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Dear Sarah

### **CONSULTATION ON THE HIGHER EDUCATION (WALES) BILL**

Thank you for sharing with Wales Audit Office staff the Committee's consultation on the Higher Education (Wales) Bill. I do not intend to comment widely on the scope of the Bill and the consultation questions that the Committee has posed. However, I thought that it would be helpful to draw to the Committee's attention my November 2013 report on *Higher Education Finances*. The commentary and recommendations in that report are relevant to the regulatory framework for higher education and the background context to the Bill. I have set out below some specific observations based on the content of my report.

#### **Ensuring that the new regulatory framework is proportionate**

Recommendation 5 in my report noted that although there are associated costs, a robust system of regulation can deliver benefits to the higher education sector, such as increasing the willingness of the banking sector to lend. Nevertheless, in the context of the development of the Bill, my report recommended that the Welsh Government should assure itself that "*the new regulatory framework and the resources invested in its operation are proportionate to the size and scale of the higher education sector in Wales when compared with arrangements operating elsewhere in the UK*".

The Welsh Government has shared with Wales Audit Office staff its response to the recommendations in my report. The Welsh Government has indicated that it has accepted all of the recommendations in my report that were directed at it. However, while the Welsh Government has committed itself to ensuring that the new regulatory framework for higher education and the resources invested in it are proportionate, the response does not provide any further detail.

I note that the Welsh Government's explanatory memorandum refers to the different approach being taken in England, with regulatory reform being pursued through administrative rather than legislative means. The memorandum also refers to concerns expressed by the Higher Education Policy Institute about the risks associated with the approach being taken in England. The Committee will, no doubt, receive evidence on this comparison between Wales and England as it considers the Bill and the regulatory impact assessment.

### **Fee planning**

My report noted that the introduction of higher tuition fees from 2012/13, combined with the introduction of the Tuition Fee Grant and the reduction in HEFCW's direct teaching funding, increases the significance of HEFCW's role in regulating institutions' fee plans. Reflecting on the current arrangements, the report concluded that HEFCW has managed the new annual fee planning process well, particularly given the time constraints it faced in order to develop the arrangements for 2012/13 well in advance of the start of that academic year. However, both HEFCW and the Welsh Government recognised that the fee planning process needed further development. My report noted that institutions' fee plans for 2014/15 had already been approved before delivery against 2012/13 plans could be evaluated. That situation was symptomatic of an inherent time lag in the process between the points at which fee plans are approved, delivered and assessed.

I note that one of the intentions of the Bill is to strengthen HEFCW's role in monitoring institutions' compliance with their fee plans. This implies a more active role during the period to which the plan relates than has perhaps been the case to date and appears to be reflected in an increase in the estimated costs associated with monitoring and evaluation of the fee plans under the new proposals. The Committee might wish to seek further details about the extent to which the additional costs for monitoring and evaluating fee plans include costs borne by institutions and the nature of the additional work that is envisaged.

In commenting on HEFCW's wider monitoring of the higher education sector's performance against Welsh Government policy objectives, my report noted that HEFCW had expressed the aim of aligning and integrating its headline performance measures for the sector with other aspects of its work, such as fee planning. As at September 2013, the detail of potential changes had not been finalised. However, my report noted that, in principle, the alignment and integration of performance measures could result in a simpler and more coherent system for both HEFCW and institutions, with clearer accountability. In the context of the Bill and the associated regulatory impact assessment, the Committee might wish to explore the extent to which any further consideration has been given to opportunities to streamline different elements of HEFCW's work.

I note also that paragraph 89 of the Welsh Government's explanatory memorandum states that: *"The outcomes of institutions' activities and investments in support of fee plan objectives will take time to become evident and it has not been possible to date to evaluate the effectiveness of the plans. Therefore, the Bill does not seek to make significant amendments to the content of fee plans"*. However, my report noted that HEFCW was in the process of formally evaluating institutions' delivery of their 2012/13 fee plans, with the expectation of there being a report by March 2014. The Committee may want to enquire further with the Welsh Government and HEFCW about the evidence that is available to date regarding the effectiveness and impact of institutions' 2012/13 fee plans.

### **Financial assurance**

Commenting on HEFCW's approach to financial assurance work within the current regulatory framework, my report concluded that HEFCW adopts an effective risk-based approach to monitor the financial sustainability and governance of higher education institutions in Wales within the current regulatory framework. My report describes the current arrangements in a little more detail. The Welsh Government's explanatory memorandum makes clear that there is an expected increase in costs associated with financial assurance work. Again the Committee might be interested to explore how these additional costs are distributed and the extent to which they relate to the expected broadening of HEFCW's reach, as opposed to any more general strengthening of the existing financial assurance framework.

I hope that this response is helpful to the Committee. I am copying this letter to the Chair of the PAC to help inform the PAC's own response to the issues raised by my report.

Yours sincerely



**HUW VAUGHAN THOMAS**  
**AUDITOR GENERAL FOR WALES**

cc Mr Darren Millar AM, Chair, PAC