

## **RESPONSE TO:**

# **DELIVERING THE SKILLS THAT WORK FOR WALES**

**DRAFT REGULATIONS FOR COLLABORATIVE ARRANGEMENTS  
BETWEEN FURTHER EDUCATION INSTITUTIONS AND  
FURTHER EDUCATION INSTITUTIONS AND SCHOOLS**

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## Delivering Skills that work for Wales:

### Collaborative Arrangements (Draft S.I. regs.)

The University and College Union (UCU) represents more than 120,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians and postgraduates in universities, colleges, prisons, adult education and training organisations across the UK.

UCU is the largest post-school union in the world: a force working for educators and education that employers and the government cannot ignore.

It was formed on 1 June 2006 by the amalgamation of two strong partners - the Association of University Teachers (AUT) and NATFHE-the University & College Lecturers' Union - who shared a long history of defending and advancing educators' employment and professional interests.

UCU welcome the opportunity to continue our contribution to the innovative but challenging 14-19 policy agenda in Wales. We support the direction of travel of Assembly policy, but would urge the Assembly government to heed the concerns expressed within this response. For the sake of clarity we have outlined our comments as they attach to the regulations and sub sections.

### Regulation 3

**3 (1)** Allows schools and FE institutions to collaborate, subject to the Government of Maintained Schools Regulations, UCU support the need to regulate that collaboration. However if we consider the implications of **3(4)**

as they apply to school staff, the Assembly will in effect legitimise the differences in relation to the conditions of employment as they apply to staff in Further Education.

We argued strongly within our submission to Webb that FE employers needed to consider returning to a national contract in Wales for all staff groups, to provide comparable conditions of service to match the progress made thus far in relation to the national pay scales for FE staff.

For example if one looks at regulation 7 of The Staffing of Maintained Schools (Wales) Regulations 2006 No.873 (W.81) it is clear that 'Conduct and Discipline and Capability' is regulated by law and if this is one of the functions that the new collaborative board will have responsibility for, they will clearly start to perform the functions of an employer within these regulations.

Although regulation 3 is silent on this matter, if one considers the content of Regulation 6 of the collaborative arrangements it makes it clear that a non governor member cannot vote on any staff discipline issue **6(4)(c)**. Therefore UCU have to assume, given the way

the draft regulation is worded, that the new board, will in fact be the employer. They will then be faced with two differing arrangements for the treatment of their staff as **3(5)** requires them to apply the relevant provisions of the articles and instruments as they apply to the FE institution.

Clearly such a situation would be extremely unsatisfactory. To have staff working along side each other being subject to different, and in our view unequal treatment, when disciplinary sanctions are applied.

We would further like to draw your attention to the concerns we expressed in our oral evidence to the Webb review:

“How effective is governing body oversight of senior management leadership? Emphasis is often placed on financial scrutiny rather than educational provision and standards. This must be addressed by the review; appropriate governance that is ‘fit for purpose’ must result if the sector is going to be able to deliver on the future policy of the learning country.

Our perceptions are that:

- governors lack educational background or expertise. Too many governors come from business sector with a narrow, one dimensional perspective
- infrequency of corporation meetings, (perhaps only once a term) results in a body who are unable to engage in the ‘educational mission’ debate
- over-reliance on information, reports, advice from senior managers. It is often difficult for staff and students to get views aired at governing body meetings.
- lack of adequate training for new and existing governors.
- composition of governing bodies appears to be under-represented by women, ethnic minorities and disabled people. Tendency appears to be for these governing bodies to replicate themselves i.e. appoint in their own image.

These draft regulations appear to make no attempt to ensure that the constituency of the new collaborative board addresses our concerns about their profile and expertise in relation to education and training.

We have included at Appendix 1 the results of the breakdown of Governors currently serving in colleges across Wales where we have been able to access that information. It is clear from our figures, gathered over the past month, that business and co-opted members form a significant part, nearly 50%, of the governing bodies in colleges in Wales. There is also a significant difference in the gender balance in large majority of colleges.

#### **Regulation 4**

**4(5)** Appears to UCU to purposefully exclude head teachers from becoming a chair of a joint committee, yet no such restriction is being placed on principals of FE institutions. We

fear that our sister unions will see this as an attempt by the Assembly to get FE to take over the 14-19 agenda, and exclude head teachers from taking a leading role on the board. Section five excludes pupils from schools and FE institutions, we wonder whether this is a drafting error or intentional? If it is intentional we believe it will damage attempts to get institutions and schools to collaborate for the benefit of learners in Wales. We would urge that this section be redrafted to allay potential fears of a 'takeover.'

**4(6)** Further evidences to UCU that our concerns about 'a self-perpetuating elite' of governors will not be challenged as a consequence of this piece of legislation.

### **Regulation 6**

UCU believes that this section clearly maps out the direction of travel in relation to the collaborative boards. The very fact that the drafting includes section six indicates to us that all of the functions that the individual boards could delegate to the new collaborative board will result in a new employer. This has major implications for all staff and their terms and conditions of employment.

UCU will be seeking to persuade the Assembly Government to ensure national conditions of service in Wales apply equally to FE staff as they do currently to school staff. Clearly we are much closer to the issue of equal pay for work of equal value in relation to pay structures, there are however some issues in relation to teaching allowances that have yet to be addressed. Much more significant issues such as holidays, discipline and hours worked will need to be addressed if these collaborating boards are established. This will present significant challenges to the Assembly.

### **Regulation 9**

Whilst our comments on this section are not directly related to our members, it would be remiss of us not to draw attention to the implications of this regulation. **9(2)(c)** as it is currently worded could prevent a head teacher from voting on any decisions which may impact on how and where pupils are registered. Salaries of head teachers are based on the number of pupils registered in their school.

**9(3)(b)** worries UCU. We acknowledge that a relevant person could be asked to not vote or withdraw from the meeting, but we contend that in the spirit of 'Nolan' that the Assembly government should discourage such behaviour.

UCU are keen to engage constructively with the Assembly and its staff in supporting the 14-19 agenda. We would urge the Assembly to give due consideration to the employment contract issues raised within our response and encourage fforwm to engage with the joint trade unions in Wales on pursuing a national contract for FE in Wales which recognises the implications of 'associated employer status.'

APPENDIX 1

Governors in Wales FE(excluding Principals) 2008																																				
Name of College	Tot No.	Business			Co-opted			Staff			UCU Staff Rep			Student			Parent			Local Authority			Community			Assembly			Vacancy	Unspecified Role			Gender Balance			Ethn
		M	F	DK	M	F	DK	M	F	DK	M	F	DK	M	F	DK	M	F	DK	M	F	DK	M	F	DK	M	F	DK		M	F	DK				
BARRY	18	6			1	2					2				1					2			1			1	3			12	4	1				
BRIDGEND	19	7				2		1			1									2	1		2	1		2			13	4	2					
CEREDIGION	14			5			2				2										1			2							14					
DEESIDE	18	6			1	1			1		1				1					1			1					5	9	4	5					
GLAN HAFREN	19	7			1	2		1	1		1								1			2	1		2			12	5	2						
GORSEINON	19	6	1		2	1		2						1		1			1			2	1		1			13	5	1						
GWENT	18	4	1		1				1		1				1				3	2		1			2			10	6	2						
LLANDRILLO	18	6	1		2	1		1					1		1				2			2	1		2			14	4							
LLYSFASI	18	4	3		2			1							1				2			2	1		2			9	6	3						
MENAI	18	5	1		1	2		1					1						2			1	2		1			10	6	2						
MEIRION DWYFOR	17	5	1		2	1		2									1	1				1	1		2											
MORGANMWG	18	6			1	2		1				1			1				1			2	1		2											
NEATH	18	3	4		1	2		1				1			1				2			2	1		2			11	7							
PEMBROKESHIRE	19	4	3		3			1	1										2	1		3			1			13	5	1						
POWYS	19	5	2		3				2					1					1	1			2		2			9	8	2						
SIRGAR	14				2	1		1	1						1				1			2			5			11	3							
SWANSEA COLLEGE	18	6	1		2				2						2				2				3		2			10	8							
WCOH	14	4	2		1	2						1							2						2											
YALE	13	2	3		2				1					1					1				2					6	7							
YSTRAD MYNACH	14																											8	6							
<b>Totals</b>	<b>343</b>	<b>86</b>	<b>23</b>	<b>5</b>	<b>28</b>	<b>19</b>	<b>2</b>	<b>13</b>	<b>10</b>	<b>2</b>	<b>9</b>	<b>2</b>	<b>5</b>	<b>8</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>26</b>	<b>7</b>	<b>1</b>	<b>22</b>	<b>19</b>	<b>2</b>	<b>18</b>	<b>10</b>	<b>0</b>	<b>5</b>	<b>170</b>	<b>88</b>	<b>35</b>						

KEY	
Green	= No or limited information available on College web pages
M	= Male
F	= Female
DK	= Don't Know
	= Vacant Post

Ceredigion	Gender not known, composition of membership known, Emailed Clerk to BOG 11/06/08 - no reply. Wrote letter 12/08/2008
WCOH	Info from website @ 16.09.08 - 3 members unspecified roles
Ystrad Mynach	Gender known, composition of membership unknown. Emailed Clerk to BOG 13/08/2008, follow up letter 16/09/08

