



# **Cynulliad Cenedlaethol Cymru The National Assembly for Wales**

## **Y Pwyllgor Plant, Pobl Ifanc ac Addysg The Children, Young People and Education Committee**

**Dydd Iau, 19 Mehefin 2014  
Thursday, 19 June 2014**

### **Cynnwys Contents**

Cyflwyniad, Ymddiheuriadau a Dirprwyon  
Introductions, Apologies and Substitutions

Y Bil Addysg Uwch (Cymru)—Sesiwn Dystiolaeth 3  
Higher Education (Wales) Bill—Evidence Session 3

Y Bil Addysg Uwch (Cymru)—Sesiwn Dystiolaeth 4  
Higher Education (Wales) Bill—Evidence Session 4

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod  
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal,  
cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee.  
In addition, a transcription of the simultaneous interpretation is included.

**Aelodau'r pwyllgor yn bresennol  
Committee members in attendance**

Keith Davies	Llafur Labour
Rebecca Evans	Llafur Labour
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Lynne Neagle	Llafur Labour
David Rees	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

**Eraill yn bresennol  
Others in attendance**

Rob Humphreys	Cyfarwyddwr, Y Brifysgol Agored Director, Open University
Mark Jones	Cadeirydd, ColegauCymru a Phrifathro Coleg Gŵyr Abertawe Chair, ColegauCymru and Principal, Gower College Swansea
Michelle Matheron	Rheolwr Polisi a Materion Cyhoeddus, Y Brifysgol Agored Policy and Public Affairs Manager, Open University
Dr Greg Walker	Dirprwy Brif Weithredwr, ColegauCymru Deputy Chief Executive, ColegauCymru

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol  
National Assembly for Wales officials in attendance**

Sarah Bartlett	Dirprwy Glerc Deputy Clerk
Gareth Pembridge	Cynghorydd Cyfreithiol Legal Adviser
Gareth Rogers	Clerc Clerk
Ann Thomas	Y Gwasanaeth Ymchwil Research Service

*Dechreuodd y cyfarfod am 09:31.*

*The meeting began at 09:31.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon  
Introductions, Apologies and Substitutions**

[1] **Ann Jones:** Good morning and welcome to the Children, Young People and Education Committee. I will go through the usual housekeeping rules. May I ask Members to make sure that their mobile phones have been switched off, because it affects both the broadcasting and the translation? Translation is available from Welsh to English on channel 1 of the headsets, and the amplification of the floor language is on channel 0, should you require it. We are not expecting the fire alarm to sound, so we will take our instructions from the ushers, or, as I always say, you can follow me because I will be one of the first out of the building. Just for you to know, the assembly point of this part of the building, if we are able to use the main entrance, is at the Pierhead building.

[2] We have had apologies this morning from Angela Burns, Bethan Jenkins and Suzy Davies and we are not expecting any substitutions. Some substitutions were arranged, but I think that other committees are going on at the same time. Members did not declare any interests at the start of these sessions, so I take it that that is still the case. We will move on to take evidence on the Higher Education (Wales) Bill.

09:32

### **Y Bil Addysg Uwch (Cymru)—Sesiwn Dystiolaeth 3 Higher Education (Wales) Bill—Evidence Session 3**

[3] **Ann Jones:** This is now our third session and we are delighted to have ColegauCymru with us. We have Mark Jones, who is the chair of ColegauCymru and is also the principal of Gower College Swansea; and Dr Greg Walker, who is the deputy chief executive of ColegauCymru. Thank you, both, for being here today.

[4] We have a brief session this morning. We have received your paper and thank you for that. We will go straight to questions, if that is all right with everyone. Rebecca, you have the first questions.

[5] **Rebecca Evans:** I suppose that the first and the main question is: do we need to legislate or could the regulatory framework be strengthened without the need for a Bill?

[6] **Mr Jones:** I think that a lot of clarity is needed. The sector is changing dramatically with the potential around fees going forward, but there are also a lot of changes in the relationships between further education colleges and universities. You have two colleges now, Coleg Sir Gâr and Coleg Ceredigion, which are members of a group. You also have The College Merthyr Tydfil, which is part of the University of South Wales group. You have various franchise arrangements across Wales. You have four colleges, namely Pembrokeshire College, Neath Port Talbot College, my college in Gower, and Coleg Cambria, which signed up for a new arrangement with Swansea University. A lot is happening and my feeling is that there is a need for clarity at this stage. So, yes, there is a need to give that additional clarity, which I think the Bill would give. So, the short answer is 'yes', as I think that there is a need.

[7] **Rebecca Evans:** So, it would have to be through legislation rather than through changing regulations.

[8] **Dr Walker:** It is interesting, because, even in England, where a Bill is not proposed, all the political parties are saying that they need legislation across the border to sort out the situation because funding via the funding councils is going down dramatically and fees are taking over as the way that public funding is channelled to HE providers. So, I think that there is almost a consensus that, in both England and Wales, we need a proper legislative framework to regulate and quality-assure HE provision, and I think that we are very supportive of that.

[9] **Rebecca Evans:** You said in your evidence that it would create a more level playing field. What do you see as the gaps at the moment in terms of that level playing field?

[10] **Dr Walker:** I suppose that it is based on the fact that, at the moment, it is the conditions of funding and the conditions of grant that are primarily the tools used by the funding councils to ensure that public priorities for investment in HE are delivered. As funding goes down gradually in the next three or four years, or dramatically in some cases, there will be a gap whereby, as a tool to ensure that the priorities that the Assembly has to

deliver the provision it wants, it may well disappear. So, an alternative legislative means, through fee and access plans, and through a financial management code, will need to be put in place to ensure that institutions who may be receiving small or negligible amounts of funding council grants are covered by provisions that ensure that they deliver what the taxpayer and what Assembly Members require of them.

[11] **Mr Jones:** As higher education changes, particularly with the introduction of higher level apprenticeships—apprenticeships at the moment are funded through the Department for Education and Skills—an apprenticeship would be a main curriculum and a main course, and some assessment work as well. Currently, DfES would fund apprenticeships. However, on higher level apprenticeships, which may include, for example, a foundation degree, there is a question as to who funds that because that is a level 5 or 6 course and it should be funded potentially by HEFCW. So, again, it is very mixed. With provision developing to meet the need, particularly of employers—we talk a lot about working with the foundation degree level at level 5 or 6 with employers—there is a great need to change something because, at the moment, it is very complex and there are gaps where you sometimes cannot get funding to meet those needs.

[12] **Rebecca Evans:** In your evidence, again, you refer to a barrier being the constraints that might be imposed by EU law on equitable access to student support arrangements and fair competition between providers. Could you expand on those concerns and perhaps give us some practical examples of where that might come into play?

[13] **Dr Walker:** I think it is less about concern than an issue that needs to be thought about and addressed through the Assembly's lawyers and the Government's lawyers. However, obviously, there is currently a competition commission inquiry into fee setting at the moment for HE fees, so that would have to be factored in, and competition law now is mainly at an EU level, so that needs to be factored into consideration in the Bill at some point. It might be an interesting paper to take from the Government, or from another body, to see what ramifications that would have on the Bill. It is not that we have had any specific concerns; it is just that this is now becoming much more of an issue as HE provision is set by fees rather than funded through grants. So, that is the issue.

[14] **Rebecca Evans:** Okay. With regard to the timescale of the Bill, do you think that the provisions for implementation in the academic year 2016-17 are achievable?

[15] **Mr Jones:** Yes, we think that they are. There is another argument that says that this should all wait until after the Diamond review, but the changes are happening now and there is a need to respond—the developing curriculum and the drop in fees is happening now; it may just taper away for some while, but we think that there is a need to move it forward. So, yes, those timescales, we would suggest, could well be achievable.

[16] **Rebecca Evans:** You mentioned the Diamond review. Do you have any concerns about the impact that that might have on the Bill, or the Act, if it became an Act?

[17] **Dr Walker:** I do not think that we necessarily have the time to wait because it is going to be more than two years until the Diamond review reports. Then the Welsh Government and the Assembly will have to consider how to respond to it and it would take time to legislate post-Diamond review. This is an issue and agenda that probably needs addressing within that timescale, so it is a timely Bill in that respect.

[18] **Ann Jones:** Okay. Simon and then David are next on this point.

[19] **Simon Thomas:** Diolch. Pan **Simon Thomas:** Thank you. When you were oeddech yn ateb Rebecca Evans ynglŷn â responding to Rebecca Evans about ensuring

sicrhau chwarae teg rhwng yr holl ddarparwyr, yn ôl yr hyn rwy'n deall o'r Bil, nid yw dysgu rhan amser yn dod o fewn y fframwaith hwn. Ond, rydych chi fel colegau yn gwneud tipyn o ddysgu rhan amser a dysgu rhan amser addysg uwch hefyd, rwy'n meddwl. Felly, sut ydych chi'n meddwl y byddai'r Bil yn effeithio ar yr ochr honno i'r gwaith yr ydych yn ei wneud? Rydych yn dweud bod angen Bil, ond mae *gap* yno am bum mlynedd arall, onid oes?

a level playing field between all of the providers, from what I understand of the Bill, part-time teaching does not come within this framework. However, you as colleges do a great deal of part-time teaching and higher education part-time teaching as well, I think. Therefore, how do you think that the Bill would affect that side of the work that you do? You say that a Bill is needed, but there is a gap there for another five years, is there not?

[20] **Dr Walker:** You are right that 80% of the 7,000 HE students that we have in colleges are part-time students, and that figure has been going down in the past five or six years. As you know, the number of part-time students in higher education has been declining across all providers. The justification for not regulating, as I understand it, is that there is not the same degree of competition or the same degree of market entry, if you like, potentially in part-time, because the market is so weak and is declining, and there is still credit funding for colleges and universities for part-time. So, the issue of fees being racked up dramatically for part-time students—[*Interruption.*] Sorry?

[21] **Simon Thomas:** That is directly from HEFCW.

[22] **Dr Walker:** Yes. It is credit funding, so, teaching grant credit to support the costs and to keep down the fees for part-time students, basically, in colleges and universities. That is still there. In England, that has been scrapped, and we have seen a cliff—a 40% to 50% drop in the number of part-time HE students there. Is there a need to regulate? Not at the moment; there is not a 'need'. It is something that will clearly need to be revisited if the funding arrangements from HEFCW change. I noticed that the Minister said a couple of weeks ago that it would be open to revisiting the issue legislatively, were that to change. At the moment, however, I do not think that there is a pressing need to regulate the part-time market, because it is still funded predominantly—. There is still public funding coming through from HEFCW in that market, and the competition on fees is not quite the same as it is now in the full-time market.

[23] **David Rees:** [*Inaudible.*] Obviously, your emphasis is on the part-time delivery of higher education, and this is focused on higher education. There is a question as to whether you think and believe that all higher education, including the part for which you said there is possibly no need for this at the moment, should be regulated so that there is consistency across all provision. When you talked about the timescales, you answered Rebecca, saying that you think that the timescales are achievable, but, as I said, you have a very limited contribution in that. Are the timescales achievable in reality for the sector? They are doing the bulk of the HE work full-time, in a sense. I can understand your issue, because most of this Bill does not affect you, initially, because you are in part-time provision, effectively—you said that only 20% of your students would be affected by this.

[24] **Dr Walker:** That is right. All colleges that have HE provision do have full-time students, though. So, in terms of the option to go for automatic designation or case-by-case designation, that is something that colleges will have to think about, if the Bill passes.

[25] **David Rees:** All the full-time courses will be franchised then, I assume, and, therefore, will the regulation be done by the franchisor or some other HE institution?

[26] **Mr Jones:** Five colleges are directly funded at the moment. So, even though it is small, there are 7,000 students in total, and there are still 1,000 who are in higher education,

but I do accept your point, David. I think that it is a bigger issue for the HE institutions than it is for us, but we do feel that parity is needed, and the sooner that is done, the better, we believe.

[27] **Ann Jones:** We will move on to the impact on further education colleges. Aled, do you want to take that?

[28] **Aled Roberts:** Rwyf jest am nodi'r **Aled Roberts:** I just want to note the point pwynt yr ydych wedi ei wneud yn barod, that you have made already, really. You state *really*. Rydych yn dweud yn eich tystiolaeth in your evidence that you believe that most eich bod chi'n credu y bydd y rhan fwyaf o colleges, if not all, that provide HE courses o golegau sy'n darparu cyrsiau addysg uwch yn will likely opt for automatic designation. dewis dynodi awtomatig. Pam yr ydych yn Why do you think that is the case? credu hynny?

[29] **Dr Walker:** It is because they have full-time courses, and there are still numerous full-time courses, and the bureaucracy and administration of going for course-by-course designation and the restrictions in terms of fees and so on might be too great to make that a realistic option. A number of colleges do fee plans already with HEFCW and do the sorts of things in terms of access and promotion of higher vocational education that would be required in the fee and access plans. We have to ensure—and this is a point that is strongly made in our evidence—that the sort of regulatory framework for institutions like colleges is tailored appropriately to the types of institutions they are and the fact that they are already inspected by Estyn and that they are already financially managed and monitored very closely and effectively by DfES in the Welsh Government. So, we made the point that, in the financial management code, you need to have variation in there to ensure that there is not duplicative financial monitoring and, when the QAA comes, again, that it does not duplicate work in terms of inspections that Estyn will be doing.

09:45

[30] So, you know, as long as there are significant variations in the regulations coming through, if the Bill is passed, and in the regime adopted by HEFCW for fee and access plans and for QAA, presumably, in terms of quality assurance, then it should not pose a major problem for colleges. However, it is an important issue that you do need the variation and adaptation to the type of providers that are likely to be regulated. For a small charity, say, starting up with little background in higher education, not being financially monitored by DfES or not having Estyn inspections, but wanting to go for designated provision to get student support, clearly that type of charity, if eligible, would need to have a full-blown regime of financial monitoring and quality assurance. The college already has that in place in some respects, but there may be some sensible adjustments to make.

[31] **Mr Jones:** It is a very dynamic market at the moment. The partnership arrangements between colleges and universities are far more developed now, and there are lots of discussions ongoing, working with employers to put on a new course. Some of them are full-time, and some of them are part-time. Going for all the new courses and looking at them on a case-by-case basis would just take forever. The sensible approach would just be to get a status that covers everything and then continue the discussions with universities on an individual basis. So, I do not think that there would be any interest in doing it on a one-by-one basis. It would slow everything down when we are trying to work together with universities to develop a curriculum that really makes a difference at this stage, and this is happening in Wales across all different institutions, in higher and further education.

[32] **Aled Roberts:** Mae eich tystiolaeth **Aled Roberts:** Your evidence explains how chi yn esbonio sut mae rheolaeth ariannol gan financial management by the Welsh

Lywodraeth Cymru o ran colegau addysg bellach yn gweithio. Nid wyf yn siŵr iawn a glywsoch chi dystiolaeth y cyngor cyllido yr wythnos diwethaf, ond dywedodd y byddai'r sefyllfa ynglŷn â'r pum coleg sy'n darparu addysg uwch yn uniongyrchol yn wahanol oherwydd ei fod yn credu y buasai'r pum coleg hynny yn dod o dan y gyfundrefn rheolaeth o ran y cyngor cyllido. Ai hynny oedd eich dealltwriaeth chi o'r Bil pan gawsoch ymgynghoriad?

Government in terms of further education colleges works. I am not sure whether you heard the evidence provided by the funding council last week, but it stated that the situation in terms of the five colleges providing higher education directly would be different because it believes that those five colleges would be captured under the management regimes of the funding council. Was that your understanding of the Bill when you consulted upon it?

[33] **Dr Walker:** The Bill's provision—I believe that it is in sections 26, 27, 28 and 29 that it talks about the financial management code—is pretty broadly worded. It does say that some adjustment can be made for different types of institutions and different types of provision. As for funding agreements, HEFCW has said that it may want to have funding agreements with directly funded colleges, but the point would be that the full battery of financial monitoring policies in terms of financial forecasts, accounting and the auditing prescriptions that are made for universities from HEFCW are already done by DfES in a pretty similar way—in fact, in a remarkably similar way, in some respects, because the regime for colleges, in fact, originated with the funding council's financial monitoring regime for universities. So, it is very similar. All we are saying is that we do not want duplication and we do not want two sets of very similar types of financial monitoring from two different institutions. Yes, it might be that, technically, there will have to be some sort of funding agreement with HEFCW for those colleges that have remaining direct-funded provision, but it should not be two full-blown, parallel sets of financial monitoring arrangements.

[34] **Aled Roberts:** Cred HEFCW yr wythnos diwethaf oedd mai nhw fuasai'n gyfrifol am y rheolaeth o ran y pum coleg, ond nid dyna eich dealltwriaeth chi. Rydych yn sôn am gytundebau ariannol, ond roedd HEFCW yn sôn am reolaeth a llywodraethu ariannol yn cael ei redeg gan y cyngor cyllido, o ran y pum coleg.

**Aled Roberts:** HEFCW's opinion, as stated last week, was that it would be responsible for management in terms of those five colleges, but that is not your understanding. You are talking about financial agreements, but it was taking about management and financial governance being run by the funding council, in terms of those five colleges.

[35] **Dr Walker:** Is this in terms of fees and access plans? If it is fees and access plans, then, clearly, that is a relationship with HEFCW rather than a relationship with the Welsh Government or DfES. So, yes, a college would then have to have a fee and access plan that would have to be approved by HEFCW in relation to the HE provision only. The point that we are making about the financial monitoring is not to duplicate—do not duplicate too much. I notice that, in its written evidence, HEFCW said that it would take into account the financial monitoring of DfES in terms of providers like colleges. So, I think there is some degree of discussion that we can have with the funding council.

[36] **Mr Jones:** We are just asking for a sensible approach, really—not that we do not love filling in forms and getting regular inspections. *[Laughter.]*

[37] **Aled Roberts:** Is that not true of us all?

[38] **Ann Jones:** Aled, before you go on, Simon has one small point on this.

[39] **Simon Thomas:** Hoffwn fod yn glir ynglŷn â'r pump coleg, er roeddw i'n **Simon Thomas:** I want to be clear on the five colleges, although I thought that there

meddwl mai pedwar oedd o dystiolaeth arall, ond cawn weld. Nid wyf yn siŵr. Fodd bynnag, o ran colegau sy'n cael eu hariannu'n uniongyrchol gan y cyngor cyllido ar hyn o bryd, rydych chi wedi dweud eich bod yn disgwyl mai'r arf reolaeth yw'r cynlluniau ffioedd a mynediad hyn, ond gan fod rhan-amser wedi'i eithrio, rydych chi'n sôn am gynlluniau ffioedd a mynediad i 1,000 o fyfyrwyr ar y mwyaf. Onid yw hwn yn arf mawr ar gyfer cneuen fach?

were just four from other evidence, but we will see. I am not sure. However, in relation to colleges that are funded directly by the funding council at present, you said that you expected the management tool to be the fees and access plans, but, because part-time is excepted, you are talking about fees and access plans for 1,000 students at the most. That is a sledgehammer to crack a nut, is it not?

[40] **Dr Walker:** That is where, I think, adaptations of what would be expected from different types of providers on fees and access plans will have to come through. At the moment, the fee plans that colleges do are relevant to the type of provision that they do and the type of access work that they do very successfully. I think that, as long as there is a sort of judicious, sensible arrangement there, it is a continuation, in some respects, of the system that runs at the moment where colleges often submit fee plans.

[41] There are five direct-funded colleges in this academic year. The difference is next academic year. The reason that it will go down to four is because the money that Coleg Sir Gâr was given for higher education provision will go via the University of Wales, Trinity Saint David. That is the reason why there is a discrepancy between five and four—this academic year money is going to Sir Gar; in the next academic year, it will be going to the university.

[42] **Simon Thomas:** So, a way around this might be to route all of the money through the universities anyway.

[43] **Dr Walker:** Certainly not. [*Laughter.*] In our evidence, we highlight, as Mark has already alluded to, the need for a power for the Government to directly fund HE provision in HE providers. We realise that HEFCW's remaining pot in five years' time will not be very great, but still, the flexibility for DfES in relation to, say, higher apprenticeships, to fund university level qualifications, such as foundation degrees, HNDs and HNCs is quite important. We want our HE managers to say that this is important in terms of allowing a real flexible offer for part-time students doing work-based learning. At the moment, there are huge legal complications, we are told, with the Welsh Government funding universities for foundation degrees in franchise arrangements with colleges. So, having a direct funding power, even though we would not expect suddenly, overnight, all funding for colleges to come from the Welsh Government or for this to be generally used as a power, to have that as a power that could be used to break through some of these legal problems would be very helpful. So, we would ask for an amendment in that respect.

[44] **Ann Jones:** Back to your questions, Aled.

[45] **Aled Roberts:** Mae'n amlwg mai pwrpas y Bil yw sicrhau dylanwad o ran y Llywodraeth. Mae'n dweud bod canran o'r arian sy'n mynd yn uniongyrchol o'r Llywodraeth i brifysgolion yn lleihau, felly mae angen cael rhyw fath o strwythur er mwyn diogelu ei dylanwad. Wrth gwrs, pan yr oeddem yn trafod y Bil addysg bellach, roeddech chi'n dweud mai pwrpas y Bil hwnnw oedd rhyddhau colegau oddi wrth or-

**Aled Roberts:** It is clear that the aim of the Bill is to ensure that the Government has influence in this area. It says that the percentage of funding provided directly by Government to universities is reducing, so, there is a need to have some sort of structure in place in order to safeguard its influence. Of course, when we discussed the further education Bill, you said that the purpose of that Bill was to release colleges from too



ddylanwad y Llywodraeth a bod hynny'n angenrheidiol, o achos safbwynt y Swyddfa Ystadegau Cenedlaethol. Felly, os oes angen sicrwydd o ran y perthynas rhwng y Llywodraeth a'r pum coleg hyn, mae'r Llywodraeth wedi dweud nad yw wedi cymryd unrhyw fath o gyngor gan y Swyddfa Ystadegau Cenedlaethol wrth ddrafftio'r Bil hwn. A oes gennych chi unrhyw bryderon bod yn rhaid cael sicrwydd o ran y ffordd y mae'r Bil hwn yn gweithio o ran y pum coleg hynny, achos, heb hynny, hwyrach, ni fuasai statws y colegau hynny o ran y Swyddfa Ystadegau Cenedlaethol yn ddiogel?

much Government influence and that that was necessary because of the Office for National Statistics and its requirements. Therefore, if there is need for assurances in terms of the relationship between Government and these five colleges, the Government has said that it has not taken any advice from the ONS in drafting this Bill. Do you have any concerns that there needs to be some reassurance in terms of how this Bill will work in relation to those five colleges, because, without that reassurance, perhaps the status of those colleges in terms of the Office for National Statistics may not be safeguarded?

[46] **Dr Walker:** It goes without saying that we would want to preserve the non-profit institutions serving households, NPISH, status for colleges and we have no desire for any other types of public institutions to not have NPISH status as well. So, I think it would be a question that the committee might seek an opinion on from the ONS. I do not think that we are qualified to offer a judgment ourselves, legally or in accountancy terms, as to whether the Bill would affect universities or colleges with NPISH or non-NPISH status. Obviously, if that were the judgment and the conclusion that the committee reached, that would be a concern, but we have not had any evidence that the Bill, if passed in its current form, would lead to a problem in that respect. We are expecting to be reclassified from being central Government public bodies in September or October of this year back into non-profit institutions serving households status, as a result of the Act that the Assembly passed this year.

[47] **Aled Roberts:** However, your evidence this morning is that, as far as those five institutions are concerned, the Bill is broadly drafted at the moment. It would appear that it is open to interpretation as to the nature of the influence, as far as HEFCW is concerned. In the absence of clarity, there might be a danger that that status could be affected.

[48] **Mr Jones:** Our position is that we are concerned, but we believe that, with further evidence, there is a solution to that in there.

[49] **Dr Walker:** I think that a lot of issues around the NPISH status for colleges, going back two or three years, were around direct powers over governance of those institutions. This seems to be more about quality assurance of provision, regulation of fees and the like. So, I think that that has to be the central issue—the extent of the powers over the governance of institutions and the way that they can be wound up, or how the governing bodies can be arranged and organised by regulation. I am not sure that this Bill really interferes in that directly, but I am not offering a legal opinion or an accounting opinion here.

[50] **Ann Jones:** Before we move to Simon's questions, David has a point on this.

[51] **David Rees:** Thank you, Chair; just for clarification, possibly. The advanced apprenticeship schemes, funded by the Department for Education and Skills, have been mentioned twice this morning. I just want to clarify whether, in your view, this Bill addresses all HE provision, including those advanced schemes, or not?

[52] **Mr Jones:** No, it does not.

[53] **David Rees:** I just wanted to clarify that, because that is an area that we are looking at but that might not be covered by this Bill.

[54] **Mr Jones:** The other thing to look at is what is a professional qualification, such as level 4 or 5 in marketing—. It needs to pick that up as well.

[55] **Dr Walker:** It is a bit of a grey area, in Wales and in England, in terms of—without wanting to get too much into an alphabet soup—QCF qualifications and NQF qualifications not awarded by universities. Foundation degrees are awarded by universities, as you know, and HNCs can be awarded by universities, albeit under licence to Edexcel. However, things like ILM qualifications, the Institute of Legal Executives qualifications and professional qualifications, as Mark said, are often directly funded by DfES. They go up—some of them are level 4—to level 8 in some circumstances and there is a bit of a grey area as to who is responsible for the quality assurance of those qualifications, whether it is HEFCW and QAA or whether it is Estyn through either its work with colleges or its work with funded work-based learning providers.

[56] **David Rees:** Sometimes, it is actually the organisations themselves.

[57] **Dr Walker:** Yes. Edexcel Pearson will do its own quality assurance, but the awarding organisation has a duty of quality assurance.

[58] **Ann Jones:** Simon, do you want to come in on the fee and access plans?

[59] **Simon Thomas:** Rydym eisoes wedi cyffwrdd â'r cynlluniau mynediad a ffioedd, ond o dderbyn y bydd rhai o'r cynlluniau hyn yn effeithio ar rai myfyrwyr mewn colegau addysg bellach, pa mor hyderus ydych chi eu bod yn gynlluniau effeithiol o ran eu pwrpas yn nhermau rheoli llwyddiant defnyddio arian cyhoeddus?

**Simon Thomas:** We have already touched on the fee and access plans, but accepting that some of these plans will affect some students in further education colleges, how confident are you that the plans are effective in terms of their purpose in managing the success of using public funding?

[60] **Mr Jones:** I think that written plans, in my previous and current college, are very successful. We are looking at an element of that money being invested back into the student experience. We put a submission in every year, we discuss that with the university and that is monitored heavily at the end of year. So, the experience that I have had, working with a number of universities, and working with fee plans, is that it is monitored very strongly. It is not just left to institutions; there is always ongoing debate about how to do it. Colleges, for example, would keep the same overall fee, the same as the franchising university in the main, but there is some flexibility to meet local demands, to meet the needs of particular deprived areas within the community and, sometimes, those fee plans can be flexible. My personal experience is that they work very effectively.

[61] **Simon Thomas:** What about the balance between activity and outcomes? The evidence from HEFCW last week suggested that it was very keen to see more evidence of the outcomes being effective, rather than 'We held x number of summer schools', or whatever it might be. Do you feel that there is sufficient scope for that to be reflected in the plans?

10:00

[62] **Mr Jones:** Absolutely; I do. I think that I have seen plans develop over the few years that they have been in place. They are changing around that. There are a number of targets that you are looking at there. The fee plan is required to state how much is on outcomes and how much is activity, and we work with universities to make sure that money is moved across from here to there. For me, that is part of the ongoing debate. There is plenty of opportunity to do that within the fee plans.

[63] **Simon Thomas:** How long would you estimate that a plan should be in place before you can judge its effectiveness?

[64] **Dr Walker:** We note that HEFCW, or the Welsh Government, is suggesting that the fee plans be extended to five years or so. That would allow judgment to be made more effectively on outcomes, whereas at the moment fee plans, as you will be aware, are often done on an annual basis. So, that gives you the scope to try to monitor outcomes more effectively. Of course, outcomes are dependent upon other factors as well, not just the work that a college or the university may do in terms of trying to encourage widening access. A recession happens, as we have experienced in the last three or four years, which can affect employability outcomes and employment outcomes for students and so on. Obviously, a degree of sensible evaluation of fee plans has to be made by the funding council. I am sure that it would say that it would want to do that.

[65] **Simon Thomas:** It could be extended up to five years, as you say; however, HEFCW told us that three years was the minimum time before you could measure the effectiveness. The Minister has said elsewhere that, initially, it will be for two years. Should we not just tie this off a little bit better?

[66] **Mr Jones:** Yes. I think that five years is too long. Three years feels about right. You do need a few years. The students are coming through. In colleges, you are on two-year courses in many cases, and three-year courses in some cases. Three years seems to be fine. However, if it is not working, you also need to be able to change it quickly. I think that three years feels about the right figure. That is my personal view.

[67] **Ann Jones:** David has a question on quality assessment.

[68] **David Rees:** I suppose that, in the first instance, I have an idea of the answer already, given my previous job. In terms of QAA quality assurance monitors, what proportion of your work at FE level in the institutions is separately assessed by the QAA compared to what is done as part of the parent institution's quality assurance processes?

[69] **Mr Jones:** There is only one. With Coleg Sir Gâr now going with University of Wales Trinity Saint David, I think that it is only Coleg Llandrillo that would have a large amount inspected by QAA. The vast majority of the rest is franchised provisionally, which is inspected under the franchising universities' QAA inspections. So, that is quite a lot of them. In my previous college, Bridgend College, we had partnerships with three universities and it felt as if we were part of a QAA inspection just about every year. However, there is only one college that has a significant amount of directly funded full-time—. The vast majority is—

[70] **David Rees:** You are basically part and parcel of the parent institutions.

[71] **Mr Jones:** Yes; the important part, but they work hard with us. They want us to show that. In many cases, you will see the further education college recognised strongly within the QAA reports, and specifically identified as well.

[72] **David Rees:** Clearly, the Bill initially talks about those that are only providing part-time courses not falling under the remit of the quality assurance if it was independent. However, what you are saying is that, effectively, that will not be applicable because all of the courses will come under the parent institution anyway—the franchise institution.

[73] **Dr Walker:** Yes. Given that colleges do put on full-time provision, that would potentially fall under the net of this quality assurance regime. However, I think that it is also fair to say that the quality assurance higher education review process that has just started for

this academic year is different to that in the previous cycle of QAA inspections or quality assurance processes. Under this higher education review process of the QAA, all directly funded colleges that are subscribers to the QAA will potentially be subject to what they call the higher education review. So, we are trying to work through, with the QAA—in fact, in the next few weeks—how that will work in reality and how that can be a reasonable and proportionate review, given that colleges are reviewed via their franchise arrangements with the partner university. So, again, we do not want a doubling up, with a college getting a higher education review one month and then, the following month, the QAA coming in again to review its provisions as part of, say, its partnership with the University of South Wales. We need sensible and proportionate arrangements to be put in place. However, that does not necessarily have anything to do with this Bill.

[74] **David Rees:** How many colleges have cross-border arrangements? Perhaps they have franchised courses from English institutions or elsewhere.

[75] **Dr Walker:** Certainly a couple; I can think of two or three that have, or have had, some degree of cross-border franchising arrangements. These vary year by year, of course, so that may change. Certainly I have heard of relationships between institutions in Gloucestershire and the University of the West of England, I think, at some point.

[76] **Mr Jones:** There were relationships with Chester as well. In some cases, some of our provision is only offered in England, so you have to go outside Wales. When we were discussing land-based courses in Bridgend, there was no university provider in Wales for some of those, so if you wanted to do a level 4 or level 5 HND foundation degree, you had to go across the border to do it.

[77] **David Rees:** I know that QAA operates across England and Wales, so that is not an issue. There is no difference for the institution in Wales as to how it is quality-assured.

[78] **Dr Walker:** For franchise arrangements, I suppose in UWE's case, if it was getting its higher education review, then it would want to talk to Bridgend College about its provision. So, yes, as I understand it, it would be the same as it would be if it were the University of South Wales.

[79] **Ann Jones:** We will move on to the—

[80] **Aled Roberts:** Could I ask a question?

[81] **Ann Jones:** Yes; sorry, Aled.

[82] **Aled Roberts:** If the regime in England is lighter than the regime in Wales, is there a difficulty, or a potential difficulty, that those franchise arrangements with England-based institutions might increase, in order to avoid the stricter regime in Wales?

[83] **Dr Walker:** I think that the college would want to ensure that its provision was as high-quality and high-standard as possible, and fully quality-assured. It would not want to choose a partner provider across the border just because it was subject to a lighter quality-assurance regime. Colleges will want to do their best for their students and will want to give the best provision. So, certainly not in the case of a college, but I suppose that the fact that for-profit-institutions have been effectively ruled out from getting student support under this Bill, by the stipulation that all providers have to be charities, would mean that it makes it a bit less of a problem; hopefully, a charity would not necessarily want to be undercutting by simply going across the border to get a lower level of quality-assurance from a different system. I would hope not, anyway.

[84] **Mr Jones:** We are a cog in this. We want our students to progress—it is not HE per se, but HE with the opportunity to progress. It is far harder if the students have to progress to England. The example that I can recall is where the English HEI did offer scholarships to students who had finished level 5 and wanted to go on to level 6. However, if there is a university in Wales to which our students could progress from doing a foundation degree, we would want to go to do that every time, because that is what is best for the students and they are more likely to progress. So, we are not going to go to England if it is easier there—I have no idea whether or not it is, but we are not going to do that.

[85] **Ann Jones:** We will move on to the financial management code, which is the last section. Keith, you have the questions on this.

[86] **Keith Davies:** Rwyf yn mynd i ofyn fy nghwestiwn yn Gymraeg. Mae'r cod rheolaeth ariannol yn awr yn rhan o'r Bil. A ydych wedi cael digon o amser i gael trafodaeth arno a sut y creffir arno? Yn eich adroddiad, rydych yn dweud y bydd hyn yn rhoi mwy o bwysau ar golegau i ymateb i'r cod newydd, felly beth yw eich barn chi am hynny?

**Keith Davies:** I am going to ask my question in Welsh. The financial management code is now a part of the Bill. Have you had sufficient time to have discussions on it and how it will be scrutinised? In your report, you say that this will put additional pressure on colleges to respond to this new code, so what is your opinion on that?

[87] **Dr Walker:** We have had informal discussions with the funding council and, of course, this is still a Bill and not an Act and the regulations that will come out in relation to the financial management code will be a year or two, at the earliest, down the track. There is recognition that the financial management arrangements for institutions like colleges that already have a proper and full financial monitoring regime with DfES is going to be different from that of a small charity setting up for the first time and wanting to make HE provision. There is some reference in section 28, I think, to the fact that circumstances can be varied in terms of the financial management code. So, there is some provision in the Bill on that. We would obviously want that to be topped off when the time comes, if the Bill passes, to ensure that—again to refer to the point that I made a few minutes ago—duplicative financial monitoring regimes are addressed. We get a sense of flexibility from HEFCW, but we also understand that HEFCW has statutory responsibilities under existing Acts. If this Bill is passed, it will have to assure itself that DfES is doing its job satisfactorily. However, given that HEFCW is an agency of the Welsh Government, you would have thought that a good arrangement could be made between the two entities.

[88] **Keith Davies:** Although, I think that the code will finally be approved by the Minister.

[89] **Dr Walker:** Yes.

[90] **Simon Thomas:** Ar y pwynt hwnnw, mae'r cod yn cael ei osod gerbron y Cynulliad, ond nid oes ffordd i'r Cynulliad drafod neu gymryd tystiolaeth ar y cod, neu beth bynnag. A ydych chi'n gwbl hapus i adael hwn jest i'r Gweinidog? [*Chwerthin.*]

**Simon Thomas:** On that point, the code is to be laid before the Assembly, but there is no way for the Assembly to discuss or to take evidence on the code. Are you entirely comfortable to leave this just to the Minister? [*Laughter.*]

[91] **Dr Walker:** I think that the words in our response about the powers were something like, 'This is a matter of constitutional principle and ColegauCymru notes the differing views of individuals and organisations on these matters'. [*Laughter.*] Sorry if they are weasel words, but—

- [92] **Mr Jones:** Well answered, Greg. [*Laughter.*]
- [93] **Ann Jones:** That is a high point to end the session on.
- [94] **Simon Thomas:** Yes. I note that there was not a negative or a positive—[*Laughter.*]
- [95] **Ann Jones:** We have overrun, so, Keith, are you happy?
- [96] **Keith Davies:** Yes.
- [97] **Ann Jones:** Okay. May I thank you both for coming in and sharing your thoughts with us? We will send you a copy of the transcript to check for accuracy, but you know that anyway, do you not, because you have been before? So, if Members are happy, we will break until 10.15 a.m. when the next witnesses come. Thank you.

*Gohiriwyd y cyfarfod rhwng 10:11 a 10:16.  
The meeting adjourned between 10:11 and 10:16.*

#### **Y Bil Addysg Uwch (Cymru)—Sesiwn Dystiolaeth 4 Higher Education (Wales) Bill—Evidence Session 4**

[98] **Ann Jones:** We will now reconvene. We are delighted to have with us the Open University for this session, in which we are still looking at the Higher Education (Wales) Bill. Thanks very much for your paper. We have got Rob Humphreys, who is the director, and Michelle Matheron, who is the policy and public affairs manager. Thanks for coming here, and I am sorry that we are running late. Anyway, we have a set of questions to ask within a short space of time, so I am going to ask Simon to take the first set on the scope and purpose of the Bill.

[99] **Simon Thomas:** Diolch, Gadeirydd. A gaf i ofyn yn gyntaf oll, a derbyn nad yw'r Brifysgol Agored yn cael ei chynnwys yn y Bil fel mae sefydliadau addysg uwch eraill yn cael eu cynnwys, o'ch safbwynt chi, wrth edrych ar y system yng Nghymru, a ydych chi'n gweld bod angen deddfwriaeth yn y maes hwn ar hyn o bryd, o gofio bod datblygiadau ar y gorwel megis adolygiad Diamond?

**Simon Thomas:** Thank you, Chair. May I ask, to begin with, accepting that the Open University is not quite encompassed by the Bill as other higher education institutions are, from your point of view, looking at the system in Wales, do you see that there is a need for legislation in this area at present, remembering that there are developments on the horizon, such as the Diamond review?

[100] **Mr Humphreys:** Yes, we do. It will be obvious, I think, that the funding regime for full-time provision in higher education has changed dramatically, so it is evident that the existing or previous levers that were at the disposal of the Higher Education Funding Council for Wales for holding institutions and the sector as a whole to account for public investment are severely diminished, if not disappearing altogether. So, we think that it is timely and appropriate for new legislation to be brought forward. We have one qualification to that, and that is, obviously, that part-time provision is not, at present, taken account of in the Bill, although there is some intent there that it will be in due course. While we would want to see part-time, ultimately, encompassed in any new regulatory regime, it is a little difficult to get a clear line of sight into exactly how that would be provided for, and we would want to ensure that there were appropriate regulatory provisions in place that suited the distinctive nature of part-time HE and that, as they were brought forward, there was appropriate scrutiny within the National Assembly.

[101] **Simon Thomas:** Rwy'n casglu o'r hyn rydych chi newydd ei ddweud eich bod chi eisiau gweld unrhyw ddarpariaeth ar gyfer myfyrwyr rhan amser ar wyneb y Bil yn hytrach na thrwy is-ddeddfwriaeth sy'n cael ei phasio drwy'r drws cefn, fel petai, yn y Cynulliad. A ydych chi o'r farn bod modd cynnwys darpariaeth rhan amser 'nawr, neu a ydych chi'n meddwl bod yn rhaid aros am adolygiad Diamond cyn edrych ar hynny?

**Simon Thomas:** I take it from what you have just said that you want to see any provision for part-time students on the face of the Bill rather than in subordinate legislation that is passed through the back door, as it were, of the Assembly. Are you of the opinion that there is a way of including part-time provision now, or do you believe that we need to wait for the Diamond review before looking at that?

[102] **Mr Humphreys:** That is a tricky question. As we read the Bill as it stands at the moment, it is almost as if there is a placeholder there for part-time provision to be included in due course. I think that that is right. I have spent pretty well my entire career in higher education and adult education arguing for parity of esteem for part-time provision, so it would be perverse to say that, in the medium to longer term, part-time provision should sit outside any regulatory regime. It is HE provision, of a distinct kind, but it should be of equal status with full-time provision. Therefore, you would want to see it under the same regulatory regime in the longer term. So, the placeholder thing kind of works in its own terms, but the devil is in the detail. Certainly, there is a lot of water to go under a lot of bridges post Diamond, because Diamond can come up with a set of recommendations that may or may not include an equitable funding system for part-time study, but that will have to be implemented and discussed here by the National Assembly and the Welsh Government, and so on. So, as and when any long-term arrangements for part-time study are in place, any regulatory regime to cover that, if it is to be adjusted from the regulatory regime that is brought forward through this Bill, needs to receive—I would not use the term 'back door'—appropriate and adequate scrutiny within the Senedd.

[103] **Simon Thomas:** O safbwynt yr hyn rydych newydd ei amlinellu, mae prosesau eraill sy'n effeithio ar gynnwys y Bil hwn, yn enwedig o safbwynt astudiaeth rhan amser, sef adolygiad Diamond a datblygiadau yn Lloegr, wrth gwrs, hefyd. A ydych yn gweld bod amserlen y Bil hwn yn weithredol yn ymarferol?

**Simon Thomas:** From the point of view of what you have just outlined, there are other processes that affect the content of this Bill, especially in relation to part-time study, namely the Diamond review and developments in England, of course, as well. Do you see the timetable for the Bill as being practical?

[104] **Ms Matheron:** I note that HEFCW and the Minister have said that it is tight, but doable. Obviously, it is for them to decide whether they think the time is there for them to bring forward what they need to. However, we would certainly want to ensure that, within a timetable that is tight but doable, there is adequate time for consultation and as much scrutiny as possible. I know that, in the development of the Bill so far, because of the unique position of the OU with regard to it being a four-nation university and also only delivering part-time study, we have had some very useful discussions with officials about how we might be affected and how we can factor in those things as the Bill is drafted. I would not want to not have adequate time to continue those discussions, because with quite so much of the regulation being delivered through secondary legislation and being subject to the negative procedure, for us, we are looking at a piece of legislation that will not apply to us initially, will apply to us in a unique way and will be delivered through a great deal of regulation that we will have to find when it comes out and look through it to work out what the implications might be for us and for part-time.

[105] One of the things that we have said in lots of other arenas about HE policy development is that it simply does not work to create a policy or legislation for full-time provision and then apply it to part-time provision. The students are different and, for us in

particular, the way that the study is delivered is different. We would have concerns about a timescale being put in place that meant that regulations are brought forward that suit full-time provision, but when part-time provision is encompassed later, we are expected simply to comply with the same things. We need to ensure that we have time to look through it and work out what might happen if and when part-time provision and the OU are covered in the future. That is a lot of ‘ifs’ and unknowns. So, if that will affect the timescale, then we need to be conscious of that.

[106] **Simon Thomas:** Thank you for that. There is also an interesting option in the Bill of doing things on a case-by-case basis as well. It is not clear to me, but that could include potentially new providers on a part-time basis coming into Wales. Is that something that you have any concerns about?

[107] **Mr Humphreys:** It is too vague a proposition, I think, for us to take a view on it.

[108] **Simon Thomas:** There is no detail there about what ‘case-by-case’ might mean. That is an example, I think, of where further legislation—

[109] **Mr Humphreys:** Yes, I think we would understand the rationale for that, because the HE landscape at a UK level is pretty fluid at the moment because, in part, of pretty dramatic changes in England and the arrival, or at least the potential arrival, of private providers in considerable numbers and because, in England and Wales in particular but at a UK level as well, things are interwoven, I can see why the legislation might usefully leave the option open to deal with things on a case-by-case basis because there may be something rather unforeseen in terms of detail. Perhaps that is a positive thing in terms of part-time, so that elements of part-time could be considered on a case-by-case basis and receive due discussion and scrutiny.

[110] **Ann Jones:** We have already touched on this, but, Lynne, do you want to take that a bit further?

[111] **Lynne Neagle:** Yes. We have touched on the balance between powers on the face of the Bill and subordinate legislation. Is there anything you would like to add to the comments you have made already in relation to that, because it is something that you raised concerns about in your evidence as well?

[112] **Ms Matheron:** I think that, really, there are just two principles. One is that, generally, I think that, for good scrutiny, accountability and healthy democracy, it strikes me that there is a lot to be delivered through secondary legislation, through regulations, and that it might be better and more helpful, I think, in terms of refining those regulations, if some of those were subject at least to the affirmative procedure. I am thinking particularly about stuff around what should perhaps be included in the fee and access plans and the reasons for rejecting one of those plans. I also appreciate that there is a lot of stuff here that is quite technical in nature that might not need to be subject to that procedure. However, I think that there are some fundamental things on which it would be useful for us to know that there is going to be that extra opportunity for scrutiny.

[113] Secondly, for us, as I mentioned previously, we are looking at a situation where we know that these regulations may apply to part-time in future and to us, so, given that the Bill might go through and then that is it—regulations will be developed and it will be for institutions and members to have to remember to look for it and flag it up and think, ‘Actually, when are these regulations coming out? We have to look through them. Somebody might need to call them in for further scrutiny’, from our point of view—we would prefer a situation where some of that fundamental stuff is going to be subject to an extra layer of scrutiny, certainly in relation to the impact it might have on part-time at such time as part-



time is included, which may be a good few years hence given that it is unlikely to happen before the Diamond review has reported and changes have been implemented. So, I think that it is just a plea for that from us, really.

[114] **Mr Humphreys:** I just want to add briefly that this touches on the whole notion of the arm's-length principle and higher education being at one remove from direct Government control. We are quite properly discussing that here, and there is always, one would hope, a creative tension between public investment—taxpayers' money being put into higher education—and institutions being held to account for their spending of that money. I think that that is a perfectly proper and legitimate concern of citizens and of their representatives here. However, historically, there has been this rather precious notion of autonomy for institutions—relative autonomy at least—since the establishment of the University Grants Commission in the first decade of the twentieth century, as I think it was. That is the broad structure that has served higher education well in Wales, the UK and, indeed, in many western democracies. If there was overuse of regulation that significantly changed the relationship between Government and the sector, that would possibly begin to wear away at that very precious principle.

[115] I would remind colleagues—and I see around the room that there are some veterans of the referendum in 1997 that set this Assembly up in 1998—of the then Welsh Office document, 'A Voice for Wales', and you can all dust it down from the shelf when you go home this week. I think that it was paragraph 3.25 of that document that specifically ring-fenced HEFCW as something that must remain an arm's-length body. Obviously, things have changed with the Government of Wales Act 2006 and the referendum in 2011, so maybe that will change. However, there is something about the arm's-length principle being part of the DNA of Welsh democracy and Welsh Government, it seems to me. We would tamper with that at our peril. I think that precious care needs to be taken of that.

10:30

[116] **Lynne Neagle:** That was very helpful. Thank you

[117] **Ann Jones:** What about the effectiveness of fee and access plans?

[118] **Simon Thomas:** Yes, I will come on to that in my question.

[119] Gan adeiladu ar yr hyn yr ydych newydd ei ddweud, un o'r ffyrdd y gallwch weld bod y cyngor cyllido yn tresmasu ar annibyniaeth y prifysgolion yw drwy gynlluniau'r ffioedd a mynediad. Wrth gwrs, nid yw hynny'n effeithio arnoch chi, ac ni fydd yn effeithio ar fyfyrwyr rhan amser ar hyn o bryd. Ond, o gymharu'r hyn sydd yn y Bil â'r hyn sy'n digwydd yn awr, sef bod amodau cyllido, i bob pwrpas, i sefydliadau ar gyfer y cyrsiau y maent yn eu cynnig, a ydych yn gweld bod y cynlluniau ffioedd a mynediad hyn yn mynd i fod yn effeithiol, i ddiogelu arian cyhoeddus ac i sicrhau annibyniaeth y sefydliadau?

Building on what you have just said, one of the ways in which you could see the funding council impinging upon the independence of universities is through these fee and access plans. Now, of course, this does not impact upon you, and it will not have any effect on part-time students at present. However, in comparing what is contained in the Bill with what currently happens, namely, that there are funding conditions placed on institutions in terms of the courses that they can provide, do you believe that the fee and access plans will be effective in safeguarding public money and in ensuring the independence of the institutions?

[120] **Mr Humphreys:** Broadly speaking, yes. The operation of fee and access plans will be drawn up by HEFCW, which is an arm's-length body, so, here we are in that classic sort of tension between the use of public funds, accounting for them and ensuring that the

universities serve broad public purposes, and, in Wales at least, the notion of higher education as a public good is still a valued one across the political spectrum. So, I think that the fee and access plans are a useful regulatory tool. There is always a danger of burdensome bureaucracy around those things, and while you say in your question, in passing, that we will not be subject to them, it is worth just making the point that because the Open University still receives a learning and teaching institutional grant from HEFCW, we are still subject to the old regime. So, HEFCW still has levers to pull with us, and, believe me, it is rigorous in its scrutiny of our existing provision and sets of activities and so on, and rightly so.

[121] **Simon Thomas:** Those levers only exist as long as you receive money from HEFCW.

[122] **Mr Humphreys:** Yes, that is right, and I am glad that you mentioned that, because I noticed that the chief executive of HEFCW—I hope that I am not quoting him out of turn here—at his appearance before this committee as part of this consultation, said that he hoped that it would be able to sustain the part-time learning and teaching grant to get through to any post-Diamond settlement. I guess that, to be fair, he could not have said much more, but that kind of language is something that we notice, obviously.

[123] **Simon Thomas:** What we will have is twin regulatory tracks here, particularly in your case.

[124] **Mr Humphreys:** Yes.

[125] **Simon Thomas:** There will be the old system, in which the funding and control go hand in hand, and the new system, which is much more of a fee and access plan-based system.

[126] **Mr Humphreys:** Yes.

[127] **Simon Thomas:** It does take us back to an earlier point, but one I think that is still worth exploring, in that it means that, until we resolve part-time HE—inevitably, it has to be Diamond that does that, because it is part of its remit—this Bill will only be imperfect as regards your provision in Wales. Is that a fair conclusion? I am not saying that the Bill is imperfect, but that the situation will be imperfect.

[128] **Mr Humphreys:** Yes; that is right.

[129] **Simon Thomas:** It is unfinished business, then.

[130] **Mr Humphreys:** Yes. My understanding is that the Bill makes a case—I think that it is explicit, but it is certainly implicit that those institutions that offer predominantly full-time provision, but have some part-time, will be subject in their fee plans overall to the part-time as well. Clearly, in the case of our institution, we are unique in a number of ways, but we only offer part-time provision, so we are still subject, as you say, to the alternative, existing track.

[131] **Simon Thomas:** Those institutions will be designated, and that is it, full stop.

[132] **Mr Humphreys:** Yes; that is right. As I said, however, the existing regime is itself rigorous. We have not come here to talk about HE funding today, but where our worries lie is that, between the difficult period between now and any post-Diamond long-term settlement, there are concerns that there is a sort of gradual leakage of part-time funding into the full-time settlement, which is obviously a relatively high-cost settlement.

[133] **Ann Jones:** Shall we move on to quality assessment current arrangements, David?

[134] **David Rees:** Obviously, although the 1992 Act identifies the OU in Wales and the OU in England as two entities, there is only one legal entity, and that is the OU. Therefore, I would assume that you come under the QA provision of the OU in England. Therefore, when the OU is assessed, that is when you are quality assessed as well.

[135] **Mr Humphreys:** Yes.

[136] **David Rees:** Do you see this Bill changing anything in that direction?

[137] **Mr Humphreys:** No. Our understanding is that particular provision has been made for the OU. I think that it is quite a neat solution in the Bill that, in the longer term, we would come under the fee plans and so on. Now, we are held to account by HEFCW in areas such as widening access, and so on. We report on that, and we have to meet targets that are set by the Welsh Government and HEFCW. I think that that is right. Given the scale of the OU—the OU in Wales is 5% to 6% of the entire institution—it is far more appropriate that we are subject to quality assessment under the English system. That is largely to do with timing, because the QAA itself is a UK-wide body. HEFCW has an agreement with the funding council in England for provisions of that kind. That then raises questions—and this is not a negative point at all, but an observation—around cross-border, cross-UK, inter-governmental and inter-agency relationships, if you see what I mean. This requires HEFCW and HEFCE to liaise and co-ordinate on this; it might be around the OU or other matters. I think that that is quite important. So, those mechanisms need to be in place, particularly now that there is perhaps a growing divergence between the sectors across the UK. I will just make the point that, if anything, it is the English system that is diverging more from the Welsh and Scottish systems rather than the other way around, though it is often put that way.

[138] **David Rees:** So, the Bill does not need to change as a consequence, because the Bill indicates that HEFCW will have responsibility for quality assurance. Therefore, it is up to HEFCW to make arrangements for that.

[139] **Mr Humphreys:** Yes.

[140] **David Rees:** So, those arrangements will be made.

[141] **Mr Humphreys:** That is right. It is then a matter for HEFCW to ensure that it is satisfied that adequate arrangements are in place with HEFCE and the QAA. No doubt HEFCW would look for some kind of special attention or alteration if it felt that something that it wanted to explore was not being explored sufficiently.

[142] **David Rees:** Just out of curiosity, beyond the OU, do you see the Bill addressing the quality assurance questions for any provider of part-time provision—and only part-time provision—here in Wales?

[143] **Mr Humphreys:** I am a little reluctant to comment on institutions other than the OU, but my understanding is that the provisions of the Bill in terms of quality will do the job. It is worth making the point, I think, that part of the success and quality reputation of Welsh HE derives from being part of the UK system and the quality regime across the UK. That is quite significant, and it would be inadvisable to deviate from that significantly.

[144] **David Rees:** I do not think that the Bill is going to take the ability of HEFCW to use QAA as its quality assessor.

[145] **Ann Jones:** On the financial management code, I bring in Keith.

[146] **Keith Davies:** Diolch, Gadeirydd. Byddaf yn gofyn fy nghwestiynau yn Gymraeg hefyd. Bydd HEFCW yn cyflwyno cod rheoli ariannol. Fodd bynnag, o'ch profiad chi yn y Brifysgol Agored, beth yw'r gwahaniaeth rhwng y system o fonitro ac asesu yn Lloegr a'r hyn sydd wedi'i gynnwys yn y memorandwm presennol i Gymru?

**Keith Davies:** Thank you, Chair. I will ask my questions in Welsh as well. HEFCW will bring forward a financial management code. However, in your experience at the Open University, what is the difference between the system of monitoring and assessment in England and what is included in the current memorandum for Wales?

[147] **Mr Humphreys:** I am afraid, Mr Davies, that for the first time today, I am going to kind of decline to answer the question. The OU operates under the English financial system, which itself is subject to some adjustments and alterations now. So, I am not sure that it is appropriate for me to comment in any detail on the Welsh financial memorandum and so on, though my understanding is that they are broadly similar in substance and intent.

[148] **Keith Davies:** That is fine as an answer.

[149] **Ann Jones:** We have a final set of questions on governance and accountability from Lynne.

[150] **Lynne Neagle:** Building on that, are you able to expand a bit on how your accountability and governance arrangements work in the different parts of the UK?

[151] **Ms Matheron:** The OU is subject to regulation in all of the UK nations. Obviously, however, there is a need to avoid duplication to ensure that we are not being doubly regulated. So, there is a financial memorandum between the OU and HEFCE. Financial agreements are in place with HEFCW for our provision here, with the Scottish Funding Council for our provision in Scotland and with the Department of Employment and Learning in Northern Ireland. Those arrangements rely on HEFCE to undertake the monitoring and assurance in respect of the financial side of it and the governance arrangements.

[152] Should part-time come under the auspices of the Bill, I do not think that, based on what we can see—again, it is not all there, so it will be a case of us keeping an eye on things as more regulations are brought forward—and the information that we have received from officials, there would be a dramatic change to the way that the OU is regulated in terms of funding or the quality assurance side. That was an important part of the conversations that we had with officials when this Bill was being drafted, which we very much welcome, because we are in that rather unique position of operating in all of the four nations.

[153] **Mr Humphreys:** I would add, if I may—I know that we are pushed for time, Chair—that because of the unique nature of the Open University as the only HE institution that is funded by, and accountable to, the four jurisdictions of the United Kingdom, it is in a unique position in many ways. The nearest parallel is the BBC rather than another higher education institution, at least in those terms.

[154] **Simon Thomas:** I hope that you are not paid as well. *[Laughter.]*

[155] **Mr Humphreys:** In my dreams.

[156] I would say that, and I should have said this in response to Mr Rees's question, we made points about not having two layers of reporting and financial accountability and so on in regulations. I think that it is worth putting on record that the Government has listened to our concerns, and we are very glad of that. However, in turn, if and when the Bill is enacted and in place, just to return to a point that I made earlier on, there are significant cross-border issues here in terms of governance between the two departments—the departments for

education here and in Westminster—and the funding councils here and in England, and, indeed, the Scottish Funding Council, in how they integrate and work together. Those are significant UK constitutional themes, which we are just touching on here.

[157] This is not solely a matter for Wales, because higher education in the UK, particularly in England and Wales, is interwoven in all sorts of ways—the undergraduate student markets, if you want to use that term, but also in terms of areas of quality, overseas recruitment and all of those kinds of things, research and so on. Those things are important.

[158] **Ann Jones:** Do Members have any more questions, or are we content? I see that we are content. I thank witnesses very much for coming. As you know, because you have been to committee meetings before, we will send you a copy of the transcript to check for accuracy.

10:43

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod  
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the  
Meeting**

[159] **Ann Jones:** I move that

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42.*

[160] Are Members happy to go into private session for the rest of the meeting? I see that you are.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:43.  
The public part of the meeting ended at 10:43.*