

HEFCW Annual Regulatory Report

2017/18



Noddir gan
Lywodraeth Cymru
Sponsored by
Welsh Government

Contents

Foreword	2
Section 1 – Introduction	3
Section 2 – Fee and Access Plans	5
2.1 Introduction	5
2.2 Development of regulatory processes prior to the reporting period.....	5
2.3 Discharging of functions in the reporting period (2017/18).....	8
2.4 Outcomes of activities in discharging functions	10
2.5 Failures to comply with the regulatory system and instances of intervention	12
Section 3 – Quality of Education	13
3.1 Introduction	13
3.2 Development of regulatory processes prior to reporting period	13
3.3 Discharging of functions during the reporting period	14
3.4 Outcomes of activities in discharging functions	16
3.5 Failures to comply with the regulatory system and instances of intervention	17
Section 4 – Financial Affairs of Regulated Institutions	18
4.1 Introduction	18
4.2 Development of regulatory processes prior to implementation	18
4.3 Discharging of functions in 2017/18	18
4.4 Outcomes of activities in discharging functions	19
4.5 Failures to comply with the regulatory system and instances of intervention	21
Section 5 – Statement of Intervention	22
Section 6 – Assurance Statement	23

Foreword

I am pleased to provide the foreword to the first annual regulatory report, accounting for the period 1 August 2017 to 31 July 2018, on behalf of the Council. The report has been scrutinised by Council and its relevant sub-committees and sets out how we have exercised our functions as set out in the Higher Education (Wales) Act 2015 (the 2015 Act).

The Act has required HEFCW to change its approach in engaging with institutions in Wales that it previously only funded but now regulates as well. That being said our vision for higher education remains the same: *Sustainable, accessible, internationally excellent higher education in Wales*.

It is important for us to be clear that we regulate with the intention of preventing institutional failure, not to increase competitiveness in a higher education market. A key regulatory aim is to provide long term sustainable higher education in Wales without compromising institutions' ability to meet the needs of Wales today.

Our regulatory intervention sanctions are potentially severe so it is important that we also rely on other mechanisms to achieve the regulatory expectations of Welsh Ministers. Partnership working is critical to this.

In developing the new regulatory system in Wales, we have worked closely with the institutions we regulate and their representative bodies, consulting regularly to understand the impact of our processes on institutions to enable them to balance being able to meet the regulatory requirements without burdening them with matters that will impact their long term sustainability. Achieving this balance remains work in progress and we will strive to work with regulated institutions and their representative bodies in the coming years to refine these processes further.

Partnership working with students remains embedded in what we do. We work closely with NUS Wales, involving them in consultations as well as ensuring they are represented on relevant sub-committees of Council. Additionally, and importantly, the NUS Wales President is invited to be an observer on Council to ensure that students are considered at every level of our decision making.

The Council has changed during this period, not just in terms of its membership but also in the make-up of its sub-committees. We have established a statutory committee for [Quality Assessment](#) and a new [Regulation Committee](#). The remit of our [Audit and Risk Assurance Committee](#) has also changed to reflect our regulatory role. This enhances our accountability and provides an opportunity for external committee members to provide the Council with additional assurance that its regulatory functions are being implemented effectively.

The four years since the passing of the Act have seen significant changes in the higher education landscape, not just in Wales but also in the United Kingdom. Change will continue if or when the United Kingdom leaves the European Union and develops a new relationship with the rest of the world. HEFCW will be mindful of this environment when regulating in the coming years.



David Allen

David Allen OBE, Chair

Section 1 – Introduction

- 1.1 The Higher Education (Wales) Act 2015 (the Act) gained royal assent on 12 March 2015, enhancing the Higher Education Funding Council for Wales' (HEFCW) role as a regulator. The Act, supported by six sets of regulations, gradually came into force during a transitional period, which ended with the Act fully coming into force on 1 August 2017.
- 1.2 The Act sets out specific duties for HEFCW in the following areas:
- Student fee limits,
 - Improving equality of opportunity and promoting higher education,
 - Quality of education, and
 - Financial affairs.
- 1.3 Institutions regulated under the Act are obligated to comply with HEFCW's directions in these areas. Institutional autonomy is made explicit in the Act and HEFCW's duties and powers of intervention are limited to only those areas set out in the Act.
- 1.4 HEFCW's powers to fund institutions are enacted by the Further and Higher Education Act 1992. The powers and actions taken forward under this legislation are not within the scope of this report.
- 1.5 One of the expectations placed on HEFCW is that it provides Welsh Ministers with an annual report on how it has exercised its functions by virtue of the Act at the end of each reporting period. This report is the first that we have submitted under this requirement and will cover the reporting period from 1 August 2017 to 31 July 2018. Additionally this report will provide information on the activities we undertook prior to the reporting period in order to develop our processes for implementing our functions as set out in the Act. Functions that have been exercised after 31 July 2018 but relate to 2017/18 fee and access plans will be included in later reports.
- 1.6 Our report will be set out in line with guidance issued by Welsh Ministers. Expectations set out in the guidance are that the annual report will include:
- An explanation of how HEFCW has discharged its functions under:
 - a) Section 7 – approval of fee and access plans,
 - b) Section 15 – monitoring and evaluating compliance and effectiveness of fee and access plans,
 - c) Section 17 – assessment of the quality of education provided by or on behalf of regulated institutions, and
 - d) Section 31 – monitoring compliance with the Financial Management Code.
 - The outcomes of the activities undertaken by HEFCW in discharging the functions listed above. This should include a summary of:
 - a) fee and access plan applications, approvals and rejections;
 - b) the regulated sector's compliance with fee limits and the general requirements of approved fee and access plans;
 - c) quality assessment reviews undertaken and the outcomes of those reviews; and
 - d) the regulated sector's compliance with the Code.

- Details of any failures by regulated institutions to comply with the requirements of the regulatory system and instances where HEFCW has used its intervention functions under:
 - a) section 11 – compliance and reimbursement directions;
 - b) section 13 – directions in respect of a failure to comply with the general requirements of an approved fee and access plan;
 - c) section 19 – directions in respect of inadequate quality;
 - d) section 20 – other measures in respect of inadequate quality;
 - e) section 33 – directions in respect of a failure to comply with the Code;
 - f) section 34 – other measures in respect of failure to comply with the Code;
 - g) section 37 – notice of refusal to approve a new fee and access plan;
 - h) section 38 – HEFCW’s duty to withdraw approval of a fee and access plan if a regulated institution no longer satisfies the requirement of section 2(3)¹; and
 - i) section 39 – HEFCW’s power to withdraw approval of an approved fee and access plan;
 including details of the actions HEFCW has taken to resolve the regulatory failure in question and the progress made by the regulated institution in taking the necessary action; and
- An assurance statement which includes an overview of the regulated sector’s compliance with the regulatory system laid down by the 2015 Act and highlights any areas of concern or risk.

1.7 The report has been structured into three main chapters to report against those areas Welsh Ministers expect to be covered: fee and access plans, quality of education and financial affairs. There will also be further chapters on the development of the statement of intervention and separately an assurance statement on our compliance with the regulatory system.

1.8 Throughout this report we will confirm whether there have been any failures by regulated institutions to comply with the regulatory system. We have taken three broad approaches to identify whether there have been compliance failures. These approaches are:

- Self-reporting by regulated institutions whether on ad hoc basis or through planned reporting cycles,
- Complaints received through HEFCW’s new complaints system established to enhance its regulatory role, and
- HEFCW monitoring such as formally through engagement with regulated institutions, discussions with other external bodies or monitoring data systems.

These approaches will be explained where relevant and as necessary throughout the report.

¹ Section 2 (3) of the Higher Education (Wales) Act 2015 sets out that a fee and access plan applicant must be an institution in Wales that provides higher education and is a charity.

Section 2 – Fee and Access Plans

2.1 Introduction

2.1.1 All institutions in Wales that wish to be regulated by HEFCW are required to have fee and access plans approved by HEFCW. Becoming regulated enables qualifying students studying full-time undergraduate and PGCE QTS (Qualified Teaching Status) courses at that institution to access Welsh student support. Fee and access plans set out institutions' fee levels for full-time undergraduate and PGCE QTS provision for the academic year the plan relates to and commitments to improving equality of opportunity as well as promoting higher education. On submission of a fee and access plan, an institution has to demonstrate that it meets the regulatory requirements associated with a regulated institution, those being that they:

- are an institution,
- are wholly or mainly in Wales,
- provide higher education,
- are a charity,
- are financially viable,
- are financially well managed, and
- provide quality education.

2.1.2 This chapter sets out how HEFCW has discharged its functions in relation to fee and access plans up until 31 July 2018 including:

- Developing its processes for fee and access plans prior to the reporting period,
- Approving or rejecting fee and access plans,
- Ensuring compliance with applicable fee limits, and
- Monitoring compliance with, and evaluating the effectiveness of, fee and access plans.

2.2 Development of regulatory processes prior to the reporting period.

2.2.1 This section of the report sets out the regulatory processes that were developed and implemented during the transitional period.

Developing guidance for 2017/18 fee and access plan applications

2.2.2 HEFCW was empowered to approve or reject fee and access plan submissions prior to the 2017/18 academic year. In order to allow providers to submit 2017/18 fee and access plan applications we developed a guidance document to provide clarity on our expectations for fee and access plan submissions.

2.2.3 HEFCW began drafting the guidance in late 2015, with HEFCW's powers to accept and reject fee and access plan applications coming into force from January 2016.

2.2.4 HEFCW's implementation of the fee and access plan process has taken account of its duties under the Well-being of Future Generations Act (2015), including the sustainability principle, goals and ways of working. Fee and access planning also contributes to HEFCW's compliance with the Equalities Act (2010) and public sector equality duties, given the requirement of fee and access plans to support

equality of opportunity and groups under-represented in higher education, including individuals with protected characteristics.

- 2.2.5 The draft guidance was informed by discussions with Welsh Government officials, legal advice obtained by HEFCW, and informal consultation with institutions wishing to become regulated and relevant stakeholders such as NUS Wales, Universities Wales and Colleges Wales.
- 2.2.6 Formal guidance from Welsh Ministers to HEFCW on its expectations for fee and access plans was issued in January 2016 and following the issuing of that guidance we consulted on our guidance in February 2016. This resulted in an amended guidance document being published in April 2016, inviting institutions in Wales to apply for fee and access plans for the 2017/18 academic year.
- 2.2.7 To inform fee and access planning, in April 2016, HEFCW published guidance, as circular [W16/13HE](#), following consultation, on partnership arrangements between external providers and regulated institutions in Wales.

2017/18 fee and access plan applications

- 2.2.8 Ten 2017/18 fee and access plan applications were received in late May 2016 from eight universities and two further education colleges. The fee and access plan application process was discussed with an additional institution but a formal application was not made.
- 2.2.9 HEFCW initial analysis of fee and access plan applications to inform feedback was completed in late June 2016. Iteration between applicants and HEFCW was undertaken throughout June to late July following a rigorous process of analysis, against pre-defined criteria and requirements, by HEFCW to secure improvements to plans that were required prior to approval. We approved all ten 2017/18 fee and access plan submissions in early August 2016.
- 2.2.10 Improvements were required to ensure that the fee and access plans demonstrated that they were meeting the general requirements of fee and access plans, as set out in legislation, and demonstrated appropriate ambition to improve equality of opportunity and promote higher education.
- 2.2.11 By approving the fee and access plans we were assured that the regulated institutions for 2017/18:
- were institutions,
 - were in Wales,
 - provided higher education,
 - were charities,
 - were financially viable,
 - were financially well managed,
 - provided quality higher education,
 - were planning to charge fee levels within the maximum fee limits permitted by regulations, and
 - were committed to improving equality of opportunity and promoting higher education.

- 2.2.12 Institutions were required to publish on their websites, within a week of HEFCW approval, certain sections of the plans excluding regulatory information provided to HEFCW in confidence.

Variation to 2017/18 fee and access plans

- 2.2.13 In December 2016, HEFCW published [guidance on varying an approved fee and access plan](#). The guidance provides information on applying to HEFCW to make changes to approved fee and access plans that relate to issues including fee levels, provision provided on behalf of a regulated institution, targets, proportions of investment, and activities. The guidance takes account of [Welsh Government Guidance to HEFCW on fee and access planning](#) which confirms that institutions must apply to HEFCW for approval of changes to a plan when the approved plan is in force. A variation to an approved plan can take effect only if approved in writing by HEFCW.
- 2.2.14 Nine institutions submitted requests to vary 2017/18 fee and access plans. Requests primarily related to updating academic partnerships that had been developed since 2017/18 plans had been approved by HEFCW. All variation requests were approved following a process of HEFCW analysis with further supporting being requested where necessary.

Developing guidance for 2018/19 fee and access plan applications

- 2.2.15 Before drafting the 2018/19 fee and access plan guidance, HEFCW held meetings with Welsh Government and separately with representative organisations including Universities Wales, Colleges Wales and NUS Wales.
- 2.2.16 Welsh Government confirmed that guidance issued by Welsh Ministers would remain unchanged for 2018/19 plans.
- 2.2.17 Following these discussions, in March 2017, HEFCW convened a consultation seminar for regulated institutions to review the 2017/18 process, consider 2017/18 fee and access plan monitoring processes, consult on the 2017/18 variation process and inform the 2018/19 fee and access plan application process.
- 2.2.18 The consultation seminar notes and presentations for the March 2017 event are available on the [HEFCW website](#).
- 2.2.19 HEFCW published a review of the 2017/18 fee and access plans in the form of [generic feedback](#) (September 2016) to inform future fee and access plan development and to begin to identify areas of interesting practice.
- 2.2.20 HEFCW published 2018/19 fee and access plan guidance in circular [W17/06HE](#) (March 2017), inviting fee and access plan applications by mid-May 2017. HEFCW's assessment criteria for plans remained unchanged in 2018/19 to provide for some stability in this second year of applications.

Approval of 2018/19 fee and access plans

- 2.2.21 As in 2017/18, ten fee and access plans applications relating to 2018/19 were received from eight universities and two further education colleges. No new applications were received, although HEFCW met with representatives from

several further education colleges considering making applications in future to discuss HEFCW expectations for fee and access plan applicants.

2.2.22 HEFCW rigorous analysis of fee and access plan applications, against pre-defined criteria and requirements, was completed in late June 2017, taking account of the regulatory requirements, including the focus and contents of plans. In early July feedback to applicants was provided against the published assessment criteria (see circular W16/12HE, paragraphs 119 -121) in order to secure improvements to plans that were required prior to approval. HEFCW feedback to applicants invited the submission of revised applications taking account of HEFCW analysis, by mid-July. Iteration between applicants and HEFCW was undertaken throughout June to late July. HEFCW approved ten 2018/19 plans in early August 2017.

2.2.23 Improvements were required to ensure that the fee and access plans demonstrated fully that they were meeting the general requirements of fee and access plans, as set out in legislation and demonstrated appropriate ambition to improve equality of opportunity and promote higher education.

2.2.24 By approving the fee and access plans we were assured that the regulated institutions for 2018/19:

- were institutions,
- were in Wales,
- provided higher education,
- were charities,
- were financially viable,
- were financially well managed,
- provided quality higher education,
- were planning to charge fee levels within the maximum fee limits permitted by regulations, and
- were committed to improving equality of opportunity and promoting higher education.

2.2.25 Institutions were required to publish, on their website, within a week of HEFCW approval, certain sections of the plans excluding regulatory information provided to HEFCW in confidence.

2.3 Discharging of functions in the reporting period (2017/18)

2.3.1 This section of the report sets out how, following the Act coming into force, we discharged all of our functions relating to fee and access plans. This includes approvals and variations to fee and access plans, as well as ensuring compliance with the fee levels and the general requirements of a fee and access plan.

Variation to 2018/19 fee and access plans

2.3.2 Four institutions submitted requests to vary 2018/19 fee and access plans. Requests primarily related to updating academic partnerships that had been developed since 2018/19 plans had been approved by HEFCW. All variation requests were approved.

Developing guidance for 2019/20 fee and access plan applications

- 2.3.3 [HEFCW's remit letter 2017-18](#) (paragraph 4.6) received in late March 2017, required HEFCW to:
'work with Welsh Government to fully scope and timetable the implications of the Government's response on the following areas - ... strengthening fee and access plans'.
HEFCW took account of this requirement in the next planning process: 2019/20. HEFCW will evidence actions taken in future reporting.
- 2.3.4 Before drafting the 2019/20 fee and access plan guidance, HEFCW held meetings with Welsh Government and separately with representative organisations including Universities Wales, Colleges Wales and NUS Wales.
- 2.3.5 Welsh Government confirmed that guidance issued by Welsh Ministers in 2016 would remain unchanged for 2019/20 plans.
- 2.3.6 Following these discussions, in December 2017, HEFCW convened a consultation seminar for regulated institutions to consider 2017/18 plan monitoring and effectiveness reporting, review the 2018/19 process and consult on the 2019/20 process and consider 2017/18 fee. To strengthen 2019/20 plans the consultation considered the implications of quality requirements and the Quality Assessment Framework, partnership arrangements and involving students in planning processes. Two institutions provided presentations on delivery of effective fee and access planning processes to contribute to improving practice.
- 2.3.7 The consultation seminar notes and presentations for the December 2018 event are available on the [HEFCW website](#).
- 2.3.8 HEFCW published 2019/20 fee and access plan guidance in circular [W18/03HE \(January 2018\)](#), inviting fee and access plan applications in late March 2018. HEFCW's assessment criteria for plans remained unchanged in 2019/20 to provide for some stability in this third year of applications.

Approval of 2019/20 fee and access plans

- 2.3.9 As in 2018/19, ten fee and access plan applications relating to 2019/20 were received from eight universities and two further education colleges.
- 2.3.10 HEFCW analysis of fee and access plan applications, against pre-defined criteria and requirements, was completed in late April 2018, taking account of the regulatory requirements, including the focus and contents of plans. In early May, feedback to applicants was provided against the published assessment criteria (see circular W18/03HE, paragraphs 145) in order to secure improvements to plans that were required prior to approval. HEFCW feedback to applicants invited the submission of revised applications taking account of HEFCW's rigorous analysis of plans. Iteration between applicants and HEFCW was undertaken throughout June to late July. HEFCW approved all ten plans.
- 2.3.11 Improvements were required to ensure that the fee and access plans demonstrated clearly that they were meeting the general requirements of fee and access plans, as set out in legislation and demonstrated appropriate ambition to improve equality of opportunity and promote higher education.

- 2.3.12 By approving the fee and access plans we were assured that the regulated institutions for 2019/20 were:
- were institutions,
 - were in Wales,
 - provided higher education,
 - were charities,
 - were financially viable,
 - were financially well managed,
 - provided quality higher education,
 - were planning to charge fee levels within the maximum fee limits permitted by regulations, and
 - were committed to improving equality of opportunity and promoting higher education.

- 2.3.13 Institutions were required to publish, on their website, within a week of HEFCW approval, certain sections of the plans excluding regulatory information provided to HEFCW in confidence.

Compliance with fee levels

- 2.3.14 Regulated institutions can only charge fee levels for full-time undergraduate and PGCE QTS provision that have been set out in approved fee and access plans. Once fee and access plans have been approved we share the details of approved fee levels with the Student Loans Company. Fee levels vary.
- 2.3.15 We have monitored fee levels for full-time undergraduate and PGCE QTS provision set out in 2017/18 fee and access plans through the analysis of Student Loans Company and Higher Education Statistics Agency data, complaints received and discussions with regulated institutions. These processes for monitoring compliance with 2017/18 approved fee levels have continued after the end of the reporting period and this will be set out in the next annual report.

Monitoring compliance with evaluating effectiveness of fee and access plans

- 2.3.16 Comprehensive monitoring and evaluation of a fee and access plan is not possible until the academic year has been completed. As the reporting period for this first annual regulatory report aligns with the academic year of the first fee and access plans there will be further reporting on the monitoring of compliance with the general requirements and the evaluation of the effectiveness of the 2017/18 fee and access plans in next year's annual report.

2.4 Outcomes of activities in discharging functions

- 2.4.1 This section of the report sets out the outcomes of having discharged our regulatory functions as they relate to fee and access plans. This will cover the outcomes of approving fee and access plans and our monitoring of compliance with fee levels and the general requirements of fee and access plans.

Outcomes of approving fee and access plans

- 2.4.2 All approved fee and access plans have included groups identified as under-represented in higher education. These are the groups that will be supported by

the equality of opportunity investment committed to in fee and access plans.

These groups include:

- people of all ages living in the Welsh Government former Communities First Programme catchment areas,
- people of all ages living in the bottom quintile of Lower Super Output Areas of the Welsh Index of Multiple Deprivation,
- people of all ages living in [UK POLAR3](#) low participation neighbourhoods,
- looked after children and care leavers,
- people with caring responsibilities,
- people with [protected characteristics](#),
- people from low income families, and
- people wishing to study Welsh medium higher education.

2.4.3 Through the approval of the first three sets of fee and access plans regulated institutions have committed a proportion of tuition fee income to:

- promote and safeguard fair access to higher education, including identifying individuals with the greatest potential from disadvantaged backgrounds,
- attract and retain students and prospective students from under-represented groups, including students from less advantaged backgrounds, students with disabilities and students from minority ethnic groups,
- raise educational aspirations and develop skills which prepare students from under-represented groups for higher education study,
- support and increase student retention and completion, particularly those from low participation neighbourhoods, looked after children, care leavers and carers,
- improve the experience of higher education of students from under-represented groups including activities to promote an international experience,
- provide information to students from under-represented groups before and during their courses,
- provide high quality academic and welfare support to students from under-represented groups,
- support students from under-represented groups to progress to employment or further study,
- secure more effective engagement with private, public or voluntary bodies and communities in Wales,
- improve the quality of learning and teaching, with reference to the quality of the student experience,
- strengthen the employability of Welsh graduates,
- promote Welsh higher education more effectively internationally,
- improve delivery of sustainable higher education, and
- raise awareness of the value of higher education amongst potential learners.

Outcomes of monitoring compliance with fee levels

2.4.4 To date we are unaware of any instances where a regulated institution has charged fees to students that have exceeded those as set out in the agreed 2017/18 fee and access plans.

2.4.5 In 2017/18, 12 complaints were received by HEFCW with none relating to compliance with fee levels.

Outcomes of monitoring compliance with general requirements of fee and access plans

2.4.6 To date we are unaware of any instances where a regulated institution has not complied with the general requirements of an agreed 2017/18 fee and access plan.

2.4.7 In 2017/18, 12 complaints were received by HEFCW with none relating to compliance with general requirements of fee and access plans.

2.5 Failures to comply with the regulatory system and instances of intervention

2.5.1 No regulated institution has failed to comply with the regulatory requirements associated with a fee and access plan. As such there are no instances of interventions to report.

Section 3 – Quality of Education

3.1 Introduction

- 3.1.1 Under the 2015 Act, HEFCW is required to assess, or make arrangements for the assessment of, the quality of education provided in Wales by, or on behalf of, each regulated institution. The 2015 Act gives HEFCW powers regarding provision which is, or is likely to become, inadequate, with adequacy defined as meeting the reasonable needs of those receiving the education or undertaking the course.
- 3.1.2 HEFCW may issue or approve guidance regarding improving or maintaining the quality of education provided by, or on behalf of, regulated institutions, and about criteria for assessing quality. Prior to issuing or approving such guidance, HEFCW must consult the governing body of each regulated institution and any others HEFCW thinks appropriate. HEFCW is also required to set up a Quality Assessment Committee (QAC) to advise on its functions regarding quality under the 2015 Act. Our QAC has provided advice to the Council on matters set out in this report as it relates to quality.
- 3.1.3 This chapter sets out how we have discharged our quality functions during both the transitional and reporting period, up until 31 July 2018, as well as the outcomes of those functions determining whether regulated institutions have complied with the regulatory system.

3.2 Development of regulatory processes prior to reporting period

- 3.2.1 HEFCW's powers for quality came into force during the transitional period of the Act being implemented. This section sets out the quality processes that were developed during that transitional period.
- 3.2.2 Under the 2015 Act, HEFCW is required to consult the governing body of each regulated institution, and any other persons they deem appropriate, before issuing or approving guidance in relation to quality.
- 3.2.3 During the transitional period, HEFCW conducted consultations on a number of functions to be discharged through the 2015 Act. These included:
- placing a greater emphasis on the role of governing bodies for providing assurances about quality and standards, and
 - an external quality assurance review to be conducted by the Quality Assurance Agency (QAA).
- 3.2.4 During this period HEFCW also established various new procedures and processes. These are detailed below.
- Quality Assessment Framework for Wales: this provided a consultation on the structure of the proposed Framework, which was subsequently introduced in 2017/18;
 - the external assurance of quality by regulated institutions: this set out the requirements for external quality assurance reviews, required to be commissioned at least every six years,
 - the methodology to be used for review of Transnational Education (TNE): this formally agreed the QAA methodology for reviewing TNE, and
 - the criteria for the assessment of quality, the method for assessment of quality and investigation of matters relating to quality and standards: this

formally agreed the use of the Quality Code, use of the Higher Education Review: Wales method for reviewing institutions, and the use of the QAA's methodology for investigating concerns.

- 3.2.5 The Quality Assessment Framework was proposed to provide HEFCW with mechanisms to assure itself that the quality of education, or a course of education, provided by, or on behalf of, regulated institutions meets the needs of those receiving it. The framework was developed to align with the 2015 Act and take account of regulatory changes. As part of the Framework, HEFCW piloted a triennial quality assurance review visit, to consider whether there was sufficient assurance underpinning the governing body annual assurance statements regarding quality.
- 3.2.6 The QAC replaced the former Quality Assessment and Enhancement Sub-Group of the Student Experience, Teaching and Quality Committee. The QAC is a statutory Committee of the Council, and its role is therefore crucial in terms of the Council's operation. Its role includes:
- undertaking the Council's statutory responsibilities in respect of quality assessment arising from the Act,
 - keeping arrangements for assessing the quality of higher education under review and, where appropriate, work with others to establish new or revised arrangements,
 - considering any matters referred to the Committee by the Council, and
 - reporting annually to Council on the quality of provision.

3.3 Discharging of functions during the reporting period

- 3.3.1 In this section we will set out how our quality functions have been discharged during the 2017/18 academic year. During the reporting period, we have consulted on, and developed, new approaches, in addition to implementing existing approaches, to ensure our quality functions are discharged effectively.

Quality Assessment Framework

- 3.3.2 HEFCW has exercised a number of functions in relation to assessing quality and risk to quality in 2017/18. The [Quality Assessment Framework for Wales](#) (the Framework) was published in March 2018. The Framework includes:
- Gateway arrangements for institutions wishing to become regulated,
 - arrangements for established providers: this included annual scrutiny of data by HEFCW; the governing body providing annual assurance statements; a requirement for institutions to commission an [External Quality Assurance Review](#) at least every six years; HEFCW carrying out [Triennial assurance visits](#) in relation to the provision of quality; and working in partnership with the student body,
 - tailored but rapid intervention: the introduction of a HEFCW process for dealing with complaints; and the use of HEFCW's Quality Assessment Committee to advise on complaints or concerns raised,
 - degree standards and comparability: this included UK-wide work on understanding degree algorithms; work on grade inflation/ improvement; and work on external examining, professional development and calibration, and
 - international reputation: this included agreeing UK wide approaches via the UK Standing Committee for Quality Assessment; and transnational review visits.

- 3.3.3 The Framework informs the annual fee and access planning process and HEFCW's institutional risk review process.
- 3.3.4 In June 2018, HEFCW held an event to launch the Framework. The event was well attended by delegates from regulated institutions and other interested parties. Our Chair of QAC chaired the event and other QAC members contributed. A summary of the [event](#) and [presentations](#) is available on the HEFCW website.
- 3.3.5 The framework requires the governing bodies of regulated institutions to submit annual quality assurance statements. The submissions for 2017/18 was the first year for this requirement, and therefore was a pilot exercise. QAC advised that the returns for 2017/18 were satisfactory.

External reviews

- 3.3.6 The QAA was commissioned by Universities Wales to conduct the external quality assurance and enhancement reviews to meet the Framework's requirements. The purpose of these reviews is to meet public interest and ensure the standards of quality meets the baseline requirements. In 2017/18 one review of a regulated institution was undertaken by QAA. The outcome of this was satisfactory.
- 3.3.7 A [consultation](#) on a Gateway external quality review was published in August 2017 and responses were submitted in October 2017. The review was proposed in line with a UK approach to develop a single gateway for entry to publically funded higher education. In Wales, this would be addressed through arrangements for automatic and specific designation to access student support within the context of the 2015 Act.
- 3.3.8 The majority of respondents were supportive of HEFCW's proposal and were content that the process would offer assurance to HEFCW on the quality of higher education in Wales. The process would recognise the distinct landscape of higher education in further education in Wales. It was noted that the second review should re-test baseline standards in order to provide assurance that higher education provision is sustainable, evidenced by a clear record of accomplishment and meets UK baseline standards for higher education quality. The process therefore includes a focus in student engagement.

Triennial reviews

- 3.3.9 As part of HEFCW's responsibilities under the Framework, HEFCW conducts a triennial review of each regulated institution and reports on its findings. This focuses on the annual quality assurance statements which are signed by the governing body. Each institution being reviewed is provided an opportunity to review the report for accuracy before it is considered by QAC and utilised by HEFCW's Council as part of its Institutional Visit.
- 3.3.10 HEFCW published a document to provide clarity on the purpose of the triennial reviews and the associated outcome report, together with clarification that the triennial review outcomes would not directly trigger HEFCW's statutory powers, but would inform other HEFCW processes which could result in statutory intervention.

- 3.3.11 During the reporting period, two triennial reviews of regulated institutions were conducted by HEFCW.

Complaints

- 3.3.12 We reviewed data on student complaints made about Welsh institutions to the Office of the Independent Adjudicator (OIA) in 2016 and 2017. QAC members were content with the update provided and advised on the importance of focussing on the number of complaints made directly to the OIA, rather than on numbers of Completion of Procedures letters, which could reflect inconsistent practice between institutions. HEFCW advised that there might be an increase in the number of complaints received in 2018 and 2019 due to the recent industrial action at some Welsh institutions.
- 3.3.13 In June 2017, HEFCW conducted a consultation on procedures for handling complaints, the [outcomes of which were published in October 2017](#). The consultation sought views on HEFCW's procedures for handling complaints against institutions following the implementation of the 2015 Act. Complaints relating to quality are reviewed in accordance with the revised assurance Procedures for handling complaints against institutions. In relation to quality, HEFCW has the ability to review complaints regarding inadequate quality, or quality that is likely to become inadequate. This definition has been aligned to the [baseline regulatory requirements](#) of the Framework. It is expected that other complaints relating to academic standards and the student academic experience are referred to the OIA.

Quality likely to become inadequate

- 3.3.14 HEFCW has responsibilities under the 2015 Act in relation to provision which is 'likely to become' inadequate. QAC considered how this term might be defined and advised HEFCW regarding how this might be taken forward. This informed a [consultation](#) on the issue, which opened in July 2018 and closed in September 2018. The outcomes of the consultation were taken forward in 2018/19

3.4 Outcomes of activities in discharging functions

- 3.4.1 This section sets out the outcomes of the activities as a result of discharging our quality functions to assess or make arrangements for the assessment of the quality at regulated institutions.
- 3.4.2 The outcomes from the one Quality Enhancement review, conducted in May 2018 concluded that the requirements for internal quality assurance and relevant regulatory baseline requirements were met.
- 3.4.3 There were two triennial reviews conducted in January and May 2018.
- 3.4.4 HEFCW was generally assured by the outcomes from the visit in January 2018.
- 3.4.5 HEFCW made a number of recommendations from the visit in May 2018 with particular reference to student partnership. Outcomes from the visit in May 2018 included:
- the institution should keep its expansion plans under review to ensure the student experience was not adversely effected,

- the institution should consider how the updates to student involvement could affect student engagement and partnership,
- Governors would benefit from additional training and partnership working with Wise Wales to support its responsibilities, and
- the Student Union should engage more with students to be able to represent the student voice.

3.4.6 In 2017/18, 6 complaints were received by HEFCW regarding quality. No complaints progressed beyond the initial stage of the complaints process, as the complaints did not fall within our remit for investigation. This was for reasons including complaints not falling under HEFCW's statutory powers for quality; complainants not having completed the institution's own procedures; and issues being raised which fell under the jurisdiction of the OIA.

3.5 Failures to comply with the regulatory system and instances of intervention

3.5.1 There were no failures to comply with the regulatory system as it relates to quality and as a result we did not utilise our intervention functions.

Section 4 – Financial Affairs of Regulated Institutions

4.1 Introduction

- 4.1.1 Section 27(1) of the 2015 Act requires that HEFCW prepare and publish a code relating to the organisation and management of the financial affairs of regulated institutions. Section 27(2) states that ‘The Code may make provision about the following matters (among others):
- a) circumstances in which a regulated institution is to enter into a transaction of a class specified in the Code only with the consent of HEFCW,
 - b) accounting and audit arrangements of regulated institutions, and
 - c) the provision of information to HEFCW.’
- 4.1.2 Section 27(4) of the 2015 Act requires that the governing body of a regulated institution must:
- a) comply with and requirement imposed by the Code, and
 - b) take into account any guidance contained in the Code.
- 4.1.3 This section sets out the process by which the Financial Management Code (the Code) was developed and implemented up until 31 July 2018.

4.2 Development of regulatory processes prior to implementation

- 4.2.1 HEFCW developed the Code which was considered by HEFCW’s Audit and Risk Assurance Committee and Council. A [consultation](#) in relation to the Code was undertaken in summer 2016. As required under the 2015 Act, the views of the governing bodies of all regulated institutions and any other persons considered appropriate were sought under this consultation process. Following consideration of consultation responses and consequent amendments, and liaison with Welsh Government officials, the Code was submitted to the Cabinet Secretary for Education in February 2017 together with a [report](#) setting out a summary of the consultation, and explaining the reasons for the terms included within the Code.
- 4.2.2 Following approval by the Cabinet Secretary for Education, the Code was laid before the National Assembly for Wales for a 40 day period in accordance with Section 30 of The 2015 Act. No resolution was passed by the Assembly in that period, allowing the [Code](#) to be published by HEFCW in June 2017.

4.3 Discharging of functions in 2017/18

- 4.3.1 This section sets out how we monitored compliance with the Code in 2017/18.
- 4.3.2 We undertake financial monitoring, including the review of each regulated institution’s financial statements and detailed financial forecasts. In the reporting period, financial forecasts were analysed in late summer 2017 and financial statements in early 2018. In addition, financial forecast updates were analysed in spring 2018 as part of the 2019/20 Fee and Access Plan application process. HEFCW has also monitored complaints received under its [complaints about institutions procedures](#) for those that have a potential bearing on compliance with the Code.
- 4.3.3 We also undertake institutional assurance review work in respect of each regulated institution in Wales. The focus of these reviews is on seeking evidence

for the robustness of institutions' own risk management, control and governance arrangements. We look for this evidence, in particular, through the assurances and opinions provided by institutions' own internal and external auditors, and the reports of their Audit Committees. Discussions with key personnel at institutions are a crucial part of our assurance review work. We also meet with institutions' internal auditors. During the reporting period, officers carried out two planned formal institutional assurance review visits.

4.3.4 Through our Institutional Risk Review (IRR) process we conduct formal, bi-annual risk assessments of regulated institutions. A range of information drawn from the latest data returns and Council and officer engagements with institutions is used to risk-assess each one against six key areas – Governance and Management; Finances; Strategic Direction; Research and Knowledge Transfer; Students and Quality; and Estates. An overall assessment is then made through which each institution is rated as being at 'Low', 'Moderate' or 'High' exposure to risk. The definitions of these risk categories is as follows:

Low risk: The institution is unlikely to fail to comply with the Financial Management Code.

Moderate risk: The institution has, or may fail to comply with the Financial Management Code over the short to medium term, but the impact of this does not lead to sustainability concerns over that period

High risk: The institution has, or is likely to fail to comply with the Financial Management Code over the short to medium term, and the impact of this leads to sustainability concerns over that period.

4.3.5 During the year we conducted an interim IRR in autumn 2017, with the outcomes considered by the Audit and Risk Assurance Committee in December 2017 and Council in January 2018. A full IRR was undertaken in spring 2018, with the outcomes of the full IRR considered the Audit and Risk Assurance Committee in June 2018 and Council in July 2018.

4.3.6 In addition, the Council has established a series of formal institutional visits whereby Council members and officers visit each institution at least once every three years, providing a further opportunity for discussion of strategic matters with governors and senior management. These visits were extended in the reporting period to include all regulated institutions which includes two Further Education Institutions. Five regulated institutions were visited in 2017/18, with this including visits by sub-sets of Council members to the two regulated Further Education institutions.

4.4 Outcomes of activities in discharging functions

4.4.1 This section sets out the outcomes of our monitoring of compliance with the Code in the reporting period.

4.4.2 Monitoring of the financial position of higher education institutions' finances in the reporting period showed that the consolidated surplus for Welsh higher education institutions decreased from a surplus of £74.8 million in 2015/16 to a deficit of £16.8 million in 2016/17. This decrease in 2016/17 largely resulted from: the recognition of a far lower level of capital grants, compared to the substantial level recognised in 2015/16; significant impairment charges against one university's assets; an increase in interest charges reflecting increased borrowings; an

increase in staff costs due to increased salaries/wages and social security costs and to a lesser extent employer pension contributions; some reduction in numbers of students recruited; and reduced HEFCW grant income.

- 4.4.3 At institutional level, results ranged from a deficit of 21.4% to a surplus of 6.7%. This demonstrated the significant level of variation in financial performances of individual institutions across the sector. Four institutions reported deficits in 2016/17, compared with three institutions in 2015/16. Only two institutions reported surpluses of 5% or more of total income.
- 4.4.4 Cash flow from operating activities rose slightly from 6.2 per cent in 2015/16 to 7.0 per cent of total income in 2016/17. Unrestricted reserves rose from £854 million (56.7 per cent of income) to £967 million (64.9 per cent of total income); this was due in part to the consolidation, by some institutions, of their revaluation reserves into unrestricted reserves and therefore is not a reflection of an underlying increase in reserves. Total net assets rose from £1,519 million to £1,572 million.
- 4.4.5 Long-term external borrowings, and obligations under finance leases and service concessions, increased from 48.4% of income at 31 July 2016 to 50.0% at 31 July 2017. Short term creditors also increased by £12 million in the year, mainly associated with an increase in creditors relating to deferred income for research.
- 4.4.6 In all cases, the 2016/17 annual reports of institutions' internal auditors contained adequate statements of overall assurance on their internal control systems, risk management and governance to the effect that governing bodies could place reliance on those systems, although areas were identified at institutions where some improvements were recommended.
- 4.4.7 HEFCW's institutional assurance work identified a range of issues which were addressed with institutions through rigorous engagement via the IRR process (see below). Beyond those issues where HEFCW has engaged with institutions through the IRR process, HEFCW's institutional assurance review work did not identify any further areas during 2017/18 which would cause us to have significant concerns over the overall adequacy of those institutions' frameworks of governance, risk management and control in the context of their compliance with the Code. Any concerns that have arisen since the end of the reporting period will be covered in the next report.
- 4.4.8 The outcomes of the IRR assessments undertaken by HEFCW during the reporting period were that:
- two institutions were assessed as at High exposure to risk overall,
 - two institutions were assessed overall as Moderate exposure to risk, and
 - four institutions were assessed overall as Low exposure to risk.

As a consequence of our risk assessments, we increased levels of engagement with the Heads and Senior Management Teams of those institutions rated as at 'Moderate' and 'High' risk, in order to gain assurance that the issues giving rise to our concerns were being urgently and appropriately addressed. This included regular engagement with Directors of Finance for those institutions considered to be at High risk in order to understand and monitor the delivery of plans to improve financial sustainability.

- 4.4.9 In 2017/18, 3 complaints were received by HEFCW that alleged issues which represented potential breaches of the Code. HEFCW engaged on an informal

basis with the relevant institution in respect of each of these alleged issues. As a consequence of this engagement, a satisfactory resolution was achieved in all instances and no further action was required.

4.5 Failures to comply with the regulatory system and instances of intervention

4.5.1 There were no instances where formal intervention in respect of a failure to comply, or a likelihood of failure to comply, with the Financial Management Code was required during the reporting period.

Section 5 – Statement of Intervention

- 5.1 This section sets out the process by which both the transitional and the full statement of intervention were developed and published.
- 5.2 HEFCW’s functions, duties and powers under the 2015 Act came into force at different times, with several intervention powers in force under transitional arrangements which operated from 1 September 2015 to 31 August 2017. These were the provisions in the 2015 Act, and associated regulations, in relation to:
- Compliance and Reimbursement Directions to address issues in respect of the charging of excess fees;
 - Directions in Respect of Inadequate Quality; and
 - Other Measures in Respect of Inadequate Quality.

The remaining measures under The 2015 Act came into effect from 1 September 2017.

- 5.3 HEFCW developed a statement of HEFCW’s intervention functions for the purposes of section 52 of the 2015 Act, to provide a public and transparent framework within which HEFCW would operate for the transitional period until superseded by a full Statement of Intervention in relation to the commencement of all HEFCW’s intervention powers. The draft transitional statement was considered by HEFCW’s Audit and Risk Assurance Committee and Council. A [consultation](#) in relation to this transitional statement of intervention was undertaken in October-November 2015. As required under the 2015 Act, the views of the governing bodies of all regulated institutions and any other persons considered appropriate were sought under this consultation process. Following consideration of consultation responses and consequent amendments the [Transitional Statement of Intervention](#) was published on 4 February 2016.
- 5.4 Officers subsequently developed a full statement of HEFCW’s intervention functions for the purposes of section 52 of the 2015 Act covering the full range of HEFCW’s intervention powers, the remainder of which were to come into effect from 1 September 2017. The draft full statement was considered by HEFCW’s Audit and Risk Assurance Committee and Council and by HEFCW’s legal advisors. A consultation on this Full Statement of Intervention was undertaken in July-August 2016. As required under the 2015 Act, the views of the governing bodies of all regulated institutions and any other persons considered appropriate were sought under this consultation process. Following consideration of consultation responses and consequent amendments the full [Statement of Intervention](#) was published on 25 October 2016.
- 5.5 HEFCW’s Regulation Committee will keep the Statement of Intervention under review.

Section 6 – Assurance Statement

- 6.1 This section provides an annual assurance statement by the Higher Education Funding Council for Wales (HEFCW or the Council) to the Welsh Government on regulated institutions' compliance with the regulatory system laid down by the 2015 Act and highlights any areas of concern or risk. This statement replaces the Annual Governance Assurance Statement in respect of higher education institutions that has previously been provided to Welsh Government on a financial year basis.

Statement of Assurance

- 6.2 The Council's assessment is that, across the regulated sector, institutions' compliance with the regulatory requirements imposed by the Higher Education (Wales) Act 2015 has been broadly satisfactory. Where particular issues were identified during the reporting period, the Council has pursued them rigorously with the institutions concerned, as noted above.