

HIGHER EDUCATION (WALES) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS OF THE ACT

Part 2 – Fee and Access Plans

Section 13 – Directions in respect of failure to comply with general requirements of approved plan

37. HEFCW may give a direction to the governing body of an institution if they are satisfied that the governing body has failed to comply with a general requirement of the institution's fee and access plan. A general requirement of a plan is a provision included in a plan which requires the governing body of an institution to do (or not to do) specified things (section 6(7) refers). The direction would require the governing body to take (or not to take) specified steps for the purpose of dealing with the failure to comply. HEFCW are able to give such a direction at a time when the plan in question is no longer in force, provided that the plan was in force at the time of the failure.
38. HEFCW are also able to give a direction to the governing body of an institution if they are satisfied that the governing body is likely to fail to comply with a general requirement of the institution's plan which is in force. Such a direction would require the governing body to take (or not take) specified steps for the purpose of preventing the failure to comply.
39. [Section 13\(5\)](#) prevents HEFCW giving a direction to the governing body of an institution under this section where they are satisfied that the governing body has taken all reasonable steps to comply with the general requirement in question. For example, the governing body of an institution may commit in its approved plan to provide summer school courses for a specified number of school pupils who might not otherwise consider entering higher education. The actual number of pupils who subsequently attend the summer school courses is lower than the number set out in the approved plan despite the institution widely publicising the courses and working with local schools to promote take-up of the provision. HEFCW may, in that scenario, be satisfied that the governing body has taken all reasonable steps to comply with the general requirement.
40. The warning notice and review procedures in sections 41 to 44 apply to directions under section 13.