

HEFCW Circular W13/01HE Consultation – high level proposals for fee planning from 2014/15 A Response from Higher Education Wales

1. About Higher Education Wales

1.1. Higher Education Wales (HEW) represents the interests of Higher Education Institutions (HEIs) in Wales and is a National Council of Universities UK. HEW's Governing Council consists of the Vice-Chancellors of all the HEIs in Wales and the Director of the Open University in Wales. HEW provides an expert resource on the Welsh Higher Education sector.

2. Introduction

2.1. HEFCW published its consultation on its proposed changes to fee planning arrangements from 2014/15 on 16 January 2013. Responses were requested by 26 February 2013 in the circular. After discussion with HEW, however, HEFCW confirmed on the 12 February 2013 by email that the deadline had been extended to 04 March 2013 to enable the sector to take into account the related consultation on the proposed HEFCW corporate strategy indicators (the outcome from HEFCW consultation Circular W12/27HE, ending October 2012). A first draft of the proposed indicators was sent to institutions' contacts on 13 February 2013 requesting comments by 20 February 2013, and a meeting arranged for 01 March 2013 to discuss the indicators. The fee plan arrangements are currently due to be approved by HEFCW Council on 15 March 2013. This response broadly follows the question headings set out in the consultation circular.

3. Executive Summary

3.1. As a sector we recognise the need for universities to respond to major changes in the funding and planning contexts, both in Wales and across the wider UK. We therefore support the Funding Council in reviewing its funding and regulatory controls to ensure that they remain appropriate and proportionate, including maximising the use of the fee planning arrangements.

3.2. However, this consultation raises significant concerns about the regulatory implications which may, if not properly addressed, have lasting consequences for the university sector in Wales. These require further consideration in light of alternative options and related developments.

- 3.3. For the moment, the indicators used in the fee plan should be limited to those which are clearly in line with current legislative provisions, not all student-focussed targets.
- 3.4. Before any new arrangements are implemented we also need to clarify and agree how the corporate strategy targets would be used to set targets at institution level as part of these proposals. We are not convinced that the current timescales provide enough time to address the issues associated with this.
- 3.5. Otherwise, we welcome the intention to better align the fee planning process with other corporate planning arrangements and to improve overall arrangements. We are uncertain the HESES could usefully be extended at the moment. A two year planning horizon or longer would in principle, however, be helpful.
- 3.6. Above all, we believe that a further period of consideration is required to enable the sector to work with the Council to address the issues raised in this response. The target date for implementation of these proposals should be postponed for a year to enable this.

4. High-level issues (Question 1)

- 4.1. The key high-level issue identified by HEFCW in this circular from our perspective is (p.2, para 6): ‘given the decreasing funding to support Welsh Government policy, the need to maximise the use of the fee plan as a lever for the delivery policy’. In light of the reduction in grant available and greater reliance on student fee income, HEFCW must currently exercise its functions within the constraints of the Further & Higher Education Act which appears to allow it to set terms and conditions on directly financed activities only: “any terms and conditions which the Council sets shall not relate to the application, by the body to whom the grants or other payments are made, of any sums derived otherwise than from the Council”. From this consultation it is not clear at this stage what, if any, changes to the current fee plan legislation are envisaged.
- 4.2. This raises a number of significant issues, in particular:
- As things currently stand the proposals are difficult to reconcile with existing fee plan provisions.¹ The Higher Education Act 2004 states that the general requirements of the fee plan must relate to (i) the promotion of equality of opportunity, or (ii) the promotion of higher education. This would include e.g. to take measures to attract applicants from under-represented groups, provide financial assistance to students, and make information available to students on

¹ The content and duration of fee plans are prescribed in particular by the Higher Education Act 2004 (ss.22-41) and the Student Fees (Approved Plans) (Wales) Regulations 2011. The Welsh Government also issued guidance to HEFCW which sets their expectations of the Council’s role.

financial assistance etc. The objectives set under the fee plan arrangements must also seemingly relate to the two specific headings identified by the Act. These limits to the fee plan scope are also currently reflected in the Welsh Government's statutory fee plan guidance (as published in HEFCW W12/15HE for 2013/14) which stipulates that 'HEFCW should assess whether an institution's fee plan is appropriate in terms of improvements in promoting HE and equality of opportunity in accessing HE'.

- A key issue, if the powers of the Council are to be extended in the fee plan arrangements, is to ensure that there are limits in place to ensure that the powers are appropriate and proportionate. The allocation of funding grant or other payments under the Higher & Further Education Act 1992 is subject to a number of significant restrictions/safeguards on the exercise of HEFCW's powers. The limits are also important in preserving universities' independent status for national accounting purposes (i.e. not central government) and for perceptions of the Welsh higher education sector in general including the autonomy of its institutions and international standing as part of the UK-wide university sector.²
- The use of the fee plan to extend HEFCW's current policy levers is an issue that needs to be related to wider discussions of the future role of HEFCW and governance of the sector including, potentially, the outcomes of the consultation on the Welsh Government's HE & FE (Wales) Bill. We believe that it is not helpful to have separate discussion of these issues as they are so closely related.
- There is also further potential for exploring the full range of current policy levers and options. The Council currently sets out terms and conditions of grant through the Financial Memorandum. Despite significant reductions, HEFCW grant will continue to be a significant financial lever in the short term at least. The Funding Council can further explore its statutory ability to enter contractual agreements with universities which it notably exercised in relation to the development of the Universities of the Heads of the Valleys Initiative (UHOVI). The potential for meeting policy objectives effectively through voluntary cooperation should also not be overlooked.

4.3. We believe that these issues need to be addressed before any decision can be made to implement these proposals.

² See further the joint response of Higher Education Wales and the Chairs of Higher Education Wales to White Paper on FE/HE (Wales) Bill, September 2012, pp.5-8.

4.4. In respect of the other high-level issues, HEFCW highlights a number of intentions which we welcome and can be explored without major change to the fee planning arrangements. We support for instance the Council's intention to review of the alignment of the fee planning process with the HEFCW corporate strategy and planning arrangements for institutions. This includes reviewing the alignment the preparation dates, reporting horizons and reporting arrangements for institutions' corporate planning documentation including sub-strategies and annual monitoring statements. We also welcome a review of the process and timescales for preparation, agreement and monitoring of the fee plans to see if any gains in efficiency or effectiveness can be made.

5. *Inclusion of student-focussed targets in the fee plan (Question 3)*

5.1. The Circular proposes that the key fee plan targets should be linked directly to those corporate strategy targets which are student focussed and cover only those target areas. The 'student focussed' targets as currently proposed (in the consultations of 24 February and 01 March 2013), however, cover a wide spectrum of measures. While there is potential for many of the currently proposed student-focussed indicators to fall within the scope of the fee plan regulations/arrangements, there are some that that would appear not to, and most would require redrafting. In particular, part-time student support arrangements do not currently fall within fee planning arrangements as the implementation new support arrangements have been postponed, and there is no stream of 'new fee income' as such. Similarly, the 'student focussed' measures that are currently proposed include targets for overseas, postgraduate or professional course students who are not subject to increased fees or new support arrangements. The targets for access, participation and retention, initial teacher training, welsh-medium and employment are all currently drafted to include both full-time and part-time students, which may make sense from the perspective of the Corporate Strategy but is more problematic in terms of their inclusion in the current fee planning arrangements.

5.2. This also raises a number of issues about the distinct roles of the fee plan and corporate strategy and the indicators attempting to serve both purposes:

- There is a danger that, in extending the use of the fee plan, that the original purpose of the fee plan is no longer served adequately. The current fee plans were introduced to provide confidence in students in particular that the increased fee income resulting from the funding changes was being put to appropriate use for their benefit. Under HEFCW W12/15HE, for instance, institutions are required to 'continue to demonstrate the depth of engagement with the student body, and the steps in place to ensure that students are aware of new fee charges prior to enrolment, and how fee income will be invested in support of the student experience'. The selection of information in the fee plan

and the way it is presented should reflect this purpose (the lessons drawn from the development of the Key Information Sets can also be applied in this context³). It is felt that including all student focussed indicators would detract from their important role in providing students and the wider public with a clear understanding of the relation between the additional funding and its consequent investment.

- In particular, institutions are currently required to demonstrate that they are investing a 'reasonable proportion' (in the region of 30%) of new fee income (i.e. income above the basic rate of £4k), in equality of opportunity and promotion of higher education (see HEFCW W12/15HE). Greater clarity is needed about how the expenditure and implementation plans would be handled under the new proposals.
- The public facing nature of the fee plan should also influence the choice of indicator. We need to ensure that the indicators are limited to those capable of appropriate interpretation by the public audience at which it is aimed without necessary recourse to detailed or expert analysis of the full range of important factors and contextual information which is necessary for the target setting and assessment process (see further below). This otherwise increases the risk that the statistics will be misinterpreted or misapplied. This points to the use of a more limited set of indicators which can be verified as appropriate for this purpose.

5.3. At this stage it is not clear how far these proposals would help to achieve the Council's aim of simplifying reporting arrangements. The non-student-focussed targets would presumably continue to be implemented/monitored separately using current regulatory mechanisms, e.g. strategic plan and related requests, annual monitoring statements, financial memorandum etc.

5.4. In the light of the above considerations we would argue for the following, at least for 2014/15:

- The objectives and expenditure plans should continue to relate to the promotion of equality of opportunity and the promotion of higher education only i.e. a narrower set of the student-focussed indicators than currently envisaged.
- Further targets could be incorporated into the fee planning arrangements where there is clear scope to do so under the existing provisions: for instance,

³ See for instance: Understanding the information needs of users of public information about higher education, Enhancing and Developing the National Student Survey, (2010), Report to HEFCE by Oakleigh Consulting and Staffordshire University.
http://www.hefce.ac.uk/media/hefce/content/pubs/2010/rd1210/rd12_10b.pdf

widening access, retention and student satisfaction objectives relating to full-time students. This would be subject to the issues identified below being on the setting and development of the indicators being satisfactorily addressed.

- Greater cross-reference should be made to institutions' corporate planning documentation which should address the wider set of corporate strategy measures but would not form part of the fee plan approval as such.

5.5. As policy develops, e.g. part-time student finance and funding arrangements, it may be appropriate to revisit the inclusion of particular areas/indicators in the fee plan arrangements.

6. Two-year planning horizon and annual update (Question 2)

6.1. HEFCW propose that the fee plan should cover a two year period, 2014/15 (year 1) and 2015/16 (year 2) with an annual update.

6.2. On balance, we are in favour of the fee plans covering a two year period or longer. In our view the proposal is unlikely to reduce the reporting burden on institutions since the report would be annual and include additional years' forecasts. The proposal offers a number of advantages, however. In particular:

- This could help with the timely approval of the targets. We note that, according to the circular, some sections of the plan could remain unchanged for two years unless the institution chooses to update them e.g. the sections on strategic context and the descriptions of bursaries and other income. The targets for year 2 would be regarded as 'forecasts' and institutions may choose to update them when setting targets for that year but only by agreement as part of the fee plan approval process, presumably to allow change in the fee plans in response to changing market and HE contexts.
- Setting out targets over a longer time period, may help to manage expectations appropriately and avoid an undue focus on demonstrating annual progress, particularly where progress would in reality involve relatively modest/imperceptible annual change in the targets.
- On the face of it this may help HEFCW to align different planning cycles but we would appreciate further clarification on how this would fit in with an overall initiative to simplify and align planning arrangements. It is not clear whether a rolling two-year planning horizon would best facilitate this – e.g. the HEFCW Corporate Strategy has a fixed three year planning horizon.

- The end of the first two-year fee plan (2014/15 & 2015/16) would coincide with the end of the current government period. While this has a clear logic there was some concern to avoid any potential planning hiatus that this may create and, although there is some division of opinion on this, we would question whether there would be greater benefit to ensuring that the planning horizon extends into the next Welsh Government administration.

6.3. Lastly, we understand that the proposed two year planning cycle, which requires 2015/6 forecasts, is regarded a key factor in determining the current timetable for implementation of the fee planning proposals. Notwithstanding our support for a longer planning horizon in principle, we need to make it clear that the potential adoption a different planning horizon should not drive the timetable for consultation or implementation of the fee planning arrangements (see below).

7. Extended use of HESES (Question 4)

7.1. Our view, in principle, is that where reliable information relating to funding data or fee plan targets can be obtained at an early stage it would be helpful to do so. Published data is typically only available long after the time/year to which it relates. For instance, the data sets relating to the 2011/12 student enrolments were not available until mid-February 2013. The Higher Education Student Early Statistics Survey (HESES) by contrast provides student enrolment information during the academic year to which the enrolments relate, collating information on actual enrolments up to 01 November and estimates for the remainder of the year, for use in relation to grant funding.

7.2. However, there are number of issues with the extended use of HESES as envisaged:

- This would entail a significant change in purpose and scope of the HESES returns by collecting information to support a wide range of different targets returns (it would no longer be just a student survey) and may accordingly require significant adjustment by institutions in terms of their data collection and verification processes.
- The statistics would need to be robust enough to aid planning. From our initial review of the proposed indicators it is not easy to see which if, any, would be suitable for early reporting. For instance, CPD or international recruitment enrolments vary considerably in their pattern of recruitment across the year. Similarly income related targets would face this challenge. The early census data in these instances is of limited utility as it will not enable accurate end of year estimates.

7.3. It may also be helpful to review the timetable for approving and monitoring targets to reduce the lag in currency of the data e.g. to consider a deadline for finalising targets that allows an opportunity to take into account the UCAS application deadline statistics in January or publication of student data in February.

8. *Setting institutional targets and assessing performance against fee plans* **(Question 5)**

8.1. The proposals seek to introduce a major change in the way that sector policy is steered by the Council, moving towards a target-based system for sector planning which in certain respects resembles the Outcome Agreements approach introduced in Scotland for 2012/13⁴ but in a very different context (e.g. Scotland does not use fee plans, and its funding arrangements involve much greater levels of direct public funding).

8.2. The key comments we would need to address in adopting this approach are as follows:

- The limitations of a simple management-by-targets approach need to be avoided. There is a danger, in particular, that policy focuses too narrowly on targets which only partially representative of strategy objectives, that qualitative targets/achievements are under-emphasised and as a consequence it provides the wrong incentives. More generally there is an issue about how far management through a detailed set of targets of this nature is in line with principle of proportionality in public regulation.
- A proper understanding of relevant factors is essential for both setting expectations and explaining performance, particularly if the proposed targets are to have significant consequences attached if they are not met. The impact of funding and policy changes, demographic change and cross-border flows for instance all need to be modelled effectively and we need to understand the different contexts of our member institutions. We should recognise that the major changes across the UK sector makes it is questionable whether any resulting forecasts will provide sufficient certainty to base decisions on at this point in time.
- The processes for setting and assessing performance need to be closely linked to ensure that the targets are appropriate and expectations are realistic from the outset. This is particularly important if the targets and performance will be specifically presented to a wider public audience (see the comments above, paragraph 5) and points to the need for additional care in setting targets.

⁴ See, for instance, the Scottish Funding Council Guidance on Outcome Agreements for 2013-14: http://www.sfc.ac.uk/web/FILES/Guidance/Scottish_Funding_Council_University_Outcome_Agreement_Guidance_for_AY_2013-14.pdf.

- As part of this we need to ensure that the necessary evidence base and guidance is in place at the outset of the target setting process and is not simply developed later for use in the assessment process. Given the timetable proposed for implementation, it is a concern that only part of the relevant information has been identified or is currently available and that the published criteria which would be used to inform the assessments have yet to be developed.
- There is scope for reviewing the current timetable. The current process for agreeing the targets (in contrast to Scotland for instance) features a comparatively early submission date for the targets and focusses more on the appeal process rather than pre-agreement dialogue.
- The Corporate Strategy indicators have so far been developed in a different context. In developing their use as targets we need to ensure that they remain appropriate and fit for purpose given the significant consequences which may follow from a target not being met.
- Above all, these issues point to the need for the use of targets to be approached flexibly and with due sensitivity to their limitations. We look forward to considering how HEFCW and the sector can best prepare for a potentially significant learning curve in terms of managing the process accordingly. On this front we welcome the comment that plans would be assessed 'on the balance of performance'.
- Finally, HEFCW's Corporate Strategy itself has not yet been confirmed and we understand that it is not scheduled to be approved by the Welsh Government until c. April/May 2013, after institutions submit their targets for approval. We are concerned that agreement on the targets for use in fee plans and the change in their use in advance of this would be premature.

8.3. As a result we make the following recommendations:

- As a matter of priority the way in which targets are to be set and used for individual institutions needs to be clarified and agreed as part of the further discussions outlined above.
- As argued above, for the moment, the targets which are used to determine approval of the fee plans should be limited in line with discussions above (paragraph 5). This should not prevent remaining corporate strategy measures being used as 'indicators' rather than 'targets', designed to inform discussions of objectives and performance in line with their previous use.

- In previous fee plans, institutions have identified a range of different targets for themselves e.g. interim measures, input/output targets and strategic objectives/outcomes. We believe that it would be better to continue to base fee plans on a mix of input/output targets at institutional level, allowing institutions some flexibility in setting targets which reflect their strengths and missions and match the level of expectation to their realistic contributions more closely.

9. Consultation and implementation

- 9.1. Finally, we are concerned that in our view the consultation and implementation timetable does not allow the sector an adequate opportunity to respond and contribute to the proposed developments. The final approval of these arrangements by HEFCW Council is due for 15 March 2013 and the dissemination of specific guidance by end of March 2013. It is understood that thereafter the timetable for completion of the fee plans would follow a similar pattern to that established for the last two years (see HEFCW Circulars W11/14HE and W12/15HE): the submission of fee plans in May, approval in July, with an appeals process for rejected proposals in August.
- 9.2. At this stage we are particularly concerned that the separate discussion of inter-related issues may not enable the sector to adequately discuss and implement fundamental changes which may have long-lasting implications for the sector as a whole.
- 9.3. We believe that a decision on the implementation of these proposals should be postponed to the next cycle (i.e. fee plans for 2015/16 onwards) to enable the significant and interrelating issues identified in our response to be addressed more cohesively and worked through with the Council over a greater time period.

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HIGHER EDUCATION WALES