

Cyflwynwyd yr ymateb hwn i ymchwiliad y [Pwyllgor Plant, Pobl Ifanc ac Addysg](#) i egwyddorion cyffredinol y [Bil Addysg Drydyddol ac Ymchwil \(Cymru\)](#)

This response was submitted to the [Children, Young People and Education Committee](#) inquiry into the general principles of the [Tertiary Education and Research \(Wales\) Bill](#)

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Ymateb gan: Jim Dickinson, Golygydd Cysylltiol o Wonkhe

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Introduction

I have a number of reflections on the proposals to the extent to which they resemble previous reforms attempted in Scotland or England with particular reference to learner voice and learner protection/interests. The Welsh government will want to learn from experiences to ensure that pitfalls and unintended consequences are avoided.

Access and equality

I note that in relation to “fee limit conditions” and “equal opportunity conditions”, the intention is to monitor providers on the following basis:

- increasing participation in tertiary education by people from under-represented groups;
- improving retention of learners in tertiary education who are members of underrepresented groups;
- reducing gaps in attainment in tertiary education between groups which result from social, cultural, economic and other structural inequalities;
- improving employment and further study outcomes for tertiary education learners from under-represented groups upon completion of their courses.

There are a number aspects to the way in which the equivalent duty has been experienced in England that I believe should be considered:

- The measures described are all “metrics” outcomes, but (for example) Disabled students would often argue that while they battle poor compliance with the Equality Act, they often still achieve. So the Commission should be charged with monitoring compliance with equalities legislation as well as just checking metrics.
- The four bullets refer to the actual education offered by universities but do not explicitly cover extra-curricular activity supported by students’ unions or other parts of universities. Evidence suggests that access to these opportunities and their subsequent benefits is not equitably distributed yet in England this type of activity does not feature in access and participation plans. The definition of “tertiary education” in the first bullet should be explicitly broadened to include extra-curricular activities.
- In England providers tend to be monitored on the metrics at provider level, but not subject level - which means (for example) a university can maintain a situation where its medicine courses can be very socially exclusive while its nursing courses can do the heavy lifting on widening participation. If the Welsh government is concerned about fair access to the professions, the duty might usefully explicitly apply, in principle, at subject level.
- Again in England in theory students and their SUs were invited to contribute to the development of the plan, and to then annually monitor progress against it from the student perspective. The Welsh government should ensure that that happens and if so that student representative bodies are appropriately resourced to support that process properly and in a diverse way.

[See this blog on the site](#) for a review of England’s equivalents.

Learner Protection

The provisions in the Bill are similar to two aspects of the England OfS system of Student Protection Plans and Student Transfer. The idea is to protect the interests of students in the event of a course or campus closure, a provider failure or a learner choosing to transfer to another course or provider. The idea is to minimise the impact of these events on the learning of individuals and reduce the risk of that individual dropping out of learning.

Again, there are a few aspects to how this type of thing has been experienced in England that the committee should consider:

- The first is that the proposal in Wales is to cover protecting students if a course, a campus or a provider closes. But what has been found in England is that the real problem is major changes to a course - like for example the removal of most of the optional module choices in the second and third year, or changes that would change the focus of a media course from practical to theoretical. The Welsh government should consider adding "material component of a course" to the list of course, campus or provider.
- The second is that student transfer really only works if a student is somehow supported to not have incurred any debts or costs at the provider they leave, including student accommodation costs. It also only works if other universities in Wales are prepared to mutually recognise each other's qualifications and credit arrangements.
- The third is that when protecting students from course closures, the commitment is often only to "teach out" the course or to offer a similar course at another university - but that's not much help if you need to study locally. The Welsh government should consider the establishment of a basic principle that no student should suffer detriment from multiple perspectives, including financial.
- There is also nothing in the English system on temporary but significant interruptions to study arising from a strike or a pandemic. You can argue that a 6 month or even a 3 month disruption is major enough to warrant a plan to make up for it for students, and so should be covered by the definitions in the legislation.
- In England in theory providers are supposed to be public and honest about the risk that a course could close so they can design mitigations based on the risk - but they tend not to want to warn students they are thinking about it in case it creates a "run on the bank" effect. The Welsh government should commit to the establishment of a better balance between transparency and confidentiality in this regime.

Finally, in a previous iteration of the briefing on the Bill, a commitment was made that Welsh Ministers would prescribe an additional initial condition of registration by way of regulations to introduce a further condition of registration to ensure that providers demonstrate they have given due regard to compliance with consumer protection law, and to the Competition and Markets Authority's guidance on the application of consumer law in higher education. This is an important aspect of the protection regime in England and confirmation should be sought from the

government that this remains the intention, and that steps are taken to ensure that students understand their rights in this area.

Complaints

The Bill proposes that the Office of the Independent Adjudicator (OIAHE) takes on all providers covered by the new Commission. There is an opportunity here to ensure that providers are caused to learn from and act upon complaints that are upheld. This could include:

- The commission taking steps, through providers or directly to ensure that students understand their rights in relation to their education (so they know what they could complain about);
- The commission taking steps to ensure that all students have access to independent support in the event of complaint or appeal (impending through their SU);
- That complaints procedures should meet a standard set by the OIAHE and should include standards on reducing incidences of and processing complaints surrounding harassment and sexual misconduct;
- That providers should be required to report on all formal complaints received in a set of categories for the Commission to monitor and should be required to demonstrate how they have acted to learn from complaints;
- Providers that uphold (or if the OIA upholds) a complaint whose circumstances apply to other students they could be required to apply the mitigations or resolutions to all students impacted by the issue.

Learner engagement

The proposed Code is an interesting and welcome new idea not reflected in equivalent English or Scottish legislation.

In England the debate over the UK quality code has seen a debate about what we might call “learner led” approaches (student representation and partnership) versus provider-led (focus groups and surveys). It seems to me to be important that both types of engagement are reflected on the face of the Bill, in the code and in practice across providers.

Protecting the health, wellbeing and welfare of students

A major aspect considered to be "missing" from the English system is matters of duty of care, welfare, safety, mental health and so on. It is also largely missing from this draft Bill.

There are three ways it could go in. The first would be to amend the arrangements for "student protection plans" to include the protection of students from harm (based around a risk assessment carried out in partnership with the SU etc). The second would be for there to be a separate registration condition on the issue on the face of the Bill. The third would be for it to be included explicitly in the definition of "quality".

The second makes the most practical sense, and an equivalent has been adopted by TEQSA (the higher education regulator) in Australia. It would mean adding at 29(i) "a condition relating to the health, welfare and safety of students enrolled at the provider, including matters of harassment and sexual misconduct and mental health"