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## Green Paper – summary of responses

### Consultation on Working Together for Wales: The Public Service Workforce

8 May 2012 – 31 July 2012



Date of issue: May 2013



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## Introduction

1. The Welsh Government published the Green Paper '*Working Together for Wales: The Public Service Workforce*'<sup>1</sup> on 8 May 2012. Views were invited on the proposals as part of a 12 week consultation exercise which ended on 31 July 2012.
2. The Green Paper focussed on a number of matters related to the public service workforce in Wales, which was defined to include: Local Government, Health, Education, the Welsh Government and Welsh Government Sponsored Bodies.
3. Building on the content of *The Strategic Framework for the Public Service Workforce in Wales*,<sup>2</sup> the Green Paper included a number of potential areas for inclusion within a proposed Public Service Workforce Bill. These included:
  - providing the Welsh Ministers with the power to issue statutory guidance on matters affecting the public service;
  - placing a duty on the public service to collaborate on workforce matters; and
  - confirming a Two-Tier Workforce Code for public service organisations in Wales.
4. In total 50 submissions were received from a range of stakeholders. This included two submissions from the Fire Brigades Union and two submissions from Undeb Cenedlaethol Athrawon Cymru; in each case the responses were amalgamated and counted as one response from the organisation. In addition to this, one submission stated the correspondent was not responding to the Green Paper, but wanted clarification of how these proposals were likely to apply to doctors and what the potential impact of these proposals were on the medical profession.
5. Allowing for these factors, 47 responses have been used as the basis for the analysis. All comments were considered.
6. The responses came from differing sizes of organisations; some respondents represented an individual opinion; other respondents represented their organisations; and some responses came from larger

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<sup>1</sup> See <http://wales.gov.uk/consultations/improving/workingtogether/?status=closed&lang=en>

<sup>2</sup> See

<http://wales.gov.uk/topics/improvingservices/publicationevents/publications/worktogether/?lang=en>

umbrella organisations which represented their associated affiliations and members. The differing nature of the respondents provides an important context for considering the issues raised in the responses, and care should be taken in reaching conclusions based purely on the number of responses voicing a similar view.

7. The full list of respondents and the detail of the categorisation of responses can be seen in **Annex A**. All respondents were invited to request anonymity; three respondents decided to utilise this option. They have been anonymised throughout the document, including in **Annex A**. All responses came from respondents in Wales, or the Wales Branch of UK-wide organisations.
8. In total, of the 47 responses that form the basis of this analysis:
  - 14 responses came from Local Government
  - 8 responses came from Trade Unions
  - 8 responses came from Individuals
  - 4 responses came from Health
  - 4 responses came from Education
  - 4 responses came from Representative Groups
  - 1 response came from a Statutory Commissioner
  - 1 response came from Business
  - 3 responses were Anonymised

## Consultation Process

9. The Green Paper document set out 14 questions, with Question 14 being an open invitation to make any related comment not covered by the other questions. The Questions were grouped as follows

### Questions 1-14

#### The Challenge

- 1 Are these the right priorities for a statutory framework to enact the provisions of the *Strategic Framework*?
- 2 Are there additional provisions within the *Strategic Framework* that would be better put on a statutory footing?

#### Proposals for Legislation

- 3 Do you agree that Welsh Ministers should give statutory force to decisions made by the Workforce Partnership Council?
- 4 Does the ability of Welsh Ministers to issue Wales-wide statutory guidance help us meet our ambitions about workforce mobility and responsiveness to public service demands?
- 5 Should such statutory provisions issued by Welsh Ministers be limited to proposals endorsed by the Workforce Partnership Council?
- 6 Should the Workforce Partnership Council itself be put on a statutory basis?
- 7 Should a duty be placed on public service organisations to collaborate on workforce matters?
- 8 Would such a duty to collaborate on workforce matters fully reflect our ambitions for a Welsh Public Service approach to the workforce in Wales?
- 9 Are there other ways to achieve greater partnership working?
- 10 Do you agree that the Welsh Code should be placed on a statutory footing?
- 11 Is the Code still fit for purpose?

#### Towards 2016

- 12 Do the statutory measures outlined add value to our ambition for the public service workforce in Wales as outlined in the *Strategic Framework*?
- 13 Are there any equality or regulatory impacts which arise from the proposals?
- 14 We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

10. This summary also incorporates responses that did not strictly follow the questions posed within the Green Paper. Some respondents concentrated

only on specific issues surrounding certain questions, while others raised issues arising out of a particular question, without specifically giving a definite answer to the question. We have tried to capture these comments within the response report, allocating them to the appropriate questions where possible.

## Overall Summary

11. Overall responses to the consultation were mixed. There was broad support for the principles contained within '*Working Together for Wales: A Strategic Framework for the Public Service Workforce in Wales*', and some commitment towards greater collaboration on workforce matters, although many respondents did not think that the principles should be placed on a statutory footing. There was some support voiced for Welsh Government leadership on public service workforce matters, although there was not a consensus on the merit of Welsh Ministers issuing statutory guidance. There was, however a clearer majority of responses arguing that statutory guidance should not be limited to decisions of the Workforce Partnership Council, and that the Workforce Partnership Council should not be placed on a statutory footing. Many respondents did not support placing a duty to collaborate on workforce matters on the public service, and most suggested other ways to achieve greater partnership working.
12. There was a mixed response to the issue of the Welsh Two-Tier Workforce Code. In general, the trade unions supported legislation to enforce the Code while public sector employers expressed concerns about potential impacts on their flexibility to seek future savings. The Green Paper and its responses revealed a lack of clarity on the current position of the Two-Tier Code in Wales.



## The Challenge

### Question 1: Are these the right priorities for a statutory framework to enact the provisions of the *Strategic Framework*?

13. Thirty-eight responses were received to this question; 13 respondents considered these were the right priorities for a statutory framework while 25 respondents did not consider that the priorities were right. Those supporting the proposals mainly originated from unions and some of the health respondents. Those who did not support the proposals came mostly from local government, education and health. The main themes from commentary provided were as follows:

#### General View

14. There was support for the *Strategic Framework* itself, with 16 respondents specifically mentioning their support for the *Strategic Framework*, although some questioned the usefulness of placing it on a statutory footing.

#### Partnership Working

15. Twenty respondents indicated support for partnership working:

- ten respondents stated they “fully supported” the approach of the *Strategic Framework*;
- three respondents stated they welcome collegial working;
- three respondents stated they were committed to collaboration, welcomed the partnership approach or welcomed strengthening working relations as set out in the *Strategic Framework*;
- two respondents said they warmly welcomed the *Strategic Framework*;
- one respondent called the priorities, including those in the *Strategic Framework*, as “laudable”; and
- one respondent stated they fully supported the principles and strategic priorities set out in the Green Paper.

#### Desired Change of Behaviour/ Culture and Legislation

16. Thirteen respondents expressed a view that legislation was not the most productive vehicle to deliver the desired change of behaviour and/or culture of partnership working as laid out in the *Strategic Framework*.

#### Welsh Local Government Association (WLGA)

17. The WLGA expressed full support for the overall approach to employee relations embodied within the *Strategic Framework*, but did not support a legislative approach to try and bring about the desired changed behaviours and culture.

### Education Sector

18. Four respondents from the education sector raised concerns that the development of this policy must not undermine UK wide arrangements which are specific to within the higher education.

### Health Sector

19. All four respondents from the health sector emphasised that they hoped the Government proposals would not undermine current UK wide NHS arrangements and current common terms and conditions of NHS staff are not eroded.

### Classification of Further Education and Higher Education Institutions

20. A concern arose around the classifications of further education and higher education institutions.

21. Three respondents felt the proposals contained within the Green Paper would not directly apply to higher education, with another respondent questioning if it was intended that higher education institutions (HEIs) be covered by these proposals. This respondent also offered an opinion that the proposals would not be able to influence employment law in respect of HEIs.

22. Four respondents felt that these proposals should not undermine the proposals as stated in the Welsh Government's White Paper in relation to the Further and Higher Education (Wales) Bill.<sup>3</sup> The respondents were concerned that statutory powers could threaten the current Office for National Statistics (ONS) classification of universities, or persuade the ONS that colleges are not autonomous bodies, thus preventing their reclassification as non-profit institutions serving households as desired in the Government's proposed Further and Higher Education (Governance and Information) (Wales) Bill.

23. Another respondent, commenting more broadly and referring back to the White Paper, said that should funding for higher education not come through the Higher Education Funding Council for Wales then ring-fenced funding for the higher education sector could be lost, which would disadvantage the Welsh education sector in comparison to the rest of the UK.

24. Three respondents believed that the HE sector in Wales could have an important role to play in the Welsh Government's public service delivery

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<sup>3</sup> <http://wales.gov.uk/consultations/education/feandhebill/?lang=en>

along the lines of voluntary partnership as advocated in the *Strategic Framework*.

25. One FE respondent stated they were keen to work with the Welsh Government to help deliver the *Strategic Framework*.
26. Two respondents felt it was important for further and/or higher education bodies to be included within these proposals and any Bill which might emerge.

**Question 2: Are there additional provisions within the *Strategic Framework* that would be better put on a statutory footing?**

27. Thirty-nine responses were received to this question; nine respondents supported this view, whilst 30 respondents disagreed. Some of the unions and some health respondents listed their support for this proposal. Those who did not support the proposals came mostly from local government, education and health. The main themes from commentary provided were as follows:

General View

28. The majority felt there were no additional provisions which would be better put on a statutory footing.

Legislation

29. Three respondents argued that legislation should not be used. One indicated that legislation should be used as a last resort; another raised the viewpoint that they felt that statutory compulsion was not the best way for the Welsh Government to achieve its aims; another respondent felt engagement was better than statute which can be rigid and often creates unintended consequences.

Health

30. Three respondents, all from the health sector, felt that there were barriers to workforce mobility. Two respondents raised concerns that the proposals within the Green Paper might create greater challenges for the movement of staff across the wider UK NHS. Another respondent raised specific concerns over barriers which in their view inhibit integrated service delivery within the health sector.

Trade Union issues

31. One trade union respondent argued the Welsh Government needs to explicitly recognise within the proposals the right of individual trade unions

to move into dispute to protect their members. Another union respondent suggested there should be a statutory requirement for public service organisations (particularly those responsible for health and social services) to ensure there is an adequate workforce in place at all times to ensure that services are at all times safe.

## **Proposals for Legislation**

### **Question 3: Do you agree that Welsh Ministers should give statutory force to decisions made by the Workforce Partnership Council?**

32. Thirty nine responses were received to this question; 10 respondents supported this view while 29 respondents were opposed to Workforce Partnership Council (WPC) decisions being given statutory force. Some of the unions and health respondents approved this proposition whereas the majority of local government, education and other health respondents did not. The main themes from commentary provided were as follows:

#### Lack of Clarity

33. Sixteen respondents felt it was not clear what type of decisions might be given statutory force and who they might apply to, or what problems/ issues the WPC would deal with; this made it hard for them to support potential new legislation.

#### Representation

34. Thirteen respondents felt the make-up of the WPC should change in some format:

- five respondents stated the size and structure of the Council would need to change considerably;
- three respondents argued the composition of the WPC needs to be improved;
- three respondents raised concerns that the NHS needs to be adequately represented; and
- two respondents suggested the Royal College of Nursing (RCN) should be included in its own right on the WPC.

35. One further respondent agreed that the Welsh Ministers should have powers to give statutory force to decisions made by the WPC but they also felt that the workforce voice has to be heard on any decisions that ultimately might affect their work.

### WPC Decisions

36. Nine respondents agreed that as they have a duty to act in their own best interests, decisions which might be right for some public bodies might not be right for all, and could have other legal implications.
37. Nine respondents felt each Local Authority must have the flexibility to individually make a decision on each relevant workforce matter.
38. Two further respondents suggested that decisions made at an all Wales WPC level could restrict the ability of local trade unions to make local workforce-related decisions which are in the best interests of their members.

### Health Issues

39. Three respondents argued that any powers should not undermine local partnership arrangements, which work well in the health sector.

### Impact on the WPC

40. Two respondents argued giving WPC decisions statutory force would ensure its decisions were implemented and stop them being ignored.
41. In contrast, two respondents felt giving decisions made by the WPC statutory force might damage the spirit of partnership working or could change the dynamics of the WPC to one of confrontation and conflict.

### Ministerial Power

42. Three respondents felt this has the potential to give the Welsh Ministers strong and/or broad power. The concerns of these respondents was that the Welsh Ministers could impose their view despite strong employee or union concerns; the WPC needs to balance the potential for broad Ministerial power, and that the Ministers should only exercise such powers sparingly and only after full consideration and wide consultation.
43. Three further respondents, all from the health sector, felt the Minister with responsibility for Local Government should be able to 'direct' in the same manner as the Minister for Health and Social Care is currently able to do.

**Question 4: Does the ability of Welsh Ministers to issue Wales-wide statutory guidance help us meet our ambitions about workforce mobility and responsiveness to public service demands?**

44. Thirty-seven responses were received to this proposal; 12 respondents supported this view while 25 respondents did not believe that issuing Wales-wide statutory guidance would create the desired workforce mobility and responsiveness to public service demands. This proposal was supported mainly by some of the unions and health respondents. Those who did not approve this proposal included the majority of local government and education respondents. The main themes from commentary provided were as follows:

#### Workforce Mobility

45. Nine respondents felt workforce mobility could have benefits for those receiving and delivering services. Eight respondents felt enabling individual Welsh public sector employees to be able to pursue a career across all sectors might have considerable potential benefits in terms of public service responsiveness to demands and individual career development. One respondent felt workforce mobility is a key feature of an effective Welsh public service workforce.

46. An additional three respondents, all from the health sector, noted there needs to be realism about the level of movement of professionals within the NHS and suggested there are still barriers which inhibit integrated service delivery. However, two of these respondents felt placing a statutory requirement to facilitate such movement would make it easier in a technical sense, and greater mobility would be beneficial.

#### Legislation on Movement of Staff

47. Twelve respondents argued that issuing regulations on the movement of staff between sectors would require changes to UK legislation and regulation which may potentially be outside the scope of devolved legislative competence. One further response argued the Welsh Government should not impose employment legislation on Welsh HEIs as they are autonomous institutions.

#### Wales TUC

48. The Wales TUC stressed their belief that Wales-wide statutory guidance is needed to achieve a Wales-wide public service. They felt the protection of jobs is key to delivering world-class public services and argued that the interests of the employees and service-users are best delivered without fragmentation. They also stated a desire to do nothing to undermine England and Wales or UK-wide bargaining arrangements.

#### Benefits of Statutory Guidance

49. Three respondents highlighted some specific benefits of statutory guidance:

- one respondent felt it would more likely ensure appropriate joint working;
- one respondent stated Wales-wide statutory guidance would help meet the Welsh Government's ambitions about workforce mobility and responsiveness to demands; and
- one respondent felt Wales-wide statutory guidance is needed to keep a Wales-wide public service.

### Education Sector

50. Three respondents raised specific potential issues over conditions for those working in the education sector. One such issue related to complications around salaries of teaching staff in further education and higher education if the institutions remained the employer. The respondent felt it would be difficult for the Welsh Government to ensure an agreement that any staff being made redundant, because of excess, would be employed in another area. Another respondent wanted to see a higher priority given to the protection of the education workforce.

51. One respondent felt the ability of the Welsh Ministers to issue Wales-wide statutory guidance will help meet the Welsh Government's ambitions about workforce mobility and responsiveness to public service demands. For example, this could mean having a common set of terms and conditions within further education across Wales.

### Workforce Engagement

52. Two respondents highlighted the importance of workforce engagement. One respondent suggested engagement of the workforce is fundamental to the success of the Welsh model of defending public service jobs and services for the benefit of the people of Wales. Another respondent felt workforce engagement is vital to managing changes within the public sector such as handling reduced budgets and restructuring.

### **Question 5: Should such statutory provisions issued by Welsh Ministers be limited to proposals endorsed by the Workforce Partnership Council?**

53. Thirty-two responses were received for this question; 26 respondents were opposed to the idea of limiting statutory provisions by the Welsh Ministers to proposals endorsed by the WPC, while six respondents agreed they should be limited. Support for limiting the proposals came from some of the trade unions, whereas local government, some health and some

education respondents did not support the idea of limiting the proposals. The main themes from commentary provided were as follows:

#### Majority Position

54. Four respondents felt there would need to be the ability to adopt a majority position on issues where unanimous agreement could not be achieved.

#### Other Bodies

55. Three respondents suggested bodies or organisations other than those represented on the WPC should be allowed to put forward proposals or raise concerns for consideration. Of those:

- one respondent highlighted concerns around the lack of inclusion of non-TUC affiliated bodies within the WPC and felt the Welsh Government should not be restrained by the non-elected WPC; and
- one respondent indicated limiting the powers of the Welsh Ministers to only proposals endorsed by the WPC would act to close and deter debate.

#### National Assembly for Wales

56. One respondent felt that if Welsh Ministers placed an agreement from the WPC on a statutory footing, there should be some mechanism for the National Assembly for Wales to review this proposal and further scrutinise it.

### **Question 6: Should the Workforce Partnership Council itself be put on a statutory basis?**

57. Thirty-seven responses were received for this question. Six respondents agreed that the WPC should be put on a statutory basis, and 31 respondents disagreed. Most trade union respondents supported this proposal, while local government, education and most health respondents did not. The main themes from commentary provided were as follows:

#### Composition of Council

58. Fifteen respondents commented on the current composition and structure of the Council:

- six respondents stated the Council is not at sufficiently mature in its structure, representation or operation to warrant this move;
- four respondents felt the current membership was not representative;



- two respondents felt the membership, remit and constitution of the Council need to be reviewed;
- two respondents specifically stated the RCN should be included in the WPC membership; and
- one respondent felt the WPC should include “workforce representatives.”

#### Potential Impact

59. Three respondents stated the benefits and disadvantages of placing the Council on a statutory basis need to be more fully explained before an informed response can be provided. A further two respondents felt an impact assessment would have to be carried out on any decision made by the WPC before it was implemented.

#### Education Sector

60. Three respondents, all from the educational sector, felt it would be advantageous for the WPC to concentrate on establishing broad principles, developing voluntary guidance, and sharing best practice.

#### Health Sector

61. Three respondents, all from the health sector, argued there was no need to place the WPC on a statutory basis as other bodies, such as the NHS Wales Partnership Forum, operate effectively without being established on a statutory basis.

#### Current Success of the WPC

62. Three respondents felt there was no need to place the WPC on a statutory basis as it was working well and questioned if its collaborative approach would be as successful should this change occur.

#### Raise Profile

63. Three respondents felt that placing the WPC on a statutory basis would have the beneficial effect of raising its profile.

### **Question 7: Should a duty be placed on public service organisations to collaborate on workforce matters?**

64. Thirty-nine responses were received for this question; 14 respondents supported the concept of placing a duty to collaborate on workforce matters on public service organisations, while 25 respondents disagreed with the proposal. Those who supported the proposals included union and health respondents. Those who did not support the proposals came mostly

from local government, education and health. The main themes from commentary provided were as follows:

#### Partnership Working

65. Seventeen respondents highlighted benefits to working together and a desire to do so:

- 11 respondents cited that collaboration already takes place and there was a commitment/impetus to work together;
- four respondents stated there were gains to be made by working in partnership; and
- two respondents felt there could be some benefit to a duty to work together in certain circumstances (e.g. in ensuring better use of public resources within the health and social care workforce).

#### Cost/Regulatory Complexity

66. Nine respondents felt issuing such a duty would add a further layer of bureaucracy or add a complex legal/regulatory duty to organisations. Five of these respondents specifically said this process “would be costly”, though no specific figures were cited.

#### Collaboration

67. Three respondents felt a statutory duty would send out a message on the importance of collaboration or would help to progress the agenda for collaboration. Two further respondents also felt it would solve current inconsistencies in collaboration.

68. In contrast, fourteen respondents felt adding a statutory duty could damage collaborative working. Specifically, seven respondents felt making it a statutory duty could be counter-productive and seven respondents felt it could lead to adversarial employee relations.

69. Four respondents felt there either was no need for legislation or it would not achieve the best results. Three respondents suggested a legislative duty could be restrictive.

#### Further Collaboration/Training

70. Three respondents felt there was room for further collaboration or would be interested in some form of training.

#### Education Sector

71. Three respondents highlighted specific concerns involving the education sector:

- one respondent suggested there needed to be reconciliation between the provisions outlined in these proposals and those set out in the Schools Standards and Organisation (Wales) Bill<sup>4</sup>;
- one respondent stated that as HEIs are in competition with one another they should not be forced to collaborate; and
- one respondent argued further and higher education institutions should be included within the duty.

**Question 8: Would such a duty to collaborate on workforce matters fully reflect our ambitions for a Welsh Public Service approach to the workforce in Wales?**

72. Thirty-five responses were received for this question; 11 respondents felt a duty to collaborate would fully reflect the Welsh Government's ambitions for a Welsh Public Service approach, while 24 respondents did not support the concept. Most health, some trade union and some education respondents explicitly supported this proposal, while local government and most education respondents did not support the proposal. The main themes from commentary provided were as follows:

Duty would only Reflect Ambitions

73. Seven respondents proposed a duty would only reflect the ambitions; it would not help deliver them.

Legislation

74. Five respondents either raised a concern that legislation would not create the right partnership conditions, or did not support the use of legislation. Two of these respondents specifically argued against a statutory approach so early in the development of the WPC.

Welsh Public Service

75. Two respondents felt creating a statutory duty was consistent with creating a unique Welsh public service.

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<sup>4</sup> The White Paper and consultation respondents can be found at:  
<http://wales.gov.uk/consultations/education/schoolstandardsbill/?jsessionid=8B0552AF0EE49A1D498785A1CBBB03D4?lang=en>

An outline of the proposals of the Bill can be found at:  
<http://wales.gov.uk/legislation/programme/assemblybills/schoolstandards/?lang=en>

## **Question 9: Are there other ways to achieve greater partnership working?**

76. Thirty-eight responses were received to this question; 36 respondents felt there were other ways to achieve greater partnership working than legislation, while two did not feel there were. There was broad support for this proposition from across all sectors. The main themes from commentary provided were as follows:

### Facilitate Greater Understanding

77. Ten respondents mentioned the People Management Improvement Framework. Of these, six respondents suggested there was room to facilitate a greater understanding across the Welsh public sector of what exactly good partnership working looks like. All six of these respondents specifically mentioned the Programme of Partnership Training, and suggested the People Management Improvement Framework could incorporate partnership working with trade unions and collaboration on workforce matters.

78. Three further respondents similarly suggested that the People Management Improvement Framework could incorporate partnership working with trade unions and collaboration on workforce matters. One respondent mentioned the People Management Improvement Framework as something aiding greater partnership working.

### Workforce Partnership Council

79. Five respondents felt the WPC has a role to play in achieving greater partnership working; three respondents stated that the WPC has a role in facilitating what good partnership working looks like. One respondent suggested the WPC should clarify which organisations and social partners constitute the public service in Wales.

80. Two further respondents felt the WPC would play a critical role in facilitating discussions and collaboration, and highlighted the WPC should support approaches which aid the development of cross sector partnership working.

### Training

81. Four respondents felt there needed to be more training. There were also three respondents who praised the joint training piloted by TUC Wales at Torfaen.

### Leadership

82. Four respondents suggested strong leadership would be required to implement greater partnership working. Three respondents highlighted an important role for the Welsh Government in the leadership and facilitation of collaboration between partners on specific proposals.

### Sharing good practice

83. Two respondents suggested an internet response as a platform to share best practices.

### **Question 10: Do you agree that the Welsh Code should be placed on a statutory footing?**

84. Thirty-nine responses were received to this proposal, with 12 supporting the proposal and 27 opposing the proposal. Those who stated their support for the proposition included trade unions, and some health respondents. Those from education, health and local government mostly did not support the proposal. The main themes from commentary provided were as follows:

### Protection Elsewhere

85. Eight respondents stated protection of employee rights is enshrined in other provisions, with much of the protection provided by the Code still in place through other provisions.

### Job Security

86. Twelve respondents highlighted concerns about job security. Of these, 10 respondents suggested if they did not have their own discretion to seek to balance job security and pay/conditions of existing employees against protecting these conditions for future employees then there could be job losses. Two respondents argued that loss of jobs would be a consequence of the Welsh Code being on a statutory footing.

### Cost Implications

87. Eleven respondents mentioned the costs of placing the Welsh Code on a statutory footing:

- eight respondents felt the costs involved could stop potential bidders;
- two respondents suggested if the Code was implemented it could close future options of saving money through outsourcing; and

- one respondent felt the Code was bureaucratic and costly which would also have the effect of stopping smaller providers bidding for public service provision.

#### Confederation of British Industry (CBI) Wales Response

88. The CBI in particular stated their support for the UK Government's decision to withdraw the Two-Tier Code in 2010 as it was in their view bureaucratic and stopped smaller providers bidding for public service provision. They raised particular concerns that a Welsh Code could be costly, which would close the door to a diverse delivery of public services and that the Two-Tier Code ossified public sector terms and conditions which restricted employers' flexibility to reward performance.

#### Protection of staff

89. Five respondents felt a statutory Code would limit worker inequality and protect the conditions and rights of staff. Two of these respondents stated they supported the efforts to protect the statutory rights of employees who are affected by major organisational change.

#### NHS Common Terms and Conditions

90. Three respondents stressed the importance of ensuring common, UK-wide terms and conditions are retained and not affected by any Code.

#### Exclusion of Education Sector

91. Three respondents, all from the education sector, assumed the statutory Code would apply to the same organisations as before. While further and higher educations were not specifically excluded from the non-statutory Code they were not included in the statutory Code and as a consequence the respondents assumed the revised statutory Code would not apply to them either. One additional respondent thought including further and higher educations within a new statutory Code might stop the small amount of outsourcing that takes place within the HE sector, but is "unlikely to reduce any reductions in staffing required to make any services more efficient."

#### Cross- border implications

92. Three respondents suggested this legislation could raise potential problems if the Code only applied to Wales and not England. Issues were raised about potential impacts on cross-border service providers.

#### NHS Harmonisation of Terms and Conditions

93. Three respondents indicated they would not want any Code which would downgrade pay and conditions of NHS staff by harmonising terms and conditions amongst public sector employees.

### **Question 11: Is the Code still fit for purpose?**

94. Twenty-one responses were received to this question; six respondents felt the Code was fit for purpose and 15 respondents felt that it was no longer fit for purpose. This proposition received support from a number of health respondents and some unions, although those respondents which disagreed with the proposition included a number from health, local government and education. The main themes from commentary provided were as follows:

#### Limited Application of the Code

95. Six respondents indicated the Code only applied to public service contracts which were outsourced to the private sector and felt it would not be suitable to apply the Code to public sector owned shared services arrangements.

#### Reviewing and Extending the Code

96. Four respondents felt the Code should be reviewed if it was to be placed on a statutory footing. Three of these respondents felt it needed extending to protect staff within the education sector.

#### Limiting Financial Benefits of Outsourcing

97. Two respondents stated the Code limited the financial benefits of outsourcing, but provided no specific examples to support this statement.

## Towards 2016

### **Question 12: Do the statutory measures outlined add value to our ambition for the public service workforce in Wales as outlined in the *Strategic Framework*?**

98. Thirty-five responses were received to this question; eight respondents agreed that the statutory measures outlined add value to the Welsh Government's ambitions as outlined in the *Strategic Framework*, and 27 respondents disagreed. Those who listed their support for the proposition were trade unions and some health respondents. Those who did not support the proposals came mostly from local government, education and health. The main themes from commentary provided were as follows:

#### Health Sector

99. All four respondents from the health sector felt there were some benefits in strengthening the requirement for partnership working, but did not feel it should be pursued via legislation. They all felt the NHS showed good examples of partnership working without recourse to legislation.

#### Workforce Protection

100. Two respondents felt making these measures statutory would protect the workforce. One additional response felt the statutory basis would strengthen the *Strategic Framework* and provide a firmer foundation for discussion.

### **Question 13: Are there any equality or regulatory impacts which arise from the proposals?**

101. Thirty-seven responses were received to this question; 35 respondents considered some level of regulatory, quality or cost impact assessment would need to be carried out to assess such impacts if the Green Paper proposals were introduced. Two did not present any issues. There was broad support for this proposition across all sectors. The main themes from commentary provided were as follows:

#### Equality Impact Assessment

102. Seventeen respondents felt there should be a full Equality Impact Assessment undertaken on any proposals. Three of these respondents felt a Regulatory Impact Assessment needed to be undertaken as well.



### ONS Classification

103. Three respondents, all from the education sector, felt these proposals could place the ONS classifications of further and higher education institutions at risk, which might adversely affect workforce arrangements across the UK sector.

### Gender

104. Two respondents felt the proposals could have an effect on gender equality. One specifically stated that as the public sector is predominantly female, any developments impacting the public sector workforce could have indirect gender equality impacts. This particularly related to concerns about the potential for increased job losses. Another respondent felt equality of employment in terms of numbers of men and women, and equal pay for equal duties, need to be ensured.

### Diversity of Workforce

105. Two respondents noted the full diversity of the workforce needed to be represented in workforce engagement/partnership working.

**Question 14: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:**

106. The following issues were either raised specifically at question 14 or raised in a consultation response but not associated with specific questions:

- one respondent felt the Fire Brigades Union (FBU) should become a functioning member of Fire Authorities meetings that discuss workforce matters;
- one respondent argued legislation is too complicated and also discussed how from their perspective some public sector bodies overlap;
- one respondent commented more broadly that in its view the public service should concentrate on providing value for money by innovation, and should shrink by opening up its functions to competition, rather than concentrating on protecting jobs;
- one respondent suggested that time for union work was being undermined in some places. The respondent was concerned

workforce planning is often the last thing to receive attention and suggested the collaboration agenda is not succeeding in regards to the treatment of the workforce and protecting terms and conditions of service;

- one respondent raised the issue of the Welsh language and asked the Welsh Government to consider the way that any new legislation could make the connection between statutory language obligations and meeting those requirements through ensuring a skilled bilingual workforce, and also emphasising the importance of the Welsh language in the workplace;
- one respondent recognised the importance of good employment practices via partnership working but said the focus in Wales should be on good public service outcomes as well as better value for money; and
- one respondent felt due to financial necessity the public service might have to focus on core services, and working on non-core areas may be an issue to be explored without constraints being put on this option.

## **Next Steps**

107. The Welsh Ministers have considered the responses to the consultation in deciding the way forward on the issues raised in the Green Paper.
108. A statement on the proposed way forward will be made to the National Assembly for Wales. The proposed approach will also be discussed with public service partners, in particular through the Workforce Partnership Council.

## Annex A

### Respondents to the Green Paper<sup>5</sup>

All responses came from respondents in Wales, or the Wales Branch of UK-wide organisations.

No.	Name of Respondent	Classification
01	Welsh Local Government Association (WLGA)	Local Government
02	Vale of Glamorgan CBC	Local Government
03	Abergele Town Council	Local Government
04	Tony Sawyer	Individual
05	Ceredigion Unison	Union
06	Dr Kay Richmond	Individual
07	Neath Port Talbot CBC	Local Government
08	Fire Brigades Union* (Welsh Region)	Union
09	Monmouthshire CC	Local Government
10	Powys CC	Local Government
11	John Bowers	Individual
12	John Thorn	Individual
13	UCU (University and College Union) (Welsh Branch)	Union
14	Human Resources Directors Network (Wales)	Professional Group
15	Undeb Cenedlaethol Athrawon Cymru (UCAC)*	Union
16	Royal College of Midwives	Union
17	Welsh Language Commissioner	Commissioner
18	Merthyr Tydfil CBC	Local Government
19	Torfaen CBC	Local Government
20	Newport City Council	Local Government
21	Wales TUC	Union
22	NHS Wales Informatics Service (NWIS)	Health
23	Powys Health Board	Health
24	Mr R.W. Ebley	Individual
25	Confederation of British Industry (CBI) Wales	Business
26	Blaenau Gwent CBC	Local Government
27	Welsh NHS Confederation	Health
28	Rhondda Cynon Taf CBC	Local Government
29	National Association of Schoolmasters Union of Women Teachers Wales (NASUWT Cymru)	Union
30	University of Glamorgan	Education
31	Christine Thomas	Individual
32	Royal College of Nursing in Wales	Union

<sup>5</sup> Three respondents requested anonymity so have not been listed in this annex.

We also received one response which stated that they were not responding to the consultation, they have thus not been included.

\* More than one submission was received, so both submissions have been amalgamated together.

33	Liz Rees	Individual
34	Cardiff Council	Local Government
35	University of Wales, Newport	Education
36	Aberystwyth & Bangor Universities (joint submission)	Education
37	Wrexham CBC	Local Government
38	Society of Local Authority Chief Executives and Senior Managers Wales (SOLACE Wales)	Professional Group
39	Conwy CBC	Local Government
40	Higher Education Wales	Education
41	Betsi Cadwaladr University Health Board	Health
42	Association of Directors of Social Services Cymru (ADSSC)	Professional Group
43	Graham Jones	Individual
44	Association of School and College Leaders (ASCL Cymru)	Professional Group

### Response by Organisation Category

#### Local Government:

Welsh Local Government Association (WLGA)
Vale of Glamorgan CBC
Abergele Town Council
Neath Port Talbot CBC
Monmouthshire CC
Powys CC
Merthyr Tydfil CBC
Torfaen CBC
Newport City Council
Blaenau Gwent CBC
Rhondda Cynon Taf CBC
Cardiff Council
Wrexham CBC
Conwy CBC

Total: 14

#### Unions:

Ceredigion Unison
Fire Brigades Union (Welsh Region)
University and College Union (UCU) (Welsh Branch)
Undeb Cenedlaethol Athrawon Cymru (UCAC)
Royal College of Midwives
Wales TUC
National Association of Schoolmasters Union of Women Teachers Wales (NASUWT Cymru)
Royal College of Nursing in Wales

Total: 8

**Individuals:**

Dr Kay Richmond
John Bowers
John Thorn
Mr R.W. Ebley
Christine Thomas
Liz Rees
Graham Jones
Tony Sawyer

Total: 8

**Health:**

NHS Wales Informatics Service (NWIS)
Powys Health Board
Welsh NHS Confederation
Betsi Cadwaladr University Health Board

Total: 4

**Education:**

University Glamorgan
University of Wales, Newport
Aberystwyth and Bangor Universities (joint submission)
Higher Education Wales

Total: 4

**Professional Groups:**

Human Resources Directors Network (Wales)
Society of Local Authority Chief Executives and Senior Managers Wales (SOLACE Wales)
Association of Directors of Social Services Cymru (ADSSC)
Association of School and College Leaders (ASCL Cymru)

Total: 4

**Statutory Commissioner:**

Welsh Language Commissioner
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Total: 1

**Business:**

Confederation of British Industry (CBI) Wales
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Total: 1

**Anonymous**

Total 3
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**Excluded**

Total 1
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The British Medical Association (BMA) sent in a submission clarifying that they were not responding to the Green Paper.