



Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

21 May 2014

Dear Sir / Madam

Consultation on the Higher Education (Wales) Bill

The Children, Young People and Education Committee is calling for evidence on the general principles of the Higher Education (Wales) Bill. To assist with its consideration, the Committee would welcome your views on this subject.

What is a Bill?

A Bill is a proposed law. Once a Bill has been considered and passed by the Assembly and given Royal Assent by the Queen, it becomes an “Act of the Assembly”.

There is a four stage process for the consideration of a Bill. Stage 1 involves consideration of the general principles of the Bill by a committee (which includes taking of written and oral evidence from interested parties and stakeholders), and the agreement of those general principles by the Assembly.

What does this Bill seek to achieve?

The Welsh Government policy that lies behind the Bill is set out in the Explanatory Memorandum that accompanies the Bill. The Welsh Government’s primary policy objectives in relation to the Bill are to:

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- ensure robust and proportionate regulation of institutions in Wales whose courses are supported by Welsh Government backed higher education grants and loans;
- safeguard the contribution made to the public good arising from the Welsh Government's financial subsidy of higher education;
- maintain a strong focus on fair access to higher education; and
- preserve and protect the institutional autonomy and academic freedom of universities.

The Welsh Government intends to achieve these objectives by:

- establishing a new regulatory framework applicable to all providers of higher education in Wales which seek automatic designation of their higher education courses for the purpose of student support;
- ensuring the new regulatory controls do not rely on HEFCW providing funding to those institutions and providers;
- requiring all higher education providers that benefit from the Welsh Government's financial subsidy in the form of statutory student fee loans or grants to have charitable status;
- requiring all higher education providers whose courses are automatically designated for statutory student support to commit to activity in support of equality of access to higher education; and
- building, as far as possible, on the existing system of controls established by HEFCW under its terms and conditions of funding.

The Bill and the Explanatory Memorandum can be found on the Assembly's website at the following address:

<http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?IId=9722>

What is the committee's role?

The role of the committee is to consider and report on the general principles of the Bill. In doing so, the Committee has agreed terms of reference, which are:

To consider:

- i) the general principles of the Higher Education (Wales) Bill and whether the legislative approach outlined in the Bill is necessary to deliver the Bill's stated policy objectives;
- ii) the key provisions set out in the Bill and whether they are appropriate and proportionate to deliver its stated purposes;
- iii) the appropriateness and proportionality of the powers in the Bill conferred on the Welsh Government and HEFCW to determine and enforce mandatory requirements in relation to regulated institutions;

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iv) the implications of the Bill for the governance, autonomy and academic freedom of universities, including their status as charities and classification as Non Profit Institutions Serving Households for purposes of national accounting;

v) the impact for students (including those students who do not pay higher fees) and wider higher education stakeholders, and potential cross-border issues arising from the Bill;

vi) potential barriers to the implementation of the key provisions and whether the Bill takes account of them;

vii) the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill)); and

Viii) the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

Invitation to contribute to the inquiry

The Committee would like to invite you to submit written evidence to assist in its scrutiny of the Bill. In particular, we would welcome your views on the questions listed in Annex 1.

If you wish to submit evidence, please send an electronic copy of your submission to CYPCommittee@wales.gov.uk and entitle the email "Consultation – Higher Education (Wales) Bill".

Alternatively, you can write to:
Sarah Bartlett, Deputy Clerk,
Children, Young People and Education Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

Submissions should arrive by 20 June 2014. It may not be possible to take into account responses received after this date.

When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee. Please reference your response using the title applied above;
- the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings. If you do not want your response or name published, it is important that you clearly specify this in your submission;

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- please indicate whether you are responding on behalf of an organisation, or as an individual; and
- please indicate whether or not you would be prepared to give oral evidence to the Committee. (For your information, the Committee is likely to be taking oral evidence during June and July 2014.)

The Committee welcomes evidence from those with an interest in this subject. If you are responding on behalf of an organisation, please provide a brief description of the role of your organisation. The Committee welcomes contributions in English and Welsh and we ask organisations with Welsh Language policies / schemes to provide bilingual submissions, in line with their public information policies.

The Committee will consider responses to the written consultation and hold oral evidence sessions during the above dates.

For your information, the Committee has invited submissions from a wide range of organisations, a list of which is available on request. However, the Committee would be grateful if you could forward a copy of this letter to any individuals or organisations that you believe might wish to contribute to the inquiry. A copy of this letter has also been placed on the National Assembly's website with an open invitation to submit views.

Disclosure of Information

The Assembly's policy on disclosure of information can be accessed [here](#), please ensure that you have considered these details carefully before submitting information to the Committee. Alternatively a hard copy of this policy can be requested by contacting the Clerk.

If you have any queries, please contact Gareth Rogers, Committee Clerk on 029 2089 8409 or Sarah Bartlett, Deputy Clerk on 029 2089 8429.

Yours faithfully



Ann Jones AC / AM
Cadeirydd / Chair

Consultation Questions

General

1. The Explanatory Memorandum prepared by the Welsh Government describes the Bill's main purposes in the following terms:

“The Welsh Government’s primary policy objectives in relation to the Bill are to:

- ensure robust and proportionate regulation of institutions in Wales whose courses are supported by Welsh Government backed higher education grants and loans;
- safeguard the contribution made to the public good arising from the Welsh Government’s financial subsidy of higher education;
- maintain a strong focus on fair access to higher education; and
- preserve and protect the institutional autonomy and academic freedom of universities.

The Welsh Government intends to achieve these objectives by:

- establishing a new regulatory framework applicable to all providers of higher education in Wales which seek automatic designation of their higher education courses for the purpose of student support;
- ensuring the new regulatory controls do not rely on HEFCW providing funding to those institutions and providers;
- requiring all higher education providers that benefit from the Welsh Government’s financial subsidy in the form of statutory student fee loans or grants to have charitable status;
- requiring all higher education providers whose courses are automatically designated for statutory student support to commit to activity in support of equality of access to higher education; and
- building, as far as possible, on the existing system of controls established by HEFCW under its terms and conditions of funding.”

Is there a need for a Bill for these purposes? Please explain your answer.

2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.

3. Are the sections of the Bill as drafted appropriate to bring about the purposes described above? If not, what changes need to be made to the Bill?

4. How will the Bill change what organisations do currently and what impact will such changes have, if any?

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5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

6. Do you have any views on the way in which the Bill falls within the legislative competence of the National Assembly for Wales?

Powers to make subordinate legislation

7. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (ie statutory instruments, including regulations, orders and directions)?

In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.

Financial Implications

8. What are your views on the financial implications of the Bill?

In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

Other comments

9. Are there any other comments you wish to make about specific sections of the Bill?