

Annex A – Statement of Intervention Powers

1 August 2026 to 31 July 2027



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1. Introduction

- 1.1. Medr monitors registered and funded providers' compliance with regulatory requirements and, in the event of non-compliance, we have statutory powers to intervene to address these issues. Registered providers (those providers of higher education who are accepted onto the Register) are regulated through our Conditions of Registration and funded providers (those providers of tertiary education or training in receipt of Medr funding) through our Conditions of Funding. Some of our powers also apply to providers delivering on behalf of registered providers, which are referred to as 'external providers'. We also have some powers in respect of other tertiary education provision in Wales that is not delivered by a registered or funded provider.

What are the intervention powers and which apply to me?

- 1.2. The table below summarises the basis for the intervention powers that apply to different types of tertiary education and training provider including Higher Education (HE), Further Education (FE) and Other Tertiary Education and Training providers in Wales in receipt of Medr funding and other providers delivering provision in Wales. The types of provider listed below are not always mutually exclusive, with some providers likely to fall under more than one 'provider type.' For example, an FE provider may also deliver HE under a franchise/sub-contractual arrangement as an 'External Provider' and/or under Specific Course Designation. This table flows from the provisions in the Tertiary Education and Research (Wales) Act 2022 ('TERA 2022'), with 'specified powers' being those defined interventions that are explicitly set out in TERA 2022, and other 'non-specified' interventions being those potential interventions that are not explicitly defined but are generally underpinned by the legislation. This Statement of Intervention Powers does not provide information on those non-specified interventions, with information on those being provided with our Regulatory Approach in our Regulatory Framework.

Table 1: Potential interventions by provider type

Provider type	Basis for Intervention
Registered HE providers	- all TERA 2022 specified intervention powers linked to relevant Ongoing Conditions of Registration - other non-specified interventions linked to Conditions of Registration
Unregistered providers of HE under franchise/sub-contractual arrangements ('External Providers')	- TERA 2022 specified intervention powers regarding Monitoring & Promotion of Improvement, Advice & Assistance and Reviews linked to the Condition of Registration in respect of Quality - TERA 2022 specified intervention powers regarding Directions in Respect of Failure to Cooperate
Regulated HE Institutions (HE providers with an approved Fee and Access Plan) - until 31 July 2027	- remaining Higher Education (Wales) Act 2015 specified intervention powers linked to approved Fee and Access Plans - other non-specified interventions linked to approved Fee and Access Plans

Provider type	Basis for Intervention
Non-funded HE providers with Specific Course Designation	other non-specified interventions linked to Medr's Specific Course Designation monitoring function
FE Institutions that are not registered	- TERA 2022 specified intervention powers regarding Monitoring & Promotion of Improvement, Advice & Assistance and Reviews linked to the Condition of Funding in respect of Quality - TERA 2022 specified intervention powers regarding Directions in Respect of Failure to Cooperate - other non-specified interventions linked to Conditions of Funding - Welsh Ministers' intervention powers specified by TERA 2022
Other funded tertiary education and training providers that are not registered (Apprenticeship and Adult and Community Learning Providers)	- TERA 2022 specified intervention powers regarding Monitoring & Promotion of Improvement, Advice & Assistance and Reviews linked to the Condition of Funding in respect of Quality - TERA 2022 specified intervention powers regarding Directions in Respect of Failure to Cooperate - other non-specified interventions linked to Conditions of Funding
Funded School 6 th forms via their relevant local authorities	- TERA 2022 specified intervention powers regarding Monitoring & Promotion of Improvement, Advice & Assistance and Reviews in respect of Quality - other non-specified interventions linked to Quality and the Learner Engagement Code
Other tertiary education and training provision in Wales that is not delivered by a registered or funded provider	TERA 2022 powers regarding Assessment of Quality and associated specified intervention powers regarding Advice & Assistance and Reviews in respect of Quality

- 1.3. **School sixth forms** are covered by Medr's Condition of Funding in respect of Quality. Should intervention be necessary, engagement will normally be with the relevant local authority, not the school. This means that any references to governing bodies relate to the equivalent structures of the local authorities, rather than those of schools. Similarly, **Adult and Community Learning** is covered by Medr's Conditions of Funding and, in most instances, should intervention be necessary, engagement will be with the relevant local authority. We will work with local authorities to develop our arrangements.
- 1.4. The intention is that these powers enable a degree of coherence in the approach to regulatory intervention across the tertiary education sector. This is particularly the case in respect of our approach to regulation of quality, within which some of our specified intervention powers apply to most tertiary providers. In some other areas of regulation, specified interventions for registered providers, linked to Conditions of Registration, are replicated for non-registered tertiary education providers as non-specified interventions linked to Conditions of Funding. In the case of FE Institutions, Medr's ability to undertake specified and non-specified

interventions is backed up by Welsh Ministers' own specified intervention powers for these providers.

Why have we prepared this document?

- 1.5. Our approach to regulation, including what this means for monitoring and intervention, is set out in our Regulatory Framework. Section 81 of the TERA 2022 requires us to publish a Statement setting out how we propose to exercise our intervention powers and to keep that Statement under review. This document satisfies that requirement, providing a guide to our specified TERA 2022 intervention powers and how these will be used. For completeness, we have also included information on other non-specified interventions that we may use as an alternative to, a precursor to, or in parallel with, our specified interventions. Our use of intervention powers is informed by our regulatory philosophy, which is outlined in our Regulatory Framework.

When will our powers apply?

- 1.6. Many of our intervention powers for providers of higher education link to Conditions of Registration under TERA 2022. The conditions will be introduced in two tranches, with the first conditions in effect from 1 August 2026 and the second tranche from 1 August 2027. This means that, whilst our intervention powers under TERA will apply in most areas from 1 August 2026, the powers will not apply in some areas until 1 August 2027. Those areas are highlighted in this document where appropriate.
- 1.7. The new Conditions of Funding for most other tertiary education providers will come into effect from 1 August 2026. These will supersede any previous Conditions of Funding from that point. This document is therefore intended to satisfy the consultation duty in section 66 of the Further and Higher Education Act 1992.
- 1.8. For providers of higher education who register with Medr, most regulatory requirements under the Higher Education (Wales) Act 2015 ('The 2015 Act') will cease on 31 July 2026, to be replaced by the first tranche of new register-linked TERA 2022 powers. However, as not all of the new powers will be introduced at the same time, the 2026/27 Academic Year will be a transitional year in which TERA 2022 registration conditions will be in place alongside certain remaining Fee and Access Plan regulatory requirements under the 2015 Act. The 2015 Act powers, which will remain in place for 2026/27, in respect of interventions on student fees and general requirements of approved Fee and Access Plans are set out in the 2015 Act [Statement of Intervention](#).
- 1.9. The full range of registration conditions for registered providers of higher education under TERA 2022 will come into effect from 1 August 2027. At that point all remaining Fee and Access Plan linked specified intervention powers under the 2015 Act will cease for those providers. We expect to re-issue a version of this document in advance of the start of the 2027/28 Academic Year.

NOTE: For the 2026/27 Academic Year (1 August 2026 to 31 July 2027), the intervention powers in respect of Fee Limits and Equality of Opportunity for Registered Providers are covered by The 2015 Act powers in The 2015 Act [Statement of Intervention](#).

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2. How we monitor compliance and use our intervention powers

This section applies to: Registered Providers in both categories as applicable (all registration conditions), External Providers (Quality) and other Funded Further Education and Training Providers (all funding conditions, including Quality).

Registered HE providers

2.1. We monitor a provider's eligibility for registration and its compliance with initial Conditions of Registration as part of the process by which providers apply to become registered. These initial conditions, in effect from 1 August 2026, cover the following areas:

- Quality
- The effectiveness of governance and management (including financial management)
- Financial sustainability
- The effectiveness of arrangements for supporting and promoting the welfare of students and staff
- The effectiveness of validation arrangements
- Charitable status (core category only)
- Information provided to prospective students

The initial registration conditions, including the condition requirements and associated guidance for providers are published separately by Medr.

2.2. The application process for registration will include scrutiny of a range of information that is used to make a judgement on compliance. This includes, for example, information to evidence a provider's financial sustainability, the adequacy of its governance and management and the quality of its provision. Where necessary, Medr will seek additional information from a provider following the submission of its application, to help determine compliance. Further information on the application process for registration is published separately.

2.3. Once registered, providers must comply with ongoing registration conditions. These ongoing conditions cover the following areas. Unless otherwise stated, these ongoing conditions will come into effect from 1 August 2026:

- Quality
- The effectiveness of governance and management (including financial management)
- Financial sustainability
- The effectiveness of arrangements for supporting and promoting the welfare of students and staff
- The effectiveness of validation arrangements
- Notification of any change which affects the accuracy of the information contained in the provider's entry in the register
- Learner Protection Plans
- The Learner Engagement Code
- To have regard to advice or guidance given by the Commission (either specifically or to persons generally)

- Information, assistance and access to the provider's facilities, systems and equipment
- Fee limits (**In effect from 1 August 2027**). For 2026/27 this area is covered by The 2015 Act powers - see The 2015 Act [Statement of Intervention](#) for details of those powers
- Equality of opportunity (**In effect from 1 August 2027**). For 2026/27 this area is covered by The 2015 Act powers - see The 2015 Act [Statement of Intervention](#) for details of those powers
- Charitable status (core category only)
- Information provided to prospective students
- Welsh Language
- Provider complaints processes

The ongoing registration conditions, including the condition requirements and associated guidance for providers are published separately. Registered providers may also be subject to additional conditions of funding, including in respect of Medr research and innovation funding. Further information on our funding conditions is published separately.

- 2.4. We undertake a range of monitoring, which is essential for us to be able to undertake our regulatory functions, with information from monitoring processes underpinning the potential to intervene in instances of non-compliance. The monitoring of compliance with ongoing registration conditions, and monitoring of the quality of tertiary education, will be undertaken through a number of means, but will include, for example: the consideration of annual monitoring and assurance returns submitted by the provider; the review of annual financial statements, forecasts and other financial information; the review of quality information, including any assessment or inspection reports; the analysis of a range of published performance data; the consideration of complaints received regarding the provider; and any serious incident reports that have been submitted. Whilst much of this monitoring information may be received on a cyclical basis, some monitoring information, such as complaints about providers and serious incident report submissions, may be received at any point in time.

Non-registered providers of HE under franchise/sub-contractual arrangements (external providers)

- 2.5. We will monitor external providers' (providers delivering provision on behalf of regulated providers i.e. 'franchise' provision) compliance with quality registration condition requirements. This is regardless of where the external provider is located. Monitoring will be undertaken through the processes applied to registered providers.

Funded FE and training (including Apprenticeship and Adult and Community Learning) providers

- 2.6. Whilst it is likely that many FE colleges will be registered for their HE provision, for those funded FE and training (including Apprenticeship and Adult and Community Learning) providers that are not registered, we will monitor their compliance with our funding conditions. These funding conditions include, amongst others, conditions in respect of:

- Quality
- The effectiveness of governance and management (including financial management)
- Financial sustainability
- The effectiveness of arrangements for supporting and promoting the welfare of students and staff
- Learner Protection Plans
- The Learner Engagement Code
- To have regard to advice or guidance given by the Commission (either specifically or to persons generally)

Further information on our funding conditions is published separately.

Funded School 6th forms

- 2.7. For 6th forms in maintained schools in Wales, we have a duty to monitor and promote quality. We will also monitor the statutory requirement for those 6th forms to comply with the Learner Engagement Code and any other funding conditions that we choose to set.

Other tertiary provision in Wales

- 2.8. For other tertiary provision in Wales, that is not delivered by registered or funded providers, we may be alerted to quality issues. For higher education provision, this may be through quality assessments undertaken by Medr or on Medr's behalf.

How we will use our intervention powers

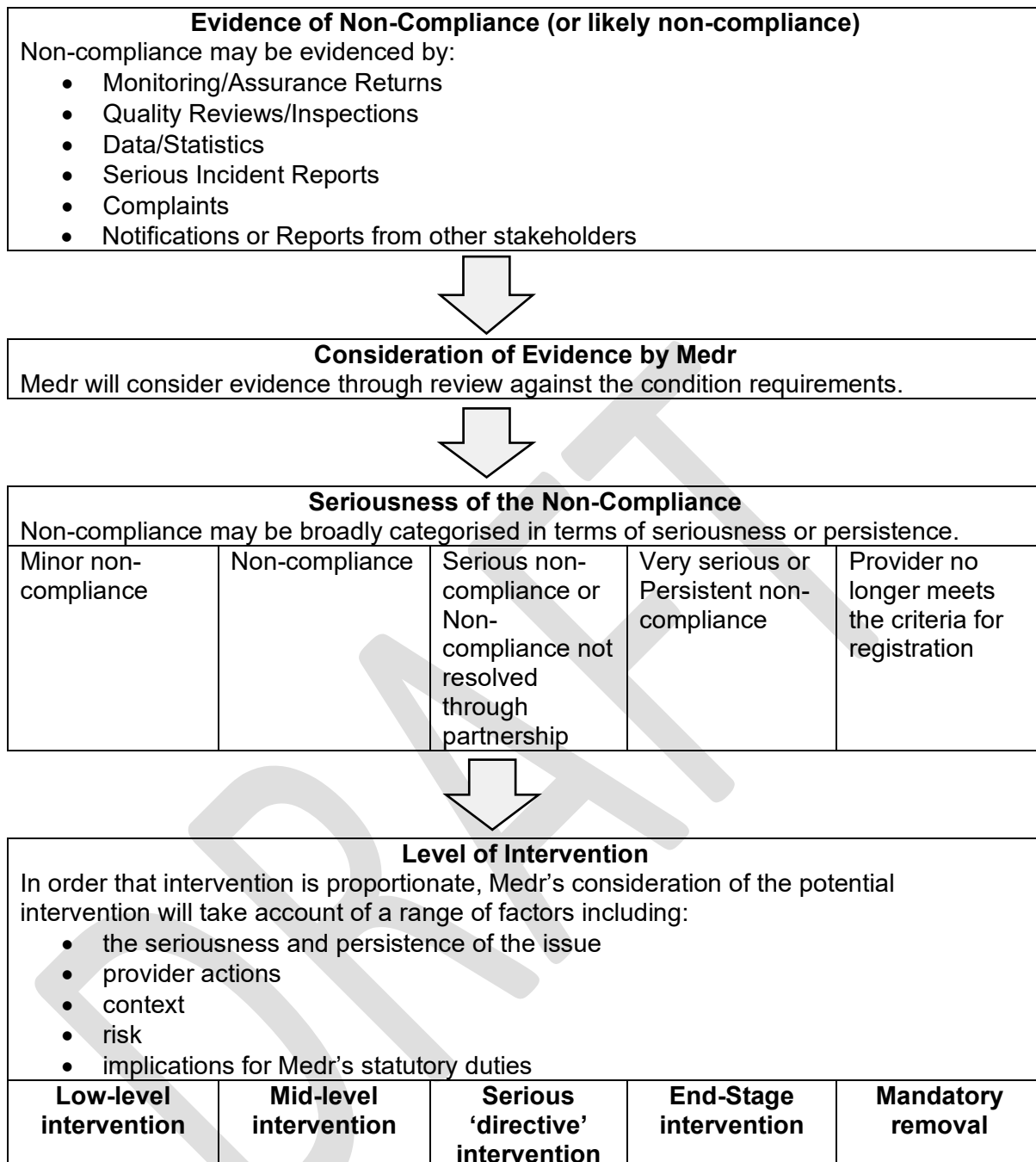
- 2.9. For all tertiary education and training providers in Wales, where monitoring has provided evidence of non-compliance with applicable conditions, this informs Medr's consideration of potential interventions as summarised at [Figure 1](#) below. We may decide, once we have considered an issue of non-compliance, not to undertake any intervention. For example, this might be the case where we believe the provider is already taking adequate steps to resolve the issue or where we are already taking action to help the sector avoid any repetition of the issue. We may, however, take intervention action at any point we consider there to have been a breach, or likelihood of a breach, of any ongoing Condition of Registration by a Registered Provider or of any Condition of Funding for all other tertiary education and training providers. **Wherever appropriate, in Medr's view, we will engage with providers to try and resolve issues prior to initiating intervention.**
- 2.10. Where we do intervene, the type of intervention will be dependent on a range of factors, including:
- **seriousness** – who is impacted by the issue and the scale and severity of that impact. The impact may be viewed in terms of the scope and level of any harm to learners, staff, public funds, reputation etc.
 - **persistence** – how long the issue has been ongoing and if the issue is a re-occurring one
 - **provider actions** – actions the provider has taken to address the issue
 - **context** – what our broader regulatory intelligence tells us

- **risk** – the risk posed by the provider and our risk appetite with regard to the issue
- **statutory duties** – the implications for Medr’s statutory duties

Medr will consider the above factors flexibly, along with any other relevant factors, and the weight attached to each of the factors may vary according to the facts of the case. Medr will respond to issues on a case-by-case basis and we will endeavour to ensure that any interventions are proportionate and reasonable. In some instances, we may consider it appropriate to utilise other non-specified interventions, such as increased engagement with a provider, to resolve issues, rather than the specified interventions set out in this document.

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Figure 1. Consideration of Potential Interventions



- 2.11. In the case of external providers (providers delivering provision on behalf of registered providers) and other funded providers, we will take action as our intervention powers allow. We may intervene via a Registered Provider where an external provider, delivering provision on their behalf, has breached quality requirements. This is regardless of the location of that provision, meaning that external providers in Wales, elsewhere in the UK and overseas are covered by aspects of our monitoring and intervention powers.

NOTE: For Registered Providers, for the 2026/27 transitional year only (1 August 2026 until 31 July 2027), we will also take intervention action at any point we consider there to have been a breach, or likelihood of a breach, of our remaining regulatory requirements under The 2015 Act (Fee Limits and the General Requirements of Approved Fee and Access Plans). This only applies to Registered Providers that have an approved Fee and Access Plan. Those remaining statutory intervention powers under The 2015 Act are set out in The 2015 Act [Statement of Intervention](#).

- 2.12. Intervention may take the form of a range of actions, including actions under the TERA 2022 powers. Section 81 of the TERA 2022 requires Medr to publish a Statement setting out how it proposes to exercise its intervention functions and to keep that Statement under review. This document satisfies that requirement. Other non-specified interventions that may be used by Medr, including the potential use of funding as a lever to drive compliance, are covered in Medr's Regulatory Framework.

3. Interventions specified in TERA 2022

3.1. There are a range of interventions explicitly specified in TERA 2022 that Medr may utilise to deal with non-compliance, or likelihood of non-compliance, by a provider. These intervention functions are set out at Section 81 of the TERA 2022 as the powers in the following sections of the Act:

- (a) Section 36 (duty to monitor compliance with ongoing registration conditions);
- (b) Section 37 (advice and assistance in respect of compliance with ongoing registration conditions);
- (c) Section 38 (reviews relevant to compliance with conditions);
- (d) Section 39 (directions in respect of failure to comply with ongoing registration conditions);
- (e) Section 41 (de-registration);
- (f) Section 51 (duty to monitor, and promote improvement in, the quality of regulated tertiary education);
- (g) Section 52 (advice and assistance in respect of quality of tertiary education);
- (h) Section 53 (reviews relevant to quality of tertiary education);
- (i) Section 73(4) (directions in respect of failure to comply with a duty to co-operate).

These powers are detailed in [Figure 2](#) in ascending order of severity and, where appropriate, powers have been grouped together for ease of reference.

3.2. Whilst the above interventions all relate to registered providers, advice and assistance in respect of quality and reviews in respect of quality also apply to:

- External providers (providers delivering provision on behalf of registered providers);
- Funded further education and training providers that are not on the register; and
- Other tertiary provision in Wales that is not being delivered by registered or funded providers.

Directions in respect of failure to comply with a duty to cooperate may be used at any point where an external provider or funded further education and training provider (not including registered providers) has failed to provide information, assistance and access to its facilities, systems and equipment as we, or our agents, reasonably require for the purpose of exercising our functions. **In each section below we have referenced the types of provider to which the intervention powers apply.**

3.3. Where we intend to use our specified intervention powers this will be communicated clearly and transparently to the provider. Medr is required by the TERA 2022 to publish notice of certain interventions, but Medr may also decide to publish information on other interventions, and the related compliance issues, where it considers that to be appropriate and reasonable. Publication may also be undertaken by other bodies acting on Medr's behalf. Whilst Medr will give consideration to the potential risks to a provider associated with the publication of information on any intervention, this must be balanced against wider considerations including, for example, the need to encourage compliance and drive continuous improvement.

3.4. Monitoring and Promotion of Improvement

This section applies to: Registered Providers (all Ongoing Registration Conditions), External Providers (Quality only) and Other Funded Providers - including Funded FE and Training Providers and School 6th Forms via their relevant Local Authority (Quality only).

- 3.4.1. As set out above, Medr undertakes monitoring in respect of compliance with ongoing registration conditions and the quality of regulated tertiary education.
- 3.4.2. **Ongoing registration conditions** - Section 36 of the TERA 2022 imposes a legal duty on Medr to monitor compliance with ongoing registration conditions by registered providers. This means that providers will be monitored against the requirements of their particular category of registration. As noted in section 3.4, much of Medr's monitoring activity in respect of compliance with ongoing Conditions of Registration will be cyclical and routine in nature. Whilst such routine monitoring is not, strictly speaking, an intervention, enhanced monitoring may be undertaken where concerns have been identified. This enhanced monitoring may underpin further intervention action. Where monitoring identifies areas for improvement, or examples of good practice, Medr may also issue advice or guidance to help drive compliance.
- 3.4.3. **Quality** - Section 51¹ of the TERA 2022 imposes a legal duty on Medr to monitor, and promote improvement in, the quality of regulated tertiary education. This includes tertiary education:
- (a) provided by, or on behalf of, registered providers (so far as the tertiary education relates to the providers' categories of registration); or
 - (b) funded or otherwise secured by Medr

Consequently, this monitoring and promotion of improvement duty in respect of quality applies to all tertiary education providers in Wales that are registered or subject to Medr's Terms and Conditions of Funding. Further details on Medr's arrangements for monitoring, and promoting improvement in, the quality of tertiary education are set out in Medr's Quality Framework.

¹ Section 51 of TERA 2022 does not extend to providers funded under section 65 of FHEA 1992 - Whilst the duty doesn't extend to providers funded under section 65, Medr is still able to exercise section 53 of TERA 2022 in relation to those providers.

3.5. Advice and Assistance

This section applies to: Registered Providers (all Ongoing Registration Conditions), External Providers (Quality only), Other Funded Providers - including Funded FE and Training Providers and School 6th Forms via their relevant Local Authority (Quality only) and Other Tertiary Provision in Wales that is not delivered by a registered or funded provider (Quality only).

- 3.5.1. A key lower-level intervention power is the ability for Medr, or its agents, to provide advice or assistance to providers, in order to address non-compliance or the likelihood of non-compliance. These powers set out in Sections 37 and 52 of the TERA 2022 are detailed below.
- 3.5.2. **Ongoing registration conditions** - Registration Section 37 of the TERA 2022 enables Medr to provide, or make arrangements for the provision of, advice or other assistance to a registered provider for the purpose of securing compliance by the provider with its ongoing registration conditions. Medr may provide this advice or assistance itself or commission another body to provide this advice or assistance on its behalf. The governing body of the provider must have regard to the advice or guidance that is given by Medr (or on Medr's behalf), with this forming a mandatory ongoing condition of registration. The advice may take the form of advice given specifically to that provider or more generally (e.g. to all registered providers or certain types of provider).
- 3.5.3. **Quality** - Section 52 of the TERA enables Medr to provide, or make arrangements for the provision of, advice or other assistance to any person for the purpose of (a) improving the quality of the tertiary education or course, or (b) preventing the quality of the tertiary education or course from becoming inadequate. Consequently, providers should expect that Medr may intervene by providing advice and guidance in instances where the quality of education is at risk of becoming inadequate. The quality of tertiary education, or of a course of tertiary education, is defined as inadequate if it is not adequate to meet the reasonable needs of those receiving the education or undertaking the course. This power to provide advice and assistance in respect of quality applies to tertiary provision:
- (a) provided by, or on behalf of, a registered provider;
 - (b) funded or otherwise secured by the Commission; or
 - (c) provided in Wales and not falling under either (a) or (b) – This is provision that is not being delivered by a registered or funded provider.

Consequently, this intervention power in respect of quality may be used for: registered providers, and their partners delivering provision on their behalf; all funded tertiary education providers including HE providers, FE providers, apprenticeship providers, adult learning providers, school sixth forms via their relevant local authority etc.; and all other providers delivering tertiary education in Wales. The governing body of the provider must have regard to the advice or guidance that is given by Medr (or by Medr's agent on Medr's behalf). For those providers that are registered, this forms a mandatory ongoing condition of registration. The advice may take the form of advice given specifically to that provider or more generally (e.g. to all registered providers or certain types of provider). Further details on Medr's arrangements for providing advice and assistance in respect of the quality of tertiary education are set out in Medr's Quality Framework.

3.6. Reviews

This section applies to: Registered Providers in both categories (all Ongoing Registration Conditions), External Providers (Quality only), Other Funded Providers - including Funded FE and Training Providers and School 6th Forms via their relevant Local Authority (Quality only) and Other Tertiary Provision in Wales that is not delivered by a registered or funded provider (Quality only).

3.6.1. **Ongoing registration conditions** - Section 38 of the TERA 2022 enables Medr to carry out, or commission someone else to carry out, a review of any matters that it considers relevant to compliance by a registered provider with its ongoing registration conditions. Reviews may be general in nature, or for a particular purpose. Medr may use the outcome of an investigation to inform general activities it undertakes. It may also form part of a regulatory action Medr decides to take, potentially being needed to provide the detailed evidence base that informs more serious regulatory action.

3.6.2. **Quality** - Section 53 of the TERA 2022 enables Medr to carry out, or commission someone else to carry out, a review of any matters that it considers relevant to the quality of tertiary education, or a particular course of tertiary education:

- (a) provided by, or on behalf of, a registered provider;
- (b) funded or otherwise secured by Medr; or
- (c) provided in Wales and not falling within paragraph (a) or (b).

Consequently, this intervention power in respect of quality may be used for: registered providers, and their partners delivering provision on their behalf; all funded tertiary education providers including HE providers, FE providers, apprenticeship providers, adult learning providers, school sixth forms via their relevant local authority etc.; and all other providers delivering tertiary education in Wales. Further details on Medr's arrangements for reviews in respect of the quality of tertiary education are set out in Medr's Quality Framework.

3.7. Specific Ongoing Conditions of Registration

This section applies to: Registered Providers only (all Initial and Ongoing Registration Conditions)

3.7.1. **Specific ongoing conditions** - Section 29 of the TERA 2022 enables Medr to impose specific ongoing Conditions of Registration on a provider. As illustrated by [Figure 1](#), this will normally be done if Medr identifies non-compliance with Conditions of Registration. The judgement on the circumstances that warrant imposition of specific ongoing registration conditions, and the form of any conditions, will be made by Medr. Medr does not need to have undertaken other forms of informal or formal intervention prior to imposing specific ongoing Conditions of Registration, although these may also represent an escalation from previous intervention. Medr may impose these conditions:

- At the point of initial registration, where there is identified non-compliance with initial registration conditions, but where it would be disproportionate to refuse registration
- On an already registered provider, at any point where non-compliance with ongoing Conditions of Registration has been identified and formal action is warranted to address the issues

Once imposed, Medr may vary or remove a specific ongoing registration condition at any time.

3.7.2. The process for imposing specific ongoing Conditions of Registration is set out below and in the subsequent flow chart.

Stage 1: Initial notice and provider representations

3.7.3. Medr must formally notify the governing body of the provider before imposing, varying or removing specific ongoing registration conditions. The notice to the governing body must:

- (a) specify Medr's reasons for proposing to impose the special ongoing condition(s) of registration
- (b) specify the period during which the governing body of the tertiary education provider may make representations about the proposed conditions (not less than 28 days beginning with the date on which the notice is received), and
- (c) specify the way in which those representations may be made.

Medr must have regard to any representations made by the governing body of the provider in deciding whether to impose the specific ongoing Conditions of Registration.

Stage 2: Notification, publication and decision reviews

3.7.4. Once Medr has decided whether or not to impose a new specific ongoing registration condition, or to vary or remove an existing specific ongoing registration condition, it must formally notify the provider's governing body of its decision, and publish the notice. Publication of notices of this type will normally be on Medr's

website, with the precise location of publication to be determined by Medr. The notice to the governing body must:

- specify the new condition, the condition as varied or the condition being removed, as appropriate, and
- specify the date when the imposition, variation or removal takes effect.

Where the notice to the provider's governing body relates to the imposition or variation of a specific ongoing registration condition, the notice must also specify:

- (a) the grounds for the imposition or variation of the condition
- (b) information as to the right of review, and
- (c) the period within which an application for a decision review may be made (see below).

3.7.5. The governing body of a provider may apply for a review by the Decision Reviewer of Medr's decision to impose, or vary, a specific ongoing registration condition on the provider. The Decision Reviewer is a person or panel of persons appointed by Welsh Ministers. The arrangements for decision reviews are set out in The Commission for Tertiary Education and Research (Decision Review) (Wales) Regulations 2024 and are as follows:

The application process and the period within which an application must be made

3.7.6. An application for a decision review must be made in writing by the provider's governing body within 40 days of the Medr decision to impose or vary a specific ongoing registration condition on the provider. The application must specify the grounds on which a review is sought and contain a copy of the decision to be reviewed, including any reasons for the decision given by Medr, and any supporting information the provider's governing body wishes the Decision Reviewer to take into account.

Procedure to be followed by the Decision Reviewer

3.7.7. On receipt of an application for a decision review, the Decision Reviewer must send Medr a copy of the application and any supporting information, and tell Medr and the provider's governing body (i.e. both parties) how long it believes the review will take.

3.7.8. The Decision Reviewer may request additional information from the parties and invite each to make further representations in response to any additional information submitted by the other party. Medr and the provider's governing body must respond to any request for additional information within 28 days of receiving the request. If the Decision Reviewer requests additional information or representations from either party, it must send the other party a copy of:

1. any request it has made for additional information or representations, and
2. any additional information or representations that have been provided

The Decision Reviewer must produce a written recommendation and send it to both Medr and the provider's governing body.

Recommendations that may be made by the Decision Reviewer

3.7.9. The Decision Reviewer may recommend that Medr:

1. take no action, where the Decision Reviewer finds no or insufficient reason for Medr to reconsider its decision, or
2. reconsiders its decision, where:
 - i. Medr has failed to comply with a procedural requirement,
 - ii. The provider has provided new information,
 - iii. the Decision Reviewer finds the Medr has not considered any relevant fact, or
 - iv. the Decision Reviewer considers the decision to be disproportionate.

Steps to be taken by Medr or the Welsh Ministers following a review

3.7.10. On receipt of a recommendation from the Decision Reviewer, Medr must:

1. reconsider its decision, if recommended to do so, and
2. notify the provider's governing body of the outcome of its reconsideration, including its reasons, within 40 days of receiving the recommendation.

Stage 3: Conditions taking effect

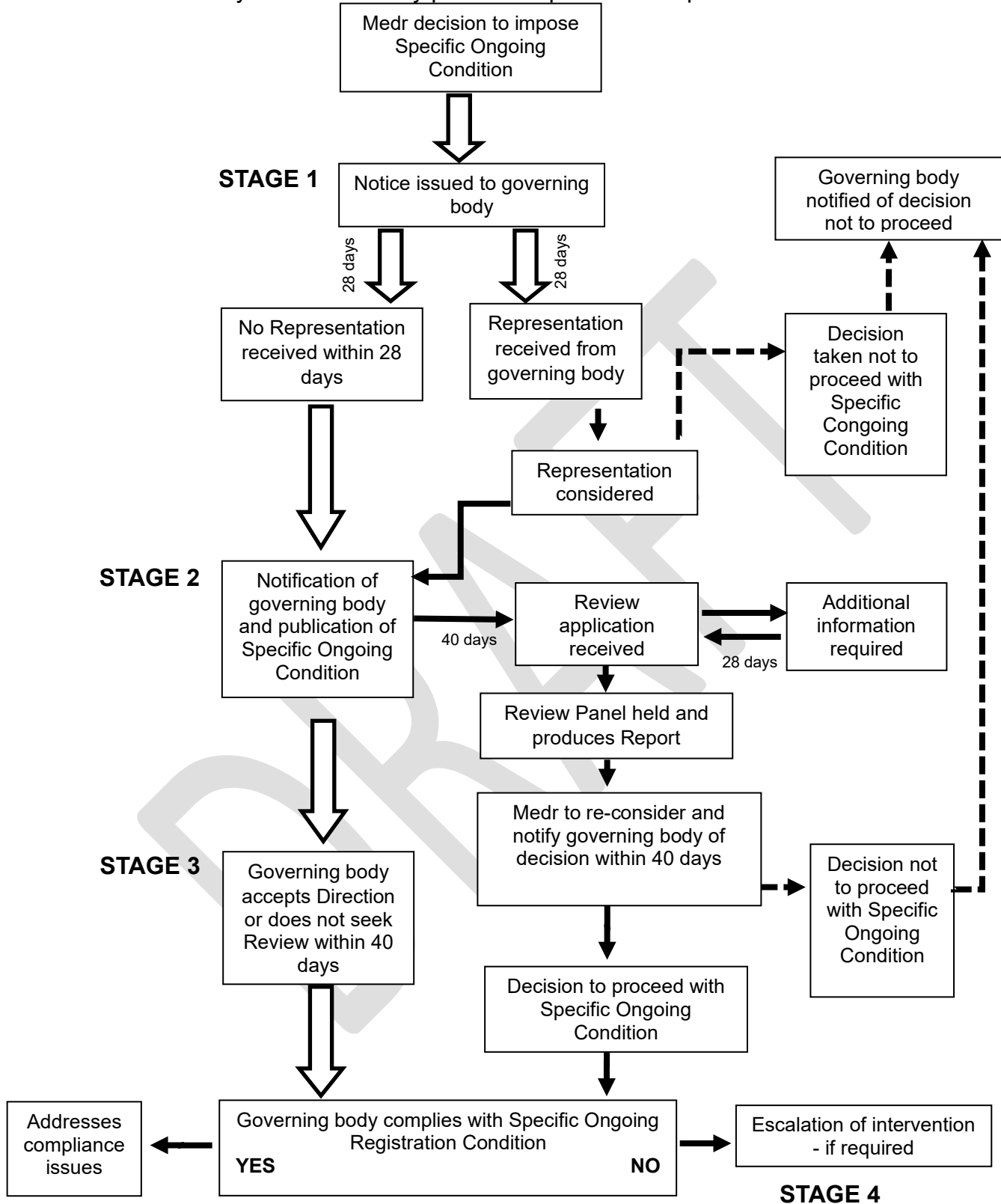
- 3.7.11. If no decision review is sought, the condition, or variation to the condition, will take effect on the date specified in the notice issued to the governing body. Where a decision review has been sought and completed, Medr must determine a future date on which the condition or variation takes effect. That future date is subject to what Medr has determined following any decision review.

Stage 4: Escalation of intervention

- 3.7.12. In the event of non-compliance with a specific ongoing registration condition, intervention may be escalated to the issue of a Direction in Respect of Non-Compliance with Ongoing Registration Conditions. This Direction power is set out in section 3.8. Where the Direction power is considered insufficient, intervention may be escalated to the removal of the provider from a category of the register. This de-registration power under Section 41(3) of TERA 2022 is set out in section 3.10.

Figure 2: Flow Chart - Specific Ongoing Registration Conditions

Intervention may be halted at any point if the provider complies.



3.8. Directions in respect of non-compliance with ongoing registration conditions (including fee limit condition)

This section applies to: Registered Providers only (all Ongoing Registration Conditions)

- 3.8.1. **Directions** - Section 39 of the TERA 2022 enables Medr to give the governing body of a provider a direction if it is satisfied that the governing body has failed, or is likely to fail, to comply with any ongoing registration condition. In the case of a failure, or likely failure, to comply with an ongoing registration condition, the direction issued by Medr may direct the governing body to comply with the condition. In the case of a failure to comply with a fee limit condition, Medr may also, as an alternative or in addition to a direction to comply, direct the governing body to reimburse all excess fees paid to the tertiary education provider (excess fees are regulated course fees to the extent that those fees exceed the applicable fee limit). A direction may specify steps that are (or are not) to be taken by the governing body for the purpose of compliance with the ongoing registration condition. For a direction in respect of reimbursement of excess fees, the direction may specify the manner in which excess fees are to be, or may be, reimbursed.
- 3.8.2. **Guidance** - Medr may issue guidance about steps to be taken for the purpose of complying with directions. Before issuing such guidance, Medr will consult the governing body of each registered provider; and may consult the governing body of other tertiary education providers in Wales as appropriate.
- 3.8.3. The process for issuing Directions in Respect of Non-compliance with Ongoing Registration Conditions, including the fee limit condition, is set out below and in the subsequent flow chart.

Stage 1: Warning notice and provider representations

- 3.8.4. Before giving a governing body a direction, Medr must first give the governing body a warning notice. The warning notice will:
- set out the proposed direction
 - state the reasons for proposing to give it
 - specify the period during which the governing body may make representations about the proposed notice or direction (not less than 28 days beginning with the date on which the warning notice is received), and
 - specify the way in which those representations may be made

Medr must have regard to any representations made by the governing body of the provider in deciding whether to give the direction.

Stage 2: Giving the direction, publication and decision reviews

- 3.8.5. Having decided whether to give the direction, Medr must notify the provider's governing body of its decision. If Medr gives the governing body a direction, the direction must specify the date on which it takes effect. At the same time as it gives the direction, Medr must also give the provider's governing body a statement specifying:

- the reasons for giving the direction
- information as to the right of review, and
- the period within which an application for review may be made

3.8.6. If Medr gives a direction to a provider, it must:

- give a copy of the direction to the Welsh Ministers; and
- publish the direction

Publication of directions of this type will normally be on Medr's website, with the precise location of publication to be determined by Medr.

3.8.7. The governing body of a provider may apply for a review by the Decision Reviewer of Medr's decision to give a direction. The Decision Reviewer is a person or panel of persons appointed by Welsh Ministers. The arrangements for decision reviews are set out in The Commission for Tertiary Education and Research (Decision Review) (Wales) Regulations 2024 and covered from paragraph 3.7.5.

Stage 3: Directions taking effect

3.8.8. If no decision review is sought, the direction will take effect on the date specified in the notice issued to the governing body. Where a decision review has been sought and completed, Medr must determine a future date on which the direction takes effect. That future date is subject to what Medr has determined following any decision review.

Stage 4: Enforcement

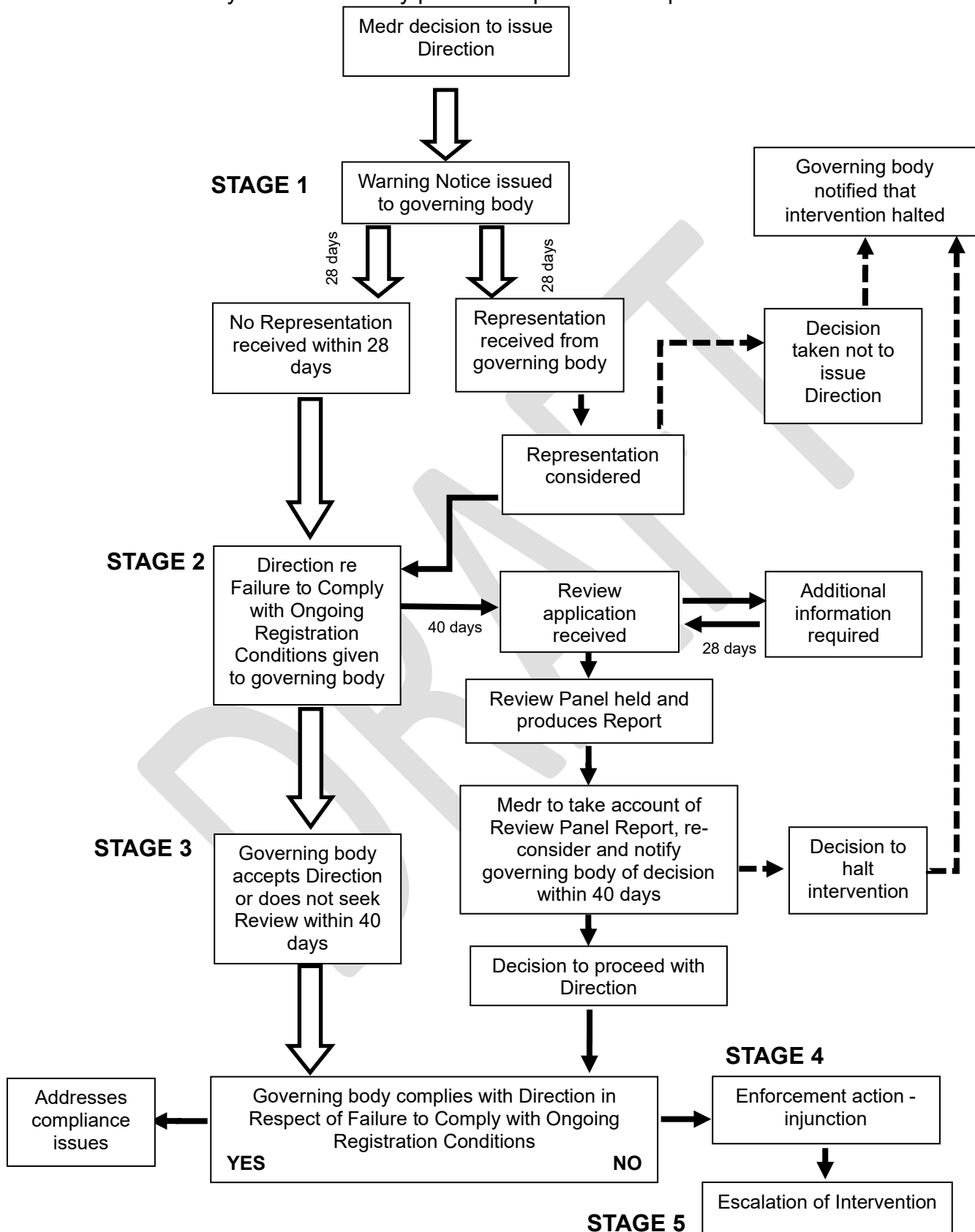
3.8.9. Where Medr issues a Direction in Respect of Failure to Comply with Ongoing Registration Conditions to the governing body of an institution, the governing body must comply with the Direction (subject to the outcome of any review of the Direction). In the event that a governing body fails to comply satisfactorily (in Medr's opinion) with the Direction, the Direction will be enforceable by injunction in accordance with Section 82 of TERA 2022. Our decisions on whether to proceed to injunction will take account of the particular circumstances of the case.

Stage 5: Escalation of intervention

3.8.10. In the event of persistent non-compliance, intervention may be escalated to the removal of the provider from a category of the register. This de-registration power under Section 41(3) of TERA 2022 is set out in section 3.10.

Figure 3: Flow Chart – Directions in Respect of Failure to Comply with Ongoing Registration Conditions (including fee limit condition)

Intervention may be halted at any point if the provider complies.



3.9. Directions in respect of failure to cooperate

This section applies to: External Providers and Funded FE and Training Providers (not including Registered Providers).

- 3.9.1. **Duty to co-operate – external providers** - The governing body of an external provider (a provider delivering provision on behalf of a registered provider) must ensure that a person exercising a function by virtue of Sections 51, 53 or 54(1) of the TERA 2022 is provided with such information, assistance and access to the external provider's facilities, systems and equipment as the person reasonably requires for the purpose of exercising the function (including for the purpose of exercising any power under Section 74 of the TERA 2022). The functions covered by this duty to cooperate are:
- Section 51 – Duty to monitor, and promote improvement in, the quality of regulated tertiary education;
 - Section 53 – Reviews relevant to quality of tertiary education;
 - Section 54(1) – Assessment of the quality of higher education;
 - Section 74 – Entry to premises and the inspection, copying and removal of documents.
- 3.9.2. **Duty to cooperate – further education and training providers (not including registered providers)** – The governing body of a provider of further education or training funded under Section 97 of the TERA 2022 must ensure that a person exercising a function by virtue of Section 51 or 53 is provided with such information, assistance and access to the provider's facilities, systems and equipment as the person reasonably requires for the purpose of exercising the function (including for the purpose of exercising any power under Section 74 of the TERA 2022).
- 3.9.3. **Directions** – If Medr is satisfied that a governing body has failed to comply with the relevant duty to cooperate in the paragraphs above, Section 73(4) of the TERA 2022 enables Medr to direct the governing body to take (or not to take) specified steps for the purpose of securing the provision of information, assistance or access as described in paragraphs 3.9.1 and 3.9.2 above (as appropriate).
- 3.9.4. **Guidance** – Medr may issue guidance about steps to be taken for the purpose of complying with directions. Before issuing such guidance, Medr will consult the governing body of each registered provider; and may consult the governing body of other tertiary education providers in Wales as appropriate.
- 3.9.5. The process for issuing Directions in Respect of Failure to Cooperate is set out below and in the subsequent flow chart.

Stage 1: Warning notice and provider representations

3.9.6. Before giving a governing body a direction, Medr must first give the governing body a warning notice. The warning notice will:

- set out the proposed direction,
- state the reasons for proposing to give it,
- specify the period during which the governing body may make representations about the proposed notice or direction (not less than 28 days beginning with the date on which the warning notice is received), and
- specify the way in which those representations may be made.

Medr must have regard to any representations made by the governing body of the provider in deciding whether to give the direction.

Stage 2: Giving the direction, publication and decision reviews

3.9.7. Having decided whether to give the direction, Medr must notify the provider's governing body of its decision. If Medr gives the governing body a direction, the direction must specify the date on which it takes effect. At the same time as it gives the direction, Medr must also give the provider's governing body a statement specifying:

- the reasons for giving the direction,
- information as to the right of review, and
- the period within which an application for review may be made.

3.9.8. If Medr gives a direction to a provider, it must:

- give a copy of the direction to the Welsh Ministers; and
- publish the direction.

Publication of directions of this type will normally be on Medr's website, with the precise location of publication to be determined by Medr.

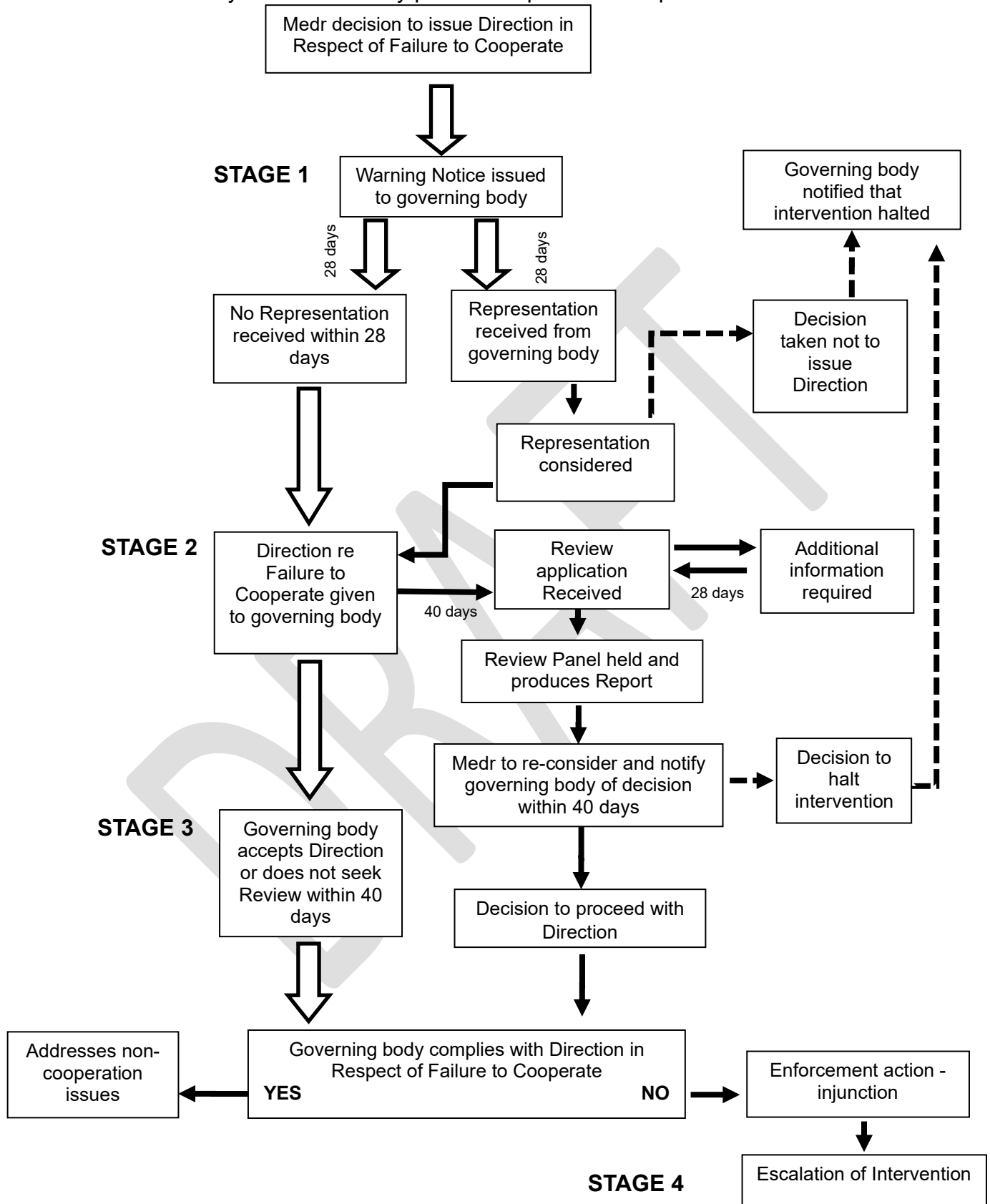
3.9.9. The governing body of a provider may apply for a review by the Decision Reviewer of a decision of the Medr to give a direction. The Decision Reviewer is a person or panel of persons appointed by Welsh Ministers. The arrangements for decision reviews are set out in The Commission for Tertiary Education and Research (Decision Review) (Wales) Regulations 2024 and are covered in paragraph 3.7.5.

Stage 3: Directions taking effect

3.9.10. If no decision review is sought, the direction will take effect on the date specified in the notice issued to the governing body. Where a decision review has been sought and completed, Medr must determine a future date on which the direction takes effect. That future date is subject to what Medr has determined following any decision review.

Figure 4: Flow Chart – Directions in Respect of Failure to Cooperate

Intervention may be halted at any point if the provider complies.



3.10. De-registration under Section 41(3) of TERA 2022

This section applies to: Registered Providers and, by extension, External Providers delivering provision on behalf of those Registered Providers.

- 3.10.1. **Circumstances where Medr may de-register a provider** - Section 41(3) of the TERA 2022 enables Medr to remove a tertiary education provider from a category of the register in the event of persistent or very serious non-compliance with ongoing registration conditions. For that to happen, either condition A or B (see below) must be satisfied:

Condition A, relating to persistent non-compliance, is satisfied if:

- (a) Medr has previously exercised its direction powers under Section 39 of the TERA 2022 (Directions in respect of failure to comply with ongoing registration conditions) in relation to non-compliance with one of the ongoing registration conditions that applies to the provider's category of registration

And

- (b) it appears to Medr that:
- (i) there is a new breach, or a continued breach, of that ongoing registration condition, or
 - (ii) there is, or has been, a breach of a different ongoing registration condition that applies to the provider's category of registration.

Condition B, relating to very serious non-compliance, is satisfied if it appears to Medr that:

- (a) there is, or has been, a breach of one of the ongoing registration conditions that applies to the provider's category of registration, **and**
- (b) its direction powers under Section 39 of the TERA 2022 (Directions in respect of failure to comply with ongoing registration conditions) are insufficient to deal with that breach (whether or not they have been, are being or are to be, exercised in relation to it).

Stage 1: Initial notice and provider representations

- 3.10.2. Before removing a registered provider from a category of the register under Section 41 of the TERA 2022, Medr must first notify the governing body. The notice will:

- set out Medr's reasons for proposing to remove the provider from a category of the register
- specify the period during which the governing body of the provider may make representations about the proposal (not less than 28 days beginning with the date on which the warning notice is received), and
- Medr must have regard to any representations made by the governing body of the provider in accordance with the notice in deciding whether to remove it from a category of the register

Medr will share a copy of the notice with Welsh Ministers and will keep Welsh Government officials apprised of the removal process.

Stage 2: Notification and decision reviews

- 3.10.3. Having decided whether or not to remove the provider from a category of the register, Medr must notify the governing body of the provider of its decision. Where the decision is to remove the provider from a category of the register, the notice must specify the date on which the removal takes effect. The notice must also specify:
- the grounds for the removal,
 - information as to the right of review, and
 - the period within which an application for review may be made.
- 3.10.4. The governing body of a provider may apply for a review by the Decision Reviewer of Medr's decision to remove it from a category of the register. The Decision Reviewer is a person or panel of persons appointed by Welsh Ministers. The arrangements for decision reviews are set out in The Commission for Tertiary Education and Research (Decision Review) (Wales) Regulations 2024 and are covered in paragraph 3.7.5.

Stage 3: Removal taking effect

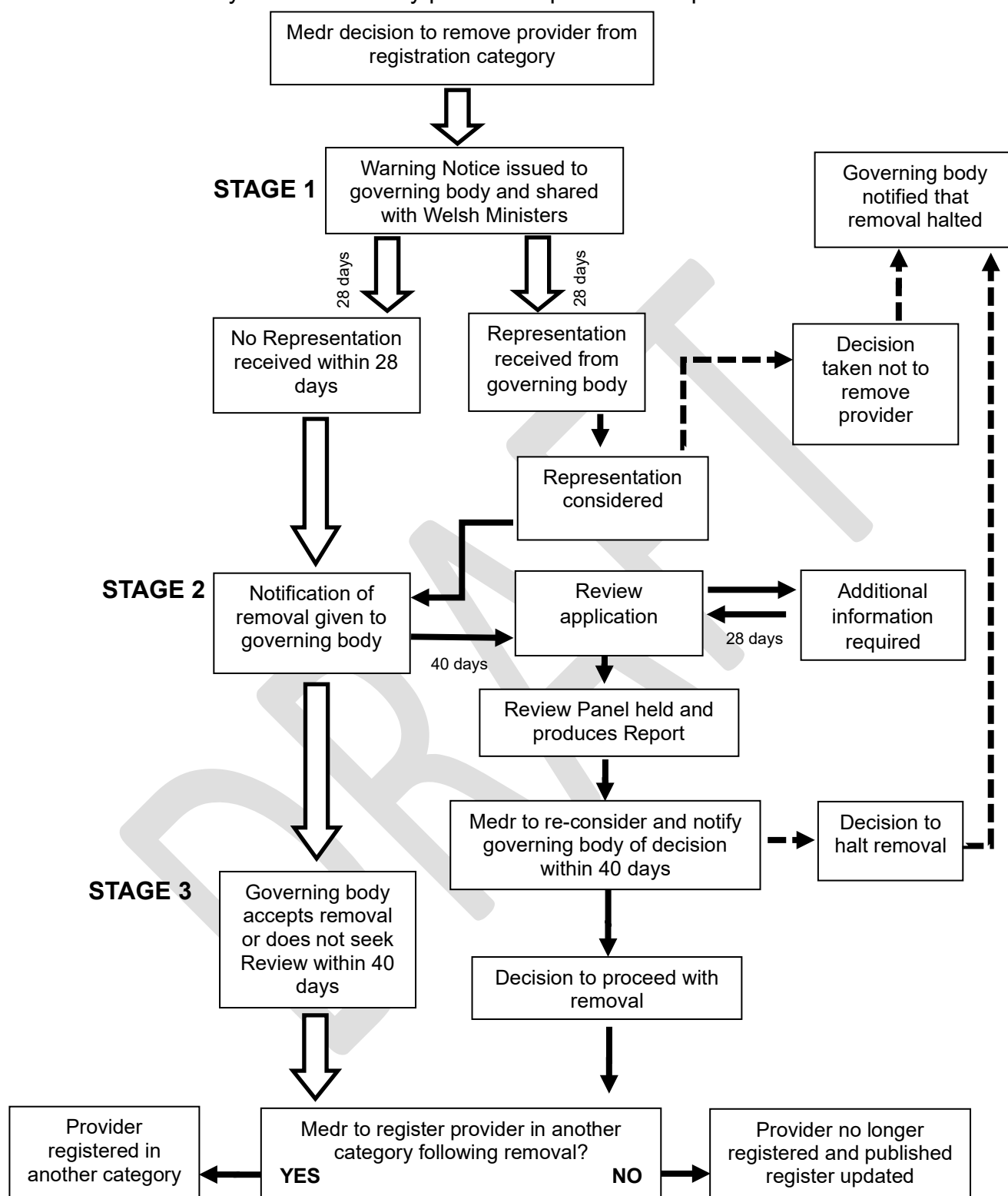
- 3.10.5. If no decision review is sought, removal from the category of the register under Section 41 of the TERA will take place on the date specified on the notice issued to the provider's governing body. Where a decision review has been sought and completed, Medr must determine a future date on which the removal takes effect. That future date is subject to what Medr has determined following any decision review. Once the provider has been removed from the category of the register, the published register will be updated to reflect that removal.
- 3.10.6. *Registration in another category following removal* - Where Medr removes a registered provider from a category of the register under the Section 41(3) TERA 2022 powers, Medr may register the provider in another category without an application if:
- the governing body of the provider consents
 - it continues to be a tertiary education provider in Wales
 - it provides, or has provided on its behalf, the kind of tertiary education that relates to the other category
 - it satisfies the initial registration conditions applicable to it in respect of the registration in the other category (see section 27), and registration in the other category is not prohibited by provision made in regulations
- 3.10.7. *Minimising impact on learners* - In order to protect learners, the Welsh Ministers may, by regulations, make transitional or saving provision in connection with the removal of a provider from a category of the register. This is intended to ensure that public funds and students' interests are protected and may include ensuring that Medr retains certain regulatory powers in respect of a de-registered provider,

or that certain funding streams remain temporarily available to students in order to ensure course continuation and completion.

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Figure 5: Flow Chart – De-registration under Section 41(3) of TERA 2022

Intervention may be halted at any point if the provider complies.



3.11. **Mandatory De-registration under Section 41(1) of TERA 2022**

This section applies to: Registered Providers and, by extension, External Providers delivering provision on behalf of those Registered Providers.

3.11.1. There are circumstances where there is a legal duty on Medr to remove a provider from a category of the register. Section 41(1) of the TERA 2022 requires Medr to remove a tertiary education provider from a category of the register if the provider:

- is no longer a tertiary education provider in Wales, or
- no longer provides, or has provided on its behalf, the kind of tertiary education that relates to the category

The Welsh Ministers may, by regulations, specify other circumstances in which a registered provider must be removed from one or more categories of the register or all categories of the register. This document will be updated in the event that such regulations are made.

Stage 1: Warning notice and provider representations

3.11.2. Before removing a registered provider from a category of the register under Section 41 of the TERA 2022, Medr must first give the governing body a warning notice. The warning notice will:

- set out Medr's reasons for proposing to remove the provider from a category of the register
- specify the period during which the governing body of the provider may make representations about the proposal (not less than 28 days beginning with the date on which the warning notice is received), and
- Medr must have regard to any representations made by the governing body of the provider in accordance with the notice in deciding whether to remove it from a category of the register

Medr will share a copy of the warning notice with Welsh Ministers and will keep Welsh Government officials apprised of the removal process.

Stage 2: Notification and decision reviews

3.11.3. Having decided whether or not to remove the provider from a category of the register, Medr must notify the governing body of the provider of its decision. Where the decision is to remove the provider from a category of the register, the notice must specify the date on which the removal takes effect. The notice must also specify:

- the grounds for the removal
- information as to the right of review, and
- the period within which an application for review may be made

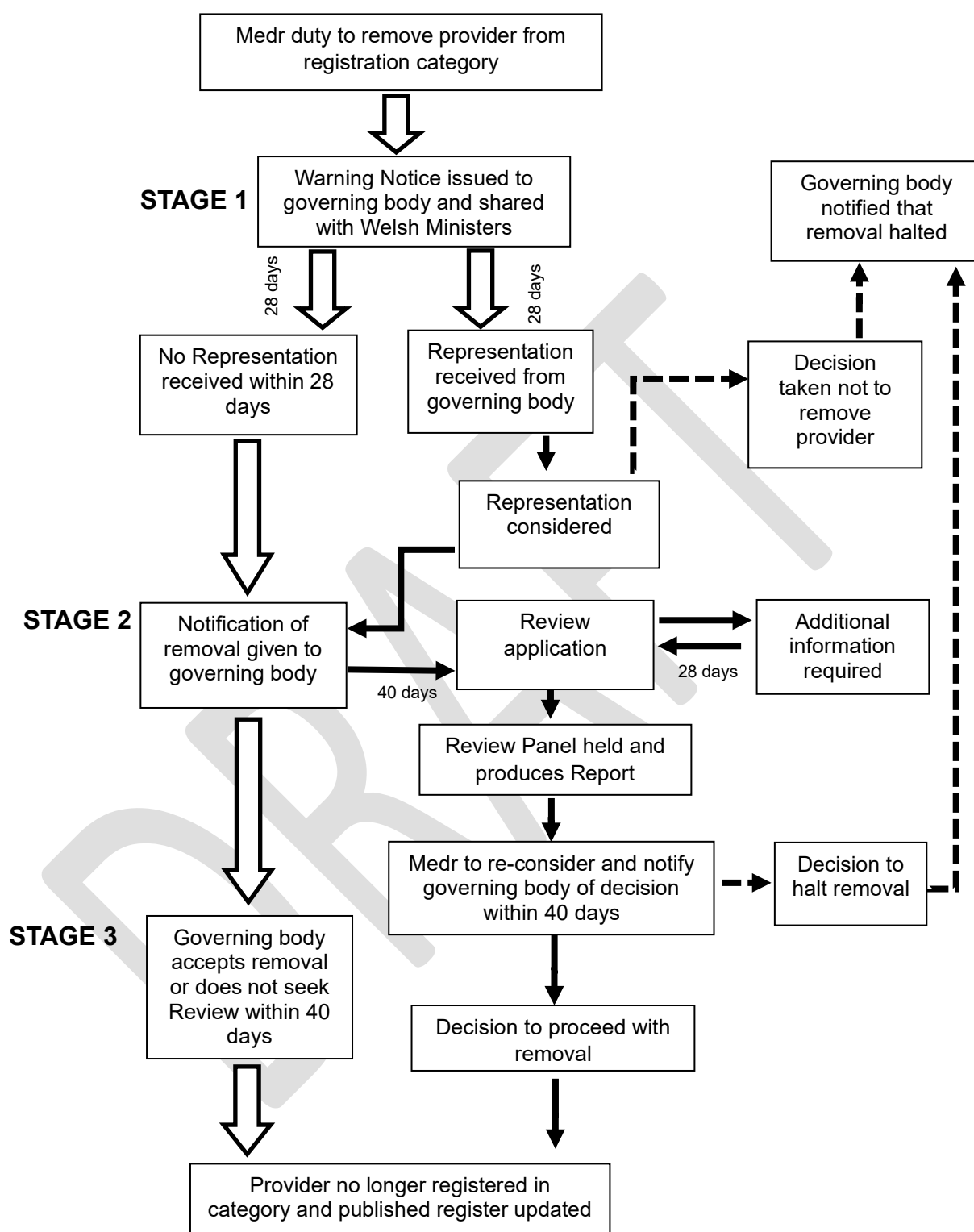
3.11.4. The governing body of a provider may apply for a review by the Decision Reviewer of Medr's decision to remove it from a category of the register. The Decision Reviewer is a person or panel of persons appointed by Welsh Ministers. The

arrangements for decision reviews are set out in The Commission for Tertiary Education and Research (Decision Review) (Wales) Regulations 2024 and are covered in paragraph 3.7.5.

Stage 3: Removal taking effect

- 3.11.5. If no decision review is sought, removal from the category of the register under Section 41(1) of the TERA will take place on the date specified on the notice issued to the provider's governing body. Where a decision review has been sought and completed, Medr must determine a future date on which the removal takes effect. That future date is subject to what Medr has determined following any decision review. Once the provider has been removed from the category of the register, the published register will be updated to reflect that removal.
- 3.11.6. *Minimising impact on learners* – In order to protect learners, the Welsh Ministers may, by regulations, make transitional or saving provision in connection with the removal of a provider from a category of the register. This is intended to ensure that public funds and students' interests are protected and may include ensuring that Medr retains certain regulatory powers in respect of a de-registered provider, or that certain funding streams remain temporarily available to students in order to ensure course continuation and completion.

Figure 6: Flow Chart – Mandatory de-registration under Section 41(1) of TERA 2022



This section applies to: All Institutions within the FE sector in Wales.

3.12. In addition to relevant interventions by Medr, Sections 69 and 70 of TERA 2022 provide for intervention by Welsh Ministers to address compliance issues in providers in the further education sector. The grounds for intervention by Welsh Ministers are as follows:

- the provider's affairs have been or are being mismanaged by its governing body
- the provider's governing body has failed to comply with a duty under any enactment
- the provider's governing body has acted or is proposing to act unreasonably in the exercise of its functions under any enactment
- the provider is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an acceptable standard of education or training

Welsh Ministers will separately publish a Statement of Intervention setting out their intervention powers in respect of providers in the further education sector.

3.13. Section 71(1) of TERA 2022 places a legal duty on Medr to notify Welsh Ministers if we are of the view that any one, or more, of the grounds for intervention exist in relation to a provider in the further education sector in Wales. This advice to Welsh Ministers may be required in parallel with, or as an escalation from, the use of Medr's own intervention powers.

Medr

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