



PolicyWISE







Wise in 5: Higher and tertiary education regulation

Wise in 5 is a snapshot comparative guide to a public policy issue across the nations of the UK and Ireland. It helps you be PolicyWISE (Wales, Ireland, Scotland, England) in 5 (it takes just five minutes to read).

It includes a summary of the latest policy developments across the nations, as well as related research from PolicyWISE, The Open University and PolicyWISE's university partners.

PolicyWISE creates neutral and constructive spaces for policy professionals and academics across the nations to develop relationships, respect and knowledge. We support and nurture a common culture of developing and sharing insight, knowledge, ideas and context from across the nations in a comparative and collaborative way.



	Independent combined regulator for FE and HE	Has changed in last five years	Public funding conditional on formal registration and conditions
Wales	+	+	+
Scotland	+		
England		+	+
Northern Ireland			
Republic of Ireland		+	
Key	<p> In effect - Yes</p> <p> Yes - not yet fully implemented</p>	<p> Proposed</p>	<p> Considered</p>

Wise in 5: Higher and tertiary education regulation

Overview

Over the next six months, we will see a significant change in the UK higher and tertiary education policy and regulation landscape. The new [Commission for Tertiary Education and Research](#) (CTER) in Wales will become operational in Summer 2024.

The standalone funding council for higher education will be abolished, and the arm's-length CTER will fund and plan all post-16 education, and much research, in Wales. This brings Wales and Scotland closer together in their approach and has much in common with the integrated approach used in [New Zealand](#).

The regulation of higher and tertiary education in the nations of the UK and Ireland intends to [protect](#) the [interests](#) of students and learners, providing accountability for the effective use of public funding.

It aims to ensure that universities, and other tertiary education providers, are designing and delivering their activities in such a way as to meet the overarching, strategic priorities of their respective governments and/or funding bodies.

The agencies, laws, funding, and regulations differ and diverge across the nations of the UK, and the Republic of Ireland.

While there are certainly some similarities and shared areas of priority, the flavour of these regulatory systems is becoming increasingly divergent.

Scotland already has a combined tertiary education regulatory system, and Wales will have one soon. Meanwhile, higher education remains the domain of the Office for Students in England.

How regulation is done is also becoming divergent, with some places based more on a collegiate approach, while others are more clearly driven by outcomes and penalties.

All that said, these systems all exist within the same ecosystem, in which institutions often work together, and compete against one another.

This recent [paper](#) from the Centre for Global Higher Education looks in detail at the "idea of a tertiary ecosystem" and how nations have moved, or might move, to integrated funding and regulatory systems.

England has not moved in the same policy direction as Scotland and Wales, but there have been [calls](#) from a recent higher education minister for a "joined-up system of regulation and funding for all post-16 education".

The UK Labour Party has also recently [said](#) that it would undertake "a period of review, with the aim of streamlining regulation and ensuring that regulators are supporting cooperation and collaboration between colleges and universities", were it to enter government in Westminster after the next general election.

Although this paper focuses on national systems, the issue of regional planning and funding is a live issue, particularly in [Greater Manchester](#).

In focusing on national regulation and funding bodies, this paper does not look at Ombudsman or Access Commissioner-type roles or bodies, which operate differently across jurisdictions.



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Nation by Nation

Wales

Currently, the [Higher Education Funding Council for Wales](#) (HEFCW) is the regulator and funder of higher education in Wales. It is a Welsh Government Sponsored Body (WGSB) which falls under the responsibility of the Minister for Education and Welsh Language.

It is allocated a sum of money by the Welsh Government on an annual basis to be distributed to higher education institutions (HEIs) to support them in carrying out their activities and in delivering the Government's priorities for the sector, which it sets in its periodic Remit Letter to HEFCW. During the current year (2023-24), HEFCW has a budget of over [£215 million](#).

HEFCW regulates certain HEIs in Wales by way of [fee and access plans](#), which were conceived by the Higher Education (Wales) Act 2015. When institutions' fee and access plans are approved, they become regulated by HEFCW and are automatically designated for student support.

Under the Tertiary Education and Research (Wales) Act 2022, HEFCW will be dissolved in spring 2024 and replaced by a new [Commission for Tertiary Education and Research](#) (CTER). CTER will be responsible for regulating and funding all post-16 education and research, including sixth forms and FE colleges, universities, work-based learning, and adult community learning.

CTER will roll out a new regulatory regime for all post-16 education providers and will have an annual budget in the hundreds of millions, making it the second largest public body in Wales, second only to the National Health Service.

The 2022 Act sets several high-level strategic duties for CTER (and de facto for the tertiary sector) including life-long learning, civic mission, and collaboration and coherence in the sector.

Northern Ireland

Northern Ireland does not have a separate regulator or funding council *per se*, in the way that Wales has HEFCW and will have CTER, Scotland has the SFC, and England has the OfS.

Funding and regulation of higher education is the responsibility of the [Department for the Economy](#) (DfE), a department of the Northern Ireland Executive, functioning both as a government department and as a funding council.

The DfE makes grant payments to universities, and further education colleges delivering higher education, under the authority of the

[Education and Libraries \(Northern Ireland\) Orders 1993 and 1986.](#)

Universities are required to demonstrate how their funding allocations are used to enhance research capability and quality; achieve long-term sustainability; be responsive to the needs of business and the community; increase participation and widen access; improve teaching and learning quality and promote greater flexibility; and ensure effective governance.

Republic of Ireland

The [Higher Education Authority](#) (HEA) (formally, *An tÚdarás um Ard-Oideachas*) has statutory responsibility for the effective governance and regulation of higher education institutions and the higher education system in the Republic of Ireland.

It administers funding to higher education institutions in the form of a basic block grant, of which some can be ringfenced ('top-sliced'), either by the Department of Further and Higher Education, Research, Innovation and Science of the Government of Ireland or by the Authority itself, to help "steer rapidly required system change".

An additional performance-based component is allocated based on the three-year, mission-based compact made between each HEI and the Authority, which sets out key performance targets defined by Ministerial objectives.

Key [system objectives](#) include: (1) providing a strong talent pipeline combining knowledge, skills and employment to meet the needs of enterprise and the community; (2) creating rich engagement opportunities to enhance the learning environment; (3) excellent research, development and innovation; (4) improving quality of opportunity; (5) improving the quality of learning; and (6) demonstrating improvement in governance and leadership.

Private universities in the south can access Authority funding for specific courses, or directly via the Department.

The [Higher Education Authority Act 2022](#) provided for some changes to the functions and governance of the Authority, as well as for the Minister for Further and Higher Education, Research, Innovation, and Science to prepare a strategy for the provision of tertiary education, and for the Authority to support HEIs in the development and provision of lifelong and flexible learning.

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The Government of Ireland is [planning to implement](#) a “unified system with greater linkage between existing further education, higher education and research sectors”.

Scotland

The [Scottish Funding Council](#) (SFC) is the national strategic body for tertiary education and research in Scotland. It is a non-departmental public body of the Scottish Government, which is directly accountable both to Scottish Government Ministers and to the Scottish Parliament and was created by the Further and Higher Education (Scotland) Act 2005.

It invests around £2 billion of public money provided by the Scottish Government to deliver tertiary education and learning, skills and apprenticeships, student support and participation, research, innovation and knowledge exchange and other activities.

The regulatory system is outcomes-based, supported by [Outcome Agreements](#) (OAs), which capture, at a high level, the contributions, impacts, and outcomes for key priority areas for the use of allocated funding by each funded university, college or college region.

OAs are specific to each institution, but currently cover seven priority areas: (1) fair access and transition; (2) quality learning and teaching; (3) coherent learning provision; (4) work-based learning and skills; (5) net zero and environmental sustainability response; (6) high-quality research and innovation (universities only); and (7) the University Innovation Fund (UIF) (universities only).

In the coming years, it is expected that the SFC will evolve its regulation of providers to be based on a new National Impact Framework, as recommended by the SFC’s Coherence and Sustainability: A Review of Tertiary Education and Research. The framework would reflect the Sustainable Development Goals and “would set the overarching context for a more targeted annual Outcome Agreement negotiation between SFC and institutions”.

In its response to the review, the Scottish Government warned: “Given the concerns expressed in the sector about the possible burden that SFC’s proposals for a refreshed accountability framework may bring, we also expect SFC to balance rigour and proportionality in the way its accountability activities impact on the sector and the means by which this National Impact Framework is tracked and made operational.

Institutions must also submit data and projections to the SFC which demonstrate their performance (or projected performance) against a set of National Measures.

In addition to annual OAs, institutions enter into Financial Memoranda with the SFC which set out the formal accountability relationship between the SFC and the institutions, and the [requirements](#) which institutions must comply with in return for funding.

England

The regulator of higher education in England is the [Office for Students](#) (OfS). It is an executive non-departmental public body, sponsored by the Department for Education of the UK Government, which was established by the Higher Education and Research Act 2017.

The OfS receives a budget from the UK Government, which it then uses to support HEIs in carrying out their activities and delivering the UK Government’s policy priorities. During the current year (2023–24), the [OfS is distributing over £1,400 million](#) to HEIs in England who are in the ‘approved (fee cap)’ category of the OfS Register. In order to receive funding, HEIs must be on the Register.

The OfS’ [regulatory framework](#) sets four primary objectives for the sector: that all students, from all backgrounds and with the ability and desire to undertake higher education (1) are supported to access, succeed in, and progress from, higher education; (2) receive a high-quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure; (3) are able to progress into employment or further study, and their qualifications hold their value over time; and (4) receive value for money.

All institutions that are on the Register must demonstrate that they can meet a [number of initial and ongoing conditions](#). These conditions relate to the access and participation of students; the quality of the education offered and the outcomes of students; protecting students’ interests; financial sustainability and good governance; the information available to students; and accountability for fees and funding.

Meanwhile, the [Education and Skills Funding Agency](#), which is an executive agency of the Department for Education, has responsibility for funding and regulating further education in England.

It funds further education institutions (FEIs) on behalf of the UK Government and regulates FEIs according to an [intervention regime](#), which enables the early detection of financial and quality issues within colleges and provides appropriate actions to help resolve those issues.

The intervention regime includes a prominent role for the [FE Commissioner](#), who is part of the Department for Education, and who works with colleges to improve their quality and financial resilience.

Wise up – 5 policy points to takeaway

1. In an interconnected landscape, where students cross borders and institutions collaborate, understanding the nuanced regulatory differences is crucial. Despite divergent approaches, there is a recognition of the need for cooperation, as institutions and businesses often operate across national boundaries.
2. The Celtic nations appear to be travelling in a similar direction as one another, particularly in terms of their approach to regulation, while England seems to be following a different path. With the three national academies also working more closely together through the Celtic Academies Alliance, might there be further opportunities for Celtic (rather than England and Wales, Great Britain, or UK-wide) partnerships on issues such as quality enhancement?
3. While regulatory approaches differ, a common thread across all nations is the emphasis on ensuring institutions are accountable for their actions. Institutions are required to demonstrate financial viability, quality of education, equal opportunity, and alignment with government priorities. Wales has written these into law through the new strategic duties.
4. A more comprehensive approach to tertiary education is becoming more prevalent. In Wales, HEFCW will be replaced by CTER, whose expanded scope will encompass all post-16 education and research, similar to the SFC in Scotland. There has long been interest in England to exploring a similar approach.
5. Regardless of nation and regardless of political persuasion, governments want to see value for money for their investment in higher education, and institutions are required to demonstrate that the public funding they receive is being put to good use to help deliver not just excellent learning and teaching, but also a consistent pipeline of graduate talent to help support economic growth.



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Wise in 5

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