

Summary of Consultation Responses

The key points from responses to the consultation are provided below, together with HEFCW's decision in respect of each of the points.

General points

- One respondent requested that HEFCW revisit the complexity of the procedures and set out the steps to be followed in a flow chart, illustrating any elements common to the different categories of complaints.

HEFCW response: We have revised the layout of the procedures so that there is a common 'making complaints' stage for all categories of complaint, with reference made to the different requirements for each category of complaint. A flow chart has also been included to provide an overview of the steps in the procedures.

- One respondent requested that accessible guidance be produced and that this be shared with student representatives to ensure they are able to support student disclosers.

HEFCW response: We will publish guidance for students in due course in relation to the aspects of these procedures in relation to inadequate quality or quality that is likely to become inadequate.

- One respondent requested that the HEFCW procedures signpost student disclosers to the OIA scheme.

HEFCW response: This has been actioned with text provided by the OIA on the OIA's role and how HEFCW will work with that organisation.

- One respondent requested that HEFCW address overlaps between the Memorandum of Assurance and Accountability ('the Memorandum') and the Financial Management Code.

HEFCW response: The Memorandum is to be revised to remove overlaps with the Financial Management Code.

Question 1: Are there any issues with regard to how the procedure will operate for complaints in respect of breaches of the Memorandum of Assurance and Accountability by a HEFCW funded institution?

- Most respondents raised no issues with regard to how the procedure will operate for complaints in respect of breaches of the Memorandum of Assurance and Accountability by a HEFCW funded institution.
- One respondent specifically welcomed that the HEFCW procedures would apply once the institution's own procedures had been exhausted. Another respondent suggested a requirement be included that all relevant complaints be investigated by the institution as a formal complaint in the

first instance, prior to referral to HEFCW, in order to prevent duplication of processes.

HEFCW response: It is agreed that, normally, relevant formal complaints should be made to the institution in the first instance, with the institution's own procedures to be fully exhausted prior to HEFCW becoming involved. There may, however, be circumstances where it will be critical that HEFCW is able to investigate serious complaints without delay. In such circumstances it would not be appropriate to expect a complainant to wait until the completion of an institution's own formal procedure prior to contacting HEFCW. The procedures therefore state that '*the discloser should normally have completed the institution's relevant 'whistleblowing' or complaints procedure with a decision issued by the institution*'. However, where a complainant has not completed the institution's procedures, the complainant will be required to provide HEFCW with an explanation, which will be considered by officers as part of the initial screening of the complaint.

Question 2: Are there any issues with regard to how the procedure will operate for complaints in respect of failure, or likelihood of failure, to comply with the Financial Management Code by a regulated institution?

- Most respondents raised no issues with regard to how the procedure will operate for complaints in respect of failure, or likelihood of failure, to comply with the Financial Management Code by a regulated institution.
- One respondent specifically welcomed that the HEFCW procedures would apply once the institution's own procedures had been exhausted. Another institution suggested a requirement be included that all relevant complaints be investigated by the institution as a formal complaint in the first instance, prior to referral to HEFCW, in order to prevent duplication of processes.

HEFCW response: As for Question 1.

Question 3: Are there any issues with regard to how the procedure will operate for complaints in respect of the charging of excess fees by a regulated institution?

- Most respondents raised no issues with regard to how the procedure will operate for complaints in respect of the charging of excess fees by a HEFCW funded institution.
- One respondent specifically welcomed that the HEFCW procedures would apply once the institution's own procedures had been exhausted. Another respondent suggested a requirement be included that all relevant complaints be investigated by the institution as a formal complaint in the first instance, prior to referral to HEFCW, in order to prevent duplication of processes.

HEFCW response: As for Question 1.

- One respondent requested clear guidance regarding the provision covered by the procedures in respect of the charging of excess fees.

HEFCW response: The procedures text has been amended to make it clear that the complaints procedure in respect of excess fees applies only to fees for full-time undergraduate courses. It now makes it clear that any concerns regarding the charging of excess fees for part-time and postgraduate courses should be raised with the institution in the first instance and subsequently, if not addressed, with the Competition and Markets Authority.

- One respondent raised concerns regarding an expectation that student disclosers be required to confirm with their institution whether the level of their fees is in excess of the level set out in the institution's Fee and Access Plan.

HEFCW response: We consider it to be critical that all disclosers are able to evidence that there is a reasonable basis for their complaint and that it falls under HEFCW's regulatory remit. When making a complaint regarding the charging of excess fees, the discloser must be able to confirm that the fees charged (or to be charged) are indeed in excess of the level set out in the published Fee and Access Plan. Students may wish to seek support from student representatives in obtaining such confirmation.

Question 4: Are there any issues with regard to how the procedure will operate for complaints in respect of failure, or likelihood of failure, to comply with the general requirements of an approved Fee and Access Plan by a regulated institution?

- One respondent specifically welcomed that the HEFCW procedures would apply once the institution's own procedures had been exhausted. Another respondent suggested a requirement be included that all relevant complaints be investigated by the institution as a formal complaint in the first instance, prior to referral to HEFCW, in order to prevent duplication of processes.

HEFCW response: As for Question 1.

- One respondent raised concerns regarding an expectation that student disclosers be required to familiarise themselves with their institution's Fee and Access Plan prior to making a complaint in respect of failure, or likelihood of failure, to comply with the general requirements of an approved Fee and Access Plan.

HEFCW decision: We consider it to be critical that all disclosers are able to evidence that there is a reasonable basis for their complaint and that it falls under HEFCW's regulatory remit. When making a complaint regarding failure, or likelihood of failure, to comply with the general requirements of an approved Fee and Access Plan, the discloser must be able to confirm that the general requirements have not been met or are

likely not to be met. This will require the discloser to have some familiarity with the institution's published Fee and Access Plan. Students may wish to seek support from student representatives in obtaining such confirmation.

Question 5: Are there any issues with regard to how the procedure will operate for complaints in respect of inadequate quality, or quality that is likely to become inadequate?

- One respondent suggested a requirement be included that all relevant complaints be investigated by the institution as a formal complaint in the first instance, prior to referral to HEFCW, in order to prevent duplication of processes.

HEFCW response: As for Question 1.

- One respondent requested that text setting out the expectation that the discloser would 'normally' have exhausted the institution's own complaints procedures prior to submitting the complaint to HEFCW be positioned more prominently. Another respondent requested that HEFCW should be mindful of cases where students have tried to raise complaints with a provider and have not been able to because of the inadequate nature of the provider's complaints process.

HEFCW response: The text has been moved accordingly in order to increase its prominence. HEFCW notes the point regarding the potential for a provider's own complaints process to be inadequate. Where it is not possible for a discloser to pursue a complaint with a provider the discloser may provide explanation of the reasons for this when referring the complaint to HEFCW.

- One respondent requested greater clarity on whether a complaint to HEFCW regarding inadequate quality would automatically trigger a 'partial review' under QER.

HEFCW response: We can confirm that a complaint to HEFCW would not automatically trigger a 'partial review'.

- Several respondents requested greater clarity on how the HEFCW procedures fit with the QAA concerns scheme for Wales and the OIA procedures.

HEFCW response: We have included text to confirm that the HEFCW procedures regarding complaints against institutions replace the QAA concerns scheme for Wales. All quality related complaints that are submitted to HEFCW will be handled by officers in the first instance and then will normally be referred to the QAA where a full investigation is required. We have also included text on the OIA's role and how HEFCW will work with that organisation.

- One respondent requested greater clarity regarding what was meant by the term ‘academic dispute’, in order to avoid confusion as to what might be referred to HEFCW.

HEFCW response: In view of the potential for confusion, the term academic dispute has been replaced with the term ‘academic judgement’.

- One respondent suggested that there should be parity between the eligibility criteria for the OIA and HEFCW complaints procedures, as disclosers might find that they didn’t match the relevant criteria were they to move between the two schemes. It was also suggested that HEFCW should adopt a timeframe for considering complaints in line with that for the OIA.

HEFCW response: The OIA and HEFCW schemes have a different legislative underpinning, with the OIA able to consider complaints regarding a wider range of issues than HEFCW. Consequently, it is not possible to align the eligibility criteria for the two procedures. However, text has been included within the document to outline the OIA’s role and how HEFCW will work with that organisation. This makes it clear that disclosers who raise concerns under the HEFCW Complaints Procedures will be referred to the OIA, where that is considered appropriate. It will then be for the OIA to determine whether the discloser’s complaint is one which it is able to review under the Rules of the OIA Scheme. In respect of the timeframe for consideration of complaints, the Higher Education (Wales) Act 2015 does not provide for such a time restriction in respect of HEFCW’s monitoring duties.

- One respondent suggested changes to the proforma at Annex C in order to provide additional information, and to ensure that complaints are only submitted if relevant.

HEFCW response: A number of changes have been made to the proforma.

- Two respondents raised concerns regarding the amount of information that students would need to familiarise themselves with prior to making a complaint in respect of inadequate quality, or quality that is likely to become inadequate, with greater support and signposting required.

HEFCW response: We consider it to be critical that all disclosers are able to evidence that there is a reasonable basis for their complaint and that it falls under HEFCW’s regulatory remit. When making a complaint regarding inadequate quality, or quality that is likely to become inadequate, the discloser must be able to confirm that the complaint falls within the baseline regulatory requirements of the Quality Assessment Framework for Wales. Whilst this will require the discloser to have some understanding of these baseline regulatory requirements, HEFCW will publish guidance for students in due course in relation to this procedure. Students may also wish to seek support from student representatives in preparing any complaint.

- Two respondents suggested that all reports of full investigations into quality issues should be made public.

HEFCW response: We have amended the procedures such that reports of full investigations will normally be published within 30 days of issue.

- One respondent requested that HEFCW maintain an effective dialogue with the discloser and share with them all information relevant to any decisions that are made. The respondent also requested that students should be involved in drafting any action plans in respect of quality issues as equal partners.

HEFCW response: We have amended the procedures such that it is clear that the action plan should be developed by the institution in partnership with the student body. The discloser will also be informed of any HEFCW decision on whether to initiate intervention in respect of inadequate quality under the Higher Education (Wales) Act 2015 within 15 working days of a decision being reached.

- One respondent requested clarification of how quality complaints data will be reported by HEFCW.

HEFCW response: It is anticipated that HEFCW would report complaints on a similar basis to that adopted by the QAA. This reporting would normally be undertaken at a sector level unless there was a need to highlight a significant issue at a particular provider. Reporting of any such significant issues would be placed in context, including in relation to the size of the provider.

Question 6: Are there any issues with regard to how the procedure will operate for complaints in respect of failure by a relevant higher education body to fulfil its Prevent duty?

- One respondent requested that a more specific explanation of what would constitute an appropriate complaint be provided.

HEFCW response: HEFCW's guidance (Consultation circular W17/12HE, paragraph 17b.i. and the Prevent Monitoring Framework W16/39HE, Annex D) makes it clear that the complaints procedure is for a perceived failure by the RHEB to fulfil its Prevent duty.

- One respondent requested specific assurance that any complaint would have to evidence that the RHEB had failed to act on specific measures set out in its Prevent Policy and Action Plan.

HEFCW response: We consider that the consultation circular ([W17/12HE](#)) made clear the need for evidence (e.g. paragraph 17.b.iii. 'HEFCW is unable to investigate any un-evidenced complaints') and the need for disclosers to familiarise themselves with the relevant Policy. We would normally expect this to include a provider's Prevent Policy and

Action Plan, but it need not be limited to these documents, since providers will reference the Prevent Duty in a wide-range of institutional policies/documents.

- One respondent requested that HEFCW signpost disclosers to additional impartial guidance and advice.

HEFCW response: Student disclosers may seek advice from student representatives. As noted in the procedure, disclosers should normally seek to raise the matter with the RHEB's designated Prevent Coordinator prior to raising a complaint with HEFCW.

- One respondent suggested that the definition of serious incidents, as drafted in paragraph 52, could be interpreted more widely than might be intended by HEFCW.

HEFCW response: HEFCW is required to report *serious Prevent-related incidents* to the Home Office and the definition provided in circulars W17/12HE and W16/39HE is taken from HEFCW's formal agreement with the Home Office (Schedule 3, paragraph 3.1). Our interest is to ensure that a RHEB has incorporated any lessons learned into its Prevent duty programme. As with all complaints made to HEFCW, we require the discloser to have had direct experience of the issue and to satisfy themselves that they can provide evidence. Disclosers are expected to raise the complaint with the provider's designated Prevent Co-ordinator and to have had their complaint acknowledged (prior to raising the complaint with HEFCW). The Prevent Duty Monitoring Framework for HE Providers in Wales (circular [W16/39HE](#), Annex D, paragraph c) states that '*it is for RHEBs to decide what constitutes a serious Prevent-related incident which should be reported to HEFCW*' and paragraph e) states that '*where they are unsure, providers should contact HEFCW's Prevent team to discuss the issue*'. We would therefore expect a discloser to have raised the *potentially* 'serious Prevent-related incident' with the provider's Prevent Co-ordinator, before the incident is reported to HEFCW.

Question 7: Are there any unintended consequences resulting from the procedure not covered under the specific areas above?

- One respondent requested that HEFCW provide clarity on the hierarchy and relationship between the QAA Concerns Scheme for Wales; and the OIA and HEFCW complaints procedures.

HEFCW response: We have included text confirming that the HEFCW complaints procedures have replaced the QAA Concerns Scheme for Wales. As the OIA and HEFCW schemes have a different legislative underpinning, with the OIA able to consider complaints regarding a wider range of issues than HEFCW, it is not possible to define a hierarchy between the two procedures. However, we have included text on the OIA's role and how HEFCW will work with that organisation.

- One respondent suggested that the 15 days' notice of any decision following an investigation is too long, with a request that this period be reduced to a working week.

HEFCW response: HEFCW would seek to inform disclosers of any decision within a shorter timescale than 15 working days. However, in view of the need to allow for potential staff absence, we consider a maximum of 15 days to be appropriate.

- One respondent suggested that each proforma for submission of complaints be amended to require that disclosers confirm whether the complaint has been progressed through the provider's own complaints procedures and pursued with any other body.

HEFCW response: The proforma have been amended accordingly.

Question 8: Do you have suggestions in respect of the proposed web-based system that will be developed by HEFCW to facilitate the initial submission of complaints?

- Respondents were generally supportive of the proposed web-based system for submission of complaints. One respondent suggested that the system utilise 'drop-down menus' to help disclosers understand whether their particular complaint regarding a specific provider falls under HEFCW's remit. One respondent also requested that the web-based system issue a receipt for all submissions.

HEFCW response: We will seek to take account of these points when developing the web-based system.

- One respondent requested further information on how HEFCW would protect the data processed by the web-based system.

HEFCW response: HEFCW is ISO27001 accredited and would take all reasonable measures to ensure data security. We expect that any data processed by the system would be held securely, with only approved users having access to the data. We will discuss our data security arrangements, in respect of the system, with institutions as the system is developed.