



Comisiwn
Cydraddoldeb a
Hawliau Dynol

Equality and
Human Rights
Commission

Jayne Bryant MS,
Chair,
Children, Young People and
Education Committee
Welsh Parliament,
Cardiff Bay,
Cardiff
CF99 1SN

By email

Thursday 12 May 2022

Dear Ms Bryant,

Subject: Stage 2 of the Tertiary Education and Research (Wales) Bill

The Equality and Human Rights Commission (the Commission) has powers to advise Welsh Government on the equality and human rights implications of laws and proposed laws and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.

Our [strategic plan for 2022-2025](#) sets out six priority areas which we will focus our work on, including equality for children and young people and equality in a changing workplace. We know too many young people face discrimination and barriers to opportunities from prejudice or lack of proper support in education and unequal access to work.

The Tertiary Education and Research (Wales) Bill which will create a single body to deal with

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The Commission welcomes correspondence in Welsh or English.

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the strategic planning and funding across the whole of the tertiary education sector and research and innovation sector in relation to Wales.

We have [welcomed](#) the inclusion of ‘promoting equality of opportunity’ and ‘encouraging participation’ as two of the nine strategic duties of the Commission for Tertiary Education and Research (CTER).

We believe there are further opportunities within the legislation to clearly set out ways that equality can be embedded and strengthened within the structure and governance of the CTER.

Definition of ‘under-represented groups’ – we would recommend including the term ‘protected characteristics’¹ as set out by the Equality Act 2010 within the legislation definition. There are a number of protected characteristics where [evidence](#) shows there are still significant barriers in access to education as well as discrimination in employment.

Annual report – we would recommend reporting on equality of opportunity is included within the list of what the CTER will be required to report on at the end of each financial year. This will further ensure accountability to the CTER. We would suggest it includes measuring the progress of higher education providers in preventing and tackling racial harassment. This was a recommendation of our [inquiry into racial harassment at universities](#)² across Wales, England and Scotland.

Committees – there will be three statutory committees – research and innovation committee, the quality committee and staff member appointments committee. We would recommend that equality is explicitly embedded within the sections of the legislation relating to these

¹ The following characteristics are protected characteristics— age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation. (Equality Act 2010) <https://www.legislation.gov.uk/ukpga/2010/15/section/4>

² Tackling racial harassment: universities challenged (2019 EHRC) <https://www.equalityhumanrights.com/en/publication-download/tackling-racial-harassment-universities-challenged>

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committees. This will ensure equality of opportunity is at the centre of all activities of the CTER including in terms of research and teaching.

Regulatory frameworks – in our [inquiry on tackling racial harassment at universities](#) we recommended the Welsh Government review the regulatory framework and court hearing structures to determine how best to increase protection from harassment for students in university. The Tertiary Education and Research (Wales) draft legislation provides an opportunity to address this. The legislation should ensure the CTER is able to assess whether higher education providers have taken sufficient steps to tackle harassment and to impose conditions of funding or registration where they have not (such as withholding or requiring repayment of funding).

Access and opportunity plans – We remain concerned about the decision to omit access and opportunity plans. We understand that access and opportunity plans were initially proposed as a replacement for fee and access plans which were seen as an important lever for widening access and ensuring equality of opportunity. We therefore recommend further consideration and that robust alternative arrangements are included and implemented to provide clear requirements and accountabilities on widening access including holding providers to account.

We have discussed these recommendations with the Welsh Government, who have undertaken to consider how they can be implemented. We would welcome the opportunity to discuss these improvements further as the Bill passes through the legislative process. For more information, please contact wales@equalityhumanrights.com

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Yours sincerely,

Rev Ruth Coombs

Head of Wales

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