



RESPONSE TO:

**Higher Education (Wales) Bill 2014:
Technical**

CONSULTATION

Contact Details:

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Introduction

The University and College Union (UCU Wales) represents more than 7,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians and postgraduates in universities, colleges, prisons, adult education and training organisations across Wales.

UCU Wales is a politically autonomous but integral part of UCU, the largest post-school union in the world: a force working for educators and education that employers and the government cannot ignore.

UCU Wales was formed on 1 June 2006 by the amalgamation of two strong partners - the Association of University Teachers (AUT) and NATFHE-the University & College Lecturers' Union, who shared a long history of defending and advancing educators' employment and professional interests.

UCU Wales welcomes the opportunity to respond to Higher Education (Wales) Bill 2014: Technical

Summary

UCU Wales welcomes the proposals set out in the consultation document, to increase the regulatory role for HEFCW. We acknowledge that the likelihood is that the provision of HE in FE will grow and that the current regulatory system will need to be developed in order to allow for this growth and also to maintain high quality HE provision across Wales. The proposal that all institutions and other providers, will be subject to the same core requirements, is regarded as an important factor in ensuring that access to public money, will be made available to only those wishing to deliver 'quality education'

UCU agree that HEFCW should be required to take account of the proposed level of fee in determining whether fee plan commitments are sufficient, and also that the proposed value of the threshold fee amount should be £6,000, however we would like to see consideration of the impact that this has on part-time and Access students, many of whom are currently penalised by the system. What future arrangements will be made for part time access to HE and what financial support will be available?

UCU welcomes the commitment to only fund charities through the fee planning mechanism, as we have concerns over the 'privatisation' of the education sector. We therefore support any initiative that will help to prevent this from happening. As significant sums of public money are allocated to HE in Wales, democratic accountability is essential, therefore UCU also welcome the proposal for HEFCW to submit an annual report to the Welsh Ministers.

It is agreed that HEFCW should be able to withdraw its approval in respect of an approved plan in cases of persistent failure to comply, however safeguards should be in place to ensure that students are not penalised for the failures of management, which are beyond their control. Likewise, sanctions on providers should not be applied without mechanisms for appeal. Consideration should also be given to the need to provide institutions with support mechanisms, to help them to put appropriate processes and structures in place, where unsatisfactory quality has been identified. We would also like to see a commitment to staff engagement in this process, not just at senior level. If staff stand to lose their jobs as a result of any decision that is made, they need to be aware of that fact and given the opportunity to contribute to plans to rectifying the situation.

With regard to the quality assessment of franchised provision, UCU welcome structures that seek to enhance and maintain the provision of quality Higher Education in Wales. Whilst it is essential that checks on franchisors are made in order to maintain HEFCW's quality assessment requirements, in our opinion HEFCW should also have powers to oversee that compliance to quality assessment requirements is met by franchisees. We believe that such powers would be helpful in tracking the use of HE finances in FE to help improve the quality of resources in FE, as well as encouraging FE institutions to properly consider the needs of delivering quality HE provision in FE institutions. It is important that the quality of HE provision across all providers in Wales is of consistent quality.

UCU would like to thank you for the opportunity to take part in this consultation process and attach the completed consultation response form.

Higher Education (Wales) Bill 2014: technical consultation

Consultation response form

Your name: Margaret Phelan

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Your address: Unit 33 the enterprise Centre, Tondu, Bridgend CF32 9BS

Responses should be returned by **29 July 2013** to:

Brendan Murtagh
Legislation Team
Corporate Services Division
Department for Education and Skills
Welsh Government
Freepost NAT 8910
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

e-mail: highereducationwalesbill@wales.gsi.gov.uk

Section 4: A revised regulatory system

Question 1 – In light of the increased regulatory role proposed for HEFCW should amendments be made to the Council's name?

Yes

No

Please give your reasons for your answer and comments.

Not sure if there is a need to but could change 'funding' to 'regulatory.' In a time of budget restraint we would question the efficacy of spending money on re-branding.

Question 2 – We recognise that a variety of franchising arrangements currently exist in Wales and that these have been developed under the funding system which operated prior to the introduction of new fees and student support arrangements. We are particularly interested in your views as to how franchised provision should be dealt with under the new regulatory framework. In particular:

- (a) will the proposal for the institution or provider which franchises the course to be the body which is responsible for either applying for a fee plan or requesting case-by-case designation of its courses work in practice?
- (b) could this proposal result in any delivery issues? If so please identify those issues
- (c) are there any alternative approaches which you wish to put forward for consideration?

Please give your comments.

UCU believe that both options should be available to both franchisee and franchisor and that the decision should lay with the institutions contracting to franchise provision. Some FE institutions may wish to develop an expertise in delivering HE in certain areas and may wish to request a case-by-case designation for their provision. If the regulations require the HE institution to apply via their fee plan or on a case by case basis then that could limit the development of HE provision in FE.

Section 5: Fee controls and fair access

Question 3 – Do you agree with the proposal that in cases of persistent failure to comply with fee limits HEFCW should be able to withdraw its approval in respect of an approved plan?

Yes

No

Please give your reasons for your answer and comments.

HE is significant employer for some geographical parts of Wales and we must ensure that the quality reputation of our HE provision is maintained and enhanced through regulation. To fail to do so could result in significant impact on local economies, availability of 'quality' choice for learners at an affordable cost.

Question 4 – Do you agree with the proposal to extend HEFCW's relevant authority role in order that it may evaluate the effectiveness of fee plans both individually and across the Welsh higher education sector?

Yes

No

Please give your reasons for your answer and comments.

We welcome the commitment to only fund charities through the fee plan mechanism. UCU are very concerned about the 'privatisation' of the education sector and will support any initiative which prevents this happening in Wales.

Question 5 – Do you agree that transitional protection should be made available for students who have commenced their studies with a regulated provider which subsequently has approval for its fee plan withdrawn or approval of a fee plan refused upon renewal?

Yes

No

Please give your reasons for your answer and comments.

Learners should not be punished for the failing of well paid senior managers in institutions.

Question 6 – Do you agree with the proposal that all institutions and other providers with an approved plan in force should be subject to the same core requirements?

Yes

No

Please give your reasons for your answer and comments.

Again this will ensure that only those keen to deliver 'quality education' will be allowed to access significant sums of public money.

Question 7 – Do you agree with the proposal for HEFCW to be required to take account of the proposed level of fee in determining whether fee plan commitments are sufficient?

Yes

No

Please give your reasons for your answer and comments.

It should be noted that many part-time and Access students are currently penalised by the fee system and this should also be taken into consideration through fee planning arrangements.

Question 8 – Do you agree with the proposed value of £6,000 for the 'threshold' fee amount?

Yes

No

Please give your reasons for your answer and comments.

Our concerns over the threshold value also include:

1. The need for a discussion about the future arrangements for part time access to HE and the financial support available.
2. Are FE institutions going to be able to charge less than £6,000 and re-establish nugatory competition with the HE sector?

From our perspective the Government maintain their commitment to consider providing up front financial support to part time HE students on the same basis as their full time comparators.

Question 9 – Do you agree with the range of proposed sanctions to be made available to HEFCW and that HEFCW, as relevant authority, should have discretion in their application?

Yes

No

Please give your reasons for your answer and comments.

However, sanctions should not be applied without the appropriate provisions being made to protect students.

Question 10 – It is proposed that where HEFCW (as relevant authority) decides to withdraw its approval of a fee plan, the institution or provider affected may apply for a review of that decision to an independent panel/person. Do you consider this review mechanism to be sufficient or is there a need for any additional review or appeal arrangements? If so, please specify what such arrangements might entail.

Yes

No

Please give your reasons for your answer and comments.

UCU considers the review mechanism to be appropriate, but it decisions must be able to be appealed. The principle of fairness/justice must be seen to be done.

Question 11 – Should regulated providers (i.e. those with an approved fee plan in force) whose higher education courses are subject to automatic designation for statutory student support purposes be able to exempt certain courses from automatic designation and the regulatory requirements associated with fee plans?

Yes

No

Please give your reasons for your answer and comments.

Why would such a decision be made by an institution? It worries us that this could open the door to a two tier provision of HE one for full time students and one for part time students

Question 12 – Do you agree that HEFCW’s duty to make provision for assessing the quality of higher education delivered by regulated providers in Wales should extend to all courses of higher education falling within the scope of schedule 6 to the Education Reform Act 1988?

Yes

No

Please give your reasons for your answer and comments.

The regulations should cover a broad scope of provision, again it will protect the sector for the development of a two tier system dependent on which subject and level of provision one chooses to study.

Question 13 – Do you agree with the proposed approach of making provision for HEFCW to be able to direct regulated providers to provide access to premises, records and documents for the purpose of quality assessment?

Yes

No

Please give your reasons for your answer and comments.

Quality is the corner stone of the sector, without it, the sector will suffer and institutions must be required to comply.

Question 14 – In order to deal with cases of unsatisfactory quality are the actions specified at paragraph 6.15 appropriate and adequate? Are there any other actions which you consider HEFCW should be able to undertake?

Yes

No

Please give your reasons for your answer and comments.

We believe that for some there is a need for the institution to receive support to help them put the appropriate processes and structures in place. A stern talking to in our view will not be sufficient.

Question 15 – Do you consider that the person or person(s) requesting access to premises, records and documents for the purpose of HEFCW’s quality assessment duty should be required to produce identification at the request of the institution or other provider which is the subject of the quality assessment?

Yes

No

Please give your reasons for your answer and comments.

Makes sense, especially if they are in contact with young adults in FE, which could be the case.

Question 16 – In the event of HEFCW revoking a fee plan are the safeguards set out at paragraph 6.18 appropriate and sufficient?

Yes

No

Please give your reasons for your answer and comments.

We would like to see the engagement of staff in this process, not just senior managers. If the decision stands staff will lose their jobs and they need to be aware of that fact.

Question 17 – Do you agree with the proposal that HEFCW be required to submit an annual report to the Welsh Ministers on the discharge of its quality assessment duty?

Yes

No

Please give your reasons for your answer and comments.

There is significant amount of public funding going into these institutions, democratic accountability is essential, that can’t happen unless you provide the annual report.

Question 18 – Are the proposals in respect of franchised provision workable in practice?

Yes

No

Please give your reasons for your answer and comments.

HEFCW should be able to follow the HE finances into FE and inspect franchised provision; the overwhelming evidence is that franchising cannot, of itself, maintain or improve quality of provision by the franchisees. This may, therefore, provide a loophole for exploitation under the new system to the detriment of student entitlement. Historically, HEI's have been better resourced than FEI's for HE teaching and therefore franchising of HE in FE should be on the expectation that a levelling up of the resource base would be needed. UCU has raised with HEFCW and QAA our concerns about the lack of inspection of HE provision delivered in FE.

We believe that with the probable growth of HE in FE there should be a requirement that FE be subject to inspections when they run franchised provision. This will encourage FE institutions to properly consider the needs of the staff in maintaining the quality of the HE provision, rather than as they do now for the most part, expect their staff to deliver HE on FE terms and conditions.

Section 7: Financial and governance assurance

Question 19 – Do you agree that HEFCW should be required to consult on the proposed Financial and Corporate Governance Code?

Yes

No

Please give your reasons for your answer and comments.

We would like the opportunity to comment on that code as the effective governance of some institutions continues to pose problems for the institutions concerned and for the future of staff job.

Question 20 – Do you agree that following HEFCW’s consultation on the draft Code that further scrutiny should be provided for?

Yes

No

If ‘Yes’ then which of the options set out in paragraph 7.12 do you prefer and why?

As we have argued previously in our response, HE is a large employer and does play a significant part in the local economy of some parts of Wales.

HEFCW is requiring openness and transparency from providers and it should operate on the same principle and therefore we would support the option of the code being laid before the Assembly.

Question 21(a) – Do you agree with the parameters of the proposed Code in paragraph 7.11?

Yes

No

Please give your reasons for your answer and comments.

We would like to see you include a requirement to report on the staff profiles and their ability to deliver HE provision. We believe it would be foolish to overlook the issue of staff profiles in relation in maintaining quality, especially when it comes to HE in FE.

Question 21(b) – Should the parameters apply equally to all institutions and other providers with an approved plan in force?

Yes

No

Please give your reasons for your answer and comments.

We are very keen to ensure that all providers are subject to the same ‘rules of engagement’ to avoid that nugatory competition we spoke of earlier in the response

Question 21(c) – Should these parameters be set out in the proposed Bill with the operational detail of the Code left as a matter for HEFCW to develop?

Yes

No

Please give your reasons for your answer and comments.

HEFCW needs to maintain the ability to revise the code if they find that a particular wording had given rise to unforeseen circumstances.

Question 21(d) – Under what circumstances, if any, should HEFCW's consent be required for regulated providers to enter into certain financial transactions?

Please give your comments.

UCU suggests the circumstance where regulated providers go into financial partnership/joint ventures with private sector providers, to ensure that the potential for any ensuing moral hazard and agency costs are minimised.

Question 22 – Should HEFCW be required to consult on and publish a statement of its intervention policy?

Yes

No

Please give your reasons for your answer and comments.

UCU would like the opportunity to comment on the details of such a policy.

Question 23 – Do you agree that where HEFCW is satisfied that a regulated provider has demonstrated serious financial mismanagement that HEFCW should be able to withdraw approval of that provider’s fee plan whether or not it has issued a direction to that provider to comply with the requirements of the Code?

Yes

No

Please give your reasons for your answer and comments.

It is agreed that financial mismanagement should get a warning; but ‘serious’ financial mismanagement is different and may need immediate intervention.
However the provider should be given a period of time to set straight the problems before agreement to the fee plan is withdrawn as set out in paragraph 7.16 (third bullet).

Question 24 – Are the safeguards set out at paragraph 7.16 appropriate and sufficient?

Yes

No

Please give your reasons for your answer and comments.

They appear to be so.

Question 25 – 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.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: