

Cylchlythyr | Circular

Specific designation of higher education courses in Wales

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To: Higher education providers with specifically designated courses
Other interested parties
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This circular introduces HEFCW's guidance for:

- higher education (HE) providers applying for courses to be specifically designated for the support of students ordinarily domiciled in Wales;
- the monitoring of HE providers that currently have courses specifically designated for new entrants. This also includes the opportunity for existing providers to request designation of new courses or courses at new locations starting in 2019/20.

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Introduction

1. This circular introduces HEFCW's guidance for:
 - higher education (HE) providers applying for courses to be specifically designated for the support of students ordinarily domiciled in Wales;
 - the monitoring of HE providers that currently have courses specifically designated for new entrants. This process also includes the opportunity for existing providers to request designation of new courses or courses at new locations starting in 2019/20.
2. From 1 April 2018, responsibility for managing the specific course designation process in Wales was transferred from Welsh Government to the Higher Education Funding Council for Wales (HEFCW).
3. Specific designation in Wales only applies to providers that want students ordinarily domiciled in Wales to access student support for their specific courses. Students ordinarily domiciled in Wales can include both UK students and EU students living in Wales.
4. Designation through this process will not enable UK or EU students domiciled in other nations of the UK to access student support. HE providers that require students domiciled in other nations of the UK to be able to access student support will need to apply to the relevant organisations in other UK nations.
5. Higher education providers with courses designated by other UK administrations UK, or other regulators in the United Kingdom, **should not** assume that they are designated by Welsh Ministers for Welsh domiciled students to apply for student support.
6. HEFCW has consulted on this guidance¹ and has made amendments to take account of consultation responses. This has been set out in paras 38-41 below.
7. HEFCW's process for monitoring existing providers with specifically designated courses will only apply for one year (ie 2018/19) in order for HEFCW to provide assurances that all providers have met the Welsh Government criteria for specific designation by 2019/20. In the future HEFCW will set out a process for the ongoing monitoring of providers, which will include a process that will allow for in-year changes to provider's circumstances. These processes will take effect from 2019/20.
8. In 2018/19, HEFCW will publish guidance for annual monitoring, designation of courses once designation has lapsed, and changes in circumstances following monitoring of ongoing compliance or designation of courses. We will consult on these guidance documents.

¹www.hefcw.ac.uk/documents/publications/circulars/circulars_2018/W18%2008HE%20Consultation%20on%20specific%20designation%20guidance.pdf

Background

9. Specific designation is the process by which higher education providers, not automatically designated for student support by Welsh Ministers, can apply for designation of specific courses for purposes of student support on a case-by-case basis. Full-time and part-time undergraduate and postgraduate courses can be designated. Students studying at providers of higher education on these specifically designated courses will be eligible to apply to receive student support as set out by Student Finance Wales.²
10. Higher education providers that may need to apply for specific course designation are either alternative providers from across the UK or further education colleges in Wales, not already regulated by HEFCW.
11. Gaining specific designation for a course will not result in eligibility for HEFCW funding, nor will it mean that providers meet the requirements of being a regulated institution: an institution with a HEFCW-approved fee and access plan.³
12. Only students ordinarily domiciled in Wales can only apply for student support for higher education courses provided in the UK if those courses are designated by Welsh Ministers. Courses are designated through The Education (Student Support) (Wales) Regulations⁴, which are published annually, and The Education (Postgraduate Masters Degree Loans) (Wales) Regulations 2017⁵, which may be amended from time to time.
13. Automatic designation only applies to certain types of higher education providers, the mode and level of study of the courses offered and the country in which the provider is located. The types of higher education provider to which automatic designation currently applies are set out in the diagram below. We expect these arrangements to change again in the next set of Student Support Regulations.

²www.studentfinancewales.co.uk/

³www.hefcw.ac.uk/documents/publications/circulars/circulars_2018/W18%2003HE%202019_20%20Fee%20and%20access%20plan%20guidance%20v2.pdf

⁴www.legislation.gov.uk/wsi/2018/191/pdfs/wsi_20180191_mi.pdf

⁵www.legislation.gov.uk/wsi/2017/712/pdfs/wsi_20170712_mi.pdf

Current arrangements for automatic designation

Mode/level of study	Location of provider			
	Wales	England	Northern Ireland	Scotland
Full-time undergraduate and PGCE (QTS)	Institution with a fee and access plan approved by HEFCW	HEFCE ⁶ -funded institution	Publicly funded institution	
Part-time undergraduate	Publicly funded institution			
All postgraduate study				

14. Until 1 April 2018, HE providers that were not automatically designated and required their courses to be specifically designated for students ordinarily domiciled in Wales to receive student support applied directly to Welsh Government.
15. Welsh Government published its Policy for Specific Course Designation in March 2018 setting out that HEFCW would manage the specific designation process from 1 April 2018.⁷ The policy sets out Welsh Government's expectations for courses specifically designated for student support and its requirements about providers of specifically designated courses. This policy replaces the previous Welsh Government policy for specific designation published in June 2017. The 2018 Welsh Government's specific designation policy was informed by a consultation carried out in early 2015.⁸
16. Welsh Government's policy is clear that **“(w)ilst each route to designation is distinct, the Welsh Ministers’ general position is that the same core principles should underpin each (paragraph 3)”** HEFCW has taken account of this expectation in developing its guidance for specific designation.
17. Successful applicants for specific designation will enable students on approved courses to access the following types of student support:
 - student tuition fee loans;
 - maintenance support for undergraduate courses;
 - disabled students' allowance; and / or
 - postgraduate master's loans.

⁶In the future Student Support Regulations in Wales will change to reflect changes in England. Providers who think that they might be affected by this are invited to discuss this with HEFCW.

⁷www.studentfinancewales.co.uk/media/196461/specific-course-designation-policy-document-english.pdf

⁸www.beta.gov.wales/designation-higher-education-courses-alternative-providers-purpose-student-support

HEFCW's role in, and process for, specific designation

18. HEFCW is a small Welsh Government Sponsored Body. HEFCW's vision, as set out in its Corporate Strategy 2017-20⁹, is "Sustainable, accessible, internationally excellent higher education in Wales." In pursuit of that vision HEFCW:
- funds higher education in Wales;
 - regulates higher education in Wales;
 - influences higher education with evidence-based advice with strong partnership working;
 - works in partnership with students; and
 - operates effectively as an organisation.
19. The Higher Education (Wales) Act 2015¹⁰ established a new regulatory framework for higher education in Wales. Part of that new regulatory framework requires that institutions in Wales that wish for all their eligible full-time undergraduate and PGCE (QTS) HE courses to be automatically designated for student support should have a fee and access plan approved by HEFCW. Further details on fee and access plans can be found in HEFCW's guidance to potential applicants.¹¹
20. Higher education providers in Wales that currently have courses specifically designated for student support and wish to apply for a fee and access plan in the future are encouraged to contact HEFCW at the earliest point in their considerations. All enquiries should be first made to regulationadvice@hefcw.ac.uk / cyngorrheoleiddio@hefcw.ac.uk.
21. Separately, HEFCW's role in managing the specific designation process is to exercise the functions in regulation 5(8) of the Student Support 2017 Regulations¹² and regulation 8(2) of the Student Support 2018 Regulations¹³ but only in so far as to:
- handle queries and applications from providers seeking specific course designation;
 - assess supporting evidence from providers taking account of the current Welsh Government policy;
 - make recommendations to the Welsh Ministers on whether to designate specific courses on the basis of the supporting evidence received from applicants;
 - maintain an accurate list of designated courses and liaise with the Student Loans Company (SLC) to ensure that this is reflected in the information it makes available to students who wish to apply for student support;

⁹www.hefcw.ac.uk/documents/publications/corporate_documents/HEFCW%20Corporate%20Strategy%202017-20%20English.pdf

¹⁰www.legislation.gov.uk/anaw/2015/1/pdfs/anaw_20150001_mi.pdf

¹¹www.hefcw.ac.uk/documents/publications/circulars/circulars_2018/W18%2003HE%202019_20%20Fee%20and%20access%20plan%20guidance%20v2.pdf

¹²www.legislation.gov.uk/wsi/2017/47/contents/made

¹³www.legislation.gov.uk/wsi/2018/191/contents/made

- develop appropriate monitoring processes to ensure that providers with courses which have been awarded specific designation continue to meet the criteria set out in the current Welsh Government policy¹⁴.
22. HEFCW will make recommendations on applications for specific designation to Welsh Ministers based on the information submitted to it by applicants. Where appropriate, HEFCW will align its expectations for providers applying for specific designation with its established expectations for institutions submitting a fee and access plan for approval to meet Welsh Government expectations. HEFCW recognises that providers applying for approval to access student support via one of the two routes are likely to be constituted differently and that the underpinning legislation is different.
 23. Following consultation HEFCW has developed guidance for providers wishing to apply for specific designation. Additionally guidance for the monitoring of existing providers with specifically designated courses. The evidence submitted to HEFCW through these processes will form the basis for HEFCW's recommendations to Welsh Ministers.

Specific Designation Guidance

24. This guidance sets out the process for **providers that do not have courses that are specifically designated for new entrants**. Those providers that have courses specifically designated for only continuing students will be required to have all their courses designated for any new entrants through this process.
25. This guidance will provide the information needed for courses to be designated from 2018/19. The guidance has been attached with the appropriate templates.

Specific Designation Monitoring Guidance

26. This guidance sets out the process for **providers that already have courses specifically designated for student support in Wales for new entrants**. This guidance will involve monitoring compliance of those providers with Welsh Government requirements for specific designation assuring Welsh Government that designation can continue from 2019/20. This process also includes the opportunity for existing providers to request designation of new courses or courses at new locations starting in 2019/20.
27. HEFCW will require providers to submit monitoring information until 21 December 2019.¹⁵

¹⁴ HEFCW has interpreted this as meaning monitoring on a regular basis.

¹⁵ The timing of the monitoring has been determined to allow for changes to Student Support Regulations in Wales to become clearer. HEFCW will remind providers of monitoring arrangements in the Autumn and signal plans for changes to the Student Support Regulations as soon as they are clear.

28. Monitoring information will be analysed and a decision will be provided normally within three months of the application. Monitoring information that is received after this deadline may not be considered until after all other monitoring information has been processed. This may impact on a course's designation status for 2019/20.
29. The guidance for the monitoring has been attached with the appropriate templates.

Prevent Duty

30. Under the Counter Terrorism and Security Act 2015 ('the Act')¹⁶, relevant higher education bodies (RHEBs) must have due regard to the need to prevent people from being drawn into terrorism. This is known as the Prevent Duty. The Home Secretary has delegated to HEFCW responsibility for monitoring compliance of the Prevent duty for relevant HE providers in Wales. The delegation came into effect on 17 June 2016.
31. To carry out this role effectively, we require relevant HE providers to provide evidence to show they are compliant. The Act refers to the governing body or proprietor of relevant providers as having ultimate responsibility for compliance.
32. Any HE provider that is successful in its application for specific designation will be classified as a RHEB and will immediately need to comply with Prevent Duty legislation. Those providers that are headquartered in Wales come under HEFCW's monitoring authority, unless they are already inspected by Estyn.
33. HEFCW's Monitoring Framework circular [W16/39HE](#) sets out how HEFCW monitors providers' implementation of the statutory Prevent Duty. RHEBs need to follow this framework to demonstrate due regard to the duty. The Act requires all RHEBs to provide HEFCW with any information it requires for the purposes of monitoring compliance. HEFCW's framework sets out how it demonstrates compliance.
34. As a part of the monitoring process, circular [W16/39HE](#) requests an Annual Report, with a data return, from the governing bodies or proprietors of all relevant HE providers. Further information on HEFCW's Prevent compliance processes and reporting timescales can be found on the HEFCW website.¹⁷

¹⁶www.legislation.gov.uk/ukpga/2015/6/contents/enacted

¹⁷www.hefcw.ac.uk/working_with_he_providers/institutional_assurance/the_prevent_duty.aspx

Specific designation consultation outcomes

35. We published a consultation on our guidance on 11 May 2018. The consultation ended on 22 June 2018. We received four consultation responses. These responses were from Bridgend College, Coleg Cambria, the Office of the Independent Adjudicator (OIA), and the Quality Assurance Agency for Higher Education (QAA). On 22 May 2018 HEFCW hosted a consultation event. All providers with specifically designated courses were invited to this event.
36. The paras below set out how we took account of the consultation responses:
- Previous Quality Assurance Agency (QAA) reviews evidence that a provider met appropriate baseline requirements at the time the provider was reviewed rather than meeting the new Welsh baseline requirements as set out in the Quality Assessment Framework¹⁸ (QAF). The guidance has been amended to reflect that rather than suggest those previous reviews evidence meeting the current Welsh baseline requirements;
 - We will require links to QAA monitoring reports rather than requiring institutions to submit the reports;
 - In monitoring providers that already have specifically designated courses for new entrants we will not require evidence of a successful Gateway Quality Review by the time of monitoring, recognising that the timing of the review method publication will not allow sufficient time for a review to take place. We will require evidence that a review has been scheduled by the end of 2018/19 with a narrative detailing the preparation process for that review. This will allow us to make arrangements for assessing the quality of higher education further in monitoring during 2019/20;
 - Whilst we have not specified a percentage of investment in equality of opportunity and the promotion of higher education, we have amended the guidance to be clearer that we want to understand investment in activities to support the public good as a proportion of total student support income.
37. We considered other matters raised, but have not made amendments to our guidance or other processes. The reasons for this are set out below:
- The QAF has been specifically designed for institutions in Wales that have, or intend to apply for, a fee and access plan. Therefore, we do not plan to make amendments to the QAF to take account of providers that have courses specifically designated for student support. The QAF has, however, informed HEFCW's administrative role for specific designation to align with Welsh Government policy;
 - We cannot expand on the types of courses eligible for designation beyond the list set out in the guidance for consultation as the courses

¹⁸www.hefcw.ac.uk/documents/publications/circulars/circulars_2018/W18%2005HE%20Annex%20A.pdf

that can be designated are a matter for Welsh Government not HEFCW to interpret;

- It is not for HEFCW to determine whether the tuition fee loan limit for students on specifically designated courses should be increased. We consider that the burden on providers applying for specific designation, whilst robust, is less than that for providers applying for a fee and access plan in Wales given the expectations placed on regulated institutions;
 - Whilst we recognise the benefit of providers subscribing to the QAA, it would not be appropriate for us to recommend that providers subscribe to the QAA in our role administering the specific designation process;
 - The quality of higher education cannot be evidenced through an Estyn review of FE provision, so we would not require evidence of an Estyn review, or other review of other levels of provision (i.e. level 3 and below), as part of our assessment of a provider's quality of higher education;
 - We recognise that there is a cost to HESA subscription. However, we require good quality data which are comparable between providers for us to consistently and robustly assess student outcomes. We will liaise with providers to assess their current data capability with a view to them becoming a HESA subscriber once processes are in place to enable this. Therefore, there is not an expectation that HESA subscription is immediate. We will collect interim data from the provider until HESA data are available but we expect all data to be of a reasonable quality.
38. HEFCW has a memorandum of understanding (MOU) with the Office of the Independent Adjudicator (OIA). HEFCW's liaison with the OIA as part of the MOU will also enable both parties to explore matters relating to specific designation as they impact on their respective roles.

Assessing the impact of our policies

39. We have carried out an impact assessment screening to help safeguard against discrimination and promote equality. We also considered the impact of policies on the Welsh language, and Welsh language provision, as well as potential impacts towards the goals and ways of working set out in the Well-being of Future Generations (Wales) Act 2015 including our Well-being Objectives. Contact equality@hefcw.ac.uk for more information about impact assessments.
40. No negative impacts or unintended consequences of the guidance on the Welsh language, future generations, and equality and diversity were identified in response to the consultation.

HEFCW Privacy Notice

41. HEFCW is committed to protecting personal information. Its privacy notice, setting out what personal information we hold about you, how we use it, the limited conditions under which we may disclose it to others and how we keep it secure can be found on our website.¹⁹

Further information

42. Please email queries to either cyngorrheoleiddio@hefcw.ac.uk or regulationadvice@hefcw.ac.uk.

¹⁹ www.hefcw.ac.uk/home/hefcw_privacy.aspx