



Tertiary Education and Research (Wales) Act 2022

2022 asc 1

PART 5

LEARNER PROTECTION, COMPLAINTS PROCEDURES AND LEARNER ENGAGEMENT

126 Learner protection plans

- (1) The Commission may give notice to a relevant tertiary education provider asking it to submit a learner protection plan to the Commission on or before the date specified in the notice.
- (2) A learner protection plan is a document setting out the relevant tertiary education provider's arrangements for—
 - (a) protecting the interests of persons undertaking a relevant course in the event of the course ceasing to be provided for any reason, and
 - (b) supporting a person who is undertaking a relevant course and who wishes to transfer to another course of tertiary education (whether that course is provided by, or on behalf of, the tertiary education provider or another person).
- (3) The Commission may approve the learner protection plan with or without modifications.
- (4) If a relevant tertiary education provider wishes to amend its approved learner protection plan, it must send a revised plan to the Commission.
- (5) The Commission may approve the revised learner protection plan with or without modifications.
- (6) The Commission must issue guidance on the preparation and revision of learner protection plans.

- (7) Before issuing guidance under subsection (6), the Commission must consult such persons as it considers appropriate.
- (8) The Commission must monitor the effectiveness of learner protection plans.
- (9) The Commission must include in its annual report (prepared under paragraph 16 of Schedule 1) the conclusions it reaches from that monitoring as to the effectiveness of learner protection plans during the financial year to which the report relates.
- (10) In this section and in section 127—
- “relevant course” (*“cwrs perthnasol”*), in relation to a relevant tertiary education provider, is—
- (a) where the provider is a registered provider, any course of tertiary education provided by it or on its behalf;
 - (b) where the provider is not a registered provider, a course of tertiary education provided by it or on its behalf which is funded by the Commission under—
 - (i) section 89(3)(a) (higher education courses specified in regulations),
 - (ii) section 97(1)(a) (further education or training), or
 - (iii) section 104(1)(a) (apprenticeships);
- “relevant tertiary education provider” (*“darparwr addysg drydyddol perthnasol”*) is—
- (a) a registered provider;
 - (b) a person other than a registered provider in receipt of financial resources provided or secured by the Commission under—
 - (i) section 89(3)(a) (higher education courses specified in regulations),
 - (ii) section 97(1)(a) (further education or training), or
 - (iii) section 104(1)(a) (apprenticeships).

127 Complaints procedures

- (1) The Commission must take such steps as appear to it appropriate to ensure that a relevant tertiary education provider—
- (a) has in place a procedure for investigating complaints about an act or omission of the provider which are made by persons who are undertaking or have undertaken relevant courses, and
 - (b) takes reasonable steps to make the procedure known to persons undertaking relevant courses.
- (2) For the meaning of “relevant course” and “relevant tertiary education provider”, see section 126(10).

128 Qualifying institutions for student complaints scheme

- (1) The [Higher Education Act 2004 \(c. 8\)](#) is amended as follows.
- (2) In section 11 (qualifying institutions)—
- (a) the existing text becomes subsection (1);
 - (b) after that subsection insert—

- “(2) The Welsh Ministers may, by regulations, specify as a qualifying institution for the purposes of this Part, a person other than one within subsection (1) who is—
- (a) a registered provider, or
 - (b) a tertiary education provider in Wales other than a registered provider in receipt of financial resources—
 - (i) provided by the Commission for Tertiary Education and Research under section 89(3)(a) of the Tertiary Education and Research (Wales) Act 2022 (higher education courses specified in regulations),
 - (ii) secured by the Commission for Tertiary Education and Research or the Welsh Ministers under section 97(1)(a) of that Act (further education or training), or
 - (iii) provided by the Commission for Tertiary Education and Research under section 104(1)(a) of that Act (apprenticeships).
- (3) In subsection (2)—
- “registered provider” means a tertiary education provider registered in the register established and maintained by the Commission for Tertiary Education and Research under section 25 of the Tertiary Education and Research (Wales) Act 2022;
- “tertiary education provider in Wales” has the meaning given by section 144(1) of the Tertiary Education and Research (Wales) Act 2022.
- (4) The power to make regulations in subsection (2) is to be exercised by statutory instrument.
- (5) A statutory instrument containing regulations made under subsection (2) is subject to annulment in pursuance of a resolution of Senedd Cymru.”
- (3) In section 12 (qualifying complaints)—
- (a) after subsection (2) insert—

“(2A) A complaint within subsection (1) about an act or omission of a qualifying institution specified in regulations made under paragraph (b) of subsection (2) of section 11 is a qualifying complaint only if it is made by a person who is undertaking or has undertaken a course funded by the Commission for Tertiary Education and Research or the Welsh Ministers under—

 - (a) section 89(3)(a) of the Tertiary Education and Research (Wales) Act 2022 (higher education courses specified in regulations),
 - (b) section 97(1)(a) of that Act (further education or training), or
 - (c) section 104(1)(a) of that Act (apprenticeships).”
 - (b) in subsection (3) for “section 11” substitute “subsection (1) of section 11, or of a qualifying institution specified in regulations made under subsection (2) of that section.”.

129 Learner Engagement Code

- (1) The Commission must prepare and publish a code (“the Learner Engagement Code”) about the involvement of persons receiving tertiary education provided by, or on behalf of, a relevant provider (“learners”) in the making of relevant decisions by the provider.
- (2) The Learner Engagement Code may include provision about the following (among other things)—
 - (a) how to ensure that the interests of learners are effectively represented in the making of relevant decisions by the relevant provider,
 - (b) how to ensure that learners have the opportunity to participate in the making of relevant decisions by the relevant provider, and
 - (c) how to ensure that learners have the opportunity to give their views to the relevant provider about the tertiary education they are receiving and on other matters that may be of concern or interest to them.
- (3) The Commission must keep the Learner Engagement Code under review and if it considers it appropriate, it must prepare and publish a revised code (and references in this section to the Learner Engagement Code include any revised code).
- (4) A provision of the Learner Engagement Code may take the form of a requirement or guidance.
- (5) In preparing the Learner Engagement Code or revised code, the Commission must consult with such persons as the Commission considers appropriate.
- (6) The Learner Engagement Code may make different provision for different purposes (including for different relevant providers or different descriptions of relevant provider).
- (7) The Commission must monitor compliance by relevant providers with the Learner Engagement Code.
- (8) The Commission must include in its annual report (prepared under paragraph 16 of Schedule 1) the conclusions it reaches from that monitoring as to the effectiveness of the Learner Engagement Code during the financial year to which the report relates.
- (9) In this section—

“relevant decision” (*“penderfyniad perthnasol”*) means a decision about matters that may be of concern or interest to learners on courses which are—

 - (a) provided by, or on behalf of, a registered provider,
 - (b) where provided by, or on behalf, of a tertiary education provider other than a registered provider, funded by the Commission under—
 - (i) section 89(3)(a) (higher education courses specified in regulations),
 - (ii) section 97(1)(a) (further education or training), or
 - (iii) section 104(1)(a) (apprenticeships), or
 - (c) provided by the governing body of a maintained school in Wales;

“relevant provider” (*“darparwr perthnasol”*) means—

 - (a) a registered provider;
 - (b) a tertiary education provider in Wales other than a registered provider in receipt of financial resources provided or secured by the Commission under—

- (i) section 89(3)(a) (higher education courses specified in regulations),
 - (ii) section 97(1)(a) (further education or training), or
 - (iii) section 104(1)(a) (apprenticeships);
- (c) the governing body of a maintained school in Wales that provides education suitable to the requirements of persons over compulsory school age.