

## **Guidance to HEFCW on Fee Plan Approval and Enforcement**

### **Introduction**

1. The Higher Education Act 2004 (Relevant Authority) (Designation) (Wales) Regulations 2011 designate the Higher Education Funding Council for Wales (HEFCW) as the relevant authority in relation to Wales, with the principal functions of approving and enforcing fee plans submitted by relevant institutions in Wales. This guidance is given pursuant to section 32(4) of the Higher Education Act 2004 ('the Act'), which requires the relevant authority to have regard in the performance of its functions of approving and enforcing fee plans, to any guidance given to it by the Welsh Ministers.
2. From 1 September 2012, the basic amount of tuition fee will be £4,000 and the higher amount will be £9,000. For certain courses, basic and higher amounts of £2,000 and £4,500 will apply. Clarification on which courses these lower fees will apply to is provided in **Annex A**. From 2012/13 onwards, any institution in Wales which intends to charge students more than the basic amount for any of its courses must have a fee plan approved by HEFCW.

### **Remit of HEFCW**

3. *For Our Future* presents two key priorities for the HE sector in Wales: the delivery of social justice and supporting a buoyant economy. Further guidance on the implementation of these priorities is provided in the annual Remit Letter to the Council. This guidance should be read within the context of those priorities.
4. HEFCW will be responsible for approving institutions' fee plans and monitoring their compliance with such plans. The fee plans of those institutions which decide to charge tuition fees above the basic amount must contain provisions relating to promoting equality of opportunity and promoting HE.
5. Under an amendment<sup>1</sup> made to the Act, HEFCW may, where it considers it appropriate, identify good practice in relation to promoting HE and equality of access to HE, and give advice on this to publicly funded institutions<sup>2</sup>.

### **Approval of Plans**

6. HEFCW must follow the procedure laid out in regulations<sup>3</sup> for the approval of fee plans submitted by institutions seeking to charge fees above the basic amount.<sup>4</sup>
7. When considering fee plans, HEFCW must have regard to institutions' freedom to determine the contents and delivery of their provision, and to determine their own

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<sup>1</sup> See regulation 3(2) of the Higher Education Act 2004 (Relevant Authority) (Designation) (Wales) Regulations 2011 (SI 2011/658(W.96)), which inserts a new section 40A to the Higher Education Act 2004.

<sup>2</sup> Any institution receiving grants, loans or other payments from HEFCW.

<sup>3</sup> See regulations 5 – 7 of the Student Fees (Approved Plans) (Wales) Regulations 2011 (SI 2011/884(W.128))

admission criteria<sup>5</sup>. HEFCW must also have regard to the safeguarding of fair access to HE<sup>6</sup>.

8. Institutions should consider part-time and mature students within their overall approach to access, and HEFCW should take account of these groups when considering fee plans. All UK and EU students studying at publicly funded institutions in Wales should be taken into account, wherever they are ordinarily resident.
9. The move to higher fees requires there to be much more robust monitoring and scrutiny of fee plans. However, in order to avoid an unnecessarily bureaucratic approach to the implementation of its new role, HEFCW should, where appropriate, build on mechanisms which are already in place for monitoring institutions' strategic plans and widening access strategies.
10. HEFCW should assess whether an institution's fee plan is appropriate in terms of improvements in promoting HE and equality of opportunity in accessing HE. In doing so, it should consider both the progress made to date, and what more is required to meet the governing body's objectives and the sustainability of the planned actions.

### **Coverage of Fee Plans**

11. A fee plan must include details of the limit which the fees of each course will not exceed (subject to the £9,000 maximum). If an HE institution wishes to charge a higher level for a course than that agreed in its fee plan, it must apply for a variation of its plan (see paragraphs 35-36).
12. Institutions should not charge tuition fees above 2011/12 levels (subject to inflationary uplift) to students who started their courses before 1 September 2012. There is no protection against the charging of higher fees for gap year students.
13. Institutions which have made bursary commitments under the Welsh National Bursary scheme to students who started their first year of higher education from 2007/08 to 2010/11, or to those who were gap year students in 2011/12, will be expected to honour those commitments and include information about those arrangements in their fee plans.
14. HEFCW should work to ensure institutions' approaches to widening access and fee planning generally are aligned and complementary so that burdens on institutions are minimised.

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<sup>5</sup> See regulation 6(b) of the Student Fees (Approved Plans) (Wales) Regulations 2011 (SI 2011/884(W.128))

<sup>6</sup> See regulation 6(a) of the Student Fees (Approved Plans) (Wales) Regulations 2011 (SI 2011/884(W.128))

***Provision offered by Further Education (FE) Institutions***

15. Where an FE institution receives direct funding from HEFCW for HE courses for which it wishes to charge over the basic amount, it will need its own fee plan (agreed by HEFCW) covering those courses. Where an HE course in an FE institution is funded through an HE institution, it will be for the HE institution to include the franchised course in its fee plan, if it wishes to charge above the basic amount for that course.

***Collaboration***

16. Fee plans should build on, and refer to, existing collaborative work, where relevant. HEFCW should recognise that access work by one institution may lead to a student applying to a different institution.

**Content of Fee Plans**

***Promotion of equality of opportunity and the promotion of HE***

17. Fee plans must set out institutions' objectives in relation to:
- the **promotion of equality of opportunity in relation to access to HE**; and
  - the **promotion of HE**.

Clarification on what is considered to fall under these headings is provided at **Annex B**.

18. It will be a matter for HEFCW to determine the specific balance of individual fee plan components in the light of each institution's circumstances, taking into account:
- the scale and nature of outreach activity to be undertaken (individually or in partnership) with local schools and colleges, such as mentoring, school visits, master classes or similar;
  - the scale and nature of academic and welfare support for students;
  - the scale and nature of outreach activity to be undertaken which aims to attract mature students, including work with local communities and employers to make provision more responsive to learners' and employers' needs;
  - the scale, nature and effectiveness of activities aimed at promoting HE, for example advertising and recruitment campaigns targeted at particular under represented groups;
  - progress towards relevant benchmarks, targets and measures agreed with HEFCW (e.g. on access, retention and completion);
  - the support offered to applicants or once enrolled on courses, to students, for example additional study support, mentoring and pastoral support; and
  - the number and value of any targeted financial waivers or bursaries the institution will offer; this might include support targeted at students entering through non-traditional routes such as apprenticeships.

***Levels of investment***

19. The Council has a responsibility for the use of public funds in relation to grant funding, and a wider responsibility to promote institutional efficiency and sustainability. HEFCW should therefore scrutinise carefully any intention by institutions to charge fees above the basic amount across the bulk of their provision.
20. HEFCW's starting point when approving plans should be an institution's current level of investment in promoting HE and equality of opportunity, plus investment from the new income from tuition fees over £4,000. The fee plan should describe the proportions of an institution's income from tuition fees charged above the basic amount which are earmarked for measures which promote equality of opportunity and promote HE.
21. It is expected that institutions will invest a reasonable proportion of the new income received through higher fees in activities which widen access through more effective delivery of equality of opportunity and measures which promote HE. The level of ambition set out in such plans should be proportionate to how much more than the basic amount the institution intends to charge. HEFCW should expect a higher degree of targeted activity from those institutions which have the greatest distance to travel in relation to equality of opportunity and the promotion of HE. HEFCW should have regard to both of these factors when considering the level of investment proposed by institutions.
22. The outreach and promotional activities to which institutions commit themselves in their fee plans should be additional to those which they are already undertaking. That is, new income derived from higher tuitions fees should be accompanied by new investment in these areas. Institutions which are already demonstrating their commitment to equality of opportunity through a range of activities, either individually or collectively, should not be treated identically to those which have made less progress. HEFCW should acknowledge institutions' track records, and differentiate appropriately between them.
23. It is expected that HEFCW will consider specifying a minimum level of investment by institutions in the activities covered by fee plans. In addition, HEFCW should assess what proportion of the new income is being used effectively to promote equality of opportunity. HEFCW should establish challenging targets for recruitment, retention and achievement from disadvantaged groups.
24. HEFCW should satisfy itself that each fee plan sets out an institution-wide approach to the advancement of equality of opportunity. It is not expected that a fee plan will cover every under-represented group; 'under-representation' refers to groups under-represented in HE as a whole, rather than at a particular institution. Institutions should not be required to list all the qualifying courses available if the same maximum level of fees is to apply across all provision. However, institutions may choose to draw HEFCW's attention to their access arrangements for particular courses or groups of courses.
25. Institutions which generally attract a less diverse student body should be encouraged to put more money into outreach activity to raise aspirations, in

addition to bursaries and financial support. In the spirit of collaboration, much of this work may not result in recruitment directly to the institution carrying it out, and sometimes has a long lead time. Therefore, an institution's efforts on outreach will not necessarily be measured by, or reflected in, changes in its own applications. Consequently the Council may wish to have regard to input measures for this area of activity.

#### ***Information on recruitment and retention data***

26. It is important to ensure that the changes in the tuition fee arrangements do not have a negative impact on institutions' broader approaches to widening access beyond activities set out in fee plans.
27. HEFCW should encourage institutions to collect and monitor a range of information on their applications as well as their admissions. This could include, for example, numbers of applications to different courses, as well as offers made and accepted. This information should also include data relating to expected completion and retention. This will provide a strategic focus for their access-related activities, and will provide valuable information on the impact of changes in tuition fees on patterns of recruitment, as well as for the relevance and demand for provision.

#### ***Inclusion of additional provisions***

28. Since fee plans are institutions' documents, they may wish to include provisions which go well beyond the requirements set out in the Student Fees (Approved Plans) (Wales) Regulations 2011. If an institution decides to include provisions not required to be included (e.g. on its admissions policy), HEFCW's decision to approve or reject the plan must not be affected by those additional provisions.

#### **Student Voice**

29. HEFCW should consult the National Union of Students (NUS) Wales before setting the overall criteria for fees plans. In addition, it is expected that individual HE institutions will engage actively with their institutional student union in drawing up their fees plans. HEFCW should monitor this.

#### **Financial Information and Support for Students**

30. HEFCW should issue guidance to HE institutions on the information that they should provide to prospective students, including up-to-date information on graduate earnings based on HEFCW's proposed consultation on public information.
31. Higher fees will mean higher expectations. HEFCW should ensure that HE institutions provide effective induction for students. This should include the provision of key information, including full details of courses, initial programmes and timetables. Students should receive comprehensive information on how the new fee income contributes to their course delivery.

32. If institutions are to be successful in advancing equality of opportunity amongst under-represented groups, it is essential that those groups know about the financial support that they might receive in HE, both from the Welsh Assembly Government and individual institutions.
33. Institutions must ensure that the fees they charge are clearly set out and publicly available, and that students are told what the fees will be for the duration of their course before they enrol for the first year. HEFCW will want to be satisfied that institutions are effective in providing information to prospective students about the costs they are likely to incur over the period of their course, precisely what is covered in the fees charged and the financial support available.
34. Some institutions will be in a position to provide more generous financial support, and it is right that they should be expected to do so. The details are for the institution to decide. Institutions might want to give particular support to under-represented groups of students, for example some ethnic minorities, those with caring responsibilities, people from low participation neighbourhoods, people with a disability, or more generally people with protected characteristics. Equally, institutions might want to spend income from higher fees on pastoral care and additional study skill support to improve retention and completion. Institutions may, if they wish, use some of the income from courses for which they are charging fees above the basic amount to benefit students on courses for which they are charging the basic amount, which could include part-time students. In the light of the higher fees regime, HEFCW should consider setting minimum standards of investment in this support.

### **Variations to Fee Plans**

35. The maximum duration of fee plans is two years. The fee plan will set out how the institution expects its fee policies to evolve over the duration of the plan. If an institution wants to make changes beyond those already noted in the plan, it will have to seek agreement from HEFCW. This will constitute a variation to the institution's plan<sup>7</sup>.
36. In assessing proposed changes, HEFCW should have regard to a key principle that students should know before committing to a course what fees they can expect to pay. Students should be protected against changing fee levels where the possibility of that change has not been notified to them at the time of application for the course.

### **Publication of Fee plans**

37. Institutions must publish fee plans approved by HEFCW in a manner which makes their plans conveniently accessible to students and prospective students. HEFCW should ensure that all approved plans are published and satisfy itself that institutions have made their fee plans accessible by publishing them.

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<sup>7</sup> See regulation 9 of the Student Fees (Approved Plans) (Wales) Regulations 2011 (S.I. 2011 No. 884 (W.128))

### **Monitoring and Reviewing Progress**

38. HEFCW should continue to be mindful of the need for transparency, accountability, consistency and proper targeting when considering the activities and targets outlined in institutions' fee plans. Fee plans should be focused on the delivery of ambitious targets for promoting HE and equality of access to HE. Such targets should reflect UK-wide indicators, as well as Wales-specific indicators, and should take account of targets for widening access set out in *For our Future*. Institutions must monitor their impact and progress, and demonstrate to HEFCW that they have met the objectives set out in their plans.
39. When reviewing institutions' progress against fee plans, HEFCW should focus on outcomes, not outputs. Fee plans should include a programme of defined progress each year towards the objectives which institutions have agreed with HEFCW in relation to promoting HE and equality of access to HE. They should include benchmarks, objectives and measures set by institutions themselves and agreed with HEFCW. These additional measures should take account of the individual context of the institution, using an institution's own data, but should be calculated on an agreed, consistent basis. This work will need to address practical issues around lags in the availability of some data.
40. The objectives set out in institutions' fee plans will be their own and may draw on a range of data. They will provide the basis for monitoring the impact of their work to promote HE and equality of opportunity. Where HEFCW views an institution's objectives as being so unambitious as to cast serious doubt on its commitment to promoting HE, safeguarding or improving access, the Council may refuse to approve a fee plan on that basis.
41. Performance against institutional measures and objectives is critical, but it will also be important to look at the overall trends, including across the UK. HEFCW will also want to take account of the effort that an institution has devoted to promoting HE and equality of opportunity, including a mix of longer and shorter term initiatives. HEFCW will wish to assure itself that an institution's investment takes account of advice, evaluation and research in respect of any good practice which the Council has identified.
42. It will be for HEFCW to determine the most effective monitoring arrangements. HEFCW should engage students and their representatives in this process.

### **Enforcement of Plans**

43. It is anticipated that the majority of institutions will implement this new approach positively and will take all appropriate steps to ensure their fee plans are delivered in line with their objectives and related targets. Where HEFCW considers that an institution is not demonstrating adequate progress, it will want to investigate thoroughly the facts and background, and take action if it is satisfied there is a failure or breach in an institution's delivery of its plan. In such cases the institution will have to justify such variance to HEFCW.
44. The sanctions which are available to HEFCW are as follows:

- a notification to the governing body that on the expiry of the existing plan it will refuse to approve a new plan during a specified period (of up to one year)<sup>8</sup>; and
- the imposition of financial requirements on the governing body of the institution<sup>9</sup>.

45. Institutions will want to review their progress against their own objectives on an ongoing basis. Where progress has been less than an institution expected, it will want to identify any underlying causes and address them in seeking renewal of its plan. HEFCW should take this into account when considering requests for renewal.

### **Review of Decisions**

46. In reaching its judgments about the adequacy of delivery of an institution's agreed plan and its commitment to promoting HE and equality of access, HEFCW should focus both on progress against challenging objectives, impact and outcomes, and on the level of planning and resource that the institution is committing to achieve them. HEFCW should also give regard to best practice across the sector nationally and internationally, and to any local issues.

### **Disseminating Good Practice**

47. It is expected that HEFCW will continue to have an active role in identifying and advising institutions on best practice. HEFCW's overview of fee plans, together with its existing work with the sector on widening access and promotion of HE, means that it will be well placed to see what interventions to promote equality of opportunity are most successful in Wales, nationally and internationally, and to disseminate best practice.

### **Annual Report**

48. HEFCW must provide an annual report to Welsh Ministers on the discharge of its statutory functions and other related reports as directed. The annual report should set out how HEFCW has performed its role in relation to approving and enforcing fee plans during the proceeding year. HEFCW should seek to demonstrate whether it is being effective in its aim of supporting more strategic sector wide developments relating to promoting HE and promoting equality of opportunity in relation to access to HE. The report should also contain a brief survey of fee plans, a description of the methods institutions are using to promote HE and equality of opportunity, and examples of typical practice on bursaries and financial information. In future years the annual report should also include information on the progress and outcomes achieved by institutions with approved fees plans.

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<sup>8</sup> See section 38 of the Higher Education Act 2004 and regulation 10(3) of the Student Fees (Approved Plans) (Wales) Regulations 2001 (S.I. 2011/ SI No. 884 (W.128))

<sup>9</sup> See section 28(3) and (4) of the Higher Education Act 2004



**Annex A****Basic and Higher Fee Amounts for Students on Sandwich Placements and Study Years Abroad**

**The Student Fees (Amounts) (Wales) Regulations 2011**<sup>10</sup> prescribe the basic and higher amounts which relevant institutions will be able to charge by way of tuition fees for full-time undergraduate courses commencing from academic year 2012/13 onwards. 'Relevant institutions' are those which receive grants, loans or other payments from HEFCW. Without an approved fee plan in place, fees can be charged up to the basic amount of £4,000. With a fee plan in place, approved by HEFCW, fees can be charged up to the amount stated in the fee plan for that course, subject to the limit prescribed as the higher amount of £9,000.

**Extract from the regulations:****Prescribed basic and higher amounts**

3. Subject to regulation 4, for the purpose of section 28 of the 2004 Act, the basic amount is prescribed as £4,000 and the higher amount is prescribed as £9,000.

**Prescribed basic and higher amounts for specified courses**

4. For the purpose of section 28 of the 2004 Act the basic amount is prescribed as £2,000 and the higher amount is prescribed as £4,500 in the following cases:

- (a) the final academic year of a course where that academic year is normally required to be completed after less than 15 weeks' attendance;
- (b) in respect of a sandwich course, an academic year—
  - (i) during which any periods of full time study are in aggregate less than 10 weeks; or
  - (ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full time study at the institution (disregarding intervening vacations) exceeds 30 weeks;
- (c) in respect of a course of initial training of teachers (including such a course leading to a first degree), an academic year during which any periods of full time study are in aggregate less than 10 weeks;
- (d) in respect of a course provided in conjunction with an overseas institution, an academic year—
  - (i) during which any periods of full time study at the institution in the United Kingdom are in aggregate less than 10 weeks; or
  - (ii) if in respect of that academic year and any previous academic years of the course the aggregate of any one or more periods of attendance which are not periods of full time study at the institution in the United Kingdom (disregarding intervening vacations) exceeds 30 weeks.

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<sup>10</sup> See the Student Fees (Amounts) (Wales) Regulations 2011 (S.I. 2011- No. 658 (W.96))

**Annex B**

**Supplementary Information on the Content of Fee Plans**

For the purposes of this guidance, it is considered that:

- the **promotion of equality of opportunity in relation to access to HE** includes:
  - activities aimed at promoting and safeguarding fair access to HE, including identifying individuals with the greatest potential from disadvantaged backgrounds;
  - measures to attract and retain students and prospective students from under-represented groups, which may include students from less advantaged backgrounds, students with disabilities and students from minority ethnic groups;
  - measures which seek to raise educational aspirations and develop skills which prepare students for HE;
  - activities aimed at supporting and increasing student retention and completion, particularly those from low participation neighbourhoods, looked after children and care leavers;
  - activities which aim to improve students' experience of HE, particularly the experience of those from under-represented groups;
  - measures which provide effective provision of information to students before and during their courses;
  - measures which provide high quality academic and welfare support to students; and
  
- the **promotion of HE** includes:
  - more effective engagement with private, public or voluntary bodies and communities in Wales;
  - investments in improving the quality of learning and teaching, with reference to the quality of the student experience;
  - activities which strengthen the employability of Welsh graduates;
  - actions which promote Welsh HE more effectively internationally;
  - actions which improve delivery of sustainable HE; and
  - activities which raise awareness of the value of HE amongst potential learners.

**Annex C**

**Appeals<sup>11</sup>**

1. The governing body of an institution may apply for a review of a provisional decision by HEFCW to a person or panel of persons appointed by the Welsh Ministers.
2. Such an application must be made to the person or panel appointed by the Welsh Ministers in accordance with regulation 16 of the Student Fees (Approved Plans) (Wales) Regulations 2011 **within 40 calendar days** of the notification of the provisional decision; otherwise the provisional decision will become final.
3. the person or panel will consider the decision and then accept the decision or make recommendations to HEFCW that it should review its decision. If the governing body of an institution applies for a review of a provisional decision then HEFCW must reconsider its provisional decision having regard to any recommendation made as a result of the review and must issues a final decision within a reasonable time.
4. The grounds on which an application for the review of a provisional decision may be made are:
  - (a) the governing body presents a material factor for consideration to which for good reason it had not previously drawn HEFCW's attention;
  - (b) the governing body considers that HEFCW disregarded a material factor which it should have considered; or
  - (c) the governing body considers that the provisional decision is disproportionate in view of all the relevant facts which were considered by the relevant authority.

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<sup>11</sup> See regulations 11 - 14 of the Student Fees (Approved Plans) (Wales) Regulations 2011 (S.I. 2011- No. 884 (W.128))