

Tertiary Education and Research Bill

Children and young people education committee inquiry

December 2021



Natspec is the membership association for providers which offer specialist further education and training for students with learning difficulties and/or disabilities. We represent Wales's seven specialist further education (FE) colleges. Natspec's vision is that all young people with learning difficulties and disabilities can access high quality education and training which meets their needs and supports their aspirations for skills, work and life.

Natspec welcomes the opportunity to contribute to the Committee's inquiry into the general principles of the Tertiary Education and Research (Wales) Bill. We support the intentions of the reforms to promote the interests of learners, reduce skills gaps and contribute to making Wales more prosperous, resilient, healthier and more equal.

We recognise that the Tertiary Education and Research reforms are far reaching in their scope to create a regulatory body responsible for funding, oversight and regulation of further and higher education and believe that in considering the breadth of the new legislation, it is imperative to include the interests of young people with complex additional learning needs.

We bring the Committee's attention to the following:

1. We urge the Children, Young People and Education Committee to consider the risks of excluding specialist further education colleges from the auspices of the Commission, and the potential negative effects this will have on young people with complex ALN.

The Commission established by the Bill will be responsible for Further Education, Higher Education, Adult Education and Apprenticeships. The scope of its work does not appear to include specialist FE colleges for students with complex Additional Learning Needs (ALN). There also appears to be no link between these reforms and the ALN legislation, which establishes a register which does include specialist FE colleges, referred to as Independent Special Post-16 Institutions (ISPIs).

We bring to the Committee's attention the relevance of the different terms and definitions used across the ALN and Tertiary Education and Research legislation. For example, the ALN legislation refers to Further Education Institutions (FEIs) and this Bill to Further Education Colleges. The ALN legislation includes reference to ISPIs as FE providers, but this Bill excludes such references.

It is thus unclear if both FEIs and specialist further education colleges/ISPIs are all deemed for the purposes of the proposed legislation to be further education colleges. These distinctions are more than semantic arguments as they have a direct correlation with the life chances of some of Wales's most vulnerable young people. Other than a reference to 'specialist provision', in the explanatory memorandum, there is no reference to tertiary education for young people with complex ALN whether that be provided by a mainstream or specialist further education college. These distinctions must be clear and understood by all stakeholders.

In writing this response Natspec has presumed that specialist FE colleges are not included within the Bill's definition of further education colleges. We believe that this will be of the detriment to young people with complex additional learning needs and their families. We also believe it will adversely affect the implementation of ALN reforms.

It is inequitable that young people with complex ALN are not afforded the protections of the Commission in relation to funding, outcomes, curriculum, information and guidance, and the learner voice and representation.

2. We urge the Children Young People and Education Committee to recommend that the Commission has strategic oversight of the funding and monitoring of all further education for young people with complex ALN across Wales. This should include funding for young people who require a specialist FE college.

Natspec has previously raised concerns with the Committee that equitable access to further education and training for young people with complex ALN is problematised by the proposed devolution of funding to local authorities for young people whose additional learning provision (ALP) is a specialist FE college. Along with a breadth of other stakeholders including the Third Sector Additional Needs Alliance (TSANA), concerns have been raised that this will result in postcode lotteries of inequitable access to FE across Wales, so limiting individuals' opportunities and life chances.

The different funding mechanisms for these young people in comparison to their less-disabled peers compromises decision making and disincentivises local authorities from securing appropriate ALP. This is of particular concern for young people with low incidence and complex ALN. These concerns have now been compounded by the pandemic and evidence in regional ALN plans of local authorities preparing for young people unable to attend FEIs, to move straight to social care day services.

To discharge its duties in respect of further education and training, the Commission has the power to fund providers of post-16 education and training. Wales's specialist colleges are entirely publicly funded to provide education and training learners whose needs cannot be met by FEIs and we believe it is in the public interest that they come under the auspices of the Tertiary Education and Research Bill.

We believe that the Bill provides an ideal opportunity to transfer the funding for young people requiring specialist FE placements to the Commission. By doing so and not devolving this money to local authorities, the Commission would have strategic oversight of national costs and be well positioned to undertake the demographic planning required to make sure the needs of young people with low incidence and complex needs can be met equitably across Wales. It will reduce pressure on local authorities and provide a vehicle for monitoring expenditure and outcomes associated with these learners.

Young people with complex ALN who require placements at specialist further education colleges often rely on multi-agency collaboration and agreements to fund their placements. Currently, applications to colleges are progressed by Careers Wales Advisors and Welsh Government's Support for Learners Division effectively serve as the lead commissioner funding young people whose ALP is a specialist FE college. For example, Welsh Government officials will liaise with social services departments and health professionals to ensure young people with complex ALN can access the ALP they require to meet their education and training needs.

Without appropriate interventions, the loss of the lead commissioning role presents the very real danger that pressures on local authorities will result in internecine disagreements over what or who will be funded. The ramifications of this for young people with complex ALN whose ALP is a specialist college is late decision making, resulting in poor, or no, transition planning. The resulting uncertainty placing inordinate stress on learners and their families. This is particularly detrimental to young people with complex needs including autism and challenging behaviour where certainty is crucial to health and well-being.

3. We urge the Children Young People and Education Committee to use these reforms to mandate equitable access to post-school further education and training for special school leavers whether their ALP is a FEI or a specialist further education college.

There remains a lack of certainty within the education reforms about whether Welsh Government expects local authorities to uphold discretionary powers that currently ensure 19-year-old special school leavers can access appropriate post-school education and training. Most learners progress to FEIs in Independent Living Skills departments and others to specialist FE colleges as outlined above. What is important here is that the complexity of these young people's ALN has resulted in decisions that they are not ready to access further education until they are 19 years old.

Without confirmation from Welsh Government that further education and training can commence for these young people when they are 19 years old, there is a probability of a significant inequity between school leavers. For those whose additional learning needs can be met by a FEI, where there are no funding implications, there is an uncontested route to Independent Living Skills courses. However, for those who need a specialist college, local authorities are compromised by their position as assessors and commissioners, and the risk presents that they reach conclusions that these learners are deemed to have already had post-16 education in school.

It should not be the case that the type of provider the young person requires, determines whether or not they are able to access further education and training. It cannot be right that some young people miss out on further education, resulting in a significant reduction in their life chances, simply because of the complexity of their ALN.

Within its parameters of what constitutes 'proper' and 'reasonable' provision, the Tertiary Education and Research Bill provides the opportunity to mandate equitable access to post-school education and training.

4. We urge the Committee to call for the statutory regulations to explicitly include the non-accredited learning accessed by in FEIs and specialist FE colleges.

The Bill states that provision for which proper facilities must be secured for people aged 19 and over will be specified in regulations. It requires Ministers to make regulations on relevant education and that in turn, 'eligible adults' will be required to meet the criteria of the regulations. To exclude the non-accredited education programmes in specialist further education colleges and learners with complex ALN will prevent FEIs from discharging their duties to secure appropriate ALP for young people whose IDPs are maintained by local authorities.

5. We urge the Committee to ensure young people with complex ALN are included within the Commission's responsibilities for data, statistics, and research.

There is currently no effective data collection and analysis of the outcomes of learners with learning difficulties and disabilities in further education Wales. For example, on how the skills and knowledge acquired through further education impacts young people's adult lives in terms of meeting their aspirations, well-being, employment, social mobility or social returns on investments. No destination data at all is collected by Welsh Government on learners leaving Independent Living Skills courses in FEIs, and there is limited data collected on young people in specialist colleges.

As the Commission brings together expertise across tertiary education it is important that data collection, analysis and research includes the interests of young people with learning difficulties and disabilities. This should include examining the reduction in costs to the public purse associated with high quality post-16 education and training for young people with complex additional learning needs.

Conclusion

Welsh Government delegates tertiary education for young people with complex ALN to specialist further education colleges and as such, the option of specialist further education should be recognised as part of the post-16 tertiary education landscape. In doing so Welsh Government would demonstrate a clear commitment to an inclusive and person-centred education system able to respond to individual's needs.

To fail to do so categorises these learners as 'other', for whom regulation, quality assurance, professional development of the workforce and research are not deemed relevant. Protecting the interests of this group of Wales's learners should be a responsibility of the Commission as it is for their less disabled peers.