

**National Assembly for Wales, Children and Young People Committee
Consultation on the
Further and Higher Education (Governance and Information) (Wales) Bill
Written Comments from Higher Education Wales (HEW)**

1. Introduction

1.1 Higher Education Wales (HEW) represents the interests of Higher Education Institutions (HEIs) in Wales and is a National Council of Universities UK. HEW's Governing Council consists of the Vice-Chancellors of all the HEIs in Wales and the Director of the Open University in Wales. At the Committee's invitation, HEW will be giving oral evidence to the Children and Young People Committee on 13 June 2013. The following written comments are submitted in support of this.

2. Context

2.1 The Welsh Government published its White Paper on the Further and Higher Education (Wales) Bill in July 2012 setting out proposals for legislative reform relating to both the Further Education (FE) and Higher Education (HE) sectors in Wales. The outcome of the consultation was two-fold: (a) the Further and Higher Education (Governance and Information) (Wales) Bill, which was laid before the National Assembly for Wales on 29 April 2013, and (b) the Higher Education (Wales) Bill consultation document, which was published on 20 May 2013. The main proposals in relation to higher education were set out in the latter, which is currently under consultation until 29 July 2013. The Further & Higher Education (Governance and Information) (Wales) Bill primarily set out proposals in relation to Further Education. Two provisions in particular, however, were of relevance to higher education: Section 7 (deregulation of student numbers) and Section 9 (information supply). HEW's comments accordingly focus on these two provisions and the more general implications for higher education arising from these proposals.

3. Deregulation of HE student numbers in FEIs

3.1 Section 7 removes the Welsh Government's power to prohibit the provision of higher education courses and regulate HE student numbers in the FE sector.

3.2 Four Further Education Institutions (FEIs) currently receive direct funding from the Higher Education Funding Council for Wales (HEFCW). This is mostly for part-time undergraduate provision, equivalent to around 180 full-time students in total (21,647 funded credits for 2013/14). One FEI provides a very small amount of directly funded part-time postgraduate taught provision, approximating to 2 full-time equivalent students

(270 credits).¹ Full-time undergraduate provision in FEIs accounts for less than 1% of total full-time undergraduate provision in Wales, based on the maximum fee grant allocations.² Arrangements for direct funding appear to be largely historical, with two Colleges directly funded since before HEFCW's establishment in 1992, or stemming from two phases of an initiative in 1997 and 1999 for a small expansion in directly funded provision at FEIs.³ Under direct funding, the students concerned are enrolled as students of the FEI. The FEI receives funded credits and associated funding directly from HEFCW and returns funding and enrolment data directly to HEFCW.

3.3 The majority of HE provision in FE, however, is currently delivered through part-time franchise arrangements: in 2013/14 universities franchised out 168,808 credits, approximating to 1,407 full-time equivalent students.⁴ Under these arrangements, the student enrolments remain the responsibility of the university (the 'franchisor') and are regarded as such by HEFCW for purposes of funding arrangements and controls. The KPMG report on higher education provision in further education colleges in Wales commissioned by HEFCW in 2003/04 recommended that future expansion of HE in FE should be undertaken through franchising from HEIs because of the level of support which the HEI could provide to the FEC and the benefits to the student in terms of access to the facilities of the HEI and potential progression arrangements. HEFCW consequently confirmed that any future development of HE in FE provision would take place through the franchise route, rather than any expansion of directly-funded provision (Circular W04/61HE).⁵

3.4 In practice, we recognise that the expansion of HE student numbers in FEIs are subject to a number of constraints in addition to the Welsh Government's powers under s.139 of the Education Act 2002:

- Funding/maximum fee grant allocations. HEIs and directly funded FEIs are both currently subject to HEFCW's restrictions on full-time recruitment/maximum fee grant.⁶ Part-time undergraduate enrolments in Wales are not currently subject to a cap, and continue to be supported by direct grant from HEFCW. These currently rely on implementation primarily through HEFCW's conditions of grant.

¹ HEFCW Circular W13/09HE HEFCW's Funding Allocations 2013/14, Table B2.

² HEFCW Circular W13/09HE HEFCW's Funding Allocations 2013/14, Table 9.

³ HEFCW 'Guidance on partnership arrangements between higher and further education institutions', April 2006, para. 1.5.

⁴ HEFCW Circular W13/09HE HEFCW's Funding Allocations 2013/14.

⁵ HEFCW 'Guidance on partnership arrangements between higher and further education institutions', April 2006, para. 1.6.

⁶ See HEFCW Circular W12/38HE Maximum fee grant arrangements 2013/14 and W13/09HE HEFCW's Funding Allocations 2013/14.

- Fee plan arrangements. FEIs and HEIs are subject to fee planning legislation, which means that they must have an approved fee plan in place in order to set higher fee levels⁷.
- Degree Awarding Powers. Currently no FEI in Wales has its own degree awarding powers.
- Designation of courses for statutory student support. At present, publicly funded institutions (including both HEIs and FEIs) are automatically designated whereas courses from alternative providers are approved on case by case basis.⁸
- Partnership arrangements. As part of the HEFCW's HE in FE initiative in the 1990s referred to in 3.2 above, the FEIs receiving funding were expected to establish a compact arrangement with an HEI for each course to cover the quality assurance arrangements and other support services which the HEI would provide.⁹
- Quality assurance arrangements. Within the Quality Assurance Agency's (QAA's) Institutional Review process, which is part of the Quality Assurance and Standards Framework for Wales, the Council's expectation is that academic standards and quality assurance for all directly-funded provision will be covered by a partnership with an HEI.¹⁰ The awarding function and associated quality assurance arrangements would normally be provided by the HEI, as a service for which the FEI pays.¹¹

3.5 In future we would expect there to continue to be effective controls in place for all providers of HE (including HEIs, FEIs, and alternative providers) to ensure that Welsh Government budget can be suitably managed and that public funding is used appropriately. We continue to support the current policy that any future expansion of HE in FE would be best achieved through franchise partnerships, for the reasons identified by HEFCW (see above 3.3). In removing the Welsh Government's powers under the Education Act 2002, we recognise that there is in practice a range of controls on future expansion of HE in FE. As part of the consultation on HE (Wales) Bill consultation, it will be necessary to ensure that appropriate future arrangements for all providers continue to remain in place.

⁷ HEFCW Circular W13/09HE HEFCW's Funding Allocations 2013/14.

⁸ Welsh Government Consultation Document 'Higher Education (Wales) Bill', para

⁹ HEFCW 'Guidance on partnership arrangements between higher and further education institutions', April 2006, para. 1.7

¹⁰ HEFCW 'Guidance on partnership arrangements between higher and further education institutions', April 2006, para. 1.7.

¹¹ HEFCW 'Guidance on partnership arrangements between higher and further education institutions', April 2006, para. 13.1

4. Supply of information in connection with student loans and grants

4.1 Section 9 of the Bill, which relates to both FE and HE, allows data relevant to student grants and loans to be shared by Her Majesty's Revenue & Customs (HMRC), with the Welsh Ministers and anyone they delegate or to whom they transfer their functions. Our members have raised no concerns with this provision.

5. General

5.1 HEW recognises and supports the main driving principle behind the proposals for deregulation of Further Education institutions to allow greater autonomy in the sector and ensure that, for purposes of public accounting, they are not regarded as central government. Our members have not raised any concerns with us regarding the general principles which drive the current proposals in relation to Further Education.

Higher Education Wales
May 2013