

Cylchlythyr | Circular

Transitional Statement of Intervention

Date: 4 February 2016
Reference: W16/05HE
To: Clerks to the governing bodies of regulated institutions in Wales for the attention of the governing bodies
Heads of regulated institutions in Wales
Other interested parties
Response by: No response required
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This circular reports on the responses to the consultation on the Transitional Statement of Intervention, which outlines HEFCW's powers of intervention under the Higher Education (Wales) Act 2015 for the transitional period. It also provides the final version of the Transitional Statement of Intervention which is now in effect.

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Purpose

1. This circular reports on the responses to the consultation on the draft Statement of Intervention, which outlines HEFCW's powers of intervention under the Higher Education (Wales) Act 2015 for the transitional period (see **Annex A**). It also provides the final version of the Transitional Statement of Intervention which is now in effect and, separately, the final version of the Inadequate Quality Processes Prior to Intervention.
2. The Transitional Statement of Intervention is attached as **Annex B**.
3. The Inadequate Quality Processes Prior to Intervention is attached at **Annex C**.

Background

4. Section 52 of The Higher Education (Wales) Act 2015 ('The 2015 Act') places HEFCW under a duty to produce a statement in respect of its intervention functions (the Statement of Intervention). The Statement of Intervention was to be published following a consultation process involving the governing bodies of regulated institutions and other appropriate persons. HEFCW's powers to consult under The Act came into force on 1 September 2015 with a consultation circular [W15/23HE](#) issued on 2 October 2015 requesting responses by 13 November 2015.
5. HEFCW's functions, duties and powers under The 2015 Act come into force at different times, with several intervention powers in force under the transitional arrangements in effect from 1 September 2015. These are: the provisions in The 2015 Act in relation to Compliance and Reimbursement Directions to address issues in respect of the charging of excess fees; Directions in Respect of Inadequate Quality; and Other Measures in Respect of Inadequate Quality. It is anticipated that the remaining provisions of The 2015 Act in respect of intervention powers, including those in relation to Directions in Respect of a Failure to Comply with the Financial Management Code; Refusal to Approve a New Fee and Access Plan; and Withdrawal of Approval of an Existing Fee and Access Plan, will come into force by 1 September 2017.
6. HEFCW has prepared the attached Transitional Statement of Intervention for the purposes of section 52 of The 2015 Act to provide a public and transparent framework within which HEFCW will operate for the transitional period until superseded by a full Statement of Intervention in relation to the commencement of all HEFCW's intervention powers. It is currently envisaged that this Transitional Statement of Intervention will be superseded by a full Statement of Intervention from 1 September 2017.

Consultation responses

7. The Consultation (circular [W15/23HE](#)) in respect of the Transitional Statement of Intervention was published on 2 October 2015. This circular sought responses to the following eight questions:

Question 1: Are the principles set out on page 4 of the Statement reasonable; are there any others that should be included?

Question 2: Are there any issues with the approach to be taken by HEFCW prior to the initiation of formal intervention?

Question 3: Are there any issues that may arise in respect of other regulators (e.g. OIA)?

Question 4: Are there any gaps or issues in relation to the way the intervention processes are set out?

Question 5: Are the proposed process timescales that are not set out under Regulation reasonable?

Question 6: Are there any issues with the way that HEFCW is planning to implement the Transitional Statement of Intervention?

Question 7: Are there likely to be any unintended consequences that may arise as a result of any aspect of the Transitional Statement of Intervention?

Question 8: Are there any other issues in relation to the Statement which you would like to highlight?

8. HEFCW has read, recorded, and analysed the views of all responses to the consultation in a consistent manner. We provide an analysis of the consultation responses and an explanation of how these responses were considered in our subsequent decision at **Annex A**. For reasons of practicality, due to the length of some responses and the duplication between individual responses, this analysis provides a summary of the key points, rather than the full detail of each response.
9. The draft consultation version of the Transitional Statement of Intervention (see circular [W15/23HE](#)) included an annex in respect of Inadequate Quality Processes Prior to Intervention. Consultation responses in respect of that annex to the draft document are included in this circular at **Annex A**.

Transitional Statement of Intervention

10. Following the consultation, the Transitional Statement of Intervention has been amended to address many of those points that were raised. The

finalised Transitional Statement of Intervention outlining HEFCW's intervention powers under The 2015 Act for the transitional period was then approved by HEFCW's Council.

11. The finalised Transitional Statement of Intervention is attached at **Annex B**. This Statement is now in effect until such time as it is superseded by a Statement of Intervention outlining HEFCW's full powers under The 2015 Act, the 'full Statement of Intervention'.

Inadequate Quality Processes Prior to Intervention

12. Following the consultation, the Inadequate Quality Processes Prior to Intervention have been amended to address many of those points that were raised. Whilst the Inadequate Quality Processes Prior to Intervention do not form part of the Transitional Statement of Intervention they are also included in this circular at **Annex C**. The Processes are now in effect until such time as amendments are required.

Further information

13. For further information, contact Ewen Brierley (tel 029 2068 2291; email assurance@hefcw.ac.uk).