



# Higher Education (Wales) Act 2015

2015 anaw 1

## PART 6

### NOTICES AND DIRECTIONS GIVEN BY HEFCW

#### *Warning and review procedure for certain notices and directions*

#### **41 Application of sections 42 to 44**

- (1) Sections 42 to 44 apply to—
- (a) notice under section 7(1)(b) (rejection of proposed fee and access plan),
  - (b) a compliance and reimbursement direction,
  - (c) a direction under section 13 (directions in respect of failure to comply with general requirements of approved plan),
  - (d) a direction under section 19 (directions in respect of inadequate quality),
  - (e) a direction under section 33 (directions in respect of failure to comply with the Code),
  - (f) notice under section 37 (refusal to approve a new fee and access plan), and
  - (g) notice under section 39 (withdrawal of approval of fee and access plan).
- (2) But those sections do not apply to a direction that provides only for the revocation of an earlier direction (see section 46).

#### **42 Proposed notices and directions: requirement to give warning notice**

- (1) If HEFCW propose to give a governing body a notice or direction to which this section applies, HEFCW must give the governing body a warning notice.
- (2) The warning notice must—
- (a) set out the proposed notice or direction;
  - (b) state HEFCW's reasons for proposing to give it;
  - (c) inform the governing body that it may make representations about the proposed notice or direction;

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*Status: This is the original version (as it was originally enacted).*

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- (d) specify, in accordance with any provision made by regulations, the period within which, and the way in which, representations may be made.
- (3) In deciding whether to give the notice or direction, HEFCW must take into account any representations made by the governing body in accordance with the warning notice.
- (4) If, having taken those representations into account, HEFCW decide not to give the notice or direction, they must give the governing body notice of that decision.

#### **43 Information to be given with notices and directions**

If HEFCW give a governing body a notice or direction to which this section applies, they must at the same time give the governing body a statement—

- (a) setting out HEFCW's reasons for giving the notice or direction,
- (b) informing the governing body that it may apply for a review of the notice or direction under section 44, and
- (c) including any other prescribed information.

#### **44 Review of notices and directions**

- (1) If HEFCW give a governing body a notice or direction to which this section applies, the governing body may (subject to any provision made as described in subsection (4) (a)) apply for a review of the notice or direction.
- (2) A review is to be carried out by a person, or a panel of persons, appointed by the Welsh Ministers; and the Welsh Ministers may pay remuneration and allowances to persons appointed under this subsection.
- (3) The Welsh Ministers must by regulations make provision in connection with reviews under this section.
- (4) The regulations may, among other things, make provision—
  - (a) about the grounds on which an application for a review may be made;
  - (b) about the period within which, and the way in which, an application may be made;
  - (c) about the procedure to be followed by a person or panel carrying out a review;
  - (d) about steps to be taken by HEFCW following a review;
  - (e) for a notice or direction to which this section applies not to be treated as having been given until any steps specified in the regulations have been taken, or until any period specified in the regulations has expired.

*General provisions about directions given by HEFCW*

#### **45 Directions: compliance and enforcement**

- (1) If HEFCW give a governing body a direction under this Act, the governing body must comply with the direction.
- (2) The direction is enforceable by injunction on the application of HEFCW.
- (3) If requested to do so by the governing body, HEFCW must give notice to the governing body stating whether they are satisfied that it has complied with the direction (or with a particular requirement of the direction).

**46 Directions: general**

A direction given by HEFCW under this Act—

- (a) must be in writing;
- (b) may be varied or revoked by a later direction.