

Consultation on the Further and Higher (Governance and Information) (Wales) Bill

Name	Simon Dunn
Organisation	UNISON Cymru/Wales
Address	UNISON House, Custom House Street, Cardiff, CF10 1AP

Consultation Questions General

1. *The Explanatory Memorandum prepared by the Welsh Government Describes the Bill's main purposes in the following terms:*

“The ... Bill seeks to enhance the autonomy and decision making abilities of Further Education Institutions by removing and modifying existing legislative controls on them.”

The Bill also gives effect to the Welsh Government policy to allow data relevant to student grants and loans to be shared by Her Majesty's Revenue & Customs (HMRC) with the Welsh Ministers and anyone to whom the Welsh Ministers delegate or transfer functions. The data sharing gateway is an integral part of a project to modernise the Student Finance Wales delivery service to simplify and create efficiencies in that service.”

Is there a need for a Bill for these purposes? Please explain your answer.

UNISON Cymru/Wales has concerns with respect to the greater autonomy proposed in the Bill. We do not believe it is necessary to remove and modify existing legislative controls on Further Education Institutions (FEIs) in Wales, in order to enhance their autonomy and decision making abilities. Instead we have concerns as to how removing legislative controls on FEIs will affect the further education sector in Wales.

We believe the greater autonomy provided for in the Bill for Further Education Corporations (FECs) undermines the Welsh Government's wider policy agenda. We are particularly concerned that with greater autonomy, FECs could seek legal status, (becoming limited by guarantee through dissolution), that could in effect introduce privatisation to the provision of further education in Wales. UNISON Cymru/Wales does not believe the profit motive has any place in the provision of education, and we believe this runs contrary to Welsh Labour policy.

Private companies' priorities will be to maximise profit. The delivery of appropriate skills for local communities will not be a foremost priority.

We acknowledge but do not agree with the Welsh Government's view that colleges, rather than the Government, are best placed to determine how the needs of learners and communities are met. There is a clear trade-off between decentralisation and local decision making on the one hand, and the universality of standards, equality and democratic accountability on the other. We are therefore extremely cautious of the provisions in the Bill which aim to remove and modify the existing legislative controls on FECs.

We also have concerns that, under the Bill, FECs could move away from national agreements that are central to the sector. The Bill will undermine the ability of the Welsh Government to set national standards and educational priorities within the wider policy context.

The Bill would allow colleges to establish a subsidiary that could be a limited company and enter into public/private partnerships. This could result in the private sector controlling the skills agenda in Wales. The Bill does not stipulate that the Welsh Government must be able to intervene to ensure that no FEC in Wales can transfer any assets, rights or liabilities to any other body, apart from those which are publicly funded educational institutions in Wales.

UNISON Cymru/Wales does not believe the case has been made that classifying colleges as public sector has clear detrimental implications. We believe there is a case for Welsh Government to be involved in managing the accrued reserves, for the benefit of the whole sector.

However, in the alternative instead of a reclassification of FECs to NPISH's, in an attempt to reverse the public sector categorisation of Further Education Institutions (FEIs) for the purpose of National Accounts, UNISON Cymru/Wales would like to see the re-establishment of a funding council for Further Education (similar to the Higher Education Funding Council (HEFCW)).

Assurances and evidence would need to be submitted to a Classification Committee to demonstrate that key steps have taken place to increase the autonomy of FEIs whilst maintaining the ability to exercise at arms length some control over their activities, ensuring that FEIs would not be able to remove themselves from nationally agreed pay scales and current negotiations to establish national terms and conditions; or dissolve themselves and transfer their assets and liabilities to another body.

Alternatively we believe the Welsh Assembly could look more in detail at the Scottish model which has a joint FE and HE funding organisation, known as the Scottish Funding Council, which could save on money and bureaucracy of having two organisations.

UNISON Cymru/Wales does agree with the provisions in the Bill to allow data relevant to student grants and loans to be shared by Her Majesty's Revenue & Customs (HMRC) with the Welsh Ministers and anyone to whom the Welsh Ministers delegate or transfer functions. We understand and welcome the proposals within the Bill which aim to modernise the Student Finance Wales delivery service, allowing for a more effective and efficient assessment service.

We understand the need to modernise the Student Finance Wales delivery service but do not welcome the manner in which this is being pursued in the Bill's proposals. The Student Finance Wales delivery service is in effect being outsourced to the Student Loan Company (which has had a chequered history in its workings in England) with the intention of centralising what is currently a local and responsive service. The danger in the current proposals is that the service will be diminished and that students will suffer in particular those who wish to apply through the medium of Welsh and those with special needs.

2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.

UNISON Cymru/Wales believes that the Welsh Government must retain powers over how FECs can transfer their properties, assets, rights and liabilities. One of the indicators used by the Office of National Statistics (ONS) to determine whether an institution remains in the public sector or not, is whether they have a final say in the sale/acquisition of fixed assets.

There is a clear risk that reclassification will not take place.

There is a clear risk that the Bill will enable a significant role for the private sector in the provision of education in Wales, which is not a stated objective of the Bill.

3. Are the sections of the Bill as drafted appropriate to bring about the purposes described above? If not, what changes need to be made to the Bill?

See the answer for question 2

4. How will the Bill change what organisations do currently and what impact will such changes have, if any?

UNISON Cymru/Wales welcomes certain sections of the proposed Bill. Particularly, the proposed intention to strengthen the student and staff voice. Staff play a central role in the attainment and experience of students. A strong student and staff voice must feature if colleges are to be in the best position to determine the needs of learners and communities.

Often it is the staff of the colleges who are best placed to bring about the type of change which supports student attainment and ambitions. Therefore an open workforce, with an effective voice is the best way to bring about improved student attainment and, ultimately, results. This must walk hand in hand with appropriate mechanisms for voicing workplace issues, if staff are to be given the strong voice they need. We therefore, strongly welcome the intention to strengthen the student and staff voice, and see it as essential in improving further education more widely.

However, the Bill as written does not specify the number of staff representatives, and could be interpreted as being only one. We do not believe one person can appropriately

reflect the diverse workforce within a college, and should be amended to at least two staff representatives.

UNISON Cymru/Wales is particularly concerned that with greater autonomy, FECs could seek legal status, (becoming limited by guarantee through dissolution), that could in effect introduce privatisation to the provision of further education in Wales. UNISON Cymru/Wales does not believe the profit motive has any place in the provision of education, and we believe this runs contrary to Welsh Labour policy. If such a move happened, it could result in private companies looking to maximise profit from colleges, without care or consent for the delivery of appropriate skills for local communities.

We are concerned that the potential involvement of the private sector could result in a reduced focus on the importance of training in any new further education structure. All the evidence suggests that better qualified staff deliver better outcomes. We are also concerned that the sector in Wales could follow the English sector where we have seen the transfer of staff to new organisations followed by attempts to significantly reduce the terms and conditions. The reduction of rewards for FE staff will do nothing to enhance the student experience or their attainment.

FECs could move away from national agreements that are central to the education sector. The Bill will undermine the ability of the Welsh Government to set national standards and educational priorities within the wider policy context

5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

No comment

6. Do you have any views on the way in which the Bill falls within the legislative competence of the National Assembly for Wales?

No comment

Powers to make subordinate legislation

7. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments, including regulations, orders and directions)?

In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.

As UNISON Cymru/Wales have concerns with the Bill over its provision to allow FECs to have the powers to dissolve themselves we are against the subordinate legislation required to achieve this and would prefer not to see this in the Bill. Alternatively, we would like the regulations needed to achieve the subordinate legislation to stipulate that the Welsh Government must be able to intervene to ensure that no FEC in Wales can

transfer any assets, rights or liabilities on dissolution to any other body, apart from those which are publicly funded educational institutions in Wales.

Financial Implications

8. What are your views on the financial implications of the Bill?

In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

UNISON Cymru/Wales understands that the Bill's aims to reverse the public sector categorisation for National Accounts purposes will mean the Welsh Government will not have to bear any adverse budgetary consequence and FECs would be able to retain surpluses to build reserves and help pay for future capital projects. We do not believe there is an evidence base to support the stated potential adverse consequences.

UNISON Cymru/Wales is concerned that the provisions in the Bill will result in a similar transfer of public monies to the private sector, as has happened in England.

UNISON Cymru/Wales does not believe the profit motive has any place in the provision of education, and we believe this runs contrary to Welsh Labour policy. If such a move happened, it could result in private companies looking to maximise profit from colleges, rather than looking to deliver appropriate skills for local communities.

Other comments

9. Are there any other comments you wish to make about specific sections of the Bill

FEC properties, rights and assets in Wales have been funded by the Welsh taxpayer, and therefore have been funded for an educational purpose, belonging to Welsh communities. The Welsh Government has a duty to maintain the education infrastructure in Wales, and UNISON Cymru/Wales expects a Welsh Labour Government to uphold this.