

# Cylchlythyr | Circular

## Consultation on the Financial Management Code

**Date:** 21 June 2016  
**Reference:** W16/21HE  
**To:** Regulated institutions and other interested parties  
**Response by:** 05 August 2016  
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This consultation circular seeks views on the Financial Management Code, which takes effect from 01 September 2017.

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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## **Purpose of this consultation**

1. We welcome your views on our proposals for new arrangements for the regulation of the organisation and management of financial affairs in regulated institutions from September 2017.
2. This consultation document sets out our proposed Financial Management Code (“the Code”), which will apply to all regulated institutions from 01 September 2017, and seeks views on the Code.
3. The consultation questions are attached at Annex A.
4. The Code under consultation is attached at Annex B.

## **Background**

### *The need for a Financial Management Code*

5. In March 2015, the Higher Education (Wales) Bill received Royal Assent. The ensuing Higher Education (Wales) Act 2015 (“the 2015 Act”) provides a legal basis for a revised framework to regulate higher education in Wales.
6. The 2015 Act requires HEFCW to prepare and publish a code relating to the organisation and management of the financial affairs of regulated institutions<sup>1</sup> (hereafter referred to as “institutions”). This Code has therefore been prepared to meet the requirements that the 2015 Act places upon us.
7. The 2015 Act states that the Code may make provision about<sup>2</sup>:
  - a. circumstances in which a regulated institution is to enter into a transaction of a class specified in the Code only with the consent of HEFCW;
  - b. accounting and audit arrangements of regulated institutions;
  - c. the provision of information to HEFCW.among other matters.
8. Finally, the Code’s provisions can be requirements or guidance; the former of which the Governing Body must comply with, and the latter of which the Governing Body must take into account.

### *The principles by which we’ve drafted the Code*

9. In July 2015, we consulted on revisions to the existing Financial Memorandum between HEFCW and Higher Education institutions. We

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<sup>1</sup> Part 4 S27(1) Higher Education (Wales) Act 2015

<sup>2</sup> Part 4 S27(2) Higher Education (Wales) Act 2015

indicated within that consultation that we were drafting the revised Financial Memorandum with a view towards development of the Code. Following the consultation, we published an updated Financial Memorandum, which was renamed the 'Memorandum of Assurance and Accountability'.

10. We have therefore based the Code presented here upon the Memorandum of Assurance and Accountability, modified as necessary to account for different types of regulated provider and to remove provisions only allowable under the Further and Higher Education Act 1992.

#### *How we've approach the proposed revision*

11. We have been mindful of a number of guiding principles in the preparation of the Code, and these are outlined in the Code itself. They are reproduced here as:
  - a. The need to maintain stakeholder confidence in the Higher Education sector;
  - b. The protection of the student interest;
  - c. Minimising regulatory burden and duplication;
  - d. Recognising institutional autonomy;
  - e. Reasonable and proportionate accountability;
  - f. Where appropriate, being explicit about the need for the requirements laid out in this Code by linking the requirement to the organisation and management of the financial affairs of the institution; and
  - g. Adopting a consistency of approach with other UK funding councils where possible and appropriate (for example, in respect of financial requirements and the consideration of the student interest) in order that the regulatory environment supports the ability of Welsh institutions to operate competitively.

#### *Effective date 1 September 2017*

12. We are proposing to introduce this Code with an effective date from 1 September 2017 or as soon as possible after that.

### **Responding to the consultation**

#### *Respond via online survey or email*

13. There are two ways to respond to this questionnaire:
  - a. Complete the online questionnaire at <https://www.surveymonkey.com/r/hefcw-fmc>
  - b. Download Annex A, complete it on your computer and email your response to [assurance@hefcw.ac.uk](mailto:assurance@hefcw.ac.uk)
14. The consultation will close on **05 August 2016 at 23:59**.

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

15. All responses may be disclosed on request, under the terms of the Freedom of Information Act 2000. The Act gives a public right of access to any information held by a public authority, in this case HEFCW. This includes information provided in response to a consultation. We have a responsibility to decide whether any responses, including information about your identity, should be made public or treated as confidential. We can refuse to disclose information only in exceptional circumstances. This means that responses to this consultation are unlikely to be treated as confidential except in very particular circumstances. Further information about the Act is available at [www.ico.org.uk](http://www.ico.org.uk).
16. However if you would like us to treat your personal details as confidential for those areas in which we have discretion (such as reporting) please indicate this within your response.

### *Our approach to analysing responses*

17. We will commit to read, record, and analyse the views of every response to this consultation in a consistent manner. For reasons of practicality, usually a fair and balanced summary of responses rather than the individual responses themselves will inform any decision made. In most cases the merit of the 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 consultation, or are likely to be impacted upon most by the proposals, are likely to carry more weight than those with little or none.

### *We will publish a summary of consultation responses*

18. We will publish a summary of the representations received during the consultation and an explanation of how the responses were considered in our subsequent decisions. Where we have not been able to respond to a significant and material issue raised, we will usually explain the reasons for this.

## **Finalising the new Financial Management Code**

### *Consideration of responses and ratification by HEFCW's Council*

19. The HEFCW Council will consider a summary of the responses to this consultation, and, subject to any changes they believe to be necessary following consultation, this Code will be submitted to the Minister in accordance with the requirements<sup>3</sup> of the 2015 Act.

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<sup>3</sup> Set out in Part 4, S28(1)

## Further information

20. For further information, contact Matt Lody (tel 029 2068 2306; email [matt.lody@hefcw.ac.uk](mailto:matt.lody@hefcw.ac.uk)).

## Assessing the impact of our policies

21. As a public authority, HEFCW has responsibilities under the [Equality Act 2010](#) and [public sector duty](#) to give due regard to equalities issues when developing and implementing its policies. In addition, HEFCW has duties under the [Well-being of Future Generation Act](#) (Wales) (2015) and duties to the Welsh language<sup>4</sup>. HEFCW does not regulate whether relevant higher education providers meet legal obligations under the Equality Act 2010.
22. The draft Financial Management Code has been developed in line with the duties set out in the Equality Act 2010 and the [Wales specific public sector equality duty](#). HEFCW has given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as defined under the Equality Act 2010<sup>5</sup>) and those who do not share it.
23. HEFCW has carried out an equality impact assessment screen to help safeguard against discrimination and identify any potentially negative impacts on equality and diversity, the Welsh language, Welsh language provision within the higher education sector in Wales and the goals and principles, as set out in the Well-being of Future Generations Act (Wales) (2015). HEFCW's considerations focused on the implications for individuals with protected characteristics, the Welsh language and issues arising from the Well-being of Future Generations Act (Wales) (2015). HEFCW has considered data and evidence related to protected characteristics and the Welsh language, where it is available to HEFCW. Contact [equality@hefcw.ac.uk](mailto:equality@hefcw.ac.uk) for more information.
24. The Well-being of Future Generations Act (Wales) (2015) includes seven goals<sup>6</sup> and a 'sustainable development principle' to ensure that public bodies, such as HEFCW, take account of the impact they may have on people living in Wales in the future. HEFCW has considered these goals

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<sup>4</sup> New Welsh language standards which will apply to HEFCW will be published in 2016.

<sup>5</sup> Protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnerships, race, religion and belief and non-belief, sex and sexual orientation.

<sup>6</sup> Well-being of Future Generations goals: a prosperous Wales, a resilient Wales, a healthier Wales, a more equal Wales, a Wales of vibrant culture and thriving communities, a globally responsible Wales.

and the sustainability principle in developing and implementing this draft Financial Management Code.

25. As an organisation HEFCW is committed to providing a high standard of service to the public in Welsh and English, in accordance with the principle of treating the Welsh and English languages equally. HEFCW's standards of service are consistent with our [Welsh Language Scheme](#). Further information is available on HEFCW's website.
26. Opportunities to study through the Welsh language are a distinctive and important part of higher education in Wales. HEFCW supports the development of Welsh medium higher education and works with higher education providers to increase enrolments on Welsh medium courses.