

## Cylchlythyr | Circular

# Consultation on HEFCW's draft 2017/18 fee and access plan guidance

**Date:** 8 February 2016  
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**To:** Regulated institutions and other interested parties.  
**Response by:** **14 March 2016**  
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This consultation circular seeks views on HEFCW's draft 2017/18 fee and access plan guidance developed in accordance with the Higher Education (Wales) Act 2015 and provides information about a consultation event.

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 consultation circular seeks views on HEFCW's draft 2017/18 fee and access plan guidance developed in accordance with the [Higher Education \(Wales\) Act 2015](#) and provides information on a consultation event.
2. The purpose of this consultation is to inform the final HEFCW 2017/18 fee and access plan guidance prior to its publication, including consideration of any unintended consequences of, or negative impact on, people with protected characteristics, the Welsh language, or any implications arising from the [Well-being of Future Generations Act 2015](#).
3. Information is also provided on an event to support the consultation process in February 2016 and to provide information on developing 2017/18 fee and access plans prior to their submission to HEFCW, including an opportunity to consider the draft fee and access plan template.

## Background

4. HEFCW published, with a cover circular [W16/03HE](#), a [letter](#) from the Minister for Education and Skills to HEFCW's Chair and the [Welsh Government guidance to HEFCW on fee and access plans](#) on 29 January 2016.
5. Circular W16/03HE provides some information on the background to the Higher Education (Wales) 2015 Act and associated Regulations as they relate to fee and access plans<sup>1</sup>. Please be aware that Regulations may be amended by the Welsh Government and, therefore, revised versions of the Regulations may be published in future.

## HEFCW's draft 2017/18 guidance on fee and access plans

6. HEFCW's draft 2017/18 guidance on fee and access plans is annexed to this circular.
7. HEFCW acknowledges that there is no statutory requirement under the 2015 Act for it to consult on fee and access plan guidance, however, HEFCW commits to consult widely on the guidance, including holding a consultation and information event, and working with potential applicants, where possible.
8. HEFCW is publishing this consultation on draft guidance on 2017/18 fee and access plans soon after publishing the Welsh Government guidance to HEFCW on fee and access planning to enable fee and access plan

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<sup>1</sup> [Higher Education \(Wales\) Act 2015](#). Associated Regulations are available on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website.

applicants, potential applicants and other interested parties, including students, the opportunity to inform its development.

9. HEFCW has received legal advice on specific issues which have arisen during the drafting of the guidance, but further, comprehensive legal advice is being sought following the publication of this draft guidance for consultation. HEFCW has decided to publish the draft guidance prior to full legal advice being received in order not to delay unduly the consultation process. HEFCW will take account of legal advice and consultation responses in finalising the 2017/18 fee and access plan guidance for publication.
10. The HEFCW draft 2017/18 guidance on fee and access plans provides some legislative background and context impacting on the new fee and access planning from 2017/18 and reaffirms HEFCW's commitment to respecting institutional autonomy. The guidance provides information to fee and access plan applicants including:
  - i. entry to the regulatory system (Section one and paragraphs 22 -23);
  - ii. categories of provision which require fee and access plans in order to access Welsh Government student support (paragraphs 25 – 29);
  - iii. evidence to be provided to HEFCW to meet regulatory requirements of the 2015 Act about the applicant being an institution in Wales that is a charity providing higher education(paragraphs 30 – 37);
  - iv. requirements of a regulated institution and evidence to be provided to HEFCW on financial and quality assurance arrangements (paragraphs 38 – 60);
  - v. exit from the regulatory system (paragraphs 61 - 63);
  - vi. the period and duration of plans (paragraphs 64 to 68);
  - vii. levels of fee income and investment (paragraphs 69 - 75);
  - viii. the focus and content of fee and access plans (Section two)
  - ix. taking account of the student voice (paragraph 77);
  - x. equality of opportunity and the promotion of higher education activities and groups under-represented in higher education (paragraphs 79 – 84);
  - xi. evidencing a strategic approach to plans, including the rationale for the approach (paragraphs 85 – 89);
  - xii. information on arrangements with external providers (paragraph 90);
  - xiii. measures and targets (paragraphs 91 – 103);
  - xiv. authorisation of fee and access plan applications (paragraph 104);
  - xv. HEFCW's fee and access plan approval and rejection processes (Section three, see particularly paragraphs 107 - 110);
  - xvi. HEFCW's criteria for assessment (paragraphs 111 – 113);
  - xvii. HEFCW's intention to reject a plan processes (paragraph 114 – 125);
  - xviii. requirement to publish an approved plan (paragraph 126);
  - xix. variations to plans (paragraphs 127 – 128);
  - xx. HEFCW monitoring, evaluation and reporting (paragraphs 129 – 133);
  - xxi. HEFCW's impact assessment process (paragraphs 134 – 138); and
  - xxii. HEFCW contacts for further information (paragraph 139 – 140).

## **The 2017/18 fee and access plan template**

11. The draft guidance outlines in a table the type of information that HEFCW considers, at this stage, should be provided in support of a fee and access plan application. HEFCW will consult separately on the draft 2017/18 fee and access plan template to inform its further development. The fee and access template consultation timescale will be shorter than the fee and access plan guidance. To recognise this, an opportunity will be included at the February 2016 HEFCW fee and access plan consultation event to discuss the template.

## **Consultation questions**

12. We welcome responses on any aspect of the draft 2017/18 fee and access plan guidance, including as it relates to individuals with protected characteristics. In particular, we are seeking responses to the following questions:

### **Section one: The regulatory system**

**Question 1:** Are the information expectations set out in section one reasonable and proportionate?

**Question 2:** Is there any additional information that would enable an applicant to evidence effectively that it is an institution in Wales that is a charity providing higher education, without creating undue reporting burdens on applicants?

**Question 3:** Are there any unintended consequences, or barriers to entry, that might arise as a result of the evidence requested in relation to financial viability and the organisation and management of financial affairs?

**Question 4:** Are there any unintended consequences, or undue barriers to entering the regulatory system, arising from the information required on the quality of education, including categories of provision and provision provided on, or on behalf of, a regulated institution?

**Question 5:** Are there issues that HEFCW should consider in relation to the process for exiting the regulatory system, the period of a fee and access plan and the duration of the plan?

**Question 6:** Are the expectations in relation to the levels of fee income and investment in fee and access plans reasonable and proportionate?

**Question 7:** Are there any aspects of section one where more or different information would be helpful, where there are gaps in the information provided, or where information could be clearer?

**Question 8:** Does section one present any unreasonable barriers to potential applicants, which are institutions, from applying for a fee and access plan in 2017/18?

### **Section two: the focus and contents of a fee and access plan**

**Question 9:** Are the strategic and information expectations, as set out in section two, reasonable and/or should HEFCW consider other approaches?

**Question 10:** Is the guidance sufficiently clear that student engagement and student partnership working should inform the development of the fee and access plan?

**Question 11:** Are there any unintended consequences of, or negative impacts on, groups under-represented in higher education, in section two, including groups with protected characteristics? If so, please provide information and evidence to support your views?

**Question 12:** Is the guidance on measures and targets helpful and are there any related issues that HEFCW should consider in developing the final guidance?

**Question 13:** Are there any aspects of section two where more or different information would be helpful, where there are gaps in the information provided, or where information could be clearer?

### **Section three: HEFCW's fee and access plan processes**

**Question 14:** Are there any aspects of the approval and rejection processes where more or different information would be helpful, where there are gaps in the information provided, or where information could be clearer?

**Question 15:** Are HEFCW's criteria for the assessment of fee and access plans reasonable?

**Question 16:** Is there any advice or information that would inform HEFCW's impact assessment of the fee and access plan guidance?

### **Responding to the consultation**

13. Please respond to this consultation electronically. Responses should be emailed to Rachel O'Gorman ([rachel.ogorman@hefcw.ac.uk](mailto:rachel.ogorman@hefcw.ac.uk)). The consultation closes on Monday, **14 March 2016 at 17:00**. We will be unable to accept responses after this time.

## HEFCW fee and access plan consultation event

14. HEFCW is coordinating a consultation event for fee and access plan applicants, potential applicants, student representatives and other interested parties on Monday 22 February 2016. The consultation event will be held at the [Park Inn by Radisson](#), Cardiff city centre<sup>2</sup>, from 10.30 am to 4 pm. For more information see the [HEFCW website](#) or contact Rachel O’Gorman.

## HEFCW consultation processes

### *Our duties under the Freedom of Information Act 2000*

15. Under the Freedom of Information Act all consultation responses may be disclosed on request as the Act gives a public right of access to any information held by public authorities such as HEFCW. HEFCW has a responsibility to decide whether any responses, including information about respondent’s identity, should be made public or treated as confidential. Only in exceptional circumstances can HEFCW refuse to disclose information, therefore, consultation responses are unlikely to be considered confidential except in very particular circumstances. However, if a respondent wishes HEFCW to treat personal details as confidential for those areas in which we have discretion (such as reporting) please state this in your response.

### *Our approach to analysing responses*

16. We commit to read, record and analyse all consultation responses in a consistent manner. We commit to taking decisions based on a fair and balanced summary of responses received. The merit of arguments made is likely to be given more weight than the number of times the same point is made. Responses from organisations or representative bodies which have high relevance or interest in the area under consideration, or are likely to be impacted on most by the proposals, are likely to carry more weight than those with little or none.
17. We will publish an analysis of the consultation responses together with an explanation of how we have taken account of them in finalising the fee and access plan guidance. Where we have not been able to respond to a significant and material issue raised, we will usually explain the reason for this. Legal advice to HEFCW on the draft guidance will influence the extent to which we are able to respond to arguments set out in consultation responses.

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<sup>2</sup> Please note this event is held at the Park Inn by Radisson, **Cardiff city centre** not the hotel of the same name in Llanedeyrn, Cardiff.

## **Finalising the HEFCW 2017/18 fee and access plan guidance**

18. HEFCW will consider all consultation responses submitted electronically and raised at the consultation event and, subject to legal advice and any changes made as a result of the consultation process, it intended that the HEFCW Council will approve the guidance for publication in late March/early April 2016.

## **Assessing the impact of our policies**

19. In paragraphs 134 to 138 of the draft fee and access plan guidance HEFCW has set out the approach it has taken to impact assessment to help safeguard against discrimination and promote equality. Our assessment has also considered the impact of policies on the Welsh language, and Welsh language provision and the goals and principle of the [Well-being of Future Generations Act](#). HEFCW would particularly welcome responses on matters of equality, the Welsh language and in relation to the goals of the Well-being of Future Generations Act which we commit to take into account in finalising the fee and access plan guidance.

## **Further information**

20. The 2015 Act enables HEFCW to provide information and advice to the governing body of a regulated institution and to prospective applicants. HEFCW's aim is to ensure that all applicants are fully aware of their obligations before they become a regulated institution and to minimise administrative burdens on applicants and on HEFCW at all stages of the application process.
21. New email addresses have 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)
22. 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)).