

HEFCW guidance on varying a fee and access plan

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Noddir gan
Lywodraeth Cymru
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Introduction

1. This guidance provides information on making changes to aspects of approved fee and access plans (plans).
2. Institutions must inform HEFCW immediately of any changes to the regulatory information provided to us in approved fee and access plans. Regulatory information includes: being an institution in Wales, providing higher education, being a charity and on matters of quality, financial viability and the management and governance of financial affairs. Further information about these aspects of regulation, as they relate to fee and access planning, are included in [HEFCW's fee and access plan guidance](#). Such changes are outside the scope of this guidance and should institutions wish to make such a change to any of this information they should contact HEFCW as soon as possible at: regulationadvice@hefcw.ac.uk or cyngorrheoleiddio@hefcw.ac.uk.
3. This guidance provides information on applying to HEFCW to make changes to approved fee and access plans that relate to issues including fee levels, provision provided on behalf of a regulated institution, targets; proportions of investment and activities.

Background

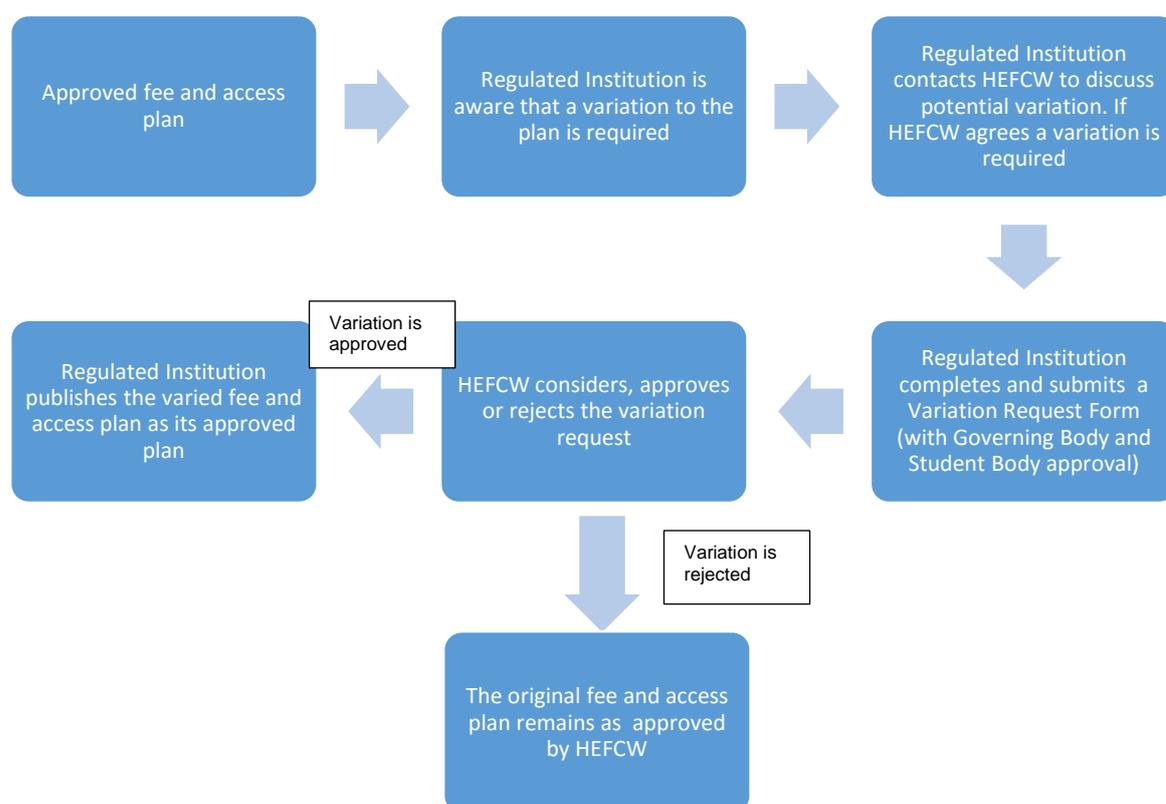
4. The [Higher Education \(Wales\) Act 2015](#) (the 2015 Act) established a new regulatory framework for higher education in Wales. [HEFCW's webpages](#) provide links to the 2015 Act legislation, including regulations and notices, the Welsh Government's guidance to HEFCW on fee and access planning and to HEFCW's annual guidance on fee and access planning.
5. The 2015 Act strengthens HEFCW's role as regulator, including our responsibilities relating to the approval, monitoring and evaluation of plans.
6. Regulation 9 of the 2015 Act provides for the variation of approved plans.
7. HEFCW's [Partnership Guidance](#) provides information on franchise partnership arrangements in the UK, including definitions of validation and franchise arrangements¹.
8. HEFCW's [fee and access plan guidance](#) provides some information on making changes to plan applications before their approval by HEFCW. The information in this publication provides advice on requesting changes to plans already approved by HEFCW.

The status of fee and access plans

¹ This guidance may be revised as we continue to implement elements of the: [Quality Assessment Framework](#)

9. We consider fee and access plans to be in the application stage until HEFCW formally approves them or gives notice that it intends to reject them. Under the legislation, following approval, plans are considered to be 'in force' from the date they are approved and 'in effect' in the academic year to which they relate. For example, following HEFCW's usual planning cycle, 2018/19 plans would be in force from the date of HEFCW's approval, July/August 2017, and in effect in the academic year 2018/19 starting on 1 August 2018.

Varying approved plans when they are in force: an overview



10. For further information on fee and access plans where a variation request is not approved see paragraphs 32 and 33.

Regulations governing fee and access plan variations

11. Regulation 9 of the [Higher Education \(Fee and Access Plans\) \(Wales\) Regulations 2015](#) specifies that in making any determination in respect of approval or rejection of a variation to the approved plan, HEFCW must take into account:
 - the need to safeguard fair access to HE;

- provisions included in the plan relating to the promotion of equality of opportunity and the promotion of HE;
- fees payable by qualifying persons undertaking qualifying courses; and
- the proportion of fees payable by such persons undertaking such courses that the governing body will spend on the promotion of equality of opportunity and the promotion of HE.

Welsh Government guidance to HEFCW on varying approved plans

12. The [Welsh Government Guidance to HEFCW on fee and access planning](#) confirms that institutions must apply to HEFCW for approval of changes to a plan when the approved plan is in force. A variation to an approved plan can take effect only if approved in writing by HEFCW.
13. Welsh Government guidance on fee and access planning (paragraph 4.24) is clear that institutions should inform students and potential students of students' financial commitments, including fee levels, as set out in the plan, as early as possible in the application cycle.

HEFCW expectations about varying approved plans

14. HEFCW does not expect institutions routinely to alter or amend plans once we have approved them. However, circumstances may arise when it would be reasonable to make certain changes. Where changes relate to regulatory matters, see paragraph 2 above. For other changes, governing bodies may apply to vary approved fee and access plans, while plans are in force, but before they are in effect, taking account of the guidance in this publication.
15. We would not expect variation requests to alter materially the basis of approved plans.

Consumer protection considerations when varying approved plans

16. Varying approved and published plans affects the information available to students and potential students. Institutions should ensure that they are fully compliant with the Competition and Marketing Authority's advice on [consumer protection law](#) in requesting and implementing variations to approved plans.

Involving students when considering varying plans

17. Institutions must involve students at an early stage in their discussions regarding variations to plans and confirm in the variation request to HEFCW that students are content with the request. This is in addition to requiring governing body approval for any variations.

When considering varying a fee and access plan

18. Where institutions are considering varying approved plans they should discuss the implications of the proposed changes with HEFCW, at the earliest opportunity. Early notice will enable us to provide timely advice and, where necessary, agree with institutions the information we require to make a decision, together with a reasonable timeline for confirming decisions.
19. Institutions must apply to vary their plans where certain changes, including as set out in **Annex A**, arise. Some amendments to plans may not require formal variation and approval. For example, we will not expect institutions to submit formal variation requests where their actual income and investment differs from the income and investment that was included in the approved plan, if these changes are a result of changes in recruitment numbers. We would take account of this change through the annual monitoring processes when we would expect the income and related investment variance to be explained. However, a proposed reduction in investment in a category of provision would require a variation request. Other amendments, for example, in relation to changes in partnership arrangements outside the UK may not require a formal variation, but institutions must keep HEFCW informed of such changes. Discussing any potential changes with us, prior to submitting a variation request form, will enable us to confirm whether the formal variation process is required and reduce the reporting burden on institutions, if formal processes are not required.

Changes or revisions to fee and access plans that require HEFCW's approval through the variation process

20. Changes to plans that HEFCW considers significant and requiring formal variation include, but are not limited to:
 - issues relating to fee levels;
 - new franchise agreements or new full-time courses provided on behalf of the institution which require student support;
 - changes to agreed targets;
 - changes to the proportion of total investment;
 - changes to proportions of investment more generally, including changes in and between activity categories related to equality of opportunity, the promotion of higher education and student support; and
 - amendments or revisions to the focus and contents section.
21. Where proposed changes include new fee incomes that an institution expects to receive, from new partnerships for example, we expect institutions to at least maintain the proportions of investment in equality of opportunity, the promotion of HE and student support, as in approved plans. We will expect institutions to continue to work to secure their

commitments to students. We expect regulated institutions to report in detail on these changes in their monitoring reports.

22. When drafting variations to plans, institutions should consider whether and, if so, how proposed changes to one part of a plan affect other parts of the plan. For example, new franchise provision may result in significant additional income and require increased investment in equality of opportunity and/or promotion of higher education activities.
23. Institutions should explain clearly any changes to investment in categories of provision. Normally, we would not expect institutions to reduce levels of investment in any category of provision. In considering proposed changes, we will take account of the proportions of investment by category in the approved plan.

HEFCW's variation process cycles

24. Following discussions with institutions about the nature of the proposed changes, if HEFCW considers a formal variation is necessary, institutions will normally be required to complete a Variation Request Form that includes confirming that it has governing body approval and student body agreement to the proposed changes. The Variation Request Form is available on the [HEFCW website](#).
25. To support formal variation requests, institutions should submit approved plans with tracked changes. As noted above, the nature of the changes may affect a number of sections of plans. **Annex A** provides examples of proposed changes and the sections of plans that the changes may affect.
26. To manage variation arrangements, HEFCW would normally expect to run two variation processes a year. From 2019/20 fee and access plans, HEFCW will normally run a variation process in the autumn term before the plan comes into effect (e.g. autumn 2018 for 2019/20 fee and access plans). We recognise that the planning and approval cycle for fee and access plans spans much of the academic year and that new or revised delivery of qualifying courses through franchise arrangements is often not finalised until later in the academic year. Therefore, we will run a second variation process, which may include, but is not limited to revisions to partnership arrangements, normally in the summer of the academic year prior to the fee plan coming into effect (e.g. summer 2019 for 2019/20 fee and access plans). We will confirm the dates of these processes with institutions annually.

HEFCW's implementation of the variation process

27. Normally, HEFCW would expect to be able to complete its processes for approving or rejecting variation requests within four working weeks from receiving all the required documentation. Where HEFCW requires further information to inform decision-making, HEFCW will discuss a timeline with institutions.

28. HEFCW will approve or reject, in writing all formal variation requests. HEFCW must confirm its approval before institutions implement or publish any changes to approved plans. If HEFCW approves a variation request, the institution must send HEFCW updated final versions of plans and a link to the University's website where the updated plan is published.
29. In assessing requests for changes to plans, HEFCW will take account of the extent to which the proposed variations continue to meet, or go beyond, the commitments and ambition set out in the originally approved plans. HEFCW will take account of the outcome of institutions' discussions with students about changes to plans.

Publication of fee and access plans once HEFCW has approved variations

30. Following HEFCW's approval of plan variations, institutions should take account of the approved changes and send HEFCW a final version of the revised plan, without tracked changes. Institutions should republish prominently the revised and approved plan on its website. Institutions should publish the revised, approved plan with information that clearly outlines the changes made and confirms the date on which HEFCW approved the changes, including noting the agreement to the changes of the governing body and student body.
31. Where HEFCW does not approve fee and access plan variations, the latest, published plan as approved by HEFCW will stand.

Process following HEFCW's rejection of a variation request

32. In approving or rejecting a request, HEFCW will act reasonably. HEFCW normally will not approve plan variations where:
 - i. fee limits exceed the maximum applicable fee limit specified in the legislation;
 - ii. an institution's student body has not confirmed its approval of the variation request; or
 - iii. an institution's governing body has not confirmed its approval of the submitted variation.
33. Any issues arising from the outcome of the variation process should follow [HEFCW's complaints procedure](#).

Variations once fee and access plans are in effect

34. HEFCW would not expect to receive nor approve requests to vary approved plans once they are in effect, unless there are exceptional circumstances.

35. Exceptional circumstances may include Welsh Government policy changes, including changes to legislation, regulations or notices.

Submitting a request to vary a fee and access plan or for further information about fee and access planning

36. Institutions should use the regulation advice email: regulationadvice@hefcw.ac.uk or cyngorrheoleiddio@hefcw.ac.uk for all fee and access plan-related correspondence with HEFCW, including variation requests.

Annex A

Indicative examples of revisions and/or changes to plans constituting a variation, including how the change might affect the plan

While the below are the most likely elements of the plan which may require amending following a proposed variation, institutions should also have regard to any potential implications for all parts of their plan resulting from the proposed variation.

Proposed variations to the approved plan. Changes to:	Some parts of the plan that may require amending as a result of a proposed variation.
Proposed maximum fees for students	<ul style="list-style-type: none"> • income and investment; and • income forecast expenditure returns.
Full-time courses where you do not propose to charge the maximum fee	<ul style="list-style-type: none"> • income and investment; • income forecast expenditure returns; and • information on fee levels and fee income for full-time undergraduate and PGCE (QTS) students under the post-2012/13 fee regime.
Franchise agreements or new full-time courses provided at a franchise partner which require student support	<ul style="list-style-type: none"> • income and investment; • income forecast expenditure returns; and • information on fee levels and fee income for full-time undergraduate and PGCE (QTS) students under the post-2012/13 fee regime for partnership provision based in the UK.
Agreed targets	<ul style="list-style-type: none"> • focus and contents of plans; and • institution's plan targets.
The approved proportion of total investment	<ul style="list-style-type: none"> • income and investment; • income forecast expenditure returns; and • institution's plan targets.
The approved proportion of investment in equality of opportunity and promotion of HE provision	<ul style="list-style-type: none"> • income forecast expenditure return; and • institution's plan targets.
The selection of under-represented groups	<ul style="list-style-type: none"> • focus and contents of the plan; and • Institution's plan targets.
Targets, including levels of aspiration, progress, benchmark data, numbers and percentages	<ul style="list-style-type: none"> • focus and contents of the plans; and • institution's plan targets.
The text of the focus and contents section	<ul style="list-style-type: none"> • income and investment; • delivery of objectives; and • achievement of targets.