

Higher Education Funding Council for Wales: External Complaints Procedure

[N.B. This replaces the previous version of HEFCW's External Complaints Procedures published in December 2000 via Circular W00/115HE]

Introduction

- 1 The Higher Education Funding Council for Wales (HEFCW) is an Assembly Government Public Body, established in May 1992, which assumed responsibility for funding higher education in Wales on 1 April 1993.

Under the Further and Higher Education Act 1992, the Council is responsible for the administration of funds made available by the Assembly in support of the provision of education, the undertaking of research by higher education institutions, and the provision of prescribed courses of higher education at further education institutions.

Under the Education Act 1994, the Council is responsible for accrediting providers of initial teaching training for school teachers and commissioning research to improve the standards of teachers and teacher training.

- 2 The Council is committed to working in an open and accountable way, and to responding positively to any complaints by improving procedures, correcting mistakes and learning from experience. It is envisaged that most complaints can be resolved by the member of staff responsible for delivering the service. However, there may be situations where this is not possible and in these circumstances the Council would like the opportunity to put matters right before any other remedy or action is considered. These procedures set out how we will try to resolve such complaints.

Complaints covered by this procedure

- 3 These complaint procedures are concerned with claims of impropriety, irregularity, misconduct, poor performance or ineffectiveness against the HEFCW. Any complaints brought forward must be more than an objection to the merits of a decision or action by the Councils or their staff; they should be concerned with the manner in which a decision has been made or action taken (including undue delay or failure to act or make decisions) rather than the decision itself.

Complaints not covered by this procedure

- 4 This procedure is for complaints against the HEFCW from people who are not employed by the Council. There are separate procedures covering staff grievances and public interest disclosure by Council staff.
- 5 These procedures do not cover complaints against institutions. It is not in the remit of the Council to become involved in disputes between students or staff

and the institutions that we fund. Such complaints should be addressed through the institution's own internal procedures [see Annex for further details].

Also, the Council has separate procedures for dealing with allegations of financial irregularity or impropriety, mismanagement, waste or fraud in the institutions which it funds. These are set out in a separate document, *Allegations concerning higher education institutions funded by the HEFCW* which can be obtained from the Clerk to the Council.

Principles

6 The Council's complaints procedure is based upon the following principles:

Courtesy

All complaints will be treated with courtesy and understanding.

Accessibility

The complaints procedure will be made available in both Welsh and English, in hard copy and on HEFCW's website. Complaints may be made either orally or in writing (including via fax or e-mail).

If a person making a complaint is unable to act for him/herself a representative may act on their behalf, providing that they can provide proof that he/she is authorised by the person making the complaint to do so.

Timely and informative

The complaints system will operate to a timetable defined once the complaint has been received. Individuals making complaints will be kept informed of progress.

Fairness

Where a complaint warrants more than a simple explanation or apology, a thorough investigation will be carried out. The complaint will be logged and detailed records of the investigation kept (these records can be made generally available, subject to Freedom of Information and Data Protection requirements).

As far as possible, all parties will be given the opportunity to provide evidence. The procedures will make clear how individuals making complaints may appeal against the Council's decision about the complaint.

How to complain

7 In the first instance, your complaint should be put to the member of staff who dealt with you, or their line manager, so that they have the opportunity to put it right.

Where complaints are received orally, a note will be made and you will be asked to confirm that it records the complaint accurately. If the complaint is complex, you will be encouraged to put your complaint in writing, setting out the detail of the complaint.

If your complaint remains unresolved, the next step is to contact the Clerk to the Council, providing details of your complaint, the resulting consequences for you, and an indication of the remedy you are seeking.

- 8 We will acknowledge your complaint within three working days of receipt.

A detailed response and an explanation will normally be made within 15 working days.

Where a response cannot be provided within 15 working days (e.g. because of the complexity of the complaint) an interim reply will be sent with an undertaking to provide a full reply by a date specified in the letter.

If you are not satisfied with the response, you can write to the Chief Executive and ask for your complaint and our response to be reviewed.

The Chief Executive will acknowledge your request for a review within three working days and respond in detail within 15 working days, or as soon as possible thereafter.

The Chief Executive will always give you reasons for upholding or revising the original response. After the Chief Executive's decision has been taken, it will be communicated to you in writing and you may make a response or comment.

If, however, your complaint concerns the Chief Executive you should contact the Clerk to the Council. Your complaint will be passed to the Chairman of the Council, who will provide a detailed response within 15 working days. If you are not satisfied with the response, you can ask for your complaint to be considered by the Council's Complaints Panel (see paragraph 10 below).

The Council's complaints panel

- 9 The Council has an independent procedure for appealing against the decision of the Chief Executive.

- 10 If you are not satisfied with the Chief Executive's response, you can ask for your complaint to be considered by the Council's Complaints Panel. The Panel is the final Council process for dealing with complaints.

The Panel will not consider a complaint that is the subject of legal proceedings or is judged to be trivial or vexatious. The Panel will consist of three members: two external members drawn from a pool of experienced figures independent of the Council, and one Council member who will chair the Panel.

The Panel will be serviced by the Clerk to the Council. If the complaint concerns the Clerk, the Panel will be serviced by the Clerk to the Board of the Higher Education Funding Council for England.

- 11 If you want this Panel to hear your complaint, you should write to the Clerk to the Council within two months of receiving the Chief Executive's response under paragraph 8 above.
- 12 You will be informed of the membership of the Panel. You will have the right to challenge the membership, but only if there is good cause.
- 13 The Clerk to the Panel will forward papers relating to your complaint to members of the Panel, the Chief Executive and yourself at least two weeks before your complaint is considered. These papers will include your own detailed submission of complaint.

There will be an opportunity for yourself and the Chief Executive to comment on each other's submission before the Panel considers them. These secondary comments, if any, will be circulated to the Panel, the Chief Executive and yourself in advance of the Panel meeting. The Panel will meet in private to discuss your complaint and may ask to meet you if there are issues of fact to be resolved.

- 14 The Panel may also approach you or members of Council staff if it requires further information. You will be able to reply to any new information provided by Council staff. Your name, the nature of the complaint and the evidence which you have provided will be treated in confidence by the Panel and by staff of the Council complained against, unless you instruct the Council otherwise.
- 15 The Clerk to the Panel will keep a record of the Panel meeting. The Panel's decision and reasons will be given to you and to the Chief Executive in writing within 10 working days of the meeting.
- 16 The Panel may recommend reforms and remedies to the Chief Executive; it may also suggest the basis of a settlement between you and the Council.

Appealing against decisions

- 17 No further appeal can be made to the Council against the Panel's decision. However, if you provide additional, new information to the Clerk to the Panel, this will be put to the Panel and they will review their decision if appropriate. Normally, additional information will only be accepted on one occasion after a decision is taken, and then only if it was not available to you at the time of the original hearing.
- 18 Individuals who remain dissatisfied with the Council's decision may refer their complaint to the Public Services Ombudsman for Wales (see Annex for contact details).

Costs

19 You will be expected to pay your own costs.

Further information

20 For further information about this procedure, please contact the Clerk to the Council.

Useful contact details:

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

The Public Services Ombudsman for Wales

1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ
Tel 01656 641150
Web: www.ombudsman-wales.org.uk
E-mail: ask@ombudsman-wales.org.uk

Welsh Assembly Government sponsor:

Higher Education Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Tel: 029 2082 5893

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 followed an institution's procedure but is not satisfied with the result, he/she may wish to take the complaint to the National Union of Students (NUS) at the institution. The NUS representative will liaise with the solicitor at the NUS and offer further advice. If independent advice from the NUS solicitor is required, the student should write, enclosing a SAE, to:

NUS Legal

461 Holloway Road
London
N7 6LZ

If, having exhausted an institution's internal complaints procedures, and been issued with a 'Completion of Procedures' letter, a student does not consider their complaint to have been dealt with satisfactorily he/she 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 and appeals can be obtained 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
Web: 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 wishing to make a complaint should seek advice through their union representative. All institutions have grievance and public interest disclosure ('whistleblowing') procedures.