

National Assembly for Wales

Children, Young People and Education Committee

HEB 04

Higher Education (Wales) Bill – Stage 1

Evidence from: The Charity Commission for England and Wales

1. The Charity Commission is the independent registrar and regulator for charities in England and Wales. The Commission is a non-ministerial government department now established under the Charities Act 2011. We are the registrar and regulator for 163,000 registered charities. We also regulate a similar number of charities that do not have to register, but are subject to our jurisdiction. All Higher Education Institutions (HEIs) in Wales are registered with us as charities.

2. To be a charity under the law of England and Wales, an organisation must have only charitable purposes. Charitable purposes are described in section 3 of the Charities Act and must be for the public benefit. Charitable purposes include the advancement of education.

3. A key characteristic of charity is independence from the control of other bodies. Independence is not an absolute, but it does mean that:

- charities must exist for exclusively charitable purposes, not for the purpose of carrying out another body's policies or directions;
- within the law and their responsibilities, charity trustees should be free to determine their own policies and make decisions in the interests of their charity.

4. The Commission welcomes this opportunity to submit evidence to the Committee on the Higher Education (Wales) Bill.

The Higher Education (Wales) Bill

5. We note the policy intentions of the Bill, including ensuring robust and proportionate regulation of HEIs in Wales whose courses are supported by Welsh Government backed higher education grants and loans, and to preserve and protect the institutional autonomy and academic freedom of HEIs. We welcome this recognition that HEIs in Wales are independent (charitable) institutions.

6. We note that the Bill goes further and provides that all HE providers that benefit from Welsh Government financial subsidy must have and maintain charitable status. We have no specific comments to make on this proposal.

7. Policy officers in the Welsh Government's Bill team have met with policy officers at the Commission and provided briefing on the proposed new frameworks for designation of higher education courses.

8. We have no concerns about the policy intentions of the Bill, or the proposed new regulatory framework, in terms of charity law, the charitable status of HEIs whose courses are funded by the Welsh Government, or charity regulation.

Submission of evidence to the Committee

9. As discussed with the Clerk to the Committee, we would have no objection to giving oral evidence, but do not feel that we can add significantly to the points covered in this written submission.