

Cylchlythyr | Circular

Statement of Intervention

Date: 25 October 2016
Reference: W16/37HE
To: Clerks to the governing bodies of regulated institutions in Wales for the attention of the governing bodies
Heads of regulated institutions in Wales
Other interested parties
Response by: No response required
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This circular reports on the responses to the consultation on the Full Statement of Intervention outlining HEFCW's powers of intervention under the Higher Education (Wales) Act 2015. It also provides the final version of this Full Statement of Intervention, which supersedes the Transitional Statement of Intervention with immediate effect. Some of the intervention powers outlined in the Full Statement of Intervention are now in force with all the remaining powers expected to come into force by 1 August 2017.

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Purpose

1. This circular reports on the responses to the consultation on the Full Statement of Intervention, which outlines HEFCW's full powers of intervention under the Higher Education (Wales) Act 2015 (see **Annex A**). It also provides the final version of this Full Statement of Intervention (see **Annex B**), which supersedes the Transitional Statement of Intervention with immediate effect. Some of the intervention powers outlined in the Full Statement of Intervention are now in force with all the remaining powers expected to come into force by 1 August 2017.

Background

2. Section 52 of The Higher Education (Wales) Act 2015 ('The 2015 Act') places HEFCW under a duty to produce a statement in respect of its intervention functions (the Statement of Intervention). The Statement of Intervention was to be published following a consultation process involving the governing bodies of regulated institutions and other appropriate persons. A consultation circular [W16/23HE](#) on the Full Statement of Intervention was issued on 7 July 2016 requesting responses by 18 August 2016.
3. HEFCW's functions, duties and powers under The 2015 Act come into force at different times, with several intervention powers in force under the transitional arrangements from 1 September 2015, as outlined in the Transitional Statement of Intervention (see circular [W16/05HE](#)). The Full Statement of Intervention attached at Annex B supersedes the Transitional Statement of Intervention with immediate effect.
4. The Full Statement of Intervention outlines those intervention powers already in effect under the transitional arrangements together with those remaining intervention provisions of The 2015 Act, including those in relation to: Directions in Respect of Failure to Comply with General Requirements of Approved Plan; Directions in Respect of a Failure to Comply with the Financial Management Code; Refusal to Approve a New Fee and Access Plan; and Withdrawal of Approval of an Existing Fee and Access Plan. Some of these remaining intervention powers were in effect at the time of publication with all other powers anticipated to come into force by 1 August 2017.
5. HEFCW has prepared the attached Full Statement of Intervention for the purposes of section 52 of The 2015 Act to provide a public and transparent framework within which HEFCW will operate.

Consultation responses

6. The Consultation (circular [W16/23HE](#)) in respect of the Full Statement of Intervention was published on 7 July 2016. This circular sought responses to the following questions:

Question 1: Are there any issues in respect of the explanations of how HEFCW would secure information, assistance or access?

Question 2: Are there any issues in respect of the explanations of the types of circumstances under which HEFCW would escalate intervention to use of its powers under Section 37 of The 2015 Act?

Question 3: Is the explanation of the basis for HEFCW's use of the powers under Section 37 of The 2015 Act on pages 65-66 sufficiently clear?

Question 4: Is the explanation of the intervention process in respect of the powers under Section 37 of The 2015 Act on pages 67-72 sufficiently clear?

Question 5: Is the explanation on the basis for HEFCW's use of the powers under Section 38 of The 2015 Act on page 73 sufficiently clear?

Question 6: Is the explanation of the intervention process in respect of the powers under Section 38 of The 2015 Act on pages 74-78 sufficiently clear?

Question 7: Are there any issues in respect of the explanations of the types of circumstances under which HEFCW would escalate intervention to use of its powers under Section 39 of The 2015 Act?

Question 8: Is the explanation on the basis for use of the powers under Section 39 of The 2015 Act on pages 79-81 sufficiently clear?

Question 9: Is the explanation of the intervention process in respect of the powers under Section 39 of The 2015 Act on pages 82-86 sufficiently clear?

Question 10: Are there any other substantive issues in relation to the content of the full Statement of Intervention which you would like to highlight?

7. HEFCW has recorded and analysed the views of all respondents to the consultation in a consistent manner. We provide an analysis of the consultation responses and an explanation of how these responses were considered in our subsequent decisions at **Annex A**. For reasons of practicality, due to the length of some responses and the duplication between individual responses, this analysis provides a summary of the key points, rather than the full detail of each response.

Full Statement of Intervention

8. Following the consultation, the Full Statement of Intervention has been amended to address many of those points that were raised. The finalised Full Statement of Intervention, outlining HEFCW's full intervention powers under The 2015 Act, was then approved by HEFCW's Council.
9. The finalised Full Statement of Intervention is attached at **Annex B**. This Statement has superseded the Transitional Statement of Intervention with immediate effect.

Further information / responses to

10. For further information, contact Ewen Brierley (tel 029 2085 9713; email assurance@hefcw.ac.uk).