



Y Comisiwn Addysg Drydyddol ac Ymchwil
Commission for Tertiary Education and Research

Condition: Learner Protection

When given notice under Section 126(1) of the **Tertiary Education and Research (Wales) Act 2022** (the Act), the governing body (or equivalent) of a provider registered with or funded by Medr **must**:

- have in place a learner protection plan approved by Medr, on or before a date specified by Medr and **must** implement that plan

Condition Category

This is an ongoing condition of registration. This is a condition of funding.

Legal Basis

Under Section 31 of the Act, Medr is required to provide a mandatory ongoing condition of registration that requires the governing body of the provider “if it has been given notice under Section 126(1), to have in place a learner protection plan approved by the Commission (under Section 126(3) or (5)) on or before the date specified in the condition and to give effect to the plan.”

Under Sections 90, 99 and 104 of the Act, Medr is able to impose terms and conditions of funding in relation to this condition.

Section 126 of the Act states that Medr must issue guidance on the preparation and revision of learner protection plans.

Section 126 sets out that Medr may give notice to a relevant tertiary education provider asking it to submit a learner protection plan to Medr on or before the date specified in the notice.

Section 126 also states that Medr may approve the learner protection plan with or without modifications. If a relevant tertiary education provider wishes to amend its approved learner protection plan, it **must** send a revised plan to Medr. Medr may approve the revised learner protection plan with or without modifications.

Section 135 of the Act states that Medr may give advice and issue guidance (whether general or specific) to any person about the provision of tertiary education or any matter connected with Medr's functions.

Compliance Requirements

1. To comply with this condition, the governing body of a provider (or equivalent) **must**, if it has been given notice under Section 126(1) of the Act, have in place (on or before the date specified in the notice) a learner protection plan, developed in partnership with learners and/or their representatives, approved by Medr (under Section 126(3) or 126(5)) and give effect to the plan. Providers **should** meet the requirements set out in the learner protection statutory guidance.

Monitoring

Medr will monitor compliance with this condition through oversight of the completion of learner protection plans. Medr will monitor the effectiveness of learner protection arrangements, as needed, in the following ways (for definitions of these, please see Medr's approach to monitoring):

- **Reportable Events:** in instances where those events relate to areas of Medr's remit, or advice or guidance issued by Medr to inform any decision regarding whether a learner protection plan is required
- **learner feedback:** in instances where feedback is related to the effectiveness or impact of learner protection arrangements at a provider
- **regulatory concerns submissions and complaints monitoring:** in instances where concerns raised with Medr, or analysis of complaints data, identify themes or systemic issues that might result in Medr requesting a learner protection plan
- **analysis of data:** Medr will monitor compliance and continuous improvement using a range of available quantitative and qualitative data. Where possible, Medr's analysis will be contextualised. This may be used to inform any decision regarding whether a learner protection plan is required
- **risk-based monitoring:** where data, evidence or reporting indicates a risk or potential risk to learner protection, we reserve the right to request additional information, evidence and/or data, meet the provider and/or visit the organisation
- **provider website monitoring:** Medr may monitor the websites of providers to ensure publication requirements for learner protection plans are met
- **engagement activities:** At either provider or sector level, Medr will engage with providers in reviewing how advice or guidance is considered

Providers with a prior record of non-compliance, deteriorating trends in data or identified as at risk of future non-compliance may be subject to increased scrutiny. Failure to comply with monitoring requirements will prompt further investigation and possible interventions.

Review and Amendment

Medr will regularly review this condition to ensure that it aligns with evolving sector needs, policy changes, and feedback from stakeholders.



Y Comisiwn Addysg Drydyddol ac Ymchwil
Commission for Tertiary Education and Research

Statutory Guidance on the Preparation and Revision of Learner Protection Plans

1. Under the **Tertiary Education and Research (Wales) Act 2022** (the Act), Medr must issue guidance on the preparation and revision of learner protection plans. Medr will oversee and monitor the completion of those plans and report on the effectiveness of those plans via its annual report to Welsh Government.
2. Our guidance sets out the requirements for learner protection plans which may be requested from tertiary education providers by Medr.
3. The guiding principle of learner protection plans is that learners should be able to complete the programmes of study on which they enrol, including those delivered via partnership arrangements. If something happens within the context of the learning environment which could reasonably be considered to be under the provider's influence, or a decision is taken by a provider that could negatively impact on a learner completing their course, then we expect providers to take all reasonable steps to support learners through to completion of their learning outcomes. This includes supporting learners to transfer programmes should they wish to do so. It does not include changes to a course of study where there are no learners actively enrolled, nor does it include circumstances where a learner chooses to withdraw from their course for other reasons (e.g. to pursue employment).
4. Use of a Learner Protection Plan (LPP) is expected to be uncommon. Where providers have effective governance and risk management arrangements in place, potential issues are usually identified and managed well in advance, meaning an LPP is unlikely to be needed. The LPP therefore acts as a safeguard for exceptional circumstances, rather than something to which most providers would expect to be subject.
5. As a general rule, we will use our regulatory and funding levers to engage with providers to understand the arrangements and strategies they have in place to support learners to complete their courses and succeed. Learner protection plans will form one of these tools. If we can obtain information through

established mechanisms, then we will generally use these routes rather than requesting a plan.

6. Providers are required to inform Medr of any serious incidents, notifiable events (as set out in the Reportable Events Supplementary Detail on Requirements) or other issues which could negatively affect learners being able to complete their courses of tertiary education. These instances could therefore trigger a learner protection plan. This approach is based on Medr's intention that there be 'no surprises' in terms of its regulatory approach, that providers **will** self-declare relevant issues to Medr (including those with the potential to feature in the press), and that there will be ongoing engagement and communication with providers which it funds and regulates.
7. Providers **should** confirm the steps they are taking, or intend to take, to resolve the issue (including support for and active engagement with learners to consider their needs). There may be circumstances in which Medr contacts a provider for information (as the first step) before making the assessment as to whether a learner protection plan is required.
8. Upon receiving this type of notification, Medr will consider the potential need for a learner protection plan and may initiate a dialogue with providers to seek clarification. Not all reportable events will lead to a learner protection plan being requested by Medr. Where possible, Medr **should** be notified at an early stage in any decision-making, particularly where this could affect groups or a substantive number of learners. Where circumstances arise which could cause detriment or a risk to a learner's ability to complete their courses successfully, Medr looks to providers in the first instance to keep learners fully informed and to engage actively with them in discussing how the circumstances will be mitigated.
9. In all cases, in determining whether a learner protection plan is required, Medr will consider the details of the circumstances and the severity of the potential, or actual, impact on learners. We reserve the right to give notice to a provider if we feel a learner protection plan is necessary to provide assurance to Medr in respect of the issues outlined in this guidance.
10. Upon being given notice, a provider **must** submit a Learner Protection Plan to Medr for approval. The notice will specify the date by which the learner protection plan **should** be submitted and the details which **should** be included in the plan, relative to the issue or trigger which prompted the plan. The plan **should** be co-created with learners impacted by the issues, supported by learner representatives as appropriate. The provider **must** ensure it communicates effectively and appropriately with learners.
11. **Annex A** sets out this expected process for the submission, approval, and revision of learner protection plans.
12. **Annex B** sets out the requirements for the contents of learner protection plans. We have not provided a template as we do not wish to be overly prescriptive about the development and format of plans. However, should there be a

collective sector desire for a template, we will work with providers to produce one.

13. **Annex C** provides worked examples of possible scenarios, with Medr's tentative (and hypothetical) assessment of whether a learner protection plan may be required. Our decision to request a plan will be proportionate and risk-based, in line with our regulatory approach, and will be taken on a case-by-case basis.

Scope

14. All providers who are funded by or registered with Medr **should** abide by this guidance in respect of the education they deliver, except for local authorities in respect of maintained sixth form provision, which is specifically excluded from the provisions within the Act, regarding learner protection plans. Providers in scope include universities, further education institutions, apprenticeship providers (i.e. independent training providers as well as further education institutions), and providers of adult community learning. Courses of tertiary education include further education provision, training, apprenticeships, higher education (including postgraduate research) and adult community learning.
15. Provision delivered by or on behalf of funded or registered providers is in scope of this guidance. This includes transnational education, provision delivered via sub-contractual arrangements, as well as education delivered as part of subsidiary arrangements. In the case of partnership provision, Medr **will** require the lead provider to have ownership of any active learner protection plans and to involve partners in the development and implementation of these plans.
16. In some cases, for example in the case of external or societal events which would likely have an impact on multiple providers, it may be appropriate for two or more providers to adopt a joint approach to the preparation of learner protection plans or underpinning guidance (including business continuity planning). However, Medr's approach to monitoring will be specific to each individual provider.
17. This guidance and the Learner Protection Condition do not replace, supersede or contradict a provider's wider legal obligations, including those under consumer protection law or the requirements set out by the Competition and Markets Authority (CMA).

Triggers

18. The following list sets out potential triggers for a learner protection plan. This is not an exhaustive list. However, we consider that these are the principal areas in which learner protection plans may be necessary:
 - Reportable Events (as per Medr's Reportable Events' policy)
 - course closures (excluding most instances of teach-out, see business continuity section below)

- closure of, or change to, a learner’s primary learning location (campus, centre, etc, including as a consequence of merger or takeover of a provider). This could encompass issues affecting online learning environments, depending on the circumstances
- closure of a provider
- significant change to a learner’s course of study. We will use the term ‘significant’ to encompass changes or modifications which render the provision reasonably to be considered substantively different to that to which the learner signed up at the beginning of their programme of study. This could include:
 - mode of study (for example, from in-person to wholly online)
 - loss of, or significant change to, essential elements which could affect a learner’s ability to achieve their learning outcomes (e.g. assessments, modules, placements (including as a result of the breakdown of relationships with partners, or collapse of an employer), mandatory elements of PSRB accredited provision where the proposed change(s) could invalidate accreditation)
 - failure to provide Welsh-medium provision where this is contrary to what was offered at the beginning of the course
 - loss of essential / specialist personnel (e.g. PGR supervision arrangements, specialist course content)
 - loss of dedicated funding (e.g. UKRI studentships)
 - loss of essential facilities

19. We will routinely monitor the following information sources through our established mechanisms and engage with providers or request learner protection plans where we consider it may be necessary:

- trends in data
- learner voice survey outcomes
- Information shared with Medr by learners, their representatives, and other stakeholders
- compliance with the learner engagement code
- outcomes of external quality assurance reviews
- outcomes of audits
- outcomes of professional, statutory or regulatory body accreditation exercises
- outcomes of complaints processes, including those referred to other bodies such as the OIA

As outlined above, if we can seek assurance through other mechanisms, we will aim to do so.

Business Continuity

20. Learner protection plans are intended to ensure that there are consistent and effective learner protection arrangements in the tertiary sector, to support learners being able to complete their courses in the event that something

happens outside of their control which could negatively impact on their education.

21. Learner protection plans are not intended to replace business continuity activity or other processes by which providers fulfil their regulatory and statutory duties. We consider that effective business continuity processes could mitigate the need for Medr to require a learner protection plan in some cases, provided they are designed effectively. Providers **should** take account of this guidance, including the general principles set out above, within relevant business continuity planning and institution decision-making.

Portfolio Review

22. Medr recognises that providers are continuously adapting their portfolio of courses, particularly to meet changes in learner demand, and this will often include closing some courses where demand is declining in order to redeploy resource to areas of growing demand, or closing courses as part of a programme of planned curriculum re-design and transformation. Learner protection plans will not typically be required in relation to course closures of that type, particularly where providers plan to teach out provision in the same location and there are no implications for learners wishing to progress to the next level of study. However, Medr might look to seek assurance as to how providers would safeguard learner outcomes in these circumstances, recognising that teach-out activity could still have a negative impact on learners. There could also be CMA/consumer protection law implications for providers in some circumstances, and these are independent of Medr's assessment.
23. Where a course is to be closed part-way through a learner's programme (for example, the second year of A-levels at a further education institution, or the first year of a university undergraduate degree) without the opportunity for learners to complete their course with the same provider, we expect providers to support all affected learners to complete their course elsewhere. Similarly, where expected progression points are removed after a learner has enrolled – such as the next level in a suite of qualifications – we expect providers to support all affected learners to meet their learning outcomes through alternative arrangements.
24. This could be through their transfer to a similar course offered by the provider or through supporting the learner to transfer to the same/ a similar course of education or training at another provider. It could include emotional or well-being support, financial support in relation to accommodation/study costs or the movement of personal belongings, or transport costs where learners need to travel to the new delivery location. Medr may require submission of learner protection plans for approval where there is reason to believe that learners do not feel appropriately supported by their provider.
25. There may be instances where a provider's own terms and conditions allow for courses to be closed. For example, if there are insufficient new enrolments, and therefore it would not be viable to run those courses. We would consider this to

be outside of the scope of learner protection plans, provided that applicants are offered suitable alternatives where possible and where learners have been informed of this possibility **in advance** of applying for the course.

26. In all such cases Medr expects that providers **will** keep learners fully informed about the plans for closure and will ensure that learners are fully supported to complete their course of study successfully, including by maintaining suitable and sufficient staffing and learning resources through to the end of course delivery and ensuring that arrangements are in place to support learners to achieve their learning outcomes. If Medr should receive information that these learners are not being supported, we will engage directly with the provider in the first instance.
27. Additionally, the successful completion of a learner protection plan would not impinge or affect a learner's wider rights, including under consumer law or, where relevant, to third party redress.
28. Providers' learner engagement activity **should** set out how the provider will engage learners in decision-making, including when it relates to planning and implementing course closures, and significant changes to course content and delivery, as part of ongoing course portfolio management. This **should** ensure that learners are kept informed and have meaningful opportunities to raise any questions and concerns about how they will be supported to complete their course successfully.
29. We recognise that events may take place which are unexpected and have the potential to cause disruption to the delivery of tertiary education. These could include natural disasters, events on campus (e.g. fire/flooding), or a nationwide event (such as a global pandemic or terrorist action). We recommend that providers take account of such possibilities in their contingency / business continuity planning, to inform any learner protection plan which may be required by Medr. As long as the provider's contingency planning provides learners with the appropriate support for their learning achievable in the circumstances, Medr would not necessarily expect to require a learner protection plan.
30. We consider that there are some events or decisions which could negatively affect a learner's ability to complete their course that could **reasonably** be anticipated by providers. These include: disrupted access to facilities, unexpected system downtime or system failure, staffing and resource issues, financial pressures, industrial action, and political demonstrations. In these cases, we expect the provider to engage actively with affected learners, keep them fully informed about the situation causing the disruption, and engage with them in deciding how the disruption is best mitigated and how any lost learning can be made up. Medr may require submission of learner protection plans for approval if there is evidence that the provider is not engaging effectively in that way with its learners.

Learner Transfers

31. In the event that a learner wishes to transfer to another course of tertiary education, either at the same provider or a new provider, **for any reason**, providers **should** set out how they will support learners to do this.
32. We do not consider learner protection plans to be the most appropriate mechanism for this to be achieved and therefore do not anticipate normally requesting a learner protection plan for learners wishing to transfer courses, as this is a relatively common event in tertiary education and it would not be proportionate to do so.
33. Providers, therefore, **should** outline, in a publicly accessible format, details of their policies and processes which support learner transfers. This could be included as part of an existing document. This document **should** outline the steps the provider will take to facilitate the transfer of a learner to another course of tertiary education, recognising the limits within the academic year of when transfers can take place and the autonomy of providers in approving transfer requests. This **should** include the timely and secure transfer of a learner's progress, achievements and records so that the learner is not disadvantaged and their work and progress are not lost. Medr may require submission of learner protection plans for approval if there is evidence (such as learner complaints or regulatory concerns raised) that the provider is not offering constructive support for learners wishing to transfer or that a provider is not following its own learner transfer procedures.
34. When a learner protection plan has been specifically requested by Medr, the plan **should** include details of how learners will be supported to transfer courses in the context of the circumstances which triggered the plan.

Learner Protection Plan Process Timeline

35. As outlined above, providers **should** notify Medr as soon as possible of any relevant circumstances which could have the potential to negatively impact on a learner's ability to complete their studies. Medr will consider whether a learner protection plan is required and confirm this decision to the provider. The expected timeline, when a learner protection plan is required, is as follows:

1. Requests for plans

- providers will be given written formal notice that they **should** submit a learner protection plan to Medr
- providers will ordinarily be given 20 working days to complete and submit a plan to Medr, however this will be dependent on the circumstances which have informed the notice being given to a provider. Where an issue or change is going to create an urgent or time-sensitive need to protect the learner interest, the timeline may be adjusted or shortened accordingly

2. Submission of plans

- learner protection plans, once notice has been issued to a provider, **should** be submitted to Medr
- the plan **should** be signed off by the provider's accountable officer, or a senior member of a provider's management team if delegated by the accountable officer
- the plan **may** be submitted by an individual on behalf of the signatory
- we will confirm receipt of the plan by email

3. Approval of plans

- Medr will aim to consider learner protection plans within 20 working days of receipt of the plan; where an issue is urgent or time-sensitive Medr will adjust the timeline accordingly. The potential outcomes of this process are either 1) Medr will approve the plan in its original form or 2) Medr will request a revised plan for approval or 3) the plan cannot be approved
- Medr will confirm the outcome of the assessment process to the provider within 10 working days of the assessment of the plan, subject to further iterations of the plan, as needed

4. Revision of plans

- if a provider wishes to amend its approved learner protection plan, it **must** notify Medr and provide a copy of the revised plan for approval
- Medr may approve the revised plan with or without modifications
- Medr may choose not to approve the modified plan, in which case, the original plan will remain in force

5. Publication

- approved learner protection plans **must** be made readily available to learners, prospective learners and the general public by the provider on its website within 15 working days of approval by Medr
- providers **should** take steps to ensure that the publication of any approved learner protection plan is communicated effectively to learners

6. Monitoring

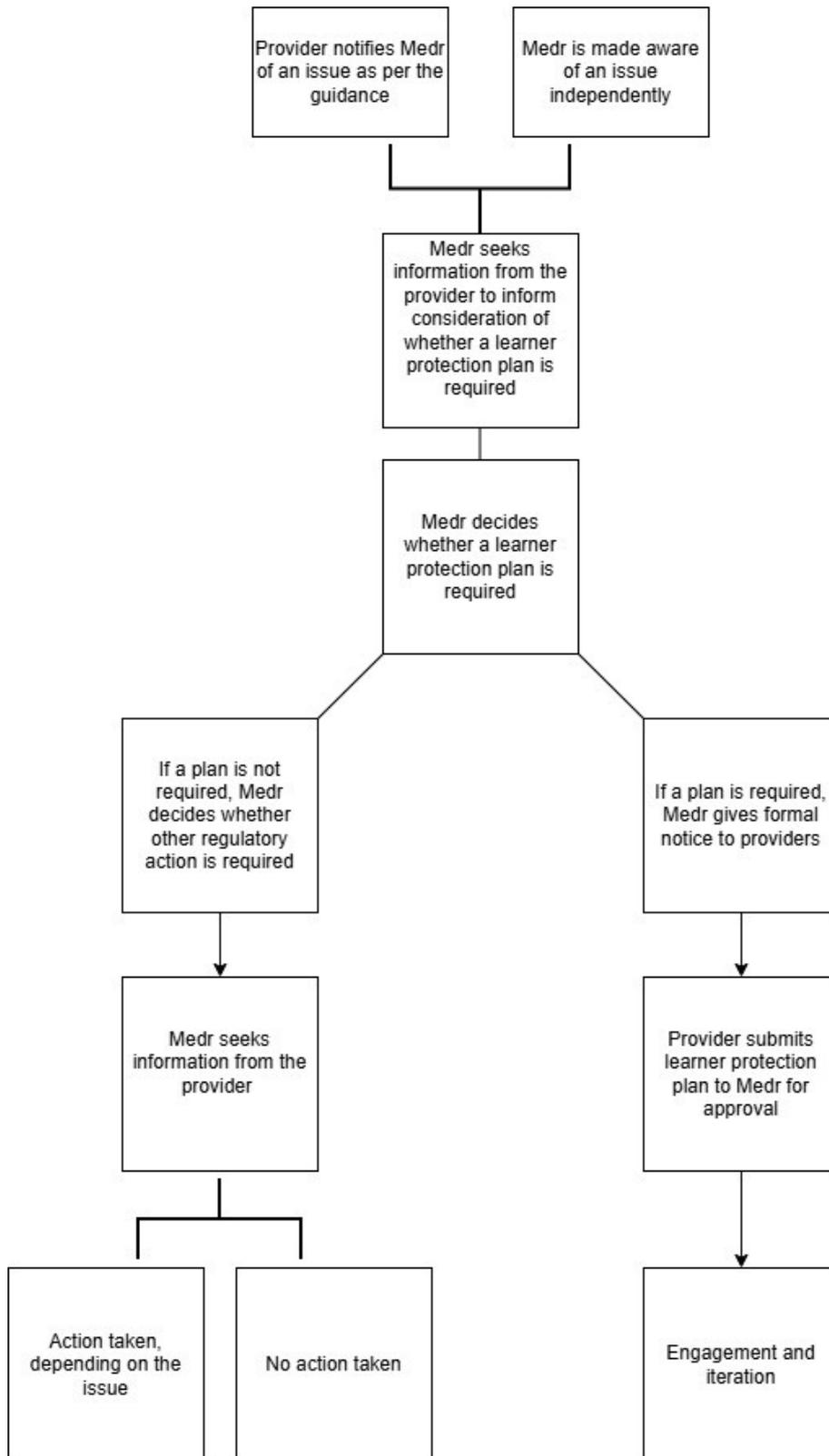
- Medr will monitor the completion of any active learner protection plans (following our initial approval) in line with Medr's overall monitoring framework. This could include enhanced engagement, data analysis, financial management consideration, and taking account of the learner voice. The initial monitoring arrangements will be confirmed at the point of the initial approval of the learner protection plan. Providers **will** be expected to provide Medr with regular updates on the completion of the plan and to confirm to Medr when the plan has been completed, including details of how the success of that plan will be evaluated

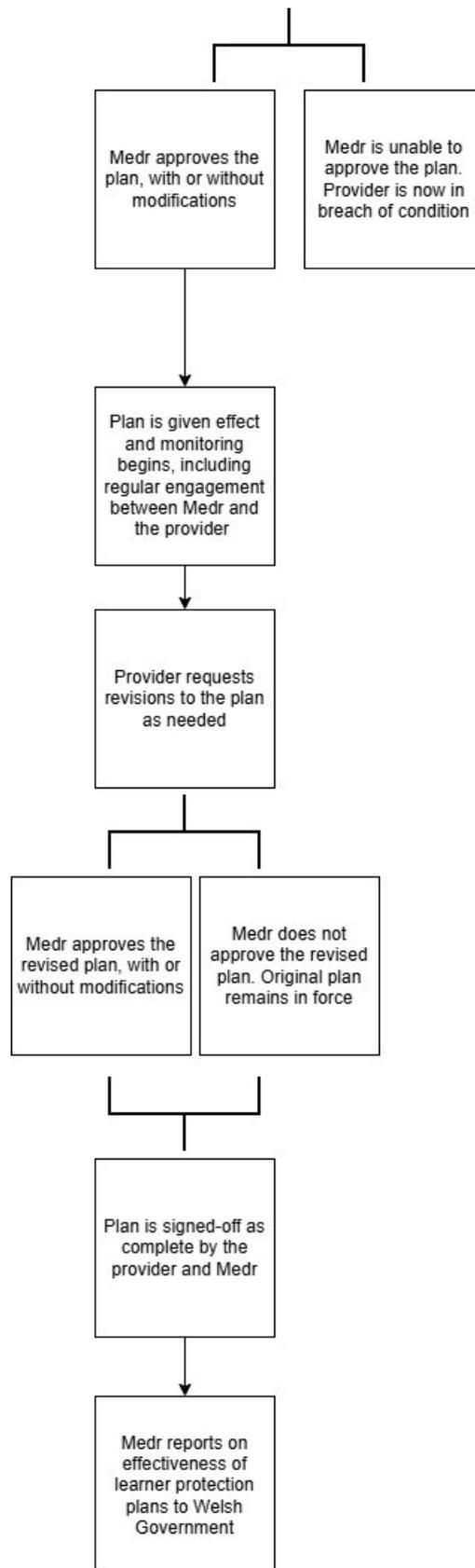
- we will review progress of the plan and confirm when we consider that it has been completed

Revision of this Guidance

36. In time, as our approach evolves and we evaluate the effectiveness of learner protection plans across the sector, we will engage with providers, including through the sharing of effective practice and evaluation, to achieve a collective understanding of the types of scenarios which could require a learner protection plan and the necessary support required for learners.
37. Medr shall carry out its functions with regard to the importance of protecting the freedom within the law of education providers in Wales to conduct their day-to-day management in an effective and competent way. Nothing in the regulatory documents are to be interpreted as requiring the governing body of a tertiary education provider to do anything that is incompatible with any legal obligation or legal restriction that applies to the governing body by virtue of the provider being a charity, or with the governing documents of the provider.

Annex A: LPP Flowchart





Annex B: Requirements of a Learner Protection Plan

Learner protection plans **should** be clear and specific. They **should** include the following information:

1. The circumstances which triggered the learner protection plan request (as set out in Medr's notification)
 - information on whether this was notified to Medr, and the date (if applicable)
 - further detail on the circumstances (if not already provided)
2. Decision-making
 - reasoning behind the decisions made and the relevant decision-making groups involved in that decision
 - how the learner voice contributed to the formation of that original decision. If based on formal or informal data gathering exercise, please include an overview of the analysis
3. Impact assessment
 - learner protection plans **should** outline the steps taken to assess the impact of any decisions you have taken which could negatively affect the relevant learners being able to complete their courses. We expect these processes to be supported by robust institutional processes to anticipate risk and to take account of the impact on learners with protected characteristics. These processes **should** take account of the voice of learners in identifying risks, controls and mitigations against negative impacts on learners
4. Learner engagement
 - confirmation that the plan has been actively and transparently developed with learners or recognised learner representatives, in line with the requirements of the Learner Engagement Code, with details of how this has been achieved. This **should** include plans for learner engagement
5. Mitigation
 - action taken to mitigate any negative impact on learners/ plans to support learners where there may be an impact on their ability to complete their course
 - date(s) by which the action will be completed
 - list of any relevant policies/guidance that should be read alongside the plan

6. Evaluation

- process by which the provider **will** monitor the impact of its actions on learners and that the plan has been implemented successfully

7. Contact information

- contact details for those with oversight of, and responsibility for, delivery of the plan

Annex C: Worked Examples

The following are based on the assumption that a provider has notified Medr of the relevant issue in the first instance and Medr is taking a decision as to whether it is assured by the information given by the provider. They are provided for illustrative purposes only.

- 1) Where a provider has decided to close a course due to low numbers of ongoing enrolments - we do not anticipate that a learner protection plan would be required if the provider followed the standard process of teaching out (i.e. where learners currently studying would be able to finish the programme but there would not be new enrolments in the future and the programme would no longer be advertised) and we were suitably assured by the information given by the provider on the nature and scope of teach-out activity as well as learner engagement with the process. We would expect the provider to ensure that quality is maintained during the teach-out, that learners still studying on the course were not negatively impacted by this change and were supported throughout their journey. If the provider, however, decided to close the programme whilst learners were still studying, with no plans or capacity for teach-out, then a learner protection plan might be required, which **should** include details of how the provider would support and engage with learners, including providing assistance to learners to transfer to another provider, or supporting them in finding alternative arrangements.
- 2) Where a provider has decided to close one of its campuses, resulting in learners having to travel/move to a different location to continue their studies - a learner protection plan might be required in this instance which **should** include details of what additional support would be provided to affected learners, given the scale and potential impact of such a decision. This could include emotional or well-being support, financial support in relation to accommodation, study or childcare costs or the movement of personal belongings, or transport costs where learners need to travel to the new location.
- 3) Where a provider plans to change the mode of study for a programme from in-person to online only and the programme had been advertised as being taught via on-campus delivery, a learner protection plan might be expected. A change of this nature could have a negative impact on the quality of the learner experience for those learners actively enrolled on the course, and could give rise to increased numbers of learner transfers. The successful completion of a plan in these circumstances would not impinge on the wider rights of learners under consumer law.
- 4) Where a learner requests to transfer to study a different programme at (the same or) another provider, a learner protection plan would not normally be required. However, we would expect relevant providers to support learners to transfer courses, in line with their published learner transfer policy (see Learner Transfers section above).
- 5) Where a postgraduate research student is affected by either the loss of their primary supervisor, or access to a specialist facility essential to their research

project, a learner protection plan might be required in order to provide sufficient assurance to Medr that the provider has systemic approaches in place to deal with such occurrences. The plan **should** set out how the provider will ensure continuity of supervision, secure access to equivalent facilities or resources, and address any implications for funding or project timelines. It **should** also include details of how the provider will engage with the affected learner in co-creating the plan and outline any additional support and existing policies to mitigate disruption.

- 6) Where a provider plans to change the medium of study for a programme from Welsh (either fully or partially available in Welsh) to English and the programme had been advertised as being taught through the medium of Welsh (either fully or partially in Welsh), a learner protection plan might be expected as the change could have a negative impact on the quality of the learner experience, and the learning outcomes, for those learners actively enrolled on the course.