

# Cylchlythyr | Circular

## Covid-19 impact on higher education providers: information on equality, diversity and inclusion

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**To:** Heads of higher education providers  
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This circular provides information for HE providers on equality, diversity and inclusion, in relation to staff and students, when planning for 2020/21 and beyond, in the continually evolving context of Covid-19.

If you require this document in an alternative accessible format, please email [info@hefcw.ac.uk](mailto:info@hefcw.ac.uk).



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## Introduction

1. This circular provides information for higher education (HE) providers on equality, diversity and inclusion matters, in relation to staff and students, when planning for 2020/21 and beyond, in the continually evolving context of Covid-19.
2. 'Students' referred to in this circular include those studying through any mode, at all levels and at HE providers or their partners. 'Students' may also include prospective students and those recently graduated. The reference to 'staff' is intended to include all HE staff employed by the HE provider irrespective of the type of contract they hold or their position in the organisation.
3. In this document, the term 'equality, diversity and inclusion' (EDI) is used to focus on staff and students with protected characteristics, including people who have been, or may need to, shield, as well as widening access students under-represented in higher education (HE). In this context, widening access students include, but are not limited to, people from less advantaged socio-economically backgrounds, including care-experienced, estranged and carer backgrounds.
4. There is a range of emerging information, including evidence identified through our impact assessment, indicating that some people are particularly vulnerable to Covid-19 in terms of health and mental health risks. These people include:
  - those with existing, specific health conditions exacerbated by Covid-19;
  - those from Black, Asian and minority ethnic (BAME) communities who experience worse health outcomes from Covid-19, and whose communities may be subject to an increase in identity-based hate crimes, micro-aggressions and harassment;
  - people over the age of 50 who appear more vulnerable to the effects of Covid-19;
  - disabled people, including those needing personal assistance or learning support;
  - people with health conditions impacted on by shielding and isolation;
  - people of faith unable to meet communally;
  - pregnant women and those on maternity leave;
  - women undertaking additional caring responsibilities impacting on work and study or where they experience domestic violence and/or abuse;
  - some LGBT+ people who may experience negative pressures if moving home due to lockdown restrictions and unsupported family situations.
5. Students under-represented in HE may need additional consideration and/or reasonable adjustments to engage fully in HE life, for example, care experienced and estranged students, student parents, including those with paternity and adoption responsibilities or wider caring responsibilities,

those experiencing digital poverty or increased hardship. HE providers will need to be flexible in their interpretation of people needing additional consideration.

6. This information has been developed taking account of advice from the Equality and Human Rights Commission (EHRC) Wales, the equality and diversity regulator in Wales, as well as NUS Wales, staff union representatives, the Welsh Government HE guidance group, HE providers, and other HE-related bodies at national and UK level.
7. The circular's purpose is to not duplicate existing publications, but to highlight where specific EDI considerations will benefit diverse staff and student populations and secure HE providers' compliance with equalities legislation.
8. This information is indicative, rather than exhaustive, and it is relevant at the time of publication, recognising responses to Covid-19 will evolve as circumstances change.
9. Key HE publications about Covid-19 include:
  - i. [Guidance for higher education: Keep Wales Safe \(COVID-19\) \(July 2020\)](#)
  - ii. [Universities UK reports and briefings](#)
  - iii. [Advance HE resources](#)
10. This circular should be read in conjunction with the following HEFCW Covid-19 related publications:
  - i. [W20/11HE](#) Covid-19 impact on higher education providers: funding, regulation and reporting implications (May 2020);
  - ii. [W20/19HE](#) Covid-19 impact on higher education providers: information on consumer protection, student expectations and quality (June 2020);
  - iii. [W20/21HE](#) Monitoring of institutional behaviour and performance regarding admissions in 2020/21 (August 2020).

## **Compliance and enabling legislation<sup>1</sup>**

11. HE providers have a legal duty to comply with the [Equality Act](#) (2010) which protects people with protected characteristics from discrimination<sup>2</sup>.
12. HE providers must have due regard to the need to:
  - i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act - this is for all nine

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<sup>1</sup> This section includes reference to the Wales-specific PSED duties which are relevant for HE HE providers in Wales.

<sup>2</sup> Protected characteristics: age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex, sexual orientation.

- protected characteristics, but for pregnancy/maternity it applies in relation to employment provisions only;
- ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it – applies to eight of the protected characteristics, excluding pregnancy/maternity; and
  - iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it - applies to eight of the protected characteristics, excluding pregnancy/maternity.
13. HE providers that are listed bodies, must have ‘due regard’ to the [Public Sector Equality Duty \(Wales\)](#) 2011 (PSED), including in responses to Covid-19<sup>3</sup>. Actions will include taking reasonable steps to support groups with protected characteristics. HE providers must ensure their decisions and actions are legally compliant, evidence-informed and proportionate.
  14. The PSED<sup>4</sup> requires HE providers that are listed bodies to assess the likely impact of policies and practices on their ability to comply with the Act. Therefore, HE providers must impact assess:
    - any new policy or practice from the point of drafting the new documents onwards;
    - any policy or practice that they decide to review; and
    - any proposed revision to a policy or practice.
  15. Where HE providers are considering integrated impact assessments, including equality and diversity, [Well-being of Future Generations Act](#) and [Welsh language standards](#) compliance, for example, they should ensure that they can demonstrate that sufficient consideration is given to equality issues.
  16. The Welsh Government aims to enact the Equality Act’s socio-economic duty. While this duty will not apply to HEFCW nor HE providers, HE providers should be aware that a key theme arising from the Welsh Government consultation [A More Equal Wales – Commencing the Socio-economic Duty](#) is that it is for all public bodies, including those who are not listed within the Regulations, to act in the spirit of the duty. Therefore, the Welsh Government and HEFCW encourage all HE providers to consider the implications of the socio-economic duty in planning and decision-making.
  17. [The Higher Education \(Wales\) Act](#) (2015) includes provision for fee and access plans to support equality of opportunity. [Welsh Government guidance to HEFCW on fee and access plans](#) and [HEFCW fee and access plan guidance](#) confirms that groups under-represented in HE may include individuals with protected characteristics.

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<sup>3</sup> a listed public authority in Wales (or ‘listed body’) is one contained in Part 2 of Schedule 19 of the Act as supplemented and amended by the Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011.

<sup>4</sup> Regulation 8 (1) of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

18. [The Well-being of Future Generations Act](#) (2015) principle, goals and ways of working provide a framework for planning long-term, working collaboratively and preventing problems. The framework should inform HE providers' equality and diversity considerations of policies and processes.

### **Whole organisation approaches to securing equality, diversity and inclusion (EDI)**

19. HE provides places for living, learning, working and socialising. The particular equality and diversity needs of all staff and students must be taken into account in all Covid-19 planning and implementation. A whole-organisation approach will ensure staff and students are given equal consideration.
20. Many policies and processes, revised in the light of Covid-19, should be informed by the needs of EDI groups, the lived experience of EDI staff and students, as well as data and other evidence. HE providers might consider moving to more rapid or truncated equality impact assessments when working quickly to respond to new ways of operating. HE providers should ensure that all impact assessment processes are fit for purpose and evidence compliance with the equality duties. Legal advice on impact assessment processes may provide additional assurance of compliance.
21. The EHRC Wales, the Welsh Government's equality regulator, wrote to HEFCW (letter of July 2020) confirming its expectations that Strategic Equality Plans (SEPs) 2020-24 should be published by 1 October 2020, and that: *'In light of the pandemic the Commission would advise listed bodies that they should review their strategic equality plans to identify the key inequalities exacerbated by the Coronavirus pandemic and create a clear action plan with equality outcomes to build a more equal and fair Wales as we recover from the crisis.'* Therefore, we expect those HE providers with Strategic Equality Plans, well-being and health strategies, HEFCW-funded well-being and health projects and safeguarding policies reviewed them at an appropriate time to take account of Covid-19 impacts. We will take account of this in monitoring and future funding.
22. There is some broad evidence of a greater adverse economic impact on Black, Asian and minority ethnic employees in the last recession<sup>5</sup>.
23. In HE, we know that there are proportionately more BAME staff on fixed term contracts<sup>6</sup>. We recognise that some HE providers will develop new structures to operate in new ways. Fixed-term contract staff may be more vulnerable to changes and staffing decisions may disproportionately impact on BAME staff. Therefore, detailed impact assessments are essential to ensure that decisions are evidence-informed and compliant with equality and employment legislation.

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<sup>5</sup> [www.equalityhumanrights.com/sites/default/files/research-report-47\\_the-equality-impacts-of-the-current-recession\\_0.pdf](http://www.equalityhumanrights.com/sites/default/files/research-report-47_the-equality-impacts-of-the-current-recession_0.pdf)

<sup>6</sup> Advance HE [Equality in higher education: staff statistical report 2019](#)

24. In revising policies and process affecting staff and students, HE providers should involve people with diverse backgrounds, including students and staff with lived experience and from across the organisation. In communicating Covid-19-related changes to people, confirming that policies have been informed by people with relevant lived experience may increase confidence and in them and reduce any anxiety arising associated with new ways of working or learning.

## **Impact of new approaches to learning, teaching, living and working in HE**

### Recruitment, admissions, assessment

25. The EHRC Wales has raised with HEFCW (letter dated May 2020) its concerns about fair admissions, assessment and awarding gaps, including the impact of potential increased bias and/or unconscious bias affecting students in the light of Covid-19. We will monitor the impact of HE providers' Covid-19 responses on admissions, including reviewing equalities data.
26. A report on recruitment and admissions data is a standing item on HEFCW Council's agenda. The Quality Assurance Agency (QAA) has produced a range of [guidance](#) in response to Covid-19 and we have published information related to the Covid-19 context on quality and admissions (see para 8 above).

### Online learning: students

27. Online learning may result in new and returning students with specific needs not developing a strong sense of belonging: a contributing factor to retention, well-being and success. We will monitor retention of all students and expect Strategic Equality Plans and Fee and Access Plans to demonstrate how students under-represented in HE, including students with protected characteristics, will be retained and enabled to succeed. We monitor widening access and retention through our [National Measures](#) and through institutional risk review processes.
28. Increased use of online learning environments may raise additional issues related to safety, for example micro-aggression and harassment, which HE providers' safeguarding policies must address. Similarly, there may be increased incidents of identity-based harassment, including racial harassment and violence against women, domestic abuse and sexual violence (VAWDASV). HEFCW has published [guidance](#) on tackling VAWDASV in HE. HE providers should promote Welsh Government [campaigns](#) to protect people experiencing violence and abuse and provide appropriate support. The EHRC published its report on [Tackling racial harassment: universities challenged](#) and intends to report progress in tackling these issues.

### International students

29. HE providers need to be alert to identity-based harassment, micro-aggression or abuse, online or in person, including towards international students in light of Covid-19.
30. International students may find the UK's approach to living and working with Covid-19 different from that of their home country. HE providers should ensure they have mechanisms in place to understand fully the perspectives and specific needs of international students. Quarantine, self-isolation, accommodation and travel guidance for international students are addressed in the Welsh Government's [Guidance for higher education: Keep Wales Safe \(Covid-19\)](#) (July 2020)

### Employability skills and employment: students

31. The particular needs of degree apprentices should be considered in terms of teaching and learning, for example, disabled students' support, digital poverty and the impact of caring responsibilities. Additionally, providers should work with employers to enable apprentices to continue their studies where possible. HEFCW has revised its requirements for providers to report data on apprentices' characteristics as a temporary measure, to ease the burden of reporting. However, we expect providers to work with employers to widen access to apprenticeships. We have published a [FAQs page](#) on our website to address Covid-19 related apprenticeship queries.
32. All HE providers deliver the [GO Wales: Achieve through Work Experience Programme](#) (GO Wales). GO Wales students may be particularly vulnerable due to health or other specific characteristics. Work placements, as previously delivered, may not be available or attractive options for some students and alternative mechanisms for developing employability skills, tailored to individual need, will be important: virtual work experience may not be feasible for students requiring sign language interpreters, for example. GO Wales priority students who normally find engagement in GO Wales activities challenging may disengage from GO Wales and/or HE altogether as a result of remote living and/or blended learning. Cross-organisation working between GO Wales teams and other HE professionals to reach out to these students will be essential to ensure equality of opportunity and retention.
33. The Welsh Government has made available an additional £1.5m to support 2020 graduates, who have been particularly affected by the Covid-19 pandemic, via a programme that will run parallel to, and share the ambitions of, the GO Wales programme, focusing on those students who have graduated during the pandemic. We will publish further details on this in due course (see HEFCW's [remit letter](#) dated August 2020).



## Learning and teaching and working in HE: staff

34. The EHRC Wales has published [employer-related Covid-19 guidance](#).
35. The move to different forms of learning and learning, such as blended learning, places increased demands on staff. Such demands may impact more on women and early career researchers many of whom experience Covid-19-related increased responsibilities as parents or carers. Additionally, women's and early career researchers' contributions to the next Research Excellence Framework (REF 2021) may be more negatively affected by increased teaching requirements. HE providers should recognise the impact of Covid-19 in these situations.
36. The nature of some non-academic staff contracts normally require close proximity to students, such as when cleaning, providing security, catering, delivering laboratory-based work etc. Where these staff are likely to be particularly vulnerable to Covid-19, reasonable adjustment may be necessary.

## **Well-being and health, including mental health**

### Disabled staff and students

37. The education and other support needs of students with specific disabilities may need to be taken into account in new ways of living and studying. These students may require particular support if there should be further or future extended social distancing or other protective requirements. Students with some disabilities may also experience barriers to living and learning if they lose reasonable adjustments previously provided at their place of learning.
38. The World Federation of the Deaf has issued a statement on '[Access to Higher Education for Deaf Students During the Covid-19 Pandemic and Guidelines on Best Practice for Access to Higher Education for Deaf Students during the Covid-19 Pandemic](#)'. Key points include:
  - deaf students must be considered in all planning and implementation efforts during the shift to remote and online education during the Covid-19 pandemic;
  - educational institutions should foresee the provision of national sign language interpretation for online and remote classes;
  - all course materials must be accessible to all students at the time of release.
39. Deaf and hard of hearing staff may need consideration and support in the move to new ways of working. Staff and students will find that face mask usage prevents them from lip reading and, therefore, from fully engaging in university life.



## Well-being and mental health

40. The well-being and health, including mental health, of many staff, students, applicants and recent graduates, will have been impacted by Covid-19. Potential future self-isolation, repeated re-isolation, or quarantine requirements may exacerbate a range of mental health issues, in addition to feelings of loneliness and lack of belonging. In addition to HE providers' support services, we have jointly funded with the Office for Students, the [Student Space](#) project to December 2020, to provide HE providers and students with additional resource in the first term, recognising likely increases in support demands.
41. All HE institutions have committed to adopt the Universities UK [#stepchange](#) and [Suicide-safer Universities](#) frameworks which support well-being and health. We will monitor implementation of these frameworks.
42. We will be consulting on the use of an additional £1.8m to support student well-being and health early in 2020/21.
43. HE providers should consider the potential for an increase in staff and students experiencing some adverse well-being due to Covid-19. Students might include those:
  - requiring to self-isolate due to any Covid-19 re-occurrence;
  - requiring to quarantine before beginning study, such as international students;
  - having previously shielded due to health issues;
  - having to be separate from friends and support network such as, but not limited to, LGBT+ peer support groups;
  - experiencing hardship, including meeting essential needs, in self-isolation or due to:
    - the loss of part-time or other employment; circumstances;
    - parental finances being negatively affected;
    - lack of additional support due to their care experience, being estranged from families;
  - experiencing digital poverty issues (hardware-, software- and broadband-related exclusion);
  - relying solely on HE accommodation throughout the year, unlike many students with alternative accommodation outside term time;
  - lacking private and/or quiet study spaces;
  - considering how to engage safely in employability, placement or year out activity;
  - graduating in the current economic environment.
44. Staff working at home with additional caring responsibilities, staff working in small and/or shared spaces, staff living alone experiencing loneliness or a reduced sense of belong to HE or their support networks may need additional work-related and/or pastoral support. Blended learning delivery

and increased use of new technologies may increase pressure on staff and affect well-being. Homeworking and return to work policies should consider Covid-19-related well-being and health issues.

### **Finances: staff and students**

45. As noted above, reduced term-time employment opportunities may impact disproportionately on some students including care-experienced, estranged and mature students.
46. HEFCW's 2020-21 remit letter confirms the Welsh Government's expectation that the additional £27m funding to HEFCW should include, among other priorities, support for student hardship funds to be allocated by HEFCW to HE institutions, and by institutions to students, on the basis of urgent financial need.
47. Fee and access plans require institutions to provide student financial support and information about managing finances. We monitor institutions' fee and access plans to ensure institutions meet their commitments to students.

### **Further information**

48. For further information, contact Jane Johns (arrange contact via skype, zoom) or email [jane.johns@hefcw.ac.uk](mailto:jane.johns@hefcw.ac.uk).

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

49. We have undertaken an impact assessment to inform this information circular and help us safeguard against discrimination and promote equality. We have considered the potential impact of policies on:
  - the Welsh language, and Welsh language provision within the HE sector in Wales
  - our contribution towards the goals set out in the Well-Being of Future Generations (Wales) Act 2015, including our Well-Being Objectives; and
  - our duties under the [Environment Act](#) 2016, section 6.
50. Contact [equality@hefcw.ac.uk](mailto:equality@hefcw.ac.uk) for more information about impact assessments.