

# HEFCW's draft fee and access plan guidance

## Draft proposals for consultation

If you require this document in an alternative accessible format, please telephone us on (029) 2068 2225 or email [info@hefcw.ac.uk](mailto:info@hefcw.ac.uk).



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## Introduction

1. This draft guidance provides information and advice to prospective applicants for 2017/18 fee and access plans, as well as the governing bodies of regulated providers. Information is also provided on how to enter the regulatory system.
2. Students and potential students may find the information in this consultation circular of interest as they consider how the student body will inform their institution's fee and access planning process.
3. In publishing this draft guidance HEFCW aims to ensure that all potential applicants are fully aware of their obligations, that administrative burdens are minimised, and that students and potential students are aware of the 2017/18 fee and access planning process to enable the student body to engage effectively in fee and access planning processes at their institution.
4. This guidance should be read in conjunction with the [Higher Education \(Wales\) Act 2015](#) (the 2015 Act) and explanatory notes, associated Regulations and [Welsh Government guidance to HEFCW on fee and access plans](#), provided on the [HEFCW website](#). The Regulations can be reviewed and amended and, therefore, in referring to these documents readers will want to ensure they access the most current versions.
5. HEFCW publications that inform the fee and access plan process, and should be read in conjunction with this guidance are, at the time of writing:
  - The relevant HEFCW [Corporate Strategy](#);
  - The relevant [remit letter](#) to HEFCW from the Welsh Government;
  - [Widening Access Strategic Approach](#);
  - [Strategic Equality Plan](#);
  - [Transitional Statement of Intervention](#);
  - consultation on [Criteria for the Assessment of Quality, Method for Assessment of Quality and Investigation of Matters relating to Quality and Standards](#) (the consultation outcomes will be published); and
  - consultation on [Guidance on Partnership Arrangements for Provision Delivered by External Providers on behalf of Regulated Institutions in Wales](#) which has also been published recently.
6. Future HEFCW publications, following consultation, will include a full Statement of Intervention and a Financial Management Code. The full Statement of Intervention will set out HEFCW's full powers when they are in effect. It will be published following further guidance to HEFCW from the Welsh Government and when the regulations relating to Sections 37-40 of the Higher Education (Wales) Act 2015 come into force. HEFCW's full powers are due to be in force from September 2017. The Financial Management Code will set out HEFCW's powers for the purposes of monitoring the organisation and management of institutions' financial affairs where institutions have a fee and access plan.

7. HEFCW's 2017/18 fee and access plan guidance has been considered in the context of the [Equality Act 2010](#) and the [Wales specific public sector equality duty](#).
8. While HEFCW recognises that there is no statutory requirement, under the 2015 Act, to consult on fee and access plan guidance, HEFCW commits to consult widely on this 2017/18 fee and access plan guidance, including holding a consultation event on **22 February 2016** and working with potential applicants, where possible. Further information and advice is available from the HEFCW [website](#) and the following HE Act email addresses: [cyngorrheoleiddio@hefcw.ac.uk](mailto:cyngorrheoleiddio@hefcw.ac.uk) or [regulationadvice@hefcw.ac.uk](mailto:regulationadvice@hefcw.ac.uk). HEFCW will publish further information on its website as it becomes available.
9. A glossary of terms is provided as **Annex A**.

### **Background and context**

10. The Higher Education (Wales) Act 2015 establishes a new regulatory framework for higher education in Wales. The Act strengthens HEFCW's existing role as regulator, given the changing funding context, as well as making provisions about: the new regulatory system and eligibility to apply for fee and access plans; student fees payable to certain institutions providing higher education; the quality of education provided by, or on behalf of those institutions; and the financial management of those institutions.
11. In addition, Section 49 of the 2015 Act requires that HEFCW takes account of any guidance issued by Welsh Ministers when exercising its functions under the 2015 Act.

### **Background to fee plans and accessing Welsh Government student support**

12. Since 2012/13 fee plans have been a statutory requirement for institutions in Wales charging fees exceeding £4,000 a year. Under the 2015 Act, 2015/16 and 2016/17 approved plans formerly known as 'fee plans' become 'fee and access plans'.
13. The 2015 Act requires that from 2017/18 institutions seeking Welsh Government student support must submit fee and access plans to HEFCW for approval.
14. From academic year 2017/18 there are only two routes by which an institution in Wales can apply for its qualifying courses (full-time undergraduate and PGCE courses) to be designated for access to Welsh Government student support. For definitions of qualifying courses and qualifying persons see the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations

2015<sup>1</sup>. The designation of courses for statutory student support is provided for separately to the Higher Education (Wales) Act 2015 in regulations made under section 22 of the Teaching and Higher Education Act 1998. Higher education courses are designated by the Welsh Ministers, either via the automatic or case by case route, to enable students to access higher education.

15. One route is through an institution submitting a fee and access plan application to HEFCW for approval. Approval will lead to all its qualifying courses becoming automatically designated and the institution becoming regulated for the period in which the fee and access plan is in force. Students studying on qualifying courses will be eligible to apply for Welsh Government student support, currently including tuition fee support up to a maximum of £9,000 a year.
16. If an organisation is not an institution it must seek designation as an institution from the Welsh Government before it can apply to HEFCW for a fee and access plan. For further information on this process contact [HEPolicy@wales.gsi.gov.uk](mailto:HEPolicy@wales.gsi.gov.uk). **See paragraphs 31-33.**
17. The second route is for a higher education provider to apply to the Welsh Government for specific designation of its courses on 'course by course' basis. Students would be eligible for Welsh Government student support for tuition fees for designated courses up to a maximum of £6,000 a year. HE providers can charge tuition fees of more than £6,000 a year for designated courses, with the balance of the fee above £6,000 a year being paid by, for example, the student. This route is administered separately by Welsh Government. It is not the purpose of this document to provide information about this second route. For further information on the Welsh Government specific designation process contact: [HEPolicy@wales.gsi.gov.uk](mailto:HEPolicy@wales.gsi.gov.uk).

#### Institutional autonomy

18. When exercising its intervention functions, Section 47 of the 2015 Act requires that HEFCW does not intervene in a way that demands a governing body do anything that is incompatible with any obligations or restrictions of a charitable organisation. Similarly, HEFCW will not intervene in a way that is incompatible with the governing documents of an institution. In Wales, for chartered institutions these include the Royal Charter and any Instruments which require the approval of the Privy Council. For Higher Education Corporations and Further Education Corporations the governing documents are the institution's instrument of government and articles of government. For any institutions in Wales that are companies that do not fall within the above categories the governing instruments are the company's memorandum and articles of association.

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<sup>1</sup> The Higher Education (Wales) Act 2015 and associated Regulations are published [www.legislation.gov.uk](http://www.legislation.gov.uk).

19. The 2015 Act (Section 48) also requires that HEFCW takes into account the importance of protecting academic freedom when exercising its intervention powers. This includes the freedom of an institution to determine:
- i. the contents of courses and the manner in which they are taught, supervised and assessed;
  - ii. the criteria for the admission of students and to apply those criteria in particular cases; and
  - iii. the criteria for the selection and appointment of academic staff and to apply those criteria in particular cases.

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## Section One: Who can apply for a fee and access plan?

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20. This section provides information on the HEFCW processes leading to the automatic designation of qualifying courses for Welsh Government student support. It covers regulatory information HEFCW requires to be included in a fee and access plan which demonstrates that an institution is located principally or wholly in Wales that it provides higher education and that it is a charity. It sets out the information HEFCW requires an applicant to provide on the applicant's financial viability, the organisation and management of its financial affairs and the quality of the education it provides. This section also provides information on courses that can be included in a plan, the duration of a plan, the levels of fee income and investment and the processes for exiting the regulatory system.
21. Regulatory information provided by an applicant in this section of the plan is for HEFCW's information and not intended for inclusion in the final fee and access plan to be published by an institution, following approval by HEFCW.

### Entry into the regulatory system

22. Applicants for fee and access plans from 2017/18 will include those institutions that are currently regulated institutions as well as institutions that have not previously been regulated institutions or submitted fee and access plans. For further information about how institutions became regulated institutions prior to submitting 2017/18 fee and access plans, see the relevant paragraphs below.
23. It is for providers to opt into the regulatory system of fee and access plans from 2017/18. An institution that wishes its qualifying courses to be automatically designated for Welsh Government student support is required to have a fee and access plan approved by HEFCW. HEFCW's approval of an institution's fee and access plan is part of the process, together with student support regulations, that lead to an the institution becomes a 'regulated institution' for the purposes of the 2015 Act and its governing body must:
  - i. ensure that regulated courses fees do not exceed the applicable fee limit;
  - ii. take into account any HEFCW guidance when complying with a direction issued by HEFCW in relation to compliance with fee limits;
  - iii. comply with the general requirements of an approved fee and access plan;
  - iv. cooperate with HEFCW in exercising its duties to monitor and evaluate the compliance and effectiveness of a plan;
  - v. take into account HEFCW guidance on quality;
  - vi. take into account directions and advice in relation to provision which is, or is likely to become, inadequate in terms of quality;

- vii. cooperate with HEFCW's duty to assess the quality of its education and education provided by an external provider on its behalf;
- viii. comply with any requirement imposed by the financial management code;
- ix. comply with a direction in respect of failure to comply with the code;
- x. take into account any guidance contained in the financial management code;
- xi. cooperate with HEFCW's functions in respect of failure to comply with the code; and
- xii. cooperate with HEFCW's duties to monitor compliance with the code.

#### Fee plan thresholds

24. The 2015 Act requires an institution that might not have required a fee plan under the previous system, which operated for fee plans between 2012/13 to 2016/17, to make a fee plan application in 2017/18 if the institution wishes its qualifying courses to be automatically designated for Welsh Government student support. This change from the previous system applies to further education institutions in Wales not in receipt of funding from HEFCW and/or institutions in Wales whose full-time fees previously have not exceeded £4,000 (the threshold above which it was necessary to apply for a fee plan under the previous system).

#### Categories of provision

25. The regulatory framework includes two categories of provision:
- i. higher education provided *directly by* a regulated institution; or
  - ii. higher education provided *on behalf of* a regulated institution (by an external provider).
26. Where higher education is provided directly by an institution, the 2015 Act requires that an institution must apply for a fee and access plan for its qualifying courses to be eligible for Welsh Government student support. The institution which has responsibility for the overall content and delivery of the qualifying courses (including quality assessment arrangements and contractual responsibility with the student) provides higher education directly. As set out in HEFCW's consultation on [Guidance on Partnership Arrangements for Provision delivered by External Providers on behalf of Regulated Institutions in Wales](#), (guidance on partnership arrangements) degree awarding institutions and institutions with provision validated by an appropriate awarding body is considered to provide higher education directly. Wholly-owned subsidiaries of institutions in Wales which have responsibility for the overall content and delivery of the qualifying courses will also be considered to provide higher education directly, as if they were delivering higher education under a validation agreement.
27. Where higher education is provided on behalf of an institution, by an external provider, the institution on whose behalf the provision is provided is responsible for student support arrangements. The institution on whose behalf the provision is delivered is determined by which institution has

responsibility for the overall content and delivery of the qualifying courses. If the institution responsible is in Wales, that institution will be required to submit a fee and access plan to HEFCW. As set out in HEFCW's consultation guidance on partnership arrangements, institutions delivering higher education under franchise arrangements are considered to be external providers. Wholly-owned subsidiaries of institutions in Wales which do not have responsibility for the overall content and delivery of the qualifying courses will also be considered to be external providers to their 'parent' institution, as if they were providing higher education under a franchise agreement.

28. There will be situations where an institution provides higher education directly *and* provides higher education on behalf of another institution. For example, an institution may have its higher education provision validated by a relevant degree awarding body and also provide higher education on behalf of a degree awarding body under franchise arrangements. In this situation the institution should apply for a fee and access plan for its validated provision. Student support for the franchise provision will be accessed by the franchisor.
29. **Annex B** provides a diagram setting out issues to consider in relation to the control of a provision when deciding which institution is responsible for submitting a fee and access plan to HEFCW.

#### Eligibility to apply for a fee and access plan and evidence to be provided to HEFCW

30. HEFCW will approve a fee and access plan only if the institution submitting the plan can demonstrate that it meets all criteria relating to being an institution in Wales that provides higher education and is a charity.

#### Criteria for being an institution

31. The 2015 Act does not define the term 'institution'. Section 2(3) of the 2015 Act provides requirements that an 'institution' is an institution in Wales that provides higher education and is a charity. Examples of organisations HEFCW regards as institutions include: universities formed by Royal Charter, Higher Education Corporations and Further Education Corporations. A provider which is a charity providing higher education in Wales but which would not otherwise be regarded as an institution must apply to the Welsh Government if it wishes to be designated as an institution. Applicants must have this status confirmed before a fee and access plan is submitted to HEFCW. Providers not otherwise regarded as an institution, should contact the Welsh Government for advice on designation as an institution<sup>2</sup>.

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<sup>2</sup> The Welsh Government email contact is [HEPolicy@Wales.GSI.gov.uk](mailto:HEPolicy@Wales.GSI.gov.uk).

## Criteria for being an institution in Wales

32. HEFCW will regard an institution as being in Wales if its activities are either wholly or principally carried out in Wales: see Section 57(3) (a) of the 2015 Act. HEFCW's consideration of the location of an applicant's activities will be informed by evidence provided in the application: see The Higher Education (Designation of Providers of Higher Education) (Wales) Regulations 2015. Information should include:
- i. the applicant's name;
  - ii. the applicant's principal address and legal address<sup>3</sup>;
  - iii. the applicant's UK provider registration number;
  - iv. any other names under which the applicant operates;
  - v. where the activities are located: see HESES definitions in HEFCW circular [W15/20HE](#);
  - vi. the address of any website relating to the applicant's activities;
  - vii. an electronic copy of a published prospectus/es relating to the applicant's activities, including in Wales;
  - viii. where the majority of students are located. Applications must state the total number of all students attending courses delivered in Wales compared to the total number of all students attending courses delivered outside Wales. Distance learning students' location is considered to be where the students themselves are located, for example, a distance learning student registered at an institution located in Wales, who lives in England and carries out the distance learning from there, should be counted as attending a course delivered outside Wales. This definition is consistent with where distance learning students are counted for the purposes of determining fundability status in the [HESES](#) survey<sup>4</sup>.

## Criteria on being an institution in Wales providing higher education (HE)

33. HEFCW will regard an institution in Wales as providing higher education if the provision includes a HE course or courses, regardless of mode, listed in [Schedule 6 of the Education Reform Act 1988](#) and set out in the Welsh Government guidance to HEFCW. To assess whether provision is HE level HEFCW will require applications to provide information on:
- i. a description of the higher education provided by the applicant in Wales;
  - ii. a description of the qualifications or awards in Wales;
  - iii. the numbers of students in Wales that may be taking the HE courses at the date of application and, where we do not already hold this information, for three years previously;
  - iv. the location or locations of the HE provision in Wales;

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<sup>3</sup> Case law suggests that the term 'principal office' means a place where the business of a body corporate is managed and controlled as a whole - as referred to in *Halsbury's Statutes of England and Wales*, 4th ed., Vol 8, 1999 Reissue at page 366. HEFCW will normally use this meaning when referring to a principal address.

<sup>4</sup> [HESES](#): Higher Education Students Early Statistics Survey is an annual survey of higher education institutions about students on recognised higher education courses.

- v. a list of HE courses provided in an electronic copy of a prospectus; and
  - vi. the provider's web address relating to HE courses in Wales.
34. Where information is requested in relation to the sections above on an organisation being an institution in Wales and being an institution in Wales providing higher education, figures should be based on verifiable data.
35. For a regulated institution that provides higher education under validation arrangements, HEFCW will require evidence that a validation arrangement is in place and that it meets the expectations set out in HEFCW's guidance on partnership arrangements. The agreements will confirm that the institution providing higher education under validation arrangements has overall responsibility for the content and delivery of the qualifying courses. Wholly-owned subsidiaries of institutions in Wales that have overall responsibility for the content and delivery of the qualifying courses will be also required to provide evidence to HEFCW of an internal agreement with its 'parent' institution, similar to a validation agreement for the same purpose.
36. An Institution that has higher education provided on its behalf by external providers will be required to submit to HEFCW a copy of the relevant agreements with the external providers. Where an external provider is a franchise partner, a franchise agreement will be required. Where the external partner is a wholly owned subsidiary then an internal agreement, similar to a franchise agreement will be required. These agreements, to be submitted to HEFCW, will confirm that the external provider does not have overall responsibility for the control and delivery of the qualifying courses.

Criteria on being an institution in Wales that is a charity providing higher education

37. Fee and access plan applicants must be charities. All Higher Education Corporations and Further Education Corporations are charities and Chartered Universities in Wales which receive funding from HEFCW are registered with the Charity Commission for England and Wales. Consequently, all institutions which have had a fee plan approved by HEFCW under the 2004 Act are charities. Other applicants will need to provide the following information:
- i. the applicant's charity registration number and the name and address of the charity regulator registering the provider; or
  - ii. if the applicant is not registered with a charity regulator, the applicant must provide the reasons for this together with a copy of the applicant's governing document.

**Requirements of a regulated institution**

38. Applicants seeking entry into the regulatory system will be required to provide information relating to the:

- i. financial viability of an institution;
- ii. arrangements for the organisation and management of the institution's financial affairs; and the
- iii. quality of education provided by, or on behalf of, the institution.

#### Currency and sufficiency of information provided to HEFCW

39. Where HEFCW already holds up-to-date, financial or quality information about an applicant, it would be satisfied with an applicant making explicit reference to this information in its fee and access plan application. This information, or links to this information, will be taken into account by HEFCW in approving or proposing to reject a plan.
40. Where HEFCW does not have sufficient financial or quality information, applicants are required to provide up-to-date information in support of their applications, which HEFCW will take into account in approving or proposing to reject a plan. HEFCW will also require applicants to provide annual assurance that they have appropriate quality assurance procedures in place, and that the quality of all their provision is neither 'inadequate', nor 'likely to become inadequate'.

#### Evidence to be provided to HEFCW

41. HEFCW will consider the following information when assessing if applications are eligible to be considered:

##### Financial viability

42. An institution must provide information to HEFCW about its financial viability and sustainability, including that it has a low risk of failure on financial grounds over the medium to long term. In addition, HEFCW will expect an applicant to confirm that it is at a low risk of failure on financial grounds over the medium to long term. This information and confirmation should be sufficient to give HEFCW reasonable confidence that students will not be at risk of being unable to complete their course as a result of financial failure.
43. Applicants should provide full details of their corporate structure, including detailing all group companies or organisations.
44. As appropriate, the assessment of financial sustainability may take in to account the financial arrangements of any group structure (including subsidiary and parent/holding companies) or linked organisation where it is considered relevant to financial sustainability.
45. Fee and access applications must provide information, which illustrates:
  - i. **Historical performance** - a track record of financial performance evidenced by annual reports and externally audited financial statements for the three years prior to the application. The accounts

must be audited each year by a registered auditor. This must not be the same firm and/or individual that prepared the accounts, to ensure that HEFCW can have full confidence in the audit. The basis of the accounts will be Generally Accepted Accounting Practice in the UK (UK GAAP) (or successor requirements) or International Financial Reporting Standards (IFRS) if appropriate.

- ii. **Financial strategy** - a financial strategy that reflects the overall strategic plan, sets appropriate benchmarks and performance indicators, shows how resources are to be used, and how activities and infrastructure will be financed. This should include how applicants assess and review their sustainability, including the use of sustainability assessments.
  - iii. **Forecasts** - applicants must be able to provide evidence that they have:
    - adequate cash flow to remain solvent, that is, sufficient liquidity to pay debts as they fall due; and
    - an adequate balance sheet, that is, that they maintain a net total assets position and would not incur deficits if these would result in a net total liabilities position.
46. Applicants should submit as part of their evidence their strategic plan and full financial forecasts for the current year and future four years. The evidence should include a commentary on the assumptions being made and how any financial risks are being managed.
  47. Financial tables and guidance on the completion of the forecast information is available in the circular [W15/11HE](#). Applications who have not previously completed HEFCW's forecast model may request the Microsoft Excel model by emailing [assurance@hefcw.ac.uk](mailto:assurance@hefcw.ac.uk).
  48. The assessment of an applicant's financial performance and sustainability will not be used in isolation to determine whether it meets this requirement. The financial sustainability assessment will be an overall judgement that also takes into account the context of the applicant's financial position and their strategic plan.

#### The organisation and management of financial affairs

49. An applicant will need to provide evidence that it is well managed with sound management practice in place and the capacity to develop in line with its strategic plan and the financial strategy that supports its fee and access plan.
50. An applicant must provide information to illustrate that it:
  - i. has financial management processes are well-governed and comply with accepted principles of good governance;
  - ii. plans and manages activities to remain sustainable and viable;

- iii. has robust and comprehensive systems of risk management and internal control;
  - iv. has effective arrangements for the management and quality assurance of data used for internal decision making;
  - v. has regular, reliable, timely and adequate information to monitor operational and financial performance;
  - vi. that this information is reported regularly, comprehensively and correctly to appropriate senior management and those charged with governance;
  - vii. manages its estate in a sustainable way in line with an estates strategy;
  - viii. is able to meet all the necessary data capture and reporting requirements for HEFCW including those administered by the Higher Education Statistics Agency (HESA) and other bodies as required by HEFCW. Examples include:
    - the annual HESES survey;
    - student, student destination, staff, estates, finance and business and community interaction data to HESA;
    - provision of data to support public information requirements; and
    - the accountability return.
51. In assessing the data management capabilities consideration will be given, where applicable, to an applicant's track record in submitting data to HEFCW or other bodies including HESA, the Welsh Government or the Student Loans Company. HEFCW reserves the right to undertake a visit to the applicant to examine and understand data processes.
52. Applicants must provide evidence that they can comply with the principles of the Higher Education Code of Governance (Committee of University Chairs, December 2014) unless adherence to alternative, equally robust governance principles can be evidenced. We recognise that the code is voluntary and institutions may be able to apply alternative governance practices to achieve similar outcomes. However, we consider that the principles and intended outcomes (referred to as 'the Elements') of the Code are sound. Where it is not possible to evidence compliance with the Code, HEFCW will require an explanation that describes equally robust alternative arrangements that are in place or indicates that there are appropriate and reasonable grounds for non-adherence.
53. If an applicant does not already comply with the Higher Education Code of Governance they should discuss with HEFCW before applying how they might evidence this.
54. Applicants will need to take account of guidance on the responsibilities of trustees and effective trusteeship to be found on the Charity Commission website.
55. Applicants must provide evidence that they:
  - i. comply with the statutory requirements relating to external audit; and
  - ii. are owned, managed and run by 'fit and proper persons' by providing:

- evidence of the organisation's identity and that of key individuals (for example, the Governing Body, Vice Chancellor, Principal, directors, shareholders, trustees), along with their skills and experience; and
- evidence that directors (if a company) or trustees (if a charity) are eligible to act and have not been disqualified from acting as directors or trustees.

#### Quality of education provided by, or on behalf of, an institution

56. HEFCW is responsible for the assessment of the quality of all education provided in Wales both by regulated institutions and on behalf of regulated institutions. For the purposes of the 2015 Act, education provided outside Wales is to be considered as provided in Wales if it is provided as part of a course that is provided principally in Wales.
57. The quality of education is deemed to be inadequate if it is not adequate to meet the reasonable needs of those receiving the education or undertaking the course. The reasonable needs are currently considered to be met for if a provider obtains judgements of 'Meet(s) UK expectations' or 'Commended' in all four judgement categories in Quality Assurance Agency (QAA) review. In every case, a regulated institution receiving a 'requires improvement' or 'does not meet' outcome will be deemed to have, or to be at risk of having, inadequate quality.
58. HEFCW may carry out, or arrange for an agent to carry out, a review relating to the quality of education provided on or on behalf of the institution and a governing body must take into account any advice given to it by HEFCW or the body appointed by HEFCW for this purpose.
59. A governing body of a regulated institution must provide HEFCW and/or HEFCW's agent, with information, assistance and access to its facilities and those facilities of its higher education providers. Where external provider agreements (eg franchise arrangements) are signed after 1 September 2015, the agreement must include specific reference to enabling HEFCW, or HEFCW's agent, access to information, assistance and access to higher education provider's facilities for the purposes of assessing financial viability, organisation and management of financial affairs and/or quality assurance.
60. In 2017/18 fee and access plan applications, HEFCW requires applicants to provide:
- i. confirmation from the applicant that it has appropriate quality assurance procedures in place for all of its education provision;
  - ii. confirmation that the applicant has undergone a *Higher Education Review: Wales* ([HERW](#)) or equivalent [Quality Assurance Agency](#) process for its higher education provision. Applicants that need to undergo a *Higher Education Review: Wales* should contact the Quality Assurance Agency;

- iii. evidence from the QAA that the applicant did not have ‘inadequate quality’ or quality that was ‘likely to become inadequate’ when it was last assessed. (If an existing regulated provider is in the process of working through review outcomes to address issues identified, in accordance with normal procedures, they may apply for a fee and access plan);
- iv. evidence from the appropriate body responsible for quality standards of the applicant’s other provision (ie non-HE) provision (for example, [Estyn](#), [Pearson](#), etc) and the applicant that the applicant did not have inadequate quality or quality that was likely to become inadequate when it was last assessed. If an existing regulated provider is in the process of working through review/inspection outcomes to address issues identified, in accordance with normal procedures, they may apply for a fee and access plan;
- v. information on its provision, or provision that is made on its behalf, regardless of the level and location of provision;
- vi. a list of external provider agreements (eg with franchise partners) together with partnership course information, date of agreement and duration of the partnership arrangement. (In subsequent years HEFCW will require an institution to update its external provider information to take account of new and developing quality assessment arrangements, as they emerge. HEFCW will consult on new quality assessment arrangements in due course.)

### **Exit from the regulatory system for automatic course designation**

- 61. There are several ways in which a regulated institution can exit the regulatory system including by:
  - i. not continuing to provide higher education, or not being principally or wholly in Wales, or not remaining a charity;
  - ii. not applying for a fee and access plan annually<sup>5</sup>;
  - iii. having a fee and access plan rejected by HEFCW; and
  - iv. HEFCW issuing a direction preventing the provider from continuing to be regulated or being regulated in the future.
- 62. HEFCW will withdraw approval of a fee and access plan where it is satisfied that an institution no longer meets the definition of a regulated institution. Further Welsh Government guidance to HEFCW on its functions in this area will be provided in due course.
- 63. Where a regulated institution exits the system, continuing courses designated for student support that are still provided by, or on behalf of, that institution, will continue to fall under HEFCW’s powers in relation to the their quality of education, the general requirements of a plan and fee limits. For example, all courses automatically designated for Welsh Government student support in a 2017/18 fee and access plan that continue beyond

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<sup>5</sup> It is envisaged that HEFCW will invite fee and access plans annually, at least in the medium term.

2017/18, regardless of a fee and access plan for 2018/19 plan being agreed, will continue to fall under HEFCW's powers in relation to quality of education on the basis that they are still provided by, or on behalf of, that institution.

### **Period to which a plan relates and the duration of a plan**

64. Fee and access plans must specify the period when they will be in force (see section 4(1) of the 2015 Act.) HEFCW works to an academic year for many purposes, including fee and access planning, which is 1 August and 31 July.
65. HEFCW recognises that the new fee and access plan system may take time to embed. The Welsh Government expects that HEFCW will operate the fee and access plan cycle on an annual basis in the first few years of operation. An annual planning cycle for HEFCW (1 August to 31 July) is in line with our previous process and it enables institutions in Wales to be agile in responding to changes in policy and practice and the needs of students.
66. For HEFCW to resource effectively the fee and access process, the annual fee and access plan cycle will require that an applicant that was not an institution would need to complete the Welsh Government's designation process before it submits a fee and access plan application to HEFCW, normally by May each year.
67. A fee and access plan will be considered to be 'in force' from the date it is approved and it has 'effect' from the academic year to which the fee and access plan relates. For example, a 2017/18 plan will be in force from the date of HEFCW's approval, 31 July 2016, and in effect from 1 August 2017 to 31 July 2018.
68. The 2015 Act provides for a fee and access plan to be for a maximum of two years. The Welsh Government may develop future regulations, following consultation, for a different period, possibly up to five years.

### **Fee limits, levels of investment and transparency for students**

69. Fee limits must not exceed the maximum amount prescribed in legislation, currently £9,000 per annum. For further information see the Higher Education (Amounts) (Wales) Regulations 2015 and note that some courses have lower maximum fees, the (Amounts) Regulations Sections 4-6 on the HEFCW website provides further information. Details of course fees to be charged in 2017/18 must be included in the fee and access plan. Welsh Government guidance to HEFCW on fee and access planning is clear that potential students and students should be aware of their

aggregate fees and be protected from changing fee levels following their application to the course<sup>6</sup>.

70. In all matters related to fees, including indicating any inflationary increases up to the maximum fee limit, an institution must comply with [Competition and Markets Authority \(CMA\) guidelines for higher education](#) and HEFCW encourages institutions to publically confirm that their fee and access plan complies with these guidelines.

### **Levels of fee income and investment**

71. Under the previous fee plan system, a higher education provider was required to invest a reasonable percentage of fee income above the basic fee level (which was £4,000 a year) in supporting equality of opportunity and promotion of HE. HEFCW's expectation was that the percentage of fee income invested above the basic fee level should be at least 30%. From 2017/18, a fee and access plan must account for income received from the whole student fee up to a maximum of £9,000 and previous concepts of a basic fee level and a 30% investment rate no longer apply.
72. A fee and access plan must set out course fee levels, total anticipated fee income and the intended total fee amount to be invested in the promotion of equality of opportunity and the promotion of higher education, in line with Welsh Government fee and access plan guidance.
73. HEFCW has calculated that 30% of income above the *basic fee level* invested by higher education providers in 2016/17 would equate to between 14% and 17% of *total fee income* to be invested in fee and access plan commitments in 2017/18. Therefore, we expect all applicants that previously submitted plans in 2016/17 to invest at least the same amount in 2017/18, and HEFCW will share with those applicants its calculations of the percentage of total investment expected in 2017/18. For other applicants HEFCW expects an investment of between 14% and 17% of total fee income, to be agreed with HEFCW in the light of their fee and access plan commitments. This will therefore be the reference point for dialogue and, as experience develops, we would like to be more finessed and bespoke in our approach.
74. HEFCW's assessment of a fee and access plan will take into account the extent of an institution's investment in, and measures for, supporting its fee and access plan objectives. Welsh Government guidance expects HEFCW to be robust in expecting more, in terms of financial support and outreach activity, from those institutions which have previously been regulated and whose record suggests that they have furthest to go in securing an increased proportion of students from under-represented groups<sup>7</sup>.

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<sup>6</sup> See Welsh Government guidance to HEFCW on fee and access plans and aggregate fees including paragraphs 4.20, 4.24, 5.4, 8.1

<sup>7</sup> See Welsh Government guidance to HEFCW on fee and access plans paragraph 5.6

75. Where an institution: does not fully achieve its fee and access plan commitments; does not demonstrate sufficient ambition in pace and rate of progress; and/or where it charges maximum fee levels, HEFCW may set an expectation of higher rates of investment in future years, within a range of 15% to 20% of total fee income.

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## **Section two: the focus and contents of fee and access plans**

76. This section provides information on the importance of taking account of the student voice in developing a plan. It highlights access and retention as priorities in the context of supporting equality of opportunity and promoting higher education and a focus on under-represented groups in higher education. Information is provided on presenting a strategic approach to, and a rationale for, a fee and access plan, arrangements with external providers (for example, partnership agreements), indicative measures, target setting and the authorisation of a plan.

### **Developing a fee and access plan: taking account of the student voice**

77. Fee and access plans should clearly articulate the depth and breadth of engagement with the student body, including its involvement in developing and assessing the plan. A plan should set out how the student voice and partnership working contributes to governance and quality, in the institutional context. Applicants will want to take account of their Student Charter or equivalent commitments. The [Wise Wales statement on Partnership for higher education](#) sets out principles of good practice and [Breaking down the barriers to student opportunities and youth social action](#) provides a framework and toolkit for student partnership engagement. HEFCW encourages all applicants to reflect these principles and approaches in their plans.

### **Access and retention**

78. The 2015 Act makes provision for a 'fee and access plan'. The name change (formerly a 'fee plan') emphasises the contribution a plan should make to 'access' to higher education as that relates to equality of opportunity and the promotion of higher education. A fee and access plan is also expected to include measures to support retention (see reference to retention in Higher Education (Fee and Access Plans) (Wales) Regulations 2015 paragraph 6 (b).) This emphasis on supporting access to and through higher education aligns with HEFCW's definition of widening access as set out in [HEFCW's Corporate Strategy, Widening Access Strategic Approach](#) and related policy documents available on the HEFCW website.

### **Supporting equality of opportunity and the promotion of higher education**

79. A fee and access plan must set out the extent to which an applicant will promote equality of opportunity and higher education to groups under-represented in higher education. Welsh Government guidance to HEFCW provides some clarification on activities that fall within these terms. The term 'students under-represented in higher education' is discussed more fully below. The activities Welsh Government list include:

### Equality of opportunity

- i. promote and safeguard fair access to HE, including identifying individuals with the greatest potential from disadvantaged backgrounds;
- ii. attract and retain students and potential students from under-represented groups;
- iii. raise the educational aspirations and skills of people from under-represented groups to support success in HE;
- iv. support and increase retention, progression and completion, particularly people from low participation neighbourhoods, looked after children, care leavers and carers;
- v. improve the HE experience for groups under-represented in HE;
- vi. provide to under-represented groups effective information, before and during their studies;
- vii. provide high quality academic and welfare support to groups under-represented in HE; and
- viii. support the progress to employment or further study of groups under-represented in HE.

### Promotion of higher education

- i. provide more effective engagement with private, public or voluntary bodies and communities in Wales;
  - ii. improve the quality of learning and teaching, with reference to the quality of the student experience;
  - iii. strengthen the employability of Welsh graduates;
  - iv. promote Welsh HE more effectively internationally;
  - v. deliver sustainable higher education; and
  - vi. raise awareness of the value of HE to potential applicants.
80. There are certain types of provision fee and access plans **must** include. This is provision to:
- i. attract applications from groups under-represented in HE;
  - ii. retain individuals from groups under-represented in HE;
  - iii. provide financial assistance to students;
  - iv. make available to students or prospective students information on financial assistance;
  - v. inform prospective students of the aggregate amount of fees to be charged for the completion of the course before the prospective student commits to the course;
  - vi. monitor compliance with the provisions of the plan; and
  - vii. monitor progress in achieving the objectives set out in the plan.

### **Groups under-represented in higher education**

81. Under-represented groups for the purposes of a fee and access plan, as defined by the 2015 Act, are 'groups that are under-represented in higher education'. However, reference to promotion of equality of opportunity in connection to access to higher education in the Welsh Government guidance to HEFCW on fee and access plans (paragraph 4.16) relates to

removing barriers to higher education experienced by members of under-represented groups.

82. HEFCW's Corporate Strategy and Widening Access Strategic Approach, noted above, reference groups which HEFCW considers include groups under-represented in higher education. HEFCW recognises that not all individuals within these groups are under-represented in higher education and acknowledges that an applicant will want assess the profile of its student body to target fee and access plan resources appropriately. HEFCW's definitions include people of all ages: from Communities First and the Welsh Index of Multiple Deprivation areas; low participation areas; people with protected characteristics; people studying through the medium of Welsh.
83. In considering under-representation in higher education, fee and access plan applicants may wish to consider ways in which they take account of 'hard to reach' learners. HEFCW considers that hard to reach learners would include people within the under-represented groups listed above, plus people: living in workless households; experiencing 'in work poverty'; seeking asylum; receiving an Educational Maintenance Allowance (EMA) and/or free school meals; acting as carers; having a care background; having a background of criminal convictions.
84. An institution should consider part-time and mature students as well as all UK and EU students within its overall approach to fee and access planning and HEFCW will take this into account when considering the plan.

### **A strategic approach to fee and access plan development**

85. An institution should ensure that commitments in its fee and access plan are consistent with, and support, as appropriate its strategic planning documents. These may include Strategic Engagement and Planning Documents (SPEDs) and strategic equality plans or their equivalent. An institution will want to take account of HEFCW's Corporate Strategy and other widening access and student experience documents and HEFCW's Strategic Equality Plan and objectives.
86. HEFCW expects an institution to embed its fee and access plan at a strategic level across the institution and align it with its strategic objectives.
87. A fee and access plan must be drafted with reference to the Welsh Government's guidance to HEFCW on fee and access plans and related legislation and regulations.
88. We would expect fee and access plans to align with an applicant's strategic equality plans where appropriate and with Welsh language standards or commitments to inclusive approaches to securing equity across its student body.

## **The rationale for measures to support equality of opportunity and the promotion of higher education**

89. A fee and access plan should set out the rationale for the proposed measures to support equality of opportunity and the promotion of higher education. Where an institution has had fee plans in place previously, a critical review of the outcomes and lessons learnt from those plans should inform the rationale. The development of a plan should be informed by research on the effectiveness of intervention strategies.

## **Information on arrangements with external providers**

90. An institution should include all modes and levels of its external provision (eg through franchise arrangements) to ensure that all their HE students are represented explicitly within the fee and access plan. Validated provision does not need to be included in the application. This information should be submitted to HEFCW annually in fee and access plan applications. Proposed changes to a fee and access plan resulting from changes to external provision arrangements should be approved by HEFCW in advance, as this will constitute a variation to the plan.

## **Measures to support equality of opportunity and the promotion of higher education**

91. An institution should indicate how the measures they propose relate to, and support, equality of opportunity and the promotion of higher education, taking account of the indicative lists in paragraphs **4.18** and **4.19** of the *Welsh Government's Guidance to HEFCW* noted above, plus the provision governing bodies must make, also noted above.
92. A plan should set out the amount of investment proposed against each type of activity.
93. A fee and access plan application should set out information about packages of financial support to be made available to students, for example, its range of bursaries and/or other financial support which might have replaced financial contingency funding, which ended on 31 July 2015. The costs of this provision should also be provided. Fee and access plan applicants should demonstrate how they will measure the impact of their financial support packages in terms of access and retention.
94. In developing 2017/18 plans HEFCW considers it important that existing and emerging practice in supporting widening access, equality and diversity and promoting higher education in Wales is retained and enhanced. Such activity which may support groups under-represented in higher education include, but is not limited to:

- i. all-age recruitment from Communities First cluster areas and areas in the bottom quintile of the lower super output areas of the Welsh Index of Multiple Deprivation (WIMD);
  - ii. participation and success in HE inventions supporting all-age groups under-represented in higher education, including those from UK low participation areas;
  - iii. attainment-raising activities to improve differential outcomes particularly for students from disadvantages backgrounds and with protected characteristics;
  - iv. articulation and progression pathways into higher education including FE and HE, HE in FE and to Welsh medium HE;
  - v. fair admissions, and Wales as the destination of first choice, for higher education including to students from Wales and the UK;
  - vi. higher-level learning and skills, retention and student success;
  - vii. flexible learning opportunities, including part-time study, workplace learning and technology-enhanced learning;
  - viii. widening access approaches contributing to the International Action Plan for Wales;
  - ix. fair access to the professions (including access to medicine and science, technology, engineering, mathematics provision), high level skills and the priority sectors contributing to economic prosperity;
  - x. UK and national duties and Welsh Government priorities relating to tackling poverty, raising educational aspirations and attainment, supporting mental health and wellbeing; social mobility and social justice;
  - xi. widening access sustainability;
  - xii. collaborative, cross-sectoral, multi-agency approaches regionally and nationally; and
  - xiii. the evidence base to support WA and impact assessment demonstrating effective practice and success in WA to HE.
95. HEFCW encourages institutions in Wales to collaborate in delivering measures that are beneficial to individuals and communities, contributing to economies of scale, increasing opportunities and avoiding duplication. HEFCW recognises that collaboration may mean that prospective students may apply to study at partner institutions or more widely.
96. Subscriptions to networks or services that support access, equality of opportunity and the promotion of HE can be included in plans along with quantifiable expenditure levels.

## Targets

97. A fee and access plan should contain SMART (specific, measurable, achievable, realistic, time-bound) institutional targets that demonstrate the institution's commitment to increasing and/or maintaining the number of students from under-represented groups in higher education. Targets demonstrate the level of ambition and extent of the impact applicants

expect to make from fee and access plan investment, as well as the pace of progress.

98. In considering targets for under-represented groups, applicants may wish to include targets relating to people with protected characteristics where they are under-represented in higher education, as this aligns with their Strategic Equality Plans or their equivalent commitments to equality and diversity.
99. Targets should be based on an assessment of areas where improvement should be made. Where achievement is already strong ambitious targeting might more usefully be focused on areas of weaker performance that contribute towards institutional strategic priorities.
100. Targets should either be achievable within one year, or include annual milestones for 2017/18, which contribute towards a longer-term target, to enable progress to be reported through annual monitoring by **December** following the period for which the plan was in force. We will expect that categories of activity will be costed in the fee plan to identify investment in areas of provision such as student financial support and outreach activities.
101. Institutional targets must be derived from auditable sources and a clear audit trail should be maintained to support the calculation of the original target for subsequent monitoring.
102. While HEFCW accepts that it is neither beneficial nor meaningful to set targets in all fee plan areas, institutions will want to satisfy themselves that they have sufficient targets to provide a reasonable account of, and return on, the level of public investment to which the plan relates. The level of public investment will differ between institutions, as will the quantity of targets.
103. Close attention should be paid to target setting, as failure to secure and retain reasonable numbers of under-represented groups in higher education may impact on the percentage of fee income an institution will be expected to invest in fee plan commitments in future years.

### **Authorisation of fee and access plans**

104. The final fee and access plan application will require approval by the applicant's governing body, following a process of engagement with the student body, before being submitted to HEFCW. A plan which does not fully demonstrate that it has been through the stages outlined above may not be recommended for approval. Following discussions on the submitted fee plan with an institution, where any changes are made, HEFCW will require the governing body to approve the final plan prior to re-submission. This may be towards the end of July or early August each year and HEFCW may not recommend for approval a plan at this stage if it has not been finally approved by a governing body. Therefore, applicants should

confirm with HEFCW their governing body's agreed delegation of authority arrangements in these circumstances.

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## Section three: HEFCW's 2017/18 fee and access plan process

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105. Section three provides information on the submission of a fee and access plan, HEFCW's fee and access approval and rejection process, requirement to publish a fee and access plan, variations to a fee and access plan, monitoring and evaluation processes, impact and sustainability considerations, HEFCW contacts for information and advice on the fee and access plan process.

### Submission of a fee and access plan

106. By **26 May 2016** an institution must submit one signed electronic version of its plan to [rachel.ogorman@hefcw.ac.uk](mailto:rachel.ogorman@hefcw.ac.uk). Where a signed version is submitted in a format other than Word and Excel, please also provide a copy in Word and Excel format).

### HEFCW's fee and access plan approval and rejection process

107. HEFCW cannot approve a fee and access plan unless it is satisfied that the applicant is an institution in Wales, providing higher education and is a charity. In addition, HEFCW must be sufficiently assured of the institution's financial viability, arrangements for the organisation and management of its financial affairs; and quality of all the education provided by, or on behalf of, the institution, as set out earlier.

108. Upon receipt of a plan, HEFCW will discuss informally any issues in the plan directly with the applicant.

109. HEFCW will aim to notify an applicant of its fee and access plan position regarding the approval, or otherwise, normally by **31 July 2016**, after which it will list institutions with accepted plans on its website and inform the Student Loans Company. Any institution which does not have an approved fee and access plan in place following HEFCW's process of notification regarding approval or otherwise, will be subject to the processes set out in **Annex C** relating to HEFCW's processes for intending to reject a plan.

110. In determining the approval, or the intention to propose the rejection, of a plan HEFCW will take into account legislation and Welsh Government guidance to HEFCW.

### HEFCW criteria for the assessment of fee and access plans

111. The following criteria will be used in the assessment of fee and access plans:

## Part One – regulatory requirements

112. the robustness of evidence provided relating to the applicant's eligibility to enter the regulatory system as it relates to:
- i. being an institution in Wales
  - ii. providing higher education;
  - iii. a charity;
  - iv. financial viability,
  - v. effective organisation and management of its financial affairs; and
  - vi. the quality of its education.

## Part Two – focus and contents of plans

- i. the extent to which the plan builds on an evaluation of previous practise in the institution or more broadly;
- ii. the extent to which the plan addresses equality of opportunity and the promotion of higher education;
- iii. the extent to which the plan covers underrepresented groups and the rationale for selecting those groups;
- iv. the extent to which the plan addresses the recruitment and retention of the underrepresented groups selected;
- v. alignment with the strategic objectives of the institution;
- vi. the level of ambition as evidenced by the targets set and/or distance to travel in securing an increased proportion of students from under-represented groups, particularly in relation to financial support and outreach;
- vii. the provision of financial advice to applicants and students;
- viii. the amount of student support provided from fee income; and
- ix. the proportion and distribution of fee income spent to deliver the general requirements of the plan;

## Part Three

- i. the governing body's signed approval of the submitted plan.

113. HEFCW will confirm that a fee and access plan is approved by writing to an institution's governing body. If HEFCW is unable to approve a plan it will write to a governing body (sent via the Chair of the Governing Body and Clerk to the Governing Body and copied to the Accountable Officer) to setting out its proposed intention to reject the plan.

### **Notice of HEFCW's intention to reject a fee and access plan**

114. HEFCW will not approve a fee and access plan where a governing body has not complied with the following requirements and:
- the regulatory information is inadequate<sup>8</sup>;

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<sup>8</sup> Information regarding being an institution in Wales, providing higher education and being a charity that is financially viable with sound arrangements for the organisation and management of its financial affairs and quality of all the education provided by, or on behalf of, it.

- the fee limits exceed the applicable fee limit;

115. If HEFCW is unable to recommend a fee and access plan for approval HEFCW must provide the applicant's governing body with a warning notice. The diagram in **Annex C** sets out the stages of the notice process.

### Stage One

116. The warning notice, stage one, will:

- Set out HEFCW's reasons for issuing it;
- Inform the governing body that it may make representations to HEFCW about the proposed rejection of the fee and access plan;
- Specify the period from the date of issue within which, and the way in which, representations may be made.

117. From issue of the warning notice, applicants have up to 40 days to make representation to HEFCW, with all representations to be sent to the HEFCW Chief Executive.

118. Where representations are received, HEFCW will undertake to review these and make a decision within 40 days of receipt of the representations, except where the submission of additional information is required in order for HEFCW to be able to adequately consider representations. In such instances, the additional information will be requested within 28 days of receipt of the representations and should be submitted by the institution within 28 days of this HEFCW request, in order for a decision to be made within 60 days of receipt of the original representations. Where representations are received, no Notice of Rejection of Proposed Fee and Access Plan will be issued until after the completion of this process.

119. Where HEFCW considers the representations, including further information, it may decide to approve the plan and no further action is required.

### Stage Two

120. Where HEFCW considers it is unable to approve the plan, a notice of rejection of the proposed plan is issued. The notice will:

- set out HEFCW's reasons for rejecting the proposed plan;
- inform the governing body that it may apply for a review of the notice, providing information on the grounds for review, the review process and details about to whom an application for review should be made; and
- include any other prescribed information set out under the 2015 Regulations, that is, the date of issue of the notice; when the notice is to be treated as having been given; the grounds on which an application for review may be made; the procedure that a governing body must follow in order to apply for a review; and the name and address of the Review Panel to whom an application for a review must be made.

121. Regulations state that a notice is to be treated as having been given on the day that the first of these events occurs:
- the governing body notifies HEFCW in writing that it accepts the notice;
  - the time limit to apply for a review has expired and the governing body has not applied for a review;
  - a review has concluded and HEFCW has notified the governing body in writing that the notice stands.
122. Regulations state that applications for review must be made within 40 days of the notice, with applications being made in writing. The application for review must specify the grounds for the review and include: a copy of the notice to be reviewed and information in support of the application. It should be noted that an application for a review cannot be made where a governing body has notified HEFCW in writing that it accepts the notice.
123. The review is to be carried out by a Person, or Panel of persons, appointed by the Welsh Ministers. Upon receiving an application for a review, the Person or Panel appointed by the Welsh Ministers will provide the governing body and HEFCW with an anticipated timetable for completing the review. The Review Panel will give HEFCW details of the fee and access plan to be reviewed, details of the grounds on which the review application has been made and a copy of the information supplied by the governing body in support of the application for review. The review Panel may make a written request for further information from either HEFCW or the governing body for the purposes of the review. Any request for further information made by the Panel will be sent to HEFCW and the governing body at the same time. HEFCW or the governing body will be required to provide any information requested by the Panel within 28 days of the issue of the request. The Panel will consider whether it is appropriate to allow representations from either HEFCW or the governing body in respect of any further information submitted to it in response to its request for such information; and if it considers it appropriate to allow representations, it will notify HEFCW and the governing body accordingly. The review Panel will ensure that both HEFCW and the governing body are in receipt of all information submitted by the other party
124. The review Panel will take account of all information submitted by HEFCW and the governing body in making its decision. The Panel will prepare a written report that is sent to both HEFCW and the governing body at the same time. HEFCW will take account of the review Panel's report and reconsider its decision to issue the notice. HEFCW will then notify the governing body in writing within 40 days as to whether the notice stands or not, and provide reason for that decision. If the outcome of the review is that the notice should stand, that decision will be binding on the governing body of the institution.

### Stage Three

125. Where the governing body accepts the notice, or the review panel upholds the notice, HEFCW will reject the proposed fee and access plan.

#### **The requirement to publish an approved plan**

126. The approved plan must be published on an institution's website within one week of formal approval by HEFCW. A plan must be published in a manner which makes them easily accessible to students and prospective students. HEFCW recognises that an institution uses a wide range of mechanisms for conveying information to students. HEFCW considers that a fee and access plan is one mechanism an institution uses to provide information to interested parties, including HEFCW, potential applicants and students.

#### **Variation of a fee and access plan**

127. Where there are changes to circumstances which impact on the approved fee and access plan and its commitments, an institution should discuss the implications of these changes with HEFCW and their student representatives at the earliest opportunity. Changes may include, but are not limited to, changes to provision, changes to tuition fees below £9,000 a year, new external provision arrangements or fee changes. Any changes that alter the plan will require HEFCW approval. Any financial commitments to students made in the approved plan must be honoured.
128. Where a plan is varied after publication, an institution should publish a revised plan following approval by HEFCW. Where a variation to a plan is not approved by HEFCW the existing published plan will stand.

#### **Monitoring and evaluation**

129. An institution should monitor its progress to inform its reporting to HEFCW. The development of a fee and access plan should be informed by the intelligence gathered by an institution as part of its monitoring and evaluation of previous plans.
130. HEFCW will monitor and evaluate annually the effectiveness of an individual institution's agreed fee and access plan, and plans generally, in supporting equality of opportunity and promoting higher education. Evaluation outcomes will: inform future good practice information and advice from HEFCW; enable HEFCW to assess effective fee and access plan activities and investments with the aim of improving plan outcomes; and inform HEFCW's future fee and access plan guidance. The Welsh Government considers that this will become an increasingly important component of HEFCW's role in future.

131. The 2015 Act enables Welsh Ministers to issue guidance to HEFCW on its fee and access monitoring and evaluation functions.
132. The success of the plan will be assessed following submission of a fee and access plan report annually in **December** following the period for which the plan was in force. If appropriate external advice may be sought in the assessment process.
133. HEFCW will report to Welsh Government annually on the fee and access plan process and outcomes normally in **March** following the year fee and access plans are in effect. HEFCW will report to Welsh Government in March 2019 on fee plans that were in effect during academic year 2017/18.

### **HEFCW's impact assessment**

134. As a public authority, HEFCW has responsibilities under the [Equality Act 2010](#) and [public sector duty](#) to give due regard to equalities issues when developing and implementing its policies. In addition, HEFCW has duties under the [Well-being of Future Generations Act](#) (Future Generations Act) and duties to the Welsh language<sup>9</sup>. HEFCW does not regulate whether relevant higher education providers meet legal obligations under the Equality Act 2010. Fee and access applicants should note that, in the context of equalities, the Welsh Government guidance to HEFCW on fee and access plans (paragraph 4.18) states that groups under-represented in higher education may include individuals who share protected characteristics<sup>10</sup>, as recognised by the Equality Act.
135. At this stage in fee and access policy development HEFCW has undertaken a policy screening to identify any potentially negative impacts on equality and diversity, the Welsh language and the well-being goals, as set out in the Future Generations Act. Our considerations focussed on the implications for individuals with protected characteristics, the Welsh language and issues arising from the Future Generations Act. We have considered data and evidence related to protected characteristics and the Welsh language, where it is available to us. We would welcome additional evidence to inform our fee and access plan policy development and implementation and we included specific equalities-related questions in our consultation.
136. The Well-being of Future Generations Act includes seven goals<sup>11</sup> and a 'sustainable development principle' to ensure that public bodies, such as HEFCW, take account of the impact they may have on people living in

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<sup>9</sup> New Welsh language standards which will apply to HEFCW will be published in 2016.

<sup>10</sup> Protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnerships, race, religion and belief and non-belief, sex and sexual orientation.

<sup>11</sup> Well-being of Future Generations goals: a prosperous Wales, a resilient Wales, a healthier Wales, a more equal Wales, a Wales of vibrant culture and thriving communities, a globally responsible Wales.

Wales in the future. HEFCW has considered these goals and the sustainability principle in developing and implementing this guidance.

137. As an organisation HEFCW is committed to providing a high standard of service to the public in Welsh and English, in accordance with the principle of treating the Welsh and English languages on the basis of equality. Our standards of service are consistent with our [Welsh Language Scheme](#) . Further information is available on our website.
138. Opportunities to study through the Welsh language are a distinctive and important part of higher education in Wales. HEFCW supports the development of Welsh medium higher education and works with higher education providers to increase enrolments on Welsh medium courses. In developing fee and access plans, applicants should take account of Welsh medium provision.

### **Further information and advice**

139. The 2015 Act enables HEFCW to provide information and advice to the governing body of a regulated institution and to prospective applicants. HEFCW's aim is to ensure that all applicants are fully aware of their obligations before they become a regulated institution and to minimise administrative burdens on applicants and on HEFCW at all stages of the application process.
140. A new email address has been developed for queries about any aspect of the Higher Education (Wales) Act 2015, including fee and access plan queries. Please email queries to either:  
[cyngorrheoleiddio@hefcw.ac.uk](mailto:cyngorrheoleiddio@hefcw.ac.uk) or [regulationadvice@hefcw.ac.uk](mailto:regulationadvice@hefcw.ac.uk)

## Indicative timetable for fee and access plan process 2017/18

Activity	Date due
HEFCW publication of fee and access plan guidance	March/April 2016 <sup>12</sup>
HEFCW consultation event to inform the fee and access planning process	April 2016
Applicants to submit fee and access plans	May 2016
HEFCW/applicant dialogue on plans	May to June 2016
Applicants' resubmission and dialogue with HEFCW as appropriate. The resubmissions should include governing body approval of the final resubmissions	Late June to late July/ early August 2016
HEFCW to inform applicants of their fee and access plan position regarding approval or HEFCW's intention to propose to reject a plan.	Late July/early August 2016
Institutions publish plans online	August 2016
Fee and access plan appeals process begins	August 2016
HEFCW annual monitoring of the 2017/18 fee and access plan process	December 2017
HEFCW reports to Welsh Government on the fee and access planning process to be submitted	March 2017
HEFCW reports to Welsh Government on the 2017/18 fee and access plans following monitoring	March 2019

<sup>12</sup> Subject to legal advice to HEFCW

## Fee and access plan template structure.

There will be a separate consultation on the fee and access plan template to inform its further development.

Contents	Information and data
	Institutional details including fee and access plan contact
<b>Part one: regulatory information</b>	
Regulatory information and data	Information on being an institution principally or wholly in Wales that is a charity providing higher education.
	Information on financial viability, arrangements for the organisation and management of the institution's financial affairs and quality of education provided by, or on behalf of, the institution.
<b>Part two: Focus and content of a fee and access plan</b>	
fee income and investment information and data	Spreadsheet information on fees including highest fee rate for FT undergraduate and PGCE; average (mean) fee; fee rates by qualification, subject JACS code, cohort, external provision (eg franchised out); assumed numbers; total fee plan investment and proportion of investment to total relevant income.
Provision and partnership arrangement information	Spreadsheet information about external provision (franchise) arrangements, courses by subjects, levels and locations, date the agreements were signed and their duration, including confirming that HEFCW or HEFCW's agent can access relevant premises for the purposes of inspection or review.
student engagement information	The student voice and partnership working, including engaging and communicating with students on proposed fee levels and information available about financial support, engaging with the Students' Union (or equivalent body) when finalising a plan.
rationale	Rationale for the strategic approach to support equality of opportunity and the promotion of higher education, including links to relevant sections of the applicant's strategic planning documents; and the rationale, with evidence, for selecting the particular underrepresented groups.
measures and targets	Description of, and proportion of investment in, measures including attracting and retaining students from under-

	represented groups; information on financial assistance to prospective students and enrolled students; financial assistance available to students, including bursaries
	Spreadsheet SMART targets underpinned by baseline data and/or longer-term benchmarks and shorter-term annual milestones, and auditable data sources
Confirmation of approval	Approval by governing body
<b>Part three: HEFCW's 2017/18 fee and access plan process</b>	
Submission format	An electronic copy in Word and EXCEL format with governing body approval.

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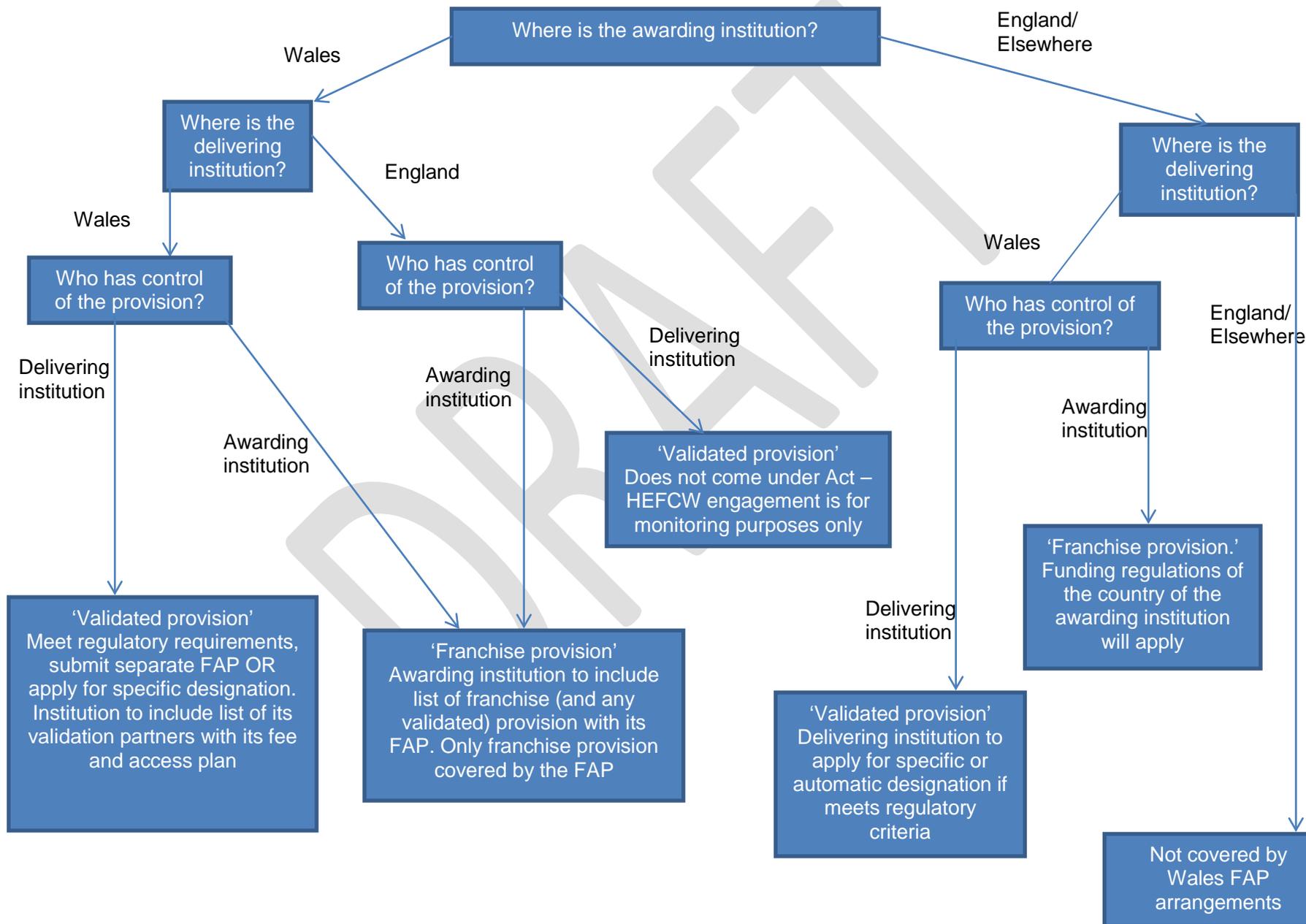
## Glossary of Terms

Term	Explanation – this term means
Academic year for HEFCW processes	1 August to 31 July.
Activities	Provision of learning or engagement programmes
Charity regulator	Charity Commission, the Office of the Scottish Charity Regulator or the Charity Commission for Northern Ireland
Equality of opportunity	While the 2015 Act does not provide a definition, the Welsh Government guidance to HEFCW on fee and access plans states that equality of opportunity in connection with access to higher education relates to removing barriers to higher education that members of under-represented groups experience. In addition, paragraph 4.18 of the Welsh Government guidance to HEFCW sets out what equality of opportunity includes.
Fee plan ‘in force and ‘in effect’	A fee and access plan will be considered to be ‘in force’ from the date it is approved and it has ‘effect’ from the academic year to which the fee and access plan relates.
Governing body	<ul style="list-style-type: none"> <li>i. For a training provider this means any persons responsible for the provider’s management.</li> <li>ii. For a provider designated by Welsh Government as an institution it means any persons responsible for the provider’s management.</li> <li>iii. For any other institution it means, for an institution conducted by a further education corporation or a higher education corporation, the corporation; in the case of a university, the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs; in the case of any other institution for which there is an instrument of government providing for the constitution of a governing body, the governing body so provided for; and in any other case, any board of governors of the institution or any persons responsible for the management of the institution, whether or not formally constituted as a governing body or board of governors.</li> <li>iv. For an external provider that is not an institution it means any persons responsible for the provider’s management</li> </ul>
Governing document	In the case of a provider of higher education, conducted by a company, the company’s memorandum and articles of association. In any other case, a document providing for the constitution and conduct of the provider of higher education.

HEFCW	Higher Education Funding Council for Wales
Inadequate quality	The quality of education is deemed to be inadequate if it is not adequate to meet the reasonable needs of those receiving the education or undertaking the course. The reasonable needs are currently considered to be met for if a provider obtains judgements of 'Meet(s) UK expectations' or 'Commended' in all four judgement categories in QAA review. In every case, a regulated institution receiving a 'requires improvement' or 'does not meet' outcome will be deemed to have, or to be at risk of having, inadequate quality.
Notice	Notice in writing to a governing body
Promotion of HE	While the 2015 Act does not provide a definition, the Welsh Government guidance to HEFCW on fee and access plans paragraph 4.19 sets out what the promotion of higher education includes
Protected characteristics	Protected characteristics recognised by the Equality Act 2010 are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race (including ethnic or national origin, colour or nationality); religion or belief (including lack of belief); sex and sexual orientation.
Qualifying course	Means a course of higher education (undergraduate full-time and PGCE)
Regulations	Are regulations made by Welsh Ministers which provide further guidance or information about the 2015 Act
The 2015 Act	The Higher Education (Wales) Act 2015
Under-represented groups	Groups under-represented in higher education.

### Collaboration arrangements

### Annex B



### Scenario 1

College in Wales, which is a regulated institution, has provision validated by a number of awarding bodies including Pearson. College x includes the provision in its fee and access plan in order to access student support.

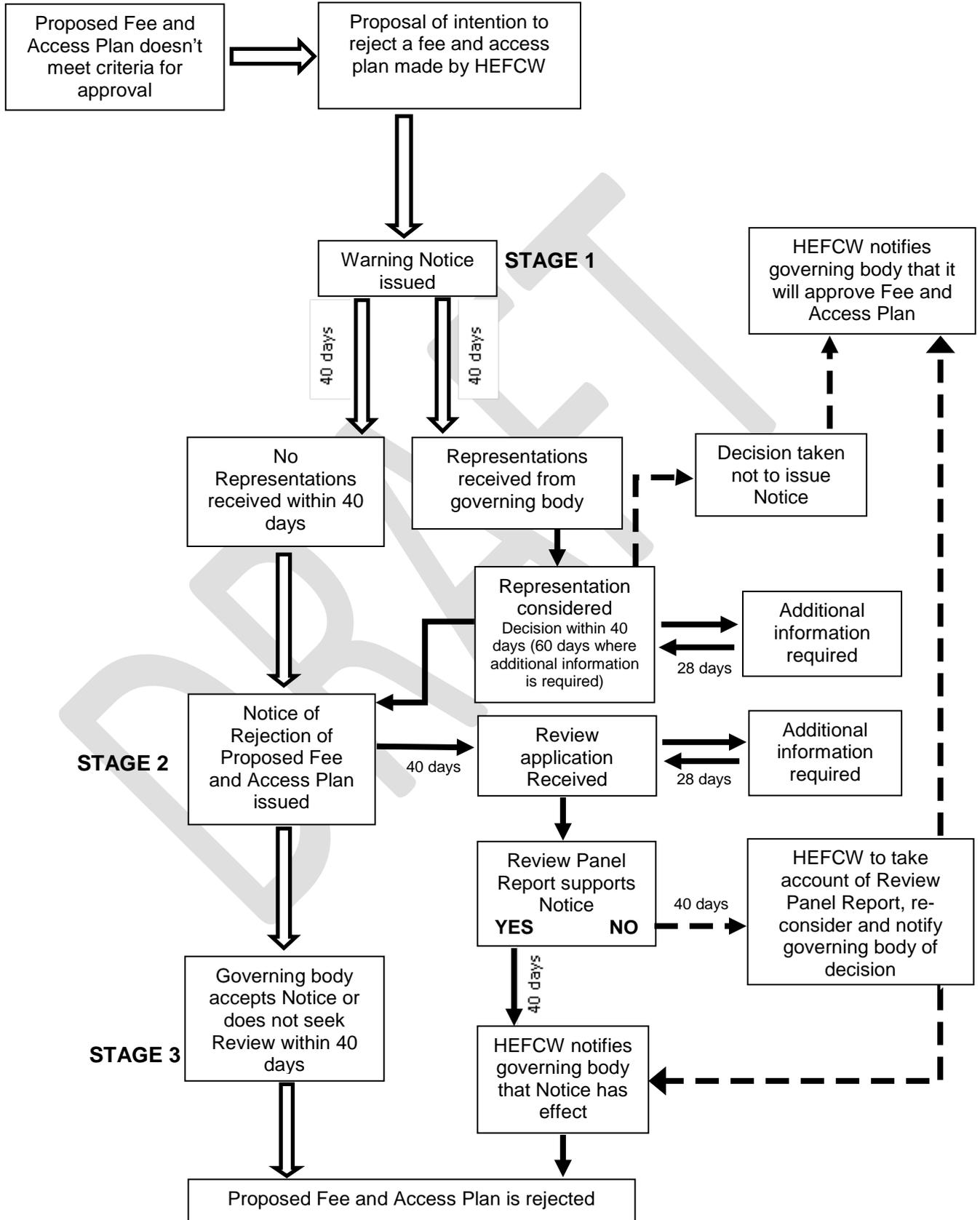
### Scenario 2

College in Wales, which is not a regulated institution, has provision validated by Pearson. College would need to apply for a fee and access plan in order to access student support.

### Scenario 3

College in Wales, which is a regulated institution, has provision validated by Welsh University and English University. All this provision is covered in its fee and access plan.

**Process following HEFCW’s proposal of its intention to reject a fee and access plan**



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