

Cyngor Cyllido Addysg
Uwch Cymru
Higher Education Funding
Council for Wales

Cwrt Linden
Clos Ilex Llanisien
Caerdydd CF14 5DZ
Ffôn 029 2076 1861
Ffacs 029 2076 3163
www.hefcw.ac.uk

Linden Court
Ilex Close Llanishen
Cardiff CF14 5DZ
Tel 029 2076 1861
Fax 029 2076 3163
www.hefcw.ac.uk

hefcw

Cylchlythyr

Circular

Policy for addressing unsatisfactory quality in institutions in Wales

Date: 4 August 2009
Reference: W09/25HE
To: Heads of higher education institutions in Wales
Principals of directly-funded further education colleges in Wales
Response by: 30 September 2009
Contact: Name: Dr Cliona O'Neill
Telephone: 029 2068 2283
Email: cliona.oneill@hefcw.ac.uk

This circular identifies our proposed procedures to address unsatisfactory quality in institutions in Wales as identified through institutional review. This policy will be implemented for institutions that receive a no confidence judgement but have not developed a satisfactory programme for follow-up action, or have made insufficient progress against an action plan, in the stated time. It will also be applied to institutions which receive a no confidence judgement in two successive reviews.

We welcome comments on these procedures. This circular will be of interest to those with responsibility for quality management.

This document is available online, in large print, Braille, on CD and on audio CD and cassette. Should you or someone you know require this in an alternative format, please contact us on (029) 2068 2280 or email info@hefcw.ac.uk.

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Introduction

1. HEFCW has a statutory obligation under the Further and Higher Education Act 1992 to secure that provision is made for assessing the quality of education provided in institutions for whose activities we provide, or are considering providing, financial support.
2. As part of this obligation we propose to adopt an approach to dealing with institutions for whose activities we provide, or are considering providing, financial support, which demonstrate unsatisfactory quality of management of academic standards of awards and/or quality of the learning opportunities available to students. This will be identified through the Quality Assurance Agency's (QAA) Institutional Review: Wales (IR) process over an extended period, ie normally beyond the time allowed for follow-up action.
3. The proposed procedures are detailed in this circular, and we invite institutions to comment on these. This circular will be of particular interest to those with responsibility for quality management of higher education provision within institutions.

Background

4. When a higher education institution (HEI) undergoes an IR or collaborative provision review (CPR) ¹, the QAA review team makes judgements on the confidence that can reasonably be placed in the soundness of the institution's present and likely future management of:
 - the academic standards of its awards, and
 - the quality of the learning opportunities available to students.
5. Judgements are expressed as confidence, limited confidence, or no confidence. An institution receiving a judgement of no confidence is deemed not to have met the established quality threshold.
6. While an institution receiving a limited confidence judgement is still managing its academic standards and quality of learning opportunities effectively overall, the outcome means that the institution must improve management in some areas, which is generally addressed by an agreed action plan.
7. We will be concerned if an institution receives a no confidence judgement followed by a limited confidence judgement or vice versa, as this will demonstrate ongoing problems in the institution's management systems. or two limited confidence judgements in succession, However, since limited confidence still means that an institution is operating above the required threshold, it will not be a trigger for our Unsatisfactory Quality Process, although it could trigger a further enquiry using the QAA's process for

¹ The IR handbook is available at www.qaa.ac.uk

identifying and handling causes for concern². This includes where an action plan cannot be agreed between the institution and the QAA within a reasonable time frame.

The Unsatisfactory Quality Policy

8. This policy identifies actions we will take to deal with institutions that have received a no confidence judgement but:

- have not developed a satisfactory programme for follow-up action;
- have made insufficient progress against an action plan in the stated time.

It will also apply to institutions which receive a no confidence judgement in two successive reviews, as even where an initial problem leading to a no confidence judgement has been addressed, and an action plan successfully implemented, two such judgements will indicate ongoing problems with quality at that institution.

9. We will use this policy to address unsatisfactory quality in institutions in cases where the current processes are insufficient to remedy the problem.

The policy will be informed by the following principles:

- The needs of the learners affected by any issues of no confidence should be paramount. In taking any action we, and the institution concerned, will ensure that learners continue to have access to high quality learning opportunities;
- As each judgement of no confidence is likely to have been made for a different reason, it will not be possible to develop a 'one size fits all' approach to action that needs to be taken. We will consider appropriate action on a case-by-case basis in consultation with the QAA, the institution, the institution's awarding body(ies), and other relevant partners, as appropriate;
- The policy will apply to funded HEIs and directly funded HE in FE provision.

10. We will be ultimately responsible for deciding the action to be taken when this policy is activated. We will involve the institution in discussions and will consult with the QAA throughout the process. We may also consult relevant professional and/or statutory bodies if appropriate, and in the case of further education institutions (FEIs), may also include Estyn.

Action at the initial no confidence judgement

11. The initial no confidence judgement is formally communicated to the institution by means of a letter from the QAA to the head of the institution. We, and the QAA, expect that any IR outcome will be discussed with the governing body at the first available opportunity.

² <http://www.qaa.ac.uk/causesforconcern/>

12. It should be the aim of all stakeholders to ensure action is taken to rectify the identified problems. The IR handbook identifies the process providing an institution receiving a no confidence judgement with the opportunity to address the problems identified. This includes submission of a detailed action plan to the QAA. The primary responsibility for drawing up the action plan rests with the institution and we will encourage it to use other available sources of support and expertise where appropriate (eg the Higher Education Academy). While the QAA cannot act as a consultant to institutions regarding action plans, it will be prepared to comment on proposals.
13. The QAA will request progress reports from the institution at regular intervals on the implementation of the action plan and will monitor these to confirm that recommendations are being addressed. QAA staff may also meet with senior managers at the institution.
14. The QAA will pay a follow-up visit to the institution and will formally sign the review off when satisfied that the action plan has been implemented successfully, within a maximum of 12 months. The nature, scope and timing of the review are determined in accordance with the principle of proportionality, and through dialogue between the institution, the QAA and HEFCW.
15. Where the action by the institution is deemed satisfactory following a no confidence judgement, the QAA will normally undertake a further IR within two years.
16. The QAA will conduct a further visit if there are concerns about the effectiveness of remedial action and will discuss with HEFCW additional actions required. We reserve the right to withdraw some or all of our funding should satisfactory progress not be made.
17. FEIs³ will be expected to involve their awarding bodies where appropriate, and HEIs may need to involve FEI partners and/or other partners if appropriate, in order to ensure that there is no risk to quality of provision of other partners.
18. The handbook for the developmental review of directly-funded higher education in FEIs⁴ stipulated that, where essential recommendations are made, the FEI must report on how it has addressed all the essential recommendations during the six months following the review and how it is monitoring progress to satisfy itself that the actions are effective. This is repeated 12 months after the review. Where the review team concludes that the FE institution does not discharge its responsibilities effectively as set out in its partnership agreement, a revisit will normally take place 12 months after the initial review.

³ And HEIs, where relevant

⁴ <http://www.qaa.ac.uk/reviews/developmentalReview/handbook/Handbook2007.pdf>

Application of the Unsatisfactory Quality Policy

19. The policy will be applied when the existing procedures as detailed in the handbook and summarised above in paragraphs 11-18 have failed to result in sufficient improvement, as judged by the QAA, and/or it is not considered that the institution will be able to address the problem(s) within a suitable timescale without input or support from other agencies.
20. We will consider an institution in any of the circumstances set out in para 8 as being at higher risk in terms of the quality of their provision. In such cases our first step will be to ask the QAA to carry out a further investigation using their process for identifying and handling causes for concern in Welsh institutions, to establish what should be done to restore confidence in the institution's management of quality and standards within a set timeframe. This includes a preliminary investigation, at which an institution will be able to make a case for no further action. The outcomes will inform our decision as to whether we need to take further action by implementing this policy.
21. In deciding whether to take further action, we and the QAA will consider the particular area(s) which caused the no confidence judgement.

Steps to be taken once the Unsatisfactory Quality Policy has been triggered

22. We and the QAA will arrange for a meeting to be held at the earliest possible opportunity. Attendees at this meeting will include representatives of the institution⁵; the institution's franchise or awarding partners if applicable; ourselves; and the QAA. Depending on the nature of the problem and of the institution, other stakeholders could be included.
23. The purpose of this meeting will be to set out the reason(s) for the no confidence judgement(s), and to discuss and determine the actions to be taken along with a timetable (the Unsatisfactory Quality Action Plan). The Unsatisfactory Quality Action Plan will refer to the original action plan drawn up by the institution following the no confidence judgement, and incorporate it if appropriate.
24. Where the institution is an FEI, we will involve the FEI's awarding bodies⁶, as appropriate, as they are ultimately responsible for the standards of the awards and will need to be aware of any problems for their own risk management purposes. If the problem can be directly attributed to the management of partnerships between HEIs and FEIs, then we will expect all partners to be fully involved in the process.
25. From the time of the Unsatisfactory Quality policy being triggered, until we are satisfied that all required actions have been taken and the no confidence judgement lifted, we will:

⁵ which should normally include the head of the institution, the Chair of the Board of Governors, and the institution's Head of Communications or other suitable representative

⁶ These will generally be HEIs

- not permit the institution to bid for any additional HEFCW funding streams. We will also withhold special funding which has been allocated but not yet come on stream. In taking this action, we aim to avoid further investment in institutions in which teaching, governance etc. may be unsatisfactory, and minimise the impact of unsatisfactory quality on the students at that institution;
- keep the institution under regular review including, in the case of an HEI, monitoring the institution through our institutional assurance review visits and, more broadly, our institutional risk review process [more details in our Strategic Engagement circular, W09/20HE];
- liaise with the Welsh Assembly Government, regarding FEIs, to ensure it considers the issues in its own risk management processes as we do not have a 'whole institution remit'.

26. We may also take the following actions, depending on the circumstances. This list is not exhaustive and we will judge each case on its merits:

- We may arrange for a support team to help the institution to resolve the issue(s). This might include peer reviewers for a particular subject, or experts with management, financial or other expertise, as appropriate;
- In the case of HEIs, we may undertake a special assurance review to establish whether there are wider issues about management capability and governance. In the case of FEIs we cannot apply these measures as we do not have a whole-institution remit for them, but will liaise with the Welsh Assembly Government as main funders, and with Estyn, over action to be taken if appropriate;
- We may make recommendations to the institution's senior management team and, if appropriate, the Board of Governors. These will take the form of guidance rather than mandatory requirements;
- If the source of the no confidence judgement can be attributed to a particular subject, then it might be feasible to close the provision of that subject and move the affected students to a different provider. This might include moving from a directly funded arrangement to an indirectly funded one. The awarding body for the provision would need to be involved in this process, if this is not the institution which received the no confidence judgement, and any relevant professional or statutory body would be involved if appropriate;
- If the problem concerned a partnership between an HEI and a FEI, then we might ask the QAA to undertake a special review in the FEI;
- Subject to safeguarding the interests of students on the programme, we retain the right to withhold funding where we deem this action to be appropriate. The purpose of this will be to ensure that public money is not spent on education that is of unsatisfactory quality.

27. If, following application of this policy, there remain concerns about the effectiveness of the remedial action, the QAA will conduct a further visit. If at that time satisfactory progress has still not been made, we reserve the right to withdraw some or all of our funding from that institution. In the case of institutions not in receipt of funding from us, the QAA will decide whether the matter warrants a further separate focused review.

28. It is difficult to comment on the circumstances in which funding might be withheld as each case will be different and will be considered on its own merits. Withholding of funding could take a variety of forms:
 - A deferral of payment (funds will be paid eventually once the institution has taken appropriate actions);
 - A one-off withdrawal of funding, which will not be recoverable but will not generally affect the institution's underlying baseline recurrent grant;
 - An adjustment to recurrent baseline grant (affecting recurrent allocations in-year and for subsequent years).
29. Once the institution has successfully carried out the actions set out in its Unsatisfactory Quality Action Plan, then the restrictions described in paragraph 28 will be lifted.
30. If, however, there are still major problems outstanding after the expiry of the time frames agreed in the Unsatisfactory Quality Action Plan, a further meeting of relevant bodies will be called.
31. While we expect partner institutions to be involved as appropriate, the above actions apply primarily to the institution which is the subject of the Unsatisfactory Quality Policy. If any partner institutions are considered to be at risk in terms of sound and effective management of learning opportunities and academic standards, then we may ask the QAA to undertake an additional review of these partners. This will be dealt with as a separate issue.
32. If the reason for the no confidence judgements stems from activity that is not funded by us, our ability to implement the Unsatisfactory Quality Policy may be limited. However, as we are responsible for ensuring that public funding for higher education is spent effectively, efficiently and economically, we will consider and evaluate any cause for concern in a HEI or FEI in an area of HE that is not funded by us. We will also consider whether this may impact on public funding provided, or to be provided, by us to that institution.

Communications

33. All IR reports are published on the QAA website. In the case of institutions receiving a judgement of no confidence a message is posted on the website alongside the relevant report once the action plan has been completed and the review signed off by the QAA Board, to show that the issue has been resolved.
34. Institutions' should involve their communications/press offices as early as possible and make them aware of when the IR report is made publicly available. They may wish to provide a holding statement to deal with any press enquiries.

35. Our Student Experience, Teaching and Quality Committee will receive updates on progress at its meetings, as appropriate, and will report to our Council.
36. We will view all discussions taking place under the Unsatisfactory Quality Policy as strictly confidential. We will not disclose any information regarding the matter to the media and will consider the issue to be exempt from Freedom of Information requests while the matter is ongoing, as information will be provided in confidence and disclosure could substantially prejudice the commercial interests of the institution.

Responses to

37. Please send any comments you may have on these proposals to Dr Cliona O'Neill (tel 029 2068 2283; email cliona.oneill@hefcw.ac.uk) by 30 September 2009.