

Procedures for quality that is, or is likely to become, inadequate

xxxx 2018

DRAFT



Noddir gan
Lywodraeth Cymru
Sponsored by
Welsh Government

Introduction

1. This document provides an overview of how HEFCW determines that quality of education is, or is likely to become, inadequate ¹prior to the initiation of the Statement of Intervention (see paragraph 5 below). It also clarifies actions we will take to deal with quality which is (likely to become) inadequate. It aims to ensure that the interests of students, the provider and the wider higher education (HE) sector in Wales are protected.
2. **The quality of education** or of a course of education, under the terms of section 18 of the [Higher Education \(Wales\) Act 2015](#) ('the 2015 Act'), is deemed to be inadequate if it is not adequate to meet the reasonable needs of those receiving the education or undertaking the course.
3. These processes apply from 1 December 2018 until further notice. It relates to regulated institutions. However, for funded institutions which are not regulated by us, a condition of funding will be that they are subject to the process as set out for regulated institutions.

Background

4. Under section 17 of the 2015 Act, HEFCW is required to assess, or make arrangements for the assessment of, the quality of education provided in Wales by, or on behalf of, each regulated institution. Education provided outside Wales is treated as provided in Wales if it is provided as part of a course that is provided principally in Wales. Where education in England is provided by or on behalf of a regulated institution, HEFCW's functions in relation to the assessment of the quality of the education provided by the institution apply to that education in the same way as they apply to the education provided by that institution in Wales.
5. HEFCW has a duty under the HE Wales Act (2015) to produce a statement in respect of its intervention functions (the Statement of Intervention). Our [Statement of Intervention](#) was published as part of circular W16/37HE. It provides a public and transparent framework within which HEFCW will operate its full range of intervention powers in relation to student fees, the quality of education, and institutions' financial management. Where we are satisfied that the quality of education is inadequate or likely to become inadequate, then we may implement our Statement of Intervention.
6. Under the [Quality Assessment Framework](#), regulated institutions are required to commission an external quality assurance review by an organisation on the [European Quality Assurance Register](#) for Higher Education at least every six years. The requirements for this review, including judgement categories and outcomes, are set out by HEFCW². The process is carried out by peer reviewers, who are staff and students from other providers. A report on the

¹ Quality that is (likely to become) inadequate

²www.hefcw.ac.uk/documents/policy_areas/learning_and_teaching/External%20quality%20assurance%20review.pdf

judgements and findings is published after the review. The judgements and possible outcomes from the review method are as follows:

Judgements	Outcomes
European Standards and Guidelines for internal quality assurance	Meets requirements Meets requirements with conditions
Baseline standards for the Quality Assessment Framework in Wales	Does not meet requirements

7. A published action plan must be prepared jointly by the institution and student representatives in response to judgements of ‘meets requirements with conditions’ or ‘does not meet requirements.’ The plan must be agreed with the organisation carrying out the review. The institution will need to liaise with their appointed review agency to obtain verification that actions taken in response to the review outcomes have rectified any deficiencies within that timescale, and therefore enable the judgement outcome to be upgraded.
8. Universities Wales have agreed with the Quality Assurance Agency for Higher Education (QAA) to commission a Quality Enhancement Review from the QAA over a six year period, which meets the HEFCW requirements for external quality assurance review.
9. Professional, Statutory and Regulatory Bodies (PSRBs) accredit specific courses. They may also review/inspect provision at designated providers, and will maintain their own definitions of quality. In addition, Her Majesty’s Inspectorate for Education and Training in Wales (Estyn)³ have statutory responsibility for inspecting Initial Teacher Training provision, Further Education (FE) in HE, and Further Education Institutions which may also be offering higher education provision. HEFCW will consider the findings of these bodies where they consider that the quality of higher education provision is inadequate, or likely to become inadequate, and in so doing will use their definitions of quality. We will determine on a case by case basis whether these outcomes should trigger our inadequate quality procedures.
10. HEFCW has a process for investigating complaints about institutions, including concerns about standards and quality⁴, which also provides an opportunity to investigate provision that is likely to become inadequate.

Identifying provision that is (likely to become) inadequate

11. HEFCW will use the following mechanisms to determine whether provision is (or is likely to become) inadequate.

³www.estyn.gov.uk/

⁴www.hefcw.ac.uk/working_with_he_providers/institutional_assurance/complaints_about_institutions.aspx

A. External Quality assurance review

12. In every case, a regulated institution receiving a 'Meets requirements with conditions' or 'Does not meet' outcome (in either judgement) will be deemed to have quality which is, or is likely to become, inadequate. However, such institutions are able to undertake remedial actions to enable unsatisfactory review outcomes to be reversed. Any amendment to the judgement will need to be carried out within one year of the date of the original review. Otherwise the original judgement will stand for the remainder of the review period, which may result in an institution not having a Fee and Access Plan approved.
13. The initial judgement will normally be formally communicated to the regulated institution by the organisation carrying out the review to the head of the regulated institution. We require any unsatisfactory review outcome to be discussed with the regulated institution's governors at the first available opportunity. It should be the aim of all stakeholders to ensure prompt and appropriate action is taken to rectify the identified problems and an action plan is prepared to enable this.
14. The primary responsibility for drawing up the action plan rests with the regulated institution and we will encourage the institution to use other available sources of support and expertise where appropriate.
15. We expect regulated institutions which are not awarding bodies to involve their awarding bodies where appropriate. Regulated institutions should involve their external providers/ collaborative partners if necessary, to ensure that there is no risk to quality of provision of other partners.
16. The organisation carrying out the review will follow up with the regulated 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 regulated institution, the organisation carrying out the review and us, and will normally focus on issues identified in the review. HEFCW may also choose to follow up any review recommendations separately with institutions.

B. Trends in data

17. Declining performance in relation to a range of outcomes can indicate that provision is (likely to become) inadequate. This includes, but is not limited to, the following:
 - Over/under-recruitment patterns;
 - Non-progression rates;
 - Non-completion rates;
 - Outcomes of student surveys ;
 - Degree outcomes, including differential outcomes for students with different characteristics;
 - Employment outcomes;

- Outcomes of the Teaching Excellence and Student Outcomes Framework (TEF), for institutions which have chosen to participate;
 - HEFCW National Measures for the performance of higher education providers.
18. HEFCW's Quality Assessment Committee (QAC) considers trends in data regularly, in order to inform HEFCW's annual Institutional Risk Review (IRR) process. This will include use of data dashboards, to enable trends across a range of data to be evaluated. The Fee and Access Plan (F&AP) process also includes consideration of trends of performance. Data alone is unlikely to result in us taking action prior to intervention. However, it is likely to result in a conversation between HEFCW and the institution, in order to enable the data trends to be better understood by officers.

C. Intelligence from other processes and engagements, including complaints

19. Intelligence from other processes and engagements can inform a decision regarding whether provision is (likely to become) inadequate. This includes intelligence from other processes such as:
- Outcomes of PSRB engagements with institutions, where we think it is likely that adverse findings may impact on higher education provision more generally, or where a failure to improve has been identified following such engagements;
 - Complaints about quality and standards made to HEFCW;
 - Complaints or concerns raised with, and upheld by, other organisations, such as the Office of the Independent Adjudicator, the Charities Commission, Home Office, etc.
 - Outcomes of engagements with Awarding Bodies (where applicable);
 - Triennial quality assurance visits;
 - Annual assurance statements from the governing body on quality (including reporting on the dialogue between an institution and its student union)
 - Liaison with other organisations, eg QAA, NUS Wales, Estyn, Competition and Markets Authority, Home Office, etc.;
20. The HEFCW IRR process considers the data and trends, together with other institutional information, including intelligence from other processes and engagements, such as other PSRB inspections. This material informs the risk assessment of the institution.
21. The outcomes of consideration in the F&AP process and the IRR process can trigger a decision that provision is (likely to become) inadequate. This may occur even where a F&AP is approved, or an institution is not deemed to be at high risk, as an institution may still be considered to have provision which is likely to become inadequate.
22. In addition, any complaints to HEFCW regarding quality and standards, or to other bodies with statutory responsibilities in specific areas can trigger a decision regarding inadequate quality.

23. HEFCW officers may liaise with external agencies or bodies which have a role in undertaking investigations relevant to their remit (e.g. OIA or Competition and Markets Authority (CMA)). HEFCW may await the outcome of any ongoing investigations and processes before considering actions prior to implementing the Statement of Intervention.

Actions prior to implementing the Statement of Intervention

24. **HEFCW's Chief Executive has delegated authority to approve decisions at each stage in the Intervention Process in Respect of Inadequate Quality. HEFCW's Council has ultimate responsibility for agreeing to proceed to the injunction stage of the Intervention Process in Respect of Inadequate Quality⁵.** Their decisions will be informed by advice from HEFCW's statutory Quality Assurance Committee (QAC).
25. Prior to implementing the Statement of Intervention, HEFCW may undertake some or all of the following actions, in no particular order. These may be undertaken rapidly, in order to try and address issues arising before it is necessary to implement Intervention.

Liaising with institutions

26. HEFCW may liaise formally or informally with institutions. This could include through conversations, offering support and advice, visiting the institution, and/or writing to the institution.
27. In addition, under the provisions of the 2015 Act, following consultation with the governing body of a regulated institution, we may give advice or assistance, including seeking advice from QAC, and commissioning external expertise to support them in addressing quality (likely to become) inadequate.

Following up via other HEFCW processes

28. HEFCW may engage with institutions via other processes, including IRR and F&APs, to seek further information. Quality which is (likely to become) inadequate which is not addressed may ultimately trigger a higher risk assessment for an institution. This would involve more extensive engagement with HEFCW to address the issues placing the institution at risk.

Monitoring

29. HEFCW will monitor outcomes and trends where quality is identified as being (likely to become) inadequate. This will include liaising with institutions (see above).

⁵ As set out in [HEFCW's Scheme of Delegation](#)

Action plans

30. We may require an institution to develop an action plan, in partnership with the student body, to address issues which are (likely to become) inadequate.

Good practice

31. HEFCW may encourage institutions to engage with developments relating to policy and/ or enhancement, including working with sector agencies to benefit from good practice elsewhere.

Implementing the Statement of Intervention

32. If the actions detailed above are unsuccessful, we will implement our statutory interventions [see para 76-110 of the Statement of Intervention]. As noted in that Statement, we will seek to avoid unnecessarily duplicating the actions of other regulatory organisations. This principle underpins our actions in relation to quality that is, or is likely to become, inadequate.
33. We will implement the interventions when we consider a regulated institution to have quality that is (likely to become) inadequate. This will normally be when the existing procedures have failed to result in sufficient improvement, and/or it is not considered that the regulated institution will be able to address the problem(s) within a reasonable timescale.

External quality assurance review

34. The interventions will be implemented when:
- the completion of the published action plan prepared jointly by the institution and student representatives in response to unfavourable judgement outcomes⁶, and agreed with the organisation carrying out the review, does not result in the review being signed off;
 - a regulated institution receives unsatisfactory outcomes in either judgement in two consecutive reviews, as even where an initial problem leading to the outcome has been addressed, and an action plan successfully implemented, two such judgements will indicate ongoing problems with quality and/or standards at that regulated institution.
35. In addition, and on a case by case basis, we may also implement the interventions for a regulated institution which:
- cannot agree an action plan to address any 'Meets requirements with conditions' judgement within a reasonable time frame;
 - receives an unsatisfactory outcomes judgement and fail to develop an appropriate action plan, or is deemed by the reviewing body to have made unsatisfactory progress against their action plan;
 - receives a judgement of 'Meets requirements with conditions' in either category in two successive reviews;

⁶ ie 'meets requirements with conditions,' or 'does not meet requirements'.

- receives any 'Does not meet requirements' outcome judgement followed by a 'Meets requirements with conditions' judgement in any category, or vice versa, in two successive reviews;
 - is identified via other assessments, inspections or reviews (eg by Estyn or other PSRBs) to be at risk in terms of quality of provision. Any decision by HEFCW to implement the inadequate quality procedures would be taken following an evaluation by the reviewing/inspecting body of the implementation of actions to address identified issues relating to quality;
 - is identified through our 'Complaints about institutions (including concerns about standards and quality) procedures' as being at risk in terms of the quality of their provision;
 - is identified via our engagement with providers to be at risk in terms of students and quality, and substantiated by evidence;
 - is not considered by HEFCW to have complied with their duty to cooperate under Section 21 of The Act, eg in relation to the provision of information, assistance and access to the regulated institution's facilities as reasonably required.
36. In implementing the interventions, the Purpose and Principles of the Statement of Intervention will apply. Student protection is a key focus of this, and therefore the needs of the learners affected by any issues covered by the external quality assurance review will be paramount. Therefore in taking any action we and the provider concerned will ensure that students continue to have access to high quality learning opportunities⁷. Student Charters are required to link to information on how the student interests are protected, and institutions should ensure they adhere to this where quality has been identified as (likely to become) inadequate.
37. We will consider appropriate action on a case by case basis in consultation with the regulated institution, the regulated institution's awarding body (or bodies), and other relevant partners.
38. A decision regarding whether to implement the interventions will be made within a reasonable timescale (to be determined on a case-by-case basis) of the circumstances detailed above. We will consult with any other bodies which review/inspect quality at regulated institutions, if the reasons for implementation of the interventions result from their review/inspections, and/or are likely to impact on other provision of that regulated institution which they review/ inspect.
39. If any external providers are considered to be at risk in terms of sound and effective management of learning opportunities and academic standards, then we may ask an independent party to undertake an additional review of these external partners. This will be dealt with as a separate issue.

⁷ including for those learners with protected characteristics or who wish to learn through the medium of Welsh

Trends in data

40. Trends in data can be slow to reverse, particularly where data is only updated annually. HEFCW will be mindful of this in determining whether or not to initiate the Statement of Intervention.
41. HEFCW may initiate intervention where institutions refuse to engage with us in addressing the issues of concern. We may also intervene where, in spite of engagement with HEFCW, actions taken appear to be ineffective in addressing the issues causing the quality to be inadequate or likely to become inadequate, with improvement in trends not being apparent within an appropriate time scale.

Intelligence from other processes and engagements, including complaints

42. We will be concerned if a regulated provider is identified via another assessment, inspection or review (eg by Estyn or a PSRB) to be unsatisfactory and/or at risk of having accreditation of provision withdrawn. We will expect regulated institutions to keep us, as well as the organisation which carried out the assessment, inspection, review or engagement, informed of 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 will take a decision in consultation with the body undertaking the assessment, inspection or review.
43. In the case of FE and initial teacher training, interventions will usually be on the basis of Estyn inspections. We expect to develop further processes to cover this provision in collaboration with Estyn. We may also carry out interventions relating to the other provision of regulated institutions in response to our complaints procedures.
44. On a case by case basis, we may also implement the interventions for regulated institutions which:
 - cannot agree an action plan to address any issue identified as resulting in quality being (likely to become) inadequate;
 - have made unsatisfactory progress against their action plan to address any issue identified as resulting in quality being (likely to become) inadequate;
 - have refused to engage effectively with HEFCW, or to take account of its advice, and are deemed not to have addressed the issues causing quality to be (likely to become) inadequate.

Next steps

45. We will keep the processes for determining quality which is (likely to become) inadequate under review, and will consult in accordance with the 2015 Act. This will include quality of non-HE provision delivered by or on behalf of regulated institutions.