

September 2009/31

**Policy development**

**Statement of policy**

This report is for information

This document sets out our policy for engaging with institutions that demonstrate unsatisfactory quality of learning and teaching over an extended period.

# Policy for addressing unsatisfactory quality in institutions

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To	Heads of HEFCE-funded higher education institutions Heads of HEFCE-funded further education colleges Heads of LSC-funded further education colleges Heads of universities in Northern Ireland
Of interest to those responsible for	Quality assurance
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## Executive summary

### Purpose

1. This document sets out our policy for engaging with institutions that demonstrate unsatisfactory management of the quality of learning opportunities and/or of academic standards (as established by the Quality Assurance Agency for Higher Education's (QAA's) audit or review processes) over an extended period; that is to say beyond the standard time allowed for the production and implementation of an action plan.
2. We have a statutory duty to ensure that the public funds we administer are not used to fund poor quality provision, and therefore consider it appropriate to develop a policy to set out the action we might take if an institution cannot resolve problems within an appropriate timescale.

### Key points

3. The policy will apply to both higher education institutions and further education colleges. It will be triggered: if an institution receives 'no confidence' judgements in two successive QAA audits or reviews; if an institution does not make sufficient progress on an action plan made following a 'no confidence' judgement; or if an institution is unable to agree such an action plan within a reasonable time frame.
4. We will consider any institution that triggers the policy as being at higher risk, and would expect to work closely with the institution, alongside the QAA and other agencies as appropriate, until the 'no confidence' judgement is withdrawn.
5. Although this policy sets out a range of possible actions that might be taken, these are not exhaustive or definitive: each case will need to be treated individually. Ultimately,

we have the right to withdraw funding from an institution, but would view this action as a last resort.

6. At all times the needs of students will be of paramount importance. Any students likely to be adversely affected either by the identified problem or by any actions taken under the policy must be given the opportunity to continue their studies at an acceptable level of quality and standards. If suitable arrangements cannot be made at the institution, students could be moved to a different provider.

**Action required**

7. No action is required in response to this document, but institutions are expected to familiarise themselves with the content of the policy.

## Introduction

8. We have a strategic goal to promote and fund high-quality, cost-effective teaching and research that meets the diverse needs of students, the economy and society. As part of our commitment to protect this high quality, we have developed a policy for engaging with institutions that demonstrate unsatisfactory quality of learning and teaching (as established by the Quality Assurance Agency (QAA) for Higher Education's audit or review processes) over an extended period, that is to say beyond the standard time allowed for the production and implementation of an action plan.

9. It is important that all institutions that deliver publicly funded higher education are clear about the action that might be taken in such an event, and the sources of support that might be available to them. The interests of students should be paramount. This policy sets out HEFCE's approach.

10. Drafts of this policy were discussed with Universities UK, GuildHE and the Association of Colleges, as well as the QAA. We consulted the sector on this policy in August 2008, and responses have been incorporated into this final document as far as possible.

## Background

11. When a higher education institution (HEI) undergoes an institutional audit by the QAA, it receives judgements on:

- the confidence that can reasonably be placed in the soundness of the institution's present and likely future management of the academic standards of its awards
- the confidence that can reasonably be placed in the soundness of the institution's present and likely future management of the quality of learning opportunities available to students.

12. Each of these judgements may be expressed as 'confidence', 'limited confidence', or 'no confidence'. Judgements may also be differentiated, for example to separate collaborative provision from the institution's own provision, or 'present' and 'future' management.

13. The QAA's handbook for institutional audit states:

'Where an audit team makes a judgement of limited confidence or no confidence, the report will be published and there will be a programme of follow-up action. QAA will require an action plan from the institution and will request progress reports at regular intervals. The audit will not be finally signed off until the institution indicates that the action plan has been completed and implemented successfully, with a maximum time limit of 18 months. If, at that point, there remain concerns about the effectiveness of the remedial action, QAA will conduct a further visit; and if satisfactory progress has still not been made, in the case of institutions in England in receipt of HEFCE funding, HEFCE reserves the right to withdraw some or all of that funding. In the case of institutions not in receipt of public funding, QAA will use its discretion to decide whether the matter is of sufficient importance to warrant a further separate focused review. While QAA

cannot act as a consultant to institutions in respect of action plans, it will be prepared to comment on an institution's proposals.<sup>1</sup>

14. Action plans are formally approved and signed off by the QAA Board.
15. Higher education delivered in further education colleges (FECs) is assessed using Integrated Quality and Enhancement Review (IQER). The summative review process for IQER results in very similar judgements of confidence, limited confidence or no confidence about the college's management of its responsibilities for academic standards (in the context of relevant agreements with awarding bodies) and the quality of learning opportunities.
16. The summative review process for IQER allows the FEC to complete an action plan showing how it will address any QAA recommendations, for publication with the final report. Where the judgement is of limited or no confidence the IQER handbook provides that the QAA will agree a formal programme of follow-up action to check the college's progress in implementing the action plan and the impact of this action on the students' education with the awarding body being involved as necessary. This follow-up action must be completed within 18 months of the publication of the summative review report<sup>2</sup>.
17. A limited confidence judgement indicates that an institution has one or more specific weaknesses in its quality assurance processes which should be addressed, but is managing its academic standards and quality of learning opportunities effectively overall. This document is concerned only with cases where a judgement of no confidence is made.
18. Institutions that have received a judgement of no confidence in an audit or review have a right to make a representation against the decision<sup>3</sup>.
19. Under the assessment methods discussed above, there is an established process in place to provide an institution that receives a no confidence judgement with a chance to address the issues. However, there has been no policy in place for dealing with institutions that have received a no confidence judgement but have not developed a satisfactory programme for follow-up action or have made insufficient progress against an action plan in the stated time. Similarly, there has been no formal process for dealing with institutions that receive a no confidence judgement on two successive audits or reviews. Even where an initial problem leading to a no confidence judgement has been addressed (and an action plan successfully implemented), two such no confidence judgements would indicate continuing problems with quality at that institution.
20. Previous review methods for HEIs and FECs involved scrutiny at the subject level and a subject that received a judgement of "no confidence" underwent a re-review by the QAA. If the re-review showed insufficient improvement, action was relatively straightforward because problems were generally restricted to one subject. This meant

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<sup>1</sup> 'Handbook for institutional audit: England and Northern Ireland', QAA (2006), paragraph 92.

<sup>2</sup> 'The handbook for integrated quality and enhancement review', QAA (2008), paragraph 80.

<sup>3</sup> See 'Complaints from institutions and procedures on representations' at [www.qaa.ac.uk/aboutus/policy/intro.asp](http://www.qaa.ac.uk/aboutus/policy/intro.asp).

that it was possible to close that provision, making suitable arrangements for any students to complete their course (for example transferring them to another institution or course, or closely monitoring the teaching until the course was complete). Such action has been taken on a very few occasions.

21. However, institutional audit and IQER work on a whole-institution basis and it is not feasible simply to withdraw all funding when insufficient progress has been made following a no confidence judgement, although it may be possible to withdraw funding for a particular area of activity.

22. At the time of writing, quality and standards have a high profile in the media and in government, as well as in the sector. HEFCE, and the institutions it funds, need to be able to demonstrate that problems that could threaten quality and standards and adversely affect students are not allowed to persist.

23. It is therefore timely to determine a policy for addressing unsatisfactory quality in institutions (the 'Unsatisfactory Quality Policy'), in cases where the current processes are not sufficient to remedy the problem.

24. Poor quality is also a risk to HEFCE's strategic aims, so it seems appropriate to tie the Unsatisfactory Quality Policy into our existing risk and accountability process.

## **Discussion**

25. In introducing the Unsatisfactory Quality Policy we are pursuing our mission to promote and fund high-quality, cost-effective teaching and research that meets the diverse needs of students, the economy and society. We will also pursue our strategic aim to ensure that all higher education students benefit from a high-quality learning experience, fully meeting their needs and the needs of the economy and society.

26. To support this, the Unsatisfactory Quality Policy is informed by the following principles:

a. In all cases, the requirements of any students affected by a no confidence judgement should be paramount. In taking any action, we and the institution concerned should ensure that students have access to a high-quality learning experience, either at that institution or elsewhere; and that any action taken does not result in an adverse impact on the student experience.

b. Each judgement of no confidence is likely to have been made for a different reason, so it will not be possible to develop a uniform approach to the action that needs to be taken. In the event, we will need to consider appropriate action on a case-by-case basis in consultation with the QAA, the institution, the institution's awarding body or bodies, if appropriate, and other relevant partners.

c. The Unsatisfactory Quality Policy will apply both to HEIs and to FECs where there is HEFCE-funded higher education provision.

27. This document sets out how the Unsatisfactory Quality Policy is to operate, including examples of actions that might be taken depending on the particular circumstances that arise.

28. When the Unsatisfactory Quality Policy is triggered, HEFCE will be ultimately responsible for deciding what action is to be taken in each instance. However, we will involve the institution in our discussions, and the awarding body or bodies as appropriate. We will also consult with the QAA throughout the process. Relevant professional, statutory and regulatory bodies (PSRBs) may also be consulted if appropriate. In the case of FECs, the Learning and Skills Council (LSC) or its successor body the Skills Funding Agency (SFA), the Office for Standards in Education, the Association of Colleges or Single Voice<sup>4</sup> representatives may also be included.

### **Action at the initial no confidence judgement**

29. The initial no confidence judgement is formally communicated to the institution by means of a letter from the QAA to the head of the institution. HEFCE and the QAA expect any institutional audit or IQER result to be discussed with the governing body.

### **The institution's role upon receipt of the initial finding of no confidence**

30. Where an institution receives and has accepted a judgement of no confidence, it should be the aim of all stakeholders concerned to ensure sufficient action is taken to rectify the identified problems.

31. The primary responsibility for drawing up the action plan rests with the institution in the first instance, but institutions will also be encouraged to use other available sources of support and expertise where appropriate. These might include the Higher Education Academy, the Leadership Foundation or the relevant PSRB. The QAA may also comment on proposals during the preparation of the action plan if requested to do so by the institution. Other institutions with a successful track record in the relevant area could also be a useful source of advice.

32. Under the procedures set out in the handbook for institutional audit, an institution receiving a limited or no confidence judgement is required to put an action plan to the QAA within three months of report publication. The QAA will request progress reports from the institution on the implementation of the action plan at regular intervals and monitor these to confirm that the QAA's recommendations are being addressed; QAA staff may also meet with senior managers at the institution.

33. In the IQER summative review process, preparation of an action plan is, as noted above, an integral part of the process prior to publication of the report. FECs would be expected to involve their awarding bodies where appropriate in any action arising from limited or no confidence judgements that relate to their awards. HEIs may also need to involve FEC partners in the preparation of an action plan in some cases (for example, in the case of a no confidence judgement in an audit of collaborative provision) to ensure that there is no risk to quality of provision in other partners.

34. In accordance with the handbooks for institutional audit and IQER, the action plan should have been completed and implemented successfully within a maximum of 18

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<sup>4</sup> The Single Voice is the organisation set up by all further education provider representative bodies to represent the sector in strategic dialogue with Government on regulatory matters.

months. If any concerns remain about the effectiveness of the remedial action, the QAA may conduct a further visit or bring forward the date of the next audit or review.

### **Approach to dealing with unsatisfactory quality in institutions: when will the Unsatisfactory Quality Policy apply?**

35. A flow chart outlining the unsatisfactory quality policy process is in Annex A.
36. The Unsatisfactory Quality Policy will apply as a last resort in situations where, as judged by the QAA, the above procedures have failed to result in sufficient improvement and/or it is not considered that the institution will be able to address the problem(s) within a suitable timescale without input or support from other agencies.
37. Depending on the circumstances, the Unsatisfactory Quality Policy shall be triggered by any of the following:
- a. If, following an initial judgement of no confidence, an action plan could not be agreed between the QAA and the institution within a reasonable time frame, as judged by the QAA.
  - b. If, following an initial judgement of no confidence, the QAA confirmed to HEFCE that an institution had not made satisfactory progress on implementing the action plan within the specified deadlines. 'Unsatisfactory progress' will be regarded as a failure to address in full, or in significant part, the recommendation(s) in the institutional audit or IQER report, and/or failure to progress the action plan.
  - c. If an institution which had received a judgement of no confidence in a previous institutional audit or IQER received a further judgement of no confidence in the following institutional audit or IQER. Two successive no confidence judgements will be regarded as being of particular concern, especially if the problem(s) identified as the basis for the judgements is/are similar on each occasion.
38. In any of these cases, our first step under the Unsatisfactory Quality Policy will be to ask the QAA to carry out a further investigation using the QAA's 'Causes for Concern' process<sup>5</sup>. This has been developed for cases when concerns over standards or quality at an institution need to be addressed outside the planned institutional audit cycle. Because the Causes for Concern process can examine specific issues, it provides more detail than an institutional audit or IQER. The first stage is a preliminary enquiry carried out by QAA officers, at which an institution will be able to make a case for no further action. The preliminary enquiry may be sufficient to identify what action should be taken, in which case we would wish to see such action successfully implemented before the institution's unsatisfactory quality status was lifted. The preliminary enquiry should be carried out as quickly as possible but thoroughly.
39. If the preliminary enquiry concludes that there are grounds for concern requiring further follow-up, then the second stage of the Causes for Concern process, a full

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<sup>5</sup> For more information see [www.qaa.ac.uk/causesforconcern/default.asp](http://www.qaa.ac.uk/causesforconcern/default.asp).



investigation carried out by external reviewers, will be launched. The outcomes of this process will guide us as to what further action should be taken.

40. In deciding whether to take further action, HEFCE and the QAA will consider the particular area that caused the no confidence judgement. 'Present management' of quality of learning opportunities, for example, is likely to be a more pressing concern, needing immediate action, than 'future management'.

41. In the case of institutional audit, we intend to take into account judgements made in both the transitional period of institutional audit (2002-2005) and the steady state period (2006 onwards).

### **Institutional partnerships**

42. If an institution has triggered the Unsatisfactory Quality Policy then most resulting actions should apply principally to that institution. There are however many forms of partnership between institutions and, depending on the nature of the partnership and of the problem identified, these may also be affected. We will wish to satisfy ourselves that students throughout a partnership are receiving education of a satisfactory quality and standard.

43. In particular, HEIs are responsible for the standards of their awards wherever they are delivered; if another institution delivering an HEI's award is being investigated under the Unsatisfactory Quality Policy, then the Causes for Concern enquiry will usually extend to the awarding HEI. Conversely, if an HEI is the subject of the Unsatisfactory Quality Policy, then we will wish to ensure that any partners delivering that HEI's programmes are not adversely affected either by the identified problem or by the actions taken to address it, so these may also be subject to a Causes for Concern enquiry. These inquiries, however, will be treated as part of the investigations for the institution which has triggered the policy, not for the partner institution.

### **Steps to be taken once the Unsatisfactory Quality Policy has been triggered**

44. If the Causes for Concern preliminary enquiry identifies a need for a full investigation, HEFCE will arrange for a meeting to be held at the earliest possible opportunity. Institutional representatives at this meeting should normally include: the head of the institution; the chair of the Board of Governors; the institution's head of communications or other suitable representative; those responsible for oversight of teaching and learning (for example, the relevant Pro Vice-Chancellor); and other senior managers as appropriate. The meeting should also include representatives from the institution's franchise or awarding partners if applicable. HEFCE and the QAA will also attend, being represented at an appropriately senior level. Depending on the nature of the problem and of the institution, other stakeholders may be invited to attend all or part of the meeting. These might include the LSC (or its successor the SFA) or student representatives.

45. It is expected that further meetings will be held on a regular basis to discuss progress, until the institution has satisfactorily addressed the concerns. These will be held in parallel with continuing Causes for Concern investigations, and discussions will be supplemented by recommendations from these investigations.

46. The purpose of the meetings would be to reiterate the reason(s) for the no confidence judgement, and to discuss and determine the actions to be taken to remedy the situation ('the Unsatisfactory Quality Action Plan'). The Unsatisfactory Quality Action Plan would refer back to the original action plan drawn up by the institution following a no confidence judgement and incorporate parts of it as appropriate. It should also include recommendations from the Causes for Concern investigations as these become available. In the case of the policy being triggered by two successive no confidence judgements, it may be appropriate to evaluate the original action plan and institutional response.

47. All of the organisations involved in these planning meetings will need to see reports and documentation that provide evidence for the 'no confidence' judgement and that will inform the action plan. However all parties will be expected to treat documentation in the strictest confidence.

48. A time limit for implementing the action plan, appropriate to the action needed, would be agreed by all parties, but we would not expect this to exceed 18 months.

49. We will consider an institution in any of the circumstances set out in paragraph 37 as being at higher risk. Where the institution is an HEI, it will be subject to our accountability processes. Our risk assessment process and the strategy we adopt with HEIs at higher risk are described in our financial memorandum (HEFCE 2008/19).

50. Where the institution is an FEC, we do not have a whole-institution remit and so will need to liaise with the LSC or SFA (and vice versa) to ensure they consider the issues in their own risk management processes. We will also expect to involve an FEC's awarding bodies, because they are ultimately responsible for the standards of their own awards and will need to be aware of any problems for their own risk management purposes. An awarding body will generally be an HEI or Edexcel. If a college has been awarded foundation degree awarding powers, and the problem specifically concerns a foundation degree that the college awards, then it may not be necessary to involve any other partners. If the problem can be directly attributed to the management of partnerships between HEIs and FECs, then we would expect all institutions to be fully involved in the process, including in the meeting referred to in paragraph 44.

51. From the time the Unsatisfactory Quality Policy is triggered, until we are satisfied that all required actions have been taken:

- a. The institution will not be permitted to bid to any HEFCE special funding programmes or for additional student numbers (ASNs). Special funding and funding for ASNs that had been allocated but had not yet come on stream might also be withheld. In taking this action, we aim to avoid investing in further growth in institutions in which teaching, governance or other areas are less than satisfactory, and to minimise the impact of unsatisfactory quality on the students at that institution. Whether ASNs are withheld permanently or simply deferred until problems are addressed will depend on the nature of the unsatisfactory judgement and the success of the action plan in addressing it. We will give institutions plenty of warning that numbers will be withdrawn, and would not withdraw numbers that an institution has already recruited.

b. We will keep the institution under regular review, and, in the case of an HEI, will monitor the institution as part of our institutional risk assessment process. For FECs, we may agree appropriate action with the LSC or its successor body, the SFA, as part of our risk assessment process.

c. If the institution had applied to the Privy Council for degree-awarding powers (DAP) or university title, then, once HEFCE had confirmed that the unsatisfactory quality process was under way, the QAA would ensure that any institutional assessors were fully aware of the situation. It would be at the assessors' discretion to decide whether any ongoing DAP assessment process should be suspended. The decision to award DAP ultimately rests with the Privy Council.

52. The following actions might also be taken, depending on the circumstances. This list is not exhaustive and each case will be judged on its own merits.

a. We could arrange for a support team to be made available to the institution to help resolve the issue(s). This might include a team from the QAA (under a special contract with us), peer reviewers for a particular subject, someone with management or financial expertise, or other experts as appropriate to the development of the Unsatisfactory Quality Action Plan.

b. In the case of HEIs, we will apply our support strategy for institutions at higher risk. We might undertake a special assurance review, to establish whether there are wider issues about management capability and governance. We cannot apply these measures to FECs because we do not have a whole-institution remit for them, but may liaise with the LSC or its successor the SFA, the Learning and Skills Improvement Service and/or the Single Voice over action to be taken if appropriate.

c. We could make recommendations to the institution's senior management team and, if appropriate, the Board of Governors. These recommendations would be guidance rather than mandatory requirements.

d. If the reason for the no confidence judgement could be attributed to a particular subject, then we might judge it appropriate to withdraw funding for that subject.

e. We could ask the QAA to bring forward the date of the next institutional audit/IQER summative review.

f. If the problem concerned a partnership between an HEI and an FEC, then as stated in paragraph 43 the QAA could extend its Causes for Concern investigations to the partner institution and include it in any recommendations.

g. Subject to safeguarding the interests of students on the programme, we retain the right to withhold funding where we deem this appropriate, in order to ensure that the public funds we administer are not used to fund poor quality provision.

53. If funding were to be withheld, this could take a variety of forms:

- a deferral of payment (funds will be paid eventually once the institution has taken appropriate actions)

- a one-off withdrawal of funding, which would not be recoverable but would not generally affect the institution's underlying baseline recurrent grant
- an adjustment to recurrent baseline grant (affecting recurrent allocations in-year and for subsequent years).

We stress that we would consider the withdrawal of funding to be a last resort once other options had been exhausted, and would only take place after full discussion with the institution.

54. The interests of students affected by no confidence judgements should always be a very important consideration in determining the speed and nature of actions to be taken. Any students likely to be adversely affected either by the identified problem or by any actions taken under the Unsatisfactory Quality Policy (most notably the withdrawal of funding for a programme) must be given the opportunity to continue their studies at an acceptable level of quality and standards. If suitable arrangements cannot be made at the institution, students could be moved to a different provider, as used to occur with the academic review process. This might include moving from a directly funded arrangement to an indirectly funded one. The awarding body for the provision, if not the institution concerned, would need to be involved in this process, and it might be appropriate to involve the relevant professional or statutory body. Student representatives and advisers should be consulted in this process and any existing support arrangements (for example, for disabled students) should be maintained.

55. Once the institution had successfully carried out the actions set out in the Unsatisfactory Quality Action Plan and these had been shown to be effective in addressing the identified concerns, we would ask the QAA to confirm that there were no further matters of concern. The HEFCE Board would then 'sign off' the plan and the restrictions described at paragraph 51 would be lifted.

56. If there were still major problems outstanding after the expiry of the time frames agreed in the Unsatisfactory Quality Action Plan, a further meeting of relevant bodies would be called and the matter taken to the HEFCE Board for a decision on next steps.

#### **Applying the Unsatisfactory Quality Policy for non-HEFCE-funded activity**

57. If the reason for the no confidence judgements stems from activity that is not funded by HEFCE, our ability to implement the Unsatisfactory Quality Policy may be limited. However, because we are responsible for ensuring that public funding for higher education is spent effectively, efficiently and economically, we will evaluate any cause for concern in an HEI or FEC in an area that is not HEFCE-funded and will consider whether this may impact on public funding provided or to be provided by us to that institution. If a risk to public funding is identified then we could consider it appropriate to trigger the Unsatisfactory Quality Policy. We will seek to liaise with any other funding body responsible, in the interests of ensuring the problem is addressed.

#### **Communications**

58. When an institution receives a judgement of no confidence, the resulting report will be published on the QAA web-site. When an action plan has been completed and the

audit/review approved by the QAA Board, a message will be posted on the web-site alongside the relevant report, to inform site users that the issue has been resolved.

59. Institutions' communications/press offices should be involved in the process as early as possible and should be aware that the report is publicly available. They may wish to provide a statement to deal with any press enquiries.

60. The HEFCE Teaching, Quality, and the Student Experience Committee (formerly the Quality Assessment, Learning and Teaching Committee) will receive regular updates on progress at its meetings.

61. We would view all discussions taking place under the Unsatisfactory Quality Policy as strictly confidential. We would not disclose any information regarding the matter to the media and would consider the issue to be exempt from a Freedom of Information request, because information would be provided in confidence and disclosure could substantially prejudice the commercial interests of the institution. Certain individual documents might not be exempt but we would discuss any possible disclosures with the institution.

## **List of abbreviations**

<b>ASNs</b>	Additional student numbers
<b>DAP</b>	Degree-awarding powers
<b>FEC</b>	Further education college
<b>HEFCE</b>	Higher Education Funding Council for England
<b>HEI</b>	Higher education institution
<b>IQER</b>	Integrated Quality and Enhancement Review
<b>LSC</b>	Learning and Skills Council
<b>PSRB</b>	Professional, Statutory and Related Body
<b>QAA</b>	Quality Assurance Agency for Higher Education
<b>SFA</b>	Skills Funding Agency

## Annex A Unsatisfactory quality policy flow chart

