



David Allen  
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Dear David,

## HIGHER EDUCATION FUNDING COUNCIL REMIT LETTER 2015-16

I am writing to provide you with details of the funding allocations to the Higher Education Funding Council for Wales (the Council) for 2015-16, detailed in Annex 1, and to confirm the priorities that I am setting for the Council for the coming year.

The Welsh Government's key priorities for 2015-16 remain to ensure that higher education contributes all it can to strengthening jobs and growth in Wales; that higher education institutions work still harder to improve equality and equity by acting in partnership with schools and FE colleges to widen access to HE; and to ensure a sustainable and successful future for higher education institutions in Wales. This remit letter therefore reflects many of the themes and priorities identified in previous years. It sets out the action I expect of the Council in the coming year to build on current success and to tackle areas of underperformance in Welsh higher education.

### Tuition Fee Grant

One of the key commitments contained in the Programme for Government was to mitigate the increase in tuition fees imposed upon us by the UK Government. As a Government we have been clear that we would not consider moving away from our pledge and we will continue to support students wherever they choose to study in the UK for the lifetime of this Government.

Our policy has been a tremendous success. The number of students from Wales attending university continues to increase and by the end of 2014/15 we will have helped support over 57,000 students enter higher education since our new policies were introduced in 2012/13. Income to the sector continues to increase despite significant pressure on public finances and debt levels for Welsh students are considerably lower than for their counterparts in England.

The Council is aware of my decision and the rationale for the transfer of tuition fee grant expenditure from HEFCW accounts to Welsh Government student support budget lines. In light of that decision and the content of this remit letter, the Council should review the suitability of its current funding formula. In particular, I want to emphasise the importance I place on part time, QR and on the funding of subjects that are expensive to operate (such as medicine, dentistry and intensive music and drama courses which focus on practical and vocational performance).

The growing demand for highly skilled graduates, and the potential returns for individuals in terms of future career prospects and earnings, is fuelling a growth in demand for STEM provision. I also want the Council therefore to consider what encouragement it should provide to the sector to ensure STEM provision in Wales is able to keep up with demand.

I would like to remind the Council that the Welsh Government will continue to monitor the recruitment of students (at a sector level) against the baseline established in 2010/11. Recruitment exceeding this baseline may result in a reduction in the level of funding allocated to the Council in the following financial year.

### **Welsh Government Investment in Higher Education**

In the current economic climate and despite an unprecedented period of pressure on public finances, it is a significant achievement that income to the HE sector in Wales continues to increase on an annual basis. I am disappointed, therefore, that the debate on higher education finances in Wales continues to concentrate on the availability of the tuition fee grant to students who choose to study in other parts of the UK.

The Welsh Government has been consistent in treating budgets and expenditure on student finance and higher education as complementary elements of a single system. They represent our investment for the future.

There needs to be a more mature debate about the funding of higher education in Wales. Professor Sir Ian Diamond, supported by his expert panel, is examining the long-term future of higher education funding and student support in Wales. In the interim, I would like the Council to work on improving public perception and understanding of the existing funding arrangements. Working with my officials, the Council should develop an annual circular that highlights the level of public funding to higher education institutions in Wales; the circular should include student support (including tuition fee and maintenance loans, grants and government subsidy) as well as institutional income directly distributed through HEFCW. I also expect that the analysis of tuition fee income from all students in the overall income levels to HE institutions in Wales will continue to be included in your funding circulars.

### **Support for Vulnerable Students**

The Welsh Government is proud of the help it has been able to provide in the past to students facing financial difficulties who otherwise, without that assistance, might have discontinued their studies. However, following the introduction of increased tuition fees, I believe strongly that Welsh universities should now be using their increased levels of income to support vulnerable students alongside the very substantial statutory student support already being provided by the Welsh Government. From academic year 2015/16 I expect institutions to have in place their own discretionary hardship funds. The Council should monitor and provide assistance to institutions as they develop options.

From the start of academic year 2015/16, the Department for Business, Innovation and Skills intends to introduce a number of changes to the Disabled Students' Allowances

provided to English domiciled students. Changes to the Non-Medical Help allowance will apply from academic year 2016/17. The Council should continue to work with institutions as they consider the implications of these changes.

## **Business Planning**

The priorities I am setting out in this letter will inform the development of the Council's Operational Plan for 2015/16. The Council and the sector have faced a period of unprecedented change in recent years which will continue with the Council's new functions under the Higher Education (Wales) Act and the new regulatory framework that will be put in place. In order to support the Council during this period and to aid proper public accountability, I would like the Council to submit its next operational plan in a revised format to be agreed with my officials. I will expect the Plan to set out in a more comprehensive format the activity the Council will undertake to deliver each of the requirements set out in this remit letter with the associated targets and objectives the Council will be working towards together with anticipated outcomes.

## **Higher Education (Wales) Act**

The Higher Education (Wales) Act received Royal Assent on 12 March 2015. This legislation marks the culmination of the higher education funding and tuition fee changes introduced in September 2012. The Act makes provision for a new regulatory system appropriate to the revised funding environment and my intention is that the new arrangements will be fully implemented from academic year 2017/18 following a two-year transitional period.

The Act provides for a regulatory system applicable to all institutions in Wales that have a fee and access plan in force, as approved by HEFCW and provides the Council with the necessary functions to regulate education provided by such institutions without reliance on terms and conditions of funding. The new regulatory system will ensure robust and proportionate regulation of institutions in Wales whose courses are supported by Welsh Government backed higher education grants and loans; safeguard the contribution made to the public good arising from the Welsh Government's significant financial subsidy of higher education; maintain a strong focus on fair access to higher education; and importantly preserve and protect the institutional autonomy and academic freedom of our universities.

Successful implementation of the new system by the Council will benefit students studying at our institutions, the reputation of the Welsh higher education sector and Welsh society. I expect HEFCW to continue to engage with my officials to prepare for implementation of the Act's provisions and in particular to ensure that the necessary delivery arrangements are in place for the transitional period which is scheduled to commence for the 2015/16 academic year.

## **HEFCE-led Review of Future Quality Assurance Arrangements**

HEFCW is participating in the current HEFCE review of future quality assurance arrangements. I would ask that the Council keep my officials fully updated on the progress of the review and the potential joint tendering process. It is a matter for HEFCW to determine how its quality assessment duty is discharged whether that be through the QAA or any other body. Implementation of the Higher Education (Wales) Act will not change that position. However, when considering whether to proceed with a joint procurement approach, I would ask the Council to ensure any new arrangements meet the specific needs of Wales. A consistent approach to quality assessment across England and Wales is extremely beneficial however this should not be at the cost of a

robust, well-recognised and well-respected quality regime that addresses the needs of Welsh higher education.

### **Widening Access/Participation**

In recognition of the impact which poverty has on access to higher education it is vital that the Council continues its strategic approach to encourage and incentivise universities and their partners to raise educational aspirations and achievement among communities that have traditionally been under-represented in higher education, particularly Communities First areas. Access to education for these communities is critical but it is also important that the Council sets out how the higher education sectors can help support these students throughout their studies and into higher level learning and graduate employment. To achieve this we would expect that higher education institutions:

- develop strong partnerships with their relevant Communities First Clusters;
- consider what actions they might take to ensure young people from deprived areas have the opportunity of higher education promoted to them proactively;
- support local partners in raising the aspiration of young people.

I was very pleased to participate in the Council's Widening Access Conference held in December last year. It would be helpful if the Council could produce a draft programme of action reflecting the outcomes of that conference by 1 June 2015 for discussion with my officials. I expect the programme of action to set out clearly the work the Council will take forward, together with the HE sector, to ensure that momentum on widening access is maintained. In particular, the Council should do everything within its power to ensure that HEIs participate fully in the 'pupil offer' in terms of their engagement with schools through structured programmes of engagement and support.

### **Diamond Review**

The Review of Higher Education Funding and Student Finance chaired by Professor Sir Ian Diamond commenced in April 2014. Professor Diamond will produce, by autumn 2015, a factual summary of the evidence he and the Review Panel have collected as part of their work. His final report, including recommendations, will be issued by September 2016. My priorities for the Review include:

- widening access – ensuring that any future system has widening access as its core objective, is progressive and equitable;
- supporting the skills needs of Wales;
- strengthening part-time and postgraduate provision in Wales; and
- long-term financial sustainability.

I expect HEFCW to continue to provide support to the Review, through the observer status the Council has been accorded on the Panel, and by working with my officials to provide accurate and robust evidence for the Panel's consideration.

### **Employability**

I recommend that the Council continues to encourage improvement in HEI employability activity across all academic areas. Employability should become a critical cross-cutting theme that underpins all HEI delivery and that is clearly identified within institutions' plans. Employability activity should reflect the quality of employment and earning aspirations of a graduate, and annual revisions of plans should reflect developments in this area. Where wage data is available, institutions should track the earnings achievement rates of graduates and reflect on how this should influence employability activity.

### **Work Based Learning**

I propose that the Council focuses on development and delivery of short, bite-sized chunks of learning which meet identified employer need, maximising any opportunities presented by the availability of EU funding. Proposed delivery should reflect the priorities for skills investment of the three regional skills partnerships as set out in their regional employment and skills plans. HEIs should be asked to review their employer engagement approaches and assess whether their commercial offer and customer relationship activity is adequately accessible to business.

### **Regional Skills**

Three regional skills partnerships are now established and recognised by Welsh Government for the areas of North Wales, South West and Central, and South East Wales. By April 2015, they will produce employment and skills plans which will articulate post-19 skills needs linked to their economic growth priorities and informed by employers. I ask the Council to recommend that HEIs engage fully with, and take account of, the regional employment and skills plans when making decisions as to where to prioritise higher level skills delivery, including undergraduate routes where appropriate. The work of the regional partnerships will evolve and further work on skills demand, supply and utilisation in each of the regions should be reflected in institutional plans, ensuring delivery meets economic priorities.

### **Smart Specialisation**

I expect the Council to ensure consistency in its own plans with the Welsh Government's strategies *Science for Wales* and *Innovation Wales* (which together constitute the Welsh Government's Smart Specialisation Strategy<sup>1</sup>). These strategies will be used to target Welsh Government and all related Welsh Structural Funds support. Alignment to these strategies should also assist in accessing other competitive funding sources, such as the £64 billion available through the Horizon 2020 programme.

### **Science for Wales**

The science research agenda remains a high priority for the Welsh Government, including HEFCW's role in building core research capacity and research excellence through its QR funding, and work to increase competitively won research and its exploitation. We hope the Council will build upon its own research and that of others to address the shortfall in research scientists in Wales, especially in the areas of clinical medicine, engineering and other STEM subjects.

The Council is expected to continue to support the original Sêr Cymru programme with the financial commitment that has been made already and also support the proposed

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<sup>1</sup> <http://s3platform.jrc.ec.europa.eu/regions/UKL/tags/UKL>

'Spearhead Science Wales' initiative which is a new programme under the direction of the Chief Scientific Adviser for Wales. It is agreed that the Council will make their full commitment to both programmes from their original allocation of £15M to Sêr Cymru but with the portion for Sêr Cymru 2 extending to 2020.

This new Sêr Cymru 2 programme will bring forward initiatives to expand capacity in focused areas of research and will grow critical mass in areas of national importance for Wales. It will have a general remit for encouraging capacity development but focus on areas which offer the greatest potential for improvement and exploitation, in particular, those disciplines covered by the EPSRC, MRC and NERC. The increased capacity will help address shortfalls in key areas of science, create additional jobs and thereby enhance even further Wales' competitiveness and excellence in science.

Increased capacity will also help improve access to a wider range of competitive funding sources such as the £64bn Horizon 2020 programme. The Structural Funds programmes in Wales can be considered, where appropriate, as a means of helping build capacity; but always with a clear path to competing on the global stage and accessing competitive funds. The Council should also consider any match-funding commitments that might be required to support such Structural Funds projects.

## **Research**

I also expect the Council to seek ways to maximise the impact of QR funding that is committed to research and to target funding to reflect a combination of:

- a. the research priorities of the Welsh Government; and
- b. the excellence and strengths of the Welsh research base as determined by REF and successful RCUK research grant capture,

thus creating greater critical mass in areas of strategic importance to Wales. This ties in closely with the activities in Science for Wales; alignment with which is a requirement for related funding available through the Structural Funds. Building on the outcomes of the REF and HEFCW's process of strategic engagement with institutions, I expect the Council to continue to promote an improvement in research performance through the development of stronger research environments, greater critical mass and research excellence. Funding may also support the greater involvement of women in science and support for enhanced co-operation between HEIs and schools to facilitate teacher and pupil understanding of STEM. We recommend that STEM engagement is co-ordinated with the activities of the NSA to achieve complementarity.

The excellent REF results confirm that there are very significant research strengths in Wales, but they also provide further evidence in support of the Chief Scientific Adviser's view that Welsh universities suffer from a shortfall of researchers, particularly in the STEM disciplines. The Council should continue to support initiatives to increase Wales' research capacity in key areas of science, most critically the next phase of the Welsh Government's Sêr Cymru programme. It is important that QR support reflects future capacity as well as rewarding research success.

## **Innovation Wales**

*Innovation Wales* lays out the five key themes by which research can impact the lives and wealth of ordinary people, through more and better innovation. The commercialisation of research, development and innovation in areas of expertise is a key element of this strategy and the commercialisation of research and innovation is also a dedicated objective in the 2014-2020 Welsh Structural Funds programmes. The Council

is invited to specifically consider its role in the commercialisation of research and innovation, encouraging the establishment of effective mechanisms and strategies to transfer knowledge; in particular how HEIs can build on their relationships with a range of industry partners, including Welsh SMEs, whilst maximising the opportunities for those partners.

### **The Welsh Economy and Higher Level Skills**

I would like the Council to continue to work closely with the HE sector to enable it to continue to improve engagement with the business community, both in Wales and more widely. This will include managing the contract with the National Centre for Universities and Business to agreed outcomes, and aligning closely with regional skills partnerships.

### **Healthcare Professional Education**

The Welsh Government invests more than £350 million each year supporting the education and training of health care professionals. It is important this investment is open to all and that programmes we invest in are as flexible as possible allowing individuals to undertake training incrementally at a pace which suits both them and the service. I would like the Council to work with education providers to review their programmes to consider the scope for developing proposals to increase this flexibility.

### **Welsh-Medium**

Since its establishment in 2011 the Coleg Cymraeg Cenedlaethol has focused on building supply side capacity and it has supported a range of measurable outputs and outcomes which represent a significant step towards creating a sustainable system for Welsh-medium higher education.

I expect the Council to:

- continue to undertake its role in funding and monitoring the Coleg's activity, including its management of the Welsh language scholarship schemes;
- to monitor responses to the recommendations put forward in the evaluation of the Coleg's activities and review of the funding provided to the Coleg undertaken by Oldbell 3;
- encourage the Coleg to work closely with the post-16 sector to further develop clear continuity paths from Welsh-medium post-16 education in sixth forms and colleges to higher education, particularly in more vocational subjects.

The Council will also need to engage closely with the HE institutions in Wales to ensure that the Coleg continues to be supported, and its early successes built on, after the current period of funding through HEFCW comes to an end.

### **Higher Education in Further Education**

I expect the Council to encourage a co-ordinated and sustainable approach to the delivery of HE in FE which is firmly embedded in the regional strategic planning of higher education. In particular I would like the Council to:

- focus on creating stronger partnerships between higher education institutions and further education institutions in the delivery of higher education that meets employer skill needs;
- promote effective regional partnerships between higher education institutions and further education institutions; and

- request that regional strategies reference the delivery of HE in FE and outline arrangements between partners.

The development of level 4 and 5 programmes are crucial to increasing higher level skills in Wales. To support the skill needs of businesses and the progression of learners, I would like the Council to work with my officials in the development of strategic and coherent policy for the planning and delivery of higher apprenticeships. In this context, the Council should also take into account recommendations arising from the review into the delivery of higher education by further education institutions in Wales.

### **Part-Time HE Provision**

I noted with interest the latest information on recruitment of part time students in Wales and the rest of the UK. Whilst I am pleased that the latest indicators suggest that we have not seen a repeat of the significant decline in student numbers experienced in England, I remain concerned that numbers have continued to fall.

With this in mind, the Council should continue to work in partnership with the sector to take account of the Part Time Position Statement that you published last year. Part time in Higher Education remains a priority for the Welsh Government and I would like HEFCW and the sector to consider if there are any short term policies that can be implemented to encourage part time study prior to the publication of the recommendations of the Diamond review.

I was also pleased that HEFCW recognised the unique position of the Open University in Wales in its financial settlement for 2014-15. Given that the OU is unable to access additional tuition income, I would hope that the Council is able to continue to recognise this when it delivers its plans to the sector.

### **Senior Pay in the Higher Education Sector**

The Welsh Government has recently responded to the Report of the National Assembly for Wales Public Accounts Committee Report on Senior Management Pay. In keeping with the recommendations of the Committee, the Welsh Government has made a commitment to monitor the senior pay of management in HE and FE. I would like the Council to monitor senior pay levels and awards in the HE sector and submit a report to the Welsh Government on an annual basis outlining the position for HE institutions in Wales.

### **Counter-Terrorism and Security Bill**

The UK Government is consulting on draft guidance affecting HE institutions in relation to the new Counter-Terrorism and Security Act 2015. I am anxious that all HE institutions in Wales should play an active part in helping to combat radicalisation and extremism. I know that HEIs in Wales, supported by the all-Wales HE/FE Prevent Co-ordinator, take very seriously their responsibilities for safeguarding the welfare of students in this regard. I expect the Council to monitor the safeguards being put in place by institutions and to consider, in consultation with the other UK Funding Councils, whether the quality assessment framework for higher education might be amended in any way so as to better support the Prevent agenda.

### **Digital learning**

Further to the review of HEFCW's strategy for enhancing learning and teaching through technology in 2014, I would like to see institutions continue to place a priority on this area. I welcome the declaration of Wales as one of the first Open Educational Resources (OER) nations in the world, in 2013, and am pleased that this will lead to Wales hosting the 6<sup>th</sup> international OER conference on 'Mainstreaming Open Education'

this April. I expect that this work will feed into the next evaluation of the ELTT strategy in 2016/17 with positive outcomes.

### **Unique Learner Number**

I would like the Council to encourage greater collaboration by the sector with programmes of activity within the FE, WBL and schools to improve the data and information environment around the learner, to assist in developing a clearer picture of the scope and scale of outcomes for individuals, institutions and for Wales as a whole.

### **Conditions of Grant**

Annex 1 details the funding allocations for the Council for the financial year 2015-16. Specific conditions which I am attaching to the payment of grant to the Council are set out in Annex 2.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Huw Lewis', written in black ink.

### **Huw Lewis AC / AM**

Y Gweinidog Addysg a Sgiliau  
Minister for Education and Skills

## Annex 1

Detailed allocations for the HEFCW budget Expenditure Lines for 2015-16 are set out below (£s):

HEFCW Running costs		2,768,000
HEFCW current expenditure – WG Budget	330,713,000	
less estimate for TFG	236,700,000*	
less estimated cost of WNB	17,500,000	
plus allocation for Part time	<u>18,500,000</u>	
Total allocation		95,013,000
For our Future (2)		30,498,000
Higher Education receipts		-2,798,000
HEFCW Depreciation		82,000
Total allocation for 2015-16		125,563,000

### (1) HEFCW current expenditure line

As announced on 25 May 2010, the Welsh National Bursary (for new entrants in academic year 2011/12) was integrated into the HE statutory support system as an integral part of the Assembly learning and special support grants. In line with this announcement an adjustment has been made to the HEFCW Current expenditure budget line to meet the funding requirement for the minimum bursary for eligible students and to reflect the cost of the scheme had it continued - £17.5m

I have allocated HEFCW additional funds of £18.5m to encourage part-time learning in Wales and to allow the council to continue to subsidise the delivery costs of part-time courses from 2014/15.

\*In addition, I have transferred the cost of the tuition fee grant to the student support budget in Welsh Government. The latest estimate from the Student loan company for the level of expenditure for 2015-16 is £236,700,000 - HEFCW's forecasts currently sits at £231,562,912 (a difference of £5,137,088).

Given the level of uncertainty in the system at the current time, I have asked my officials to arrange for an initial transfer of £231,562,912 from April 2015. If initial application data from the SLC suggests that expenditure will be higher then I will transfer the additional cost for the provision of the fee grant up to a total of £236,700,000 in November/December 2015.

I can confirm that for the 2016-17 financial year, the estimate will be reflected in the budget approved by the National Assembly for Wales

These adjustments have been taken into account within the current expenditure line.

### (2) For our Future

A budget allocation of £7,830,000 has been provided to support the Coleg Cymraeg Cenedlaethol.

However, should these commitments not utilise the full resource within the budget line in 2014-15, HEFCW are authorised to use any flexibility that may exist for the progression of wider For our Future priorities including in the first instance those reconfiguration and

collaboration projects for which funding has already been committed. It is expected that HEFCW will manage all other priorities from the HEFCW current expenditure line.

For illustrative purposes only, in addition to the For Our Future budget line, HEFCW also have access to the following funding that cannot be drawn down as grant in aid:

Welsh Medium Scholarships      £330,000

Arrangements for the payment of these sums have been agreed via a section 83 agreement. As such HEFCW will need to be able to identify spend in each of the areas and raise separate invoices to the Welsh Government prior to payment of the sums due. However, these monies can be drawn down at the same time as the monthly GIA claims on receipt of an appropriate invoice.

## Annex 2

### Conditions of Grant

#### ***Condition of Grant on Regulated Fees***

1. Under section 27 of the Higher Education Act 2004 (the 2004 Act) the Welsh Ministers are imposing by way of this letter a condition on the grant paid to the Council (under section 68(1) of the Further and Higher Education Act 1992 or in respect of initial teacher training of teachers section 88(1) of the Education Act 2005), which in turn requires the Council to impose a condition under section 28 of the 2004 Act on the funding it allocates to relevant institutions<sup>2</sup>.

2. The condition the Council must impose on the governing body of each relevant institution must ensure that:

(a) where an institution has an approved fee plan in force for the 2015/16 academic year, that its governing body must secure that in respect of that academic year the fees payable by a qualifying person in connection with his or her undertaking of a qualifying course do not exceed the limit provided for that course in the plan for that academic year, and, which is not to exceed the higher amount in any event, and

(b) the governing body must comply with the general provisions of the approved plan;

(c) where an institution does not have an approved plan for the 2015/16 academic year, its governing body must secure that in respect of academic year 2015/16 the fees payable by a qualifying person in connection with his or her undertaking of a qualifying course do not exceed the basic amount.

3. These conditions do not apply to students starting their full-time courses before 1 September 2012. For new students starting full-time courses on or after 1 September 2012, the basic and higher amounts for the 2015/16 Academic Year are currently prescribed by the Student Fees (Amounts) (Wales) Regulations 2011.

4. In this condition, “relevant institution” means a university, an institution conducted by a higher education corporation, a designated institution and a further education institution providing prescribed courses of higher education for the purposes of section 65 of the Further and Higher Education Act 1992; “fees” has the meaning given in section 41 of the 2004 Act; “qualifying course” and “qualifying person” have the meaning prescribed in the Student Fees (Qualifying Courses and Persons) (Wales) Regulations 2011/691 (as amended<sup>3</sup>).

#### *Financial requirements to be imposed by HEFCW*

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<sup>2</sup> Section 27 of the 2004 Act permits a condition under section 28 of the 2004 Act to be imposed by the Welsh Ministers in respect of funding provided to HEFCW under section 68(1) of the Further and Higher Education Act 1992 or under section 88(1) of the Education Act 2005 for funding of teacher training.

<sup>3</sup> Amended by S.I. 2011/1978, S.I. 2012/1630, and 2013/1792.

5. Where there is a failure to comply with the condition under paragraph **2(a)** and the fee payable exceeds the higher fee cap, the financial requirement will be the amount determined by HEFCW in accordance with the following principles:

(a) an amount of the recurrent grants allocation which in the opinion of HEFCW equals the aggregate amount that qualifying persons in connection with their undertaking of a qualifying course have been overcharged; and,

(b) that the amount determined under sub-paragraphs (a) will be repaid by the institution to HEFCW, or withheld from grant, and retained until the institution has satisfied HEFCW that reasonable efforts have been made to repay the amount charged in excess of the higher fee cap, either to every qualifying person overcharged, or to the Student Loans Company, as the case may be. Once HEFCW is so satisfied by a date it determines, the amount retained, or a proportion of that amount, will be repaid or given in grant to the institution;

(c) the following further principles also apply:

(i) where it appears to HEFCW that an institution does not intend to comply with the higher fee cap, an amount up to the maximum of the total recurrent grant for the current or any future grant period may be withheld from grant,

(ii) where it appears to HEFCW that a breach of the higher fee cap is minor or accidental there will be no financial penalty additional to that set out in sub-paragraphs (a) and (b) and

(iii) in any other circumstances, an amount in the current grant period HEFCW considers appropriate in view of the severity of the failure to comply with the higher fee cap, up to a maximum of £500,000, to be repaid by the institution to HEFCW or withheld from grant;

(d) an amount determined under sub-paragraph (c) must not exceed in any grant period the total amount received from HEFCW in that grant period, less any amount withheld under sub-paragraphs (a) – (b). An amount determined under sub-paragraph (c) will not be paid or repaid to the institution.

6. Where there is a failure to comply with the condition under paragraph **2(b) or 2(c)**, the financial requirement will be the amount determined by HEFCW in accordance with the following principles;

(a) an amount of the recurrent grants allocation which in the opinion of HEFCW equals the aggregate amount that qualifying persons in connection with their undertaking of a qualifying course have been overcharged; and,

(b) that the amount determined under sub-paragraphs (a) will be repaid by the institution to HEFCW, or withheld from grant, and retained until the institution has satisfied HEFCW that reasonable efforts have been made to repay the amount charged in excess of the basic fee cap, either to every qualifying person overcharged, or to the Student Loans Company, as the case may be. Once HEFCW is so satisfied by a date it determines, the amount retained, or a proportion of that amount, will be returned or given in grant to the institution;

- (c) the following further principles also apply:
- (i) where it appears to HEFCW that an institution does not intend to comply with the basic fee cap, an amount up to the maximum of the total recurrent grant for the current or any future grant period may be withheld from grant,
  - (ii) where it appears to HEFCW that a breach of the basic fee cap is minor or accidental there will be no financial penalty additional to that set out in sub-paragraphs (a) – (b), and
  - (iii) in any other circumstances, an amount in the current grant period HEFCW considers appropriate in view of the severity of the failure to comply with the basic fee cap, up to a maximum of £500,000, to be repaid by the institution to HEFCW or withheld from grant.
- (d) An amount determined under sub-paragraph (c) must not exceed in any grant period the total amount received from HEFCW in that grant period, less any amount withheld under sub-paragraphs (a) – (b). An amount determined under sub-paragraph (c) will not be paid or repaid to the institution.

***Condition of Grant on Regional Coherence***

7. Under section 68(1) of the Further and Higher Education Act 1992, the Welsh Ministers are imposing by way of this letter a further condition on the grant made to the Council requiring it, in the exercise of its functions, to have regard to regional coherence in exercising its functions to allocate funding to providers of higher education.