The Further and Higher Education (Governance and Information) Bill

Supplementary evidence to Children & Young People Committee

June 2013

ColegauCymru
Uned 7 Cae Gwyrdd
Greenmeadow Springs
Tongwynlais, Caerdydd CF15 7AB
Ff: 029 2052 2500
E: helo@colegaucymru.ac.uk
W: www.colegaucymru.ac.uk

CollegesWales
Unit 7 Cae Gwyrdd
Greenmeadow Springs
Tongwynlais, Cardiff CF15 7AB
T: 029 2052 2500
E: hello@collegeswales.ac.uk
W: www.collegeswales.ac.uk

Introduction

1. ColegauCymru submitted written evidence to the Children and Young People Committee on the Further and Higher Education (Governance and Information) Bill (henceforth entitled FHE Bill) and gave oral evidence to the Committee on 23 May 2013.

2. This paper provides some additional information in the light of points raised during the oral evidence and in subsequent sessions.

3. Underpinning the comments made in this paper is the recognition by the Welsh Government in the White Paper on the FHE Bill of the maturity of the FE sector in Wales and the fact that that colleges are best placed to determine the needs of their learners and communities. The passing of this Bill giving additional freedoms to colleges is as significant and important for FE colleges in Wales as were the increased powers given to the National Assembly for Wales following the 2011 referendum for Assembly Members.

4. In addition, it is useful to draw attention to the 'not for profit institutions serving households (NPISH) designation which the FHE Bill is seeking to ensure. NPISH status means that FE colleges are 'not for profit'. They may also be described as social enterprises which are not driven by the need to make profit but are run on business lines to ensure financial health. Any surpluses are re-invested in learners and in buildings and facilities.

5. The FHE Bill does not affect other statutory checks on colleges. FE colleges will still be subject to Estyn inspection, as well as various financial and accountancy standards and audits, and charity and company law, as well as the Welsh Government's Quality and Effectiveness Framework.

College assets

6. The Welsh Government consolidated accounts for 2011/12[1] (the latest figures) show college cash assets as being £124.1m. This figure covers stock, debtors, short term investments and cash in hand. Details are broken down in the attached **appendix**.

7. This figure needs to be balanced against liabilities. Current liabilities total £49.6m. This figure is made up of overdrafts, bank loans and other creditors. Again details are broken down in the **appendix**.

[1] Further Education Consolidated Accounts 2011/12 Department for Education and Skills 2012. These figures exclude Coleg Harlech/WEAN and Merthyr Tydfil College, University of South Wales.

8. In addition, there are creditors with amounts falling due after more than one year (£38.9m) and provisions including long term deferred income (£19.7m). These may include bank loans taken out to invest in improved facilities. The total of £58.6m will eventually have to be paid back.

9. Liabilities therefore total £108.2m (£49.6m + £58.6m).

10. This leaves us with the following calculation: £124.1m – £108.2 = £15.9m.

11. Net 'spending money' for the FE sector is therefore £15.9m.

12. The Welsh Government's financial health requirements state that colleges should have net cash of at least one month's expenditure. This is in order that colleges can pay staff and settle bills as and when they fall due. The Welsh Government places colleges in four different categories related to their financial health. Those colleges which are placed in the highest two categories (A and B) have to have: *"A balance of cash in hand plus bank deposits less adjusted current liabilities that is equivalent to one month's expenditure"*[2]

13. Those colleges placed in the lowest two bands (C and D) have less than one month's balance of cash.

14. The total sector spend in 2011/12 was £432m (excluding depreciation). One twelfth of £432 is £36m. Colleges therefore need to have a *minimum* of £36m in order to meet Welsh Government rules. Assuming amounts falling due after more than one year are not called on to be paid, colleges are able to meet this requirement. As noted in para 4 above, financially prudent colleges should have funds to invest in buildings and facilities and to improve services for learners.

15. On top of all this, there is a notional sum of £145m under Financial Reporting Standard (FRS) 17 which covers liabilities arsing from the local government pension scheme. It is unlikely that colleges will be asked to pay this sum unless they withdraw from the pension scheme or go out of business. However the FRS figure occurs in college accounts. This notional figure is greater than the total cash assets.

16. By way of contrast, the Higher Education sector as of 31 July 2012 has total current assets of £551.6m. Liabilities (bank loans and other creditors) were £271m and creditors with amounts falling due after more than one year and provisions amounted to £194.4m. This leaves net 'spending money of £86.2m.

[2] Financial Health Monitoring Procedures for FE Institutions from 1 January 2007, Circular 24/2006, Welsh Government. The definition of a category A college is contained in **Appendix 2**

Welsh Government’s Regulatory Role

17. As noted in ColegauCymru’s written evidence (May 2013), the Welsh Government’s regulatory role over colleges is expected to be strengthened shortly. The Minister for Education and Skills recently submitted a case to the UK Cabinet Office for Welsh Ministers to be appointed as the Principal Regulator for FE colleges and designated FE institutions in Wales. This is in keeping with changes made by the Charities Act 2006 (which are not contained in the Charities Act 2011). The FE colleges have welcomed the Welsh Government’s proposed new regulatory role.

18. This regulatory role will provide important safeguards on the financial performance and probity of FE colleges in Wales.

Treatment of school surpluses and assets

19. Evidence submitted to the Committee by another organisation suggested that schools, as public bodies, were able to retain surpluses and assets, and therefore by implication colleges would also be able to retain surpluses and assets if they became part of Government.

20. Schools have a very different legal status from colleges. Schools are local authority-owned public institutions and are part of local government – not central government. School assets belong the local authorities. Under the Welsh Government’s 21st Century Schools capital funding initiative, local education authorities (LEAs) – not individual schools - provide the match funding (at least 50%) to the Welsh Government’s investment to improve schools.

21. The question under consideration by the ONS and by the FHE Bill is the classification of FE colleges as ‘central government public bodies’. Not local government. Hence, assets and surpluses would belong to central government were FE colleges to become part of ‘central government’.

Range of provision and income sources

22. Colleges are complex organisations with a far wider range of provision than schools. The largest will have well over 30,000 learners. Some specialise in 16-19 years olds, others in 19+ learners (e.g. adult and community learning, or work-based learning). Some colleges focus on academic qualifications while others concentrate on vocational subjects while some provide a balance of both. Around 80% of learners attend part-time. Some colleges focus on academic qualifications while others provide mainly vocational subjects.

23. In contrast, schools concentrate on full-time learners within a narrower range of age groups. Even in school sixth forms where attendance is not mandatory, most learners study full-time and take academic subjects. School now offer some vocational courses but these make up a small proportion of their provision. A large school might have around 2,000 students. The size of a school budget is often less than that of an average college faculty or department.

24. The average size of FE colleges (excluding the three FE institutions) - after mergers are completed later this year - will be over £40m with the largest being over £70m. Colleges generate income from a variety of sources including full-cost courses for business; work-based learning; consultancy services and projects; and international projects. Income is also generated from higher education fees and grants, college refectories, college restaurants and college farms.

25. Unlike colleges, schools do not seek to generate additional income through developing and offering a diverse range of programmes to a diverse range of learners. They do not provide work-based learning or full-cost courses for business. They do not engage in the same type of international activities e.g. curriculum development with colleges overseas (an income-generating activity), or the organisation of EU-funded work-placements for apprentices and vocational students every year in industry settings abroad. Any investment in buildings and facilities is funded by the local authority with support from the Welsh Government.

26. Under the School Funding (Wales) Regulations 2010[3], which came into effect on 1 September 2010 and came into force for the financial year 2011-11, local authorities can direct schools to spend, or claw back a school's surplus budget, based on the following thresholds: £50k for primary and £100k for secondary and special schools. This provision within the regulations provides local authorities with the power to direct or claw back spend, but does not require that local authorities do so. In practice, most local authorities are working with schools to set in place spending plans to reduce their surplus budgets over time rather than clawing back a proportion of the surplus. If a school is saving for a particular reason, and the local authority is content with their plans, a school can carry over a larger surplus. The levels provided in the regulations are trigger points above which action can be taken, not where it must be taken.

27. If the FHE Bill was not passed and colleges became part of government, then the Welsh Government could indeed set out rules about the treatment of surpluses and decide whether or not colleges could retain surpluses and the level of the surplus. This would undermine considerably incentives to develop innovative approaches and generate funds that have been central to the approach of colleges over many years. It would have the long term effect of making senior managers less entrepreneurial at a time of rapid change and when funding is likely to become increasingly tight.

[3] *Schools Funding (Wales) Regulations (2010) No 824* (16 March 2010) Welsh Government

Income and Expenditure: FE colleges in Wales

28. In 2011/12, FE colleges had a total turnover of £461.9m of which £365.5m was funding received from the Welsh Government (79.1%). The proportion of funding from the Welsh Government per college varies between around 60% up to over 90%.

29. Expenditure was £454.8m. £293m (almost two-thirds (64.4%)) was spent on pay.

30. Colleges therefore generated a surplus of £7.0m. This represents 1.5% of college income – a very small margin.

31. To compare with HE, universities in 2011/12 had income of £1,274.1m and expenditure of £1,244.1m with a surplus of £30m (2.3%).

32. Both FE colleges and universities seek to generate surpluses in order to invest in facilities and buildings.

What is happening in other UK nations

33. Each UK nation is responding differently to the decision of the Office for National Statistics to change the classification of FE colleges in the UK. The Westminster Parliament has passed legislation for colleges in England which is similar to that put forward in Wales through the FHE Bill. Colleges in England are now classified as NPISH. Northern Ireland is likely to consult on its position and is keeping a close eye on developments in Wales.

34. In Scotland, the Government has decided to bring FE colleges into government. In a series of replies to written questions published on 30 May 2013, Michael Russell, Cabinet Secretary for Education and Lifelong Learning stated that 'legislation is not required and to introduce legislation would not be compatible with our policy priorities' and that 'the successful outcomes delivered by our colleges are founded on the partnership between Government and colleges'[4].

35. However in answer to another question, the Minister responded that the Government would as a result of not passing legislation 'minimise the impact on Scottish budgets' 'mitigate the risks in respect to maintaining current capital investment plans, and 'mitigate the impact of the change on deployment of reserves'.

36. These responses indicate that colleges becoming part of central government would in fact bring about a change in the relationship between the Government and colleges and the Government would seek to 'minimise' or 'mitigate' risks.

[4] Paras 34 and 35 draw on answers to written questions from Michael Russell, MSP Cabinet Secretary for Education and Lifelong Learning. Scottish Parliament 14 May 2013 Written questions S4W-14984 to S4W-14991

However, the Scottish Government has not defined ‘minimisation’ and ‘mitigation’.

37. The Scottish Cabinet Secretary also raised the point about ‘partnership’. This contrasts strongly with the notion of partnership as used in Wales. The Transformation agenda in Wales illustrates this point. The Welsh Government set out clearly its policy that there should be fewer FE colleges and published a number of major consultation and policy papers on Transformation. The Government then invited local Learning Partnerships to come up with proposals. Colleges responded positively to this agenda. Since 2009 and by the end of the 2013 calendar year, 13 mergers will have taken place.

38. Colleges strongly support the Welsh Government’s emphasis on collaboration and cooperation in Wales. Colleges already work closely together. Indeed, the very existence of ColegauCymru and its extensive networks and tradition of sharing good practice over many years provide solid evidence of how colleges have embraced partnership. This is a key part of the college ethos in Wales.

39. In Scotland by contrast, the Scottish Government decided that the current 37 colleges should be reduced to 24 and organised into 13 regions. The decision on which colleges should merge and the timetable were decided by the Scottish Government. The definition of partnership in Scotland appears to be very different from that in Wales.

Minister’s Priorities for the Further Education Sector 2014/15

40. Since ColegauCymru gave oral evidence to the Committee, the Minister has published his priorities for the FE sector for 2014/15[5].This updates the May 2012 priorities letter. The letter identifies areas where FE colleges have performed well and indicates where the Minister wants colleges to focus their efforts.

41. As pointed out in ColegauCymru’s written evidence to the Committee in May, these Ministerial priorities, frequently reinforced in speeches to conferences and at meetings with ColegauCymru representatives, provide a clear and helpful policy framework within which colleges operate and within which they can respond to the unique needs of their learners and local communities. ColegauCymru supports the continuation of such communication.

[5] Priorities for the FE Sector: 2014/15 Letter sent by Leighton Andrews, Minister for Education and Skills, to Principals of FE colleges, 24 May 2013

Conclusion

42. ColegauCymru believes that the FHE Bill is urgently required. The key provisions are appropriate. The proposed Bill strikes an appropriate balance between giving colleges greater responsibility to manage themselves and the recognition of the need for colleges to work within the broad policy areas set out by Government.

43. ColegauCymru and colleges will continue to work closely with the Welsh Government and seek to implement its policies aimed at improving education and training opportunities for learners, communities and business.

Appendix 1

College assets and liabilities 2011/12[6]

Current Assets 2011/12	£000s
Stock	1,757
Debtors	24,895
Short term investments	24,878
Cash at bank and in hand	72,582
Total	**124,111**

Current Liabilities 2011/12	**000s**
Overdrafts	102
Bank loans less than 1 year	3,199
Other creditors	40,740
Grants in advance	5,239
Creditors with compensating debtor balances	329
Total liabilities	**49,608**
Creditors: amounts falling due after more than 1 year	**000s**
External borrowing	37,606
Other liabilities/long term deferred income	1,292
Total	**38,898**
Provisions	**000s**
Provisions enhanced pension provision	16,575
Provisions other	3,100
Total	**19,775**
Overall Total	**108,281**

Summary	**000s**	**000s**
Assets		**124,111**
Current Liabilities	49,608	
Creditors	38,898	
Provisions	19,775	
Total liabilities/creditors/provisions		**108,281**
Total assets remaining		**15,.830**

[6] These tables use figures from the FE colleges consolidated accounts 2011/12 Department for Education and Skills

Appendix 2

What Welsh Government expects for colleges achieving Category A Financial Health Status[7]

Category A: *The institution's financial position and its financial strategy fully support the institutional plan*

Category A institutions will normally have:

- a financial strategy that fully supports the institutional plan and identifies targets and actions to deliver the generation of cash and operating surpluses sufficient to finance ongoing activity, make funds available for investment and to produce
- a financial reserve
- a year on year operating surplus at a level consistent with the financial strategy
- a year on year cash inflow from operating activities at a level consistent with the financial strategy
- a balance of cash in hand plus bank deposits less adjusted current
- liabilities that is equivalent to one month's expenditure
- net current assets
- a positive balance on general reserves before FRS 17
- operating deficits or net cash outflows from operating activities arise only as part of planned investments or strategic decisions set out in the financial strategy and institutional plan and are fully funded from existing cash reserves.

[7] Taken from Financial Health Monitoring Procedures for FE Institutions from 1 January 2007, Circular 24/2006, Welsh Government (op cit) (see also paras 12-14 above)