

Jane Hutt AC/AM

**Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau
Minister for Children, Education, Lifelong Learning and Skills**



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref PET-03-204
Ein cyf/Our ref JH/06668/09

Val Lloyd AM
Chair, Petitions Committee
Cardiff Bay
Cardiff
CF99 1NA

18 November 2009

Dear Val,

Thank you for your letter on 25th September on behalf of the Petitions Committee concerning public accountability and consultation in higher education. I apologise for the delay in responding to you.

You have specifically requested details of the level of public consultation required for changes to higher education institutions; and the mechanisms that exist for ensuring quality assurance and accountability in the higher education sector.

Public consultation

Higher Education Institutions

All Higher Education Institutions (HEIs) in the UK are autonomous bodies, responsible for their own academic and administrative affairs, including the management of their structures and methods of course delivery.

The higher education sector in Wales consists of institutions established by charter, institutions conducted by higher education corporations and institutions designated to receive funding to provide higher education. The governance of each institution is set out in their Charter and Statutes, Instruments and Articles of Government, or Memorandum and Articles of Government. Changes to the governance of HEIs will normally require the approval of the Privy Council. Under the Further and Higher Education Act 1992 (the FHEA 1992), if HEIs wish to apply for university title or change of name they must apply to the Privy Council. When making an application to the Privy Council for university title and/or a change of name, the Privy Council expect any institution to undertake consultation with the results of the consultation used to support their application.

HEIs may also have to consult either because of a specific statutory requirement to do so or because of an HEI's internal governance arrangements requires consultation before particular decisions are made. For certain purposes HEIs may be regarded as public bodies and accordingly subject to the usual public law principles.

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Higher Education and Funding Council (HEFCW)

HEFCW has responsibility for administering the funds made available to it by the Welsh Assembly Government for the provision of education and the undertaking of research by HEIs in Wales in accordance with Section 65 of the FHEA 1992. The Welsh Assembly Government can, under Section 68 of the FHEA, impose general conditions on the funds it makes available to HEFCW except in so far as it relates to a particular institution or institutions or particular courses of study or programmes of research. HEFCW also develop specific policies in a range of areas. HEFCW consults with the HE sector in Wales and, occasionally, with other interested parties in order to get a wide range of views to feed into policies that affect HEIs. These consultations are publically available on HEFCW's website. Section 66 FHEA 1992 requires HEFCW to consult on the terms and conditions it proposes to impose on funding made to HEIs. The obligation to consult is to those HEI's as appear to the Council to be concerned with the proposals. In addition, as a public body, HEFCW are required by general public law principles to consult on changes to existing policies or on proposed new policy.

Assembly Government

Any changes that affect HEIs that are introduced by the Assembly Government, such as changes to legislative statute on the governance arrangements for HEIs, have to follow standard Assembly Government guidelines on consultation. The Assembly Government has duties under the Government of Wales Act 2006 (GOWA 2006) to work in partnership; they include Local Government, the Third Sector, and the Business Sector. The Welsh Ministers Business Scheme sets out how they intend to take into account the interests of the Business Sector and Trades Unions (Section 75 of the GoWA 2006).

The Assembly Government also has a duty to make a Regulatory Impact Assessment Code (Section 76 of GOWA 2006). This must set out the Assembly Government's policy on assessing the likely costs and benefits of compliance with subordinate legislation made by it (rules, regulations, orders etc made under Acts of Parliament or Assembly Measures), and the Assembly Government's policy on consulting in connection with those assessments. The current Code says that the Assembly Government will carry out proper and appropriate consultation with those who are likely to be affected by the legislation, and those who have an interest in its overall impact. As well as this, statute can impose a specific requirement to consult.

The Disability Discrimination Act 1995 (s49A) requires the Assembly Government, in carrying out its functions, to have due regard to the need to encourage participation by disabled persons in public life.

Quality assurance and accountability

HEFCW has a statutory obligation under section 70 of FHEA 1992 to ensure that provision is made for assessing the quality of education provided in institutions where HEFCW provide, or are considering providing, financial support. Section 70 FHEA 1992 also requires HEFCW to secure that provision is made for assessing the quality of institutions who it funds and to establish a committee known as "Quality Assessment Committee" to advise them on the discharge of their duty. This role is undertaken by HEFCW's Student Experience, Teaching and Quality Committee .

Since the establishment of the Quality Assurance Agency for HE (QAA) in 1997, HEFCW has operated an Annual Service Level Agreement (SLA) with the Agency. The QAA's mission is to safeguard the public interest in sound standards of HE qualifications and to

inform and encourage continuous improvement in the management of the quality of HE. Through this agreement the HEFCW has been able to meet its statutory obligation under section 70 of the FHEA 1992. This is operated in several ways:

- through institutional assurance review carried out by HEFCW; and
- through Institutional Review carried out by the QAA.

Institutional assurance review

HEFCW's institutional assurance service is responsible for carrying out institutional assurance reviews in HEIs and other related work to evaluate the internal control, risk management and governance arrangements at the HEIs which HEFCW fund. This work is carried out to provide assurance to HEFCW's Council, and to the Chief Executive as accounting officer, on the adequacy and effectiveness of those arrangements.

HEFCW set out the requirements for HEIs accountability and audit arrangements in an Audit Code of Practice. HEIs' compliance with the mandatory requirements of the Audit Code of Practice is a requirement of the Financial Memorandum between HEFCW and HEIs in Wales. It is therefore a condition of the annual grant HEFCW give to HEIs in Wales.

Institutional Review

The providers of HE have the primary responsibility for protecting the academic standards and quality of their awards. The key purpose of the Institutional Review is to satisfy the public interest that HEIs in Wales provide awards and qualifications of acceptable quality and appropriate academic standard. The process should also maintain comparability of outcomes in Wales with other countries of the UK. Institutional review is an evidence-based process carried out through peer review.

Institutional review balances the need for publicly credible, independent and rigorous scrutiny of institutions with the recognition that the institutions themselves are best placed to provide stakeholders with valid, reliable and up-to-date information about the academic standards of their awards and the quality of their educational provision. Institutional review encourages institutions to be self-evaluative, and is therefore a process that, in itself, offers opportunities for enhancement of institutional management of standards and quality. At the centre of the process is an emphasis on students and their learning opportunities. The current review cycle in Wales is operated within the context of a 'rolling programme', from 2009-10 whereby all institutions are reviewed within six years.

Other quality assessments

Quality assessments are also carried out when institutions apply for governance changes such as taught degree awarding powers (TDAPS) and research degree awarding powers (RDAPs), and also university title. The power to grant degrees and university title is reserved to the Privy Council under sections 76 and 77 of the FHEA 1992 respectively. In considering applications for such powers, the Privy Council seeks advice from the appropriate territorial Minister with HE responsibilities. Ministers maintain criteria against which applications are considered. For England and Wales applications are considered under criteria approved by Ministers on 1st September 2004. The Assembly Government seek the advice of the QAA as to whether the institution has met the criteria. As part of the application for applying for university title, Assembly policy officials are required to provide the Privy Council with assurances that an institution has good governance. The Assembly has an agreement with HEFCW that they will provide us with this information.

Best wishes,

June

Val Lloyd - Chair, Petitions Committee

National Assembly for Wales

Re: P-03-204 Public Accountability and Consultation in Higher Education

Saturday, 19 December 2009

Dear Ms Lloyd

Thank you for your letter dated the 18th December 2009 and your invitation respond to the letter from former Education Minister Jane Hutt dated the 18th December 2009. I am more than happy to attend a meeting of the committee to give oral evidence in support of comments made in reply.

I draw your attention to the press release dated 2nd August 2009 from the former DIUS Committee concerning its Eleventh Report entitled Students and Universities to whom I submitted a memorandum as evidence. While I fully appreciate that Petitions Committee cannot get involved in personal issues, my comments are in keeping with its recommendations that was based upon personal experience. Therefore, in that context, I have used the knowledge gained from my experience as a mature student and from assisting others.

Assembly Government Powers

Further and Higher Education Act 1992 (c.13) as amended by the Education Act 2002 C.32 and by SI 2005/3238;

- section 15: Power to specify which existing institutions will fall into the further education corporations.
- sections 16 and 51: Power to incorporate educational institutions in Wales as corporations.
- section 17(2): Power to appoint 'operative date' for 'further education corporation' (a body corporate established under section 15 or 16 of this Act).
- section 19(4AC): Power to allow in limited cases a further education corporation to form, participate or become a member of a charity.
- section 22: Power to approve or notify instruments of government of such corporations.
- section 27: Power to dissolve further education corporations.

Power to designate institutions as eligible to receive funds from the Council.

- section 38: Power to determine rate of interest and the account of capital to be paid by a Council to a local authority as excepted loan liabilities.
- **section 47: Order transferring higher education corporation to the further education sector.**
- section 49A: Power to issue guidance as to the consultation which should be undertaken by further education authorities.
- section 50: Regulations requiring further education institutions to publish prescribed information.
- section 57: Only applies to Further Education. Power to intervene in the affairs of an institution in the event of mismanagement or breach of duty or loss of efficiency or failing to give an acceptable standard of education or training. Power to give directions.
- section 57A: Duty to give a statement of policy as to their exercise of powers under section 57. Duty to review it regularly. Power to revise it. Duty to lay statement or revised statement to the Assembly.

- section 62(3): Power to appoint chair and members of the Higher Educational Funding Council for Wales.
- section 65: Power to fund Council.
- section 69: Power to require information from Councils.
- section 78: Power to direct the financial year for higher education corporations.
- section 82: Power to exercise joint functions to the extent that the Welsh Ministers is discharging its functions under Part 2 of the Learning and Skills Act 2000.
- Schedule 1 paragraph 4: Power to remove member of either the Further or Higher Funding Councils for Wales.
- Schedule 1 paragraph 11: Power of representative of the Secretary of State to attend meetings of either Councils.

Higher Education and Funding Council (HEFCW)

“HEFCW consults with the HE sector in Wales and, occasionally, with other interested parties in order to get a wide range of views to feed into policies that affect HEIs. These consultations are publically available on HEFCW’s website. Section 66 FHEA 1992 requires HEFCW to consult on the terms and conditions it proposes to impose on funding made to HEIs.” Jane Hutt

There were two consultations published on HEFCW’s website during 2009, what is missing is public consultation concerning the financial collapse of the University of Wales Lampeter and subsequent merger with Trinity University College. The public should have been consulted on this merger and the conditions upon which they would be allowed more of our money. If this happened to a school college or hospital there would be a public outcry with people quite rightly demanding to know what went wrong, and why nobody has been held to account for what is an obvious failure.

With regard to the collapse of the University of Wales Lampeter, there is considerable evidence that financial failure was partly to do with the adverse publicity concerning the appalling way in which it treats its students. Clearly, there is a need for an inquiry into the student experience at Lampeter so that lessons can be learned.

HEFCW has the statutory roles of fund provider, financial regulator and quality assurance with regard to standards of conduct and governance. Therefore, higher education does not have the inherent safeguards of these duties divided amongst different bodies with respective statutory duties that prevent commercial, financial and self-interest overriding student needs.

The Public Audit (Wales) Act 2004 took away the power of the Auditor General for Wales to intervene and take over the running of an HEI on the grounds of financial mismanagement. HEFCW has a Memorandum of Understanding with the Welsh Assembly Government to provide value for money. However, the Welsh Audit Office WAO has confirmed they have no powers of intervention and that members of the public have no right of complaint to the WAO, to the institution or its auditors.

HEFCW claims it has a procedure for dealing with allegations of financial mismanagement, which from experience amounts to referring the complainant back to the institution. In theory HEFCW have the power to impose conditions on HEI’s but there is the danger that in doing so is going to be viewed as a failure to regulate. I suggest this is relevant to the reasons why there has been no inquiry into the failure of the University of Wales Lampeter.

Higher Education Act 2004 Student Complaints Scheme

My complaints while at Lampeter were outside the remit of the Office of the Independent Adjudicator for Higher Education (OIA) and unfortunately were eventually heard by the then Visitor Bishop Carl Cooper after a bizarre battle lasting several years. During this time, I had to explain to both the Visitor and Academic Registrar at Lampeter what the rules were by sending them both a student leaflet. Recent contacts from students at Lampeter are evidence that rules and procedures are still being ignored, and I doubt if the OIA would have made the effort or has the remit to investigate serious issues of corporate maladministration.

The growing number of complaints to the OIA which attracted media attention during the middle of this year does not tell the full story and there is growing concern that the independent adjudicator being four fifths owned by the universities is not as 'independent' as they claim. Under the Act student complaints to the OIA, carry privilege from legal action for any allegation they may make. However, it is common practice for students to have to apply to make a complaint on an *Application for Consideration of a Complaint* Form. The form clearly states that any complaint the university thinks unjustified will be dismissed without consideration, and will not hesitate to take action against any student that it considers to have made a malicious accusation.

This is no idle threat I can testify that students will receive a letter from solicitors in my case Eversheds threatening a claim for damages and being prevented from repeating such accusations by means of a High Court injunction. The student is required to sign an undertaking never to tell the truth again in generous consideration of the University not taking any further action. The psychological effects of this having been the victim of injustice or abuse are no different from having them beaten up down a dark alley to keep them quiet; it can leave them just as dead. For these reasons, very few students will stand up to this kind of intimidation and we may never know the full extent of what goes on inside these autonomous public spending bodies.

Under the Act students have a right to complaint to the degree awarding body and for many that is the Federal University of Wales who also have or did have a policy under Appendix J of their financial regulations concerning the Public Interest Disclosure Act (PIDA), which includes students. All universities are required to have a policy but few actually comply with the law. In pursuing a complaint, I was informed by the OIA that as the Federal University does not have any complaints procedures then they cannot investigate any complaint. This despite a requirement by the guidelines issued by HEFCW, the Committee of University Chairmen (CUC), the QAA, the Nolan Committee on Standards in Public Life, and Administrative Law to name but a few and something that HEFCW has chosen to ignore.

I wrote to the Visitor HM the Queen who while HM does not have any powers she did write to the former First Minister Rhodri Morgan the issue, who upon receiving it placed it on file and ignored it as it said nothing new! Attempts to force an investigation under their policy under PIDA, which is not enforceable in law were unsuccessful.

Quality Assurance and Accountability

Previous attempts to involve the Quality Assurance agency in my complaints about the University of Wales Lampeter were met with the reply that the QAA has quote "no locus in the matters that you raise". Further questioning their role to reassure the public about standards in higher education simply referred me back to this response. However, with the passage of time the QAA who by monitoring my website has in effect validated all my concerns about Lampeter

In August 2008, the QAA devised a Cause for Concern (CFC) procedure which according to its own guidelines on complaints all students should be informed of its existence and right to make a CFC complaint accordingly. Unfortunately, knowledge of this procedure is not finding its way to the students who need to know; in fact, it is being withheld while universities hide behind the law to conceal maladministration. The Quality Assurance Agency unlike ESTYN does not have any statutory duties it is simply contracted by HEFCW to fulfil its statutory duties as stated by Jane Hutt

“HEFCW has a statutory obligation under section 70 of FHEA 1992 to ensure that provision is made for assessing the quality of education provided in institutions where HEFCW provide, or are considering providing, financial support.”

To quote the QAA

“We carry out services under contract with HEFCE and HEFCW and our contracts are web-published. QAA has no statutory role, has no formal connection with Parliament and we are not covered by the Parliamentary Ombudsman.” <http://www.qaa.ac.uk/aboutus/contracts/HEFCW2006-09.pdf> The current contract expires at the end of 2009.

In November of this year, I made three Cause for Concern CFC complaints to the QAA concerning the University of Wales, Trinity University College and the University of Wales Lampeter in some cases dating back to 2002/3. More details about the procedure are here <http://www.qaa.ac.uk/causesforconcern/default.asp> I have raised concerns with the QAA about the structure of this process with regard to complex issues concerning injustice and abuse.

On Friday the 27th November for fear of further abuse I was no longer able to continue with my CFC complaint. There is no doubt in my that was the sole reason it was published. I immediately submitted a complaint to HEFCW and asked the QAA what they proposed to do about the situation and what protection were they going to offer to prevent such deliberate attacks on students or staff who blow the whistle. I was told that the matter would be discussed between senior staff but unfortunately, I have not received a reply and suggest the answer is nothing and the QAA is content to ignore the matter. In reply to my complaint Richard Hirst Director of Finance and Corporate Services stated

“The term was used only as a shortcut to a specific page which had previously been accessed.”

My server logs state as fact that the specific page in question concerns the suicide risk to students at the University of Wales Lampeter. I include this because there is a real the possibility that these issues may well be raised in a Coroners Court, and I suggest you compare the impact of a sick mind using such terms if they came from the head of a school, college, or children’s services department or any public servant outside of higher education.

Despite this being gross misconduct and libellous my complaint was not taken seriously, no action was taken, I have not received an offer to make amends, and I have not been informed of the name of the person concerned. Moreover, server logs suggest that I was the topic of conversation between a number of interested parties. I have evidence that board members are fully aware of these matters and in my opinion, they have a case to answer for failing in their duty either legally or morally to act and demand an inquiry.

Under HEFCW complaints procedures this matter will be referred to the Chief Executive, then a Complaints Board and then to the Public Services Ombudsman.

I will resume my CFC complaints to the QAA together with another CFC complaint about HEFCW, however, as I have already stated the QAA is only a contractor and commercial issues may well outweigh student concern. By comparison, ESTYN would have nothing to fear from addressing such appalling conduct from a financial provider with regard to schools and colleges.

I have already sought advice from the Public Services Ombudsman with regard to the QAA in this matter and I am waiting for a reply from their legal department, however, I suggest HEFCW will have to answer for any failure by the QAA in these matters. I expect there will be an inquiry by the PSO into HEFCW so if it can be proved that members of the board are involved or have failed to act then I can petition the Assembly to remove them from office.

HEFCW and Freedom of Information FOI

I have made a formal complaint to the Information Commissioner concerning the refusal of HEFCW to supply a copy of the Haines Watts report into the finances of the University of Wales Lampeter. In their reasons given for their refusal the Chief Executive has failed to act reasonable nor has he reached his decisions in a reasonable way. Based upon recent rulings he fails to understand the difference between commercial and financial interests and that he is concealing the failure of HEFCW to ensure proper governance for fear that the merger with Trinity University College will not take place. He fails to understand the FOI cannot be used to conceal maladministration.

It is an example of where we the taxpaying public have every right to know what went wrong and why nobody has been held to account. The Welsh Assembly needs to bring an end to kind of serfdom and adhere to the old saying no taxation without representation.

HEFCW and the Charity Act 2006

After considerably lobbying by myself with the Charity Commission I am pleased to say that the Charity Commission has confirmed that unlike its English counterpart HEFCE, HEFCW will not be the regulator for Welsh Universities, that job will be undertaken by the Charity commission itself.

The main evidence for stating that HEFCW is unfit for purpose was pointing out to HEFCW who claim to have a responsibility for financial management. I pointed out to HEFCW the guidelines issued by the then Department of Trade and Industry DTI on these matters. The response from HEFCW was that "DTI guidelines were a matter for them", they totally disregarded the fact that such guidelines are also referred to by the Charity Commission as applying to Charity Companies or 'Charcoms' such as universities and that HEFCW had a duty to investigate and ensure compliance. HEFCW has demonstrated a total disregard to ensure value for taxpayers' money.

Other Quality Assessments

"The Assembly Government seek the advice of the QAA as to whether the institution has met the criteria." Jane Hutt

The QAA is neither independent or impartial it is only a contractor with no statutory duties nor accountability to the Public Services Ombudsman and as such has the inherent danger that commercial

concerns may outweigh the public interest. It has yet to prove itself of being able to investigate concerns regarding HEFCW in the same way it would investigate a University.

The Need for Change

I make no apology for raising the above issues as it is evidence to substantiate the advice from an expert in University governance that the only way to bring this sort of maladministration to light is to publish it in a magazine or journal. However, getting such material published is not easy and so the only way to tell the truth is by publishing it to the Internet with resulting threats of legal action at public expense to conceal their own misconduct. I have responded with the invitation to go ahead in the knowledge that what I am saying is based on fact and explains why the invitation was ignored.

Clearly, the above issues need to be addressed to prevent Universities from hiding behind academic independence to conceal maladministration; moreover, something needs to be done about the culture of denigrating students who complain. Ministers and Assembly Members are choosing to ignore their constituents in these matters.

Students as Vulnerable Consumers

The introduction of loans and special help for the disadvantaged has meant the erosion of social class based entry into higher education; however, what is disturbing are the reports of a 75% drop out rate of students in this group.

With poor regulation, inadequate accountability and vast amounts of debts from loans hanging over their heads, students are in a vulnerable position with regard to making any complaint for which there seems to be automatic retribution as a conditioned response. Worse still is the abuse of office, position and power in the sexual predation of students.

The doctrine of *ultra vires* was used by the Thatcher government to curb student power and has gone too far. To balance out this inherent disadvantage so that student and staff can as those in higher education claim to 'work in partnership', then students should be designated vulnerable consumers to create a level playing field.

versheds LLP – Abuse of Dominant Market Position

Eversheds LLP has around 100 UK universities on their books including the University of Wales Lampeter and I believe Trinity University College. Various listings on the internet for higher education solicitors state that Eversheds has the higher education market 'sewn up'. I think 'stitched up' would be a better description. Eversheds were instrumental in setting up the Office of the Independent Adjudicator for Higher Education (OIA) for which it provided legal advice. The OIA does not meet the standard of impartiality in other regulatory bodies nor in the mind of students or Joe Public.

This situation is evidence that the dominant market position of Eversheds not only acts against the interests of students as vulnerable consumers but those of the taxpaying public and society as a whole.

Lecturers Regulation and Registration

Lecturers should be subject to the same regulation the same as teachers and registered with the equivalent as the General Teaching Council whose purpose is as follows:

- To deal with cases where it is alleged that a teacher has behaved unacceptably or their teaching is seriously below standard. Cases can be referred by employers, government departments students, families or the public.
- To issue various sanctions, ranging from a reprimand to a prohibition order, which bans the teacher from teaching.
- To have a responsibility to act on these allegations which is set out in the Code of Conduct and Practice for Registered Lecturers.

Public Appointments

I have complained to the Commissioner for Public Appointments about the Chair of HEFCW but she decreed that the appointment did not break and rules, but then the same was said about the abuse of MP's and AM's expenses which also complied with the rules and I suggest changes based upon the same principles are made accordingly.

Change in the Culture of Higher Education

To look at the culture more closely here are the current Higher Education and Funding Council (HEFCW) Council Members from the HEFCEW website.

Chair - Mr Roger Thomas

Former: Chair of Governors and Pro-Chancellor of University of Glamorgan, and Chairman of Chairs of Higher Education Wales. In the latter capacity, he was a member of the Chairs' Group of Committee of University Chairmen (CUC) and also a Member of the Board of Universities and Colleges Employers Association (UCEA); and the Joint Negotiating Committee for Higher Education Staff. A former senior partner at Eversheds solicitors and DCELLS Ministerial Advisory Group Review of Higher Education in Wales

Chief Executive - Professor Philip Gummett

Members

- Mr David Allen Registrar and Deputy Chief Executive, University of Exeter
- Dame Sandra Burslem Former Vice-Chancellor, Manchester Metropolitan University
- Professor Mari Lloyd-Williams Professor and Director of Academic palliative and Supportive Care Studies Group, University of Liverpool
- Professor Leni Oglesby Former Senior Deputy Vice-Chancellor, University of Teeside
- Professor D Garel Rhys Former Director of the Centre for Automotive Industry Research, Cardiff University
- Mr Kenneth Richards Honorary Research Fellow at the Cardiff School of Social Sciences
- Professor Sir Brian Smith Former Vice-Chancellor Cardiff University
- Mrs Pauline Thomas Head of Abertillery Comprehensive School
- Professor Robin Williams Former Vice-Chancellor, Swansea University

The Concept of Groupthink

The list of notable academics has created a situation whereby academics provide a public service, academics provide the money, academics provide the regulation for the money, and academics are responsible for standards, as a result, consultation and accountability is purely 'academic' and out of

touch with the real world. Moreover, I suggest the rights of the individual and public consultation is ignored and that politicians and civil servants seem to be afraid of making any sort of challenge despite the obvious maladministration staring them in the face. From the Wikipedia.

"Groupthink is a type of thought exhibited by group members who try to minimize conflict and reach consensus without critically testing, analyzing, and evaluating ideas. Individual creativity, uniqueness, and independent thinking are lost in the pursuit of group cohesiveness, as are the advantages of reasonable balance in choice and thought that might normally be obtained by making decisions as a group. During groupthink, members of the group avoid promoting viewpoints outside the comfort zone of consensus thinking. A variety of motives for this may exist such as a desire to avoid being seen as foolish, or a desire to avoid embarrassing or angering other members of the group. Groupthink may cause groups to make hasty, irrational decisions, where individual doubts are set aside, for fear of upsetting the group's balance. The term is frequently used pejoratively, with hindsight.

Causes of groupthink

*Highly cohesive groups are much more likely to engage in groupthink, because their cohesiveness often correlates with unspoken understanding and the ability to work together with minimal explanations (e.g., techspeak or telegraphic speech). Vandana Shiva refers to a lack of diversity in worldview as a "monoculture of the mind" while James Surowiecki warns against loss of the "cognitive diversity" that comes from having team members whose educational and occupational backgrounds differ. The closer group members are in outlook, the less likely they are to raise questions that might break their cohesion. Although Janis sees group cohesion as the most important antecedent to groupthink, he states that it will not invariably lead to groupthink: 'It is a necessary condition, but not a sufficient condition' (Janis, *Victims of Groupthink*, 1972). According to Janis, group cohesion will only lead to groupthink if one of the following two antecedent conditions is present:*

- *Structural faults in the organization: insulation of the group, lack of tradition of impartial leadership, lack of norms requiring methodological procedures, homogeneity of members' social background and ideology.*
- *Provocative situational context: high stress from external threats, recent failures, excessive difficulties on the decision-making task, moral dilemmas.*

Social psychologist Clark McCauley's three conditions under which groupthink occurs:

- *Directive leadership.*
- *Homogeneity of members' social background and ideology.*
- *Isolation of the group from outside sources of information and analysis.*

Symptoms of groupthink

To make groupthink testable, Irving Janis devised eight symptoms indicative of groupthink (1977).

1. *Illusions of invulnerability creating excessive optimism and encouraging risk taking.*
2. *Rationalizing warnings that might challenge the group's assumptions.*
3. *Unquestioned belief in the morality of the group, causing members to ignore the consequences of their actions.*
4. ***Stereotyping those who are opposed to the group as weak, evil, biased, spiteful, disfigured, impotent, or stupid.***

5. *Direct pressure to conform placed on any member who questions the group, couched in terms of "disloyalty".*
6. *Self censorship of ideas that deviate from the apparent group consensus.*
7. *Illusions of unanimity among group members, silence is viewed as agreement.*
8. *Mind guards — self-appointed members who shield the group from dissenting information.*

Groupthink, resulting from the symptoms listed above, results in defective decision making. That is, consensus-driven decisions are the result of the following practices of groupthinking

1. *Incomplete survey of alternatives*
2. *Incomplete survey of objectives*
3. *Failure to examine risks of preferred choice*
4. *Failure to re-evaluate previously rejected alternatives*
5. *Poor information search*
6. *Selection bias in collecting information*
7. *Failure to work out contingency plans.*

Yours sincerely

Trevor Mayes

Appendix 1

Innovation, Universities, Science and Skills Committee - Eleventh Report

Students and Universities

Session 2008-09

Press Release - 2 August 2009

UNFIT STANDARDS SYSTEM, 'DEFENSIVE COMPLACENCY' FROM THE TOP AND DISCRIMINATION AGAINST PART-TIME AND MATURE STUDENTS

MPS DELIVER WAKE UP CALL TO HIGHER EDUCATION SECTOR

The Innovation, Universities, Science and Skills Committee calls for urgent changes in the higher education sector, in a report published today examining students' university experience.

The report says the current system for safeguarding standards is out of date, inconsistent and should be replaced. The Quality Assurance Agency should be transformed into an independent Quality and Standards Agency with a specific standards remit.

The Committee also says that the culture at the top of the sector should change. The Committee found defensive complacency in the leadership of the sector and no appetite to explore key issues such as the reasons for the proportional increase in first and upper second class honours degrees in the past 15 years.

It is unacceptable to the Committee that Vice-Chancellors could not give a straightforward answer to the simple question of whether first class honours degrees achieved at different universities indicate the same or different intellectual standards.

Support for and treatment of part-time and mature students should be improved - the current system amounts to a form of discrimination. The Government's forthcoming review of fees needs to examine all aspects of support for part-time and mature students, both direct financial support and changes to allow universities the flexibility to attract and retain part-time and mature students.

The Committee also says the current bursary arrangements introduced to cushion the effect of top-up fees on students from poorer backgrounds need to be replaced with a national system. It is not fair that students from identical backgrounds with the same financial need receive significantly varying bursaries depending on which university they attend.

The report also says:

- Further education colleges should play a larger role in the development of higher education. Following the model of American community colleges, a student should be able to start higher education in a further education college and then transfer to a university.
- The Government should help create a credit transfer system which will allow credit earned in one institution to be transferred to another.
- Schemes such as those run by Leeds University for students from disadvantaged backgrounds should be standard practice across the sector.
- **There is a lack of consistency across the higher education sector, despite excellent practice in places, and codes of practice applying to all institutions receiving public money should be introduced.**
- Elements of chance in the admissions process should be reduced so that students get a fairer deal on access to university.
- **Protection for whistleblowers should be addressed - current arrangements are inadequate.**

Phil Willis MP, the Chairman of the Committee, said: "We do need to recognise that our higher education system is regarded as world class, and we celebrate that. But to remain competitive in the 21st century the complacency we detected must be addressed.

"We are extremely concerned that inconsistency in standards is rife and there is a reluctance to address this issue. The QAA needs radical transformation if we as a country are going to meet the needs of a 21st century higher education system with 2 million students."

"Much more needs to be done to help part-time and mature students. There has to be equal treatment for all students and a system that has the flexibility to take account of the needs of, for example, a mature student who has family commitments."

"The current bursary arrangements are not working. On any objective test—widening participation, meeting student need or fair access to higher education—they fail both the student and the taxpayer. We therefore call for a national system anchored to student need."

http://www.parliament.uk/parliamentary_committees/ius/ius_020809.cfm

Leighton Andrews AC/AM

Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes
Minister for Children, Education & Lifelong Learning



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref P-03-204
Ein cyf/Our ref LA/00470/10

Christine Chapman AM
Chair - Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

5 May 2010

Dear Chris,

RE: Petition: Public Accountability and Consultation in Higher Education

Thank you for your letter dated 10 February 2010 on behalf of the Petitions Committee concerning public accountability and consultation in higher education. I apologise for the delay in responding.

You have requested my views on a number of detailed issues raised in the petitioner's response to the former Minister for Children, Education, Lifelong Learning and Skills' correspondence considered by the Committee at its meeting on 1 February.

My response deals in turn with each of the issues summarised in the attachment to your letter and for ease of reference I refer to the paragraph numbering identified in the Committee's summary of the lead petitioner's letter.

2. Role of HEFCW

The statutory functions of HEFCW are set out in sections 65 to 81 of the Further and Higher Education Act 1992 (the Act). In summary HEFCW is responsible for:

- administering funds made available to it by the Welsh Ministers and others for the purpose of providing financial support for activities eligible for funding by way of grant, loans etc and subject to such terms and conditions as the Council considers fit (section 65 of the Act);
- providing such information as the Council considers fit to the Welsh Ministers or as is required by the Welsh Ministers relating to the provision of higher education (section 69 of the Act); and

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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- securing that provision is made for assessing the quality of education provided in institutions for whose activities they provide or are considering providing financial support and to establish a committee with the function of giving advice on the discharge of the duty to assess the quality of education (section 70 of the Act).

HEFCW's role is that of a funding body and its other functions are ancillary to that role *i.e.* the Council's duty to secure that provision is made for assessing the quality of education is a consequence of that education being supported by the public funds which HEFCW administers. Other than in respect of the funding it provides, HEFCW cannot seek to influence the internal affairs of Higher Education Institutions (HEIs). Indeed HEFCW is prohibited by provisions under section 65(4) of the Act from imposing terms or conditions which relate to the application of monies derived otherwise than from the Council.

HEFCW can however impose terms and conditions on the financial assistance it provides to institutions, including requiring repayment if terms and conditions of funding are breached. In addition the Council does have the power (under section 83 of the Act) to "*arrange for the promotion or carrying out by any person of studies designed to improve economy, efficiency and effectiveness of management or operations of an institution...within the higher education sector*".

The framework of control under which the Council operates as an Assembly Government Sponsored Body (the Management Statement and Financial Memorandum) requires that the Council's Accounting Officer ensures all public funds made available to the Council are used for the purpose for which they were intended by the Assembly Government and the legislation which governs the Council's activities. In addition, the Council's Audit Committee has a specific duty to monitor the effectiveness of controls established by HEIs to ensure that public funding is safeguarded.

Welsh Ministers may, subject to consulting with HEFCW and the institution, direct HEFCW in respect of the provision of financial support to an institution if it appears to Welsh Ministers that the affairs of the institution are being mismanaged. This power is provided for under section 81(3) of the Act.

To summarise, the Council does not have conflicting roles, it is not a regulator but clearly has an important role to play in providing assurance for the investment of public funds.

The Auditor General for Wales has a statutory duty to examine and certify the accounts of the Welsh Assembly Government, its sponsored bodies and related public bodies in Wales. Provision for this function in respect of HEFCW is required by Schedule 1 to the Act. Additionally the Auditor has the statutory power to report to the National Assembly for Wales on the economy, efficiency and effectiveness of the funding with which those organisations have used, and may improve the use of, their resources in discharging their functions. In general terms the Public Audit (Wales) Act 2004 conferred new functions on the Auditor General for Wales rather than reducing or restricting the Auditor's role.

The Education Reform Act 1988 establishes the requirement for all HEIs to maintain accounts and for those accounts to be audited. HEIs are independent and autonomous institutions, and the Auditor General for Wales' functions do not extend to auditing the accounts of HEIs nor ensuring good financial management of those institutions. HEFCW, in line with its responsibility for providing assurance in respect of the funding it allocates to HEIs, monitors the effectiveness of controls established by HEIs, reviews the outcomes of institutional financial health assessments and considers the outcomes of any independent reviews of Institutional Assurance services.

Although the Auditor General does not have a direct role in auditing the accounts of HEIs, the Auditor General's powers to report to the National Assembly on matters relating to the economy, efficiency and effectiveness of HEFCW encompass the procedures that the Council have put in place to ensure adequate protection of the public funds it administers against financial mis-management by HEIs. For example, the Auditor General's 2009 report on collaboration between HEIs concluded that HEFCW had generally managed the Reconfiguration and Collaboration fund effectively.

3. Consultation Undertaken by HEFCW

As referred to above, HEFCW has a statutory role in respect of assuring the appropriate use of public funds administered by the Council. HEFCW is not required to engage in public consultation over the potential merger of HEIs. In 2008, HEFCW commissioned a review of the University of Wales, Lampeter covering the following areas: the University's strategic direction and business model, its viability and ability to deliver a sustainable institution, its managerial capability and options for future development of the University. This report was published by HEFCW in December 2009 (H W Corporate Finance report 2008) and is available on the Council's web site.

All HEIs in the UK are autonomous bodies, responsible for their own academic and administrative affairs, including the management of their structures which includes merger proposals.

4. Student Complaints system / Whistleblowing

The Office of the Independent Adjudicator (OIA) for HE was established under the Higher Education Act 2004 and was formally designated as the operator of the student complaints scheme on 1 January 2005. All English and Welsh universities (whether publicly or privately funded) and publicly funded HEIs are qualifying institutions under the scheme. This means that they have to comply with any requirements of the OIA (i.e. providing information) and are required to pay fees which are variable according to the size of the student body (over £25,000 for an HEI with more than 50,000 students) which pay for the running of the OIA.

The OIA has recently conducted an extensive review of its operations, including customer satisfaction and the views of users on its independence. The evidence gathered during the consultation process showed that while there are differences of emphasis, universities, students' unions and sector groups overwhelmingly endorsed the independence of the Independent Adjudicator, the Office and the Scheme. However, the evidence also showed that concerns were raised by some students' unions and a small number of universities about the perception of some students of the OIA's independence, due to the current funding model. The OIA acknowledged that, when one side in a dispute is totally responsible for funding the process, the other party may not always feel that the system is impartial. Indeed, the evidence gathered shows a direct association between outcome of complaint and complainants' views of whether the OIA's process was independent. The OIA acknowledges that there is work still to be done to raise complainant awareness of the OIA's independent status and operations.

It is important to note that whilst the OIA is currently exploring the viability and implications of alternative funding models, the existing arrangements carry substantial support, and there is currently no obvious alternative to the existing member subscription model. The *Pathways Report: Recommendations for the development of the OIA Scheme* was published on 11 February, and can be viewed in full on the OIA's web site at

www.oiahe.org.uk. However, for ease of reference, the three recommendations in the report most pertinent to customer satisfaction and independence are reproduced below:

Quick Win 1

As a matter of priority, the OIA should complete its current review of the arrangements for service complaints against the Office and publish and implement the new arrangements. The review proposals should be judged against the importance of the principles of transparency of process, user accessibility, early separation of service issues from issues of adjudication, and accountability to the Board.

Recommendation 8

In the forthcoming review of its governance arrangements the OIA Board should give serious consideration to a change in its Quorum Rules to require the attendance of a majority of Independent Board members before a Board Meeting can start and/or continue.

Recommendation 9

On the grounds of ensuring that the user perspective continues to be articulated, an additional student nominee should be added to the OIA Board. The OIA should consult with the sector about the most appropriate way of appointing the additional Board member.

Part II of the Higher Education Act (HEA) 2004 sets out the statutory framework for the review of student complaints. This includes the power for the Secretary of State (in respect of England) and the Welsh Ministers (in respect of Wales) to designate an operator of a student complaints scheme. Section 17 of the HEA 2004 makes provision for “privilege in relation to law of defamation” and only relates to the review of a qualifying complaint by the designated operator. It does not extend legal protection to complainants during the consideration of complaints under the internal complaints procedures of individual HEI. Consequently the requirement for complainants to submit an “Application for Consideration of a Complaint form” cannot be said to be an apparent reduction in the protection from legal action. Furthermore, the protection of absolute privilege applies only to a decision, recommendations or report prepared in connection with the scheme for the review of qualifying complaints. The concept of absolute privilege would not extend under the terms of section 17 of the HEA 2004 to the person who made the complaint.

In respect of the Petitioner’s statement that few universities comply with the law in having a public interest disclosure policy it is necessary to refer to the underpinning legal framework, namely the Public Interest Disclosure Act 1998. This Act affords protection to *workers* from being dismissed or penalised for making “qualifying disclosures” as defined in the Act and does not apply to students (unless they are also workers employed by HEIs). It is apparent that some HEIs extend their public interest disclosure policies to students, but this will not afford legal protection to persons who are not workers employed by those institutions.

Finally it should be noted that the University of Wales does have a student complaints process.

5. Role of the Quality Assurance Agency (QAA)

The QAA is a charity and a company limited by guarantee. It is funded through subscriptions from HEIs and through contracts with the major Funding Councils, to whom it

reports annually on its activities. The primary responsibility for academic standards and quality rests with individual institutions. The QAA reviews, and reports on, how well they meet those responsibilities and makes recommendations for improvement. The QAA's reports are publicly available and include judgements about the confidence that can be placed in universities' management of quality and standards.

The role of the QAA in respect of HEFCW's statutory responsibility to make provision for assessing the quality of education provided in institutions for whose activities the Council provides, or is considering providing, financial support is governed by a service level agreement between the Council and the QAA. A new service level agreement between HEFCW, Higher Education Wales and the QAA commenced in August 2009 and covers the period to July 2015. The service level agreement includes monitoring through the submission of quarterly written reports on performance supplemented by informal officer liaison. There is also a requirement for the QAA to submit an annual report and an annual meeting between officers, including Chief Executive Officers.

To summarise, the statutory responsibility for making provision to assess the quality of higher education rests with HEFCW and the Council has put in place a service level agreement with the QAA to ensure discharge of this responsibility in respect of the higher education provision funded by the Council.

Cause for Concern process

The QAA's Causes for Concern process offers a procedure for carrying out a special enquiry into the management of standards and quality. In 2008 it extended the protocols of its Cause for Concern procedure to allow initiation of an investigation by a member of the public (typically a student, former student or former member of staff). Subsequently in 2008-09, QAA handled 34 new Causes for Concern cases. Of these, 32 cases were applications from members of the public.

The procedure for seeking to invoke a Cause for Concern is displayed on the QAA website. Additionally, while the QAA has no remit or power to become involved in individual disputes involving students or members of staff and HEIs, either as an arbitrator or on their behalf, it nevertheless provides an initial guide for students wishing to pursue an individual complaint against their institution.


In the case of students accessing the QAA's Cause for Concern process, advice and guidance is available on the QAA's website and there is some evidence that the public are making use of the process.

6. Other issues raised by the petitioner

With regard to the Petitioner's request that additional protection should be offered to students by designating them as 'vulnerable consumers', the approach adopted in Wales is to promote learner voice and student engagement through the Wales Initiative for Student Engagement (WISE) and the NUS Wales-led "Have your Say" project which were both launched on 12 October 2009.

Currently there are no registration requirements for higher education lecturers. HEIs are autonomous bodies and are responsible for their own administrative and management arrangements, including the employment of lecturing staff.

Many of the issues raised by the petitioner relate to questions of governance in HE in Wales. *For Our Future* sets a clear direction of travel for HE in Wales that demands significant changes to the nature of delivery, engagement with regional and local communities and relationships with other providers. It sets a framework for ensuring excellence, competitiveness and responsiveness which will enable HE in Wales to meet the needs of a modern knowledge based, globally competitive economy and inclusive society. It is critical that Wales' higher education system of national and institutional governance provides an appropriate model and structure to support these aspirations. Consequently, I have initiated an independent review of higher education governance in Wales. The Review will consider the key issue of whether existing forms of national and institutional governance match the needs, expectations and future requirements of HE in Wales and identify any changes required.

Yours sincerely


Leighton Andrews AM

Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes
Minister for Children, Education & Lifelong Learning

Mr T W Mayes
Tuesday, 08 June 2010

Christine Chapman - Chair, Petitions Committee

Dear Ms Chapman,

Thank you for asking me to respond to the Ministers letter dated the 5th May 2010

I have been heartened by the proactive and reforming public comments by the Minister regarding Higher Education, therefore, I am pleased that the Minister has announced a review into HE governance. However, I do not have enough information to be able to answer if this is going to address the concerns that I am raising in my petition. I am making the point that we have academics providing the service, the funding and the regulation; the result is purely academic in the interests of academia and not in the interests of the public or students. So I can give a cautious welcome to the appointment of somebody with knowledge of education but outside academia who is going to Chair the review.

However, to include others from with expertise in other areas such as industry, community and the economy in any review is not good enough; I suggest they may like the politicians simply go with the sanitised and often misleading version of the situation presented by academics for fear of looking stupid or inadequate. Any review must be balanced and based upon the experience both good and bad of students as consumers, and there should also be a process of inquiry into any unresolved allegations and public interest causes for concern, university staff should also be afforded the same opportunity.

Judging from the refusal of all my elected Assembly representatives to do the most basic advocacy on behalf of myself as a constituent or even afford the common courtesy of a reply, the crucial job of Assembly Members to hold the executive to account has broken down. That is why I submitted this petition. Therefore, is the Minister going to include the voices of informed and constructive dissent as members of the group to provide a sense of balance?

With regard to the other issues raised in the Ministers letter the answer is definitely NO he does not address the concerns in my petition which I would like to be included within the review. The letter contradicts and undermines his public statements and comments concerning the HE review. The letter which was clearly written for him is poorly researched, inaccurate, misleading, an insult to the concept of open and accountable government, and puts students as vulnerable consumers at risk. It serves as an example of how the public are fobbed off with sophistry and procedures that are mainly for display purposes only and do not address real world complaints or concerns.

At the heart of the problem facing the Minister and myself as a petitioner is a self serving mindset and mistaken belief that as universities are autonomous they must also be beyond reproach. As has been proved with the MP's expenses scandal lack of public scrutiny only encourages the old adage that power tends to corrupt and we have a situation whereby absolute power has

corrupted absolutely as universities abuse their autonomy and then hide behind the law. When will politicians learn that self regulation does not work?

The point that I am making with my petition and has been avoided by the Minister is that universities can remain autonomous and be introduced to the same 21st Century standards of accountability and consultation the same as other autonomous public services and authorities.

2. Role of the Higher Education Funding Council for Wales HEFCW

The statutory functions of HEFCW are set out in sections 65 to 81 of the Further and Higher Education Act 1992 (the Act).

Re: Page 2 4th Paragraph

“The framework of control under which the Council operates as an Assembly Government Sponsored Body (the Management Statement and Financial Memorandum) requires that the Council's Accounting Officer ensures all public funds made available to the Council are used for the purpose for which they were intended by the Assembly Government and the legislation which governs the Council's activities. In addition, the Council's Audit Committee has a specific duty to monitor the effectiveness of controls established by HEIs to ensure that public funding is safeguarded.”

And Page 3 paragraph 1

“HEFCW encompass the procedures that the Council have put in place to ensure adequate protection of the public funds it administers against financial mis-management by HEI s.”

I have complained to HEFCW about financial irregularities in breach of the Company Act 2005 and former DTI guidelines. The reply from HEFCW was and I quote *“DTI guidelines are a matter for them”*

This arrogant disregard for their duty to safe guard the public purse is also a matter for the Charity Commission under the Charity Act 2006 who I have persuaded to take on the role of regulator for Welsh Universities; English Universities will be regulated by HEFCE.

I have also made various complaints to Jonathan Morgan AM as Chair of the Audit Committee who has stated he has no power of inquiry into financial irregularities.

Paragraph 7

“The Auditor General for Wales has a statutory duty to examine and certify the accounts of the Welsh Assembly Government, its sponsored bodies and related public bodies in Wales. Provision for this function in respect of HEFCW is required by Schedule 1 to the Act. Additionally the Auditor has the statutory power to report to the National Assembly for Wales on the economy, efficiency and effectiveness of the funding with which those organisations have used, and may improve the use of, their resources in discharging their functions. In general terms the Public Audit (Wales) Act 2004 conferred new functions on the Auditor General for Wales rather than reducing or restricting the Auditor's role.”

This comment is untrue and misleading, under the Public Audit (Wales) Act 2004, the Auditor General for Wales has confirmed in writing that the public has no right of complaint and nor does the Welsh Audit Office have no right of inquiry or intervention in financial issues concerning a higher education institution HEI.

Auditors for the University of Wales Lampeter have on four occasions refused any inquiry into the unlawful payment of expenses. Auditors have also refused a similar complaint concerning the Federal University of Wales, and procedures for dealing with complaints concerning financial mismanagement have been ignored.

Therefore it is hardly surprising that in Page 3 paragraph 1 the Minister states that

"...the Auditor General's 2009 report on collaboration between HEIs concluded that HEFCW had generally managed the Reconfiguration and Collaboration fund effectively."

Of course he did! What else could he say? It is not possible for anyone to make any complaint nor is it legally possible for the Auditor General to say anything different and therefore this comment cannot be accepted as a true statement that our money is appropriately spent.

Moreover, there is no mechanism, process, or procedure whereby a member the public can initiate the procedure in Page 2 paragraph 5 which states:

"Welsh Ministers may, subject to consulting with HEFCW and the institution, direct HEFCW in respect of the provision of financial support to an institution if it appears to Welsh Ministers that the affairs of the institution are being mismanaged. This power is provided for under section 81 (3) of the Act."

The financial and managerial fiasco at the University of Wales Lampeter was concealed by HEFCW to hide its own failure on this issue. They also abused the Freedom of Information Act to conceal academic and financial fraud and allow students an opportunity to resolve long standing injustices including the abuse of people and power.

The Public Audit (Wales) 2004 took away the power of the Audit General to intervene and take over a failing higher education institution such as the University of Wales Lampeter. To suggest on Page 2 penultimate paragraph that

"In general terms the Public Audit (Wales) Act 2004 conferred new functions on the Auditor General for Wales rather than reducing or restricting the Auditor's role."

Is unsubstantiated and frankly misleading, disingenuous and absurd.

In conclusion to this section, HEFCW does not do what it claims to do, we will have to rely on Charity Law and the Charity Commission under the Charity Act 2006 to do the job for us.

3. Consultation Undertaken by HEFCW

Page 3 paragraph 2

The review of the University of Wales Lampeter by Haines Watts Corporate Finance was requested from HEFCW under the Freedom of Information FOI Act 2000 by me and the BBC in April 2009. This request was refused and is still subject to an inquiry by the Information Commissioners Office ICO.

Therefore, the public and Governors of Trinity University College were denied access to some very disturbing information which also meant that the Welsh Assembly were unable to make any direction under section 81(3) of the Act concerning financial mismanagement because HEFCW hid the information from them. The report was published by HEFCW in December 2009 and is NOW available on the Council's web site AFTER decisions were made, and in anticipation of being forced to disclose it by the ICO.

Is the Minister seriously suggesting that withholding disturbing information while decisions are being made and preventing any form of scrutiny constitute a proper process of public consultation, and does he think this is in keeping with the UK governments drive towards more open and transparent government. Or has he been misinformed?

In my view it was a blatant stitch up and abuse of our rights under the FOI Act, HEFCW also refused a request for public consultation and obstructed any form of inquiry or scrutiny by the public, the media and the Welsh Assembly who has allowed itself to have the wool pulled over its eyes by a publically unelected and unaccountable Quango concealing its own failures.

With regard to the Lampeter fiasco, we the taxpaying public have every right to ask and be given a truthful reply to the questions of what went wrong and who is being held to account.

If we can't, then the solution is simple; change the law so we can! Who runs the country?

Page 3 paragraph 3

"All HEIs in the UK are autonomous bodies, responsible for their own academic and administrative affairs, including the management of their structures which includes merger proposals."

So are local authorities, health trusts, colleges of further education and now schools, if the same happened in any one of them there would be a public outcry. It is perfectly reasonable to expect the public to have the same rights concerning standards in public life, accountability and consultation.

4. Student Complaints system / Whistleblowing

Last sentence on Page 4 Correction

"Finally it should be noted that the University of Wales does have a student complaints process"

Should read

“Finally it should be noted that the University of Wales NOW has a limited student complaints process with regard to Collaborative Partner Institutions. Complaints against the University of Wales itself have been generally restricted to the Equality and Discrimination laws.”

After many years of complaining about this issue to the university, the Visitor HM the Queen, the First Minister, various Education Minister and the Department of Children Education and Lifelong Learning, I should have been informed that a limited process appears to have been introduced for the academic year 2009/10. The procedure is limited because it falls well short of the scope set out by the OIA in that it does not include complaints concerning financial mismanagement and fraud, failure to comply with its financial regulations, threatening students with legal action for whistle blowing, the commission and concealment of misconduct and maladministration. Complaints are also restricted to a 12 month time limit.

With regard to the Public Interest Disclosure Act the Federal University of Wales has such a policy that includes students under Appendix J of its financial regulations. It was the refusal of senior officers to implement this policy with regard to fabricated allegations of plagiarism and intimidations during examinations at the University of Wales Lampeter that lead to other offences being committed and threats being made to by self to keep quiet.

The Validation Board will at its discretion consider other complaints but this is not good enough. I will however, make a number of complaints some of which may mean a criminal offence has been committed and are within the statute of limitations, therefore I expect them to be addressed.

Given the threats of legal action and gagging orders made against students they should not only be afforded the same protection against victimisation as that of Workers under the Public Interest Disclosure Act 1998 PIDA. Moreover, given that Universities provides a public service students should be given the same protection as a complaint to the Public Services Ombudsman which carries full protection from legal action.

There is growing concern that the OIA does not make any inquiry into complaints such as those listed above, here are the comments of one Welsh student.

“The pathway report of the OIA uses stats in a misleading manner they seemed to arrange students into 3 groups (this would lessen the impact of the opinion of ALL students so the non justifieds just look like sad people who never won) - the justifieds, partially justified and non justified.

Another point is that the OIA misleads students into thinking a lawyer may not be necessary, when the OIA adjudicators are all lawyers. Not being subject to a FOI they will not tell you if lawyers represented the justifieds (bearing in mind they would not change a draft decision as it would show they were wrong- quote; a lawyer)

The Institutions get very good value for money in not having so many court cases and if the student claim is justified, the payout is a fraction of what it would be in court (and remember the Unis like gagging orders) so it is win/win for the Uni’s

The OIA gives no assurances to the student as to what it is actually looking at (and what is worrying they have no obligation to investigate anything in a current case ruling) - so as in my case

- the student gives evidence that many, many regulations have been ignored by the University (so not an equal opportunity as a student who has none of these problems) and that has an impact on the student, regulations have been changed and used in retrospect against the student, and the law of the land has been ignored (the latter is of no interest to the OIA). Student gets a non justified decision based on flimsy excuses and perceptions that mirror the University, further more the student's evidence is rewritten by the OIA to the effect it has no importance. All this takes a very long time - in my case a year adding to the limbo state of life and legal timing out of cases.

The student writes of discrepancies and items left out of the complaint (which even include what the student wants as an outcome) and asks as a matter of good practice for an explanation of this difference of opinion.

The OIA have no public accountability- they are not subject to FOIs, and as above will not explain at all why they have not considered breaches of regulations and procedures- when their literature states that is their job (but they in law they have no obligations). That is misleading the student and gives an unfair advantage to the Uni's that act as paymaster for the OIA.

The OIA adjudicators tour Uni's and meet the staff that deal with complaints. They do not meet the students with the complaint. The OIA website is very confrontational about abuse, which begs the question of just how alienated they are from the students- who it could be argued they are mentally abusing by making deceptive promises on looking at regulations etc. The fact they are a free service to the student, means the student cannot sue for breach of contract- so basically its the poisoned free carrot.

Two important things out of the pathway reports were

1) It was established that there is no emotional cost (or very little other cost for that matter!) to the University, that deficit is for the student and the OIA do not seem have any compassion.

2) regarding academic judgement- which the OIA will not look at- but I think they say that where academic judgment fails in fact, it does become questionable (but then they probably still would not want to know judging by my case)

Students do commit suicide from the shock and stigma of failing, and it would a tragedy if it took such an event to bring the malpractices of the OIA to the public eye, but then they are all lawyers..."

There is a document on Student Suicide written by Universities UK which not only absolves universities from any blame, it concluded that student suicide rates were about average for the population.

However, if it was presented as a piece of academic work it would fail, the reason being that the report makes no reference to the suicide risk, anyone with a duty for Health and Safety will tell you that you must do a risk assessment before you can give any credence to the outcome.

A risk assessment is missing so I will do one for you; it is common knowledge that being part of a social institution and having a purpose in life are probably the two major factors in reducing suicide risk. If we accept that a university fulfils these criteria then the question is why is there an

average suicide rate in a low risk environment? If this happened in an NHS surgical unit it would be closed down for an inquiry!

I suggest that the main cause for student suicide is related to Durkheim's theory of Anomie, which briefly states that when the rules break down suicide and deviant behaviour are more likely. There is growing evidence that the OIA does not investigate situations where the rules have broken down which appears to have the most destructive psychological effect on students.

It is not just the actions of staff it is the abuse of people and autonomous/unaccountable power that leaves the student in a totally hopeless and isolated situation that does the real damage. On top of this, in keeping with serial abuser behaviour it is the character assassination and ridicule to instil deep feelings of shame in victims who are made to feel this is their fault; they should not have complained.

I have had personal experience of character assassination from the University of Wales Lampeter and HEFCW which sets the tone throughout Welsh higher education, an apology does not make it right. Moreover "*it is no measure of health to be well adjusted to a profoundly sick society*". Jiddu Krishnamurti

Finally, with regard to bullying, serial abusers eliminate the complainers leaving them with large debts together with threats of bankruptcy if the student owes the university any money above £750. Universities not only destroy students education they destroy their lives to preserve their reputation.

Other students have complained that the OIA is relying on quotes from university staff instead of examining evidence; I would add that the OIA is a Company Limited by Guarantee and not a registered charity which also prevents any complaint that a student can make to the Charity Commission.

Its not just funding that needs to be addressed to make the OIA fully independent, it should be on a par with other regulatory bodies with its own independent complaints process such as the Charity Commission or a commissioner to ensure compliance with rules such as the NHS Commission.

5. Role of the Quality Assurance Agency (QAA)

Cause for Concern process – A Serious Cause for Concern, You Have Been Warned!

This process is fatally flawed in that students are threatened with legal action, made subject to gagging orders, subjected to character assassination, stigmatised, isolated, and psychologically hammered into the ground. Therefore, the insistence of the QAA that a large number of students need to complain before it becomes general and not a personal issue is impossible.

This requirement also falls short of the Public Interest Disclosure Act whereby only one person needs to make a public interest disclosure. It is outrageous to require victims of abuse to get together before any inquiry is made; it is hard enough to get anyone to come forward let alone a group when there is no guarantee they will not be abused again.

Please note. On the other hand I fully accept that there are some students from whom lecturers also need to be protected and safeguards need to be in place, however, the best way of dealing with this situation is to hand it over to someone else to deal with.

This then leads to the problem of being able to provide 'evidence', from experience a memorandum submitted to the former Department of Universities, Innovation, Science and Skills DUIS which was vetted by the Clerk and accepted as evidence to the Committee and published to their website, does NOT constitute evidence for the QAA.

There is also the issue of being qualified to assess what is a cause for concern, having spent sixteen years in social work management with two professional qualifications I am more experienced and qualified than the person who deemed that my worries about the suicide risk at the University of Wales Lampeter were NOT a cause of concern. Presumably they need more than one suicide for it to become a general issue and not just an individual complaint.

From experience I could make a list of issues that affect many students that according to the QAA are NOT a cause for concern. However, one absurd example is that anti plagiarism software was being misused to deliberately fabricate false allegations of plagiarism, which was this supported by the QAA no less who in a review of Lampeter they expressed concern about plagiarism procedures.

Then there is Trinity University College using the age old practice of using fabricated un-agreed minutes of past hearings to do a hatchet job on students during complaint board hearings. In law this would mean all other complaint board hearings and OIA decisions may well be invalid but this is NOT a cause for concern. Requests to the Student Union for Support on this issue were ignored, but they are also students and rationalise their fear of retribution and feelings of inadequacy to tackle these issues.

The QAA simply argues black is white with offering any reason. In any case as consultants Haines Watts Finance have pointed out to their surprise, the QAA assessment of a low confidence in the management of the University of Wales Lampeter was simply ignored, the same applies to any Cause for Concern; it is ultimately meaningless and therefore leaves vulnerable students at risk. Failure by the QAA to give assurances against retribution means it serves more as a method of weeding out those who complain.

Then there are the anonymous tip offs from staff about a financial scam that is costing local authorities money, I cannot say anymore for while the source asked me to do something about it any further details would identify the person concerned.

I have instigated the QAA's five stage complaints procedure for their failure to properly address the issues I have raised. Stage one by the investigating officer was ignored so it passed to the Director of Reviews. He wrote to ask two silly questions before he also ignored it, after 50 days without a reply I asked for it to be passed to stage three which is the chief executive. This was confirmed in writing but the chief executive has not bothered to even acknowledge the complaint nor has he responded within a reasonable period of time.

The QAA has no statutory powers or duties; it is exempt from the FOI Act and accountable to HEFCW and Higher Education Wales. It is also a registered charity and as such subject to complaint

from the public if they are putting vulnerable beneficiaries at this and in my opinion they are doing this with students at the University of Wales Lampeter and probably other universities.

Therefore, it is my intention to make a complaint to the Charity Commission with regard to the above and they have allowed HEFCW to have compromised its independence by concealing the situation at Lampeter for fear of upsetting their paymaster. There is the possibility of both England and Wales losing its higher education regulator. Failing that the adverse publicity will seriously damage the credibility of the QAA, and in any case given this conduct I fail to see how the QAA can carry out one of its primary functions to advise governments on higher education issues and I will also complain to this effect.

6. Other issues raised by the petitioner

Regrettably the NUS has deserted and ignored students over the sort of issues I have raised, and as such they have become part of the problem and not the solution. Where does this "Have your Say" project lead to? Who listens? What gets done about it? I suggest nowhere, nobody, and nothing.

Page 6 Last paragraph

"It is critical that Wales' higher education system of national and institutional governance provides an appropriate model and structure to support these aspirations. Consequently, I have initiated an independent review of higher education governance in Wales. The Review will consider the key issue of whether existing forms of national and institutional governance match the needs, expectations and future requirements of HE in Wales and identify any changes required."

Irrespective of the debate of more powers to the Assembly, I am very disappointed that the Minister has missed the opportunity to empower the people of Wales over issues that affect their lives and I suggest the review includes consideration of the following issues.

1. We should have our own Welsh fully independent student complaints adjudicator.
2. The QAA should be abolished and replaced by a Welsh independent higher education regulator with statutory powers to ensure compliance.
3. The independent review should tackle the climate of fear by advertising for students and staff with unresolved grievances of public interest to come forward to give evidence with protection from threat of legal action.
4. Rules for public appointments in HE need to be revised to break down the old boys' network.
5. It should be recognised the NUS is hopeless out of its depth in being able to support students with these issues.
6. There should be a Welsh student complaints scheme based on best practice and in keeping with the precedent set by the distanced selling regulations any complaint by a Welsh student

in other UK universities should be subject to the Welsh student complaint process.

7. There should be a University Commissioner and University Ombudsman in every university to independently process all student complaints and causes for concern in association with the Welfare Officer.
8. More needs to be done to support students who have suffered emotional damage as a result of being victims of injustice and abuses of power as opposed to administrative errors.
9. Schools are or will also be autonomous bodies so lecturers like teachers should be subject to the same professional standards of conduct and registration.
10. Students undertake higher education with huge debts hanging over their heads and it must be recognised that this makes them vulnerable and puts them at a disadvantage in any dispute and this fact alone makes them vulnerable consumers, the NUS are out of their depth in these issues.
11. I reiterate the point that other public spending bodies are also autonomous but proper regulation ensures they do not flout the rules with impunity. Current procedures are inadequate and unenforceable. Therefore, universities should be subject to the same regulation, public accountability and consultation as other autonomous public spending bodies.
12. I draw the Ministers attention to the recommendations of the previous DUIS Select Committee and in particular I draw your attention to the following points:
 - a) The need for a statutory HE regulator fit for the 21st Century
 - b) Special consideration should be given to the situation of mature students and single parents
 - c) A proper process for whistle blowers as current arrangements are inadequate
 - d) More should be done to help disadvantaged students to fit into university culture.
13. I have also approached the Rt Hon Nick Clegg as Lord President of the Privy Council and attach a copy of my letter to him on these issues; other students are going to lobby their MP's in support.

I will be submitting a number of complaints to the Charity Commission who given the above failure of the QAA and HEFCW will in effect take over the financial and pastoral regulation of Welsh higher education institutions. Unlike the secrecy and censorship imposed by HEFCW their findings will be made public and may invalidate any review the Minister undertakes.

That way he can dictate events rather than have the Charity Commission or the Privy Council dictate events for him which may well mean that the University of Wales Lampeter and/or the proposed Trinity St David's losing its charitable status.

This merger is dependent on Privy Council approval and I will continue to oppose permission in the grounds that their needs to be a full inquiry into maladministration and this should also be included in any review of higher education governance.

To be blunt what makes the Ministers letter totally irrelevant to the concerns in my petition is the advice I received from a professor at a leading UK university who is an expert on university governance. They told me that as the law stands the only way you can bring maladministration to light is to publish it in a magazine or journal. Despite unfounded threats of legal action and high court injunctions at public expense by the University of Wales and the University of Wales Lampeter I have published my experience and concerns to the internet.

The Welsh Assembly in preparation of the Ministers letter visited my website and read 28 pages to produce nothing more than sophistry to contradict and discredit the issues that I am raising and I suggest to prevent their inclusion in any review.

The Minister has been reported on the BBC's Political blog as saying

"Our HE institutions are small compared with those just over the border. For all the achievements of higher education institutions, they have had only a very limited transformative impact on our economy, and on our global presence and reputation"

With regard to global presence and reputation you are losing it, in addition to UK visitors I also get traffic from organisations and educational establishments in North America, Eastern Europe and the Russian Federation, India, and recently traffic from China has rocketed to be the biggest single visitor.

Search terms include "university of wales scam" I think they are referring to the practice of stitching up students with false allegations of plagiarism, "university of wales reputation" and "university of wales lampeter + suicide/reputation/corruption/scandal/sleaze".

My website is not subject to Chinese censorship but I have been reliably informed that it has been banned from being accessed by staff and students at the University of Wales Lampeter. Presumably this is to prevent me from encouraging anyone else to make a cause for concern complaint to the QAA or reporting financial irregularities. My website can however still be accessed from Trinity University College and is frequently visited at all hours by senior officers, concerned at my objections to the Privy Council regarding the merger.

I make no apology for publicising these issues and the damage done by the refusal of HEFCW and the QAA to hold people to account in order to preserve reputations at the expense of the people they are in office to serve, as a result students, institutions, Welsh higher education and the economy suffers. I have no other means of resolving long standing grievances with regard to the University of Wales Lampeter, if however, the Minister would like help resolve these matters then I would of course be amenable to a more constructive solution.

Yours sincerely

Trevor Mayes

Attachment

Letter to the Rt Hon Nick Clegg Lord President of the Privy Council.

Mr T W Mayes

Thursday, 20 May 2010

Rt Hon Nick Clegg - Lord President of the Council

Cc: The Secretary of Wales Rt Hon Cheryl Gillan

Dear Lord President,

I refer you your comments reported in the media concerning reform and your invitation for public feedback.

My personal situation arose because I complained about the treatment of disadvantaged students; details are included in the objections that I have sent to Mr Berry concerning the University of Wales Lampeter. I fully appreciate that you may not be able to comment while these matters are under consideration. However, I draw your attention to these objections, as you will probably need to make future decisions based upon their contents.

Unfortunately, any student expressing dissent that challenges discrimination against the disadvantaged, failure of compliance with procedures, maladministration, and standards in public life, can expect to be victimised to the point of costing them their career and only massive debts to show for an act of public service. Moreover, I am reliably informed from other campaigners that this is common practice in many universities.

While it is easy to identify legislation that overtly impinges on our freedoms, what has gone unnoticed is covert deregulation by leaving out references to our rights of challenge and inquiry when legislation is repealed. For instance, the Public Audit (Wales) Act 2004 repealed the Local Government Act 2000 and omitted the power of the Auditor General for Wales to intervene and take over the running of a higher education institution (HEI) on the grounds of financial mismanagement. This is an example of our rights being eroded by stealth.

Then there is fatally flawed legislation such as the Higher Education Act 2004 that introduced the Office of the Independent Adjudicator for Higher Education, known as the OIA. What was omitted was a duty on the OIA to make inquiries into failures of procedures and compliance with the information and discrimination laws. While there is the Office of the Information Commissioner and the Equality and Human Rights Commission many complaints are deliberately delayed so they are out of time for the ICO or EHRC to take appropriate action. When the Act was passed, the government said there was no evidence for any further measures being necessary, that is because students are humiliated, made to feel worthless, and subjected to gagging orders.

The public has been given that illusion that universities are subjected to the same vigorous regulation as other educational establishments such as schools. The university regulator the Quality Assurance Agency (QAA), which advises governments, is a registered charity with no statutory duties and exempt from the information laws. They are only accountable to Vice Chancellors associations and respective English or Welsh Higher Education Funding Councils who have a memorandum of understanding to provide value for money with no public scrutiny via respective National Audit Offices. The only contribution the Higher Education Funding Council for Wales (HEFCW) has made regarding its statutory duties and uphold *Standards in Public Life* is to subject me to David Kelly style character assignation to discredit my complaints and conceal their failure to act.

While I have received an apology, it does not compensate me for the loss of being able to resolve these issues and the apparent influence on the QAA to ignore my complaints.

Moreover, the autonomy of higher education institutions means that any issue of concerns about finance, management, or failure of procedures by the QAA can be, and are, ignored. The QAA has a Cause for Concern procedure open to students but from experience it is so restricting it falls short of acceptable standards and the requirements of the Public Interest Disclosure Act 1998. Like many procedures, it is for display purposes only and any student using it is going to be very disappointed.

The QAA has a five-stage complaints procedure but from my experience stage one was ignored, stage two by the director of reviews entailed writing to ask some very silly questions, and as he failed to provide a reply within fifty days, it has progressed to the Chief Executive who has not bothered to send any acknowledgement. Complaints are being ignored placing vulnerable students at risk to preserve public reputations.

The only good news is that due to my lobbying I have persuaded the Charity Commission to act as regulator for Welsh universities under the Charity Act 2006. They take up their duties in June 2010 where upon I will make formal complaints about the University of Wales, the University of Wales Lampeter, Trinity University College, and the QAA. If upheld not only will these institutions risk losing their charitable status, in the case of the QAA, which is a more vulnerable Schedule 1 Charity it could leave England and Wales without a university regulator.

I have a Peoples Petition on Public Accountability and Consultation in Higher Education before the Petitions Committee of the Welsh Assembly that is still waiting for a reply from the Education Minister to a letter I sent in December 2009. I am of the opinion that a reply is being withheld for political reasons and to conceal the failure of Ministers to address these issues and of Assembly Members to challenge the executive.

Lastly, there is the Privy Council itself, the Senior Clerk Mr Berry has quite rightly advised me that the Privy Council cannot make any inquiries into my objections to giving approval for the University of Wales Lampeter, to change its *Articles of Government* for to do so would be unlawful. I suggest that the law is changed to allow the Council to refer objections to a Committee or better still a University Commission for further inquiry so that it can make fully informed decisions based upon independent advice.

I would be very happy to present evidence in support of these issues to an appropriate Commons Committee for further inquiry. I suggest this is only a small part of a major problem in that certain sections of society claim 'nothing works' and proposals for reform to succeed they must address the much needed role back of the power of state institutions, quangos such as higher education funding councils, and autonomous public spending bodies. The old adage about power tends to corrupt has produced an unaccountable elite that flouts the rules and the law with impunity creating a disconnection between government and the people.

This would bring justice to students and address their vulnerability concerning tuition fees which leaves them open to exploitation, abuses of power, and sexual predation for which there is no effective means of redress. It would also address the mindset that discriminates against the disadvantaged, and give real power and responsibility to individuals and their communities. Moreover, we can encourage disaffected sections of society to use the political process to express their dissent as our universities are educating young people into the belief that playing it by the rules is a total waste of time. Anger and resentment against the establishment is displaced and expressed against more vulnerable targets and could lead to students being radicalised.

Yours sincerely

Trevor Mayes

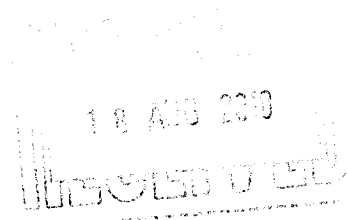
Leighton Andrews AC/AM
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes
Minister for Children, Education & Lifelong Learning



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref P-03-204
Ein cyf/Our ref LA/02264/10

Christine Chapman AM
Chair – Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA



7 August 2010

Dear Anne

RE: P-03-204 Public Accountability and Consultation in Higher Education

Thank you for your letter dated 26 July 2010 on behalf of the Petitions Committee concerning your further consideration of the petition *Public Accountability and Consultation in Higher Education* following further correspondence from the petitioner.

You have asked if I would consider incorporating the petitioner's comments as noted in your letter into the Review of Higher Education Governance. As the Review is an independent review, I have written to the Chair, Mr John McCormick, asking him if he would consider the petitioner's comments.

I attach a copy of the Terms of Reference for the Review for your information.

Your sincerely

Leighton Andrews AM
Minister for Children, Education & Lifelong Learning

Terms of Reference for the Review of Higher Education Governance in Wales

Context and Rationale

A Task and Finish Group will be established to conduct a review of higher education (HE) governance in Wales.

For our Future, the new strategy for Welsh HE, sets a clear direction of travel for HE in Wales that demands significant changes to the nature of delivery, engagement with regional and local communities and relationships with other providers. It sets a framework for ensuring excellence, competitiveness and responsiveness which will enable HE in Wales to meet the needs of a modern knowledge based, globally competitive economy and inclusive society.

It is critical that Wales' higher education system of national and institutional governance provides an appropriate model and structure to support these aspirations.

For our Future called for a review of higher education governance that built on existing strengths, evaluated current shortcomings and considered future need.

Such a review also aligns with the intentions of *One Wales*, the Welsh Assembly Government's agenda for the government of Wales, to implement continued improvement of services and review public service bodies.

Remit

The Review will consider the key issue of whether existing forms of national and institutional governance match the needs, expectations and future requirements of HE in Wales and identify any changes required.

The Review will consider:

- the role that HE governance should have in meeting the challenges and delivering the actions required to ensure Wales' HE system is fully responsive to learner need, nationally robust and internationally competitive;
- the effectiveness of current accountability mechanisms between government and the universities in terms of the delivery of national strategies; and
- any changes to national and institutional governance required to meet these responsibilities.

This will require a thorough, rigorous and analytical consideration of the:

- purpose;
- underpinning principles; and
- operational framework of:

the current systems of governance in higher education.

The following issues and questions will be investigated:

- The opportunities for improving the relationship between national and institutional governance and an assessment of alternative systems.
- The lines of accountability to government and citizens to ensure that HE provision meets national imperatives and responds to public need.
- The contribution that HE governance, nationally and institutionally, can make to delivering a world class sector with world class subject departments, research grant achievement and RAE performance.
- The governors role in overseeing, and supporting institutional commitment to collaboration and regional planning and delivery.
- The current arrangements that exist for governance of collaboration, partnership and regional planning and the changes that need to be made to ensure institutional governors have a part to play.
- The current systems of governor scrutiny activities and any changes needed to ensure HE governors are fully empowered to support, guide and oversee institutional leadership in strategic direction, evaluating quality and auditing processes.
- The current framework of governor recruitment in terms of the involvement of relevant stakeholders and the engagement of staff and students.

The Review will also consider the national role and function of the University of Wales, and its current and future contribution to the implementation of *For our Future*.

Equality

The Task and Finish Group will be mindful of the key principles of equality of opportunity, and the Assembly Government's policies on race equality, disability and promoting bilingualism; sustainable development; and social justice.

Evidence, Reporting and Support

The Task and Finish Group will seek input from external stakeholders and experts and will particularly source evidence, views and opinions from officers and members of the Higher Education Funding Council for Wales (HEFCW), Higher Education Wales (HEW), The Chairs of Higher Education Wales (CHEW), The National Union of Students (NUS), The Leadership Foundation, Colegau Cymru and the relevant trade unions.

The business of the Task and Finish Group will be set up where possible to work around members' other commitments.

The Chair is asked to produce a report by the end of January 2011. The Report will be presented to the Minister for Children, Education and Lifelong Learning.

The Group will be assisted by a team of Welsh Assembly Government officials. The facility is available to commission independent research should that be required.

Response from HEFCW

Cyngor Cyllido Addysg
Uwch Cymru
Higher Education Funding
Council for Wales

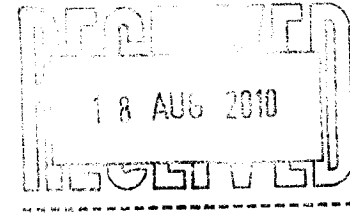
11 August 2010

Cwrt Linden
Clos Ilex, Llanisien
Caerdydd, CF14 5DZ
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hefcw

Christine Chapman AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
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Dr. Christine,

Petition: P-03-204 Public Accountability and Consultation in Higher Education

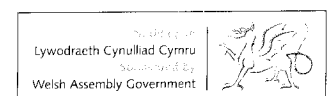
Thank you for your letter of 26 July 2010 inviting me to offer our views on the issues raised by the above petition in the context of our recently published Corporate Strategy.

There is a range of mechanisms for ensuring public accountability and the appropriateness of standards of service in higher education. These include:

- The Quality Assurance Agency which conducts institutional reviews and provides advice to government regarding applications for degree awarding powers and university title, which include elements related to governance, to the operation of proper operational processes and to the public availability, and reliability, of information (<http://www.qaa.ac.uk/>);
- Estyn, which plays a role analogous to the Quality Assurance Agency in respect of Initial Teacher Training (<http://www.estyn.gov.uk/home.asp>);
- The institutional assurance framework operated by the Higher Education Funding Council for Wales through which we secure appropriate governance arrangements in Welsh HE (http://www.hefcw.ac.uk/working_with_he_providers/institutional_assurance/institutional_assurance.aspx);
- The requirement on us to provide the Welsh Assembly Government with an annual statement of assurance on the adequacy of governance arrangements in Welsh HE;
- HE Data audit arrangements operated in Welsh HE to our specification http://www.hefcw.ac.uk/working_with_he_providers/data_collection/audit_he_data.aspx;
- Internal and external audit arrangements operated by Welsh HE institutions in accordance with the requirements of the Financial memorandum and Audit Code of Practice that is in place between HEFCW and each HE institution in Wales;
- Internal complaints processes and whistleblowing procedures which operate in all Welsh HE institutions;
- Procedures for investigating allegations of breaches by HE institutions of HEFCW's terms and conditions of funding as set out in the Financial memorandum (http://www.hefcw.ac.uk/working_with_he_providers/institutional_assurance/allegations_concerning_institutions.aspx); and,
- The operation of the Office of the Independent Adjudicator for higher education which is established to review individual complaints raised by students against HE institutions (<http://www.oiahe.org.uk/>).

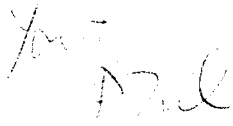
Mr Roger Thomas
Cadeir/dd/Chairman
Ffôn/Tel 029 2068 2252

Yr Athro/Professor Philip Gummert
Prif Weithredwr/Chief Executive
Ffôn/Tel 029 2068 2251



In addition, the Minister has recently announced a review of higher education governance in Wales (<http://wales.gov.uk/newsroom/educationandskills/2010/100525appointments/?lang=en>), as identified in *For our Future*.

Please do say if we can help further.

A handwritten signature in black ink, appearing to read 'Phil Gummett', written in a cursive style.

Professor Phil Gummett
Chief Executive



Christine Chapman AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

22 September 2010

Dear Ms Chapman

Petition: P-03-204 Public Accountability and Consultation in Higher Education

Aberystwyth University
Prifysgol Aberystwyth

Bangor University
Prifysgol Bangor

Cardiff University
Prifysgol Caerdydd

University of Wales Institute, Cardiff
Athrofa Prifysgol Cymru, Caerdydd

University of Glamorgan
Prifysgol Morgannwg

Glyndŵr University
Prifysgol Glyndŵr

University of Wales, Newport
Prifysgol Cymru, Casnewydd

The Open University in Wales
Y Brifysgol Agored yng Nghymru

Swansea University
Prifysgol Abertawe

Swansea Metropolitan University
Prifysgol Fetropolitan Abertawe

University of Wales: Trinity Saint David
Prifysgol Cymru Y Drindod Dewi Sant

University of Wales
Prifysgol Cymru

Thank you for your letter of 26 July 2010 inviting our views on the issues raised in the above petition.

There are many mechanisms in place for ensuring public accountability and the aptness standards of service in higher education.

There are bodies that operate on a UK-wide basis that monitor how well academic standards and quality in higher education are met and in doing so, identify good practice and make strong recommendations as appropriate, for improvement. They include;

- The Quality Assurance Agency which conducts institutional reviews and provides advice to government regarding applications for degree awarding powers and university title, which include elements related to governance, to the operation of proper operational processes and to the public availability, and reliability, of information (<http://www.qaa.ac.uk/>);
- The Office of the Independent Adjudicator for higher education which was established to review individual complaints raised by students against HE institutions (<http://www.oiahe.org.uk/>).

There are also mechanisms in place that come under the role and remit of the Higher Education Funding Council for Wales;

The Voice of Higher Education in Wales
Llais Addysg Uwch yng Nghymru

A National Council of Universities UK
Un o Gyngorau Cenedlaethol Prifysgolion y DU

Company limited by guarantee, registered in England and Wales No. 2517018. Charity No. 1001127
Cwmni cyfyngedig trwy warant, a gofrestrwyd yng Nghymru a Lloegr Rhif 2517018. Rhif Elusen 1001127

- Internal and external audit arrangements operated by Welsh HE institutions in accordance with the requirements of the Financial memorandum and Audit Code of Practice between HEFCW and each university in Wales;
- Procedures for investigating allegations of breaches by HE institutions of HEFCW's terms and conditions of funding as set out in the Financial memorandum;
- The institutional assurance framework operated by HEFCW with regard to the appropriateness of governance arrangements;
- HE Data audit arrangements operated to HEFCW specification.

Each university also has an internal complaints procedure and whistleblowing policy to which it adheres.

I hope that the details here will aid you and the Committee.

Yours sincerely

Amanda Wilkinson
Director



Christine Chapman AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Monday 27 September 2010

Dear Mrs Chapman,

**PETITION: P-03-204 Public Accountability and Consultation in
Higher Education**

Thank you for your letter of 26 July 2010 regarding the above petition. The role of NUS Wales is to represent policies set by our constituent students' unions, whose views are an expression of the opinions of the students on their campuses. NUS Wales works with our members to promote, defend and extend the rights of students in Wales. We aim to develop and support students' at universities and colleges in Wales but do not generally represent the views of individual students.

NUS Wales feels that the status of student representation has improved over the past decade, with the learner voice now being heard at all levels of higher education. This has enabled students to work with academics to shape their learning experience, as well as to contribute to the quality assurance processes within institutions. The national voice of students, through NUS, has also benefitted from a stronger presence within the higher education sector.



nationalunionofstudentswales

For over a year NUS Wales has been working with a number of sector bodies including HEFCW, Higher Education Wales, the Quality Assurance Agency and the Higher Education Academy to deliver Wales Initiative for Student Engagement (WISE). This initiative seeks to increase student representation and engagement within institutions through empowering, training and supporting course representatives in institutions across Wales. We have recently begun a similar project for students at Further Education Institutions in Wales.

This initiative is important on a number of levels, as it shows a commitment from across the higher education sector to treating students as partners in their learning experience. The 'Have Your Say Project' that is funded by HEFCW is closely linked to this agenda, and has enabled NUS Wales to train course representatives, students' union officers and students' union staff, with the aim of creating excellent student representation at every level of Wales' higher education institutions. This of course is key to resolving student issues on a local level, as well as ensuring that students understand their right to access representation through their students' union if they wish to make academic complaints. Students' union officers also sit on a range of academic and student experience committees within their institutions, as well as on their Governing Bodies.

It is also worth pointing out that students have several opportunities to engage with the QAA Institutional Review process, which reviews how effectively higher education institutions in Wales manage the quality of standards of their academic provision. The students' union is encouraged to produce a student submission as part of this process, which builds on data from the student body, in order to give the review team a distinct student perspective. NUS Wales has worked with the QAA over the past

few years to ensure that students' unions are supported in this process. During the main institutional review visit, the review team also interview a number of students and students' union officers, to ensure that there is an opportunity to hear their views in person. A recent addition to the institutional review process in Wales is the role of the student reviewer, which ensures a student perspective on the review team, something that NUS supports wholeheartedly. Since 2008, students have also been able to raise concerns in the period between institutional reviews about 'any policy, procedure or action implemented or omitted by an institution that appears likely to jeopardise the academic standards and quality of its higher education programmes and /or awards'. The Cause for Concern procedure is clearly outlined on the QAA website¹. We understand that this procedure is being reviewed to deliver greater transparency and ensure that members of the public have a clearer understanding of the process.

With regards to student representation at a national (Wales) level, NUS Wales has regular liaison meetings with the QAA and HEFCW to ensure that student issues can be raised and discussed, and that cross sector support for student engagement remains on the agenda. The NUS Wales President also holds a position on the QAA Advisory Committee for Wales, the HEFCW Student Experience, Teaching and Quality Committee and the HEFCW Quality Working Group. In addition to these longer standing links with the sector, in October 2009 I (in my capacity as NUS Wales President) was invited to sit as an observer on HEFCW Council. This is the first time that the President of NUS Wales has received this invitation, and I believe that this shows a commitment from the sector towards transparency and student engagement at the highest level of Welsh higher education. The range of meetings that are outlined in this paragraph have

¹ <http://www.qaa.ac.uk/causesforconcern/default.asp>

strengthened our ability to have an impact during the early stages of the policy process, to the benefit of our membership.

With regards to the Office of the Independent Adjudicator (OIA), the President of NUS UK sits on the board of Directors to ensure that there is a representative of students involved in the body's proceedings.

The OIA has strict guidelines surrounding the complaints it can consider and a significant point for reference is the requirement of a completion of procedures letter. Once a student has completed an institutions internal complaints procedure, they should expect to receive this letter from the institution. The letter should record the issues considered and the Institutions final findings. For an investigation to be acceptable within OIA guidelines, this completion of procedures letter needs to be submitted to OIA within 3 months of its production. These letters are produced regardless of the results and are proof that all internal procedures have been completed.

In addition to our belief in the independence of the OIA, the recent judicial review of *Budd v OIA*² confirmed this independence. The Judge, Mr Ockelton (sitting as a Deputy High Court Judge) confirmed that "there is simply no evidence that the Independent adjudicator is not independent, nor that the Board, however constituted, attempts to influence the Independent Adjudicator. While the Board of Directors may have representatives from specific institutions, they do not have any input or control over specific cases. In fact rules of the Independent Adjudication scheme (rules 8 and 10.2) require the board of directors to be responsible for "preserving the independence of the scheme and the role of the Independent Adjudicator".

² *R (Budd) v OIA* Neutral Citation Number [2010] EWHC 1056 (Admin)



nationalunionofstudentswales

Finally, we welcome the Minister for Children, Education and Lifelong Learning's Independent Review of Higher Education Governance and feel that it would be unwise to comment on this until the review has been completed and recommendations have been made.

I hope that this information is satisfactory for your enquiry, but please feel free to get in touch if we can be of further service.

Yours sincerely,

A handwritten signature in black ink that reads 'Katie Dalton'. The signature is fluid and cursive, with a long horizontal flourish at the end.

Katie Dalton
President
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Christine Chapman AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

21st October 2010

Dear Christine,

Public Accountability and Consultation in Higher Education

Thank you for the opportunity to comment on the above petition and please accept our apologies for not having been able to respond sooner.

The subject of the petition is incredibly complex and we have addressed a few of the issues indicated in the correspondence and we hope that these views are helpful.

Role and function of HEFCW

UCU supports the continued role of HEFCW as the funder of higher education in Wales. It provides an important function as the independent funder of the sector and ensuring that government remains at arms-length from universities.

The clear intention in *For our Future* is that HEFCW and the Assembly Government intend to play a strategic leadership role within the sector. Specifically this will be exercised through the progressive transfer of funding to the Strategic Implementation Fund. Similarly all capital funding will now be subject to Assembly Government approval.

It is essential however that institutional autonomy is not compromised and that they retain the ability to set their own institutional mission. Crucially however, institutional autonomy is not the same as vice-chancellor autonomy and institutions must genuinely engage with their stakeholders and communities in setting their mission. Vice-Chancellors or even an individual governing body must not be the sole determinants of the mission of an institution: staff, students and the wider community must be given a clear and prominent role. It is vital that institutions recognise and locate themselves as part of their locality and their community.

Institutional governance

At the heart of the debate about public accountability and consultation is the importance of effective governance. The review of institutional governance in higher education commissioned by the Assembly Government is the opportunity to address any deficiencies in terms of public accountability and consultation. The governing bodies of institutions – whether Boards of Governors or Councils – must be more reflective of the communities they serve and of their own collegiate communities (namely, students and staff). We would recommend that the committee feeds its work in relation to this petition into the governance review.

Academic freedom

Academic freedom is the cornerstone of informed debate within the academic community. Traditionally this freedom is defined as the freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges. This should be extended to include the right of staff to criticise the functioning of higher education institutions, including their own, without placing themselves in jeopardy. This formed part of a recent agreement at Leeds University and could strengthen public debate and accountability of our institutions.

I hope that this is a helpful contribution and please accept my apologies for the delay in responding.

Best wishes,

David Hagendyk

Political Liaison Officer, UCU Cymru