

Thursday, 02 June 2011

To: The Petitions Committee

Re: P-03-204 Public Accountability and Consultation in Higher Education

With regard to the question of whether the published report into higher education governance meets some of the concerns in my petition the answer is no, some of its proposals could be a step in the right direction, however, many issues need clarification. The parts of the report relevant to my petition are the need for change and Universities Wales: powers and responsibilities.

Firstly, with regard to whistle blowing, I wish to briefly address the submissions from the trade union and the NUS both of which I found quite astonishing. Trade unions are well aware of the appalling treatment of staff some of whom have contacted me with horror stories of abuse that has destroyed their lives; I am disappointed that they were unable to comment on relevant issues that are of serious concern to their members. The NUS has ignored my request for discussion on the fact that the Quality Assurance Agency is just a registered charity with no powers of intervention and its Cause for Concern process is meaningless therefore puts beneficiaries at risk.

As a registered charity, the QAA is claiming to do something that it cannot do, the higher education department at Westminster suggested a complaint to the Charity Commission. I had already done this only to be told they have no powers to tell a charity how to run its business. This is an example of how politicians in Cardiff and Westminster point to organisations that are neither able nor willing to address issues of serious concern. This includes referring to the Office of the Independent Adjudicator for Higher Education (OIA) as a remedy for everything when in fact it solves nothing of any substance. Politicians seem to choose to ignore issues that are likely to rock the boat with the establishment and least of all higher education. As far as whistle blowing is concerned, the report failed to suggest an effective independent process.

Both academics and students have supported me in this petition and personal campaign for change in an arcane, corrupt, and self-serving system. This is not a staff student conflict but a conflict with a system that has unaccountable power and no effective regulation. The preservation of reputation at all costs at the expense of the people they are there to serve is something that has been kept from the public with threats of legal action and the use of gagging orders. This in effect means that trade unions and the NUS are powerless to prevent the destruction of people's lives which has left them isolated and unable to pursue any remedy. As the law stands, there is no effective remedy anyway and that point is in effect made in the report but its proposals do not go far enough to make a real difference.

I agree that it would be wrong to assimilate student complaints into Universities Wales and that they should remain independent, however, the report does not address the failings of the Office of the Independent Adjudicator for Higher Education (OIA). Instead of supporting High Court Judges in saying there is no evidence that the OIA is not impartial, the NUS should listen to students who claim that the OIA still relies upon quotes for its judgements, rewrites complaints to remove contentious issues, and refuses to make any inquiry whereby the reputation of the institution is at risk. However, like many students I have discovered that the NUS are part of the problem and not the solution. Unfortunately, many people see the NUS as a route into politics.

I fail to see how making comments on a 'have your say' website is of any use to anyone, and must make the point that student interests and concerns were not properly represented because they are

being ignored. Student complaints need the same sort of overhaul as the proposals for Universities Wales to address the issues of growing student discontent. The easiest way for universities to deal with complaints is simply to ignore them, followed by the fabrication of evidence together with threats of legal action and the character assassination of the student concerned.

The report does not address the issue of the treatment of foreign students, which fall into two main categories that bring economic benefits to Wales. They are external students who complain that complaints are simply ignored leaving them powerless to seek any remedy, and secondly students outside of the EU whose complaints are ignored until their visa runs out and they are forced to leave the country. Perhaps a foreign appointee to the board could look at this issue.

The big question is whether Universities Wales is going to ensure compliance with student complaints procedures that same way that one would expect a commission to do. If not then I will pursue a petition to the European Parliament as this situation violates Article 13 of the European Convention of Human Rights (ECHR) No Effective Remedy. This in turn raises the question of who is going to ensure compliance with regard to Universities Wales. The reason why I ask this question is because HEFCW has claimed many times that it has no power of intervention, yet it does have the power to withhold funding to ensure compliance, which would bring about the same result, however, that, is something that is never going to happen. Moreover, if you are going to get the same people doing the same job you are simply going to have the same thing under a different name.

Is Universities Wales going to impose time limits on any complaint to prevent outstanding issues from reaching the public domain? A tactic recently introduced by the University of Wales but then they just ignore complaints anyway. In my view, the only way of changing the current culture is with public disclosure of any wrongdoing as the biggest deterrent against abuses of position and power is the likely hood of being caught and then publically named and shamed. If this happens then a number of scandals may well emerge which while initially damaging would help achieve the objectives in the report.

I fail to see how any change can take place until we are fully aware of the problems, in that respect there was not enough consultation or awareness of the seriousness of the issues that appear to have been identified. My main concern that it is yet another 'for display purposes only' set of rules and regulations that result in people being ignored to make anything uncomfortable go away.

The key issue of my petition, which the report fails to address, is that of consultation with, and accountability to, the public who in my opinion are the major stakeholders, I cannot see any reference to public consultation in any part of the document. Currently the way in which higher education business is conducted falls way below the legal requirements of the public sector and with regard to the Seven Principles of Public Life.

Concerning appointments, public appointment rules currently state a one-year gap with regard to connections with an interested party however, for any sort of inquiry in the private sector then a two-year gap of any contact is required, even then, it may be necessary for an appointee to stand down. Given that Universities Wales will have an inquiry function then the two-year gap should apply to any member of the board and anyone involved in the inquiry.

What is the criteria for independent members of the board, putting people in from other HEI's outside of Wales is not independent, what is there role, are they there as non-executive members to ensure standards and compliance. Moreover, are they going to be fully informed of what is going

on? I am concerned that this is simply going to create another elite of people in higher education who consider themselves accountable to nobody.

To give an example of the issues I am raising that of the merger of the University of Wales Lampeter and Trinity University College.

There was no public consultation; the Review of Lampeter by Haines Watts Corporate Finance was withheld from the public, the governors of Trinity, and the BBC by HEFCW, and although this was deemed lawful by the Information Commissioner new evidence may well mean this decision will be reconsidered. If these were private institutions withholding that information from shareholders would have constituted a criminal offence.

The public are entitled to the same consideration as shareholders and the only reason a criminal offence was not committed is that no law exists governing this conduct. It is however, an example of how the Seven Principles of Public Life and the public are disregarded.

The consequences of this action has led to other public interest issues in that the current Visitor the Bishop of St David's has unlawfully delegated his Visitorial Duties to the Sub Visitor who is also Chancellor of the Diocese of St David's. This is in clear breach of Trinity's Royal Charter with the collusion of the Vice Chancellor for exactly the same reason to avoid accountability and prevent public knowledge of what is going on.

The common people should not have to apply to the high court for a judicial review on the obstruction of justice at every stage in the complaints process by an elite acting in its own interests in contravention of the basic human right to a fair hearing.

HEFCW says a breach of Royal Charter is a matter for the Welsh Assembly, the Welsh Assembly says it has no powers to intervene yet public money is still being paid to an institution that has no legal right to continue functioning and therefore no right to our money. I have therefore referred HEFCW's refusal to deal with this matter to the Auditor General for Wales for appropriate action and if none can be taken then I wish to raise this issue with the Petitions Committee at a later date.

This has implications for the Chair of HEFCW and his involvement with the Church in Wales. It is wholly unacceptable for a private organisation to be able to interfere in the governance of a public spending body in its own interests and nobody is either willing or able to act appropriately to stop it. It can give rise to a perception of the old boys' network pulling strings to make anything uncomfortable go away. In my view, the same public concerns over connections with the Freemasons should also apply to the Church in Wales.

My complaint to the Auditor General is also is to establish if there is any remedy to such a situation. It also supports my claim to a public right of complaint directly to the Auditor General with regard to any financial irregularity or mismanagement inside a university. I cannot see the necessary change in culture taking place for the public to have any trust in a university regulator undertaking this task.

A university in breach of its charter has no legal right to function and therefore risks having its charitable status removed by the Charity Commission under the Charity Act 2006. If Trinity St David was forced to go private then many outstanding issues could then be addressed. Moreover, there would be a public outcry because such conduct would then be reported without fear of gagging orders.

There are also issues concerning the process whereby Universities obtain any change to their Royal Charter. There is a right of public complaint to the Privy Council, however, they have no powers of inquiry so who are they going to believe? If a university fails to make a full disclosure with regard to any complaint with the intention of receiving public funding then it is fraud. I have recently also raised this issue with the Auditor General and I am still waiting a reply.

This situation is an insult to the concept of public service, which some Assembly Members have chosen to ignore, and I must question the political will to resolve these issues where politics and religion appear to be confused. It is wholly unacceptable in a modern democracy for a private unaccountable religious organisation to have more control over a public spending body than the public.

My view is that there needs to be an independent Commission fully accessible to the public to ensure compliance of both the institutions and Universities Wales. I strongly oppose any move to make Universities Wales the principle regulator for charitable purposes of the HEI's in Wales for the same reasons that student complaints should not be incorporated. It is illogical as charity should remain independent from the growing business culture, self-interest, old boys' network and provide an addition public safeguard.

Is Universities Wales going to allow failing universities such as the University of Wales Lampeter to close down or try to merge it with another so ensuring that two institutions rather than one end up being brought into disrepute. Moreover, is it like HEFCW going to use vast sums of public money and flout the principles of public life to keep them afloat? The public has a right to know what went wrong and what is being done about it.

The report makes no direct reference to training concerning the Seven Principles of Public Life and of the conduct of student complaints procedures. Apart from the character assignation and false allegations made against students to discredit them and their complaints, I have had to send student leaflets to senior officers to explain to them what they are supposed to do. No mention is made of the need for the training of members of University Councils with regard to compliance with procedures and there is no way anyone can guarantee that they are being told the truth.

I hope via my petition that I can receive assurances with regard to these issues and the basic right of direct public consultation and complaint. If it is not forth coming, then this document will be used as evidence in my petition to the European Parliament that there is also no effective remedy for public complaints concerning higher education in Wales.

Yours sincerely

Trevor Mayes