

Complaints against institutions (including concerns about standards and quality)

DRAFT



Noddir gan
Lywodraeth Cymru
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Purpose

1. The aim of these procedures is to outline the types of complaints against institutions that may be dealt with by HEFCW, and the processes via which HEFCW will handle relevant complaints. This includes, where relevant, links to HEFCW's intervention procedures.

HEFCW's role

2. Institutions are independent, legally autonomous bodies and we do not interfere unnecessarily in their operations. It is therefore not in the remit of the Higher Education Funding Council for Wales (HEFCW) to become involved in disputes between students or staff and the institutions that we fund or regulate. All institutions have their own complaints and appeals procedures, including on matters of academic performance and staff grievances. Complainants¹ should pursue their complaints directly with the institution concerned in accordance with the institution's own internal procedures.
3. Our relationship with the institutions which we fund is governed by a [Memorandum of Assurance and Accountability](#). The Memorandum of Assurance and Accountability sets out the terms and conditions for the payment of funds under the Further and Higher Education Act 1992 to the governing body of each institution. It also lays down requirements for the governance and management of institutions. Where complaints are received that the Memorandum of Assurance and Accountability requirements are not being met by an institution, HEFCW officers may investigate and take appropriate action.
4. Our relationship with regulated institutions (all those institutions with an approved Fee and Access Plan) is governed by the Higher Education (Wales) Act 2015. The Higher Education (Wales) Act 2015 sets out the requirements of regulated institutions in terms of: their compliance with approved Fee and Access Plans; the quality of their education provision; and (from 1 August 2017) the management of their financial affairs, through compliance with a Financial Management Code. HEFCW has the power to intervene where an institution has charged course fees in excess of the fees set out in the relevant approved Fee and Access Plan for the institution (as published on its website); or has failed to, or is likely to fail to, deliver against the measures relating to the promotion of equality of opportunity and higher education set out in its Fee and Access Plan (the 'general requirements' of the Plan). HEFCW also has the power under the Higher Education (Wales) Act 2015 to intervene where the quality of a regulated institution's education provision is assessed as being inadequate or likely to become inadequate; or where an issue with the management of a regulated institution's financial affairs means that it has failed to comply, or is likely to fail to comply, with the Financial Management Code.

¹ Complainants may include individuals, groups or organisations

5. The following table summarises the areas under HEFCW's funding or regulatory powers in which HEFCW may consider complaints against an institution.

Institutions in receipt of HEFCW funding	Regulated Institutions not in receipt of HEFCW funding ²	Regulated Institutions in receipt of HEFCW funding ³
<u>Financial affairs, governance and management</u>		
<ul style="list-style-type: none"> Breaches of the Memorandum of Assurance and Accountability 	<ul style="list-style-type: none"> Failure, or likelihood of failure, to comply with the Financial Management Code 	<ul style="list-style-type: none"> Breaches of the Memorandum of Assurance and Accountability Failure, or likelihood of failure, to comply with the Financial Management Code
<u>Fee and Access Plan compliance</u>		
	<ul style="list-style-type: none"> The charging of course fees in excess of the fee level set out in the relevant approved Fee and Access Plan Failure, or likelihood of failure, to comply with the general requirements of the relevant approved Fee and Access Plan 	<ul style="list-style-type: none"> The charging of course fees in excess of the fee level set out in the relevant approved Fee and Access Plan Failure, or likelihood of failure, to comply with the general requirements of the relevant approved Fee and Access Plan
<u>Quality of education</u>		
	<ul style="list-style-type: none"> Inadequate quality, or quality that is likely to become inadequate 	<ul style="list-style-type: none"> Inadequate quality, or quality that is likely to become inadequate

6. Where complaints are received in relation to the charging of excess fees, failure to comply with Fee and Access Plan targets, education of inadequate quality, or failure to comply with the Financial Management Code, HEFCW may investigate and take action under the Higher Education (Wales) Act 2015 with our powers of intervention set out in our [Statement of Intervention](#).

² As of June 2017 there were no regulated institutions that were not also in receipt of direct HEFCW funding, although there is the potential for non-funded providers (e.g. alternative providers) to become regulated institutions

³ All universities and regulated FE colleges in receipt of direct HEFCW funding.

7. In addition to the above areas, under the Counter-Terrorism and Security Act (2015) a duty has been placed on Higher Education providers to 'have due regard to the need to prevent people from being drawn into terrorism', known as the Prevent duty. The Home Secretary, in consultation with Welsh Government, has delegated responsibility to HEFCW to monitor compliance with the Prevent duty, with the means by which HEFCW will monitor compliance set out in [The Prevent Duty: Monitoring Framework](#). Relevant Higher Education Bodies (RHEBs) covered by this duty and monitored by HEFCW include all universities in Wales⁴, Alternative Providers headquartered in Wales that are awarded specific course designation and Other providers that are teaching 250 or more students by headcount on HE courses in Wales and not covered by the other two categories. Where complaints are received that a RHEB is not fulfilling its Prevent duty in some way, HEFCW may undertake initial checks and ask the body concerned to investigate the matter, and if the issue is substantiated, provide notification of the consequences.
8. The procedures for making complaints in respect of:
 - a. suspected breaches of the [Memorandum of Assurance and Accountability](#) by a funded institution;
 - b. the failure, or likelihood of failure, comply with the Financial Management Code by a regulated institution;
 - c. the failure, or likelihood of failure, to comply with a Fee and Access Plan (fee levels and the general requirements of the Plan) by a regulated institution;
 - d. inadequate quality, or quality that is likely to become inadequate, at a regulated institution; and
 - e. the failure by a relevant higher education body to fulfil its Prevent duty,are outlined below. **Please note that HEFCW cannot become involved in complaints that do not relate directly to one or more of the above areas.**

Making a complaint regarding an institution

Making complaints regarding financial affairs, governance and management

9. As noted above, institutions that are funded by HEFCW are subject to a Memorandum of Assurance and Accountability, with any potential breaches of the Memorandum relating to the terms and conditions for the payment of HEFCW funds or to the governance and management of institutions. Separately, institutions that are regulated by HEFCW are required to comply with a Financial Management Code, with any potential failure to comply with the Code relating to the management of a regulated institution's financial affairs.

⁴ HEFCW's monitoring authority excludes all Further Education Institutions (FEIs) in Wales, including those in dual sector relationships. FEIs in Wales come under Estyn's monitoring authority for the Prevent duty.

10. Where a complainant (the 'discloser') wishes to make a complaint regarding financial, governance or management matters at an institution they must first clarify whether the institution is [funded](#) and/or [regulated](#) by HEFCW. This will determine whether a complaint may relate to a potential breach of the Memorandum of Assurance and Accountability, non-compliance with the Financial Management Code, or both.

Funded institutions: Breaches of the Memorandum of Assurance and Accountability

11. Where a complainant (the 'discloser') wishes to make a complaint to HEFCW regarding a perceived breach of the Memorandum of Assurance and Accountability by an institution **in receipt of HEFCW funding**, then they should:
- a. Read carefully this document and the [Memorandum of Assurance and Accountability](#).
 - b. Seek further clarification, if necessary, from HEFCW (email info@hefcw.ac.uk) regarding whether the complaint does indeed relate to a breach of the Memorandum of Assurance and Accountability.
 - c. Satisfy themselves that:
 - i. The complaint relates to HEFCW's functions and its relationship as set out in the Memorandum of Assurance and Accountability;
 - ii. The matter does not relate to an individual or collective personnel dispute for which there are established routes of complaint and remedies;
 - iii. The matter does not relate to an academic dispute between a student and the institution;
 - iv. The institution's own public interest disclosure ('whistleblowing') or other relevant complaints procedure has been fully exhausted. Please note that HEFCW cannot become involved unless the institution's relevant procedure has been completed and a decision issued. There is an exception to this requirement where there are compelling reasons not to use the institution's procedure, such as legitimate concerns that the discloser would be treated adversely by the institution or that evidence relevant to the complaint would be destroyed;
 - v. They can provide evidence – HEFCW is unable to investigate any un-evidenced complaints.
 - d. Complete the form at **Annex A** of this document and submit it to HEFCW. An acknowledgement of receipt will be sent within five working days. Please note that our policy is normally not to take action in response to anonymous complaints.

Regulated institutions: Failure to comply with the Financial Management Code

12. Where a complainant (the 'discloser') wishes to make a complaint to HEFCW regarding non-compliance, or the likelihood of failure to comply, with the Financial Management Code by [a regulated institution](#), then they should:
- a. Read carefully this document and the Financial Management Code.
 - b. Seek further clarification, if necessary, from HEFCW (email info@hefcw.ac.uk) regarding whether the complaint does indeed relate to non-compliance with the Financial Management Code.
 - c. Satisfy themselves that:
 - i. The complaint relates to HEFCW's functions and its relationship as set out in the Financial Management Code;
 - ii. The matter does not relate to an individual or collective personnel dispute for which there are established routes of complaint and remedies;
 - iii. The matter does not relate to an academic dispute between a student and the institution;
 - iv. The institution's own public interest disclosure ('whistleblowing') or other relevant complaints procedure has been fully exhausted. Please note that HEFCW cannot become involved unless the institution's relevant procedure has been completed and a decision issued. There is an exception to this requirement where there are compelling reasons not to use the institution's procedure, such as legitimate concerns that the discloser would be treated adversely by the institution or that evidence relevant to the complaint would be destroyed;
 - v. They can provide evidence – HEFCW is unable to investigate any un-evidenced complaints.
 - d. Complete the form at **Annex A** of this document and submit it to HEFCW. An acknowledgement of receipt will be sent within five working days. Please note that our policy is normally not to take action in response to anonymous complaints.

Making complaints regarding Fee and Access Plan compliance

13. Regulated institutions must comply with the fee levels and the general requirements (measures in respect of the promotion of equality of opportunity and higher education) set out in their approved Fee and Access Plans. Where a complainant (the 'discloser') wishes to make a complaint regarding the charging of excess fees or compliance with Fee and Access Plan general requirements they must first clarify that the institution is [regulated by HEFCW](#).

The charging of excess fees

14. Where a complainant (the 'discloser') wishes to make a complaint to HEFCW regarding a perceived charging of fees in excess of the level set out in the

relevant approved Fee and Access Plan by a regulated institution, then they should:

- a. Read carefully this document and the relevant Fee and Access Plan for the institution (this should be published on the institution's website).
- b. Seek formal clarification from the institution regarding the level of fees that have been charged, or are to be charged, to confirm whether these are indeed in excess of the level set out in the relevant approved Fee and Access plan (Please note that fee levels do not include any extra costs associated with undertaking a course such as those associated with field trips, equipment etc.).
- c. Satisfy themselves that they can provide evidence – HEFCW is unable to investigate any un-evidenced complaints.
- d. Complete the form at **Annex B** of this document and submit it to HEFCW. An acknowledgement will be sent within five working days. Please note that it is our policy normally not to take action in response to anonymous complaints.

Failure to comply with Fee and Access Plan general requirements

15. Where a complainant (the 'discloser') wishes to make a complaint to HEFCW regarding a perceived failure, or the likelihood of failure, by a regulated institution to comply with the measures and expenditure, relating to the promotion of equality of opportunity and higher education (the 'general requirements' of the Plan), set out in the institution's Fee and Access Plan, then they should:
 - a. Read carefully this document and the relevant Fee and Access Plan for the institution (this should be published on the institution's website).
 - b. Seek formal clarification from the institution regarding the compliance with the measures and expenditure, relating to the promotion of equality of opportunity and higher education, set out in the institution's relevant approved Fee and Access Plan. This should confirm whether there is indeed non-compliance, or a likelihood of non-compliance, with the general requirements of the Fee and Access plan.
 - c. Satisfy themselves that they can provide evidence – HEFCW is unable to investigate any un-evidenced complaints.
 - d. Complete the form at **Annex B** of this document and submit it to HEFCW. An acknowledgement will be sent within five working days. Please note that it is our policy normally not to take action in response to anonymous complaints.

Making complaints regarding the quality of education delivered by or on behalf of a regulated institution

16. Where a complainant (the 'discloser') wishes to make a complaint to HEFCW regarding education provision of inadequate quality, or quality that is likely to become inadequate, then they should:

- a. Read carefully this document and the [baseline regulatory requirements](#) of the quality assessment framework for Wales.
- b. Satisfy themselves that:
 - i. The matter does not relate to an academic dispute between a student and the institution;
 - ii. The issue affects, or has the potential to affect, a group of students rather than an individual. If it does not, then the discloser should refer the matter to the Office of the Independent Adjudicator (OIA), as appropriate⁵;
 - iii. The matter relates to the quality of education as defined under Section 18(2) of the Higher Education (Wales) Act 2015, i.e. relates to quality which is, or is likely to become, inadequate. This covers matters relating to standards and student academic experience;
 - iv. The discloser has direct experience of the issue e.g. is a student, recent graduate, or member of staff of the institution^{6;7};
 - v. The matter has been formally raised with the University, and any associated procedures have been completed; If the institution is not aware of the complaint, then the discloser will be informed that they must engage with the institution's procedures before making any complaint⁸;
 - vi. The discloser can provide evidence – HEFCW is unable to investigate any un-evidenced complaints.
 - vii. Complete the form at **Annex C** of this document and submit it to HEFCW. An acknowledgement will be sent within five working days. Please note that it is our policy normally not to take action in response to anonymous complaints.

Making complaints regarding the failure by a relevant higher education body to fulfil its Prevent duty

17. Where a complainant (the 'discloser') wishes to make a complaint to HEFCW regarding a Higher Education provider's fulfilment of its duty under the Counter-Terrorism and Security Act (2015) to 'have due regard to the need to

⁵ However, complaints received by HEFCW, relating to disputes between multiple students and the institution, may also fall under the remit of the OIA, and disclosers will be referred to that organisation as appropriate.

⁶ If you are not a student or member of staff of the institution, then you must confirm how you have direct knowledge or experience of the issue.

⁷ The only exception to this is where there are issues relating to health, which might mean that it is appropriate for the issue to be raised by a representative. However, where the student is capable of raising the issue themselves, then they should do so.

⁸ The only exception to this is where an issue is raised by a recent graduate. In this case the discloser will be required to clarify why they did not follow the institution's internal procedures. Decisions regarding whether the complaint should be considered by HEFCW will be considered on a case by case basis in these circumstances.

prevent people from being drawn into terrorism' (the Prevent duty), then they should:

- a. Read carefully this document; the [Prevent Duty Guidance for Higher Education Institutions in England and Wales](#); the [Revised Prevent Duty Guidance for England and Wales \(Sections A to D\)](#); and [The Prevent Duty: Monitoring Framework for Higher Education Providers in Wales](#).
- b. Satisfy themselves that:
 - i. The matter relates to the failure by a relevant higher education body (RHEB, see paragraph 15 of [The Prevent Duty: Monitoring Framework](#) for details of RHEBs) to fulfil its Prevent Duty as defined under Section 26(1) of the Counter-Terrorism and Security Act (2015), i.e. **that** it must, in the exercise of its functions, have 'due regard' to the need to prevent people from being drawn into terrorism. RHEBs are assessed by HEFCW as having 'due regard' to the Prevent Duty if they have appropriate policies and processes in place in response to the Prevent Statutory Guidance; and they satisfactorily demonstrate that they are following these policies and processes in practice.
 - ii. The discloser has direct experience of the issue e.g. is a student, recent graduate, or member of staff of the institution^{9;10}.
 - iii. The discloser can provide evidence – HEFCW is unable to investigate any un-evidenced complaints.
 - iv. Complete the form at **Annex D** of this document and submit it to HEFCW. An acknowledgement will be sent within five working days. Please note that it is our policy normally not to take action in response to anonymous complaints.

How HEFCW will handle complaints

Initial consideration

18. All complaints received by HEFCW regarding financial affairs, governance and management; compliance with Fee and Access Plans; inadequate quality, or quality likely to become inadequate; and the Prevent Duty, will be acknowledged and referred to relevant officers from across HEFCW, as appropriate. HEFCW officers will determine if action should be taken, and obtain clarification of, or further information regarding the complaints from the discloser, if this is possible and is considered necessary to reach a decision.
19. HEFCW will first consider whether the complaint is relevant to its functions (i.e. that it relates to a breach of the Memorandum of Assurance and

⁹ If you are not a student or member of staff of the institution, then you must confirm how you have direct knowledge or experience of the issue.

¹⁰ The only exception to this is where there are issues relating to health, which might mean that it is appropriate for the issue to be raised by a representative. However, where the individual is capable of raising the issue themselves, then they should do so.

Accountability, failure to comply with the Financial Management Code, failure to comply with fee levels or the general requirements set out in an institution's Fee and Access Plan, inadequate quality or quality that is likely to become inadequate, or failure by an institution to fulfil its Prevent duty) and whether the necessary evidence has been provided to support the complaint. If HEFCW officers consider that a complaint relates solely to academic disputes, personnel disputes, or simply questions legitimate decisions by the institution, no further action will be taken by HEFCW. In such circumstances a reply will be sent to the discloser confirming that these are matters for the institution and that HEFCW will not take any further action. HEFCW officers will seek to complete initial consideration of complaints within 15 working days of receipt.

Further consideration of relevant complaints

20. If the complaint is considered to be relevant to its functions HEFCW will then consider:
- a. Whether the evidence provided by the discloser demonstrates, or seems likely to be able to demonstrate, a reasonable basis for the complaint;
 - b. Whether the discloser appears to believe that the complaint is true;
 - c. The seriousness of the complaint;
 - d. In the case of complaints regarding a perceived breach of the Memorandum of Assurance and Accountability or failure to comply with the Financial Management Code, that the institution's own relevant procedure for public interest disclosure or complaints has been completed, or whether there are compelling reasons for the discloser's decision not to use those procedures. Such reasons might include a legitimate concern that the discloser would be treated adversely by the institution or that evidence relevant to the complaint would be destroyed;
 - e. In the case of complaints regarding the charging of excess fees, that the issue has been raised formally with the institution and a response received that acknowledges that the level of fees charged is in excess of that published in the relevant approved Fee and Access Plan for the institution. Also no satisfactory resolution has been reached regarding reimbursement;
 - f. In the case of complaints regarding failure to comply, or a likelihood of failure to comply, with the general requirements of the institution's approved Fee and Access Plan, that the issue has been raised formally with the institution and a response received that confirms whether there is non-compliance, or a likelihood of non-compliance, with the general requirements of the Fee and Access plan;
 - g. In the case of complaints regarding inadequate quality or quality that is likely to become inadequate, that the issue has been raised formally with the institution and any associated procedures have been completed.

- h. In the case of complaints regarding a failure by a relevant higher education body (RHEB) to fulfil its Prevent Duty, whether the RHEB has already alerted HEFCW, or reported the issue to the police or another appropriate authority – for example, if criminality is suspected.
21. Having considered these factors, HEFCW officers will make a judgement as to the robustness and seriousness of the complaint, and whether it needs to be pursued. If a complaint appears to be minor, frivolous or vexatious it will not be pursued. However, a file note will be retained setting out the basis for the judgement and a Director will inform the discloser of this decision. HEFCW officers will seek to complete this consideration of complaints within 20 working days of receipt.
 22. If the complaint relates to a matter within HEFCW's functions and is considered to be of a level of robustness and/or seriousness which requires us to consider taking action, then HEFCW officers will instigate the procedure below.

Pursuing complaints in relation to financial affairs, management and governance

23. If HEFCW judges that it is appropriate to pursue a complaint regarding a perceived breach of the Memorandum of Assurance and Accountability, a failure to comply with the Financial Management Code, or the likelihood of a failure to comply with the Financial Management Code, officers will prepare a brief summary of the complaint and a recommendation for action. If the approach to be taken in pursuing the complaint is not clear, HEFCW officers will seek the advice of the Chief Executive.
24. Once approved it will be for HEFCW officers to determine the work necessary to ensure compliance, either using HEFCW resources or by obtaining assistance from outside HEFCW. In all cases, the institution will be informed. If it is considered that an investigation is necessary, this will be confirmed in a letter from a Director to the head of the institution.
25. Where complaints are raised in respect of the head of the institution, a Director will liaise with the HEFCW Chief Executive about how to proceed. In such circumstances, actions may include contacting the institution's chair of governors or chair of its Audit Committee.
26. The nature of the complaint should, where possible, be discussed with the institution to establish if the institution is already aware of the complaint and has investigated it. If this is the case, copies of any reports will be obtained, and HEFCW officers will make a judgement within a reasonable timescale as to whether any further action is needed by the institution. If the institution is not aware of the complaint, discussions will take place with the institution to agree whether an investigation is necessary and who might undertake it. HEFCW officers will obtain a copy of any report resulting from such an investigation by the institution or its auditors, and it has the right of access to any documents necessary for the conduct of its work.

27. When HEFCW officers consider that no further work is appropriate, either because a full investigation was not warranted or because the complaint has already been the subject of a full internal report, a recommendation will be made that the file on the complaint be closed. HEFCW officers will then notify the original discloser of this outcome within 15 working days of the outcome being reached. It will be for the institution to decide whether any internal report should be shared with the discloser.
28. If HEFCW considers that an investigation by officers is necessary, the work will be undertaken within 15 working days where possible. The investigation should lead to a report which will, if possible, be agreed with the institution as being an accurate report of the investigation and its findings. The report will ultimately be issued to the institution's Accountable Officer (usually the Vice-Chancellor or Principal, and copied to the governing body) in confidence by HEFCW's Chief Executive, in the same way as routine reports from HEFCW officers. The expectation is that it will be considered by the institution's Audit Committee, with this to be followed up with the institution.
29. In respect of a breach of the Memorandum of Assurance and Accountability, where it is decided that further work is appropriate, HEFCW will inform the discloser that the complaint is being investigated. In respect of a failure to comply with the Financial Management Code, or the likelihood of a failure to comply, the reports of any investigations will inform an action plan for addressing the failure to comply, with delivery of this plan leading ultimately to a decision by HEFCW to initiate intervention as outlined in our [Statement of Intervention](#).
30. The discloser will also be informed, in broad terms and insofar as this is compatible with any duties of confidentiality to others and data protection considerations, of the ultimate outcome of such further investigations within 15 working days of such an outcome being reached. Where appropriate, HEFCW will share the findings from the report with Welsh Government and the Wales Audit Office. Action plans may not be made available to disclosers for reasons of commercial confidentiality.

Pursuing complaints in relation to compliance with an institutions approved Fee and Access Plan

31. If HEFCW officers judge that it is appropriate to pursue a complaint regarding the charging of fees in excess of the level set out in an institution's approved Fee and Access Plan; or a failure, or the likelihood of a failure, to comply with the general requirements of the institution's Fee and Access Plan, they will prepare a brief summary of the complaint and a recommendation for action. If the approach to be taken in pursuing the complaint is not clear, the advice of the Chief Executive will be sought.
32. Once approved, it will be for HEFCW officers to manage whatever work is considered necessary, either using internal resources or by obtaining assistance from outside HEFCW. In all cases, the institution will be informed. If

it is considered that an investigation is necessary, this will be confirmed in a letter from a Director to the Accountable Officer (usually the Vice-Chancellor or Principal), copied to the governing body.

33. In all cases, the complaint will be discussed with the institution to establish if the institution is already aware of the complaint and has investigated it; whether the charging of excess fees or failure to comply with the general requirements of the Fee and Access Plan has been established; and what action, if any, has been taken. In the case of the charging of excess fees this will include any action to reimburse those individuals or sponsors that have been affected. In order to facilitate discussion with the institution, HEFCW officers may request permission to share the discloser's relevant details (e.g. name, course etc.). It should be noted that, where permission to share relevant details is requested, refusal may hinder HEFCW's ability to address the complaint. If the institution is already aware of the complaint and has investigated it, copies of any reports prepared by the institution will be obtained, and HEFCW officers will make a judgement within a reasonable timescale as to whether any further action is needed by the institution.
34. If the institution is not aware of the complaint, discussions will take place with the institution to agree whether an investigation is necessary and who might undertake it. HEFCW officers will obtain a copy of any report resulting from such an investigation by the institution or its auditors, and it has the right of access to any documents necessary for the conduct of its work.
35. If HEFCW considers that an investigation by officers is necessary, the work will be commissioned. The investigation should lead to a report which will, if possible, be agreed with the institution as being an accurate report of the investigation and its findings. HEFCW will inform the discloser that the complaint is being investigated. The discloser will also be informed, in broad terms and insofar as this is compatible with any duties of confidentiality to others and data protection considerations, of the ultimate outcome of such further investigations within 15 working days of the outcome being reached. The report will ultimately be issued to the institution's Accountable Officer (usually the Vice-Chancellor or Principal) and copied to the governing body, in confidence by HEFCW's Chief Executive.
36. The reports of any investigations will inform a decision by HEFCW to initiate intervention via the issue of a Compliance and Reimbursement Direction or a Direction in respect of the General Requirements of Approved Plan, as outlined in our [Statement of Intervention](#). The discloser will be informed, in broad terms and insofar as this is compatible with any duties of confidentiality to others and data protection considerations, of any decision on whether to initiate intervention under the Higher Education (Wales) Act 2015 within 15 working days of a decision being reached.
37. Where a complaint has already been raised with the Office of the Independent Adjudicator for Higher Education (OIA) or with the Competition and Markets Authority (CMA), prior to being raised with HEFCW, HEFCW may await the outcome of any ongoing OIA or CMA investigations and processes before

considering intervention. Even if this is not the case, HEFCW officers may liaise with the OIA or CMA to inform them of the complaint and may work in parallel with these bodies where necessary. Where appropriate, in order to facilitate any investigations or actions by the OIA and/or CMA, HEFCW may request permission to share a discloser's relevant details.

Pursuing complaints in relation to inadequate quality or quality that is likely to become inadequate at a regulated institution

38. If HEFCW officers judge that it is appropriate to pursue a complaint regarding quality (including standards and areas set out in the Quality Code) that is, or is likely to become inadequate, they will prepare a brief summary of the complaint and a recommendation for action. If the approach to be taken in pursuing the complaint is not clear, the advice of the Chief Executive will be sought.
39. In the first instance, HEFCW officers will manage whatever work is considered necessary. This will include a preliminary investigation of the issue, carried out by HEFCW officers within 15 working days where possible. A full investigation will include obtaining assistance from outside HEFCW as appropriate. Any decision to initiate a preliminary or full investigation will be confirmed in a letter from a Director to the head of the institution (copied to the governing body).
40. In all cases meeting the requirements to proceed to a preliminary investigation, the complaint will be discussed with the institution to establish the outcomes of the institution's own investigation of the matter. In order to facilitate discussion with the institution, HEFCW officers may request permission to share the discloser's relevant details (e.g. name, course etc.). It should be noted that, where permission to share relevant details is requested, refusal may hinder HEFCW's ability to address the complaint.
41. **The preliminary investigation** will be undertaken within 15 working days where possible. HEFCW will inform the discloser that the complaint is being investigated. The discloser will also be informed, in broad terms and insofar as this is compatible with any duties of confidentiality to others, of the ultimate outcome of such investigations, including whether or not it proceeds to a full investigation.
42. As part of the preliminary investigation, officers will also establish whether quality issues have been identified separately through quality assessment processes or the normal work of the institution (e.g. via internal quality assessment processes, external quality assessment review, any previous complaints made, the processes of the Office of the Independent Adjudicator for Higher Education (OIA), Estyn, or a Professional, Statutory or Regulatory Body (PSRB)). They will also consider any action taken in response.
43. Where, prior to being raised with HEFCW, the complaint has been raised with an external agency or body which normally reviews/inspects the provision of that institution, or has a role in undertaking investigations relevant to its remit (e.g.eg OIA or CMA), then HEFCW may await the outcome of any ongoing

investigations and processes before considering intervention. In addition, even if the complaint has not been raised elsewhere, HEFCW officers may liaise with such a body to inform them of the complaint. Where appropriate, in order to facilitate any investigations or actions by that body, HEFCW may request permission to share a discloser's relevant details.

44. HEFCW officers have the right of access to any documents necessary for the conduct of both preliminary and full investigations. This include copies of any report resulting from the investigation by the institution or the agency reviewing/ inspecting quality of that institution or course. Officers will make a judgement as to whether any further action is needed by the institution to address quality issues, as outlined in our [Statement of Intervention](#). We will also liaise with the OIA, Estyn and PSRBs as appropriate.
45. Following the preliminary investigation, HEFCW officers will advise the Chief Executive whether a full investigation should be carried out. This will be in cases where the preliminary investigation indicates that there is sufficient evidence of provision which is (likely to become) inadequate to warrant a full investigation and report. If a preliminary investigation does not proceed to a full investigation, then the procedures will cease and there will be no written report. HEFCW officers will then notify the original discloser of this outcome within 15 working days of the outcome being reached.
46. **A full investigation** will lead to a report which will, if possible, be agreed with the institution as being an accurate report of the investigation and its findings. The report will ultimately be issued to the institution's Accountable Officer (usually the Vice-Chancellor or Principal and copied to the governing body) in confidence by HEFCW's Chief Executive.
47. The reports of any investigations will inform an action plan for addressing issues in respect of inadequate quality or quality that is likely to become inadequate, with delivery of this plan leading ultimately to a decision by HEFCW to initiate intervention in respect of inadequate quality as outlined in our [Statement of Intervention](#). The discloser will be informed of any decision on whether to initiate intervention in respect of inadequate quality under the Higher Education (Wales) Act 2015 within 15 working days of a decision being reached.
48. The numbers of complaints regarding quality and standards will be reported in the annual report of the Quality Assessment Committee, together with the numbers progressing to preliminary and full investigations.

Pursuing complaints in relation to failure by a relevant higher education body to fulfil its Prevent Duty

49. If HEFCW officers judge that it is appropriate to pursue a complaint regarding failure by a relevant higher education body to fulfil its Prevent Duty, we may ask the institution to investigate the matter and, if the complaint is substantiated, we will expect notification of the consequences. In order to facilitate investigation by the institution, HEFCW officers may request

permission to share the discloser's relevant details (e.g. name, course or affiliation etc.). It should be noted that, where permission to share relevant details is requested, refusal may hinder the ability to investigate the complaint.

50. If, following this engagement, we have particular compliance concerns, we will discuss with the institution the ways in which it might be able to address these. This may involve an institutional visit on a risk-based approach. We will notify the institution of our intention to visit in advance.
51. If after this discussion with the institution, HEFCW officers are still not satisfied, we will assess whether the issues in question are sufficiently serious as to suggest that the institution is not complying with its Prevent duty obligations. In that situation, HEFCW will need to advise the Home Office who may in turn, refer the matter to their Prevent Oversight Board which advises the Home Secretary as to whether further action is necessary. In such circumstances, HEFCW will also inform the Welsh Government of any concerns.
52. In the event of the complaint relating to a serious incident, we are required to report all serious incidents to the Home Office within 24 hours of their occurrence, and within 3 days to provide a follow up report on how the matter has been resolved. HEFCW will therefore contact an institution immediately upon receipt of a complaint relating to a serious incident, and where appropriate HEFCW will alert the Home Office. We consider serious Prevent-related incidents to include those which are likely to result in serious harm to any individual, have a significant community impact, reputational damage to the Welsh HE sector or impact on public confidence in the Home Office (such as through negative media coverage). We would not expect this to cover business as usual (for example, straightforward Channel referrals or informal contact with the police or local Prevent partners).

Timescales

53. For the purpose of this procedure, a working day means any day between Monday and Friday (inclusive) irrespective of an individuals' working pattern, but excluding public and bank holidays.
54. While HEFCW will make every effort to adhere to the time limits prescribed in the formal procedure, it may not always be possible due to work commitments, leave or sickness, etc. If it is anticipated that a time limit will not be met, an explanatory letter will be sent to the individuals and alternative time scales will be agreed. Every effort will be made to deal with the complaint as promptly as possible and delays to the process by any party involved will not be tolerated.

Supporting Documentation

55. The following annexes provide more detailed guidance as follows:
 - **Annex A** – Form for submitting complaints regarding financial affairs, governance and management (breaches of the Memorandum of

Assurance and Accountability; failure, or the likelihood of failure, to comply with the Financial Management Code).

- **Annex B** – Form for submitting complaints regarding Fee and Access Plan compliance (the charging of excess fees; failure, or the likelihood of failure, to comply with the general requirements of an approved Fee and Access Plan)
- **Annex C** – Form for submitting complaints regarding inadequate quality or quality that is likely to become inadequate
- **Annex D** – Form for submitting complaints regarding a failure by a relevant higher education provider to fulfil its Prevent duty

If you require this document in an alternative accessible format, please email info@hefcw.ac.uk or telephone 029 2085 9696.

Form for submitting complaints regarding financial affairs, governance and management

Name of discloser:

Correspondence address:

.....

Telephone:

Email:

The Institution (university, college or institution) that the complaint concerns:

.....

Relationship of discloser to institution:

.....

Does this complaint or complaint relate to:

- A breach of the Memorandum of Assurance and Accountability (Institutions in receipt of HEFCW funding only)
- Failure to comply with the Financial Management Code (Regulated Institutions only)
- Both a breach of the Memorandum of Assurance and Accountability and failure to comply with the Financial Management Code (Regulated Institutions in receipt of HEFCW funding)

Has this complaint or complaint been pursued through all stages of the institution's own complaints and/or public interest disclosure procedures?

Yes No

DRAFT

If **yes** please supply a copy of the final decision.

If **no** please explain why the case is being pursued with the HEFCW.

Nature of complaint:

Which of the HEFCW's functions and interest does this complaint relate to? Please refer to the relevant paragraph of the Memorandum of Assurance and Accountability (MAA) and/or Financial Management Code (Code).

MAA/Code paragraph number	MAA/Code paragraph reference

Please supply documentary evidence as necessary.

NB We cannot approach an institution for an explanation of unsupported complaints.

Would you be willing to meet the HEFCW officer, if one is asked to take this case forward?

Yes No

Signed:

.....

Date:

DRAFT

Please submit 'in confidence' to:
Higher Education Funding Council for Wales
Tŷ Afon
Bedwas Road
Bedwas
Caerphilly
CF83 8WT
Tel: 029 2085 9696
Web: www.hefcw.ac.uk
Email: info@hefcw.ac.uk

Form for submitting complaints regarding Fee and Access Plan compliance by regulated institutions

Name of discloser:

Correspondence address:

.....

Telephone:

Email:

The Institution (university, college or institute) that the complaint concerns:

.....

Relationship of discloser to institution:

.....

Does this complaint or complaint relate to:

- The charging of fees in excess of the level set out in the institution's approved Fee and Access Plan
- Failure to comply with comply with the general requirements of the institution's approved Fee and Access Plan

Has this complaint been pursued formally with the institution?

Yes No

Please summarise the complaint below.

- For complaints regarding the charging of excess fees, please provide information on the course and how the fee levels charged exceed those published in the Fee and Access Plan.
- For complaints regarding failure to comply with the general requirements of an approved Fee and Access plan, please provide information on how the institution has failed to comply, or is likely to fail to comply, with the measures and/or expenditure, relating to the promotion of equality of opportunity and/or higher education set out in the Fee and Access Plan :

Please supply documentary evidence including copies of all correspondence with the institution.

NB We cannot approach an institution for an explanation of unsupported complaints.

Would you be willing to meet the HEFCW officer, if one is asked to take this case forward?

Yes No

Signed:

.....

Date:

Please submit 'in confidence' to:
Higher Education Funding Council for Wales
Tŷ Afon
Bedwas Road
Bedwas
Caerphilly
CF83 8WT
Tel: 029 2085 9696
Web: www.hefcw.ac.uk
Email: info@hefcw.ac.uk

Form for submitting complaints regarding inadequate quality or quality that is likely to become inadequate at regulated institutions

Name of discloser:

Correspondence address:

.....

Telephone:

Email:

The Institution (university, college or institute) that the complaint concerns

(NB. For provision delivered under franchise arrangements please include the details of both the regulated institution that is franchising the provision and the institution undertaking the delivery of the provision):

.....

Relationship of discloser to institution:

.....

Has this complaint been pursued formally with the institution?

Yes No

Please summarise the complaint below, providing information on the course(s) of education to which the complaint relates and how the quality of education is perceived to be inadequate or likely to become inadequate, with particular reference to our quality criteria, as set out in para 15:

Please supply documentary evidence including copies of any correspondence with the institution.

NB We cannot approach an institution for an explanation of unsupported complaints.

Would you be willing to meet HEFCW officers, if they are asked to take this case forward?

Yes No

Signed:

.....

Date:

Please submit 'in confidence' to:
Higher Education Funding Council for Wales
Tŷ Afon
Bedwas Road
Bedwas
Caerphilly
CF83 8WT
Tel: 029 2085 9696
Web: www.hefcw.ac.uk
Email: info@hefcw.ac.uk

Form for submitting complaints regarding a failure by a relevant higher education body to fulfil its Prevent duty

Name of discloser:

Correspondence address:

.....

Telephone:

Email:

The Institution (university, college or institute) that the complaint concerns

.....

Relationship of discloser to institution:

.....

Does this complaint relate to a serious incident?

Yes No

Has this complaint been pursued formally with the institution?

Yes No

Please summarise the complaint below, providing information on the issue which is considered to represent a failure by the institution to fulfil its Prevent duty:

Please supply any available evidence including copies of any correspondence with the institution.

***NB** We cannot approach an institution for an explanation of unsupported complaints.*

Would you be willing to meet HEFCW officers, if they are asked to take this case forward?

Yes No

Signed:

.....

Date:

Please submit 'in confidence' to:
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Caerphilly
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