

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol | Constitutional and
Legislative Affairs Committee
Ymchwiliad: Llais cryfach i Gymru: ymgysylltu â San Steffan a'r sefydliadau
datganoledig | Inquiry: A stronger voice for Wales: engaging with
Westminster and the devolved institutions
IGP007
Ymateb gan: Y Brifysgol Agored Cymru
Response from: The Open University in Wales

About The Open University in Wales

1. The Open University (OU) was established in 1969, with its first students enrolling in 1971. It is a world-leader in providing innovative and flexible distance learning opportunities at higher education (HE) level. It is open to people, places, methods and ideas. It promotes educational opportunity and social justice by providing high-quality university education to all who wish to realise their ambitions and fulfil their potential.
2. Over 7,000 students across Wales are currently studying with The Open University, enrolled on around 10,000 modules. There are OU students in every National Assembly for Wales constituency and we are the nation's leading provider of undergraduate part-time higher education. Almost three out of four Open University students are in employment while they study and with an open admissions policy, no qualifications are necessary to study at degree level. Over a third of our undergraduate students in Wales join us without standard university entry level qualifications.
3. As a world leader in educational technology, our vast 'open content' portfolio includes free study units on the free online learning platform [OpenLearn](#) (including many Wales-related materials and our Welsh Language platform [OpenLearn Cymru](#)) and substantial content on YouTube and on iTunes U where we have recorded over 70 million downloads.

4. The Open University is the only higher education institution which operates across all four nations of the UK and receives funding from all four governments. The OU's unique structure enables us to respond to government priorities, and be appropriately held to account, in each nation and ensure that the global scale and reach of the OU's activity can be delivered for the benefit of students in each UK nation. As a result of our UK-wide presence we are uniquely positioned in respect of both the opportunities and challenges of policy divergence across the UK. This experience and our continued commitment to deliver high quality part-time education across the UK informs our response to this inquiry.

Strand one – Constitutional Matters

5. Higher Education is a devolved policy area with the exception of the Research Councils. However, there are complex and important inter-relationships across devolved and non-devolved areas which impact directly on universities in Wales. These include the income they receive from sources other than the funding council and the competitive environment for student recruitment and research funding. In the case of The Open University, while our students study via distance learning and can do so in any of the four nations of the UK the different HE policies in each nation and associated funding regimes result in differing fee levels and student support packages across the nations of the UK. This should be seen as a positive consequence of devolution rather than a problem, but it does require co-ordination, collaboration and communication across and between governments.
6. In response to the specific questions posed by the Committee around constitutional matters we would like to state our support for the Universities Wales response to this inquiry. The Universities Wales response sets out a number of examples of areas of concern in respect of legislation within the HE sector and we agree with those concerns. This includes the ability of the National Assembly for Wales to scrutinise legislation relating to HE in Wales that originates in Parliament.

7. By way of an example, The Open University has recently been working with the Wales Office and members of the House of Lords to secure an amendment to the Wales Bill to clarify the status of the OU as a Welsh institution within the legislation. Due to the UK-wide remit of the OU this is not straightforward but we were keen to ensure that we would be subject to HE legislation in Wales as we are an important part of the Welsh HE sector and at the same time recognising the unique position of the OU as a UK-wide institution. These matters required effective inter-governmental relations between Welsh Government officials and the Wales Office. It is not clear that this issue was part of any original consideration of the draft Bill until it was identified by Universities Wales.
8. We endorse the recommendation of the Silk Commission's second report in respect of higher education:

*"In the light of the close and complex relationships which we have noted and the possibility of policy changes in England impinging strongly on Wales, we propose that there should be a formal intergovernmental forum to ensure mutual understanding of Higher Education policy issues within the framework of the Welsh Intergovernmental Committee. Among other roles, this forum would provide early information on proposed changes and would promote international excellence and competitiveness."*¹

We believe that this recommendation still merits implementation and this may be something that the Committee could consider as part of its inquiry.

Strand two – Policy Matters

9. Policy divergence is a natural consequence of devolution and The Open University has sought to respond effectively to the opportunity

¹ Commission on Devolution in Wales: *Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, p.143. Available at: <http://webarchive.nationalarchives.gov.uk/20140605075122/http://commissionondevolutinwales.independent.gov.uk/files/2014/03/Empowerment-Responsibility-Legislative-Powers-to-strengthen-Wales.pdf>

to operate in four different nations of the UK. As a result we constantly monitor the policies of the four governments and consider where there are areas of difference to which we need to respond and where there are synergies. The OU in Wales responds to the policy direction set by the Welsh Government and the Higher Education Funding Council for Wales but we are also mindful of developments elsewhere that may impact on our work in Wales. Being able to assess, understand and consider the consequences of these at the earliest stage possible is important for us in working through our response and any information that we then need to pass on to our students or partner organisations.

10. Policies need to be nation-proofed effectively by those announcing and implementing them and communication between governments is key to this. Announcements should not be made that impact on devolved areas without prior discussion with the relevant administrations and a full consideration of the exact scope of any policy decision. Recent examples such as the Apprenticeship Levy and the UK Government's industrial strategy are areas where better inter-governmental liaison and discussion before a policy is announced would have ensured that the policy better reflected the devolution settlement and the implications could be more easily understood by those who have an interest in its implementation. Likewise the UK Government's announcements on areas such as the Teaching Excellence Framework could only have benefitted from greater inter-governmental liaison.
11. Another aspect of policy divergence in higher education is the capacity of sector bodies such as the Student Loans Company (SLC) to respond to different policy priorities and adapt their systems accordingly. The final report of the Review of Higher Education Funding and Student Support in Wales (the 'Diamond Review') indicates significant concerns in this regard. It states:

It is possible that, notwithstanding the constructive negotiations now under way between the SLC and the Welsh Government, the increasingly divergent policy priorities of the four UK

governments will continue to create pressures on the SLC's capability.²

The report goes on to quote the House of Lords Committee on the Constitution which includes the following recommendation:

...[the UK Government] should be engaging with the devolved administrations across the whole breadth of government policy: not interfering, but co-operating and collaborating where possible and managing cross-border or UK-wide impacts that may result from differing policy and service delivery choices.³

12. The Diamond review therefore recommends that:

- The Joint Ministerial Committee, at the highest levels, should consider the better coordination of student finance policy between the administrations of the UK without prejudice to devolved decision-making. The Panel welcomes the SLC's willingness actively to explore with the Welsh Government options for implementing the recommendations of this report without delay.
- Depending upon the outcome of that joint work, the Panel recommends that consideration be given, if necessary, to the scoping of a new system of student loan administration for Wales.⁴

We strongly support these recommendations and hope they will be of assistance to the Committee in their consideration of inter-governmental issues.

² Final Report, The Review of Higher Education Funding and Student Finance Arrangements in Wales p.65 available at <http://gov.wales/docs/dcells/publications/160927-he-review-final-report-en.pdf>

³ *The Union and Devolution*, the House of Lords Select Committee on the Constitution (May 2016), para. 305:
<http://www.publications.parliament.uk/pa/ld201516/ldselect/ldconst/149/149.pdf>.

⁴ Final Report, The Review of Higher Education Funding and Student Finance Arrangements in Wales p.66 available at <http://gov.wales/docs/dcells/publications/160927-he-review-final-report-en.pdf>

13. We would also once again refer the Committee to the recommendation of the Silk Commission in respect of a “*formal intergovernmental forum to ensure mutual understanding of Higher Education policy issues*”⁵ which could go some way to addressing these issues.
14. 14. The OU in Wales would be happy to provide any further information to the committee as required in particular drawing on our experience as a UK-wide higher education institution.

17 February 2017

⁵ Commission on Devolution in Wales: Empowerment and Responsibility: Legislative Powers to Strengthen Wales, p.143. Available at:
<http://webarchive.nationalarchives.gov.uk/20140605075122/http://commissionondevolutinwales.independent.gov.uk/files/2014/03/Empowerment-Responsibility-Legislative-Powers-to-strengthen-Wales.pdf>