



Securing Student Success: risk based regulation for teaching excellence, social mobility and informed choice in Higher Education

Edge Hill Students' Union Consultation Response

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1. Do you agree or disagree that these are the right risks for the OfS to prioritise?

In principle, Edge Hill Students' Union (EHSU) agrees that the four primary objectives and associated risks highlighted in the consultation document are worthy priorities for the Office for Students (OfS). Specifically, we welcome the OfS's commitment to enshrining the principle of equality of opportunity throughout the student lifecycle. Nonetheless, we are concerned by the occasional lack of clarity in the proposed regulatory framework, particularly with regards to how meeting these objectives will be facilitated.

Objective 1: All students, from all backgrounds, are supported to access, succeed in, and progress from, higher education. Careful consideration should be given to what constitutes success in the context of the OfS's purported commitment to equality of access. Outcome measures weighted significantly towards graduate salaries and degree classifications will inevitably favour some institutions disproportionately at the expense of others, which may, in turn, have negative widening participation implications. In an outcome oriented environment, providers may be more inclined to err on the side of caution with regards to entry requirements, thus increasing access barriers rather than removing them. Success measures should also take into account factors such as geographical location and student satisfaction, alongside graduate outcomes.

Objective 2: All students, from all backgrounds receive a high quality academic experience, and their qualifications hold their value over time in line with sector-recognised standards. Students' experiences in higher education encompass a range of factors, all of which contribute to their perception of a provider's quality. Supplementary services, such as health and wellbeing provision, careers services, sports and leisure facilities, and students' unions not only contribute to students' experiences while studying, but may also shape graduate outcomes by aiding retention and progression, as well as enhancing employability through extracurricular activities. Accordingly, the OfS should consider adopting a more holistic conception of student experience as one of its primary objectives.

Objective 3: All students, from all backgrounds, have their interests as consumers protected while they study, including in the event of provider, campus, or course closure. It is of course imperative that students' rights and interests are protected. We also welcome the emphasis on clear contingency measures being in place in the event of course or campus closure. However, given that institutional outcomes are contingent on the labour of students and staff alike, it is vital that students' interests are represented formally. If the OfS wishes to be truly student-focused, ensuring that providers offer mechanisms for individual and collective student feedback should be a priority. In addition, students' "interests as consumers" arguably extend beyond the duration of their studies. As such, the OfS should consider if and how these interests can be "protected" following graduation. For instance, a student may have legitimate complaints about their degree "hold[ing] its value" in line with OfS objectives if the programme they studied or institution they studied at closes shortly after they graduate.

Objective 4: All students, from all backgrounds, receive value for money.

See answer to question 6.

2. **Given all the levers at its disposal, including but not limited to access and participation plans, what else could the OfS be doing to improve access and participation and where else might it be appropriate to take a more risk-based approach?**

Flexible student finance for flexible study: The consultation discusses work-based study, accelerated programmes or flexible provision in relation to the first objective as possible means of improving access and participation. Expanding students' range of study options is, broadly speaking, a positive step. However, the consultation does not address adequately the potential student finance implications of undertaking such programmes. Any student completing an accelerated programme, for example, will inevitably have fewer opportunities than their counterparts on traditional programmes to earn money from part-time and summer work to support living and maintenance costs during their studies. As such, just as tuition fee loans will be adjusted to reflect differences in annual tuition fees, there should be a corresponding adjustment to maintenance loans for students studying accelerated, two-year programmes. Likewise, flexible provision will necessitate flexible financial support. If genuine equality of access to Higher Education (HE) is to be achieved, minimising the financial obstacles to access, success, and progression must be a priority.

Measuring access and participation: In terms of improving access and participation in HE, the consultation document states that the OfS will not impose targets relating to access and participation, with continuous improvement in this area driven by best practice. At the same time, the consultation states that the OfS will not hesitate to impose sanctions when appropriate. The avoidance of arbitrary targets and recognition of local institutional contexts and autonomy evident here is welcome. Nonetheless, without agreed baseline expectations for access and participation, more clarity is needed with regards to on what basis any sanctions will be made, with particular emphasis placed on how any risks to students related

to sanctions will be mitigated. Incorporating mutually agreed, context specific performance indicators into access and participation plans may prove beneficial in this regard. Such indicators need not be crude quantitative metrics, leading to sanctions. Rather, they should be used as a means of gauging progress and determining priorities.

Facilitating enhancement: Consideration should also be given as to the likelihood of shared “best practice” driving improvement in the kind of “competitive marketplace” outlined in the consultation. In such an environment, “best practice” may be perceived as intellectual property with an associated monetary value to a provider, making them understandably protective of information that could enhance the learning and teaching offer of a competitor. As such, it may be necessary for the OfS to play a more active role in facilitating and promoting enhancement than it currently envisages.

Social mobility measures: As documented in a recent Social Mobility Commission report, “a stark social mobility postcode lottery exists in Britain today.” Accordingly, the OfS should include specific measures relating to social mobility as part of its regulatory approach and recognise providers who excel in this regard. Doing so would constitute a tangible commitment to “widening access and promoting the success of disadvantaged students.” Any such measures would, of course, need to be contextualised geographically.

3. Do you agree or disagree that a new Quality Review system should focus on securing outcomes for students to an expected standard, rather than focusing on how outcomes are achieved?

It is, of course, appropriate that outcomes are a key component of any Quality Review system. Nonetheless, we are concerned that ignoring how outcomes are achieved will be detrimental to both the short and long term interests of students. An outcome oriented review system will inevitably be reactive, with issues relating to institutions’ quality *processes* not becoming apparent until they have produced negative outcomes. In short, quality outcomes are inseparable from the processes that produce them. Accordingly, while providers should have autonomy over their quality processes, these processes should be considered as part of any Quality Review system, as a means of contextualising outcomes.

More broadly, careful consideration need to be given to what and how outcomes are measured as part of any Quality Review system. To reiterate a previous point, measures that take into account only degree classifications and graduate employment statistics will not necessarily provide an accurate picture of an institution’s learning and teaching quality. As such, it is vital that outcome measures encompass a breadth of factors, akin to those identified in the QAA’s current quality code.

4. Would exploring alternative methods of assessment, including Grade Point Average (GPA), be something that the OfS should consider, alongside the work the sector is undertaking itself to agree sector-recognised standards?

Yes. In line with the recommendations made by the Higher Education Academy following their 2013-14 GPA pilot project, UK providers should explore the possibility of introducing a single GPA scale. Doing so will increase the granularity of graduate outcomes, as well as providing graduates with degree classifications that are internationally recognisable. Equally, however, it will be necessary for GPA to exist alongside the current classification system for the foreseeable future. Given its proposed status as the sector's regulatory body, the OfS seems best placed to oversee this process.

More broadly, the OfS should explore alternative ways of recognising students' wider development through extracurricular activity and achievements. In an increasingly competitive graduate employment market, the ability to evidence wider skills and knowledge is critical, particularly for students from widening participation backgrounds who may lack the cultural and economic capital of their more privileged peers. Providing more robust mechanisms for recognising wider development, therefore, should be considered in the context of the OfS's stated commitment to social mobility.

5. Do you agree or disagree that a student contracts condition should apply to providers in the Approved categories, to address the lack of consistency in providers' adherence to consumer protection law?

Agree. However, we believe that student contracts and the protections associated with them should apply to *all* providers to ensure there is consistency throughout the sector.

More specifically, student contracts will have to be designed in such a way as to capture the diversity of learning and teaching provision within institutions. To this end, it will likely be necessary for student contracts to contain a bespoke section outlining what students can expect from their chosen programme of study, in addition to broader institutional commitments around resources and facilities. These institutional commitments should extend beyond the provision of learning and teaching resources to encompass the range of services that constitute a provider's "offer" to prospective students. In doing so, however, it is crucial that programme validation processes are not undermined. A balance will need to be found in student contracts, therefore, whereby they are sufficiently detailed to cover the range of services provided by an institution, but also protect the reputation of a programme if an institution fails demonstrably to meet its responsibilities in relation to the additional services it provides. Maintaining this distinction will ensure that programmes will not be invalidated or deemed to have been "mis-sold" on the basis of factors that are not subject to periodic review nor student voice input.

6. What more could the OfS do to ensure students receive value for money?

While there is anecdotal evidence of students at Edge Hill (and, indeed, across the sector) raising the issue of “value for money” more frequently in recent years, the contexts in which this issue is raised vary greatly, ranging from academic issues such as contact time to non-academic issues like the quality of student accommodation. As such, providing a uniform definition of “value for money” in the context of higher education is inherently problematic.

Accordingly, the OfS will need to consider a number of factors if it is deliver on this objective.

- Firstly, it will be necessary to reconcile individual experience with collective interests. A student’s conception of “value for money” will inevitably be shaped by their experience of a provider as an individual, with each student accessing a provider’s services in different ways. A student who has made extensive use of wellbeing services, for instance, may regard tuition fees contributing towards investment in this area as value for money, whereas one who has had no cause to use such services may not. Similarly, students may question providers investing in capital projects that will not be completed until after they graduate. To this end, it may be necessary for the “value” of some services to be articulated in terms of them constituting a “common good” regardless of whether they are accessed directly.
- Secondly, the OfS will need to give due consideration to the principle of cross-subsidy, whereby tuition fees from programmes that cost less than the annual fee rate to teach are used to subsidise more expensive programmes. Students on lower cost programmes may, understandably, question whether they receive the same value as some of their peers.
- Thirdly, when and how will value for money be determined? The value of what a student is studying may not be immediately obvious to them. Equally, inadequacies on a provider’s part may not be apparent until considerably later. The ongoing case of an Oxford University graduate suing the university some 17 years after graduating, due the supposedly detrimental impact that “inadequate teaching” has had on his career, bring this issue into focus, with the new regulatory landscape likely to lead to more such cases.

In practical terms, the most obvious means of establishing some collective sense of value is likely to be through the proposed student contracts discussed above. Value here could be determined through a set of pre-agreed baseline expectations that an institution is required to adhere to.

More specifically, mandating institutions to provide transparency around what are currently regarded as the “hidden costs” (notably, course materials, equipment, and field trips) associated with studying would be welcome. In particular, if any core requirement of a programme incurs an additional cost over a pre-determined financial value, this should be made clear to students prior to them commencing their studies. Wherever possible, a commitment should also be made to mitigate such costs for widening participation students in the interests of equality of access.

7. Do you agree or disagree that a registration condition on senior staff remuneration should apply to providers in the Approved categories? Are there any particular areas on which you think the OfS should focus when highlighting good practice?

Agree. While there is clearly an element of political point scoring contained within the current debate about senior staff remuneration, more transparency in this area would undoubtedly be welcome. However, this kind of registration condition should be part of the broader “transparency revolution” referred to in the consultation document, with senior staff remuneration contextualised in relation to factors such as institutional turnover, student numbers, student-staff ratios, and average institutional spend per student.

In terms of highlighting good practice, the OfS may wish to promote pro-rata pay ratios between senior staff and colleagues on lower pay bands, as well as equitable percentile pay rises for staff regardless of their level. Any bonuses paid to senior staff should be justified and agreed by a remuneration committee on which both staff and students are represented.

8. What are your views on the potential equality impacts of the proposals that are set out in this consultation? Please provide any relevant evidence if you can as this will support future policy development.

The stated commitment to equality outlined in the consultation is, of course, a welcome development. However, as outlined in our response to question 1, we are concerned that the increased emphasis on outcomes, coupled with the additional resource commitments associated with recruiting and retaining students from under-represented groups, may have a negative equality impact in the kind of competitive higher education environment envisaged in the consultation.

More needs to be done to clarify how the proposed changes will promote equality. As things stand, insufficient information is provided in the consultation and impact assessment documents with regards to the equality impact of the proposed changes. While page 42 of the consultation states that it is the Department for Education’s view that “the benefits of the reforms will be more pronounced for those from under-represented groups,” little evidence is provided to support this claim.

In addition to the above, more consideration should be given to how the OfS will ensure that students from all backgrounds are able to access the protections outlined in the proposed changes. For example, students from under-represented groups are less likely to have access to the kind of bespoke legal advice that providers will undoubtedly have. If student contracts are to be fit for purpose, it is imperative that students can enforce their contract if it is breached, regardless of their background or economic circumstances. If the OfS is to be a genuine champion of *all* students' interests, it may need to extend its responsibilities in relation to this issue.

Part 2

9. Do you agree or disagree that participation in the TEF should be a general condition for providers in the Approved categories with 500 or more students?

Feedback from students suggests that there is strong support for the principle of a framework for measuring teaching quality that is readily available to them. Indeed, given that teaching plays such an important role in determining the quality of a student's academic experience, it is appropriate that the quality of a provider's teaching offer is given equal weight as the quality of its research.

It is highly questionable, however, as to whether the metrics used in the current iteration of the TEF provide students with an accurate picture of teaching quality. The emphasis on institutional level performance may, for better or worse, obscure the quality of teaching on particular programmes, which is where and how students experience teaching. The proposed move to subject level TEF should go some way to mitigating this issue. Nonetheless, issues remain with the metrics that are expected to use, with too much emphasis on statistical outcomes over pedagogical processes.

Accordingly, while it seems inevitable that participation in the TEF (or equivalent) will be a general regulatory condition for providers, steps should be taken to improve the clarity of the framework, so that it provide a genuinely accurate representation of a provider's teaching quality to current and prospective students.

10. Do you agree or disagree with the proposed ongoing general registration condition requiring the publication of information on student transfer arrangements? How might the OfS best facilitate, encourage or promote the provision of student transfer arrangements?

Agree. As outlined in *Should I Stay or Should I Go*, a recent report on this subject from the University of Sheffield, there is strong support from students for greater transparency and support in relation to student transfer arrangements. Moreover, the motivation for transfer is typically associated with a change in personal circumstances or wellbeing, as opposed to a

desire to “trade up” on students’ part. Accordingly, enshrining this principle as an ongoing registration requirement seems consistent with the OfS’s stated commitment to putting students’ interests first. Doing so will likely have a positive equality impact, insofar as it may reduce the risk of students dropping out of HE altogether.

In terms of facilitating student transfer arrangements, this seems to be an area where the OfS may wish to offer a standardised guidelines and terms of reference that are applicable across the sector.

11. Do you agree or disagree with the proposed approach to sector level regulation in chapter 2?

No response

Part 3

12. If you are a provider, can you provide an indication of which category you would apply for (under these proposals) and why?

Not applicable

13. The initial conditions should provide reassurance that providers will meet the general ongoing conditions without creating unnecessary barriers to entry. Given this, are the initial conditions appropriate?

No. If the OfS wishes to protect the interests of students, it is vital that any new providers are able to demonstrate that they will be of an appropriate standard. There are plentiful examples from other countries, particularly the United States, of “universities” being established that do not meet any of the OfS’s stated objectives. Of particular concern is the proposal outlined in the consultation to grant degree awarding powers to new providers as soon as they are registered, without subjecting them to any form of assessment. This kind of approach quite clearly puts students at risk and is impossible to reconcile with the OfS’s stated commitment to quality, value for money and protecting students’ interests. It is imperative that new providers are subject to comprehensive risk assessment and robust quality assurance procedures, if students’ interests are to be protected.

14. Do you agree or disagree with the proposed lists of public interest principles in the Guidance, and who they apply to?

While EHSU does not disagree with the public interest principles listed in the consultation, we are concerned about the lack of explicit provision for student representation and student

voice in the current guidance. To reiterate a previous point, students are the primary stakeholders in any higher education provider, as well co-producing the outcomes that help determine an institution's reputation. Any public interest principles relating to higher education, therefore, need to reflect students' position within their institution. To this end, an additional principle should be added to the guidance, referring to formal mechanisms for the views of students being incorporated into a provider's decision making processes.

With regards specifically to the freedom of speech within the law principle, it is not clear how the proposed guidance differs from the duty of higher education providers to protect freedom of speech that has been in place since 1986. Any perceived changes that have taken place in the intervening period are a product of other legislative changes, notably in the form of the 2010 Equality Act and the 2015 Counter Terrorism and Security Act. Accordingly, more guidance is needed with regards to how universities and students' unions are to secure freedom of speech, while abiding by equality law and their duties under *Prevent*.

15. Do you agree or disagree with the proposed approach on the application of conditions for providers wishing to seek a Tier 4 licence?

No response

16. Do you agree or disagree that paragraph 7 and 8 should be removed from Schedule 2 of the Education (Student Support) Regulations 2011, which lists the types of courses that allow with access to the student support system? If you disagree, are you aware of any courses dependent on these provisions to be eligible for support?

No response

17. Do you agree or disagree with the proposed approach for the benefits available to providers in the different registration categories?

No response

18. Do you agree or disagree with the general ongoing registration conditions proposed for each category of provider (see the guidance for further detail)?

No response

19. Do you agree or disagree with the proposed approach to risk assessment and monitoring?

Disagree. See answer to question 13.

20. Do you agree or disagree with the proposed approach on interventions (including sanctions) and do you agree or disagree with the proposed factors the OfS should take into account when considering whether to intervene and what intervention action to take?

No response.

21. Do you agree or disagree with the proposed approach the OfS will take to regulating providers not solely based in England?

No response

Part 4

22. Do you agree or disagree with what additional information is proposed that the OfS publishes on the OfS Register?

No response

23. Do you agree or disagree with the principles proposed for how the OfS will engage with other bodies?

We welcome the fact that, in all likelihood, the current designated data and designated quality bodies will be retained. Doing so should ensure that some form of continuity is retained during the transition to the new regulatory regime, thus minimising the potential disruption to students.

More broadly, the OfS has an important role to play in ensuring that relevant information pertaining to the various bodies it will be engaging with is accessible to students both in terms of location and intelligibility. As stated above, if students are to enforce their rights under the new framework, it is imperative that they can access the information and support they need easily. To avoid confusion, the OfS should act as a centralised hub for all enquiries relating to student rights and protections.

One area not outlined in the consultation that may have implications in relation to this question is support for PGR students. It will be necessary for the OfS to work closely with UK Research and Innovation to develop a parallel set of guidelines for PGR students that reflect their specific needs and interests.

24. Do you have any comments on the proposed exercise of OfS functions in relation to validation, in particular in relation to ensuring that the validation service is underpinned by the necessary expertise and operates in a way that prevents of effectively mitigates conflicts of interest?

No response

25. Does the information provided offer a sufficiently clear explanation of how a provider will apply for registration in the transitional period and what the consequences of registration are in this period?

No response

Annex C

26. Do you have any comments on the above proposal of how the OfS will act as the principal regulator for exempt charities?

In the interests of transparency, the proposal should be referred to the Charity Commission, who can assess the OfS's suitability in this regard.

27. Provided that the Secretary of State considers OfS regulation is sufficient for these purposes, should exempt charity status apply to a wider group of charitable higher education providers? In particular, considering that providers in the Approved categories will be subject to conditions relating to Financial Sustainability, Management and Governance, and the provision of information (as set out in the Guidance), do you have any views on whether the OfS's proposed regulation of providers in these categories would be sufficient for the purposes of it carrying out the functions of Principal Regulator?

No response.

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