

# Proposed Learning and Skills (Wales) Measure Committee

**LS(3)-03-08(p.1): 30 September 2008 (Saesneg yn Unig)**

**Response to Welsh Assembly Government Consultation from NUT Cymru**

**Welsh Assembly Government Consultation**

**Proposals For A Learning And Skills (Wales) Measure 2008**

**Nut Cymru Response**

1- NUT Cymru welcomes the opportunity to comment on the above proposals and the fact that the Welsh Assembly Government (WAG) is inviting comments at a pre-legislative stage rather than later. It also welcomes the general intent of the proposals, which is 'to provide equality of opportunity for 14-19 learners in Wales' (p1, last paragraph).

**Policy Basis for the Proposed Measure**

2- The reference to Learning Coaches is unfortunate (page 3, paragraph 4). This was and is an ambitious scheme instituted by the WAG. It has proved to be an overly ambitious scheme as, quite simply, the necessary funding has not been provided. In rough terms, a large school currently receives about £8,000 from its 14-19 Network for Learning Coaches. For this sum, it cannot employ even one Learning Coach, let alone meeting the original target of 1 Coach for every 400 learners. It is regrettable that huge amounts of money have been spent discussing and trying to set up a system that is not then provided with the money necessary for it to operate; many schools are applying a sticking plaster to the problem by rebranding pastoral support as learning coach support. A sticking plaster is not a long-term solution to a serious problem.

**The Measure**

3- The headline to Point 2 (page 4) states that the Measure will place 'a duty on LEAs, maintained school governing bodies, Head teachers and Principals and Governing Bodies of FEIs to consider whether to collaborate to maximise the availability of choice in constructing the options menu'. This would indicate a duty to make such consideration but no duty and certainly no legal requirement to collaborate.

4- The following bullet point, however, states that 'Governing bodies of any maintained school and any further education institution in a local authority area will be required to consider how they need to cooperate ...', which is a somewhat stronger statement. The second bullet point in the same Point 2 but on page 5 also states unequivocally that 'School governing bodies will need to cooperate with other schools and further education institutions...' although later in the same bullet point is a reference to 'a duty, where necessary, to consider cooperating with other schools and further education institutions...'. The end result is that it is not clear whether schools and colleges will, in the finalised measure, be required to co-operate or simply to consider doing so.

5- The final paragraph in Point 3 ('It is not anticipated that any single learning setting will be able to offer the wide range of provision which will be required under this Measure', page 5) would indicate that collaboration will, of necessity, be a requirement.

6- It is the Union's belief that the duty should only be to 'consider' co-operation. If schools and other institutions can show good reasons for not undertaking collaborative provision, they should not have to do so.

7- It is not the only instance of a lack of clarity. The final paragraph on the same page 5 correctly states that 'Co-operation and collaboration are part of our distinctive partnership in Wales. It is believed that there is extensive evidence that partnerships can work together in the interests of learners in this way'. Either there is extensive evidence or there is not and, if it is known to exist, it should be clearly cited.

8 -However, NUT Cymru is pleased to note the implication (page 6, bullet point 2) that, in future, academic courses would be known as general courses and vocational courses as applied. We hope and believe that this would be helpful in breaking down the traditional divide whereby academic courses were generally considered to be superior to vocational courses - however mistaken that belief. It is particularly helpful because many areas of study traditionally considered 'academic' are, in fact, applied - medicine and law being prominent examples. It is confusing, therefore, to see the term 'vocational' being used later on in Subsection (6) of the regulations.

9- Currently, not only is there still a perceived qualitative divide - and its continued existence is somewhat encouraged by the format of the R2 form - there is also a great deal of confusion about what is and what is not a vocational course. Why, for instance, are GCSEs in engineering or in Design and Technology industrial products and systems and control not considered to be vocational?

**Description**

10- On page 33 (1.3), it is noted that 'It will be possible for 14-19 year olds to study outside their main learning setting'. There are already instances where this is possible and the Union supports the greater range of suitable choices that these can offer. However, we are also acutely aware that, in some instances, it is an aim that can be very difficult to fulfil because of many practical difficulties, including transport and safety issues. The use of IT links has proved efficacious in many cases but cannot solve all problems.

11- There is an additional complication which seems not to have been considered. Anecdotal evidence shows that some learners are

making it clear that they do not wish to travel to another institution for a substantial part (if any) of their timetabled time. WAG has consistently stated that learners must be at the centre of provision planning. What consideration will be given to their expressed wishes in this respect?

12- On the same page (1.6), there is reference to 'joint working between the Governing Bodies of Schools and Further Education Institutions, Local Education Authorities, Head Teachers and Principals'. Joint working for the benefit of learners and thus our wider society is to be encouraged and welcomed but bringing it into effect is fraught with difficulties and very time-consuming - time costs money and funding is scarce. Nevertheless, it can be done, it has been done and we hope that it will be done more widely; but success is very often dependant on recognising the difficulties before being able to overcome them.

### **Purpose and Intended Effect of the Legislation**

13- We have no wish to seem too negative: we fully endorse the six key elements of the Learning Pathways, as outlined in the bullet points on page 35 (3.2). Again, however, we note that earlier in 3.2 is the correct statement that 'The Learning Pathways policy has the potential to transform provision and support learners...'. It is premature to state, as is done in 3.3, that 'The combination of these elements will ensure that all learners will receive an appropriate balance of learning experiences that best meet their individual needs'. The Union will be delighted if that proves to be the case; at the moment, however, we can only hope that that will be so.

14- The minimum outlined for the Learning Core in 3.5.3 (page 36) is admirable in its intent.

15- Paragraph 3.5.4 (page 37) is unclear. Does the 'co-operative provision' foreseen for Further Education Institutions and work based learning providers include co-operation with schools? Does the phrase 'provision for Further Education Institutions to participate in provision for learners from 14 onwards' indicate co-operation between FE and schools? Schools seem to have disappeared.

16- The draft Measure does not provide clarification, although we note that 14 (3) (on page 16 of the draft measure) suggests that a person of compulsory school age could be receiving 'all, or the majority of, his or her education at, or under arrangements made by the governing body of, an institution within the further education sector in Wales'. It is clearly stated in the section on Power to make subordinate legislation (5.2, last bullet point) that the draft measure contains enabling powers for Welsh Ministers to make provision in the regulations about 'applying the provisions of the Measure to children of compulsory school age who are not registered as pupils of a maintained school but are receiving education within the further education sector in Wales'.

17- The above would indicate a massive change in the education system in Wales in which, up to now, it has been a requirement for pupils up to the age of 16 to receive education at school or 'otherwise', if the alternative provision (normally home tuition by parents) is approved by the LEA. It would now seem that we are to have a situation in which children of compulsory school age will not be at school but at FE institutions. We need further detail of what exactly is being proposed here. Why would a pupil aged under 16 be receiving education in an FE institution? Have the health and safety issues been considered? Has the pastoral provision provided by schools been considered? Has the range of additional activities offered by schools been considered? Has the entitlement of every young person up to the age of 16 to receive a broad and balanced education been considered?

18- The greatest fear we have in this area is that, contrary to our hopeful comments on the effect of use of the terms general and applied courses (page 6, bullet point 2), this current final bullet point on page 40 would indicate a return to the now outmoded and no longer valid notion that pupils would be classified as able to benefit most from either academic or vocational courses, with the former attending sixth forms, the latter FE institutions. Such a scenario is not only outmoded, it would seriously limit the future possibilities and choices for those young people and thus be disastrous for our future economic prosperity as a country.

19- However, it is somewhat reassuring to note on page 44 (7.6, final bullet point) that the intent of achieving a stated aim - '95 per cent of young people by the age of 25 to be ready for high skilled employment or higher education by 2015' - is still in existence. There has been scant reference in the document to the fact that many young people should be aiming for higher education. Also reassuring is the indication that 'the curriculum in maintained secondary schools in Wales will be expanded to include the local curriculum entitlements of pupils in Key Stage 4'; an expansion, rather than contraction, is welcome.

20- Paragraph 5.4 (page 40) is incomprehensible without clarification.

### **Regulatory Impact Assessment**

21- Returning to page 44, we note the statement that Welsh Ministers will be able to direct schools and governing bodies to enter into co-operation arrangements. This echoes the intention in 3.7 (page 38) 'to enable Welsh Ministers to issue guidance and directions in relation to joint working, co-operation and collaboration'. Clearly, if voluntary arrangements are not reached, the WAG will intervene and direct institutions to come to such arrangements. We support the encouragement to co-operate but doubt that enforcing arrangements would bring about the collaborative spirit that is necessary for success in joint ventures. We note that cross-border (i.e. LEA) co-operation will be voluntary only (page 54, last paragraph in section 10).

22- Again we return, this time to page 51 and the reference to subsection (4) of the regulations, which 'provides discretion for local authorities to form the local curriculum to meet local needs'. Of course local needs should be considered - nobody doubts that - but to whose needs are we referring? All too often, it seems that the needs of local employers are considered paramount. These have legitimate needs; so too do the children and young people and all other people in that area. In its comments on the Webb Report, NUT Cymru stated as follows:

'Both learners and employers have legitimate needs; but it would be short-sighted in the extreme to place too much emphasis on 'meeting the needs of the employer'. In reality, employers need to be able to draw on a pool of generally well educated, highly qualified

and skilled people who are able to adapt to changing needs and circumstances and learn new skills in response to these; all too often, in practice, employers stress their short-term needs. There is a particular danger of this in a country such as Wales, which has a high proportion of Small and Medium Enterprises. We are not denying their needs and their legitimate right to Government help; on the contrary, they form a vital and welcome part of the Welsh economy in circumstances which are often difficult. All power to their elbows. However, they are probably not best placed to make decisions about education provision which would have wide-ranging and long-term effects.'

We repeat the comment here.

23- Page 56 refers to Section 15, Powers to alter or remove requirements for fourth key stage. What is this about? Is the principle of a broad and balanced curriculum for all pupils aged 14-16 to be abandoned? NUT Cymru has always supported greater flexibility than was at first available in the National Curriculum when it was first established - although it is also aware that relaxation in requirements, which we hoped would lead to a greater match in pupil interests, also had unfortunate effects, e.g. a return to gender stereotypical choices. It is difficult to say yea or nay to this proposal without an explanation of its rationale. We would certainly wish to stress that we believe it to be one with inherent and serious dangers, in particular, too narrow a choice of options.

24- It is a pity that funding responsibilities confuse matters (page 56, last paragraph). We would support arrangements being made by ministers to make arrangements with LEAs to select the courses of study for those aged 16-19 as well as those aged 14-16. They should do so because of their knowledge of their own areas.

### **Responses to individual questions**

#### **Local Curriculum**

1- Do you agree with the principle of increasing learning choice via co-operation between organisations and through the production of local area curriculum?

Of course. However, see paragraphs 2-5 and 7-8 above and the final comments below.

2- For 14-16 learners registered at maintained schools, the responsibility for planning the local curriculum rests with the local education authority and for head teachers and governing bodies to be required to assist the local authority in this regard. Do you agree that the responsibility should lie with the local authorities?

Yes. See paragraph 20. However, details as to the constitution of any group involved in decisions need to be discussed and agreed.

3- The responsibility for planning the local curriculum for learners aged 16-19 rests with Welsh Ministers. Do you consider this appropriate, and if not why?

No, again see paragraph 20.

4- Would the setting of a minimum number of courses to be contained within the local curriculum in Key Stage 4 and a minimum number of courses for learners 16-19 years old, assist in ensuring equality of opportunity for learners across Wales?

In theory, no doubt that would seem to be the case. However, this will depend on the efficacy of partnership arrangements and the level of difficulties that may arise within any one area.

5- Is it appropriate that the decision as to an individual learner's entitlement should rest with the head teacher or principal?

In practical terms, it has to be so. However, this should be done within the framework decided by the Local Curriculum Board and all reasonable efforts made to meet individual needs. No doubt it would be reassuring for those charged with this responsibility and for those required to abide by their decisions if the WAG were to draw up a comprehensive list of circumstances in which a head teacher or principal could, indeed, decide that a learner should not have access to the option of his or her choice. In practice, however, that could be difficult, if not impossible. Thus it would be better to apply a simple test of reasonableness, perhaps with examples given in non-statutory guidance.

6- Do you consider the use of minimum option numbers, allied with the use of learning domains succeed in supporting a workable framework for wider choice for learners in the 14-19 phase?

Again, this is desirable in theory but easier said than done.

7- Is it desirable to set a minimum number of vocational courses that must be included within a local curriculum?

Is it not, then, the intention to define courses as general and applied? See paragraph 6 of the response. We shall never be successful in our efforts to break down the academic vocational divide until we abandon the use of these two terms; the general interpretation afforded them is too well-entrenched by now. See paragraph 6 above.

Setting a minimum number of courses to be offered indicates the desire to offer breadth of choice but does not, in reality, mean that the needs of the learners will necessarily be met.

8- Should the minimum requirement for vocational courses be specified as having to fall across a range of learning domains?

This is too fraught with practical difficulties to be a minimum requirement. There may be a suggested minimum but tailoring provision to

suit individual needs is more important.

### **Joint Working**

9- Would the placing of a duty on local education authorities, governing bodies of schools and further education institutions, to consider co-operation be sufficient to achieve the provision of a local curriculum?

See the comments in paragraphs 2 - 5, 7-8 and 17.

10- Please identify any barriers to co-operation that may need to be overcome. What possible solutions are there?

The barriers are numerous and the following are examples only.

Rural areas especially suffer from a lack of regular and frequent public transport but this can be true of urban areas too and even where it does exist (whether in rural or urban areas), the routes would not necessarily be suitable for the exchange of either learners or staff.

Welsh-medium or bilingual provision is patchy.

The use of different funding methodologies complicates matters.

Managing the provision in areas which are on the borders of local authorities is not easy.

The use of information technology links is growing and can be helpful but is not a panacea for all problems.

### **Learning Coach and Personal Support**

11- The proposed measure makes provision for youth support services. Will the provision proposed facilitate young people's access to support services as envisaged within 14-19 Learning Pathways?

It is not logical to separate responsibilities for the provision of education from provision of the support necessary to access it. They are intertwined. Learner support should normally, therefore, be the responsibility of the Local Education Authority.

### **Final Comments**

NUT Cymru welcomes and encourages partnership working when this is practicable and effective. Insisting on a greater degree of more formalised partnership working, however, brings with it the risk of increased bureaucracy and increased costs. Partnership working does not come cheap; very often, it is more expensive. If partnership working benefits the learner and if adequate financial provision is made, that is good news; if adequate funding is not provided, hopes are raised only to be dashed. Disillusion follows.

NUT Cymru

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