

## Cylchlythyr | Circular

# HE (Wales) Act 2015: Welsh Government guidance to HEFCW on fee and access plans

**Date:** 29 January 2016  
**Reference:** W16/03HE  
**To:** Regulated institutions and other interested parties  
**Response by:** No response required  
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This circular provides a copy of the Welsh Government's guidance to HEFCW on fee and access plans under the Higher Education (Wales) Act 2015 together with some information on HEFCW's fee planning processes.

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 circular provides the Welsh Government's guidance to HEFCW on fee and access plans under the Higher Education (Wales) Act 2015<sup>1</sup> together with some information on HEFCW's fee planning processes.

## Background to the Higher Education (Wales) 2015 Act as it relates to fee and access plans

2. The Higher Education (Wales) Act 2015 gained Royal Assent on 12 March 2015<sup>2</sup>. The Higher Education (Wales) Act 2015 (the 2015 Act) provides that institutions and other higher education providers that wish their qualifying higher education courses to be automatically designated for Welsh Government student support have a fee and access plan approved by HEFCW.
3. Section 2 of the 2015 Act states that the governing body of an institution in Wales that provides higher education and is a charity may apply directly to HEFCW for approval of a fee and access plan. Other organisations may require designation by Welsh Ministers as an 'institution' before they are able to apply to HEFCW for a fee and access plan for qualifying courses<sup>3</sup>.
4. This Welsh Government guidance relates to the process of applying to HEFCW for a fee and access plan. This Welsh Government guidance does not apply to organisations that apply for designation on a course by course basis.
5. Five sets of Regulations relevant to fee and access plans are also in force. These Regulations are listed below. We have footnoted links to the versions of the Regulations available at the time of writing. Please be aware that Regulations may be amended by the Welsh Government and, therefore, these links might not work in the long-term.
  - The Higher Education (Designation of Providers of Higher Education) (Wales) Regulations 2015<sup>4</sup>;
  - The Higher Education (Fee and Access Plans) (Wales) Regulations 2015<sup>5</sup>;
  - Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015<sup>6</sup>;

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<sup>1</sup> Regulated institutions are institutions in Wales which have an approved fee and access plan in force (formerly known as a fee plans under the 2004 Act) that will be subject to the requirements of the new regulatory framework. These institutions are currently universities in Wales and further education institutions with full time undergraduate/postgraduate certificate of education (PGCE) provision, which was previously directly funded by HEFCW.

<sup>2</sup> [The Higher Education \(Wales\) Act 2015](#)

<sup>3</sup> See Welsh Government Guidance to HEFCW on Fee and Access Plans paragraph 3.6.

<sup>4</sup> Currently [The Higher Education \(Designation of Providers of Higher Education\) \(Wales\)](#) (code: CLA549)

<sup>5</sup> Currently [The Higher Education \(Fee and Access Plans\) \(Wales\) Regulations 2015](#) (code:CLA551)

- Higher Education (Fee and Access Plans) (Notices and Directions) (Wales) Regulations 2015<sup>7</sup>; and
  - The Higher Education (Amounts) (Wales) Regulations 2015<sup>8</sup>.
6. HEFCW circular W15/12HE provides some background to the 2015 Act<sup>9</sup>. In summary, the 2015 Act makes provision for a new higher education (HE) regulatory system for Wales, designed to ensure the regulation of institutions in Wales with qualifying courses automatically designated for Welsh Government student support. The 2015 Act makes provision for safeguarding the contribution made to the public good arising from the Welsh Government's significant financial support for HE and for maintaining a strong focus on fair access to HE. At the same time the 2015 Act preserves and protects the institutional autonomy and academic freedom of regulated institutions.
  7. The 2015 Act, in 60 sections and one schedule: allows an institution in Wales which provides HE and is a charity to apply to HEFCW for approval of a fee and access plan and deals with the content of fee and access plans, including the fee limit for prescribed courses. It requires HEFCW to monitor institutions' compliance with, and the effectiveness of, fee and access plans and confers quality assessment-related functions on HEFCW. The 2015 Act confirms HEFCW's functions to prepare and publish a Financial Management Code to apply to regulated institutions and it sets out the circumstances in which HEFCW may refuse to approve, or withdraw approval of, a fee and access plan. The 2015 Act makes provision for HEFCW to give warning notices and for institutions to apply for reviews and it makes provision for HEFCW to provide reports, information and advice to Welsh Government on fee and access plans. The 2015 Act makes consequential amendments to other Acts.
  8. The Regulations make provision:
    - for the designation of certain providers of higher education as institutions for purposes under the 2015 Act;
    - for information required and to be taken into account for the application and approval of a fee and access plan;
    - for qualifying persons and courses for purposes of the 2015 Act;
    - in respect of notices and directions in relation to HEFCW's intervention powers; and
    - for the maximum amounts a regulated institution can charge.
  9. The Act allows for further Regulations to be made in respect to our powers for full implementation.

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<sup>6</sup> Currently [Higher Education \(Qualifying Courses, Qualifying Persons and Supplementary Provision\) \(Wales\) Regulations 2015](#) (code: CLA560)

<sup>7</sup> Currently [Higher Education \(Fee and Access Plans\) \(Notices and Directions\) \(Wales\) Regulations 2015](#) (code: CLA559)

<sup>8</sup> Currently [The Higher Education \(Amounts\) \(Wales\) Regulations 2015](#) (code: CLA550)

<sup>9</sup> [HEFCW circular W15/12HE](#)

## Welsh Government guidance to HEFCW on fee and access plans

10. The 2004 Act named HEFCW as the relevant authority to approve and enforce fee plans which were required for Welsh institutions wishing to charge above the basic fee rate of £4,000. The 2004 Act has been repealed by the 2015 Act, as has the concept of plans being required only where fee levels are above £4,000. The Welsh Government provided guidance to HEFCW on fee plan approval and enforcement which remained largely unchanged during the period 2012/13 to 2016/17 and we annexed the Welsh Government guidance to HEFCW's annually published fee planning guidance<sup>10</sup>.
11. The Welsh Government has now issued new guidance to HEFCW under the Higher Education (Wales) Act 2015 for fee and access plans which is attached as **Annex A** and available on the HEFCW website.<sup>11</sup>.
12. The Welsh Government guidance provides advice to HEFCW on our functions relating to fee and access plans which support equality of opportunity and the promotion of higher education, and it offers further direction and information on:
  - i. Entry to the regulatory system by an 'institution', which is optional, with the plan's approval leading to leading to the automatic designation of qualifying courses and access to Welsh Government student support;
  - ii. The duration of plans, fee limits, the continued focus on equality of opportunity and the promotion of higher education, together with a list of what must be included in plans and what must be provided for students;
  - iii. Approval of fee and access plans and the factors HEFCW must consider in approval processes;
  - iv. Student voice issues and the expectation that the student body is engaged in the development and assessment of an institution's plan;
  - v. Publication of approved plans by governing bodies and advice on ensuring fee and access plan information is accessible to students and prospective students;
  - vi. Variation of approved plans through agreement with HEFCW and the processes for making changes to plans;
  - vii. Monitoring and evaluation requirements on HEFCW and governing bodies; and
  - viii. Annual reporting to Welsh Government requirements on HEFCW.

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<sup>10</sup> See, for example, Welsh Government guidance to HEFCW on the former fee planning process, annexed to HEFCW circular [W15/05HE Annex A](#).

<sup>11</sup> See [Higher Education \(Wales\) Act 2015 web pages](#) on HEFCW website.

13. A key difference between fee and access plans and the former fee plans is that approval of new fee and access plans from 2017/18 lead to entry to the regulatory system. Therefore, in approving plans, HEFCW must take account of whether an applicant meets the criteria of being an institution **in Wales, provides higher education and is a charity**. Regulations also provide that HEFCW must take account of an **institution's financial viability, its arrangements for the organisation and management of the financial affairs and the quality of education provided by, or on behalf of, the institution**. HEFCW's guidance on 2017/18 fee and access planning will provide further information for applicants on the information to be provided in fee and access plans in order for HEFCW to be assured that an institution meets the above criteria.
14. As circular W15/12HE indicates, the 2015 Act could be seen to alter the balance of HEFCW's role from that of primarily funding to place more emphasis on regulation. HEFCW has always had a regulatory role and we will continue to use all our regulatory powers intelligently to secure the best higher education system within the policy and legislative context established by the Welsh Government.

#### **HEFCW's 2017/18 fee and access plan processes, including events**

15. The Welsh Government guidance to HEFCW will inform the development of HEFCW's guidance inviting the submission of 2017/18 fee and access plans.
16. We will consult widely on our fee and access plan processes.
17. We will publish for consultation our draft fee and access guidance in February 2016.
18. A consultation event will be held on **Monday 22 February 2016** to contribute to the consultation process. Further information about the event will available shortly on our website<sup>12</sup>.
19. We aim to publish HEFCW's new fee and access plan guidance in **March 2016** inviting fee and access plans for 2017/18.
20. We aim to hold another event in **late April 2016** to disseminate the consultation outcomes and report on how we have taken account of the consultation and our legal advice in finalising the HEFW fee and access plan guidance. The event will also provide a forum for confirming the fee and access process and providing information to assist those wishing to apply for a 2017/18 fee and access plan.

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<sup>12</sup> For further information about the HE Act, including fee and access planning and related events see the [Higher Education \(Wales\) Act 2015 pages](#) on HEFCW's website.

21. Fee and access plan applications for 2017/18 should be submitted to HEFCW in **late May 2016**.
22. Rachel O’Gorman (tel: 029 2068 2227; [rachel.ogorman@hefcw.ac.uk](mailto:rachel.ogorman@hefcw.ac.uk)) is coordinating the HEFCW events.

**Further information / responses to**

23. 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)
24. Alternatively, contact Celia Hunt (tel: 029 2068 2224; email [celia.hunt@hefcw.ac.uk](mailto:celia.hunt@hefcw.ac.uk)) or Jane Johns (tel: 029 2068 2219; email [jane.johns@hefcw.ac.uk](mailto:jane.johns@hefcw.ac.uk)).