

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Materion Cyfansoddiadol
a Deddfwriaethol

**Adroddiad ar y Bil Addysg
Bellach ac Uwch (Llywodraethu a
Gwybodaeth)(Cymru)**

Gorffennaf 2013



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

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Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

Ffôn: 029 2089 8008
Ffacs: 029 2089 8021
E-bost: CLA.Committee@cymru.gov.uk

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Cylch gwaith a phwerau

Sefydlwyd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ar 15 Mehefin 2011. Ei gylch gwaith yw cyflawni swyddogaethau'r pwyllgor cyfrifol ac arfer ei bwerau fel y'u nodir yn y Rheolau Sefydlog. Mae hyn yn cynnwys ystyried unrhyw faterion deddfwriaethol cyffredinol eu natur sydd o fewn cymhwysedd y Cynulliad neu gymhwysedd Gweinidogion Cymru neu sy'n ymwneud â'r cymhwysedd hwnnw, a chyflwyno adroddiadau arnynt.

Aelodau cyfredol y Pwyllgor



David Melding (Cadeirydd)

Dirprwy Lywydd
Ceidwadwyr Cymreig
Canol De Cymru



Suzy Davies

Ceidwadwyr Cymreig
Gorllewin De Cymru



Julie James

Llafur Cymru
Gorllewin Abertawe



Eluned Parrott

Democratiaid Rhyddfrydol Cymru
Canol De Cymru



Simon Thomas

Plaid Cymru
Canolbarth a Gorllewin Cymru

Yn unol â Rheol Sefydlog 17.48, bu William Powell AC a Jocelyn Davies AC yn dirprwyo ar ran Eluned Parrott AC a Simon Thomas.



William Powell

Democratiaid Rhyddfrydol Cymru
Canolbarth a Gorllewin Cymru



Jocelyn Davies

Plaid Cymru
Dwyrain De Cymru

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1. Cyflwyniad

Cylch gwaith y Pwyllgor

1. Cylch gwaith y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol (“y Pwyllgor”) yw cyflawni swyddogaethau’r pwyllgor cyfrifol a nodir yn Rheol Sefydlog 21¹, ac ystyried unrhyw fater cyfansoddiadol neu lywodraethol arall sydd o fewn cymhwysedd y Cynulliad neu Weinidogion Cymru, neu sy’n gysylltiedig â’r cymhwysedd hwnnw.
2. O fewn y cylch gwaith hwn, bydd y Pwyllgor yn ystyried pwysigrwydd gwleidyddol a chyfreithiol yr holl offerynnau statudol neu offerynnau statudol drafft a wneir gan Weinidogion Cymru, yn ogystal ag agweddau technegol ar yr offerynnau hynny. Bydd y Pwyllgor yn ystyried a ddylai’r Cynulliad roi sylw arbennig i’r offerynnau’n unol ag ystod o seiliau a restrir yn Rheol Sefydlog 21 ac yn cyflwyno adroddiad ar hynny.
3. Bydd y Pwyllgor hefyd yn ystyried pa mor briodol yw darpariaethau Biliau’r Cynulliad a Biliau Senedd y Deyrnas Unedig sy’n rhoi pwerau i Weinidogion Cymru, Prif Weinidog Cymru neu’r Cwnsler Cyffredinol wneud is-ddeddfwriaeth, ac yn cyflwyno adroddiadau ar hynny.

Cyflwyno ac ystyried y Bil

4. Ar 29 Ebrill 2013, cyflwynodd Leighton Andrews AC, y Gweinidog Addysg a Sgiliau ar y pryd, (“y Gweinidog”), y Bil Addysg Bellach ac Uwch (Llywodraethu a Gwybodaeth) (Cymru) (“y Bil”) a’r Memorandwm Esboniadol sy’n cyd-fynd ag ef.²
5. Cyfeiriodd Pwyllgor Busnes y Cynulliad Cenedlaethol y Bil at y Pwyllgor Plant a Phobl Ifanc i’w ystyried, gan bennu 19 Gorffennaf 2013 yn ddyddiad cau ar gyfer adrodd yn ôl ar ei egwyddorion cyffredinol.
6. Ystyriwyd y Bil yn breifat gennym ar 20 Mai 2013 a chytunwyd i ysgrifennu at y Gweinidog yn gofyn am wybodaeth am rai o’i ddarpariaethau. Mae copi o’r llythyr hwn ynghlwm yn Atodiad 1. Mae copi o ymateb y Gweinidog ynghlwm yn Atodiad 2.
7. Mae rhagor o ohebiaeth ynghlwm yn Atodiadau 3 a 4.

¹ Cynulliad Cenedlaethol Cymru, *Rheolau Sefydlog Cynulliad Cenedlaethol Cymru*, Rhagfyr 2012

² Cynulliad Cenedlaethol Cymru, Bil Addysg Bellach ac Uwch (Llywodraethu a Gwybodaeth) (Cymru), *Memorandwm Esboniadol sy’n ymgorffori’r Asesiadau Effaith Rheoleiddiol a’r Nodiadau Esboniadol*, Ebrill 2013

2. Cefndir

Diben y Bil

8. Mae'r Memorandwm Esboniadol sy'n cyd-fynd â'r Bil yn nodi mai nod y Bil:

“.... yw rhoi rhagor o annibyniaeth i Sefydliadau Addysg Bellach, a gwella'u gallu i wneud penderfyniadau, drwy addasu a chael gwared ar y rheolaethau deddfwriaethol sydd arnynt ar hyn o bryd”.³

9. Ychwanega'r Memorandwm Esboniadol:

“Amcan Llywodraeth Cymru o ran polisi yw sicrhau bod gan Sefydliadau Addysg Bellach yr hyblygrwydd a'r rhyddid i wneud penderfyniadau ynghylch sut i gyflwyno dysgu er mwyn diwallu anghenion dysgwyr a'u cymunedau lleol.”⁴

10. O ran cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol i wneud y Bil, mae'r Memorandwm Esboniadol yn egluro bod gan Gynulliad Cenedlaethol Cymru y cymhwysedd deddfwriaethol i wneud darpariaeth ar gyfer addysg a hyfforddiant ac mewn perthynas â hwy drwy bwnc 5 yn Atodlen 7 i *Ddeddf Llywodraeth Cymru 2006*.

³ Y Memorandwm Esboniadol, paragraff 1

⁴ Y Memorandwm Esboniadol, paragraff 2

3. Cymhwysedd Deddfwriaethol

Tystiolaeth ar gymhwysedd deddfwriaethol

11. Yn ein llythyr at y Gweinidog ar 23 Mai 2013, gofynnwyd am gadarnhad nad oedd yn ymwybodol o unrhyw bryderon neu faterion yn ymwneud â chymhwysedd deddfwriaethol y Cynulliad mewn cysylltiad ag unrhyw ddarpariaethau yn y Bil.

12. Yn ei lythyr atom, eglurodd y Gweinidog:

“Officials have had regular discussion with UK Government officials who understand the objectives of the Bill. The UK Government has not during those discussions raised any objection to what is included in the Bill ... the Explanatory Memorandum summarises the Government’s view on legislative competence. No adverse issue relating to the Assembly’s competence in relation to this Bill has been identified and consequently it has not been considered necessary to discuss legislative competence with the UK Government”.⁵

Ein barn

13. Nodwn nad oes dim materion wedi'u codi mewn trafodaethau rhwng swyddogion Llywodraeth Cymru a swyddogion Llywodraeth y DU ynglŷn â gallu'r Cynulliad Cenedlaethol i wneud y ddeddfwriaeth hon o dan Atodlen 7 o *Ddeddf Llywodraeth Cymru 2006*.

⁵ Llythyr gan y Gweinidog Addysg a Sgiliau at Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol, 23 Mai 2013

4. Pwerau i wneud is-ddeddfwriaeth – sylwadau cyffredinol

14. Mae'r Bil yn cynnwys 11 adran a dwy Atodlen. Mae adrannau 1 i 8 yn berthnasol i addysg bellach, ac adran 9 yn berthnasol i addysg uwch.

Adran 3 - Diddymu corfforaethau addysg bellach

15. Dim ond adran 3 (Diddymu corfforaethau addysg bellach) sy'n dirprwyo pwerau newydd i wneud is-ddeddfwriaeth i Weinidogion Cymru.

16. Mae'r Memorandwm Esboniadol yn nodi:

“Effaith hyn yw dileu pŵer Gweinidogion Cymru i ddiddymu CABau a throsglwyddo eu heiddo, eu hawliau a'u rhwymedigaethau i ddarparwr addysg arall.....Caiff y math o gorff ei bennu mewn rheoliadau”.⁶

17. Ysgrifennodd y Pwyllgor at y Gweinidog ar 23 Mai 2013 i ofyn pam y byddai'r pŵer y darparwyd ar ei gyfer yn adran 3 yn amodol ar y weithdrefn negyddol⁷ a pham na allai'r cyrff sydd i'w cynnwys yn y rheoliadau gael eu cynnwys ar wyneb y Bil.

18. Yn ei ymateb, ar 23 Mai 2013, eglurodd y Gweinidog bod:

“...the negative procedure is considered appropriate as the key duties imposed on further education corporations are set out on the face of the Bill, the regulations will be of a technical nature and are unlikely to be controversial. The powers do not enable provision that would change primary legislation; confer significant powers on Welsh Ministers; increase or impose significant financial burdens on the public; or create or confer unusual powers. It is also likely that the technical detail set out in regulations will be reviewed and may need to change from time to time”.⁸

19. Wrth egluro pam nad oedd modd i'r cyrff gael eu cynnwys ar wyneb y Bil, dywedodd y Gweinidog ...

“The government proposes to consult with the further education sector and others with an interest in the further education sector on which persons or bodies a further education corporation can transfer its

⁶ Memorandwm Esboniadol, Atodiad 1, paragraff 16

⁷ Llythyr gan Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol at y Gweinidog Addysg a Sgiliau, 23 Mai 2013

property, rights and liabilities to following a resolution to dissolve itself. It is likely that the persons or bodies prescribed for the purpose of receiving property, rights and liabilities on the dissolution of a further education corporation will need to be reviewed over time and where necessary changed.

...

I believe it is of the utmost importance that I consult on the person or bodies a further education corporation can transfer its assets and liabilities to in order to give all stakeholders, including unions, the opportunity to comment on the draft regulations.

...

In considering the appropriate procedure there has been recognition of the balance to be struck between scrutiny by the Assembly; consumption of Assembly (or committee) time; the significance of the provisions in the Regulations; and making legislation in the most efficacious manner.”⁹

Ein barn

20. O ystyried natur y pŵer, ystyrir bod y weithdrefn negyddol, fel y darperir ar ei chyfer yn adran 3 o'r Bil, yn briodol.

21. Rydym hefyd yn fodlon â'r esboniad a ddarparwyd yn llythyr y Gweinidog dros gynnwys cyrff yn y rheoliadau yn hytrach nag ar wyneb y Bil.

Darpariaethau sy'n cael gwared ar bwerau gweinidogol neu'n eu lleihau

22. Mae Adran 1 (Benthyca a buddsoddi gan gorfforaethau addysg bellach); adran 3 (Diddymu corfforaethau addysg bellach); adran 4 (Sefydliadau dynodedig: offerynnau ac erthyglau llywodraethu); adran 5 (Ymyrraeth gan Weinidogion Cymru mewn cysylltiad â sefydliadau o fewn y sector addysg bellach) ac adran 7 (Diddymu pŵer i reoleiddio cyrsiau addysg uwch yn y sector addysg bellach) oll yn ymwneud â chael gwared ar bwerau a roddwyd ar hyn o bryd i Weinidogion Cymru neu eu lleihau.

23. Yn ei lythyr, yn Atodiad 1, eglurodd y Gweinidog beth oedd y rhesymau dros bob un o'r darpariaethau hyn.

⁹ Llythyr gan Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol at y Gweinidog Addysg a Sgiliau, 23 Mai 2013

Ein barn

24. Rydym yn fodlon â'r darpariaethau sy'n cael gwared ar bwerau gweinidogol neu'n eu lleihau .

Adran 10 - Cychwyn

25. Dywed adran 10 y bydd adran 9 (yn ymwneud ag Addysg Uwch) ac adran 11 (teitl byr) yn dod i rym ar y diwrnod y caiff y Bil Gydsyniad Brenhinol.

26. Daw'r adrannau sy'n weddill i rym ar ddyddiad a nodir mewn Gorchymyn a wneir gan Weinidogion Cymru ac nid oes gweithdrefn wedi'i rhagnodi ar gyfer gwneud y gorchymyn cychwyn.

Ein barn

27. Yr arfer safonol yw peidio â rhagnodi gweithdrefn ar gyfer gwneud gorchymynion cychwyn ac rydym yn fodlon â'r dull hwn.

28. Fodd bynnag, nodwn fod adran 10(3)(b) yn caniatáu i orchymynion cychwyn gynnwys "darpariaeth drosiannol, darpariaeth ddarfodol, neu ddarpariaeth arbed" ac na fyddai darpariaethau o'r fath yn amodol ar unrhyw weithdrefn. Rydym ni o'r farn nad yw'r dull gweithredu hwn yn ddymunol oherwydd nid yw'n cynrychioli lefel briodol o graffu ar gyfer darpariaethau o'r fath.

Argymhelliad: Rydym argymell y dylai'r Gweinidog gyflwyno gwelliant i'r Bil i dynnu is-adran (3)(b) o'r ddarpariaeth cychwyn (adran 10) a'i mewnosod fel adran newydd ar ei phen ei hun, sy'n ddarostyngedig i'r weithdrefn negyddol.

Atodiad 1 – Llythyr gan y Cadeirydd, 23 Mai 2013

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol Constitutional and Legislative Affairs Committee

Leighton Andrews AM
Minister for Education and Skills
5th Floor
Tŷ Hywel
Cardiff Bay
CF99 1NA

23 May 2013

Dear Leighton,

Further and Higher Education (Information and Governance) (Wales) Bill - Evidence to the Constitutional and Legislative Affairs Committee

The Constitutional and Legislative Affairs Committee discussed its approach to scrutiny of the Further and Higher Education (Information and Governance) (Wales) Bill at a private meeting on 20 May 2013 and agreed that I would write to you on a number of issues.

Subject to your response, this may negate the need for you to attend a formal evidence session on 10 June 2013.

Therefore I would be grateful if we could receive your response ahead of our next meeting and no later than 30 May 2013.

The Committee would be grateful if you could respond to the following questions:

1. What discussions have you had with the UK Government about the competence of the National Assembly to make this Bill and what issues, if any, has it raised with you?
2. In relation to Section 3:
 - a. why was the negative procedure chosen for regulations to be made under this section; and
 - b. please can you give example of the types of bodies that will be specified in these regulations by Welsh Ministers in future and explain why it is not possible for a list of such

bodies to be included on the face of the Bill?

3. Why do the provisions in Sections 1,3,4,5 and 7 remove or reduce powers currently conferred on Welsh Ministers? How and why is this approach different when compared to the higher education proposals you have recently issued for consultation?
4. Why has the Welsh Government not used this Bill as a vehicle to consolidate all legislation relating to further education governance in Wales?
5. Please can you explain the type of review the Welsh Government will be conducting one year on from the implementation of the Bill?

I look forward to hearing from you.

I am copying this letter to Ann Jones, Chair of the Children and Young People Committee.

Yours sincerely

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

David Melding AM
Chair

Atodiad 2 – Llythyr gan y Gweinidog, 23 Mai 2013

Leighton Andrews AC / AM
Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills



Llywodraeth Cymru
Welsh Government

Ein cyfl/Our ref: LF/LA/452/13

David Melding AM
Committee Chair
Constitutional and Legislative
Affairs Committee
Cardiff Bay
Cardiff CF99 1NA

23 May 2013

Dear David,

**Further and Higher Education (Governance and Information) (Wales) Bill –
Evidence to the Constitutional and Legislative Affairs Committee**

Dear David,

Thank you for your letter of 23 May 2013 regarding the Further and Higher Education (Governance and Information (Wales) Bill. Please see attached at **Doc 1** my response to your questions and I trust that Committee Members will find this helpful. I trust that I have responded constructively to your questions and that there is no requirement for me to appear before the Committee on 10 June? However, I am of course happy to attend to clarify any points that are unclear or if you would find it useful, my officials stand ready to assist.

I have copied in Ann Jones, Chair of the Children and Young People Committee.

*Yours sincerely,
Leighton Andrews*

Leighton Andrews AC / AM
Y Gweinidog Addysg a Sgiliau
Minister for Education and Skills

Rhe Caeffyd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

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English Enquiry Line: 0845 010 3300
Llinell Ymholiadau Cymraeg: 0845 010 4400
Correspondence: Leighton.Andrews@wales.gov.uk
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Minister for Education and Skills – Response to Questions from Constitutional and Legislative Affairs Committee on Further and Higher Education (Governance and Information) (Wales) Bill

1. What discussions have you had with the UK Government about the competence of the National Assembly to make this Bill and what issues, if any, has it raised with you?

Officials have had regular discussions with UK Government officials who understand the objectives of the Bill. The UK Government has not during those discussions raised any objection to what is included in the Bill. The Welsh Government's view of the Assembly's legislative competence was considered before introduction of the Bill and part 2 of the Explanatory Memorandum summarises the Government's view on legislative competence. No adverse issue relating to the Assembly's competence in relation to this Bill has been identified and consequently it has not been considered necessary to discuss legislative competence with the UK Government.

The Bill will amend the law relating to the governance of further education institutions in Wales and the Welsh Ministers' functions relating to further education institutions in Wales. The Bill does not make any change to the law as it currently applies to further education institutions in England or to existing functions of the Secretary of State.

2. In relation to Section 3:

a. why was the negative procedure chosen for regulations to be made under this section; and

b. please can you give example of the types of bodies that will be specified in these regulations by Welsh Ministers in future and explain why it is not possible for a list of such bodies to be included on the face of the Bill?

2a) Section 3 of the Bill inserts new sections 27 to 27B into the Further and Higher Education Act 1992. Those sections include regulation making powers for the Welsh Ministers that relate to:

- the information to be provided and publication requirements if a further education corporation proposes to dissolve itself;
- the consultation to be carried out by a further education corporation on proposals to dissolve itself; and
- the persons or bodies that a further education corporation can transfer its property, rights and liabilities to before dissolution.

Having regard to the Welsh Government's guidelines on choice of affirmative or negative procedure in subordinate legislation, the negative procedure is considered appropriate as the key duties imposed on further education corporations are set out on the face of the Bill, the regulations will be of a technical nature and are unlikely to be controversial. The powers do not enable provision that would change primary legislation; confer significant powers on the Welsh Ministers; increase or impose significant financial burdens on the public; or create or confer unusual powers. It is also likely that the technical detail set out in the regulations will be reviewed and may need to change from time to time.

2b) The government proposes to consult with the further education sector and others with an interest in the further education sector on which persons or bodies a further education corporation can transfer its property, rights and liabilities to following a resolution to dissolve itself. It is likely that the persons or bodies prescribed for the purpose of receiving property, rights and liabilities on the dissolution of a further education corporation will need to be reviewed over time and where necessary changed.

The purpose of the regulations which are set out in Chapter 5 of the Explanatory Memorandum and summarised above is to safeguard the interests of the learner and public investment.

I believe it is of the utmost importance that I consult on the person or bodies a further education corporation can transfer its assets and liabilities to in order to give all stakeholders, including unions, the opportunity to comment on the draft regulations.

For the purpose of consultation the type of bodies might include:

- a further education corporation,
- a designated institution;
- a local authority;
- a university, or a higher education corporation; or
- a body corporate established for purposes which include the provision of educational facilities.

Also, when a college resolves to dissolve itself, regulations will set out the procedure it must follow to ensure appropriate consultation takes place with all key stakeholders. Should a college fail to comply with these regulations, then Welsh Ministers will be able to intervene.

In considering the appropriate procedure there has been recognition of the balance to be struck between scrutiny by the Assembly; consumption of Assembly (or committee) time; the significance of the provisions in the Regulations; and making legislation in the most efficacious manner

3) Why do the provisions in Sections 1,3,4,5 and 7 remove or reduce powers currently conferred on Welsh Ministers? How and why is this approach different when compared to the higher education proposals you have recently issued for consultation?

FEIs were established in 1993 and classified for the purposes of national accounts as "Non-profit Institutions Serving Households" (NPISH). In national accounts terms, NPISH forms part of the private sector and this classification does not require college accounts to be consolidated with those of government.

In October 2010, the Office of National Statistics (ONS) announced that it would reclassify colleges as part of central government for the purpose of national accounts. For fiscal purposes the colleges need to be removed from national accounts, and once again be classified as non profit institutions serving households (NPISH). I am writing separately to the Chair of the Finance Committee on the fiscal implications of the reclassification.

The Bill seeks to enhance the autonomy and decision making abilities of colleges by removing and modifying the existing legislative controls on them and thereby

2b) The government proposes to consult with the further education sector and others with an interest in the further education sector on which persons or bodies a further education corporation can transfer its property, rights and liabilities to following a resolution to dissolve itself. It is likely that the persons or bodies prescribed for the purpose of receiving property, rights and liabilities on the dissolution of a further education corporation will need to be reviewed over time and where necessary changed.

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The Bill seeks to enhance the autonomy and decision making abilities of colleges by removing and modifying the existing legislative controls on them and thereby

enabling ONS to consider reclassifying colleges as NPISH. In addition to the provisions in the Bill relating to the ONS issue, the Bill contains changes to some legislative controls that have never been used and there is no intention to use them.

Section 1 – Borrowing and investing by further education corporations

- Borrowing arrangements are a clear indicator of public sector control identified by the ONS. If we are to ensure this Bill results in a reversal of FEIs back to the NPISH status, then statutory control on borrowing needs to be removed.
- Also, this power is not thought to be necessary to ensure appropriate management of debt risk within the FE sector, it is proposed that this requirement will be removed.

Section 3 – Dissolution of further education corporations

- The ability to close a body is a clear indicator of public sector control identified by the ONS and needs to be repealed.
- If we are to ensure this Bill results in a reversal of FEIs back to the NPISH status, then statutory control on borrowing needs to be removed.

Section 4 – Designated institutions: instrument and articles of government

- This section removes the need for Ministerial consent to modify Instruments and Articles of government (similar to further education corporations).

Section 5 – Intervention by Welsh Ministers in respect of institutions within further education sector

- This section amends section 57 of the FHEA 1992 which enables the Welsh Ministers to intervene in a FEI if they consider that the FEI is being mis-managed or otherwise failing.
- The amendment gives the Welsh Ministers power, when using their intervention powers, to direct the governing body of a FEC to use its new powers to dissolve itself.
- It also removes the statutory duty for Welsh Ministers to prepare and keep under review an intervention policy. This is considered to be a matter of procedure and process which does not need to be a statutory requirement.

Section 7 – Abolition of power to regulate higher education courses in further education sector

- These powers have never been used.
- I am not aware of any issue presently that would result in these powers being used. They were very much intended to be used as a last step.

With regard to higher education, the technical consultation published on 20 May concerns the Welsh Government's proposals for a revised higher education regulatory framework. The consultation proposals concern the Higher Education Funding Council's (HEFCW's) functions and are not concerned with the Welsh Ministers' powers to control the strategic direction of HE institutions.

The Welsh Government considers that all institutions and other providers offering higher education courses which are designated for statutory student support should be required to comply with regulatory controls in order to protect the interests of students, taxpayers and Welsh society.

Currently HEFCW's ability to enforce fee controls and fee plan commitments is underpinned by conditions attached to the funding which the Council allocates to institutions. Similarly HEFCW's requirements in respect of quality assessment and financial and governance assurance are implemented via conditions attached to funding made available to institutions.

A revised regulatory framework for higher education in Wales is needed to provide assurance about the financial health and governance of higher education providers and the quality of their provision. It is also needed to enforce fee controls and to safeguard equality of opportunity to access higher education.

In short the higher education proposals for a new regulatory framework differ considerably from those which are the subject of this Bill and are concerned with amending HEFCW's existing functions in the context of the new higher education funding and student support arrangements.

Turning to higher education governance, I stated in the Further and Higher Education White Paper that I would allow time for higher education reconfiguration to progress and for the new funding arrangements to embed, before looking afresh at governance arrangements in the HE sector. At the time of publication of its decision to reclassify FE institutions as public sector bodies¹ for the purpose of National Accounts the ONS indicated that all UK universities would remain classified as 'private sector'. The ONS view at the time was that UK Universities enjoyed considerably greater freedom over their general corporate policy compared to the FE sector. Consequently the deregulatory provisions currently being sought in respect of FE institutions are not being applied to HE institutions at this time.

4. Why has the Welsh Government not used this Bill as a vehicle to consolidate all legislation relating to further education governance in Wales?

I recognise the aim to develop a Welsh statute book and the Welsh Ministers remain committed to achieving this in the future. The amendments made by this Bill represent relatively small changes to a more extensive statutory framework. It was considered that a consolidation of the wider law relating to further education institutions would not on this occasion have been an efficient use of resources given the limited policy changes that the Bill gives effect to.

5. Please can you explain the type of review the Welsh Government will be conducting one year on from the implementation of the Bill?

I will ask officials to undertake a quantified and qualitative review of how the Bill has been embedded in the FE sector, to identify what changes and improvements have taken place since Bill implementations. This will include information from the FE sector, namely ColegauCymru, and information gathered by the Welsh Government in its monitoring of FE.

¹ Classification of Sixth Form and Further Education Institutions, ONS, October 2010

Atodiad 3 – Llythyr gan y Cadeirydd, 13 Mehefin 2013

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol Constitutional and Legislative Affairs Committee

Leighton Andrews AM
Minister for Education and Skills
5th Floor
Tŷ Hywel
Cardiff Bay
CF99 1NA

13 June 2013

Dear Leighton,

Further and Higher Education (Information and Governance) (Wales) Bill - Evidence to the Constitutional and Legislative Affairs Committee

Thank you for last letter of 23 May 2013 providing written evidence to the Committee in relation to the Further and Higher Education (Information and Governance) (Wales) Bill. It was most helpful for our consideration of the Bill.

I am writing to clarify one point with you, in relation to your response to question 3, where reference is made to Section 1 and 3.

The following sentence appears in the first bullet point of the commentary on Section 1 and the second bullet in the commentary in Section 3.

“If we are to ensure this Bill results in a reversal of FEIs back to the NPISH status, then statutory control on borrowing needs to be removed...”

I would be grateful if you could confirm whether this is correct or accidental.

I look forward to hearing from you.

Yours sincerely

David Melding AM
Chair

Atodiad 4 – Llythyr gan Swyddog, 27 Mehefin 2013

Yr Adran Addysg a Sgiliau
Department for Education and Skills



Llywodraeth Cymru
Welsh Government

David Melding AM
Committee Chair
Constitutional and Legislative Affairs Committee
Cardiff Bay
Cardiff
CF99 1NA

Ein cyf * Our ref:

27 June 2013

Dear Mr Melding

Further and Higher Education (Governance and Information) (Wales) Bill – clarification response to the Constitutional and Legislative Affairs Committee

Thank you for your letter of 13 June 2013 to the then Minister for Education and Skills, requesting clarification on Sections 1 and 3 of the written evidence paper submitted to you on 23 May regarding the Further and Higher Education (Governance and Information) (Wales) Bill.

Given recent events, I am responding to the Committee in my capacity as the Senior Responsible Officer for the Bill.

Section 3 of the Bill refers to the dissolution of further education corporations and the intention in our written evidence to the Committee was to provide assurance that dissolution powers need to be transferred to the further education (FE) sector, if the Bill is to result in a reversal from the Office for National Statistics (ONS).

I can confirm that the inclusion of the second bullet *"if we are to ensure this Bill results in a reversal of FEIs back to the NPISH status, then statutory control on borrowing needs to be removed"* under Section 3 should not have been in the correspondence as the issue had already been included in Section 1, which deals with borrowing arrangements.

cont.



Tŷ y Afon • Tŷ y Afon
Ffordd Bodwas • Bodwas Road
Bodwas • Bodwas
Caerfili • Caerphilly
CF83 8WT

Ffôn • Tel 01443 663913
andrew.clark@wales.gsi.gov.uk
GTN: 7 2845 3913

Please accept my apologies for any confusion that this caused.

I have copied this letter to Ann Jones, Chair of the Children and Young People's Committee for information.

Yours sincerely,



Andrew Clark
Deputy Director, Further Education and Apprenticeships Division

cc Ann Jones AM, Chair of the Children and Young People's Committee