

**fforwm response to
*Proposals for a Learning and Skills
Measure (Wales) Measure 2008***



April 2008

**fforwm response to the consultation document:
*Proposals for a Learning and Skills Measure (Wales) Measure 2008***

1. fforwm welcomes the opportunity to respond to the Welsh Assembly Government's (WAG) proposals for a Learning and Skills Measure 2008.
2. fforwm is the national organisation representing the 23 further education (FE) colleges and two FE institutions in Wales¹. It is an educational charity and a company limited by guarantee. fforwm's Board comprises college principals and chairs of corporations, appointed by member colleges. fforwm provides a range of services to its members including networks, conferences, research, consultancy and the sharing of good practice. It also works closely with a wide range of partners in post-16 education and training. Through fforwm, colleges are represented on various committees, working parties and other groups influencing and shaping policy in post-16 education and life-long learning.

General comments

3. The Measure contains a number of important interlocking proposals that, if enacted, will have a radical impact on the provision of learning opportunities for young people at the ages of 14 and 16. If young people from the age of 14 are given wider opportunities to take courses of study that suit their interests then more young people are likely to wish to remain in education to the age of 18 or beyond.
4. fforwm welcomes the proposal to set a minimum number of courses which must be included in the local curriculum for 14-16 year olds and for 16-18 year olds; the use and description of five learning domains; and the recognition of the need for impartial careers advice. Whilst we agree that the curriculum should be balanced, fforwm finds the use of the terms 'academic' and 'vocational' – and the distinction implied - to be unhelpful. The implication is that the content of 'academic' courses has few links to skills or to the world of work and employment; while the content of 'vocational' courses lacks intellectual rigour and does not encourage investigation and analysis. There is also debate as to whether courses in pharmacy, psychology and medicine should be categorised as 'academic' or 'vocational'. The use of levels and the simple terms 'course' or 'course of study' would be preferable. We could then refer, for example, to level 1 or level 2 or level 3 etc courses. For the sake of consistency with the consultation document, however, this response will continue to use the terms 'academic' and 'vocational'.
5. The reforms must ensure that young people are entitled to a broad curriculum entitlement and have the opportunity to choose courses which suit their requirements, rather than those which an educational institution

¹ In this response, the terms further education institution (FEI) and FE colleges are used interchangeably to describe all of fforwm's members.

decides are best. The Measure will provide strong encouragement for institutions to work together. Partnerships should create a wider choice of courses and a greater sharing of facilities and expertise than an individual institution working alone is able to provide. Funding methodologies must, however, support and not, as they do as present, discourage partnerships. There needs to be a clear timetable for introducing the Measure.

6. fforwm broadly supports the key elements making up the framework for Learning Pathways set out in pages 2-4 of Section 1 of the document i.e. individual learning pathways combining formal, informal and non-formal learning to meet the needs of each learner; wider choice and flexibility from a collaborative options menu; a learning core providing wider experiences and activities to develop learning, personal and emotional skills; and all 14-19 year olds having access to a learning coach to personal support and to impartial careers information, advice and guidance. These should help ensure that all learners receive an appropriate learning experience that best meets their needs.
7. This Measure must be viewed in the context of the WAG's awaited response to the report of the Further Education Review chaired by Sir Adrian Webb² and the draft *Skills and Employment Strategy*³. The Webb Report recommended the setting up of 14-19 commissioning consortia. The WAG has not yet responded to this recommendation. A considered response by WAG alongside the Measure should help ensure a joined up approach to policy for 14-19 year olds.
8. In its evidence to the Webb Review, fforwm pointed out:

With some notable exceptions, often in areas where there are tertiary colleges and 11-16 schools, the current voluntarist system, especially at 14-19, is very difficult to achieve and in many areas is not working. Partnership and collaboration requires mutual commitment and trust between providers, which, as Estyn⁴ has showed, is often absent. There are too many providers competing to retain or enrol learners at the age of 16⁵. It is not the fault of institutions. They are responding to the way they are funded. It is the system and the structures which need to be reformed.

Tinkering with the current arrangements will not be sufficient. What is needed is a new structure in which the learner has as smooth a

² *Promise and Performance: The Report of the Independent Review of the Mission and Purpose of Further Education in Wales in the Context of The Learning Country: Vision into Action*, chaired by Sir Adrian Webb, December 2008.

³ *Skills That Work for Wales: A Skills and Employment Strategy*. Consultation document no. 047/2008, Welsh Assembly Government

⁴ *Collaboration between schools with sixth forms and further education colleges to deliver flexible high quality provision that expands choice and achieves value for money*, Estyn, 2006.

⁵ *There are 25 FEIs, compared with 170 school sixth forms, 22 local education authorities, around 100 training providers as well as adult, voluntary and community learning institutes. The 271,000 learners in FE may be compared to the 29,000 attending school sixth forms.*

transition at 16 as a 5 year old has in joining a primary school, an 11 year old has in transferring to a secondary school and an 18 year old has in enrolling at an HE institution.

Response to the Set Consultation Questions

Local curriculum

Question 1: Do you agree with the principle of increasing learner choice via cooperation between organisations and through the production of a local area curriculum?

9. fforwm strongly agrees with this principle. Learners at the age of 14-16 should have the opportunity to select from a wide range of academic and vocational courses that provide coherent learning routes. These choices should reflect their own and local needs and circumstances in the context of economic development. This range can best be provided through schools and colleges working together, sharing courses, facilities and staff. This should be a win-win situation in which schools and colleges pool expertise and learners benefit from the wider choices available. It would not be an efficient use of public money for schools to invest in costly facilities for vocational subjects when these are readily available in the local college.
10. The term 'local curriculum' should be sufficiently broad to cover not only 14-19 networks but also other examples of partnerships including, for example, the faith-based network centred around St David's Catholic College with local schools; partnerships based around Welsh-medium education; and area-based partnerships. The key principle should be that learners have a wide choice.

Question 2: Do you agree that responsibility for planning the local curriculum at 14-16 should rest with the local education authority (LEA)?

11. fforwm supports the proposal that responsibility for planning the local curriculum at 14-16 should rest with the LEA. The LEA will inevitably have a wider perspective than an individual school. This LEA responsibility will inevitably have considerable implications for LEA/school and school/school relationships. Each LEA will need to agree a new partnership with its schools in respect of planning the local curriculum, which takes account of the delegated authority given to schools. The powers and responsibilities of school governing bodies will need to be amended accordingly.
12. In developing vocational provision for 14-16 learners, efforts should be made to respond to local labour market needs and create learning pathways that meet the requirements of local employers. In addition, this

provision should be the result of local joint planning and contracting at local level between partners.

13. fforwm notes that schools and FEIs will be under a duty to assist the LEA in the planning of the local curriculum and to determine cooperation as an option in delivering the entitlement to learning. In respect of FEIs, this 'duty' must be reflected in the articles of government for FEIs. A duty is stronger than a power in that it is a requirement placed on governing bodies. The articles of government will need to be amended accordingly. There should also be a duty on LEAs to work jointly with colleges.

Question 3: Do you consider it appropriate that responsibility for planning the local curriculum for 16-19 year olds rests with Welsh Ministers?

14. fforwm accepts that responsibility should normally be wider than individual institutions, particularly in respect of school sixth forms. However, in the case of FEIs, this would cut across the responsibility of the governing body to determine the educational character and mission of the institutions.⁶ In practice, the governing body does not get involved in the detail of curriculum planning, although governors will comment on the broad pattern of courses and, increasingly, on quality and standards. Many governing bodies have set up curriculum and quality committees which scrutinise their college's curriculum performance. The principal is the academic leader of the FEI and works closely with governors in these matters.
15. Responsibility for Welsh Ministers to plan the local curriculum must therefore be sufficiently broad as not to interfere with the powers of governing bodies to determine the educational character and mission of their institutions. It would be inappropriate for a Welsh Minister based in Cardiff to determine the detail of the curriculum in another part of Wales. Any powers of Welsh Ministers must acknowledge the independence of individual institutions. It should also recognise the fact that the principal is the academic leader of his/her college as well as the accounting officer for the financial performance of the institution. If a Welsh Minister's responsibility for planning simply means that a minimum number of options must be available and that these options must contain a certain balance of subjects, then fforwm would have no objection. If, however, the intention is that Welsh Ministers should get involved in the detail of planning provision at FEIs, this would not be a sensible use of the planning responsibility.
16. Welsh Ministers are responsible for funding 16-19 provision in Wales and they can attach conditions to this funding. WAG has inherited the planning responsibility of ELWa as set out in Sections 32 and 35 of the

⁶ Article 3 (1) (a) The Further Education Corporations (Replacement of Instrument and Articles of Government (Wales) Order 2006 No 13

Learning and Skills Act 2000. The duties transferred to WAG and set out in Section 32 refer to facilities and equipment; the abilities and aptitudes of different persons; the education and training required in different sectors of employment for employees and potential employees; and importantly the need to make the best use of the Council's resources and 'in particular avoid provision which might give rise to disproportionate expenditure'. It is silent on the curriculum.

Question 4: Would the setting of a minimum number of courses within the local curriculum in Key Stage 4 and a minimum number of courses from learners 16-19 assist in ensuring equality of opportunity?

17. Colleges broadly support the extension of duties on LEAs and on Welsh Ministers to ensure that there is an entitlement to a range of academic and vocational options. The proposal to give learners an entitlement to a minimum number of courses means that the needs of learners take precedence over the needs of the institution in respect of the curriculum offer.
18. In its evidence to the Webb Review, fforwm pointed out that there should be a minimum entitlement enabling learners of all ages from 14 years of age upwards to have access to a wide range of academic and vocational learning routes, progressing from pre-entry through to level 5.
19. However, the Measure is silent on the number of options at the age of 14 and the age of 16. fforwm proposes that the number of options should be set at 30 at the age of 14 and at 40 at the age of 16. These numbers should be phased in over a period of time, starting in the academic year 2009/10. However, there may be rare exceptions where there is clear evidence of local factors such as rurality making it very difficult for this number of options to be made available, even with cooperation between providers.
20. There should be an appropriate balance of academic and vocational options, working towards a 50:50 division, that meet the needs of the individual learners and the local, regional and national economy.
21. In noting the above, research needs to be conducted to establish the impact of the policy of having a minimum number of options and a minimum number of vocational subjects to see how much increased choice is given to learners and how many young people take vocational options.
22. Guidance should explain how English-medium and Welsh-medium provision is accounted for in the learner entitlement options. It would seem fair that Welsh medium options should be offered over and above these numbers to ensure that all young people have access to the minimum number of options.

23. There needs to be a clear definition of a 'course of study'. For example, a subject offered by more than one awarding body should count as one course of study, and the same subject offered at AS and A2 level should count as a single option. In respect of the Welsh Baccalaureate Qualification (WBQ), it is suggested that it should be split into its component parts.⁷ There would need to be advice on whether a course of study included subjects such as key skills or short courses offered by colleges on a range of subject areas. In addition, there needs to be clarification on the number of options available to part-time learners at 16–19. Should the number of options be pro-rata to the number of hours attended by a learner or should all learners have the right to the full complement of courses of study?
24. It might also be useful to refer to the number of options at particular levels. Colleges offer courses at entry level and levels 1, 2 and 3 at the age of 16. It might be necessary in some cases to specify a number of courses at each level e.g. x courses at level 1, y courses at level 2 and z courses at level 3.
25. DCELLS should define an entitlement curriculum available for all learners in Wales (irrespective of where they live). This would provide equality of opportunity in that young people would be given the opportunity to take subjects that were previously not open to them. As an additional point, by opening up opportunities, the Measure might help young women and young men to take subjects that they would not normally take e.g. more women taking construction courses or more men taking social care courses.

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

26. In respect of this clause, it will be important that the regulations are not worded in a way that easily enables a head teacher or principal to remove entitlement for a course of study. For example, It is important that schools and FEIs do not limit choices in an attempt to improve institutional results and statistics.
27. Principals and headteachers must, however, retain the right to use their professional judgment in respect of individual learners to include the specific needs of learners with disabilities and/or learning difficulties and the need to take sanctions on grounds of behaviour. In addition, the issue of resources might be a factor in limiting entitlement. For example, if only a few learners in an area wish to take a course of study, and where the course could not be studied thoroughly through distance-

⁷ There are five elements of the WBQ Core covering key skills, Wales, Europe and the world, work-related education; personal and social education; and an individual investigation. In addition, the learner chooses from a range of level 1, 2 or 3 courses to study as appropriate alongside the Core.

learning, delivering the course locally might involve a disproportionate use of resources. In such cases, it might be appropriate to consider delivering the courses on a larger, regional basis.

28. These circumstances should not, however, undermine the core principle of the Measure, which is concerned with young people having a wider entitlement than at present. Head teachers and principals should not restrict the number of options on the basis of institutional advantage but always put the interests of learners first. The Regulations should also set out that young people are informed of their choices within an appropriate period of time before they commence the course of study.
29. DCELLS should give clear guidelines setting out acceptable reasons for not allowing access to options. For example, if a student wishes to choose two subjects from the same column choice, practical difficulties may determine that they cannot (unless, for example, the course can be followed satisfactorily through distance learning with another provider).
30. No reference is made to possible sanctions on institutions that fail to deliver the appropriate range of options. If there are no sanctions (such as a reduction in funding), then the Measure will not work. The consultation document (p.42) provides persuasive arguments against doing nothing or continuing to evolve the current approach to Learning Pathways. There is an acknowledgement that the 14-19 arrangements have not really worked.
31. Sanctions will need to be proportionate. There will also need to be an appeal mechanism independent of the LEA and the institution.
32. A more positive approach might be to use rewards rather than sanctions. Thus a school or FEI might be rewarded with some additional funding if they were to develop sufficient numbers of options within the agreed timescale.

Question 6: Do the use of minimum option numbers and the use of learning domains succeed in supporting a workable framework for wider choice for learners aged 14-19?

33. fforwm welcomes the fact that the regulations will specify the minimum number of courses that have to form part of the local curriculum including the minimum number of vocational courses and the minimum number in each of the five domains. This is a potentially powerful Measure that will go a long way towards ensuring that young people receive a curriculum entitlement that meets their needs.
34. The designation of five learning domains - mathematics, science and technology; business, administration and law; services for people; arts, media, culture and languages; humanities, social sciences and preparation for life and work - should provide a sufficiently broad

curriculum opportunity for young people. Each should contain an appropriate balance of vocational and academic development and an appropriate range of courses. The domains are based on the National Database for Accredited Qualifications. WAG should widely publicise this database and ensure that LEAs, colleges and schools are clear which courses fit into which domain.

35. The use of learning domains needs to fit with the key components of the WBQ. The lines of learning set out in the 14-19 Diploma in England may not easily fit into all of five learning domains. Basic and key skills including literacy, numeracy and ICT/e-learning must be central to any range of options.
36. It is not clear what is meant by the comment that no 'single learning setting will be able to offer the wide range of provision which will be required under this measure' (fifth para, p.5). Several colleges, especially those in areas of tertiary provision, each provide over a hundred academic and vocational courses and should be able to meet the demands laid down in the Measure. However, colleges, whatever their size, are keen to cooperate with other providers in developing a broad-based curriculum that meets the needs of learners.
37. There will need to be a clear timetable for phasing in the outcomes of the Measure so that institutions are well prepared for the radical changes that will result.

Question 7: Is it desirable to set the minimum number of vocational courses to be included within a local curriculum?

38. This proposal will be crucial in helping to widen opportunities for young people of all abilities to take vocational courses. Despite many initiatives by the UK Government and WAG, vocational courses are still viewed by parents, local employers, the media and by some teachers as being of lower worth than academic courses. Young people are often placed on academic or vocational programmes on the basis of their academic performance and not their best interests. Although prescribing the proportion of vocational subjects might be difficult, fforwm would certainly argue for a 50:50 division as a longer term aim.
39. In August 2007, fforwm, with the support of awarding bodies, organised the first Vocational Results Day to emphasise the key significance of vocational qualifications. This year, fforwm is helping to stage a much larger, UK-wide day of celebration: "VQ Day: celebrating vocational success" on 23 July. Setting a minimum number of vocational options would also help raise the profile of vocational qualifications.

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

40. fforwm strongly believes that vocational courses should be spread across the five domains.

Joint Working

Question 9: Would the placing of a duty on LEAs, governing bodies of schools and FEIs to consider cooperation be sufficient to achieve the provision of a local curriculum?

41. fforwm is not opposed to a duty being placed on governing bodies of further education institutions (FEIs) to consider whether to cooperate in order to make efficient and effective use of resources to secure a wider choice of courses for learners in the 14-19 age range. It is important that this duty requires a consideration of cooperation rather than a fixed duty to cooperate. The latter would be inflexible, particularly where an institution is able to provide at least the minimum number of options. The duty would also have to be carefully worded. Would it refer to an overall duty to cooperate as opposed to a requirement that every single subject area should involve cooperation? Is cooperation in a few curriculum areas sufficient to meet this duty? The governing body might be expected to report annually on progress with respect to cooperation, setting out what the college has done to improve partnerships, explaining the outcomes of these partnerships and identifying any obstacles affecting cooperation. Partnership involves commitment from both sides and the governing body needs to be informed where attempts at partnership have been rejected by other providers. This additional duty will require an amendment to the articles of government of FEIs (see para 13 in this response above).
42. The consultation document (p.5) states that 'the cooperation of FEIs ...will be secured through contract and funding arrangements'. Funding incentives should be put into place to reward cooperation. The funding of FEIs and schools needs to encourage and provide incentives for partnership. Schools are not rewarded for partnership working with colleges for their 14-16 learners. The age-weighted pupil unit does not generate sufficient funding to support 14-16 year olds in schools attending courses provided by a local college. There are three broad approaches: a college runs these courses at a net loss; a school subsidises these courses at the expense of other pupils; or the courses do not take place.
43. Educational institutions are strongly influenced by how they are funded rather than external exhortations on what they should do. A radical overview of the funding of 14-19 provision is necessary (as recommended by Webb) to ensure that funding is calculated and allocated using the same methodology.

44. We note the comment that ‘cooperation and collaboration are part of our distinctive partnership approach in Wales’. In 2005, Estyn produced a helpful analysis of partnership covering the 170 school sixth forms in Wales. The Estyn study identified various types of partnership.⁸
- ‘collaboration and coordination’ was described as including sharing of information and staff, rationalising of provision across providers, common timetabling and results going to the institution which delivers the teaching – this covered only 4% of school sixth forms
 - ‘cooperation’ was marked by some small scale working with each other; some linkage through formal or informal networks and exchange of information and mapping of courses available – 32% of school sixth forms
 - the Estyn Report also refers to ‘confederations’, which goes a step further as providers share or pool budgets; a single organisation oversees and directs work; and a confederation rather than an individual institution reports examination results. There were no examples in Wales
 - ‘competition or isolation’ was marked by providers competing for learners, schools not allowing colleges to provide full information to learners and there is general lack of knowledge and understanding between institutions – 64% of school sixth forms.
45. The findings of the Estyn study underline the importance for WAG to take action. It would be helpful for WAG to disseminate some guidelines on effective cooperation, coordination and collaboration to assist educational institutions.
46. In the proposed Measure, Clause 25 includes an amendment to Section 33H of the Learning and Skills Act 2000. Subsection 6 (p22) of the consultation document states that regulations may extend the definition of ‘cooperation arrangements’ to include arrangements as set out in section 166 of the Education and Inspections Act 2006. The Education and Inspections Act defines ‘cooperation arrangements’ as being:

arrangements for any of the functions of any of the bodies who make the arrangements (“the collaborating bodies”) to be discharged jointly or by a joint committee of those bodies⁹.

⁸ *Collaboration between Schools with Sixth Forms and Further Education Colleges to Deliver Flexible High Quality Provision that Expands Choice and Achieves Value for Money*, Estyn, 2006 p.9 - 10

⁹ Education and Inspections Act 2006 para 166 (2)

47. It will be important to clarify the meaning of 'joint committees' as they affect Wales, given that the Education and Inspections Act 2006 is primarily aimed at education institutions in England.

Question 10: Please identify any barriers to cooperation that may need to be overcome. What possible solutions are there?

48. A key barrier is the way colleges and schools are funded. The National Planning and Funding System covering the funding of 16-19 year olds in schools and colleges should be revised to encourage cooperation. It should also recognise the costs of developing effective cooperative ways of working.
49. Another barrier is the mistrust that exists between some schools and some colleges in some parts of Wales. It is to be hoped that, as the Measure is rolled out, relationships would improve as all sides recognise that the needs of the learner are paramount. It will be useful to organise a number of joint events, bringing together schools, colleges and training providers, to ensure that common messages are put across. In addition, consistent, impartial advice must be given by all careers companies to help learners choose courses which are appropriate for their needs.
50. Membership of local 14-19 partnership groups should reflect more closely the numbers of learners attending schools, further education and training providers, rather than the number of institutions attended by young people. Current representation often militates against FE colleges which may have far higher numbers of 16-19 learners than local schools but will only have one or two places on the local 14-19 partnership
51. Drawing up common timetables and organising travel are often viewed as barriers to effective cooperation. However, these should be viewed as challenges to be overcome rather than problems preventing things happening. It will be important to consider examples of good practice where timetabling and travel arrangements have developed in a way that supports learning and benefits learners. For example, the occasional use of up-to-date e-learning approaches might assist in cutting down travel.

Learning Coach and Personal Support

Question 11: Will the provision facilitate young people's access to support services as envisaged within 14-19 Learning Pathways?

52. fforwm strongly supports the intention of the Learning and Skills Measure to give 14-19 learners statutory entitlement to a wide range of applied and general programmes. To underpin this increase in choice, it is necessary for careers advice to be effective and impartial and for a young person to be provided with a minimum range of options that would lead to a broad based curriculum. Careers advice should respect the

educational character of the school or college when advising a learner and take account of a young person's spiritual and other needs.

53. fforwm would support the WAG if it were to consider a similar measure to that contained in the Education and Skills Bill (Clause 66)¹⁰. This clause amends section 43 of the Education Act 1997 and in reference to careers advice states that:

(2B) Any such information must be presented in an impartial manner, and:

(a) any such advice must be advice which the person giving it considers will promote the best interests of the pupils concerned; and

(b) accordingly, in giving the advice, that person must not seek to promote, contrary to the pupils' best interests, the interests or aspirations of the school or of other persons or institutions'

54. The Webb Review was hard-hitting in respect of informed choice for learners. It describes one case, where a learner was put under pressure by the headteacher to stay in school, as 'an intolerable violation of young people's rights' and calls on the Children's Commissioner for Wales to investigate the extent of this behaviour.¹¹ fforwm would support a strengthening of the section on career advice to accommodate the need for impartiality.

Conclusion

55. fforwm broadly welcomes the proposed Measure as it focuses on the curriculum entitlement of 14-19 years olds and the importance of widening opportunities. A number of sections of the legislation need to be tightened or clarified (e.g. those relating to sanctions on non-cooperation) and the number of options should be set at a level which provides real choice for young people with respect to vocational and academic qualifications and which takes account of research indicating the impact of this approach.
56. Because the implementation of the Measure may radically change local arrangements, the requirement to move towards a minimum number of options should be phased in over a four-year period but should start from the start of the 2009/10 academic year.

¹⁰ Education and Skills Bill 2007 Clause 66 (2)

¹¹ *Promise and Performance: The Report of the Independent Review of the Mission and Purpose of Further Education in Wales in the Context of The Learning Country: Vision into Action*, chaired by Sir Adrian Webb, December 2008 para 3.50