

HIGHER EDUCATION (WALES) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS OF THE ACT

Part 4 – Financial Affairs of Regulated Institutions

Sections 32 to 34 – Failure to comply with Code

92. [Sections 32 to 34](#) provide HEFCW with enforcement powers if they are satisfied that a regulated institution has failed, or is likely to fail, to comply with requirements of the Code.
93. HEFCW may give directions to a governing body requiring it to take or not to take specified steps to:
- deal with the failure to comply with a requirement of the Code. For example to provide outstanding information required under the Code within a specified period of time or to make changes to financial controls to bring an institution back into compliance with the Code; or
 - prevent a failure to comply with a requirement of the Code. For example if an institution was intending to enter into a transaction that required HEFCW's consent, to direct an institution not to enter into that transaction without obtaining HEFCW's consent.
94. The warning notice and review procedures in sections 41 to 44 will apply to directions under section 33.
95. [Section 34](#) permits HEFCW to give advice or assistance to the governing body of a regulated institution or to carry out or arrange a review of an institution where it is satisfied that a regulated institution has failed or is likely to fail to comply with the requirements of the Code. The advice and assistance given by HEFCW is to be with a view to improving the organisation and management of a regulated institution's financial affairs.
96. Currently, if HEFCW identify examples of inadequate financial management they are able to establish support teams to assist an institution in making improvements. It is anticipated that HEFCW would want this approach to continue. HEFCW may seek to use this power to arrange for a support team to assist an institution improve the organisation and management of its financial affairs where HEFCW has identified a failure to comply with the Code. Alternatively HEFCW may arrange for a targeted review of a particular institution by specialist auditors, for instance where HEFCW are satisfied that a failure to comply with the Code is likely.