

Medr

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

Statement of Intervention Powers

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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. 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.
- 1.2. The following interventions are those explicitly specified in the **Tertiary Education and Research (Wales) Act 2022** (the Act) for use by Medr to deal with non-compliance, or likelihood of non-compliance, by a provider. These intervention functions are set out at Section 81 of the Act as the powers in the following sections:
- (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).

What are the specified intervention powers and which apply to me?

- 1.3. The table below summarises the basis for the intervention powers that apply to different types of tertiary education and training provider including higher education, further education 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, a further education provider may also deliver higher education under a franchise/sub-contractual arrangement as an 'external provider' and/or under Specific Course Designation. This table flows from the provisions in the Act with 'specified powers' being those defined interventions that are explicitly set out in the Act, 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 higher education providers	<ul style="list-style-type: none"> the Act specified intervention powers linked to relevant ongoing conditions of registration other non-specified interventions linked to conditions of registration
Unregistered providers of higher education under franchise/sub-contractual arrangements ('external providers')	<ul style="list-style-type: none"> the Act specified intervention powers regarding monitoring & promotion of improvement, advice & assistance and reviews linked to the Condition of Registration in respect of Quality the Act specified intervention powers regarding Directions in Respect of Failure to Cooperate
Further education institutions that are not registered	<ul style="list-style-type: none"> the Act specified intervention powers regarding monitoring & promotion of improvement, advice & assistance and reviews linked to the Condition of Funding in respect of Quality the Act 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 the Act
Other funded tertiary education and training providers that are not registered (apprenticeship and adult community learning providers)	<ul style="list-style-type: none"> the Act specified intervention powers regarding monitoring & promotion of improvement, advice & assistance and reviews linked to the Condition of Funding in respect of Quality the Act specified intervention powers regarding Directions in Respect of Failure to Cooperate other non-specified interventions linked to conditions of funding
Funded school sixth forms via their relevant local authorities	<ul style="list-style-type: none"> the Act 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	<ul style="list-style-type: none"> the Act powers regarding assessment of Quality and associated specified intervention powers regarding advice & assistance and reviews in respect of Quality

1.4. **School sixth forms** are covered by Medr's condition of funding in respect of Quality. Should intervention be necessary in respect of school sixth form provision, engagement will normally be with the relevant local authority, which is the maintaining authority for such provision. References in this document to a "governing body" should therefore be read as references to the local authority acting

through its established governance and assurance bodies responsible for post-16 education. Similarly, adult 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 or further education college as appropriate. We will work with local authorities and colleges to develop our arrangements.

- 1.5. 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 further education 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?

- 1.6. Our approach to regulation, including what this means for monitoring and intervention, is set out in our Regulatory Framework. Section 81 of the Act 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 intervention powers and how these will be used. Our use of intervention powers is informed by our regulatory philosophy, which is outlined in our Regulatory Framework.

When will our powers apply?

- 1.7. Many of our intervention powers for providers of higher education link to conditions of registration under the Act. 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 the Act 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.
- 1.8. 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**.
- 1.9. 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 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 conditions of registration 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](#).

- 1.10. The full range of registration conditions for registered providers of higher education under the Act 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.

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](#).

2. How we use our specified intervention powers

This section applies to: Registered providers in both categories as applicable (all registration conditions), external providers (Quality), other funded further education and training providers (Quality) and other tertiary provision in Wales that is not delivered by a registered or funded provider (Quality).

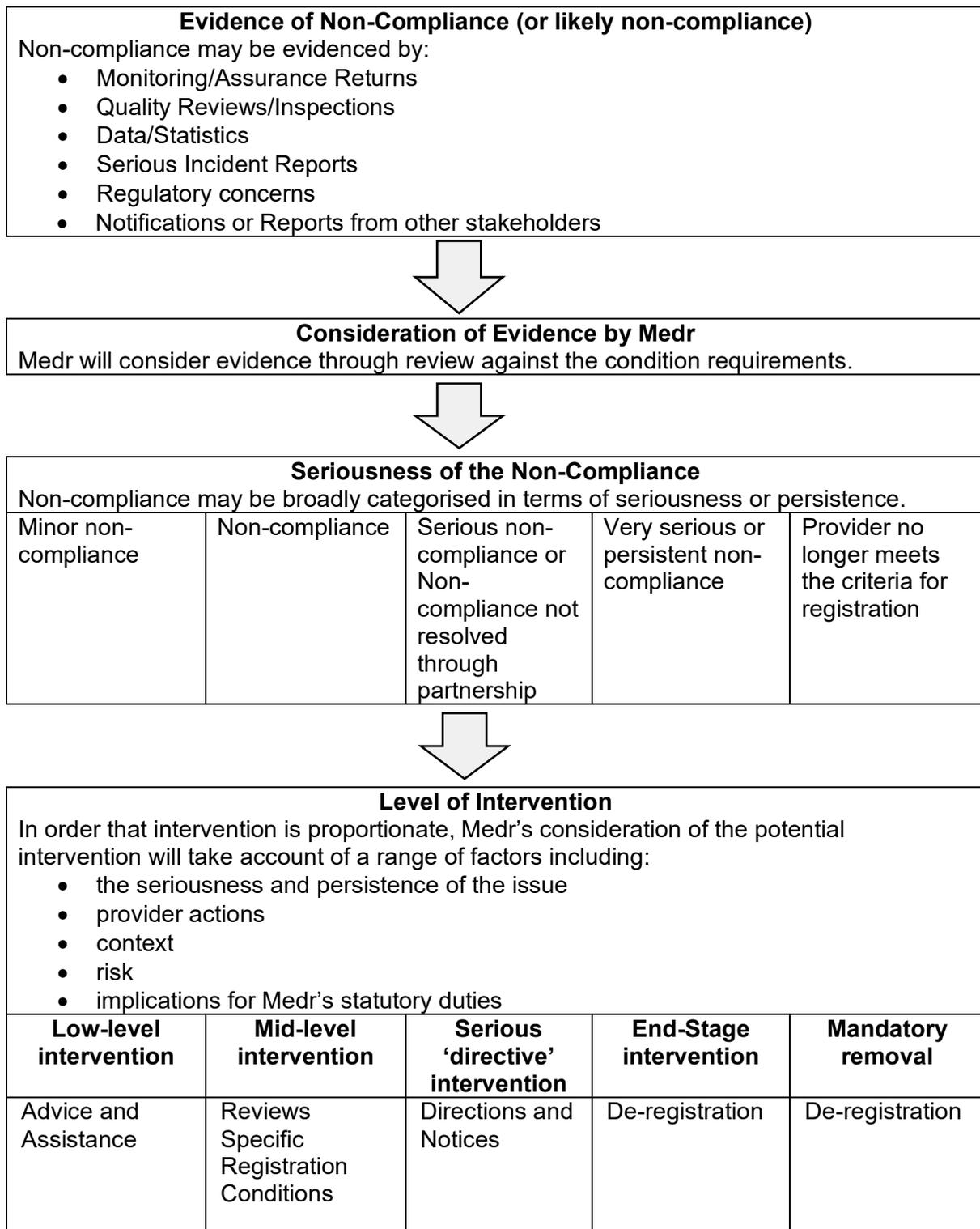
2.1. For all tertiary education and training providers in Wales, where monitoring has provided evidence of non-compliance with applicable conditions, this informs Medr's consideration of potential interventions as summarised at [Figure 1](#) below. We may decide, once we have considered an issue of non-compliance, 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. Whilst Medr reserves the right to use its intervention powers, as necessary, we would not normally expect to use our powers to address minor non-compliance, especially where a provider has robust processes in place and its decision making has been reasonable, or it is actively taking all reasonable steps to resolve issues.**

2.2. Where we do need to 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 or reputation
- **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. This is particularly likely to be the case where any non-compliance is not serious or persistent.

Figure 1. Consideration of Potential Interventions



- 2.3. 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](#).

- 2.4. Intervention may take the form of a range of actions, including actions under the Act. Section 81 of the Act 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 the Act

- 3.1. There are a range of interventions explicitly specified in the Act that Medr may utilise to deal with non-compliance, or likelihood of non-compliance, by a provider:
- (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).

In addition to the above interventions, Section 29 of the Act enables Medr to impose specific ongoing conditions of registration, either at the point of registration or once already on the Register.

- 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 (providers covered by conditions of funding); 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 Act 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 under Sections 36 and 51 of the Act**

This section applies to: Registered providers (all ongoing registration conditions), external providers (Quality only) and other funded providers - including funded further education and training providers and school sixth forms via their relevant local authority (Quality only).

3.4.1. 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.

3.4.2. **Ongoing registration conditions** - Section 36 of the Act 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 below, much of Medr's monitoring activity in respect of compliance with ongoing conditions of registration will be cyclical and routine in nature, although 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 Act 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 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.

3.4.4. 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 regulatory concerns 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 regulatory concerns about providers and serious incident report submissions, may be received at any point in

¹ Section 51 of the Act 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 the Act in relation to those providers.

time. Further information on what we monitor for different types of provider is provided below.

Registered higher education providers

3.4.5. 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:

- Financial Sustainability
- Governance and Management
- Quality and Continuous Improvement
- Staff and Learner Welfare²
- 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.

3.4.6. 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.

3.4.7. 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:

- Financial Sustainability
- Governance and Management
- Quality
- Staff and Learner Welfare
- Welsh Language
- Learner Protection Plan
- Learner Engagement Code
- Equality of Opportunity (HE Core Category Only) (In effect from 1 August 2027). For 2026/27 this area is covered by the 2015 Act powers
- Complaints Procedures
- Regard to Advice and Guidance
- Information, Assistance and Access
- Validation Arrangements
- Charitable Status (HE Core Category Only)
- Information Provided to Prospective Students

² Medr interprets "welfare" in accordance with the explanatory memorandum for the Act. This is explained in Medr's Regulatory Framework.

- Fee Limits (HE Core Category Only) (In effect from 1 August 2027). For 2026/27 this area is covered by the 2015 Act powers
- Notification of Changes which affect the Accuracy of Information
- Status as a Tertiary Education Provider in Wales

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.

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

3.4.8. We will monitor external providers' (providers delivering provision on behalf of regulated providers i.e. 'franchise/sub-contractual' provision - not validated 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 further education and training (including apprenticeship and adult community learning) providers

3.4.9. Whilst it is likely that many further education colleges will be registered for their higher education provision, for those funded further education and training (including apprenticeship and adult community learning) providers that are not registered, we have a duty to monitor and promote quality. Further information on our funding conditions is published separately.

Funded school sixth forms

3.4.10. For sixth forms in maintained schools in Wales, we have a duty to monitor and promote quality.

Other tertiary provision in Wales

3.4.11. For other tertiary provision in Wales, that is not delivered by registered or funded providers, we may be alerted to quality issues.

3.5. Advice and Assistance under Sections 37 and 52 of the Act

This section applies to: Registered providers (all ongoing registration conditions), external providers (Quality only), other funded providers - including funded further education and training providers and school sixth 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 Act are detailed below. Medr will clearly indicate when advice it issues is intended to engage the statutory 'have regard' duty, imposed by the Condition of Registration or Funding in respect of Regard to Advice and Guidance, and when it constitutes broader advisory or good-practice material.
- 3.5.2. **Ongoing registration conditions** - Section 37 of the Act 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 Act 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 higher education providers, further education providers, apprenticeship providers, adult learning providers, school sixth forms via their relevant local authority 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 under Sections 38 and 53 of the Act**

This section applies to: Registered providers in both categories (all ongoing registration conditions), external providers (Quality only), other funded providers - including funded further education and training providers and school sixth 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 Act 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 Act 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 higher education providers, further education providers, apprenticeship providers, adult community learning providers, school sixth forms via their relevant local authority 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 under Section 29 of the Act

This section applies to: Registered providers only (all initial and ongoing registration conditions)

3.7.1. **Specific ongoing conditions** - Section 29 of the Act 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, or a likelihood of 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 on a case-by-case basis. It should be noted that Medr will not normally use specific ongoing conditions of registration to deal with minor issues. Medr may consider specific ongoing conditions of registration where issues are significant enough that advice and guidance alone will be insufficient to address the identified issues but where more severe intervention would be disproportionate. 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, or a likelihood of non-compliance, but where it would be disproportionate to refuse registration. This would enable Medr to register a provider on the basis that the identified issues, whilst significant, can be resolved within an agreed timescale.
- **On an already registered provider**, at any point where non-compliance with ongoing conditions of registration, or a likelihood of non-compliance, 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 specific 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 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.

Following a Decision Review, Medr will revisit its publication of the specific ongoing condition as appropriate.

Stage 3: Conditions taking effect

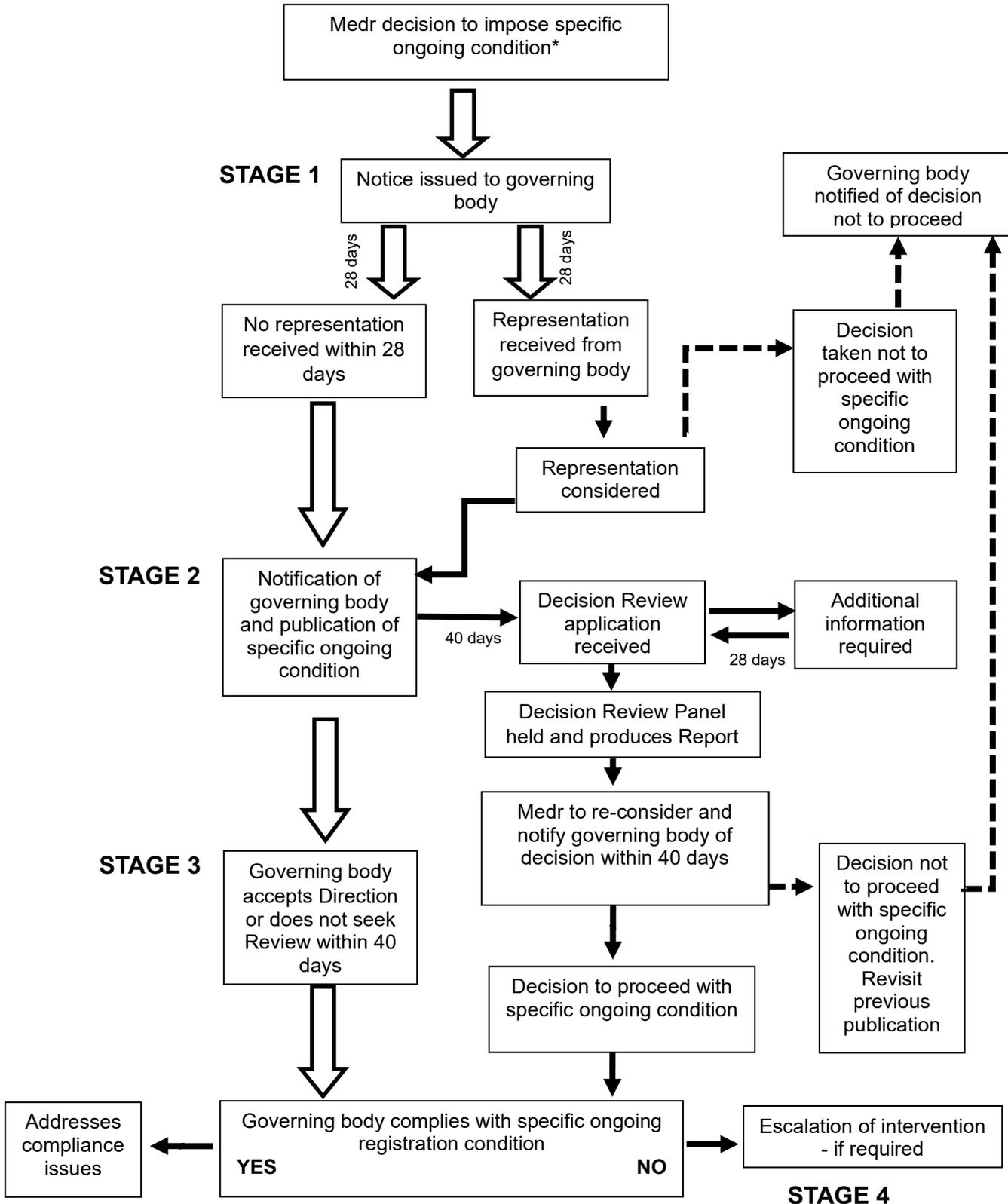
3.7.11. If no decision review is sought, the condition, or variation to the condition, will take effect on the date specified in the notice issued to the governing body. Where a decision review has been sought and completed, Medr must determine a future date on which the condition or variation takes 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 the Act is set out in section 3.10.

Figure 2: Flow Chart - Specific Ongoing Registration Conditions under Section 29 of the Act

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



*Medr may take a decision to impose specific ongoing conditions on registration where there is non-compliance with initial registration conditions but it would be disproportionate to refuse registration or on a registered provider where there is non-compliance with ongoing conditions and formal action is warranted.

3.8. **Directions in respect of non-compliance with ongoing registration conditions (including Fee Limit Condition) issued under Section 39 of the Act**

This section applies to: Registered providers only (all ongoing registration conditions)

- 3.8.1. **Directions** - Section 39 of the Act 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 general 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 bodies 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.

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. Following a Decision Review, Medr will revisit its previous publication as appropriate.

Stage 3: Directions taking effect

3.8.7. 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

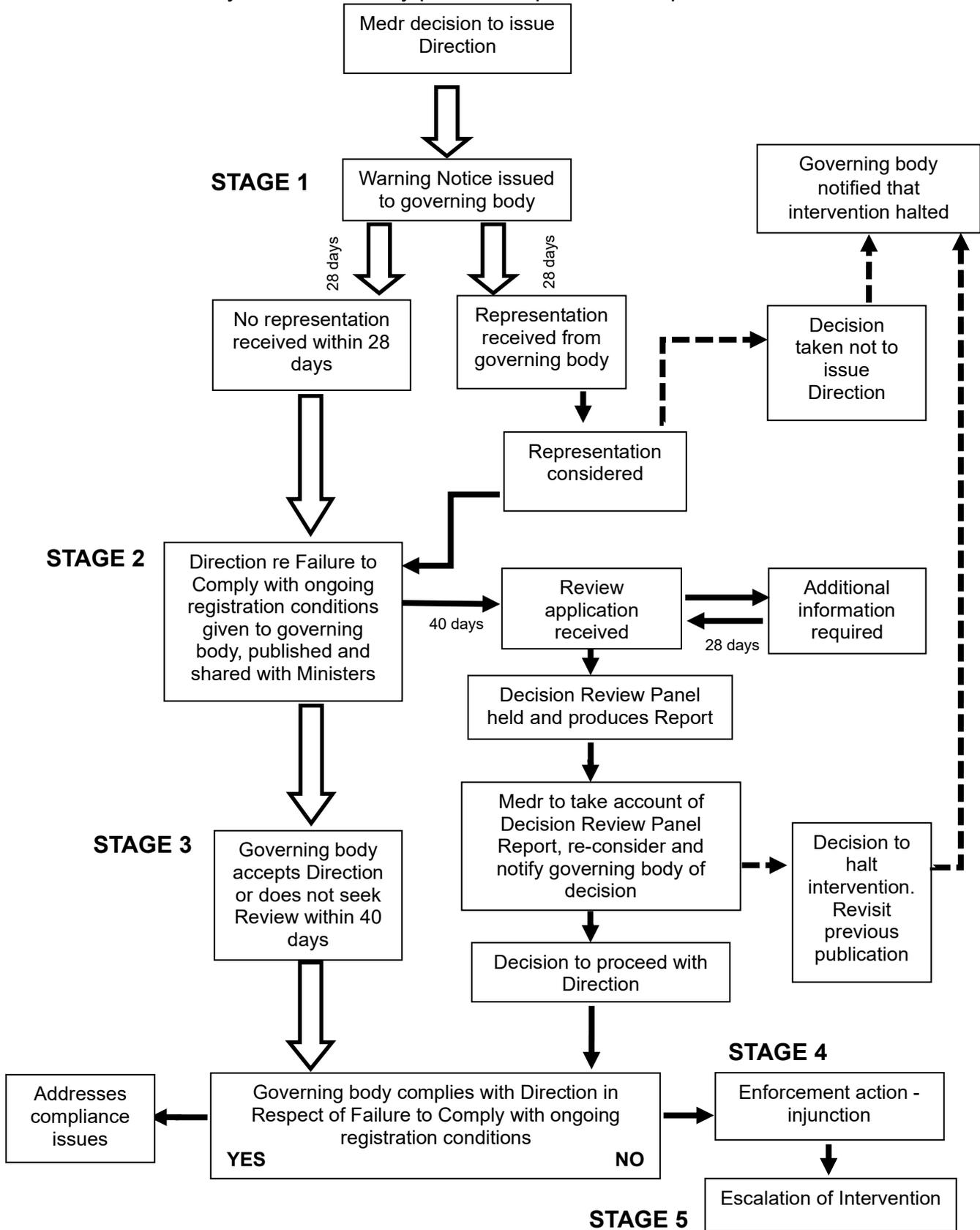
3.8.8. Where Medr issues a Direction in Respect of Failure to Comply with ongoing registration conditions to the governing body of a provider, the governing body must comply with the Direction (subject to the outcome of any review of the Direction). In the event that a governing body fails to comply satisfactorily (in Medr's opinion) with the Direction, the Direction will be enforceable by injunction in accordance with Section 82 of the Act. Our decisions on whether to proceed to injunction will take account of the particular circumstances of the case.

Stage 5: Escalation of intervention

3.8.9. 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 the Act 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) under Section 39 of the Act

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



3.9. Directions in respect of failure to cooperate issued under Section 73(4) of the Act

This section applies to: External providers and funded further education 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 Act 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 Act). 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 Act 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 Act).
- 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 Act 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 general 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 bodies 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.

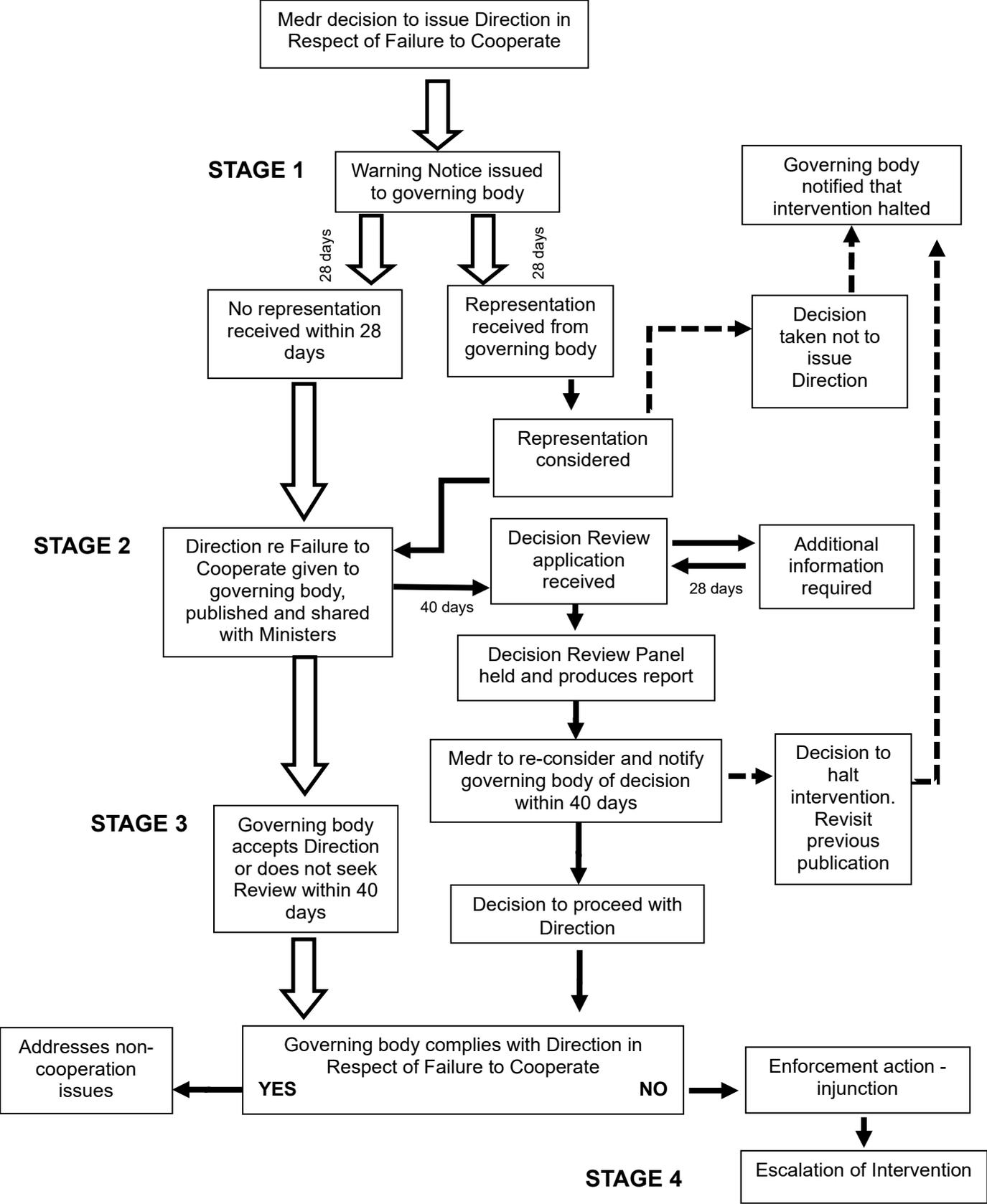
The governing body of a provider may apply for a review by the Decision Reviewer of a decision of the Medr to give a direction. The Decision Reviewer is a person or panel of persons appointed by Welsh Ministers. The arrangements for decision reviews are set out in The Commission for Tertiary Education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

Stage 3: Directions taking effect

3.9.9. 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 under Section 73(4) of the Act

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



3.10. De-registration under Section 41(3) of the Act

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 Act 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 Act (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 Act (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 Act, 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

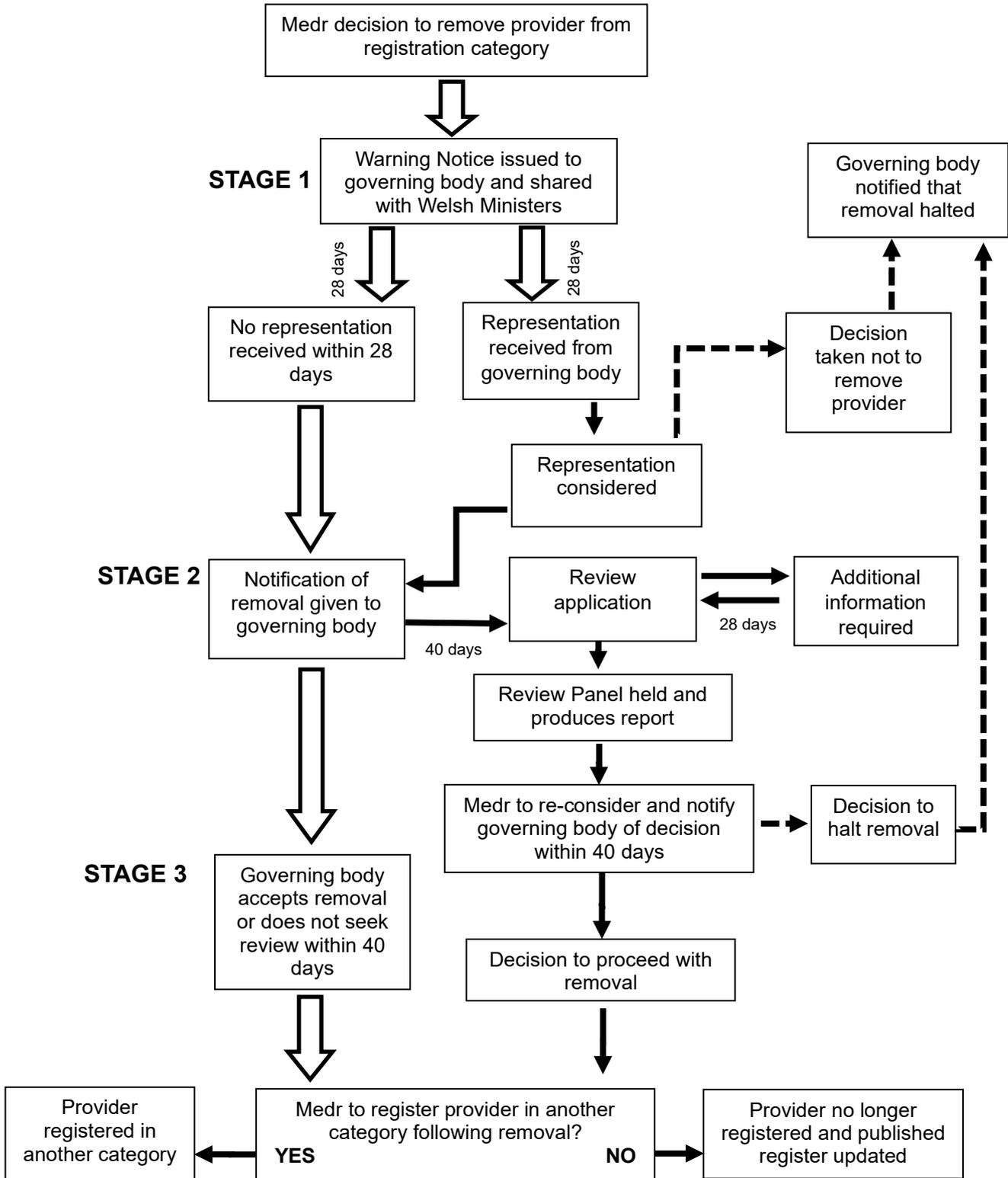
- 3.10.3. Having decided whether or not to remove the provider from a category of the register, Medr must notify the governing body of the provider of its decision. Where the decision is to remove the provider from a category of the register, the notice must specify the date on which the removal takes 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 Act 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 Section 41(3) of the Act, 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.

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

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



3.11. **Mandatory De-registration under Section 41(1) of the Act**

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 Act 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 Act, 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

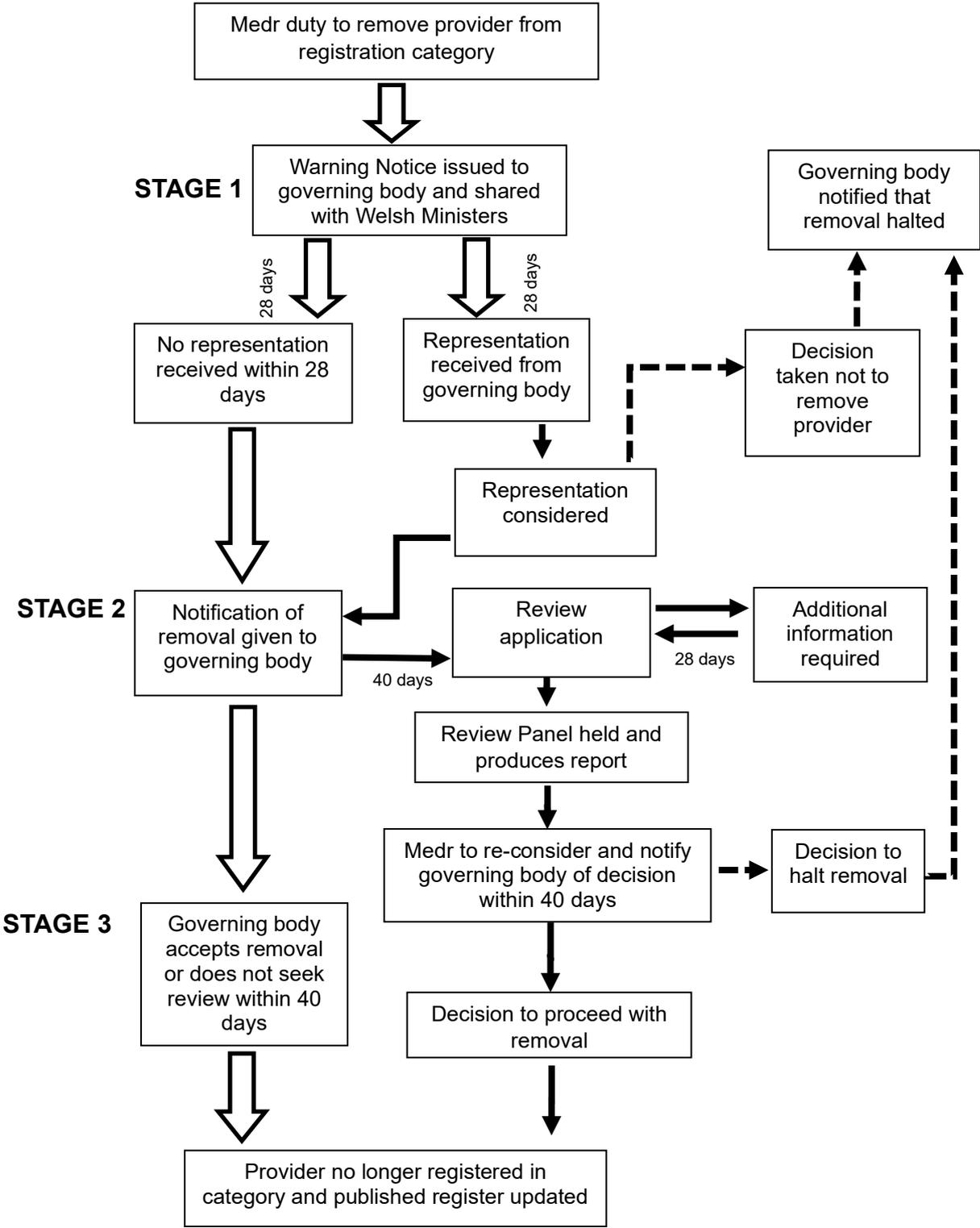
3.11.4. The governing body of a provider may apply for a review by the Decision Reviewer of Medr's decision to remove it from a category of the register. The Decision

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 Act 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 the Act



Medr

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Commission for Tertiary Education and Research

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