

# Financial Implications of the Tertiary Education and Research (Wales) Bill

March 2022



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# Financial Implications of the Tertiary Education and Research (Wales) Bill

March 2022



# About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:  
[www.senedd.wales/SeneddFinance](http://www.senedd.wales/SeneddFinance)

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Current Committee membership:



**Committee Chair:**  
**Peredur Owen Griffiths MS**  
Plaid Cymru



**Peter Fox MS**  
Welsh Conservatives



**Mike Hedges MS**  
Welsh Labour



**Rhianon Passmore MS**  
Welsh Labour

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## Conclusions and Recommendations

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**Conclusion 2.** The Committee is disappointed with the lack of information on the associated costs of the Bill for stakeholders and therefore is unable to draw a conclusion as to whether the resources are adequate and reasonable to deliver the legislation. ....Page 31

**Recommendation 1.** Throughout this report, the Committee has identified that further financial information is required. Should there be significant changes to the Regulatory Impact Assessment, the Committee recommends the Minister appears before the Committee to consider those changes in more detail. .... Page 16

**Recommendation 2.** The Committee recommends the Welsh Government undertakes further work analysing and estimating the cost benefits of the Bill. The Regulatory Impact Assessment should be updated to include further information on these benefits, how they will be analysed and when they are anticipated to be delivered.....Page 16

**Recommendation 3.** The Committee recommends that the Welsh Government provides as much clarity as possible about the likelihood of the risk that the Office of National Statistics could reclassify further and higher education institutions as a result of the proposals contained in the Bill, the severity of its financial impact if realised and the practical implications of reclassification on the Welsh Government and the new Commission. ....Page 16

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**Recommendation 9.** The Committee recommends that the Welsh Government reassesses the costs associated with other bodies as a result of this legislation. The costs and any financial implications should be created in consultation with the stakeholders affected and detailed in a revised Regulatory Impact Assessment.....Page 31

**Recommendation 10.** The Committee recommends that the Welsh Government continues to include post-implementation review of all Bills before the Senedd as standard practice, including information as to how value for money will be assessed.....Page 34

## 1. Introduction

- 1.** The Tertiary Education and Research (Wales) Bill<sup>1</sup> (the Bill) and Explanatory Memorandum<sup>2</sup> (EM), including the Regulatory Impact Assessment (RIA), was introduced by Jeremy Miles MS, the Minister for Education and the Welsh Language (the Minister) on 1 November 2021.
- 2.** On 3 November 2021, the Minister made an introductory statement on the Bill in Plenary<sup>3</sup>.
- 3.** The main purpose and effect of the Bill is to dissolve the Higher Education Funding Council for Wales (HEFCW) and create a new Commission for Tertiary Education and Research.
- 4.** The Bill also:
  - requires the Commission to set up and maintain a register of tertiary education providers as well as certain regulatory functions of the Commission (part 2);
  - makes provision for the Welsh Ministers to fund the Commission and for the Commission's functions in respect of securing and funding of tertiary education and research (higher and further education, tertiary education and training, and sixth forms) (part 3);
  - makes provision about apprenticeships (part 4);
  - makes provision about learner protection, complaints procedures and learner engagement (part 5);
  - makes provision about information, advice and guidance from and to the Commission and the Welsh Ministers (part 6);
  - makes miscellaneous provision in respect of higher education corporations in Wales and other general provisions (part 7).
- 5.** The Finance Committee (the Committee) took evidence on the financial implications of the Bill on 24 November 2021<sup>4</sup>, from:

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<sup>1</sup> Welsh Government, [Tertiary Education and Research \(Wales\) Bill](#)

<sup>2</sup> Welsh Government, [Explanatory Memorandum](#)

<sup>3</sup> Plenary, Record of Proceedings, [3 November 2021](#)

<sup>4</sup> Finance Committee, RoP, [24 November 2021](#)

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- Jeremy Miles MS, Minister for Education and the Welsh Language;
- Huw Morris, Director, Skills, Higher Education and Lifelong Learning;
- Zenny Saunders, Deputy Director Post-Compulsory Education and Training Reform (PCET).

**6.** Following the evidence session, the Committee wrote to the Minister<sup>5</sup> requesting further information. On 22 December 2021 the Minister responded<sup>6</sup>.

**7.** Policy scrutiny of the Bill was undertaken by the Children, Young People and Education Committee (CYPE)<sup>7</sup>.

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<sup>5</sup> [Letter to the Minister for Education and Welsh Language, 26 November 2021](#)

<sup>6</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

<sup>7</sup> [Children, Young People and Education Committee](#)

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## 2. Purpose and need for the Bill

### Background

**8.** In 2015, the Welsh Government commissioned a review, led by Professor Ellen Hazelkorn, of the oversight of post-compulsory education in Wales. This included a ‘special reference’ to the future of HEFCW.

**9.** The subsequent report *Towards 2030: A framework for building a world-class post-compulsory education system for Wales*<sup>8</sup> (March 2016) sets out challenges and recommendations for the tertiary education sector.

**10.** The previous Welsh Government identified what it considers are its two primary recommendations:

- develop an overarching vision for the post-compulsory education and training (PCET) sector; and
- establish a new arm’s-length body responsible for the oversight, strategic direction and leadership of the sector.<sup>9</sup>

**11.** The Bill takes forward the second of these recommendations by creating a new Welsh Government sponsored body called the Commission for Tertiary Education and Research (“the Commission”).

**12.** The Welsh Government has subsequently conducted further work in this area in the lead-up to the introduction of the Bill, including:

- White Paper: *Public Good and a Prosperous Wales – Building a reformed PCET system*<sup>10</sup> (June 2017);
- Technical consultation – *Public Good and a Prosperous Wales – the next steps*<sup>11</sup> (April 2018);

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<sup>8</sup> [Towards 2030: A framework for building a world-class post-compulsory education system for Wales](#)

<sup>9</sup> [Welsh Government: Policy and Strategy – Commission for Tertiary Education and Research \(CTER\)](#)

<sup>10</sup> [White Paper: Public Good and a Prosperous Wales – Building a reformed PCET system](#)

<sup>11</sup> [Technical consultation – Public Good and a Prosperous Wales – the next steps](#)

- Draft Tertiary Education and Research (Wales) Bill consultation<sup>12</sup> (July 2020).

**13.** The powers of HEFCW and the Welsh Ministers will be consolidated and new powers established, which will be exercisable by the Commission so that it can regulate, oversee, and fund the whole tertiary education sector as one. HEFCW will be dissolved.<sup>13</sup>

**14.** In response to what the aims and aspirations of the Bill are, the Minister said that the tertiary education sector needed to be futureproofed and that “crucial to that is providing a strategic coherent oversight and strategy for the sector.”<sup>14</sup>

**15.** The Minister said that from the point of view of learners and institutions:

*“we’re living in a very rapidly changing context for tertiary education and research — so, whether it’s the effect of COVID most recently, but climate change, Brexit, technological challenge that we face as an economy and society, and expectations from our learners, importantly. Any one of those would be a very significant set of changes, but we are facing all of them together. So, I think it’s incumbent on us to make sure that we put our post-16 educational sector on the most solid possible foundations to face those challenges and opportunities.”<sup>15</sup>*

**16.** The Minister hoped that the Bill would achieve “better educational outcomes for a wide range of learners”.<sup>16</sup> He added:

*“the commission will be assessed on its contribution to our national milestones, for example, which are around level 3 or higher qualifications. These are longer term objectives, but the commission will have a very, very important role in helping us meet those goals nationally. Those are absolutely quantifiable. And then, more broadly, a higher skilled workforce delivering more productivity in the economy. Now, that’s obviously quantifiable, but in the way that Alma was telling us, probably isn’t straightforwardly directly referable to any particular Bill, but we will want to see that as a product of our reforms as well.”<sup>17</sup>*

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<sup>12</sup> Welsh Government, [Draft Tertiary Education and Research \(Wales\) Bill consultation](#)

<sup>13</sup> Welsh Government, Explanatory Memorandum, page 112

<sup>14</sup> Finance Committee, RoP, 24 November 2021, paragraph 16

<sup>15</sup> Finance Committee, RoP, 24 November 2021, paragraph 15

<sup>16</sup> Finance Committee, RoP, 24 November 2021, paragraph 21

<sup>17</sup> Finance Committee, RoP, 24 November 2021, paragraph 21

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## Summary of costs

17. The focus of the costs included in the RIA is the dissolution of HEFCW and the establishment of the Commission. Costs are assessed over a 10-year appraisal period from 2021-22 to 2030-31. The total costs of the Bill over that period are £45.0 million.<sup>18</sup>

**Table 1 Costs associated with the Tertiary Education and Research Bill**

Cost description	Years	Cost (£,000)
Transitional costs	2021-22 to 2023-24	9,949
Welsh Government staffing and associated costs	2021-22 to 2022-23	22,976
HEFCW staffing and associated costs	2021-22 to 2022-23	7,308
Recurrent Commission running costs	2023-24 to 2030-31	158,221
Total costs	2021-22 to 2030-31	198,454
'Do Nothing' costs	2021-22 to 2030-31	153,420
<b>Net additional costs</b>	<b>2021-22 to 2030-31</b>	<b>45,034</b>

**Source:** *Welsh Government, Regulatory Impact Assessment, Tertiary Education and Research (Wales) Bill, 1 November 2021*

18. The RIA notes recurrent running costs associated with the Commission are approximately £5 million per annum more than current arrangements.<sup>19</sup>

19. The Minister said he had taken a "prudent approach" to the financial costs in the RIA and that estimates were based upon "reasonable assumptions".<sup>20</sup> He confirmed that in estimating costs he had used the cost base for HEFCW, the Welsh Government, and from previous experience of establishing other comparator organisations such as Qualifications Wales.<sup>21</sup>

<sup>18</sup> Welsh Government, Explanatory Memorandum, page 93

<sup>19</sup> Welsh Government, Explanatory Memorandum, page 100

<sup>20</sup> Finance Committee, RoP, 24 November 2021, paragraph 25

<sup>21</sup> Finance Committee, RoP, 24 November 2021, paragraph 30

## Transitional costs

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**20.** Transitional costs are estimated at £9.9 million to be incurred between 2021-22 and 2023-24. The largest element of these costs are £4.9 million for IT, other transitional costs include:

- redundancy of £2 million (a worst case scenario figure based on work undertaken by KPMG);
- £1.8 million on location (including lease, charges such as connection costs);
- £0.9 million on early recruitment, salaries and non-payroll costs of key staff; and
- £0.2 million on board costs.<sup>22</sup>

**21.** On an annual basis the new Commission is estimated to have annual running costs in the region of £20 million, compared to the current business as usual costs of £15 million per annum.<sup>23</sup>

**22.** During the transition period do nothing costs of £15.1m per annum will continue to be incurred.<sup>24</sup>

## Savings

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**23.** The Bill has a net cost of £45 million. The RIA does not quantify cost savings but suggests there may be potential to create “synergies and savings” in certain areas by bringing together the funding and payment teams from the Welsh Government and HEFCW.<sup>25</sup>

**24.** The Welsh Government commissioned a report by Alma Economics ‘Cost benefits analysis of education reforms: A Rapid Evidence Assessment (REA)’ (included at Appendix B of the Explanatory Memorandum<sup>26</sup>), which has helped inform the RIA. The report provides some evidence about savings to the Welsh Government, stating:

*“...the Welsh Government can expect to experience some reduction in its administration costs resulting from the removal of duplicate work and the reduction of Government Sponsored Bodies with duty to supervise, oversee*

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<sup>22</sup> Welsh Government, Explanatory Memorandum, page 94

<sup>23</sup> Welsh Government, Explanatory Memorandum, page 94

<sup>24</sup> Welsh Government, Explanatory Memorandum, page 94

<sup>25</sup> Welsh Government, Explanatory Memorandum, page 95

<sup>26</sup> Welsh Government, [Cost benefits analysis of education reforms: A Rapid Evidence Assessment by Alma Economics](#)

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*and quality assure PCET providers. Nonetheless, the actual reduction in administration costs, and the achieved amount of efficiency savings, will be determined by the exact final size and structure of the Commission..."*<sup>27</sup>

**25.** In its consultation response on the draft Bill, HEFCW states:

*"There is no clear vision for what the Commission, created through this legislation, seeks to achieve over and above the current tertiary education system. Therefore, it is difficult to assess what the benefits will be for providers or students in Wales or indeed a return on the public investment into the legislation."*<sup>28</sup>

**26.** The Minister said that the Commission will bring together, similar functions from both Welsh Government and from HEFCW including payment functions, monitoring arrangements, and IT systems and that "having a conjoined system, obviously, is much more efficient."<sup>29</sup>

**27.** The Minister considered there is potential for "future synergies and future savings" to be realised as a result of the Bill, but that it was too early to quantify these savings and therefore they did not "pass that prudence threshold" to be included in the RIA.<sup>30</sup> He said that over the next six to nine months Welsh Government officials will be working with stakeholders and comparative bodies "to get a more granular picture" of potential cost savings.<sup>31</sup>

**28.** In relation to whether the Bill provides value for money, the Minister said that the Bill removes the "obstacles in the current arrangements" to enable the sector to work in a more efficient way.<sup>32</sup> He continued:

*"We've got lots of examples between us, I'm sure, of insufficient collaboration, duplication of roles, and we haven't yet been able to achieve that coherent learning pathway. The Bill helps us in that, because those challenges are exacerbated by the current structures, the current funding arrangements and the current systems. So, I think the Bill, in a very real way, helps us move beyond those impediments in the current arrangements that we have."*<sup>33</sup>

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<sup>27</sup> Welsh Government, Explanatory Memorandum, page 236

<sup>28</sup> Welsh Government, [Consultation Document: HEFCW response](#)

<sup>29</sup> Finance Committee, RoP, 24 November 2021, paragraph 25

<sup>30</sup> Finance Committee, RoP, 24 November 2021, paragraph 25

<sup>31</sup> Finance Committee, RoP, 24 November 2021, paragraph 26

<sup>32</sup> Finance Committee, RoP, 24 November 2021, paragraph 17

<sup>33</sup> Finance Committee, RoP, 24 November 2021, paragraph 17

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**29.** In response to when the Minister expects to see the non-financial benefits of the Bill, he said:

*"I want to see, soon after the establishment and implementation of the Bill, examples of collaboration between providers in the sector. So, we will want to see the commission funding collaborative projects between different providers around maybe quality, around maybe widening access, research and innovation, using those outcome agreements to drive that. I'll want to see early examples, if this is functioning as we wish it to be, of that articulation agreement between colleges and universities, enabling learners to move smoothly from level 4, level 5 into degree-level qualifications, and system-wide use of sharing of learning and teaching practice in that kind of collaborative way."<sup>34</sup>*

### **Office for National Statistics classification**

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**30.** All institutional units within an economy are classified by the Office for National Statistics (ONS), against a number of indicators. Currently, further education institutions and higher education institutions are classified as Non-profit Institutions Serving Households (NPISH), which places them within the private sector. Any changes that increase the level of control exerted by the Welsh Government over these bodies could create a significant risk that the ONS would look to reclassify them, for National Accounts purposes, as public sector organisations.<sup>35</sup>

**31.** The RIA explored and discounted the option of centralising all HEFCW functions to the Welsh Government, at a cost of £172.2 million because of concerns about the possibility that the ONS classification of education providers may change.<sup>36</sup>

**32.** The RIA notes:

*"Centralisation / ONS classification may also have implications for the treatment of capital – adversely impacting the Welsh Government capital budget, and could significantly affect monies allocated to the Welsh Government from UK government."<sup>37</sup>*

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<sup>34</sup> Finance Committee, RoP, 24 November 2021, paragraph 20

<sup>35</sup> Welsh Government, Explanatory Memorandum, page 110

<sup>36</sup> Welsh Government, Explanatory Memorandum, page 111

<sup>37</sup> Welsh Government, Explanatory Memorandum, page 110

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**33.** The Minister confirmed that even without the risk of the ONS classification, centralising all HEFCW functions to the Welsh Government would not be his preferred options as he would:

*"find it very difficult to justify drawing the Welsh Government into the minutiae of operations of organisations in this sector. I think for particular parts of the sector—for the higher education community in particular—that would have significant impacts on the perception of autonomy, which I myself would absolutely not be comfortable with; I'm sure most of us wouldn't."*<sup>38</sup>

**34.** The Minister acknowledged that the ONS will classify the Commission once it has been established but the Welsh Government's assessment of the "risk is low".<sup>39</sup>

## Committee view

**35.** Tertiary education encompasses post-compulsory education and includes higher education, further education, apprenticeships, sixth forms and adult community learning. At present HEFCW regulates and provides funding for higher education, whilst Welsh Government does so for the other tertiary education sectors. The Committee acknowledges that the Commission will combine these activities into one body to try and achieve a coherent learning pathway. The Committee notes the Minister's view that the Bill hopes to achieve better education outcomes for learners, which in turn will provide a higher skilled workforce delivering more productivity in the economy.

**36.** The Committee is disappointed that savings and benefits have not been quantified in the RIA, particularly as this work is intended to be undertaken in the next 6-9 months. The Committee expects RIAs to contain the best estimate possible for costs and benefits to enable it to fully scrutinise the overall financial implications of a Bill. The Committee would expect cost-savings to be a key element of the options appraisal process and should support decision making. We are pleased to hear that the Minister expects future savings to be realised over time and that he is committed to undertaking further work with stakeholders to gain a better understanding of potential cost savings. However, the Committee would like a fuller explanation of the benefits of this legislation and when they are anticipated to be delivered and it is unclear what prevented this work being undertaken prior to the introduction of the Bill.

**37.** The Committee notes that the ONS will classify the Commission once it has been established and that the Welsh Government's assessment of the risk is low. Given that the extent of the ONS risk depends on how much control the Welsh Government has over higher

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<sup>38</sup> Finance Committee, RoP, 24 November 2021, paragraph 79

<sup>39</sup> Finance Committee, RoP, 24 November 2021, paragraph 80

education institutions, the Committee believes that the Minister should provide further clarification on this issue during the Bill's passage in the Senedd and would like reassurance around the likelihood and severity of the risk.

**Conclusion 1.** The Committee is broadly content with the financial implications of the Bill as set out in the Regulatory Impact Assessment, subject to the comments and recommendations in this report.

**Recommendation 1.** Throughout this report, the Committee has identified that further financial information is required. Should there be significant changes to the Regulatory Impact Assessment, the Committee recommends the Minister appears before the Committee to consider those changes in more detail.

**Recommendation 2.** The Committee recommends the Welsh Government undertakes further work analysing and estimating the cost benefits of the Bill. The Regulatory Impact Assessment should be updated to include further information on these benefits, how they will be analysed and when they are anticipated to be delivered.

**Recommendation 3.** The Committee recommends that the Welsh Government provides as much clarity as possible about the likelihood of the risk that the Office of National Statistics could reclassify further and higher education institutions as a result of the proposals contained in the Bill, the severity of its financial impact if realised and the practical implications of reclassification on the Welsh Government and the new Commission.

### 3. Establishment of a new Commission for Tertiary Education and Research

#### Roles and responsibilities of the new Commission

38. The RIA notes that the Commission would be a powerful new arm's-length body with wide-ranging powers and a significant budget in excess of £500 million per annum, based on current spend in relevant areas.<sup>40</sup>

#### Costs associated with establishing the new Commission

39. The projected costs are based on a 10-year assessment period, between 2021-22 and 2030-31, with an assumption that the Commission will become operational by 2023-24. A 10-year period has been chosen on the basis that, whilst the "costs of the Commission are expected to reach a steady state within a short period of time", the benefits of the Bill are "most likely to be realised in the medium to long-term".<sup>41</sup>

40. The RIA provides a +/- 30 per cent variance figure, therefore the total costs for the Commission may increase from £198.5 million to £258.0 million. The RIA states that "this range will get smaller closer to establishment as decisions are made and assumptions are finalised."<sup>42</sup>

41. The table below provides an illustration of the effect of this variance on costs more generally and the net additional costs of establishing the Commission.

**Table 2 Illustrative costs of a +30% variance in the figures set out in the RIA (Establishing the Commission for Tertiary Education and Research option)**

Costs Description	Years	Cost (£0,000)	+30% (£,000)
Transitional Costs	2021-22 to 2023-24	9,949	12,934
Welsh Government staffing and associated costs	2021-22 to 2022-23	22,976	29,869
HEFCW staffing and associated costs	2021-22 to 2022-23	7,308	9,500

<sup>40</sup> Welsh Government, Explanatory Memorandum, page 114

<sup>41</sup> Welsh Government, Explanatory Memorandum, page 176

<sup>42</sup> Welsh Government, Explanatory Memorandum, page 177

Costs Description	Years	Cost (£0,000)	+30% (£,000)
Recurrent Commission running costs	2023-21 to 2030-31	158,221	205,687
<b>Total costs</b>	<b>2021-22 to 2030-31</b>	<b>198,454</b>	<b>257,990</b>
Less "Do Nothing" costs	2021-22 to 2030-31	153,420	153,420
<b>Net additional costs:</b>		<b>45,034</b>	<b>104,570</b>

**Source: Welsh Government, *Regulatory Impact Assessment, Tertiary Education and Research (Wales) Bill, 1 November 2021, Senedd Research Analysis***

**42.** In response to why a +/- 30 per cent range of estimated costs had been applied, the Minister said that he was trying to strike the right balance and was mindful that the previous Committee had been critical of the Welsh Government for underestimating the resources needed to implement the Higher Education (Wales) Act 2015<sup>43,44</sup>

**43.** The Minister assured the Committee that the +/- 30 per cent range would "not apply equally to all elements of the costings" and there would be some "operational choices which will significantly affect those options" such as the location of the Commission, IT, and staffing.<sup>45</sup>

**44.** The Minister confirmed that he has established a strategy and implementation group with stakeholders from "across the sector and they will help us work through some of these kinds of more granular choices as we go forward".<sup>46</sup>

**45.** He said it was his intention to revise the RIA in advance of Stage 2 as he considers "at that point, we'll be so much further again and we'll be able to draw on the advice from stakeholders at that point as well".<sup>47</sup>

<sup>43</sup> [Higher Education \(Wales\) Act 2015](#)

<sup>44</sup> Finance Committee, RoP, 24 November 2021, paragraph 29

<sup>45</sup> Finance Committee, RoP, 24 November 2021, paragraph 30 & 31

<sup>46</sup> Finance Committee, RoP, 24 November 2021, paragraph 33

<sup>47</sup> Finance Committee, RoP, 24 November 2021, paragraph 39

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## Location costs

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**46.** Location costs are estimated, “in the absence of post Covid occupancy evidence”. It’s noted that the costs provided are an indication, as a location strategy has yet to be determined.<sup>48</sup>

**47.** The RIA notes an estimated annual rental cost of £100,800, based on a second-hand purpose built office facility in South Wales, capable of accommodating 127 employees at a 75 per cent occupancy (total estimated Commission staff of 169).<sup>49</sup>

**48.** The Minister confirmed that the estimate for the location was “based on a steer that my predecessor gave to provide a baseline for benchmarking purposes only.” He added:

*“And that was to explore a combination of options in south-east Wales that reflected the existing critical mass, if you like, of staff both within the Welsh Government and HEFCW. But the early analysis around that has also taken into account, to some extent, staff working remotely in other parts of Wales.”<sup>50</sup>*

**49.** The Minister confirmed that the location estimate was one area that costs needed to be updated, given:

*“...the impact of COVID on the property market and organisations’ choices around establishment of locations, we will need to work through that. ... A traditional office base for the commission in a pre-COVID context is one thing, but, as we are seeing happening in real time now, people are making different choices, aren’t they?”<sup>51</sup>*

**50.** Given the uncertainty in location costs and the interdependency this has with other costs, the Minister said the key risk was COVID-19 and around the demand for office-based working. He continued:

*“I think the final choice of location also will carry some risk obviously, especially around impacting the number of staff who transfer into the organisation from the Welsh Government and from HEFCW. There’s obviously an element of risk around that. I think, more broadly, there is, in*

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<sup>48</sup> Welsh Government, Explanatory Memorandum, page 214

<sup>49</sup> Welsh Government, Explanatory Memorandum, page 214

<sup>50</sup> Finance Committee, RoP, 24 November 2021, paragraph 49

<sup>51</sup> Finance Committee, RoP, 24 November 2021, paragraph 50

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*any situation, in any establishment of this sort, risks which wouldn't be unique to this. With a project of this scale, availability of suitable premises is an issue, and then, the larger ticket items, if I could put it like that—office fit out, all those sorts of things, also bring with them their own individual elements of risk along the way.*<sup>52</sup>

**51.** In the Minister's letter of 22 December, he stated:

*"The decisions around location will need to take as much of the impact of COVID and wider societal changes into account or risk burdening the Commission with expensive and/or unsuitable office space."*<sup>53</sup>

**52.** The Minister added that he would take into account the current location of HEFCW and Welsh Government workforce, given that a relocation from south east Wales, while perhaps saving money initially, could potentially impact the number of staff who transfer into the Commission, which would increase staff recruitment and training costs significantly.<sup>54</sup>

## **Staff Costs**

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**53.** The RIA estimates that the Commission will comprise of 169 members of staff<sup>55</sup>, with an assumption that all 53 of HEFCW's staff will transfer to the new organisation.<sup>56</sup> The costs of staffing will be met through the Welsh Government and Commission budgets, as the staffing costs include the policy and sponsorship teams in the Welsh Government who will manage the relationship with the new Commission.<sup>57</sup> The RIA goes on to say:

*"The Welsh Government will require an additional 45 staff within the Sponsorship; Policy; and IT teams in order to manage the relationship with the new organisation and safeguard IT systems on which the Welsh Government is also reliant."*<sup>58</sup>

**54.** The cost of HEFCW staff has been assumed on the basis of the top of their 2020 pay bands, whilst Welsh Government costings are based on the most recent pay scales as at April

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<sup>52</sup> Finance Committee, RoP, 24 November 2021, paragraph 51 & 52

<sup>53</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

<sup>54</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

<sup>55</sup> Welsh Government, Explanatory Memorandum, page 177

<sup>56</sup> Welsh Government, Explanatory Memorandum, page 209

<sup>57</sup> Welsh Government, Explanatory Memorandum, page 177

<sup>58</sup> Welsh Government, Explanatory Memorandum, page 209

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2020, based on the top bands of the pay scale. All costings are calculated on the basis of full-time equivalent staff.<sup>59</sup>

**55.** Whilst it is assumed that most of the staff for the Commission will have transferred from HEFCW and the Welsh Government, it is anticipated that there will need to be a recruitment exercise, estimated in the region of £80,000 to £100,000, to replace any lost staff.<sup>60</sup>

**56.** Staff costs are the biggest expense for the new Commission, totalling just under £13 million per annum from 2023-24. The Minister confirmed that £3.3 million of those costs are new and the £9.7 million balance relates to existing HEFCW and Welsh Government staffing.<sup>61</sup>

**57.** The Minister considered that 169 members of staff “represents what we think is the maximum staff that the commission would need to run”<sup>62</sup>. His assumptions are based on:

*“...many of the tasks that the commission will be carrying out are already, obviously, being carried out by HEFCW and the Welsh Government, so that informed that choice. But there’s also been, in addition to that, a range of reference and research visits to other institutions—so, in Scotland and New Zealand, in the Republic of Ireland—to benchmark the staffing arrangements there.”<sup>63</sup>*

**58.** In the Minister’s letter of 22 December, he stated:

*“The high level target operating model assumes a staff maximum of 169 for the Commission, including 53 from HEFCW. The staff costs incorporate all current HEFCW staff and a count of WG staff currently working on the functions included in the Bill. It is important to note that no decisions have been made regarding staffing and roles, so these assumptions were taken to estimate costs. The figure of 169 represents the maximum staff needed to run the Commission based on current assumptions. The breakdown of the £13m staff costs is.”<sup>64</sup>*

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<sup>59</sup> Welsh Government, Explanatory Memorandum, page 209

<sup>60</sup> Welsh Government, Explanatory Memorandum, page 209

<sup>61</sup> Finance Committee, RoP, 24 November 2021, paragraph 65

<sup>62</sup> Finance Committee, RoP, 24 November 2021, paragraph 65

<sup>63</sup> Finance Committee, RoP, 24 November 2021, paragraph 65

<sup>64</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

Staff		Cost (£M)	No. of staff	
<b>CTER</b>	Existing	HEFCW staff	£3.2	53
	Existing	Welsh Government transferred in	£6.5	110
	New	Additional staff for IT, HR and Finance	£0.4	6
<b>WG</b>	New	New WG Sponsorship Team staff	£2.9	45
		<b>Total</b>	<b>£13.0</b>	<b>214</b>

## IT Costs

**59.** The largest element of the transitional costs are £4.9 million for IT. It is anticipated that eight IT consultants will be hired between April 2022 and September 2023, at a cost of £900 per day, to assist in transferring HEFCW systems and data to the new Commission. In addition, there will be a £200 per developer cost for desktops and a £750 per developer per year cost for licences.<sup>65</sup>

**60.** The Minister confirmed that the consultancy quotes are based on “market rates”<sup>66</sup>, however he said that there is “a significant fluctuation in market rates at the moment around some of these consultancy costs”<sup>67</sup>.

**61.** In response to whether the Minister had considered permanently hiring IT staff to assist in transferring HEFCW systems and data to the new Commission, he said:

*“This is a shorter term transitional piece of work, isn't it, so, classically, consultants might be more appropriate for that shorter term piece of work. But, as I say, if it were possible to recruit and that was a value-for-money solution, there would definitely be an openness to that. I think experience suggests that it is reasonably challenging to recruit permanent digital staff into those kinds of shorter term roles, but it definitely hasn't been ruled out.”<sup>68</sup>*

<sup>65</sup> Welsh Government, Explanatory Memorandum, page 212

<sup>66</sup> Finance Committee, RoP, 24 November 2021, paragraph 72

<sup>67</sup> Finance Committee, RoP, 24 November 2021, paragraph 54

<sup>68</sup> Finance Committee, RoP, 24 November 2021, paragraph 55

**62.** The Minister said some IT costings workshops had been held with the digital team to:

*"test some of these assumptions and to revise the costings then that went into the April documentation, and they're based on, obviously, the latest market rates for consultants and for hardware and for software and so on at that point in time. I think—. Just one thing: some of the costs included here would be incurred regardless of the reform, just because it's about partly upgrading existing legacy systems, and you will know that that's a perennial challenge for large organisations, as you obviously will know. So, in terms of breakdown, there are four main categories. So, the software development is about £0.15 million; the annual security and recertification is about £0.03 million; the user costs are about £4.28 million; and the consultancy costs are about £0.69 million. So, that takes you to £5.15 million overall. So, that's how the costs are broken down."*<sup>69</sup>

**63.** The Committee requested a breakdown of the business as usual costs and the additional costs of the reform and what risks may impact these costs. In the Minister's letter of 22 December, he said:

*"The establishment of the Commission offers an opportunity to ensure that the IT system in place is high performing, secure and reliable. Simply maintaining existing legacy systems incurs 'hidden opportunity costs' in terms of maintaining inefficient processes. In addition, in time, the systems will not be able to cope with the ambition of the reform and the demands that need to be placed upon them. At this stage costs have been included for upgrading and maintaining existing systems only as opposed to replacement, as it is unclear at this stage exactly when this would have to happen."*<sup>70</sup>

**64.** The table below shows the breakdown of the ongoing 'business as usual' costs and their comparison with the 'ongoing costs' for the Commission."<sup>71</sup>

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<sup>69</sup> Finance Committee, RoP, 24 November 2021, paragraph 72

<sup>70</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

<sup>71</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

	Ongoing IT costs for CTER (£M)	Ongoing IT costs for CTER (£M) Business as usual costs (£M)	Difference (£M)
<b>IT Running Cost - development software</b>	£0.15	-	£0.15
<b>IT Running cost - annual security recertification</b>	£0.03	-	£0.03
<b>IT Running Costs - user costs</b>	£4.28	£3.13	£1.15
<b>IT Running costs - IT Consultants</b>	£0.69	-	£0.69
<b>Cost of upgrading / maintaining legacy systems</b>	£0.25	-	£0.25
<b>Total</b>	<b>£5.15</b>	<b>£3.38</b>	<b>£1.77</b>

65. The letter states that these forecast costs are driven by assumptions based on the best estimates of need and cost for the new Commission. It continues:

*"Given that IT running costs for users makes up by far the biggest amount of ongoing costs it is here that the biggest risks of a mismatch occurs. We have mitigated that risk by:*

- *Being prudent in our cost estimates, for example including using Welsh Government costs for hardware/software at the high end of the scale of cost. - Testing the assumptions with members of Welsh Government digital profession.*
- *Including the maximum number of staff in our assumptions.*<sup>72</sup>

66. The Minister noted in his letter that the three largest financial risks areas associated with the Bill are staffing, IT and location. He said all areas of financial risk will be impacted by the decisions taken during the transition phase, noting:

*"In terms of that ensuring that risks are both identified and managed effectively, a post compulsory education and training (PCET) programme team has been established within the Welsh Government. The programme*

<sup>72</sup> Letter from the Minister for Education and Welsh Language, 22 December 2021

*team will manage the delivery of the Bill and oversee the necessary legislative, operational, HR etc. related activity necessary to establish the Commission. The programme team will also be the front line for managing broader risks.*"<sup>73</sup>

## Committee view

**67.** The Committee notes the Minister's view that he has taken a prudent approach to estimating costs in the RIA and that he was mindful of the criticism the previous Welsh Government has received for underestimating the resources needed to implement legislation in the past. However, the Committee considers that a +/- 30 per cent variance in the cost estimates is unacceptable. This variance allows for a £60 million difference in the Commission's costs from £198.5 million to £258.0 million over the ten year period. The Minister confirmed that the 30 per cent range does not apply to all items of cost. However, the RIA makes no effort to differentiate where this range applies, therefore it is difficult to understand where the key risks really lie. The Committee believes that the RIA is a key tool to critically assess a range of options and it should contain detailed options appraisals to reduce this variance.

**68.** The Committee is disappointed that the RIA sets out the financial information in terms of cost elements to the new Commission rather than outlining those costs by policy area. While it is clearly useful to have the costs of the Commission, it would aid scrutiny if in addition, costs were presented by policy area where possible, to enable a direct link to the legislation and policy intentions of the Bill. The Committee would appreciate if RIAs were consistent in displaying cost information by policy to allow for a direct assessment of those costs against the individual elements of the Bill.

**69.** The Committee is concerned that three of the most significant cost elements of the Bill relating to the location of the Commission, staffing and IT have not been further progressed. The Committee acknowledges that a strategy and implementation group has been established with stakeholders to undertake further work on costings and that the Minister has committed to revising the RIA before Stage 2. However, it is not clear to the Committee why this work was not undertaken prior to the RIA being prepared. The previous Finance Committee raised similar concerns in its report on the financial implications of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill<sup>74</sup> where an implementation group, whose work would be key to delivery of the legislation, was established after the Bill was introduced.

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<sup>73</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

<sup>74</sup> Finance Committee Report, [Financial implications of the Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Bill](#)

**70.** The previous Finance Committee has been critical on a number of occasions of the practice of introducing Bills where cost assessments are incomplete or where there is an intention to undertake further work at a later stage. Given the Committee's opportunity to scrutinise the costs are at Stage 1 and that the Senedd is asked to make a decision on the Financial Resolution, the Member in Charge of a Bill must ensure the cost implications of a Bill are complete on introduction.

**71.** The Committee recognises the pandemic has created a more difficult environment to choose a suitable location for the Commission, given the future uncertainties in ways of working post-COVID-19. The Minister has also highlighted the risks around the location costs including COVID-19, the property market and availability of suitable premises. Given that the location costs could vary significantly and has an interdependency with other costs, the Committee believes further work should be undertaken on a location strategy as a matter of priority.

**72.** The Committee accepts the methodology for calculating the number of staff the Commission will comprise is based on the assumption of the current number of staff from HEFCW and the Welsh Government and other benchmarking exercises. We are grateful to the Minister for providing further information on the breakdown of the £13 million for both the Welsh Government and the Commission staff, however we feel this information should have been available in the RIA on introduction.

**73.** The Committee notes that the most significant element of the transitional costs are for IT (£4.9 million) and acknowledges that some of these costs would be incurred regardless of the reform, for upgrading existing systems. The Committee accepts that these costs are based on market rates for consultants and the Minister's view that the short term work of transferring the HEFCW systems to the new Commission would be most appropriately undertaken by consultants rather than hiring permanent IT staff.

**Recommendation 4.** The Committee recommends that the Welsh Government undertakes further work on the cost associated with the Bill and updates the Regulatory Impact Assessment to demonstrate, for clarity, to which costs the +/- 30 per cent variance applies.

**Recommendation 5.** The Committee recommends that detailed information is provided on the membership, workplan and intended outcomes of the strategy and implementation group. Including where the work of this group will lead to amendments to the Regulatory Impact Assessment and what the scope of those amendments might be.

**Recommendation 6.** The Committee recommends that the Welsh Government provides information regarding the strategy and implementation group's consideration of the location of

the Commission and staffing numbers, including details of any financial impacts arising from the group's work.

**Recommendation 7.** The Committee recommends that the Welsh Government undertakes further work on a location strategy, particularly the impact that COVID-19 will have on any costs associated with it, and that this information is included in a revised Regulatory Impact Assessment.

**Recommendation 8.** The Committee recommends that the Welsh Government provides further information relating to the financial impact of using IT consultants to undertake transferring the Higher Education Funding Council for Wales's systems and data to the new Commission and this should be included in the revised Regulatory Impact Assessment.

## 4. Costs to other elements of the Bill

### Commission powers

**74.** The Bill transfers a series of powers from Welsh Ministers and HEFCW to the Commission at Parts 2 to 6 of the Bill, which will have significant cost and resource implications.

### Register of tertiary education providers and data collection

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**75.** Part 2 of the Bill requires the Commission to operate and maintain a register of tertiary education providers, with the aim of regulating these providers and controlling access to the register through quality assurance frameworks and investigations.<sup>75</sup>

**76.** The register will be a “legal mechanism by which appropriate and proportionate regulation and oversight is applied to registered tertiary education providers in receipt of public funds”. This includes monitoring the financial sustainability of providers.<sup>76</sup>

**77.** Part 6 of the Bill requires the Commission to “collect and use information from across the sector” and the Commission will have a “strategic role in influencing learning providers’ data, statistics and research responsibilities”. The Commission will then have a duty to provide advice and information on request to Welsh Ministers, with a similar obligation on Welsh Ministers, tertiary education providers and various other public bodies to share information with the Commission.<sup>77</sup>

**78.** The Minister said it would be for the Commission to decide how to maintain a register of providers and a database with data collated from education providers. He said that the statistical staff required to undertake this role had already “been baked into the costs—the head count estimates”<sup>78</sup>. He added:

*“...we’ve got Qualifications Wales, for example, in the education sector, with a register, data collection system, and we’ve used that information to update the costs that have gone into the April documentation. So, we have based that on existing experience elsewhere in the public service in Wales.”<sup>79</sup>*

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<sup>75</sup> Welsh Government, Explanatory Memorandum, page 20

<sup>76</sup> Welsh Government, Explanatory Memorandum, page 21

<sup>77</sup> Welsh Government, Explanatory Memorandum, page 54

<sup>78</sup> Finance Committee, RoP, 24 November 2021, paragraph 84

<sup>79</sup> Finance Committee, RoP, 24 November 2021, paragraph 84

**79.** The Minister highlighted:

*"I want to perhaps move us away from this idea of it simply being a database. In terms of the identification of providers, clearly, all that information is available to Welsh Government, to HEFCW and to others, but what we are talking about here is a whole new strategic approach to the sector generally about how funding is allocated and how regulation is engaged, and there are tools—the register is one of them, funding agreements and outcome agreements are another—and each of those will have data implications, obviously, as a consequence of choices the commission makes"<sup>80</sup>*

**80.** The Committee asked the Minister to provide examples of what data collection might entail. In his letter of 22 December, the Minister stated:

*"There are a number of data sources in the tertiary education sector. At this stage no decisions have been made on what data the Commission will collect, and therefore no decision has been taken on additional data, if any is to be collected. However by using an example of data that is already collected by the Welsh Government we can demonstrate what data collection might entail and what improvements we hope to make. The data collection and utilisation systems will play a vital role supporting the Commission in achieving the aims of the reform. The systems will contribute to the evidence base underpinning the important decisions that the Commission will take every day."<sup>81</sup>*

## **Costs to other bodies**

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**81.** The RIA outlines that the costs to bodies other than the Welsh Government and HEFCW/the Commission are unknown, and only identifies costs falling to the Welsh Government and HEFCW/the Commission.<sup>82</sup>

**82.** The Bill is likely to require bodies in the PCET sector to alter their activities in certain areas, with the Bill requiring providers of tertiary education to share information with the Commission

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<sup>80</sup> Finance Committee, RoP, 24 November 2021, paragraph 98

<sup>81</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

<sup>82</sup> Welsh Government, Explanatory Memorandum, page 95

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(Part 6) and setting a registration requirement for providers (Part 2). The RIA notes costs to other bodies are “unknown at present”.<sup>83</sup>

**83.** The RIA notes:

*“It has not been possible to quantify these costs as they will depend upon decisions taken by the Commission, any assumptions made by the Welsh Government at this time, in order to inform this Regulatory Impact Assessment, may pre-empt these decisions.”<sup>84</sup>*

**84.** In a joint response, Universities Wales and the Chairs of Universities Wales noted that the Draft RIA was “deficient in a number of significant respects”, stating:

*“It does not attempt to identify the costs for institutions/providers or other stakeholders at all. It only focuses on the budgetary costs for the Welsh Government.”<sup>85</sup>*

**85.** The Committee asked how the Minister is engaging with stakeholders to alleviate their concerns. He said:

*“The previous committee was clear that there should be ongoing consultation with stakeholders during the passage of the Bill. We had initial conversations with the sector around the point at which it was sensible to ask for there to be meaningful details provided of the impact on stakeholders of the arrangements, and perfectly understandably, the response was, ‘Well, we want to see what the Bill looks like in order to be able to provide that in a granular way.’ So, the strategy and implementation board that I chair will be looking at this, obviously, and then we’ll be feeding that information into the recast of the RIA in advance of Stage 2. There’s an ongoing arrangement of consultation with stakeholders at the moment, in addition to the, I think, three consultation documents that we’ve published over recent years in relation to this. But, obviously, that set of conversations with stakeholders will enable us to have that granular information in the RIA.”<sup>86</sup>*

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<sup>83</sup> Welsh Government, Explanatory Memorandum, page 95

<sup>84</sup> Welsh Government, Explanatory Memorandum, page 96

<sup>85</sup> [Joint consultation response: Draft TER\(W\) Bill Universities Wales and the Chairs of Universities Wales](#)

<sup>86</sup> Finance Committee, RoP, 24 November 2021, paragraph 92

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**86.** In the letter of 22 December, the Minister acknowledged “two other broad areas of financial risk associated with the Bill” that have not been quantified, are:

*“...the costs of the new powers the Bill confers on the Commission and, if there will be additional costs to bodies in the Tertiary Education Sector as a result of the Bill or the actions of the Commission. In both cases the financial risk is that the Bill would place additional or excessive additional costs on either the Commission or providers in the sector. While it is not possible yet to quantify these risks as they will depend upon decisions taken by the Commission once it is established, we continue to monitor and engage closely with stakeholders to ensure any additional costs incurred due to the bill are absolutely necessary and kept to a minimum.”<sup>87</sup>*

## Committee view

**87.** The Committee is concerned that the RIA does not outline the costs to bodies other than the Welsh Government and HEFCW/the Commission. The Committee understands that the Bill is likely to require bodies in the PCET sector to alter their activities in certain areas, yet the RIA notes costs to other bodies are “unknown at present”. The Committee believes it is fundamental that an RIA assesses the impact of legislation on both the Welsh Government and other bodies and is disappointed this has not been included.

**88.** Whilst recognising that there will be ongoing consultation with stakeholders during the passage of the Bill, the Committee stresses the importance of cost assessments being complete on introduction of a Bill, not only to ensure proper scrutiny by the Senedd, but to ensure that the resource implications are fully understood by stakeholders impacted by the Bill. The impact of the Bill and the associated costs for stakeholders should be a key consideration that forms part of the Welsh Government’s options appraisal. It is disappointing more work was not undertaken in this area prior to the Bill’s introduction.

**Conclusion 2.** The Committee is disappointed with the lack of information on the associated costs of the Bill for stakeholders and therefore is unable to draw a conclusion as to whether the resources are adequate and reasonable to deliver the legislation.

**Recommendation 9.** The Committee recommends that the Welsh Government reassesses the costs associated with other bodies as a result of this legislation. The costs and any financial

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<sup>87</sup> [Letter from the Minister for Education and Welsh Language, 22 December 2021](#)

implications should be created in consultation with the stakeholders affected and detailed in a revised Regulatory Impact Assessment.

## 5. Post-implementation review

**89.** The Commission will be required to produce an annual report for Welsh Ministers, with an update on their performance and progress, which will be laid before the Senedd. The Commission will be scrutinised either by the Senedd in a full session or by a designated Senedd Committee.<sup>88</sup>

**90.** The Commission will also take responsibility for a benefits realisation plan, from July 2023, which will:

- provide details about the benefits emanating from the establishment of the Commission;
- identify those responsible for realising the benefits;
- state the baselines from which benefits will be measured; and
- will form the basis of post programme evaluation and reviews to determine whether the planned benefits have been realised.<sup>89</sup>

**91.** The RIA notes that the post-implementation review will consider the costs incurred by the new Commission and will reflect on the costings contained in the RIA in those reviews, as recommended by the previous Finance Committee in its inquiry into the financial estimates accompanying legislation<sup>90, 91</sup>

**92.** The Minister felt that sufficient detailed information had been included in the RIA, to allow the post-implementation review to be “properly scrutinised”<sup>92</sup>. He added:

*“We’ve had a discussion today about where we anticipate being able to provide more information to the committee and to stakeholders, partly as a product of ongoing conversations with stakeholders in some areas and further analysis in others, and I think that the combination of the material*

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<sup>88</sup> Welsh Government, Explanatory Memorandum, page 201

<sup>89</sup> Welsh Government, Explanatory Memorandum, page 203

<sup>90</sup> Finance Committee Report, [Inquiry into the financial estimates accompanying legislation](#)

<sup>91</sup> Welsh Government, Explanatory Memorandum, page 204

<sup>92</sup> Finance Committee, RoP, 24 November 2021, paragraph 115

*already provided and the recast RIA before Stage 2 will certainly put us in that position.*<sup>93</sup>

## Committee view

**93.** The Committee believes inclusion of a robust post-implementation review is good practice and helps to ensure the objectives of legislation are being delivered in line with expectations and that value for money has been achieved. The Committee is pleased that a post-implementation review is included in the RIA and considers the requirement for the Commission to produce an annual report, which must be laid before the Senedd, as a reasonable approach to monitoring the outcomes of the legislation.

**Recommendation 10.** The Committee recommends that the Welsh Government continues to include post-implementation review of all Bills before the Senedd as standard practice, including information as to how value for money will be assessed.

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<sup>93</sup> Finance Committee, RoP, 24 November 2021, paragraph 115