

Allegations concerning institutions funded by the Higher Education Funding Council for Wales

Introduction

- 1 The Higher Education Funding Council for Wales (HEFCW) and its Institutional Assurance Service occasionally receive allegations of financial irregularity or impropriety, mismanagement, waste and fraud in higher education institutions, from a variety of sources. This document sets out our procedure for dealing with such allegations.

Discloser confidentiality

- 2 In this document the term 'discloser' refers to the individual who wishes to make a public interest disclosure to the HEFCW.
- 3 The identity of a discloser and the source of his or her information can be kept confidential on the request of the discloser. However, the Chief Executive and other employees of the HEFCW may need to be given these details to determine the action to be taken in relation to a complaint, to enable enquiries to be made of the institution, and to enable any investigation to be carried out. Confidentiality will be respected if it is still possible for the case to be properly investigated. If it is not possible to protect confidentiality, the discloser will be given the choice of withdrawing or being identified.
- 4 Our policy is *normally* not to take action in response to anonymous allegations.

Policy

- 5 Our guiding principle for dealing with allegations can be summarised as follows:

Institutions are independent, legally autonomous bodies and we do not interfere unnecessarily in their operations.

- 6 Complaints by staff or students concerning a particular institution should be addressed through the institution's own internal complaints and appeal procedures [see Annex B for further details].
- 7 However, our relationship with institutions is governed by the Financial Memorandum, which sets out the terms and conditions for the payment of funds to the governing body of each institution. The Financial Memorandum also lays down requirements for the governance and management of institutions. Where allegations are received that these requirements are not being met, we must satisfy ourselves that the matter has been investigated, appropriate action taken, and relevant people informed.

The procedure to be followed by a discloser

- 8 Where an individual wishes to make an allegation to the HEFCW about matters in a higher education institution, then he or she should:
- a) Read carefully this document and the Financial Memorandum that governs the relationship between the HEFCW and institutions. The Financial Memorandum is available on the HEFCW website www.hefcw.ac.uk under Working with Higher Education Providers > Institutional assurance (Circular W08/36HE).
 - b) Seek further clarification, if necessary, from the Clerk to the Council or HEFCW's Institutional Assurance Service (e-mail assurance@hefcw.ac.uk).
 - c) Satisfy him or herself that:
 - i. the allegation relates to the HEFCW's functions and its relationship with the institution as set out in the Financial Memorandum.
 - ii. the institution's internal public interest disclosure ('whistle-blowing') procedure has been exhausted.
 - iii. the matter does not relate to an individual or collective personnel dispute for which there are established routes of complaint and remedies.
 - iv. the matter does not relate to an academic dispute between a student and the institution.
 - d) Complete the form at Annex A of these procedures and submit it to the Clerk of the Council. An acknowledgement will be sent within five working days.

The procedure to be followed within HEFCW

- 9 All allegations received within the Council which might affect the proper use of public funds will be acknowledged by the Clerk and referred to the Council's Institutional Assurance Service. The Assurance Service will determine what action should be taken, and obtain clarification of, or further information regarding, the allegation from the discloser, if this is possible and if this is considered necessary to reach a decision.
- 10 The Assurance Service will first consider whether the allegation is relevant to the HEFCW's functions. It will decide if the allegations concern the policy of an institution, relate to academic matters or personnel disputes, or simply question legitimate decisions made by the institution. If the allegations do concern one of these areas, no further action will be taken,

except that the institution will be informed and a reply sent to the discloser to the effect that these are matters for the institution.

- 11 If the allegation is relevant to the HEFCW's functions, the Assurance Service will then consider:
 - i) whether the discloser has demonstrated, or seems likely to be able to demonstrate, by the provision of evidence, a reasonable basis for the complaint;
 - ii) whether the discloser appears to believe that the allegation is true;
 - iii) the seriousness of the complaint;
 - iv) whether the discloser is aware of and has used the institution's own procedure for handling grievances or reporting concerns;
 - v) whether there are compelling reasons for the individual's decision not to use those procedures. Such reasons might include concern on the part of the discloser that s/he will be treated adversely by the relevant institution or some other person or body as a result, or that evidence relevant to the allegation will be destroyed if s/he uses the existing procedures.
- 12 Having considered these factors, the Assurance Service will make a judgement as to the robustness and seriousness of the allegation, and whether it needs to be pursued. If the allegation appears to the Assurance Service to be minor, frivolous or vexatious it will not be pursued. However, a file note setting out the basis for the judgement will be kept (and can be made available subject to Freedom of Information and Data Protection requirements), and the discloser will be informed via the Clerk to the Council.
- 13 If the allegation relates to a matter within the HEFCW's functions and is considered to be of a level of robustness and/or seriousness which requires the HEFCW to consider taking action, then the Assurance Service will instigate the procedure set out from paragraph 14 below.

Procedure for pursuing allegations

- 14 When allegations as defined above are received, and the Assurance Service judges that it is appropriate to pursue them, it will prepare a brief summary of the allegation with a recommendation for action. If the approach to be taken is not clear, the advice of the Chief Executive will be sought.
- 15 Once approved, it will be for the Assurance Service to manage whatever work is deemed appropriate, either using Assurance Service resources or by obtaining assistance from outside the HEFCW, as necessary. In all

such cases the institution(s) concerned will be informed. If it is considered that an investigation of some sort is necessary, for example by the institution or its auditors or by the HEFCW Assurance Service, this will be confirmed in a letter from the Head of Governance, Leadership and Information to the head of the institution.

- 16 Allegations may be raised in respect of the head of institution. In these circumstances, the Head of Governance, Leadership and Information will liaise with the HEFCW Chief Executive about how to proceed and who should contact the institution's chair of governors or the chair of its audit committee.
- 17 In all cases, the nature of the allegation should, where possible, be openly discussed to establish if the institution is already aware of the allegation and has investigated it. If this is the case, copies of any reports should be obtained, and the Assurance Service will make a judgement as to whether any further action is needed by the institution. If the institution is not aware of the allegation, discussions should take place with the institution to agree whether an investigation is necessary and who might undertake it. The Assurance Service will obtain a copy of any report resulting from such an investigation by the institution or its auditors, and it has the right of access to any documents necessary for the conduct of its work.
- 18 When the Assurance Service considers that no further work is appropriate, either because a full investigation was not warranted or because the allegation has already been the subject of a full internal report, a recommendation will be made that the file on the allegation be closed. The Clerk will then notify the original discloser of this outcome.
- 19 If the HEFCW considers that a HEFCW Assurance Service investigation is necessary, the work will be undertaken according to professional audit standards. The investigation should lead to a report which will, if possible, be agreed with the institution as being an accurate report of the investigation and its findings. The report will ultimately be issued to the institution's Designated Officer (usually the vice-chancellor or principal, but exceptionally the chair of the governing body) in confidence by HEFCW's Chief Executive, in the same way as routine reports from the Assurance Service. The expectation is that it will be considered by the institution's audit committee. Where it is decided that further work is appropriate, HEFCW will inform the discloser that the allegation is being investigated. The discloser will also be informed, in broad terms and insofar as this is compatible with any duties of confidentiality to others, of the ultimate outcome of such further investigations.
- 20 If the disclosure has been received via the Wales Audit Office (WAO) or the Welsh Assembly Government, the HEFCW report will be forwarded as an 'audit in confidence' document to those agencies. The HEFCW will also provide a draft response for the WAO or Welsh Assembly Government to reply to the original discloser.

General

- 21 The Assurance Service will report to HEFCW's Chief Executive and Audit and Risk Committee, in an annual report on public interest disclosure ('whistleblowing') activity, the scale of activity covered by this procedure and the general themes and implications. Major cases will also be reported in their own right to HEFCW's Audit and Risk Committee.
- 22 Discussions with institutions about HEFCW's role in relation to enquiring about and investigating allegations should be conducted on the basis that under statute we have a responsibility for public funds. In discharging that responsibility we will want to use our wider experience to support the institution, to help us work with the rest of the sector in learning lessons from an investigation, and to assist the institution in its dealings with other bodies such as the Welsh Assembly Government and the WAO.
- 23 This document cannot cover every eventuality and there will be occasions when an alternative approach will be needed. Minor variations will need the authorisation of the Head of Governance, Leadership and Information. Major variations will need the approval of HEFCW's Chief Executive.
- 24 A separate procedure applies should individuals wish to make a complaint against the Council. This is available on the HEFCW website www.hefcw.ac.uk under About us > Our responsibilities > Complaints about HEFCW.

Form for submitting allegations about institutions funded by HEFCW

Name of discloser:

Correspondence address:

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Telephone:

E-mail:

The Institution (university, college or institute) that the allegation concerns:

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Relationship of discloser to institution:

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Has this complaint or allegation been pursued through all stages of the institution's own complaints and/or public interest disclosure procedures?

Yes No

If **yes** please supply a copy of the final decision.

If **no** please explain why the case is being pursued with the HEFCW.

Nature of allegation:

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Which of the HEFCW's functions and interest does this allegation relate to?
Please refer to the relevant paragraph of the Financial Memorandum (FM)
(Circular W08/36HE).

FM paragraph number	FM paragraph reference

Please supply documentary evidence as necessary.

NB We cannot approach an institution for an explanation of unsupported allegations.

Would you be willing to meet the HEFCW officer, if one is asked to take this case forward?

Yes No

Signed:

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Date:

Please submit 'in confidence' to:

Clerk to the Council
Higher Education Funding Council for Wales
Linden Court
The Orchards
Ilex Close
Llanishen
Cardiff CF14 5DZ
Tel: 029 2076 1861
Fax: 029 2076 3163
Web: www.hefcw.ac.uk
E-mail: info@hefcw.ac.uk

Complaints by students or staff about their institution

It is not in the remit of the Higher Education Funding Council for Wales (HEFCW) to become involved in disputes between students or staff and the institutions that we fund. The Council's powers of intervention are limited so as not to encroach on the proper autonomy of institutions, which are legally independent bodies.

All institutions have their own complaints and appeals procedures, including on matters of academic performance. Individuals should pursue their complaints directly with the institution concerned in accordance with the institution's own internal procedures. These will be available in printed form from the institution and/or on the institution's website.

Student complaints

If a student has exhausted an institution's internal complaints procedures and has been issued with a 'Completion of Procedures' letter, but does not consider the complaint to have been dealt with satisfactorily, they may refer the matter to the Office of the Independent Adjudicator for Higher Education (OIA). Further details on the OIA's independent scheme for the review of student complaints are available from:

The Office of the Independent Adjudicator for Higher Education
Fifth Floor
Thames Tower
Station Road
Reading
RG1 1LX
Tel: 0118 959 9813
Fax: 0118 955 9099
E-mail: enquiries@oiahe.org.uk
Website: www.oiahe.org.uk

Information about student complaints can also be found on the website of The Quality Assurance Agency for Higher Education (www.qaa.ac.uk).

Staff complaints

Staff complainants should seek advice through their union representative. All institutions have grievance and public interest disclosure ('whistleblowing') procedures.