

Cylchlythyr | Circular

Consultation on procedures for handling complaints against institutions

Date: 09 June 2017
Reference: W17/12HE
To: The Governing Bodies and Heads of regulated institutions and other interested parties
Heads of higher education institutions in Wales and Principals of directly-funded further education colleges in Wales
Heads of other relevant HE bodies and Prevent HE Leads
Response by: 21 July 2017
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This consultation circular seeks views on HEFCW's procedures for handling complaints against institutions, which have been revised to take account of HEFCW's regulatory role under the Higher Education (Wales) Act 2015 and monitoring role under the Counter Terrorism and Security Act 2015.

If you require this document in an alternative accessible format, please email info@hefcw.ac.uk.



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Purpose of this consultation

1. This consultation circular seeks views on HEFCW's procedures for handling complaints against institutions, which have been revised to take account of HEFCW's wider regulatory role under the Higher Education (Wales) Act 2015 and its monitoring role under the Counter Terrorism and Security Act 2015.
2. The procedures for handling complaints against institutions under consultation are attached as **Annex A**.

Background

3. HEFCW has, until now, operated an [allegations procedure](#) in respect of Higher Education Institutions funded by HEFCW and directly-funded Further Education Colleges, which has enabled individuals to refer issues to HEFCW regarding an institution's compliance with the [Memorandum of Assurance and Accountability](#). This has included allegations of financial irregularity or impropriety, mismanagement, waste, or fraud in higher education institutions. Concerns regarding quality and standards have to date been dealt with via the [QAA concerns scheme](#).
4. A range of additional regulatory powers have been conferred on HEFCW by the Higher Education (Wales) Act 2015. HEFCW has the power to intervene where a regulated institution has charged course fees in excess of the fees set out in its relevant approved Fee and Access Plan for the institution or where the quality of a regulated institution's education provision is assessed as being inadequate or likely to become inadequate. From 1 August 2017, HEFCW will also have the power to intervene where a regulated institution has failed to, or is likely to fail to, deliver against the measures relating to the promotion of equality of opportunity and higher education set out in its Fee and Access Plan; or where an issue with the management of a regulated institution's financial affairs means that it has failed to comply, or is likely to fail to comply, with the Financial Management Code. In addition, the Counter-Terrorism and Security Act 2015 requires HEFCW to monitor compliance with the 'Prevent' duty, with the means by which HEFCW will monitor institutions' compliance set out in [The Prevent Duty: Monitoring Framework](#).

Proposed complaints procedure

5. The receipt of complaints from individuals or groups is likely to form a key route by which HEFCW can be made aware of issues with regard to: funded institutions' compliance with the Memorandum of Assurance and Accountability; regulated institutions' compliance with the various aspects of the Higher Education (Wales) Act 2015, including, amongst others,

concerns about quality and standards which might result in provision becoming (or being likely to become) inadequate or the charging of excess fees; and relevant higher education bodies' fulfilment of the Prevent Duty. The procedure in respect of allegations against funded institutions has been amended to take account of the need to encompass these broader aspects of HEFCW's regulatory role. The draft 'Complaints against institutions procedure' is attached at **Annex A**. In drafting the procedure we have recognised that institutions are independent, legally autonomous bodies and that we do not interfere unnecessarily in their operations. Consequently, in most instances, issues would need to be raised with the institution prior to initiating a complaint via the HEFCW procedure.

6. A user-friendly interface will be developed on the HEFCW website to facilitate the submission of complaints in respect of any of the areas covered by the attached procedure. This will guide complainants through the initial stage of the procedure and filter out complaints which do not fall under HEFCW's regulatory jurisdiction. It is the intention that this web-based system will be developed at the earliest opportunity.

Consultation questions

7. Responses are sought to the questions below.

Q1: Are there any issues with regard to how the procedure will operate for complaints in respect of breaches of the Memorandum of Assurance and Accountability by a HEFCW funded institution?

Q2: Are there any issues with regard to how the procedure will operate for complaints in respect of failure, or likelihood of failure, to comply with the Financial Management Code by a regulated institution?

Q3: Are there any issues with regard to how the procedure will operate for complaints in respect of the charging of excess fees by a regulated institution?

Q4: Are there any issues with regard to how the procedure will operate for complaints in respect of failure, or likelihood of failure, to comply with the general requirements of an approved Fee and Access Plan by a regulated institution?

Q5: Are there any issues with regard to how the procedure will operate for complaints in respect of inadequate quality, or quality that is likely to become inadequate?

Q6: Are there any issues with regard to how the procedure will operate for complaints in respect of failure by a relevant higher education body to fulfil its Prevent duty?

Q7: Are there any unintended consequences resulting from the procedure not covered under the specific areas above?

Q8: Do you have suggestions in respect of the proposed web-based system that will be developed by HEFCW to facilitate the initial submission of complaints?

Proposed effective date

8. We are proposing that the final procedure will be published on HEFCW's website by early August 2017, to coincide with the full implementation of HEFCW's regulatory powers under the Higher Education (Wales Act) 2015.

Responding to the consultation

9. Please respond electronically. Responses should be emailed to assurance@hefcw.ac.uk. The consultation closes on **21 July 2017 at 17:00**.

Our duties under the Freedom of Information Act 2000

10. All responses may be disclosed on request, under the terms of the Freedom of Information Act. The Act gives a public right of access to any information held by a public authority, in this case HEFCW. This includes information provided in response to a consultation. We have a responsibility to decide whether any responses, including information about your identity, should be made public or treated as confidential. We can refuse to disclose information only in exceptional circumstances. This means that responses to this consultation are unlikely to be treated as confidential except in very particular circumstances. Further information about the Act is available at www.ico.org.uk.
11. However, if you would like us to treat your personal details as confidential for those areas in which we have discretion (such as reporting) please indicate this within your response.

Our approach to analysing responses

12. We will commit to read, record, and analyse the views of every response to this consultation in a consistent manner. For reasons of practicality, usually a fair and balanced summary of responses rather than the individual responses themselves will inform any decision made. In most cases the merit of the arguments made is likely to be given more weight than the number of times the same point is made. Responses from organisations or representative bodies which have high relevance or interest in the area under consultation, or are likely to be impacted upon most by the proposals, are likely to carry more weight than those with little or none.

Finalising the procedure

13. Subject to any changes that are necessary following consultation, it is intended that the Complaints Procedure will be finalised and published by early August 2017.

Further information

14. For further information, contact Ewen Brierley (tel 029 2085 9713; email ewen.brierley@hefcw.ac.uk).

Assessing the impact of our policies

15. We will carry out an impact assessment screening prior to publication of the final procedure to help safeguard against discrimination and promote equality. We will also consider the impact of the procedure on the Welsh language and potential impacts towards the goals set out in the Well-Being of Future Generations (Wales) Act 2015 including our Well-Being Objectives. Contact equality@hefcw.ac.uk for more information about impact assessments.