

# Education, Lifelong Learning and Skills Committee

## ELLS(2) 13-06 (Paper 1) Annex B

### Consultation on Delegation of 16-19 Provision Organisation Proposals to Local Authorities 2006

#### Summary of Consultation Responses

This document outlines the responses received to questions 1 - 5 of the consultation on the proposal to delegate to Local Authorities responsibility for developing proposals for the future organisation of 16-19 provision in maintained schools which included voluntary and foundation schools, and further education.

The consultation commenced on 27<sup>th</sup> March 2006 and ended on 31<sup>st</sup> July 2006 following an extension to permit all relevant stakeholders the opportunity to respond. Sixty nine responses were received. Some respondents submitted a 'free standing' response and did not answer the questions set out in the consultation document. In these circumstances every effort was made to link responses to specific questions where appropriate. Where this was not possible the issues raised by respondents have been included in a summary of additional issues. A breakdown of respondents is provided below:

Organisation	Number of respondents
Local Education Authority	14
FE College	13
School	8
Diocesan Body	3
Representative Body (Faith education)	2
Professional Association / Trade Union	7
CCETs / 14-19 Networks	10
Voluntary Sector Organisation	5
Sector Skills Council / SSC Body	2
Representative Body	2

Other	3
<b>Total</b>	<b>69</b>

The following analysis combines some statistics with a selection of some of the key recurring points made by respondents.

A full consultation summary report will be published in due course

## **SECTION 1: Background**

### **Purpose of the consultation**

The consultation invited comments on the proposition that responsibility for making proposals regarding the future organisation of post-16 learning provision in maintained schools (including voluntary and foundation schools) and Further Education institutions should be delegated to local authorities following the transfer of functions from the National Council for Education and Training for Wales (ELWa) to the National Assembly for Wales on 1 April 2006 and the creation of the Department for Lifelong Learning and Skills (DELLS).

The Welsh Assembly Government is committed to establishing effective collaboration both with and between local stakeholders in providing a wide range of learning opportunities and career choices for all young people. The organisation of 14-19 learning including post-16 provision in maintained schools and FE institutions is a prime factor influencing the opportunities and choices available. The consultation invited local authorities to take the lead in building a consensus within and between their respective areas as to the structure of post-16 provision that would facilitate these objectives.

### **School sixth form provision**

ELWa's powers in respect of school sixth form organisation proposals encompassed powers in respect of inadequate sixth forms under the Learning and Skills Act 2000 and powers in respect of area reorganisations (embracing community schools, voluntary schools and foundation schools) under the same Act (as amended by the Education Act 2002).

The way in which ELWa was able to exercise these powers was governed by the School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004. These regulations enabled ELWa to make proposals to open, close, or alter a school sixth form, including that of a voluntary school or foundation school. Such proposals were determined by the Minister for Education Lifelong Learning and Skills under powers delegated to her by the National Assembly.

The rationale that led to the creation of these powers was the need for an overarching body to take the lead in making proposals for the reorganisation of school sixth forms that went beyond the competence of individual local authorities to make proposals themselves in respect of community

schools through their own powers under the School Standards and Framework Act 1998 e.g. where such reorganisations might extend beyond the boundaries of the local authority concerned and/or involve a voluntary or foundation school.

The Regulations were intended to ensure that ELWa took the lead, in collaboration with local partners, in local planning across a range of different 16-19 providers to give all young people access to a full range of high quality and diverse post-16 learning. Reorganisation proposals would be prompted, for example, by an Estyn area inspection or a 'pathfinder' review of local provision and would entail a solution that also involved other post-16 learning providers (subject to their agreement) such as FE institutions or, conceivably, private training providers.

The merger of ELWa with the National Assembly and the associated transfer of functions means that ELWa's powers under the School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004 are now exercised by the Assembly Government.

### **Further Education institutions**

ELWa was also able to exercise the function of proposing the creation and/or dissolution of Further Education institutions (including sixth form colleges and tertiary colleges) under the Further and Higher Education Act 1992.

The way in which ELWa was able to exercise these functions was governed by the Education (Publication of Draft Proposals and Orders) (Further Education Corporations) (Wales) Regulations 2001. These regulations specified the content, timing and manner of publication of draft proposals made by ELWa for the establishment and dissolution of Further Education corporations. Such proposals were determined by the Minister for Education Lifelong Learning and Skills under powers delegated to her from the National Assembly.

The merger of ELWa and the associated transfer of functions means that ELWa's functions under the Education (Publication of Draft Proposals and Orders) (Further Education Corporations) (Wales) Regulations 2001 are now exercisable by the Assembly Government.

## **SECTION 2:**

### **Responses to questions 1-5 on the proposed delegation of 16-19 provision organisation proposals powers to local authorities**

#### **Question 1:**

**Should the role of preparing sixth form reorganisation proposals, under the powers provided in the Learning and Skills Act 2000 in collaboration with local stakeholders, be delegated to local authorities?**

A total of 61 responses were received to this question, of which:

- approximately 57% indicated support for the proposed delegation;
- approximately 30% indicated that they were not supportive of the proposed delegation; and
- approximately 13% did not indicate whether they were in favour or not but provided comments on the practicalities of the proposed delegation.

## Summary of responses

Respondents who supported the proposed delegation gave reasons which included the following:

- local authorities could ensure progression and integrated continuity across education phases;
- school sixth forms are not separate entities from schools or their communities;
- local authorities are best placed to co-ordinate needs analysis and reach consensus with all partners;
- such a delegation would allow for a joined up approach on the implementation of 14-19 Learning Pathways, linking pre- and post-16 provision; and
- the delegation would enable decisions to be subject to scrutiny as part of the local democratic process.

Respondents who were not supportive of the proposed delegation gave reasons which included the following:

- concerns about perceived vested interests and the potential lack of independence of local authorities with respect of school sixth forms;
- concerns regarding political difficulties likely to be experienced by local authorities in introducing sixth form reorganisations;
- the potential loss of self determination for voluntary and foundation schools; and
- concerns about faith-based sixth form provision which is not organised to the geographic boundaries of local authorities.

Respondents who did not indicate a preference as to whether or not delegation should take place raised the following issues in relation to the practicalities:

- the need for a new structure of local accountability;
- concerns about the ability of local authorities to proceed with sixth form reorganisations in collaboration with local stakeholders and to simultaneously remain politically accountable to democratically elected members;
- concerns about the rights of families to select faith-based sixth form provision; and
- the need for voluntary sector organisations to be involved in future consultations.

There were mixed reactions to question 1 but overall there was more support than opposition, with approximately 57% of respondents to this question indicating their support for the proposed delegation of functions. Representative bodies such as WLGA, ADEW and NHAFT Cymru were supportive of the proposed delegation. Those opposing the delegation represent approximately 30% of the total number of respondents to this question and include those schools most directly affected by the proposed delegation, voluntary aided and foundation school governing bodies as well as

Diocesan Bodies, FE colleges and fforwm.

It should be noted that respondents from the FE sector, whilst not agreeing to the form of delegation proposed in the consultation document, provided alternative suggestions which variously involved delegation of powers to 'independent bodies' or 'independently chaired committees'. Such bodies do not constitute a 'relevant authority' in line with the definition provided by section 41 of the Government of Wales Act 1998 and consequently could not be a party to a section 41 agreement with the Assembly in order to exercise a delegated Assembly function.

Approximately 13% of respondents to question 1 neither agreed nor disagreed with the proposed delegation but commented on various aspects of the practicalities of the proposal as set out above.

Despite the generally positive response, a number of significant concerns have been raised by respondents. Concerns raised by those opposed to the delegation included: perceptions of vested interests; lack of independence of local authorities who would be biased towards school sixth forms rather than other forms of post-16 provision; the local political difficulties likely to be experienced by local authorities in introducing sixth form reorganisations, which could seriously hinder progress; the potential loss of self-determination for voluntary and foundation schools, and concerns about faith-based sixth form provision which is not organised on the geographic boundaries of local authorities. In addition certain concerns were also raised by respondents who overall supported the concept of delegation. These concerns included: the need for rigorous guidance for local authorities on how to fulfil this delegated role; the need for additional resources to be made available to local authorities to undertake the new role and the difficulties of being politically accountable locally yet having to reach consensus with all interested parties.

## **Question 2:**

**Should local authorities be able to put forward proposals which also involve the creation of Further Education institutions or should this role remain with the Assembly Government?**

A total of 61 responses were received to this question

- approximately 39% indicated support for the proposed delegation;
- approximately 41% indicated that they were not supportive of the proposed delegation; and
- approximately 20% did not indicate whether they were in favour or not but provided comments on the practicalities of the proposed delegation

## **Summary of responses**

Of those indicating support for the proposed delegation the following reasons were given:

- to ensure coherence in 14-19 progression;
- that local authorities need to have a strategic role in all post-16 learning provision;
- that such a delegation would be the natural product of the closer collaboration between

- providers of post-16 and 14-19 learning; and
- to promote collaboration and cross-institutional working.

Those who were not supportive of the delegation highlighted the following concerns:

- the potential for duplication of provision and increased competition with existing FE colleges;
- that the proposed delegation was unfair to the interests of providers in the further education and work-based learning sectors and their learners; and
- that the remit of FE institutions is much wider than provision for 16-19 year olds and that local authorities might not be best placed to make decisions that impact on the full range of FE provision.

Respondents who did not indicate a preference as to whether or not the delegation should take place raised the following issues in relation to the practicalities of the proposed delegation:

- legal issues required further clarification; and
- should such a delegation take place, the rights and wishes of parents in relation to 16-19 provision within the Catholic voluntary aided sector should be fully taken into account.

Consultation responses to this question were mixed although the overall response was less positive than that received for the first question with approximately 39% of respondents indicating that they favoured the proposed delegation. Those opposed to this delegation included voluntary and foundation school governing bodies as well as Diocesan Bodies, the FE colleges and fforwm. These respondents represent approximately 41% of the total number of responses to this question. Respondents from the FE sector raised concerns about the perceived lack of independence of local authorities, the potential for increased competition with existing FE colleges and the capacities of local authorities to deal with the full range of post-16 provision.

Question 2 was received by stakeholders with some degree of confusion. Some respondents have assumed that the question refers to the creation of arrangements, others that local authorities will have the power to propose the creation of general FE colleges operating in competition with existing learning providers. Stakeholders in the FE sector opposed the proposed delegation which involves the creation of FE institutions to local authorities but have proactively proposed alternative approaches which variously involve delegation to an 'independent' body.

If questions 1 and 2 are considered together, the overall response indicates that there is considerable disagreement amongst stakeholders about the most appropriate arrangements for the responsibility for planning the organisation of 16-19 learning provision. The concerns expressed about the capacity of local authorities to consider the whole mix of 16-19 provision, as opposed to just schools sixth form provision, are worth further consideration. These concerns are raised not only by those opposing the delegation but also by WLGA who have stated that 'there is a concern amongst authorities that there may be a lack of capacity to deal with this process.' This concern has been reiterated by several local authority respondents.

### **Question 3:**

**How should the development of proposals affecting more than one local authority area be taken forward? In particular should it be a requirement to establish a joint committee in such circumstances or should this be optional depending on the extent of cross-boundary interest involved and, the wishes of the local authorities concerned? Should there be guidance from the Assembly Government as to the structure, functions and membership of joint committees?**

A total of 56 responses were received to this question:

- approximately 45% indicated support for the requirement to establish a joint committee;
- approximately 14% indicated that they were not supportive of the requirement to establish a joint committee; and
- approximately 41% did not indicate whether they were in favour or not but provided comments on the practicalities of cross-boundary working.

## **Summary of responses**

The vast majority of respondents indicated that they were in favour of the Assembly Government providing guidance. However, the detailed responses highlighted differences of opinion with regard to the extent of prescription considered to be necessary in the form of guidance e.g.

- prescriptive guidance would not be helpful, the means by which collaboration takes place should be left to the local authorities involved;
- guidance should lay down minimum requirements;
- there needs to be strict and comprehensive guidance on structure, functions and membership; and
- additionally some respondents noted that any reorganisation in certain parts of Wales would have to be through 'joint committees'.

The consultation feedback indicates that should the joint committee option be selected then Welsh Assembly Government guidance on the structure, functions and membership of such committees would be advisable in order to define minimum specifications of the committees. However, this guidance should be flexible enough to permit local authorities to build on joint working arrangements already in place.

## **Question 4:**

**Should the Assembly Government pilot the proposed delegation arrangement in order to make an evidence-based assessment of its practicalities? If so, would one or more of the current pathfinder projects be suitable for such a pilot?**

A total of 55 responses were received to this question of which:

- approximately 56% indicated support for the proposed piloting of the delegated arrangement

and that Pathfinder areas would provide test cases;

- approximately 8% indicated that they were in favour of piloting but not necessarily in Pathfinder areas;
- approximately 31% indicated that they were not supportive of the proposed piloting of the delegation; and
- approximately 5% did not indicate whether they were in favour or not the proposed piloting arrangements.

## Summary of responses

Some respondents perceived the proposed pilot to be a means of testing whether delegation should go ahead or not, whereas others viewed it as a means of testing the operational mechanisms of developing proposals for 16-19 reorganisations.

- Those who considered that the question referred to giving only some local authorities the additional powers are generally against piloting.
- Those who considered that piloting referred to testing the practical mechanism were generally in favour in piloting. There were, however, differences of opinion as to whether or not the current Pathfinders should be utilised as pilots.

The use of Pathfinder areas to pilot the proposed delegations would depend in the nature of the delegation mechanism selected i.e. case-by-case or a 'blanket' approach. The use of existing Pathfinder areas could provide a test-bed under either approach.

## Question 5:

**Would it be desirable and practical for DELLS regional office staff to be seconded to local authorities to assist in the preparation of proposals?**

A total of 55 responses were received to this question of which:

- approximately 36% of respondents agreed that it would be desirable and practical for such secondments to take place;
- approximately 40% of respondents supported joint working between DELLS regional staff and local authorities but not necessarily secondments;
- approximately 15% of respondents indicated opposition to the proposed secondments; and
- approximately 9% of respondents neither agreed nor disagreed with the idea of secondments.

## Summary of responses

Some respondents put forward alternative suggestions as to how capacity issues might be addressed these included:

- nominated DELLS staff members to act as advisers but not to be formally seconded;
- regular DELLS – local authority liaison rather than secondment so that the involvement of



- DELLS regional staff would be integrated rather than an ‘add-on’; and
- that secondees to a major reorganisation proposal should come from a range of different backgrounds and organisations utilising a cross-sector approach e.g. local authorities, DELLS, FE etc. to design and draw up proposals to be presented to a ‘Joint Committee’.

Responses to this question were mixed. Those in support of the proposed secondments consider that increasing the capacity of local authorities to undertake 16-19 provision proposals would be essential. These respondents were of the opinion that DELLS regional staff could provide valuable expertise, potentially ensuring uniformity of approach across Wales, improving information flows between the Assembly, local authorities and stakeholders, as well as visible evidence of the Assembly Government’s contribution to supporting the preparation of proposals.

Respondents opposing secondments cited the lack of need for transfers of staff, the potential for conflict of interest, and the use of secondments as an alternative to providing local authorities with the necessary resources to enable them to second staff from local learning provider partnerships. Concerns were expressed that the proposed secondments could serve to indicate a lack of trust and confidence in local authorities’ ability to deliver.