



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

## Condition: Regard to Advice or Guidance

The governing body (or equivalent) of a provider registered with or funded by Medr **must**:

- have regard to advice or guidance given by Medr to the body (either specifically or to persons generally) in exercise of Medr's functions under the Act

and therefore:

- have regard to any advice or guidance issued by Medr, whether explicitly directed to the provider or more broadly to the sector, recognising that providers may adopt alternative approaches where appropriate to their context
- be able to explain the rationale for their approach if requested, but there is no expectation of routine justification or reporting

When Medr publishes advice or guidance, it will ordinarily give a minimum of 30 working days' notice ahead of publication. In some, urgent circumstances, Medr retains the right to publish at a shorter timeframe.

### Condition Category

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

### Legal Basis

Section 31 of the **Tertiary Education and Research (Wales) Act 2022** (the Act) requires Medr to impose an ongoing condition of registration that requires the governing body of a provider to "have regard to advice or guidance given by the Commission to the body (either specifically or to persons generally)" in the exercise of Medr's functions.

Section 37 of the Act determines that Medr may 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.

Under Sections 90, 99 and 104 of the Act. Medr must develop terms and conditions of funding that require providers to have regard to advice or guidance given by Medr.

Section 135 of the Act sets out Medr's broader powers and duties to issue advice, guidance and good-practice guidance in relation to its functions, including guidance on the sharing of information.

To support consistent interpretation and compliance with this condition, Medr will clearly indicate when advice or guidance it issues is intended to engage the statutory 'have regard' duty, and when it constitutes broader advisory or good-practice material, so that providers are not required to maintain exhaustive records of all communications.

## Compliance Requirements

To comply with this condition, a provider **must**:

1. **evaluation of guidance:** ensure appropriate consideration of Medr-issued advice or guidance, with appropriate oversight at the governing body level (or equivalent). It is appropriate for each provider to determine the nature of the advice or guidance and to what level in their governance structure they should be considered
2. **record-keeping and evidence:** maintain proportionate records that demonstrate that guidance has been considered through the provider's normal governance processes. Providers **may** adopt alternative approaches where justified, provided they align with the principles of good governance and regulatory compliance
3. **justification for divergence:** where a provider opts not to adhere to advice or guidance under the statutory must "have regard" duty, they **should** ensure that they maintain an appropriate record of the justification for doing so

## Monitoring

Medr will monitor compliance with this condition in the following ways (for definitions of these, please see Medr's approach to monitoring):

- **Annual Assurance Return:** as part of Medr's Annual Assurance Return, providers **will** be expected to self-declare that they have met the compliance requirements of the condition. This will be the primary source of monitoring for this condition.
- **regulatory concerns submissions and complaints monitoring:** in instances where concerns raised with Medr, or analysis of complaints data, identify themes or systemic issues that relate to areas of advice or guidance issued by Medr
- **data monitoring:** Medr will consider data relating to Regard to Advice or Guidance, against the specific themes that are related to advice or guidance

- **Reportable Events:** in instances where those events relate to areas of advice or guidance issued by Medr
- **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.