

c /o Olga Lewis, Deputy Clerk  
Children and Young People Committee  
Legislation Office  
National Assembly for Wales  
Cardiff Bay, CF99 1NA.

24 June 2013

Dear Olga

### **Consultation – Further and Higher Education (Governance and Information) (Wales) Bill**

Thank you for your invitation to provide evidence to the Children and Young People Committee on 13 June 2013. I am writing to clarify our views on what the potential impact of a reclassification by the Office for National Statistics (ONS) from Non-Profit Institutions Serving Households (NPISH) to central government would be for the higher education sector, which was an area which we felt needed better explanation than I was able to give in immediate response to questions in the Committee.

We should be clear from the outset that it is for others to comment on how a change in ONS classification would apply to further education. In common with our university partners across the UK, however, it is our view that loss of NPISH status for universities would have very serious and detrimental impact on the higher education sector, for the following reasons in particular:

- The Further and Higher Education Act 1992 is widely regarded as preserving the necessary public safeguards against autonomy of corporate policy and academic independence, which have been a cornerstone of the UK's international reputation for having the best system of higher education in the world. An actual or apparent erosion of these safeguards and/or resulting loss of NPISH status could give rise to perceptions of a fundamental divergence of higher education in the UK and have a very damaging impact on the international reputation of the sector in this respect.
- As the Welsh Government make clear, reclassification would have significant consequences for the DfES budget, as detailed in the Explanatory Memorandum which accompanies these proposals, which in turn would have serious implications for the higher education sector.<sup>1</sup> This would include the potentially negative impact on the Welsh Government capital budget in particular and requirement for additional accounting and annual return arrangements. Any surpluses or deficits would become Welsh Government funds and would need to be

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<sup>1</sup> Further and Higher Education (Governance and Information) Wales Bill, Explanatory Memorandum

managed within the overall Main Expenditure Group (MEG), and the ability of institutions to carry forward surpluses and build reserves for future capital projects would be lost. We also understand that, more generally, the reclassification of the sector as central government would impact in particular on the Public Sector Net Debt (PSND) and to a lesser extent the Public Sector Current Budget (PSCB) and Public Sector Net Investment.

- There would also be significant ramifications arising from the specific provisions which contributed to a change in status. HEW has considered the potential impact of a change in status for the higher education in its responses in relation to proposals for direct grant in the FE HE (Wales) Bill consultation in September 2012 and in relation to the Welsh Government's Public Service Workforce consultation in July 2012. In addition to the above points, the HEW responses identified a potential impact on contractual agreements with partners, collective agreements incorporated into the contracts of employment, or general statutory duties relating to higher education. Implications for tax and charitable status would also be issues which would need to be considered further in any potential reclassification.

As indicated in the meeting, the ONS decisions and stated reasons for them are live issues to be considered in future regulatory developments relating to the HE sector and we will give this further consideration as part of the HE (Wales) Bill technical consultation. The ONS classification reflects degree of public sector control over general corporate policy and any reclassification would mean a significant shift in this respect. The key areas which caused reclassification of the FE sector to central government were, according to the ONS: borrowing restrictions, governance arrangements, and the public sector ability to close or merge institutions. When, in England, these powers were limited to situations where the institution is being mismanaged or performing poorly, the ONS took the view that these remaining powers acted as reserve or step in powers. It noted, however, that if such powers were to be exercised this would result in the public sector taking control of the institution in question.<sup>2</sup>

We hope that our clarification is of help to your inquiry.

Yours sincerely

Ben Arnold  
Policy Adviser

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<sup>2</sup> Offices for National Statistics, Reclassification of Further Education Corporations and Sixth Form Colleges in England, May 2012.