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Circular

Procedure for addressing unsatisfactory quality in institutions in Wales

Date: 12 January 2010
Reference: W10/01HE
To: Heads of higher education institutions in Wales
Principals of directly-funded further education colleges in
Wales
Response by: No response required
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This circular details our Unsatisfactory Quality Procedure. Unsatisfactory quality will be determined through the Quality Assurance Agency's Institutional Review: Wales process, other assessments, inspections or reviews (eg by Estyn or other Professional, Statutory and Regulatory Bodies (PSRBs)), or our strategic engagement with institutions. We will apply the procedure when we consider an institution to be at higher risk in terms of the quality of its provision.

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 are adopting an approach to dealing with institutions which demonstrate unsatisfactory quality of management of academic standards of awards and/or quality of the learning opportunities available to students, or where we consider an institution to be at higher risk in terms of the quality of its provision.
3. Unsatisfactory quality will be determined through the Quality Assurance Agency's (QAA) Institutional Review: Wales (IR) process. However, it may also be determined through other assessments, inspections or reviews (eg by Estyn or other Professional, Statutory and Regulatory Bodies (PSRBs)), or via our strategic engagement with institutions.
4. The procedure we will follow is detailed in this circular, and will be of particular interest to senior management, those with responsibility for quality management of higher education provision within institutions and governors.

Background

5. When a higher education institution (HEI) or further education institution (FEI) offering directly funded HE provision 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.
6. 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.
7. We consulted on our proposed procedure in Circular W09/25HE. A summary of responses received is available at **Annex A**. The responses were considered in the development of this procedure.

What is the Unsatisfactory Quality Procedure?

8. The Unsatisfactory Quality Procedure (UQP) identifies actions we will take to deal with unsatisfactory quality. This is to protect the interests of learners and the reputation of higher education in Wales, in addition to ensuring that public funding is spent appropriately.
9. It will be applied to institutions that have received a no confidence judgement but:
 - have not developed a satisfactory programme for follow-up action;

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

- have made insufficient progress against an action plan in the stated time.
10. 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.
11. Following consultation with the sector² and consideration of the risks and likely impact of unfavourable review, assessment or inspection outcomes, HEFCW may also initiate the procedure for institutions which:
- cannot agree an action plan with the QAA to address a limited confidence judgement within a reasonable time frame;
 - receive a limited confidence judgement fail to develop an appropriate action plan, or are deemed by the QAA to have made unsatisfactory progress against their action plan;
 - receive two limited confidence judgements in succession;
 - receive a no confidence judgement followed by a limited confidence judgement or vice versa;
 - are identified via assessments, inspections or reviews (eg by Estyn or other Professional, Statutory and Regulatory Bodies) to be at risk in terms of quality of provision;
 - are identified via our strategic engagement with institutions to be at higher risk in terms of quality of provision.
12. The UQP 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 procedure will apply to funded HEIs and directly funded HE in FE provision.
13. We will be ultimately responsible for deciding the action to be taken when this procedure 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 consult Estyn, if the reasons for implementation of the UQP are likely to impact on other provision of that institution which they inspect.

² Circular W09/25HE

Action to be taken following an initial no confidence judgement

14. Actions at an initial no confidence judgement are presented diagrammatically at **Annex B**. We recommend that the annex is read in conjunction with this circular.
15. 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 governors at the first available opportunity.
16. 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.
17. 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 will also meet with senior managers at the institution.
18. 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 and will normally focus on issues identified in the IR.
19. 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 of the original review.
20. The QAA will inform HEFCW of any concerns about the effectiveness of remedial action and discuss any additional actions required.
21. FEIs³ will be expected to involve their awarding bodies where appropriate. HEIs may need to involve FEI partners and/or other partners if necessary, in order to ensure that there is no risk to quality of provision of other partners.

Action following an initial limited confidence judgement

22. An institution receiving a limited confidence judgement is deemed by the QAA to be 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 addressed by an agreed action plan.

³ and HEIs, where relevant

23. We will be concerned if an institution receives a no confidence judgement followed by a limited confidence judgement or vice versa, or two limited confidence judgements in succession, as this will demonstrate ongoing problems in the institution's management systems. We will also be concerned where an action plan to remedy identified problems cannot be agreed between the institution and the QAA within a reasonable time frame, or if an institution is deemed by the QAA to have made unsatisfactory progress against an action plan.
24. Since limited confidence still means that an institution is operating above the required threshold, these instances will not automatically trigger the UQP, although HEFCW may decide to implement the procedure depending on the reasons for the outcome judgement(s), and the scale of the issues identified.

Action following unfavourable outcome from another assessment, inspection, review or strategic engagement

25. We will be concerned if an institution is identified via another assessment, inspection or review (eg by Estyn or other Professional, Statutory and Regulatory Bodies) to be at risk of having accreditation of provision withdrawn.
26. We will expect institutions to keep us, as well as the organisation which carried out the assessment, inspection, review or strategic engagement, informed with the actions being taken in response to the unfavourable outcome. Should concerns regarding quality be identified repeatedly, or should they fail to be addressed to the satisfaction of the organisation concerned, we may choose to implement the UQP.
27. If we identify an institution to be at higher risk in terms of the quality of its provision via our strategic engagement process, we may also choose to implement the UQP, depending on the reasons for the outcome judgement(s), and the scale of the issues identified.

Application of the Unsatisfactory Quality Procedure

28. The UQP will be applied when we consider an institution to be at higher risk in terms of the quality of their provision.
29. This will normally be when the existing procedures as detailed in the IR handbook and summarised above have failed to result in sufficient improvement, as judged by the QAA in consultation with HEFCW, 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. A decision regarding whether to apply the UQP will be made by HEFCW in consultation with the QAA within six weeks of submission of the action plan.

Causes for concern process

30. 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 time frame.

31. This includes a preliminary investigation, at which an institution will be able to make a case for no further action. This investigation will be carried out under the procedures developed for Wales⁴.
32. The outcomes of the causes for concern process will inform our decision as to whether we need to take further action. In deciding whether to take further action, we and the QAA will consider the particular area(s) which gave rise to the outcome judgement and the scale of the issues identified via the causes for concern process.

Meeting of stakeholders

33. 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; HEFCW; and the QAA. The needs of learners will be paramount, as identified in para 12, and therefore the meeting will include one or more representatives of the student body. Depending on the nature of the problem and of the institution, other stakeholders may also be included.
34. The purpose of this meeting will be to
 - set out the reason(s) for the limited or no confidence judgement(s);
 - establish the scale of the problem;
 - establish the reasons for implementation of the UQP, including why and how the institution did not respond to the judgement or make sufficient progress against the action plan;
 - discuss and determine the actions to be taken;
 - Discuss a timetable for addressing the issues (the Unsatisfactory Quality action plan (UQ action plan)).
35. The UQ action plan will refer to the original action plan drawn up by the institution following the outcome judgement, and incorporate it if appropriate. The meeting will also address the potential press interest in the outcome judgements, public interest in quality and standards of provision, and reputational damage to higher education in Wales.
36. Where the institution is an FEI, we will involve the FEI's awarding body(ies)⁶ where 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.

⁴ <http://www.qaa.ac.uk/causesforconcern/default.asp>

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; registrar/secretary/equivalent; representative of the student body to represent learners' interests

⁶ these will generally be HEIs

Actions

37. From the time of the UQP being triggered, until we are satisfied that all required actions have been taken and the review is regarded as complete, we will:
- not permit the institution to bid for any additional HEFCW funding streams. We will also expect to withhold non-core 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. However, we will take account of the impact on all groups of students in taking this forward;
 - aim to 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 process⁷;
 - 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'.
38. We may also take the following actions, in consultation with the QAA and following the meeting of stakeholders, 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 we will liaise with the Welsh Assembly Government as main funders, and with Estyn if appropriate⁸, over action to be taken;
 - 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 outcome 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 outcome judgement, and any relevant professional or statutory body would be involved if appropriate. Any decisions will need to take account of equality and diversity issues;

⁷ more details are available in our Strategic Engagement circular, Circular W09/20HE at www.hefcw.ac.uk

⁸ if the cause of the outcome judgement impacts on other provision inspected by them

- If the problem concerns a partnership between an HEI and a FEI, then we may ask the QAA to undertake a special review in the FEI;
- Subject to safeguarding the interests of students, 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.

QAA visit

39. If, following the meeting of stakeholders, there remain concerns about the effectiveness of the remedial action, the QAA will conduct a further visit.
40. 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.

Outcome of implementation of the UQ action plan

41. Once the institution has successfully carried out the actions set out in its UQ action plan, as assessed by the QAA in consultation with us, then the restrictions detailed above will be lifted.
42. If, however, there are still major problems outstanding after the expiry of the time frames agreed in the UQ action plan, a further meeting of relevant bodies will be called to discuss the management, funding and future of the institution.
43. 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).
44. 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 in line with its causes for concern process.

Partner institutions

45. While we expect partner institutions to be involved as appropriate, the above actions apply primarily to the institution which is the subject of the UQP. 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.

Activity not funded by us

46. If the reason for the outcome judgement stems from activity that is not funded by us, our ability to implement the UQP may be limited.
47. 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 outcome judgement resulting from a HEI or FEI, or in an area of HE, that is not directly funded by us. Depending on the nature of the reasons for the judgement, we will consider whether it should impact on public funding provided, or to be provided, by us to that institution.

Communications

48. 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.
49. We will view all discussions taking place under the UQP 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.
50. The institution will be expected to keep stakeholders informed of progress regarding the UQP and changes to their provision.
51. Our Student Experience, Teaching and Quality Committee will receive updates on progress at its meetings, as appropriate, and will report to our Council.
52. Limited and no confidence outcome judgements generate substantial press and public interest, and have the capacity to cause reputational damage to the sector as a whole in Wales. Institutions should therefore 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.

Equality Impact Assessment

53. We have a legal responsibility to assess the impact of our policies on equality groups, and to set out how we will monitor or address any possible negative impact. The results of our Equality Impact Assessment on this policy are available upon request.

Further information

54. For further information, contact Dr Cliona O'Neill (tel 029 2068 2283; email cliona.oneill@hefcw.ac.uk)

A summary of responses received to Circular W09/25HE, Policy for addressing unsatisfactory quality in institutions in Wales

Introduction

1. Seven responses were received to the consultation in Circular W09/25HE, Policy for addressing unsatisfactory quality in institutions in Wales⁹. The number of responses was too small to enable the issues raised to be categorised. However, they have been taken into account in the revision of the procedure.

Issues raised

2. Issues raised included the following:

General

- Whether the document should be called a procedure rather than a policy;
- The circular focused on a situation which was unlikely to occur;
- There should be more emphasis on the board of governors, their role as the body retaining ultimate authority for the institution, and how they should work with the QAA and HEFCW to address concerns;
- Welcoming the involvement of the QAA in shaping events after the procedure was triggered;
- The policy appeared a bit 'soft' in places, ie, what HEFCW might do as opposed to what it would do, although the document suggested options would be kept open;
- Whether there should be more clarity regarding time scales ;
- The difficulties that would arise in withdrawing funding;
- Whether FEI engagements with the QAA would have confidence judgements in engagements subsequent to development review.

The Unsatisfactory Quality Policy (paras 8-10)

- Query why the policy would not be invoked where successive limited confidence judgements/a no confidence followed by a limited confidence were obtained, or where an action plan was not produced or progressed satisfactorily, given that outcomes of this nature still demonstrate issues of concern over standards;
- Agreement that the needs of learners should be paramount;

⁹ Coleg Sir Gâr
Glyndŵr University
Swansea Metropolitan University
University of Glamorgan
University of Wales
University of Wales Institute, Cardiff
University of Wales, Newport

- Welcoming the recognition that one size would not fit all re: remedial action, and request for further information on a scale of actions that could be taken;
- Request for further detail on measures to ensure learners continue to have access to high quality learning opportunities.

Actions at the initial no confidence judgement (paras 11-18)

- Query whether the follow-up visit would focus solely on the issues contributing to the no confidence judgement or would involve a full review of quality and standards;
- Clarification regarding whether the next IR would be carried out within two years of the first review, or within two years of the action being deemed satisfactory.

Application of the Unsatisfactory Quality Policy (paras 19-21)

- Clarification regarding who makes the judgement that there is no action plan; that there is an insufficient action plan; or that there is insufficient progress made against an action plan; how HEFCW is informed of this; when the action plan has to be delivered; how soon after submission of the action plan would the decision be made over whether it was appropriate to invoke the policy;
- Query as to the value of the Causes for Concern process following the IR, and clarification of its purpose.

Steps to be taken once the Unsatisfactory Quality Policy has been triggered (paras 22-32)

- Query regarding why the head of communications should attend the meeting. Suggestion that more emphasis be placed on the public/media impact. Suggestion that representative of the student body be included;
- All parties would be clear on the reasons for no confidence and will have had discussion on actions to be taken to restore confidence. Therefore the meeting should to establish why and how the institution did not respond to the judgement or make sufficient progress against the action plan;
- Concerns that the withholding of special funding which had already been allocated might be counter-productive and not helpful to an institution in aiding recovery from unsatisfactory quality;
- Unclear re: who might make the decision to close provision of a particular subject and move the affected students to a different provider. Request for additional information on the circumstances in which this might be appropriate;
- Query as to what Estyn should be expected to contribute;
- Request for additional information or examples of issues of concern over standards which would result in the withholding/withdrawal of funding, or adjustment to the baseline grant;
- Observation that deferral of payment would be likely to cause fewer problems to students than withdrawal of funding;

- Concerns and a request for clarification that HEFCW might be able to withdraw non-HEFCW funding.

Communications – para 33-36

- More emphasis needed on the public/media impact;
- Confidentiality should be required until the institution has completed the necessary actions by the stated deadline;
- Agree our approach to Freedom of Information requests.

Annex B. Response to No Confidence judgement

