

Medr Regulatory System consultation: Joint Response of Universities Wales and Chairs of Universities Wales

*NOTE: Medr requested comments via their online form ([here](#)) by 5pm on 18th July 2025.
The following paper reproduces the questions contained in the online form.*

Name: - required

DRAFT ONLY - NOT FOR SUBMISSION

Organisation (if applicable):

Universities Wales and Chairs of Univers

Email address: - required

Please note your sector:

- ☐ Adult community learning
- ☐ Apprenticeships
- ☐ Further education
- ☒ Higher education
- ☐ Local authority maintained school sixth form
- ☐ Other (please specify):

Details of some responses to this consultation are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please indicate: - required

☐ Yes

☒ No

Regulatory Approach (Annex A)

Question 1.

1. It is our intention to be a proportionate ① and risk-based regulator in line with the commitments in our Strategic Plan. In relation to our proposed [Regulatory Approach](#):

	Strongly Agree	Agree	Disagree	Strongly Disagree
To what extent do you agree that our Regulatory Approach will support our ability to fulfil the aims of our Strategic plan?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
To what extent do you agree that our Regulatory Approach will support our intention to be a proportionate and risk-based regulator?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
To what extent do you agree with the philosophy, principles and expectations set out in our Regulatory Approach?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 2.

2. Could the Regulatory Approach, as set out, be applied consistently across all tertiary providers?

- ☐ Yes
- ☒ Partially
- ☐ No

Please provide details of how it could be applied consistently:

General comments on the overall regulatory framework

- Overall, we are very grateful that Medr has been able to produce such a comprehensive set of draft documents in the short space of time available to them. In our view, this provides a strong basis for working on with stakeholders and we particularly welcome the engagement and commitment that Medr has already shown to work with us and to respond to feedback in developing this further. This is exactly what is needed.
- However, the documents inevitably raise many significant issues as well as many points of detail that will need to be carefully addressed before it is fit for purpose. It is important that we get this right and that stakeholders are kept on board in the process.
- We need to be absolutely clear upfront, however, that in our view the time necessary for stakeholders to collectively get to grips with the detail of the new legislation as well as the proposals under consultation has been underestimated. We have collectively struggled to fully respond to this consultation in time, and there will be many further points that we need to follow up on and further reflect on later. There is a question whether either Medr, ourselves, or other tertiary education providers have the capacity to deal with this in the level of detail that is needed in the timescales currently allowed for first registration under the new system by

August 2026 (see further our general comments on the consultation, included under Question 8).

4. We note that the majority of new areas with the most significant change will not be consulted on until the second phase of consultation around October 2025. There are also further regulations which underpin the regulatory system and form the basis for Medr's regulatory framework that will not be made until late 2025.
5. Our current view is that we should explore the option of delaying first registration for a year in order to work through the details of the new registration system with Medr appropriately.

Comments in relation to Question 2 (applying the Regulatory Approach across all providers):

6. We agree in particular that the key to consistent regulation across very different types of provider within the tertiary education sector is not to try to impose identical rules (i.e. a one size fits all approach) but to take an 'assurance approach' as far as possible, i.e. one that seeks to ensure that the provider itself has robust systems and processes in place and to rely on those.
7. This of course relies on ensuring that the different systems and processes in place are all equally robust. This approach will require a lot of work for Medr with individual sectors (or providers), particularly at the start, and is potentially very resource intensive.
8. We note that the approach is not being applied consistently for 2026/27, as currently drafted, as FE providers only need to work towards compliance with the supplementary guidance for the Governance and management (including Financial Management).
9. At the moment the regulatory requirements for those registered in the HE Core category and HE Alternative category are generally the same (except in relation to charity status and fee limits), which is intended to provide a common baseline for all providers. Further consideration, however, could be given to requirements for non-charitable providers, given the greater risks these may pose for potential students and value for money in the use of public funding. An issue we have raised in relation to the Welsh Government's consultation on future automatic course designation arrangements is the potential for encouraging future growth in interest from non-charitable providers in particular.

Question 3.

3. Is the Regulatory Approach sufficiently reflected throughout the different Conditions of Registration and Conditions of Funding that are set out in this consultation?

- ☐ Yes
- ☐ Partially
- ☒ No

Please provide details of how it could be sufficiently reflected:

Comments on the Regulatory Approach (Annex A, pp.17-12)

10. In general, we feel that Medr has articulated the right principles and approach in its Regulatory Approach as set out on pp7-12 in Annex A.
11. However, at the moment, the Regulatory Approach is not sufficiently reflected throughout the different Conditions of Registration and Conditions of Funding that are set out in this consultation.
12. For the most part we feel that this may be an issue of drafting, rather than intent. Medr needs to thoroughly review the entire Regulatory Framework and Quality Framework to more clearly distinguish between what is a condition, a requirement (that must be met for Medr to be satisfied as to a particular condition), statutory guidance (that providers must have regard to), simple guidance (which is intended to be helpful but providers do not) or simple explanation and description.
13. Careful redrafting to reflect this would resolve many points of detail which we identify below in relation to the main parts of the documentation where there otherwise appears to be regulatory overreach or disproportionality. The documents should be thoroughly reviewed to ensure that, wherever possible, Medr relies on guidance rather than conditions or requirements.
14. In particular, Medr clearly articulates the need to reduce administrative burden. While many new requirements are the result of the legislation, there are also many points of detail where requirements appear to exceed what is necessary (see our more detailed comments under Question 8). We are also concerned that the level of information and close engagement envisaged by Medr, while largely based on current arrangements for higher education, will be difficult for Medr to manage with so many providers now falling within its regulatory oversight. We would recommend that Medr reviews the documentation again to check whether the requirements are really necessary. At the moment, as currently drafted, the administrative burden for universities seems set to increase.

If you have any other comments related to our regulatory approach, please note here:

15. Overall, we think that the Medr's draft documents setting out its regulatory approach provide a strong basis for working with stakeholders and particularly

welcome the commitment Medr has already shown to working with us to respond to feedback and develop this further. This is exactly what is needed.

Annex A – introduction and general comments

16. At the moment it is not clear exactly what parts of Annex A are meant to satisfy the statutory requirements of s.81 TERWA 2022 and form part of the Statement of Intervention for legal purposes. It clearly contains information that is meant to form part of the statutory statement and material that has been provided for completeness only (e.g. Part 2). This needs to be clarified and the material reorganized and tailored more clearly for that purpose.
- The statement on Regulatory Approach (section 2, pp.7-13), for instance, as currently drafted to be a separate/supplementary non-statutory statement of intent which outlines a more general approach rather than specifically focussing on the intervention powers set out in s.81.
 - Sections 3 on monitoring and compliance (pp.14-20) contains some material that definitely looks like it should form part of the statement of intervention (pp. 16-19, When things go wrong) but otherwise this section and Section 4 on interventions specified in TERWA 2022 (pp.14-16) are largely just explanations of the statutory functions – and do not address how Medr intends to exercise those functions, which is what s.81 of the Act requires the statement of intervention to do. Otherwise the document contains sections that clearly do not form part of the new statement such as Section 4 and Part 2 which are intended for completeness only.
 - On the other hand, Annexe B (Regulatory Framework) – particularly the Statement of approach to monitoring - and C (Quality Framework) both also contain significant material that appears to set out how intervention functions will be exercised and may be more suitable for inclusion in the Statement of Intervention.
17. In revising this Annex we would recommend clearly labelling the document as the Statement of Intervention and starting Annex A by setting out upfront the material presented in 1.5 (the statutory requirement under s.81 that this document has to fulfil) and 5.1 (setting out precisely which intervention functions are covered).
18. We would welcome Medr confirming that universities will continue to be funded under FHEA 1992 for AY 2026/27. The text which discusses funding arrangements at 1.7 is unclear who will be subject to the existing powers, and who will be subject to the new ones.
19. On that front, we note that para 1.7, states that Annex A is also intended to satisfy the consultation duty in section 66 of the Further and Higher Education Act 1992, but no reference is made to it satisfying consultation requirements in relation to funding under TERWA 2022 at the moment.
20. In relation to the s.66 consultation duty, we would caution that it is not sufficient to simply to refer to further conditions in other documents. In 3.3. Medr states: “Registered providers may also be subject to additional conditions of funding,

including in respect of Medr research and innovation funding. Further information on our funding conditions is published separately.” Similarly, 3.7: “Further information on our funding conditions is published separately.” Without being included that the additional conditions cannot be considered to have been consulted on for purposes of the consultation duty under s.66 FHEA 1992 (or under TERWA) as appears to be intended. (See also our comments under Question 8 on issues with the approach of combining conditions of registration and funding).

Annex A – Monitoring and Ensuring Compliance

21. As noted, above, Medr needs to clarify if this section forms part of the statutory statement of intervention.
22. In terms of content, we have some significant concerns about the potential exercise of the general approach to intervention outlined in paras 3.9-3.11 and feel that this will need careful further discussion. In Fig 2, Medr outlines a ‘spectrum of regulatory interventions’ which are intended to match the level of non-compliance with the level of intervention. This seems sensible in principle but in practice at the moment it could be setting Medr up to operate a system of rules on minor matters as a basis for frequent intervention. This could easily become a recipe for micro-management and regulatory overreach. As currently drafted, we have concerns particularly in relation to the Quality Framework (Annex C), discussed below.
23. We note that the Act itself does not recognise degrees of non-compliance. Medr’s power to provide directions (s.39), for instance, is only exercisable if it is satisfied that the provider has failed, or is likely to fail, to comply with an ongoing registration condition. To that end, Medr must publish the requirements to be met for it to be satisfied as whether the condition has been complied with or not. We also wonder if the ‘degrees of compliance’ approach could have unintended implications for reputation management.
24. The Act also requires that the requirements and/or conditions that Medr sets must be proportionate to the risks posed. In our view this clearly indicates that Medr should not be seeking to impose a system of minor rules, and should be seeking instead to rely on guidance rather than requirements wherever possible.
25. Given that Medr makes frequent reference to taking a risk-based approach, and has a duty to ensure conditions and requirements that it sets are ‘proportionate to its assessment of the risk’ we would welcome further clarification of how it intends to interpret ‘risk’ in this context (e.g. risk of what and to whom?). In consultation Medr in fact presented further information and slides on this, which appeared to address this more fully than in the current document and could be usefully incorporated.

Annex A – Interventions specified in TERWA 2022 (pp.14-16)

26. We assume that this is meant to form part of the statutory statement of intervention but note that for the most part this section simply sets out and explains Medr’s statutory intervention functions. While this may be useful, it is not the statutory purpose of the Statement. Section 81 requires Medr to set out *how* it proposes to exercise those intervention functions.

27. Another significant area that the statement of intervention will need to deal is intervention relating to collaborative provision. At the moment, the Welsh Government are proposing to replace the requirement that a provider delivering full-time undergraduate higher education on behalf of a Welsh regulated institution must be a charity with the requirement that the delivering provider must be registered by Medr or OfS or in receipt of any funding from Medr. This 'dual-registration approach', requiring both the provider responsible for the provision and delivering provider to be registered/regulated by Medr, poses questions about how Medr's oversight would help in the case of the need for intervention, and about how far Medr and/or OfS would be expected to exercise their regulatory/funding powers directly in relation to a delivering partner rather than in relation to the provider who is responsible for the provision.

28. We remain concerned that this may lead to issues of responsibility, accountability and clarity in relation to the exercise of intervention powers between the parties involved and Medr/OfS, and the potential for regulatory over-reach. If this change is to be implemented by the Welsh Government, it will be essential for Medr to work with providers to develop a formal policy on intervention that addresses our concerns.

Annex A, Section 4 (pp.20-22) - intervention powers not specified in the Act

29. A statutory body may only exercise such functions as it has been given by legislation. This section is misleading in so far as it suggests that Medr can exercise functions which are not set out in the Act.

30. In the current instance, it appears that some of these powers have been in fact been specified in the Act. For instance, there are various powers which in different circumstances enable to Medr to commission reviews or reports. Otherwise, much will be covered by s.22 which allows Medr to do anything that it considers appropriate for the purposes of, or in connection with, its functions, or incidental or conducive to the exercise of those functions.

31. However, Medr should be clear about the statutory basis for these interventions and ensure they are aligned. Most of this we suspect could and should be included in the formal statement of intervention instead.

Annex A – Part 2 (Interventions under HEWA 2015)

32. As we have already drawn to Medr's attention, there is uncertainty about how the fee limit condition under the new legislation will apply to registered providers for AY 2026/27 which needs to be clarified as a matter of urgency:

- According to the Welsh Government's consultation on fee limits which ended on 4th July 2025, the regulatory regime will see tuition fee limits and matters relating to equality of opportunity regulated through the register from academic year 2027 to 2028 onwards.
- However, Commencement Order No.5 has already brought the fee limit condition (s.32) and related sections of the Act into force, from 5th April 2025 and, as things stand, the

fee limit condition will be a mandatory condition for core HE providers who register in July 2026.

- The Statement of Intervention (p.13) currently states that for the 2026/27 academic year the intervention powers in respect of Fee Limits are covered by the 2015 Act powers but also refers to fee limits under the 2022 Act in section 5. This seems to imply that the fee limits would be set under the new Act but enforced under the old (though we understand this may not have been intended).

33. Universities already have approved fee and access plans/fee limits in place for two years including AY 2025/26 and AY 2026/27 already, following submission for approval in May 2024. We would expect to be going through a process at around this point in the year to enable applications for revision of fee limits for AY 2026/27 and put in place new plans for AY 2027/28.

Question 4. Intervention Powers

	Strongly Agree	Agree	Disagree	Strongly Disagree
To what extent do you agree that the interventions align to The Act's intentions?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
To what extent do you agree that the Statement of Interventions align with our Regulatory Approach?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 5.

5. Would supplementary guidance for the Statement be helpful?

☐ Yes

☒ No

Please note the areas where supplementary guidance would be helpful:

34. Our main concern at this stage is to ensure there is greater clarity over what forms part of the statutory Statement of Intervention and can be legally relied upon as such. Providing separate supplementary guidance could add to the current confusion if it includes matters that should be covered in the statutory statement.

35. We suggest that it would better for there to be a single document that clearly covers the statutory statement and remove material in Annex A that is 'supplementary'/not directly relevant and present it elsewhere.

36. The explanation of 'the intervention powers and which apply to me' in s.1.2., for instance, is rather confusing in this context as relates to Medr's wider powers under the Act more generally and not the 'intervention functions' dealt with by the statutory statement. It is probably more helpful to include this material in the main document, which provides an overview of the consultation, or to revise it to focus on the 'intervention functions' set out in s.81.

37. At the same time there are other areas not covered by the statutory statement that will need clarification. For instance, we would welcome further clarity on who could meet the legal criterion of ‘providing the kind of education to which the category applies’ and confirmation that providers who only provide higher education on behalf of another institution, for instance, would not qualify. More generally, although not an ‘intervention function’, it would be worth setting out the process for applying for registered status and how Medr intends to exercise its functions in that respect.

Regulatory Framework (Annex B)

Monitoring Arrangements

Question 6.

In the Statement, we have provided two potential models for our approach to engagement with those providers that we monitor – do you have any comments in relation to this?

38. The statement essentially sets out two different proposed approaches to engagement, reflecting Medr’s regulatory and strategic duties respectively. It seems obvious that a combination of both approaches will be needed.

39. However, it is Medr’s approach to its regulatory duties that need to be dealt with in this context (and as part of its statement of intervention).

Question 7.

Do you have any other comments regarding the proposed approach to monitoring compliance with Conditions of Registration / Funding?

40. The Statement on Approach to Monitoring at the beginning of Annex B appears to be a discussion paper (as Q6 shows). It is not clear how it fits in with the Regulatory Framework in the rest of the document, or if it is meant to form part of final version at all. For the most part it sets out proposals which we would expect to be covered by the statutory Statement of Intervention (i.e. incorporated into Annex A), and it is rather confusing to find them at the beginning of the document here.

41. Pages 4-5 effectively expand on Annex A, 3.9, for instance, in explaining Medr’s risk based approach, clarifying that two dimensions of risk will be considered – risk

associated with the particular condition, and risk associated with the particular provider.

42. We agree that the Medr should generally seek to take an assurance approach, relying on the provider to demonstrate that it has robust processes in place rather than attempt to impose identical arrangements across the tertiary education sector. We would welcome early clarification of what is envisaged in terms of the Annual Assurance Return, and in what respects that may differ for HE from current arrangements (e.g. annual financial reporting including statements of internal control). This could be a significant piece of work in itself.

43. See further our comments in relation to the Statement of Intervention/Annex A under Question 5.

Conditions and requirements

Question 8.

8. [Financial Sustainability](#)

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input checked="" type="radio"/>	<input type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

[Governance and Management \(Including Financial Management\)](#)

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input checked="" type="radio"/>	<input type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

[Quality](#)

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input checked="" type="radio"/>	<input type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

Regard to Advice and Guidance

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input checked="" type="radio"/>	<input type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

Information Provided to Prospective Students

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input checked="" type="radio"/>	<input type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

Fee limits

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input type="radio"/>	<input checked="" type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

Notification of Changes Which Affect the Accuracy of Information

	Yes	No
Could the condition in respect of Notification of Changes Which Affect the Accuracy of Information be applied consistently across all tertiary providers?	<input type="radio"/>	<input checked="" type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

Charitable Status

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input type="radio"/>	<input checked="" type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

Reportable Events Process

	Yes	No
Could this condition be applied consistently across all tertiary providers?	<input type="radio"/>	<input checked="" type="radio"/>
Are the requirements of the condition proportionate?	<input type="radio"/>	<input checked="" type="radio"/>
Does this condition provide sufficient clarity regarding requirements?	<input type="radio"/>	<input checked="" type="radio"/>

*Do you have any additional comments regarding the Conditions of Registration?
Please indicate which Conditions you are referring to in your response:*

Conditions and requirements – general comments

44. This section of the Regulatory Framework establishes the basis for exercise of Medr's extensive intervention powers and is perhaps the most important part of all the documentation to get right.
45. For the most part, the content is largely based on existing requirements under HEWA 2015 and FHEA 1992 and much of the substance does not represent a change for universities and has been transferred across from the existing legislation. The main substantive areas of concern relate to the conditions relating to quality, and information for prospective students, where Medr appears to be interpreting the conditions more widely than the statutory conditions.
46. Otherwise, at the moment we think that the majority of issues of substance that we have identified with the proposed Framework are issues of drafting rather than intent. There are some seeming requirements which would cause us significant concern as currently drafted (e.g. borrowing approval - for purposes of ONS classification) but many of these could work as intended with a bit of alternative drafting e.g. as guidance rather than requirements – and in general we would advise Medr to review the detail thoroughly to see what can be made guidance rather than a requirement.
47. This document lacks an introduction which explains and sets out the statutory basis for the regulatory framework, and this lack of clarity is a major issue that runs throughout the document. As a result the document doesn't make it sufficiently clear what providers will be expected to do, the extent and nature of those obligations for legal purposes, and what interventions may follow if those expectations are not met.
48. In particular, Medr needs to distinguish much more clearly for purposes of the legislation between 'conditions', 'requirements' (which must be met for Medr to be satisfied as to a particular condition), and statutory guidance (which providers must have regard), simply guidance (which they do not) or explanation. At the moment it is not clear what the conditions are or even how many there are. Where there are requirements, greater discipline is required in many instances to ensure that they relate clearly to a particular condition to avoid the inclusion of additional unrelated requirements.
49. In general, there are issues of terminology. It would help to avoid confusion by observing the legal distinctions/terminology more consistently. What, for instance, is meant by 'comply with the supplemental guidance' for a condition where 'providers must ...'? (see e.g. p26): is that a condition, or guidance? Do providers have to comply or have regard to it?

50. More generally, a major review is needed of the overall organisation and presentation. We would recommend e.g.: adding an introduction, clearly identifying and numbering the conditions, more clearly relating requirements to those conditions, revisiting the structure/headings throughout, reviewing the terminology used, and remove distracting explanatory material (e.g. ‘why this is important’ sections) to focus on the conditions, requirements and statutory guidance.

51. Sometimes the documents show signs of having been the product of many hands which has led to inconsistencies in approach, content (e.g. monitoring arrangements and reportable events process) or terminology (a glossary may help), or oversight (e.g. the review and amendment sections – which appear to have overlooked the statutory duty to consult).

52. In terms of general approach, there are two particular decisions which merit comment:

- **Conditions of registration and conditions of funding are drafted to be the same.** Our initial impression is that this has been largely successful/helpful and welcome in principle. However, the different rules that apply to each mean that the conditions cannot be identical in all cases. Some instances may require revisiting to ensure obligations are only applied to the use of public funds e.g. environmental sustainability/carbon management and VfM, exchequer assets. In general the terms and conditions must not relate to the application of any sums derived otherwise than from the Commission.

We note also that some providers will be subject to funding conditions under existing legislation and some under the new legislation for AY 2026/27. There are legal differences on the extent to which terms and conditions can be imposed for HE under the current and new Act for instance, that may be relevant. We have previously understood that the main driver for this legislation (and HEWA 2015) was that regulatory controls could not be properly implemented through terms and conditions of funding. We would welcome greater clarity on the extent to which these can be relied on as intended.

- **Requirements have been kept high level to apply to all tertiary education providers.** Largely this appears to retain arrangements for HE, but will mean more significant changes for other providers. There are also some requirements that need to be expressed more precisely to avoid unnecessary reporting/monitoring.

Conditions and related requirements – comments by section

53. There are more detailed comments than can be easily provided in this consultation form and we will continue to submit them directly to Medr by other means. However, the following key points are noted in relation to specific conditions/sections of the Regulatory Framework at this stage:

Financial sustainability condition

54. The main changes for HE are the calculation of the financial commitments threshold based on EBITDA and removal of the requirement to unlimited auditor liability, in line with England. We do not see these changes as contentious in principle. However, our discussions so far have suggested that the proposal to base the calculation on EBITDA needs to be worked through carefully before a decision is reached on the best method of calculation. In particular, there is currently concern that a gross-debt to adjusted EBITDA ratio fails to account for institutions with long-term structured repayment strategies. We would like Medr to engage further with Finance Directors in reviewing this and potential alternatives (including whether to continue to use the current metric for the moment at least).
55. The definition of financial sustainability needs to be re-examined, and the distinctions between viable and sustainable clarified. In particular, Medr are proposing to extend the definition beyond the current 5-year horizon, and appear to be departing from the current definition of financial sustainability based on the commonly understood notion of a 'going concern'. Similarly, the requirements for external auditors to 'form a view about whether an institution is a going concern' appears to have been removed. This interpretation of financial sustainability and the associated requirements look unrealistic (particularly given the unsustainable fee and funding model for qualifying courses and research at the moment) and unworkable as enforceable requirements as currently drafted.
56. Many of the key indicators of financial sustainability currently used by Medr as part of the Financial Management Code (p.5 FMC) appear to have been lost in being transferred to the future system but probably should have been retained as guidance and/or reporting requirements. We would expect Medr to continue to use these in practice, and as Medr needs to be consistent on its regulatory approach, all providers would benefit from clarity on this. This includes, for instance:
- unplanned deficits (p.8 para 3 appears to be clarifying that strategic/planned deficits would not indicate concern but the sentence is incomplete and unplanned deficits are not discussed),
 - net cash outflow from operating activities in two consecutive accounting years,
 - negative net cash for more than 30 days,
 - low levels of liquidity,
 - high levels of gearing
57. There is a need in particular to ensure the wording/treatment of financial commitments makes it clear that it is the threshold that is approved/reviewed, not the borrowing itself, to avoid issues with ONS classification. Medr have already clarified that this was their intention and we are grateful that they will be responding to this. For instance, page 13 2(l), and page 14 paras 3, 5 & 9, page 15 para 9, and page 19 (flowchart) all need to be looked at carefully.
58. We would welcome further clarification of Medr's policy on new providers, particularly alternative providers. P.11a implies that providers who have operated

for less than three years may be registered. We similarly note that not all providers will be expected to follow an appropriate governance code (p.25) or accounts directions (p.33) where there is none at the moment. What is Medr's policy on this and have the implications of this been worked through? We are concerned at the moment that the regulatory arrangements for such providers are not proportionate to the risk to students and the reputation of the sector.

59. In terms of monitoring, we are concerned that the level of engagement envisaged may not be manageable for Medr given the number of providers it will have to engage with in future. Partly this may be down to unclear expectations at the moment– see further our comments on reporting. It will also be important from a governance perspective that it is the provider not Medr who determines who it engages with (p.10, para 5.5).
60. Otherwise, there are number of terms that need to be reviewed and more clearly defined to be workable e.g.: “operational cash working capital levels” (p.8), ‘serious financial incident’, and ‘exceptional debits/credits’.

Governance and management condition

61. This is a new area of regulation although it also incorporates content from the existing Financial Management Code relating to financial management and estates management as well.
62. Medr's general approach has been to rely on assurance i.e. on ensuring that the providers have robust systems and processes in place, rather than to impose specific or uniform requirements on all providers and this generally looks a sensible approach.
63. However, a consistent issue throughout this section is that it sets out requirements that are too subjective to be measured or for Medr ensure that it acts fairly, consistently and proportionately in applying them. As currently drafted, most of the requirements are not suitable as a legally enforceable requirement/grounds for intervention and would be better suited as guidance.
64. For instance, making assessments on the basis of the following requirements appear to be far too open to arbitrary judgement and application in practice, despite forming part of well-established principles of good governance in HE: ‘act with integrity’ (p.21, para 3), ‘supportive culture’ (p.21, para 4), ‘governing body reflects the provider's ethics’ (p.21, para 5), ‘the governing body works as an effective team’ (p.22, para 12), or ‘effective leadership and management team’ (p.22, para 14), ‘shared understanding of purpose’ (p.22, para 13), and ‘stakeholder awareness’ (p.22, para 17). In most instances this can be remedied by careful redrafting and by making it guidance.
65. In some places it imposes specific obligations which as currently expressed could potentially cause issues with ONS/charity obligations/governing documents. This includes for instance requirements in relation to the accountable officer role in the organisation, length of service on Board, publication of Board papers etc. In most

instances this can be remedied by redrafting more generically or making it guidance rather than requirement.

66. A significant practical issue for universities will be the first registration self assessment and related requirements (p.24, para 33): What provisions has Medr made for minimising the initial self-registration requirements for regulated institutions who register? There is no provision or indication in this section. More detailed guidance will be needed which clearly identifies where evidence previously submitted as regulated institutions can be relied on for initial registration purposes, and clarity on those areas where additional work or information is needed. It is essential that this is kept to the minimum necessary to accommodate the changes in the legislation.
67. Some terms also need further clarification for practical implementation. For instance, what precisely is a 'formally documented risk appetite', 'assurance mapping', 'negative assurance internal audit report'. How recent does a 'recent effectiveness review' need to be? What constitutes a 'negative assurance internal audit report'?
68. We also note that the 'supplemental guidance' in this section only has to be complied with by HE providers in AY 2026/27. FE providers are only required to be working towards it for AY 2026/27. It is not clear why this is necessary (see our comments above on the need to consider a delay to the deadline for initial registration).

Quality and continuous improvement condition

69. There are more significant issues to be addressed in this area.
70. The first issue is that this condition is conflating different statutory duties. Medr has a duty to impose conditions and requirements relating to quality as an initial and mandatory ongoing condition of registration, under sections 27 and 31 TERWA 2022. It also has a strategic duty to promote continuous improvement in the quality of Welsh tertiary education under s.5, and a separate duty to monitor and promote improvement in the quality of tertiary education under s.51 – which applies not just to registered providers but those funded or otherwise secured by Medr.
71. These are fundamentally different duties: the registration conditions are meant to be imposed (providing a baseline for statutory intervention if the condition and requirements are not met), whereas continuous improvement is meant to be promoted ('carrot' not 'stick'). At the moment, if a provider fails to satisfy Medr that it is continually improving it is open to the full range of Medr's interventions, even if it was still satisfying the statutory condition in relation to quality.
72. Secondly, the condition as drafted simply provides that all institutions registered with and / or funded by Medr, must comply with 'expectations and requirements' set out in the Quality Framework. While this may seem like a sensible approach in principle (see our comments under Question 3), it relies heavily on the Quality Framework being a suitable vehicle for this and drafted appropriately to enable it. According to the Act, however, the Quality Framework is meant to set out guidance

and information on matters of policy and practice, and not a set of rules or requirements.

73. It is also not clear what is meant in this context by ‘expectations’, and the Quality Framework as currently drafted does not sufficiently distinguish between requirements, statutory guidance (which providers must have regard to), or simple recommendations/guidance for purposes of the Act. The end result is that the lack of clarity of the legal force of different ‘expectations’ means that providers are potentially subject to intervention for almost any matter contained in the Quality Framework at Medr’s discretion. This is a problem not just for providers in knowing where they stand, but also for Medr in being able to demonstrate it is making decisions on a fair and consistent basis for all providers.
74. A third issue is that the Quality Framework also appears to address Medr’s own definition of inadequate quality rather than the statutory definition. Section 52 of the Act provides that ‘the quality of tertiary education, or of a course of tertiary education, is inadequate if it is not adequate to meet the reasonable needs of those receiving the education or undertaking the course’.
75. As a result, in particular, Medr has sought to include the concept of continuous improvement in its definition of quality and equate with the concept of quality enhancement. Although this may be partially helped by the provision of a glossary which clarifies this, it does not resolve the more fundamental issue about whether they should be seeking to do that in the first place.
76. We note that the use of the term ‘continuous improvement’ in the context of the Quality Framework is not a statutory requirement. In fact, interpreting the quality condition in this way could impede Medr being able to demonstrate that they have addressed the statutory definition of quality.
77. We would like Medr to review its definition of quality and the scope of the Quality Framework accordingly.
78. More generally, the Quality Framework has sought to impose requirements which seemingly address other objectives rather than quality and would appear to fall outside remit. This includes, for instance, imposing requirements in relation to social partnership (the statutory duty applies to Medr but not universities), well-being (which will be covered by a separate condition not yet consulted on) and accommodation. Our current view is that these are not appropriate for enforcement as part of the Quality Framework.
79. We suggest that:
- the condition is reworded to reflect the statute more closely, i.e. ‘it is a condition of registration in each category of the register that the Commission is satisfied as to the quality of the kind of tertiary education provided by, or on behalf of, the applicant tertiary education provider to which the category of the register relates’;
 - the Regulatory Framework specifies that the requirement that must be met for Medr to be satisfied as this condition is along the lines of ‘providers must

have regard to the Quality Framework in satisfying Medr that its quality meets the reasonable needs of students' (not a requirement to comply with its requirements and expectations); and

- The Quality Framework is revised to more closely to address the statutory definition of quality (which, as currently, enhancement) and to exclude elements that do not strictly serve this purpose (e.g. wider continuous improvement aims, or welfare of staff and students) and are more appropriately addressed elsewhere.

80. Finally, the Review and amendment section on p.38, which states that 'providers will be informed of any amendments' is not acceptable as currently drafted. There is a statutory duty to consult on any revisions to registration requirements before determined, and these must be published. This needs to be redrafted in line with the act. This also applies to the similar sections on p.41, 44, 47, 52, and 55.

81. For further discussion of issues in relation to the Quality Framework see below.

Regard to Advice and Guidance condition

82. As drafted, this section appears to apply an interpretation of registered providers' duty in relation to advice and information in ways that significantly exceed the duty as expressed in the legislation and we would not regard as acceptable.

83. For instance, the requirement on Page 40, para 5 et al, effectively makes this a duty of comply or explain. While statutory duties in relation to advice and guidance sometime include a comply or explain rule, this is rare because of significant practical implications, and was not the case in TERWA 2022. The statutory requirement under s.31 and 37 (and 99, 104) is simply to 'have regard to'. The proposed interpretation/set of requirements would place significant burdens and potentially unworkable reporting requirements on providers - particularly given the potential extent of Medr's guidance (and lack of clarity on what is guidance for purposes of the different parts of the legislation).

84. Medr needs to be much clearer which advice or guidance is covered by this duty/provision and when advice/guidance is covered by another as the nature of the legal obligation may differ. In summary, providers must have regard to advice or guidance under s.31 but have no legal obligation in relation to advice or guidance issued under e.g. s.35 or s.135. At the moment it is not clear where this duty to guidance and advice set out in this document.

85. Otherwise, the (seeming) requirements on p.39 appear to need some reworking as they appear close to imposing Medr/government policy on the provider's strategy and governance. Does this cause potential issues with Medr's duties under s.19 to avoid incompatibility with governing documents and charity law?

Information Provided to Prospective Students

86. This is a new area. The requirements appear to stray beyond information provision into consumer protection law more widely. This includes, for instance, a requirement that providers must train staff in consumer protection law.

87. We do not think that this should attempt to include consumer protection more widely, as this may cause confusion in regulatory responsibilities and significantly add to work for Medr. This was debated during the passage of the Bill and the condition limited to information for prospective students rather than consumer law more generally for this reason.

Fee limit conditions

88. This looks very similar to current arrangements but the regulations in this area are currently under consultation and not due to be made until late 2025.

89. As noted in response to the Welsh Government's current consultation on this, there is uncertainty about how this condition will apply to registered providers for AY 2026/27 which has been raised with the Welsh Government via Medr as a matter of urgency. Fee limit and fee and access plan legislation will also apply during AY 2026/27.

90. The key issue in this area is to ensure that Medr's information requirements are kept to the minimum necessary. On p.46 of the Regulatory Framework where Medr states that the fee plan legislation in ss.45-6 requires "a detailed breakdown of the fees, including any additional costs that students may incur, such as materials, equipment, or field trips." However, this in fact exceeds the statutory requirement. According to the Act, fee plan provisions relate to fees only and the definition of fees in s.84 makes it very clear that this excludes e.g. field trips. From a practical perspective, given the range of potentially relevant costs and the need to keep the register up-to-date, this looks unworkable. The information on additional costs where relevant is already made available for prospective students by other means (as required by CMA rules), but is not appropriate for inclusion on the fee limit statement.

Notification of Changes Which Affect the Accuracy of Information

91. This combines three separate statutory conditions into a single condition. At the moment we are not convinced there are advantages to this approach and it may be better to keep them separate, i.e.: changes in relation to register information (under s.31), charity status (2024 Regs), and TEP in Wales status (2024 Regs).

92. The consistency between this section and the reportable events process could be usefully reviewed. At the moment, changes to the register under s.31 must be reported within 28 days, and changes to TEP in Wales status 'as soon as practicably possible'. However, 'serious incidents' must be reported within 5 working days and 'notifiable events' on a monthly basis according to p.57.

93. Changes to charity status, for instance, are currently required to be reported as both as a change to the register (p51 (i), and as change to charity status (p51 (a)). It could also be classed as a 'serious incident', since it leads to mandatory deregistration. What is the applicable timescale?

94. More guidance is also needed in relation to who constitutes a TEP in Wales, in particular. It would be helpful to identify under discussion of the legal basis that s.144 provides that "tertiary education provider in Wales" means an institution

providing tertiary education, including tertiary education provided on its behalf, whose activities are wholly or mainly carried on in Wales”. This still leave some significant questions, however. For instance, would providers who only provide higher education on behalf of another institution be considered TEPs for this purpose? How will providers within group structures be treated? What does ‘in Wales’ mean for these purposes in practical terms (e.g. how are different activities measured/located)?

Charitable status requirement

95. There are limited requirements in relation to this condition, and it should be straightforward for universities to demonstrate to Medr that this condition has been met.
96. However, notably Medr requires: “Where qualifying courses are being delivered on behalf of the institution, then the institution must confirm that each provider delivering the qualifying courses on its behalf is a charity.” This seems to contradict the approach currently proposed by the Welsh Government for automatic course designation which removes the requirement for the delivering provider to be a charity (and replaces it with a requirement that it is registered with Medr or OfS or in receipt of any funding from Medr).
97. It also raises questions about what precisely Medr intends to do with this power. How far, if at all, should Medr be seeking to enforce charity requirements as a condition rather than leaving it to the Charity Commission as the charity regulator? More generally, how far should Medr be seeking to make existing statutory duties conditions of registration?

Reportable events process

98. This appears to apply to all conditions and all providers. Reportable events appear to be classed as either ‘serious incidents’ or ‘notifiable events’ though the terminology used is not always consistent and needs clarifying.
99. The process is largely modelled on the current close engagement with HE. Greater precision in some areas appears to be needed, however, to avoid excessive monitoring e.g. ‘considering early repayment of significant loan balances.’
100. This also raises questions about the resource implications for Medr and how far this level of engagement is manageable when extended to alternative providers and funded unregistered providers.
101. Further work may be needed to ensure consistency between the reportable events process and, for instance, the requirements for reporting of changes to register information – in some instances it looks like the different sections are setting different requirements in relation to the same information.
102. This ‘Supplementary guidance’ is currently intended to cover all conditions. However, it only identifies ‘serious incidents’ in relation to some e.g. the quality condition. At the moment there is no catch-all requirement about breach/anticipated breach of registration condition.

103. We also have significant concerns at the moment with the reportable events process, which is retrospective rather than future-focused. For instance, a provider that ceases to exist as a legal entity (p. 60, a) could hardly be expected to report itself once ceased, but Medr would presumably want to have the earliest possible indication of any significant risk in that regard.

Quality Framework (Annex C)

Section A: Introduction, background and scope

Question 9.

9. To what extent do you agree that the drafting clearly sets out the statutory basis for the Framework and what it is intended to achieve?

- ☐ Strongly Agree
- ☐ Agree
- ☒ Disagree
- ☐ Strongly Disagree

Question 10.

10. Is the scope of the definition of quality appropriate?

- ☐ Yes
- ☒ No

What further clarification is needed?

In response to question 9 (on clarity of the statutory basis):

104. As identified under Question 8, we have real concerns about the extent to which Medr has clearly identified the statutory basis for the Quality Framework and whether its proposed use of it is securely has a secure legal foundation. This is an issue not just for providers in knowing where they stand, but also for Medr in being able to implement it and demonstrate that it makes decisions in relation to quality in a fair and consistent manner.
105. Although the document identifies s.50 as the relevant basis for Quality Framework and the matters that it may cover (in para 10) it does not make clear that quality framework is meant to set out 'guidance and information on matters of policy and practice', according to the Act, and not an enforceable set of rules.
106. The issue is that Medr also intends to use the Quality Framework to impose registration conditions and requirements in relation to quality. Annex B states that all institutions must 'comply with the expectations and requirements' of the Quality Framework.
107. The relationship between the Quality Framework and the registration conditions is therefore problematic. How Medr will meet both (seemingly contradictory) purposes is not discussed in Annex C but is critical to understanding how the Quality Framework is intended to operate.
108. Annex C, for instance, doesn't refer to requirements, only 'roles and responsibilities, and expectations' of Medr and providers regarding the quality of

tertiary education’. These ‘responsibilities’ or ‘expectations’ are clearly assigned in bulleted statements introduced respectively as “Medr will ...” and “Providers will ...”. It is not clear what legal force they are intended to have, however. For instance, are they requirements the provider must comply with or guidance they must have regard to? If they are requirements, are they intended to be individually enforceable (which would enable intervention on many minor matters) or is there an overall assessment of quality/inadequate quality that would trigger intervention? If the latter, precisely how would that work? (Para 65 suggests that an overall assessment could be made based on each of the pillars, for instance).

109. We are extremely concerned that the current approach is being used to impose detailed requirements which are not the statutory purpose of the quality framework (under s.50) and not appropriate to be enforced as conditions or requirements of registration (under s.27 or s.31).
110. As noted under Question 3, we have some significant concerns about the general approach to intervention based on a ‘spectrum of regulatory interventions’ (intended to match the level of non-compliance with the level of intervention) in relation to the Quality Framework in particular. While this may seem sensible in principle it appears to be setting up Medr to intervene on minor matters which could easily become a recipe for micro-management and regulatory overreach. This approach currently conflicts with the principles outlined in the Regulatory Approach which seek to respect the institutional autonomy of universities, as required by the legislation, and the intention to rely on systems of assurance.

In response to Question 10 (on the definition of quality):

111. A key issue we highlighted in Q8 above is that although Annex C identifies that the Act provides a statutory definition of quality/inadequate quality for purposes of Medr’s functions (in s.52) Medr has chosen to follow its own definition. The definition in the TERWA 2022 is similar to the definition used in HEWA 2015 (i.e. sufficient to meet the reasonable needs of students). Medr will need to ensure that the content in the Quality Framework clearly addresses the statutory definition and only includes other requirements or expectations in so far as they are relevant.
112. More generally, the Quality Framework as currently drafted appears to incorporate material/requirements that do not relate to quality, and appears to have been included in pursuit of other objectives or duties (e.g. social partnership, and wider well-being objectives for staff and students). This represents significant overreach.
113. The most notable is the inclusion of ‘continuous improvement’. As noted in Q8, Medr has a duty to impose a quality condition and a separate duty to promote continuous improvement. These are fundamentally different duties which require fundamentally different approaches, however. Medr has stated that the term continuous improvement is used to capture both improvement and enhancement

- (p.2 footnote). While enhancement can be seen as necessary to fulfil the statutory definition of quality and would be appropriate to include in the Framework, continuous improvement is wider and a matter for promotion not enforcement.
114. Quality enhancement is currently viewed as an essential part of the quality assurance process in higher education designed to meet the reasonable needs of students, and we would expect it to continue to be the case under the new legislation as the statutory definition has not changed. The QAA in the UK Quality Code for Higher Education notes that enhancement may be a part of continuous improvement, but enhancement can come from more significant changes to policy and practice. International audiences and regulators are familiar with the language of enhancement so we would expect this to remain readily apparent to them were they to look to our own regulator's principles.
115. Continuous improvement, however, implies a goal/target based approach with an expectation of improvement over time. Providers can deliver excellent quality without necessarily demonstrating metric improvement over time. As highlighted elsewhere in this document, continuous improvement does not so obviously serve the statutory definition of quality, and Medr's duty is to promote, not enforce, continuous improvement. The document should be redrafted to remove reference to continuous improvement, and replace it (where appropriate) with reference to enhancement.
116. There is a particular need to clarify how this Framework is intended to work in conjunction with QAA's UK Quality Code for Higher Education. The UK Code, which HE providers will still be expected to follow, is built on a shared set of principles in higher education which remain essential for its operation across the UK. The sector in Wales is expected to remain in lockstep with this in order to help safeguard the reputation of UK HE (the 'product' for overseas markets). Whereas existing quality arrangements in Wales (despite being based on similar legislation) continue to rely on the UK Code, this document seemingly sets out additional requirements and its own different set of principles and interpretation of quality. Medr highlight externality is an important pillar of quality and is responsible for external quality assessment arrangements under s.54. However, it currently looks like Medr's Framework and the UK Code are assessing different things. This is unhelpful and unnecessary.
117. Paragraph 14 of the Quality Framework outlines that quality encompasses 'all aspects of the learner's experience as a learner'. This leaves open the possibility that areas outside of the control of education providers could be included. For example, accommodation could be defined as forming part of the learner's experience, yet many students reside in private housing, outside of a university's control. Consideration should be given to a tighter definition of what does (and does not) form part of a learner's experience in relation to quality. In a similar vein, the document also notes the requirement to have a condition relating to welfare,

but this term is not adequately explained, leaving the responsibility potentially outside of provider control. Quality should relate to matters that pertain to learning and teaching rather than more ethereal aspects of the learner journey.

118. It is noted that Medr believes that the work to define 'quality' will continue to evolve. This is highly problematic. A significant amount of reassurance will be needed in terms of what this means and its implications for the Quality Framework.
119. There is also some question over whether (as in paragraph 15) 'good' quality can be measured by learner outcomes when the outcomes noted are largely quantitative proxies for measures of good quality. More nuance should be attached to what 'succeeding' means for a student and more consideration should be given to what could be of value in a qualitative sense.

Section B: Principles

Question 11.

11. To what extent do you agree that the proposed principles are appropriate?

- ☐ Strongly Agree
- ☐ Agree
- ☒ Disagree
- ☐ Strongly Disagree

Section C: Criteria for assessing the quality of education

Question 12.

Which proposed features of the quality framework would have the most impact / add the most value in sustaining and improving quality over time?

In relation to Question 11 (on principles):

120. The principles at a headline level largely look appropriate and are mostly familiar territory for those already in higher education settings. We do have a number of concerns about regulatory over-reach that can be found in several of the pillars. For example, in the Learner Engagement pillar, the demand for investment of resources and support for learner engagement could be deemed to be a breach of institutional autonomy, particularly in light of this being married to 'continuous improvement' – if this ends up being a metric on which the sector is judged, it could be particularly contentious in tight financial circumstances. The Medr learning forum in the Learner Voice column provides scant detail as to the standing of the body, how it might be formed and whether institutions have the 'right to reply' or how they can engage. In the engagement with the governing body pillar there is once again a call for continuous improvement (which is problematic for reasons we have covered in depth elsewhere). Our views on continuous improvement in the currently touted form evidently inform our views on the Continuous Improvement column. We also have concerns that the principle around professional learning and development may be over-reaching in the current form. In particular, the reference to working in social partnership here risks breaching the autonomy of higher education providers who are not bound by social partnership legislation. As noted above, there is a mention of the requirement of a condition relating to staff welfare, but the boundaries of this have not been adequately explored or explained, and, regardless, this should not be dealt with in the Quality Framework

In relation to Question 12 (on features which have the most impact):

121. As noted above, there is much in this framework that is familiar to higher education providers, and we would be supportive of the continuation of those elements. We believe that the development of a cogent learner voice throughout tertiary education will provide long term benefits to the sector as learners will be more prepared to engage when they enter higher education to contribute to their own learning. Similarly, a range of surveys that gather the views of students in FE and Sixth Forms may prove to be particularly informative and help to shape the higher education sector going forward.

Section D: Roles and responsibilities of Medr and providers regarding the quality of tertiary education

Question 13.

13. To what extent do you agree with the proposed approach that includes structuring roles and responsibilities across each pillar?

☐ Strongly Agree

☒ Agree

☐ Disagree

☐ Strongly Disagree

Question 14.

14. What approach to external quality assessment adds the most value in terms of maintaining quality and driving improvement?

122. Medr becoming responsible for providing coherence to arrangements for providers who are subject to multiple external quality arrangements will provide a useful opportunity to lessen burden. For example, making better use of things such as PSRB arrangements as part of the portfolio of evidence that is used in the external review method used in higher education.

123. On the part of the providers, the principle of continually seeking opportunities to collaborate with other providers may prove burdensome. This potentially could be framed more usefully as providers adding value where possible by working with other providers and parts of the sector.

124. We feel that Medr could usefully take some consideration of the regulatory environment in Scotland particularly with reference to how enhancement is conceived. The creation of a tertiary system where enhancement themes are identified on a yearly basis could help the wider sector work better together, particularly if associated and meaningful funding was attached. This would also

enable the sector to become more cogent and allow Medr a useful lever to drive change and reflection.

Section E: Processes for assessing the quality of education

Question 15.

15. The Framework sets out a range of data sets in supporting assessments of compliance with the quality Framework. To what extent do you agree that the proposed data sources are appropriate?

- ☐ Strongly Agree
- ☐ Agree
- ☒ Disagree
- ☐ Strongly Disagree

Please note any other any other data that should be considered:

125. The framework notes in section 11 that it will “use data to identify inequities in the tertiary system and introduce a response that will include the setting of ambitious targets and actions for providers to reduce the inequity of access to tertiary education, improve the diversity of intake where it is low and reduce attainment gaps”.

126. There is some concern over the framing of this. The inequity of access to tertiary education is not solely down to the providers involved but relates to wider structural, social and generational activity. Setting ambitious targets for providers alone cannot resolve the crisis of recruitment to higher education for Welsh domiciled young people. For context, Universities Wales response to the Senedd CYPE inquiry containing this information can be found [here](#). Consideration should be given at this juncture as to whether Medr will make recommendations to Welsh Government as to how structural inequity might be tackled as well as working with providers.

127. It is apparent from the proposed framework that Medr itself is aware of the paucity of data available to the sector. We would welcome the chance to have input into planned new surveys (not necessarily those relating to higher education) to help ensure that the data is useful to the full tertiary sector and would expect to be consulted.

128. Section 59 of Annex C notes that “Medr may intervene where outcomes are significantly below the benchmark”. It is crucial to understand when the ‘may’ will result in a definite intervention or what contexts may see an intervention avoided.

129. Given the generational and regional inequality relating to participation noted in our recent response to the CYPE inquiry, we would expect datasets relating to deprivation to be central in the differential attainment data as well as maintaining a focus on other factors. Developing contextual datasets on the characteristics of students to monitor their journeys and the value they gain from them will be important in managing expectations of the system.
130. It is also important that Medr does not fall into the situation in which some other regulators have found themselves. Metrics should not assume that all forms of education are driven purely by and for economic reasons. It should be possible to consider data that looks at outcomes that are not purely financial. It is acknowledged that higher attainment in education often relates to better outcomes in terms of health, happiness and civic contribution. Some consideration should be given to how these could be developed.

Question 16.

16. Are there any other priorities for consideration in relation to external quality assessment?

☐ Yes

☒ No

[BOX ONLY APPEARS IF YES:] Please note any other priorities for consideration in relation to external quality assessment:

Section F: Intervention

Question 17.

17. Does the section provide clarity on how Medr will intervene to address issues relating to quality, standards and continuous improvement?

☐ Yes

☒ No

[BOX ONLY APPEARS IF NO:] What further clarification is needed?

131. As noted above in discussing the statutory basis of Quality Framework, it is not clear what legal implications the 'responsibilities and expectations' are intended to have, and how far they can be used directly to trigger intervention. The Act intended

the Quality Framework as guidance but it is also being used by Medr to set requirements.

132. As noted in relation to the Statement of Intervention, we have some significant concerns about general approach to intervention based on a ‘spectrum of regulatory interventions’ which are intended to match the level of non-compliance with the level of intervention. This seems sensible in principle but in practice it could be setting Medr up to operate a system of rules on minor matters as a basis for frequent intervention, and easily become a recipe for micro-management and regulatory overreach. As currently drafted, we have concerns particularly in relation to the Quality Framework (Annex C), which sets out many seeming requirements.
133. A further issue is that the drafting of these ‘expectations’ is often not suitable for legal enforcement as they are too open to interpretation as to whether they have been met or not. For instance, none of the statements in para 39 (actively engage in external quality, seek opportunities to collaborate, use benchmarking etc) are problematic as guidance but become problematic as enforceable requirements.
134. Otherwise, broadly speaking, the interventions are clear but there are also concerns over the language used.
135. In section 53 of Annex C, it notes that “Any provider receiving an outcome requiring follow-up engagement under the current processes will be considered not to be compliant with quality standards”. This changes the current situation in higher education settings where a provider would have been considered compliant while engaging with conditions following a QAA review, historically not an uncommon outcome. The implication for an institution not being deemed compliant could result in the loss of their ability to recruit overseas students, a catastrophic outcome that could lead to provider failure. This may be a tonal adaptation for the document or require some further unpacking, but it is crucial that it is addressed.

Question 18.

18. Are there any gaps within the Framework that should be addressed?

☒ Yes

☐ No

[BOX ONLY APPEARS IF YES:] Please note any gaps within the Framework:

136. Section 63 notes how powers of intervention would be invoked. Medr must be clear on what level of approval would be required for each level of intervention and how any associated appeals process may work.

Question 19.

19. Are there any particular elements within the current drafting that should be emphasised or strengthened?

☒ Yes

☐ No

[BOX ONLY APPEARS IF YES:] Please note any particular elements within the current drafting that should be emphasised or strengthened:

137. These have been noted in the previous sections.

Question 20.

If you have any further comments you would like to share regarding the Quality Framework, please note:

138. As set out in the outset of the framework, there are outstanding elements that will become apparent in the second tranche of consultation planned for the Autumn as well as a planned glossary document. As such our opinions may alter as the framework solidifies.

Annex 1: Additional guidance for tertiary providers

Question 21.

21. Does this Annex take account of the key other documents and requirements for each part of the sector?

☒ Yes

☐ No

[BOX ONLY APPEARS IF NO:] What further information is required?



The Welsh Language

This consultation seeks views on the impact of all elements of the proposed regulatory system on the Welsh language.

Question 24.

24. Could the proposals be changed to increase positive effects, or decrease adverse effects on:
Opportunities for persons to use the Welsh language

☒ Yes

☐ No

Please provide details:

139. We agree with Medr's assessment of this and note that the conditions of registration in relation to the Welsh Language are to be covered in Medr's second phase of consultation.

Question 25.

25. Could the proposals be changed to increase positive effects, or decrease adverse effects on:
Treating the Welsh language no less favourably than the English language?

☒ Yes

☐ No

Please provide details:

140. We agree with Medr's assessment of this and note that the conditions of registration in relation to the Welsh Language are to be covered in Medr's second phase of consultation.

Impact on the Well-being of Future Generations Act (2015)

This consultation seeks views on the impact of all elements of the proposed regulatory system on the Well-being of Future Generations Act 2015.

Question 26.

26. Will the proposals contribute to the achievement of the national well-being goals set out in the Well-being of Future Generations Act 2015?

- ☒ Yes
- ☐ Partially
- ☐ No

Please provide details:

141. We broadly agree with Medr's assessment. Assuming that Medr respond to our comments on the detail, the proposals should ensure that universities continue to make a significant contribution to the goals of the Well-being of Future Generations Act 2015 and the proposed regulatory framework. We also note that Medr's statutory strategic plan has been informed by the objectives of the Act.

Impact on equality, diversity and inclusion

This consultation seeks views on the impact of all elements of the proposed regulatory system on equality, diversity and inclusion.

Question 27.

27. Do the proposals take account of the need to:

	Yes	Partially	No
Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Foster good relations between persons who share a protected characteristic and persons who do not share it?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Reduce the inequalities of outcome which result from socio-economic disadvantage?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

If you have any further comments on the impact of the proposed regulations on equality, diversity and inclusion, please note:

142. We broadly agree with Medr's assessment of the likely impact of the proposals in relation to equality, diversity and inclusion. However, we note that some of the most significant aspects of the new regulatory system in this respect, including the registration conditions relating to equal opportunity, have been reserved for the second phase of Medr's consultation.