as these other grades and descriptions to avoid the CPD requirement and for other reasons. Given that we now have revised professional standards for lecturers and teachers, it may be advisable to relate the definition/interpretation of teachers to these. There are also concerns around the implementation of the CPD requirement for those FE staff who have other duties such as those combining management duties with teaching.
- **IfL registration** The Regulations cover the requirement and timetable for lecturers registering with IfL. This raises the question of payment of any registration fee. UCU

is mindful that when the requirement for school teachers to register with the General Teaching Council (GTC) was introduced, the costs of registration were met by the Government, albeit through teachers' salaries. UCU and its members would view it as unfair, discriminatory and inequitable if FE lecturers were treated differently to schoolteachers in respect of payment of any registration fee for membership of what is in essence a mandatory requirement. UCU would strongly argue that there is a need for guidance including perhaps a formal protocol setting out the procedures around registration with clear systems for actual registration, obligatory notification of issues and problems around registration, guidance on standards/criteria of membership and maintenance of 'good standing' status, procedures for actions around breaches of codes of conduct, professional obligations and requirements, recoding, warnings and appeals against IfL decisions. Clearly these matters will need to be resolved by discussions between the unions representing sector teachers, sector employers and IfL. However they do interface with the requirements, framework and direction of travel of policy set out by the Department. This then means that there is an obligation on the DfES to also be party to these discussions.

- **Part-time lecturers** The draft Regulations make specific recommendations on implementation in respect of part-time lecturers. The Explanatory Letter also asks specific questions as to whether the Regulations in relation to part-time staff and those with multiple employers are reasonable and workable. UCU considers that the extension of the Regulation to part-time staff is reasonable. Students are less concerned if the staff teaching them are full or part-time than whether their teachers' subject knowledge and skills are up to date, relevant and appropriate. However UCU does have concerns as to whether the Regulations are workable in relation to part-time staff. We wonder whether the minimum of six hours CPD is setting the bar too high and may have the effect of discouraging some to take up part-time teaching. Similarly we can understand the intent behind the sections of the Regulations around the position of part-time staff working for more than one provider but have concerns how practicable it will be for such an employee to undertake a minimum of one hour with each employer.

The regulations might have been better written in relation to part-time staff by distinguishing between part-time fractional and part-time hourly paid.

The former would be treated much like full-time lecturers albeit with the CPD requirement expressed pro rata. Then the requirement to undertake a minimum amount of CPD per employer is workable as there is unlikely to be more than a maximum of four or five employers involved, and that eventuality would be extremely rare. The fact that fractional staff have some non-teaching contact time means there is potential space within those staffs' time with a college to undertake some CPD within their workload.

The issues around part-time hourly paid lecturers are much more complex - not only around multiple employers but more profoundly around accessibility, access and pay in relation to CPD. Many, if not most such staff are actually paid only for the time they teach. For many there is only a notional concept that their pay rate includes preparation, assessment and marking. Part-time hourly paid staff are rarely paid for time spent in training and development. They usually are employed by more than one organisation, sometimes another sector provider, often an employer outside the sector. This can result in many difficulties in accessing CPD opportunities, or even having time to undertake CPD. When they do, it is all too often in their own time and at their own expense - a double or even triple burden not necessarily borne by all full-time staff. There will be particular problems where staff are employed by organisations outside the sector, and/or not involved with learning in any aspect. Such employers may not be sympathetic to part-time teachers taking up sector CPD opportunities. This certainly was the case when NATFHE undertook development work with part-time hourly paid staff. These issues need to be urgently addressed and we would very much to see a code of practice/guidance published that would help to clarify these and other implementation issues.

An additional issue where a lecturer has multiple employers is which college will have responsibility for statutorily required CPD such as that arising from the Disability Discrimination Act.

A number of issues need to be clarified around the position of agency staff, including the relationship between the agency as 'employer' and the 'receiving' college in access to CPD provision, and the respective roles and responsibilities of the agency and college concerned.

Both in our response to the PQ and CPD we have referred to the urgent need for a code of practice/guidance to clarify the actual more detailed implementation of these Regulations. We have indicated especially in relation to the CPD Regulations some of the areas where urgent guidance is needed. Such a code/guidance will need to be created by the DfES working together with the sector stakeholders including employee representative organisations.

\*The Further Education Teachers' Continuing Professional Development and Registration (England) Regulations 2007. DfES Draft April 2007

\*The Further Education (Principals' Qualifications) (England) Regulations 2007. DfES Draft April 2007

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