

P-04-567 A Fair Deal for Welsh Students – Correspondence from the Petitioner to the Committee, 12.09.14

Letter from the Minister for Education and Skills 2nd September 2014

- The previous Minister for Education and Skills did not comprehensively respond to the issues raised in my previous petition, in fact I wrote to the First Minister in January and again in April 2014 complaining of a breach of the Ministerial Code in that the Petitions Committee had been knowingly misled regarding student dissatisfaction with the Welsh Assembly's designated students complaints scheme which under Section 13(2) of the Higher Education Act 2004 is administered by the Office of the Independent Adjudicator for Higher Education OIA.
- Comments by Mr Lewis are in my opinion a dictatorial attempt to conceal the conduct of his predecessor, prevent Welsh Students from getting a fair deal and the people of Wales having a say in these issues or how their money is spent.
- The Petitions Committee is again being misled in breach of the Ministerial Code with regard to the nature of the issues raised within my petition in particular the misleading claim that *"The Welsh Government has no locus in such matters and I am unable to comment further."* Moreover, they do not impinge upon the independence or autonomy of Higher Education Institutions.
- I am not aware of any legal impediment to the consideration of the issues in my petition, they are only admissible if they come within the '*competence*' of the Welsh Assembly and acceptance is a statement to that effect. However, I am sure that the Clerks to the Committee will advise on this matter accordingly.
- *"The Minister for Education and Skills Huw Lewis made a statement on the Introduction of the Higher Education (Wales) Bill on 20 May 2014.*

*The Higher Education (Wales) Bill seeks to legislate to:
ensure robust and proportionate regulation of institutions in Wales whose courses*

are supported by Welsh Government backed higher education grants and loans;”

<http://www.bbc.co.uk/democracylive/wales-27474329>

Clearly, this is a direct contradiction of the comments made by the Minister in his letter to the Petitions Committee but then this is not the first time that a Minister for Education and Skills has publically spoken out and acted against their own legislation.

Additional Information

Background

With massive increase in tuition fees, student rights as consumers have failed to keep up with the commercialisation of Higher Education Institutions as Charity Companies, while the forthcoming Consumer Rights Bill at Westminster addresses some issues it does not go far enough. Student loans are one of the biggest financial commitments facing young people and could last a lifetime making students vulnerable. Higher Education Institutions while in receipt of public money are not in public service they are ‘autonomous’, staff cannot be charged with misconduct in public office. Standards should match those being brought into place in other institutions and services to provide a balance between autonomy and accountability. The Welsh Assembly Government should consider setting up a Commission to safeguard Welsh students and ensure that Higher Education Institutions play it by the rules and comply with relevant law.

This petition is similar to ‘P-03-204 Public Accountability and Consultation in HE’ which should be read for further details. This petition was closed down by the Petition Committee for the following reason:

“The Committee agreed to close the petition and recommend that the petitioners raise any further concerns with their constituency and regional Assembly Members

once the Minister for Education and Skills has published his response to the Review of Higher Education Governance in Wales.”

Unfortunately there is no legal obligation for Assembly Members to act on behalf of their constituents, my concerns were subsequently ignored and these matters were never raised. The Petitions Committee felt that there was nothing more that it could do to progress these matters. That being the case it should have been referred to the Children and Young Peoples Committee for investigation. Mr Powell raised a ‘conflict of interest’ being a constituent and his position as Chair of the Committee, however, this no longer applied after the petition was closed.

On the bottom of the email from the Petitions Committee there is the statement that says:

“The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales and holds the Welsh government to account.”

Unfortunately as far as the treatment of Welsh students are concerned that is yet to happen.

Petition Item 1. A Welsh student complaints scheme including compulsory compensation and compliance with greater transparency and accountability – We deserve something better.

In keeping with the concept of devolution and the people of Wales having a greater say in the issues that affect their lives the Welsh Assembly should introduce a Students’ Complaints Scheme specifically for Welsh Students based upon their experiences. The current designated students’ complaints scheme for England and Wales is administered by the Office of the Independent Adjudicator for Higher Education known as the OIA.

A survey of the current students' complaints scheme administered by the OIA entitled *Report of the OIA Student Survey 2009* concluded:

"There was widespread dissatisfaction with the remit of the OIA. That academics escape any outside professional scrutiny in the way they conduct business is considered by many students to be inappropriate in the modern world. The inequality of arms between universities and students is a source of dissatisfaction, and the burden of proof on students considered by many to be inappropriately high. Many students were angry and frustrated that in the event of a conflict of evidence, they perceived that the HEI account was accepted and their own rejected for no satisfactory reason that they could see. The OIA was also criticised by students for failing to hold HEIs to account, failing to ensure fair procedures at the HEI level, and providing remedies that were insufficient and that would fail to ensure HEIs took the issues seriously. There was dissatisfaction with the time cases take, with a perceived failure to recognise the importance of timing to the student, particularly the academic year timetable, and a feeling that HEIs are indulged by the OIA, particularly over the summer. Many disabled students expressed dissatisfaction with the understanding of their complaints by the OIA. Students wanted to be told where they could go if dissatisfied with the OIA. Finally, it is important to recognise that for students a complaint starts at the beginning at the HEI, and ends at the end of the OIA process, and the holistic and continuous nature of this experience should be recognised." Page 82

With regard to the stress this puts on students the report stated:

"Respondents were asked how they felt at the end of the OIA process. Negative emotions predominate. The most commonly reported feelings were disappointed, let down, angry, emotionally drained, exhausted, discriminated against, depressed and sad. More than 30% reported feeling victimised. Only very small proportions reported any positive feelings." Page 79

“Other emotions expressed by students were predominantly negative. Although one student said ‘supported’ and one ‘neutral’, negative emotions included cheated, confused, disbelieving, disgusted, disillusioned, frustrated, helpless, outraged, shocked, unreasonably or unfairly treated, that the process had been utterly pointless and that the University had been allowed to ‘get away with’ its behaviour.”

Figure 21 Page 48

Student Opinions of the OIA

“When students were asked what they thought about the OIA overall, as Figure 22 shows, the most commonly expressed view was that they were ‘on the side of the HEI’, with almost half of respondents (48%) saying this.” Page 48. It is hardly surprising that another survey has not been undertaken.

National Union of Students Wales (NUSW)

NUSW is the representative body for Welsh students and claims to *“promote, defend and extend the rights of students.”* However, they have ignored the opinion and experience of its own members, here is an extract from the response given by the NUSW to the issues in P-03-204 is as follows

“In addition to our belief in the independence of the OIA, the recent judicial review of Budd v OIA2 confirmed this independence. The Judge, Mr Ockelton (sitting as a Deputy High Court Judge) confirmed that “there is simply no evidence that the Independent adjudicator is not independent..” Petition P-03-204.

Issues concerning the self regulated involvement of the Judiciary in Universities are outside the remit of the Petitions process.

Welsh Assembly Government Statement on the *Report of the OIA Student Survey 2009*

“The OIA has recently conducted an extensive review of its operations, including customer satisfaction and the views of users on its independence. The evidence

gathered during the consultation process showed that while there are differences of emphasis, universities, students' unions and sector groups overwhelmingly endorsed the independence of the Independent Adjudicator, the Office and the Scheme. However, the evidence also showed that concerns were raised by some students' unions and a small number of universities about the perception of some students of the OIA's independence, due to the current funding model. The OIA acknowledged that, when one side in a dispute is totally responsible for funding the process, the other party may not always feel that the system is impartial. Indeed, the evidence gathered shows a direct association between outcome of complaint and complainants' views of whether the OIA's process was independent. The OIA acknowledges that there is work still to be done to raise complainant awareness of the OIA's independent status and operations".

Leighton Andrews AM Minister for Children, Education & lifelong Learning 5th May 2010 Petition P-03-204.

Please note that I have complained to the First Minister of Wales on this statement as being misleading and should be corrected.

Petition Items 2 – 5

2. Those teaching in Higher Education Institutions should be subject to similar standards and safeguards as schools and further education colleges, teachers in higher education should be required to register with the General Teaching Council for Wales.

"The Council's Role

We are responsible for investigating and hearing cases of professional misconduct or incompetence on the part of registered teachers."

3. In keeping with the Eleventh Report of Session 2008–09 of the former House of Commons Innovation, Universities, Science and Skills Committee there should be statutory regulation as the Quality Assurance Agency as a registered charity with no

powers of intervention or enforcement is no longer fit for purpose. In this respect an extended role for Estyn could be considered.

4. The Letter of Understanding between the Higher Education Funding Council for Wales HEFCW to provide value for money should include public complaint via the Welsh Audit Office. I have written to the Minister asking why HEFCW is still providing public funds the University of Wales Trinity St David while in breach of its Royal Charter and articles of government. Unfortunately I received a similar reply to the Petitions Committee on this issue refusing to answer the question and enter into any further correspondence.

5. As recommended again in the Eleventh Report of Session 2008–09 of the former House of Commons Innovation, Universities, Science and Skills Committee there should be an effective Whistle Blower process as current arrangements such as the *Cause for Concern* process administered by the QAA and HEFCW are inadequate.

These items are already explained in P-03-204

Please note that issues such as the gagging of students and the imposition of a duty of candour to force universities to tell the truth in what is a system of public justice for students are beyond the competence of the Welsh Assembly and therefore not included in this petition.

First Minister of Wales and the Ministerial Code

Please see the letters to the First Minister of Wales whose job it is to uphold the Ministerial Code seeking clarification on this subject that is essential to the progress of this petition, I fail to see how my petition can be given a fair hearing until I receive a reply. Therefore, I would be grateful if the Committee write to the First Minister asking him to clarify these issues before considering my petition. Had petition P-03-204 been referred to the relevant scrutiny committee these issues could have been resolved earlier instead of being closed down following a letter from Leighton Andrews without consideration of the issues involved.

Trevor Mayes

Attachments

1. P-03-204 Public Accountability and Consultation in Higher Education.pdf.
2. Students as Vulnerable Consumers.doc – Written Evidence to the Public Bill Committee – Consumer Rights Bill published at <http://www.publications.parliament.uk/pa/cm201314/cmpublic/consumer/memo/cr07.htm>
3. Letter to the First Minister and Permanent Secretary 19012014.doc
4. Letter to the First Minister for Wales 140414.doc
5. Final Report of the OIA Student Survey with Appendices.pdf
- 6.

[Attachments have not been included in the public papers because of the volume of material they include, however copies are available on request from the Committee Clerk]