

University of Cambridge

Securing student success: risk based regulation for teaching excellence, social mobility and informed choice in higher education Government consultation on behalf of the Office for Students

1. Introduction

1.1 The University of Cambridge is pleased to have the opportunity to respond to the Government's consultation on the regulatory framework for the Office for Students (OfS). The University notes that the consultation invites feedback on 'any or all' of the statements in the document and on the proposed overall approach. The University has therefore chosen to give a response that is high-level and principles-based.

1.2 The University welcomes, and shares, the OfS's primary objectives: the emphasis on widening access and participation for students for all backgrounds; that the interests of all students must be protected; and that all students must receive a high quality academic experience which represents value for money but also is of life-long value to the student and of wider value to society. The University's interpretation of these principles is broader than that which the government has adopted.

1.3 The University supports the OfS's focus, as a market regulator, in ensuring fair competition, continuous improvement of higher education and informed choice for the student. The University welcomes the stated intention in the consultation document that the Office for Students (OfS) will adopt a 'bold, student-focused and risk-based approach'.

1.4 The University sets out the following key priorities which it believes that the OfS should adopt in designing and implementing a regulatory framework in support of the UK's world-leading higher education sector:

- a) The OfS must protect, respect and celebrate institutional autonomy. This characteristic, and the resultant diversity across the sector, is one of the principal reasons why the UK's higher education sector is arguably the best in the world, supporting high quality education for all students.
- b) To maintain the integrity and reputation of UK Higher Education as an internationally recognised, respected and trusted brand, it must maintain a high baseline for quality. All students (regardless of course, level and type of study) must receive a high quality education and a rewarding experience, whether studying at existing or new providers.
- c) The OfS must be truly proportionate and risk-based in its operation, taking account of track-record and not imposing unnecessarily onerous reporting requirements on institutions, particularly requirements which might represent a threat to institutional autonomy.

- d) There must be formal mechanisms underpinning the relationship between the OfS and UK Research and Innovation (UKRI) in order to protect the fundamental link between excellence in education and research within universities. It is particularly important, in this regard, that the interests of postgraduate students are properly reflected in every aspect of the OfS's thinking. The University has not yet seen sufficient evidence that this is the case.
- e) Providers must be offered the opportunity to be actively engaged on an ongoing basis in the design, implementation and monitoring of the regulatory framework, in particular to ensure that the Office for Students delivers value for money to the sector.

1.5 As a final overarching point, the University has, throughout this response, used the word 'education' rather than the word 'teaching' in recognition of the fact that a University education is a broad learning experience in which students have an active role.

2. International excellence and institutional autonomy

2.1 The UK Higher Education Sector is internationally recognised and renowned. It is vital that the OfS, as the Higher Education Funding Council for England has done, continues to engage with the sector as a whole and with individual providers to ensure that this reputation is maintained and enhanced. The University notes that the UK Higher Education Sector consistently excels in the Universitas 21 Ranking of National Higher Education, which assesses national higher education systems on the basis of robust independent analysis. The UK Higher Education Sector was ranked third overall in 2017 (rising from fourth in 2016) despite ranking fourteenth in terms of the resources provided to it.

2.2 The framework which the OfS operates must provide efficient and effective regulation which promotes and protects the needs of students, in the broadest sense, to their benefit and to the benefit of society. It is an important point of principle that the value of a higher education cannot be measured in purely financial terms. Indeed, it is not helpful to characterise students as 'consumers' and institutions as 'providers'. Rather, the relationship between a student and their University is properly characterised as a partnership. This relationship may, entirely legitimately, differ between institutions in a diverse sector.

2.3 The framework should also recognise that one of the great strengths of the sector derives from the inextricable and mutual links between education, research and innovation. It is this formula which ensures that students receive a high quality education and a rewarding experience at every stage of their educational journey.

2.4 The University is firmly of the view that institutional autonomy within a diverse sector is fundamental in ensuring the best choice, experience and outcomes for students. The ability to determine strategic direction is central to enabling universities to remain globally competitive. The University notes that the Higher Education and Research Act 2017 (HERA) is explicit in defining and protecting

institutional autonomy, both with regard to academic activities and with regard to management and governance.

2.5 The same assurances are set out in the consultation document but the University remains concerned that they are buried within the detail of this voluminous suite of consultation documents, regulatory, and reporting requirements. The assurances themselves lack prominence, perhaps indicating a lack of commitment to this principle.

2.6 Further, the regulatory requirements themselves risk jeopardising institutional autonomy. For example, the University draws attention to the granularity around some of the financial reporting requirements which, narrowly interpreted, run the risk of requiring institutions to provide a detailed breakdown demonstrating how fee income, by individual course of study, is invested across a range of budget lines.

2.7 This takes no account of the wider institutional context and the way in which students benefit from other core University activities which are not identified in the document, in particular, the fundamental link between education and research activities. This is particularly true in the case of postgraduate research students whose fees may well be paid through research funding. However, the University's undergraduates also benefit from the interpenetration of education and research. In this context, as in so many others, it is vital that the OfS and UKRI take a holistic view of financial sustainability in considering how universities manage their resources.

2.8 In terms of day-to-day institutional management, the University notes that the definition of institutional autonomy in the HERA includes the freedom to determine the content, delivery and assessment of courses; student admissions; and the appointment and dismissal of academic staff. This is welcomed and should be acknowledged explicitly in the regulatory framework.

2.9 The University is of the view, however, that it should be an obligatory requirement on institutions to engage with students through representative structures on the quality of the educational provision. Individual institutions could determine the form of this engagement as is most appropriate in their context.

2.10 The University is firmly of the view that the OfS must delegate responsibility for the assessment of quality and standards to a designated body (such as the QAA). This is particularly the case given the OfS's primary role as a market regulator.

3. Regulation that is proportionate, risk based, transparent, accountable and value for money

3.1 General

The University welcomes the stated intention in the consultation document that the Office for Students (OfS) will adopt a 'bold, student-focused and risk-based approach'. The University is also of the view that the OfS's approach must be transparent, accountable and represent value for money for the sector.

3.2 Transparent and accountable decision making

There is a lack of detail in the consultation document as to how the OfS will, in practice, make its decisions in a way which is proportionate, accountable and in the best interests of students. It is, in particular, not clear in which circumstances the OfS would use its powers of intervention, including in the case of low-risk providers. These circumstances must be explicitly identified in advance of the launch of the OfS.

The University is not satisfied that there will be a reduced regulatory burden for low-risk providers with a proven track record both of quality provision and financial sustainability. Moreover, it is counter-intuitive that all Approved providers will be subject to a whole range of new reporting and other requirements while Registered basic providers will be subject to minimal oversight.

3.3 Student protection plans

It is vital that the interests of all students, regardless of provider-type, are fully protected. It is of particular concern that student protection plans will not be required of registered basic providers. This represents a risk to students themselves. However, there are also reputational and financial risks to the sector as a whole and to the United Kingdom's reputation as a provider of world-class education if there is any dilution in its overall quality.

3.4 Registration fee levels

The University notes that the proposals on registration fees assume a cross-subsidy from larger 'approved' providers (and, therefore, their students) to smaller 'registered' providers. As a point of principle, the University believes that there should be no cross-subsidy between institutions whether between large institutions and small ones or between established providers and new entrants. The University contends that it is not reasonable to assume that larger, existing providers, which have long been subject to regulation by the HEFCE, will require more regulation than small new entrants with limited experience in the sector. The proposals effectively mean that lower risk providers will subsidise higher risk providers, which is unacceptable. The University contends that a truly proportionate and risk-based approach should not assume, as the consultation appears to do, that the full range of general conditions should apply to all providers. OfS should take account of institutional context and track record in determining regulatory, monitoring and reporting requirements.

3.5 Teaching Excellence Framework

The University notes that it is intended that participation in the Teaching Excellence Framework (TEF), which is currently voluntary, will be a registration condition for all Approved and Approved (fee Cap) providers with more than 500 undergraduate higher education students from August 2019. TEF is currently a largely untried and untested model which will be subject to Statutory Independent Review during 2018-19. The University is firmly of the view that a decision on whether participation in TEF should be made mandatory should not be made until that review is complete and its recommendations have been implemented.

3.6 Social mobility, access and widening participation

The University is fully committed to facilitating social mobility and widening participation. It is, however, not clear on the basis of the consultation what approach the OfS will take with regard to access and participation. On the one hand there is a welcome assurance that the OfS will not set access and participation targets for individual institutions. On the other hand, there is the threat of intervention should there be no 'real progress'. There is a need for confirmation that it will still be for individual institutions to set their own targets and that these targets, and progress against them, should be evidence based. The University notes, in this context, that student admissions is a matter of institutional autonomy as identified in HERA. The University believes that, again, institutional context (including location and demography of the student cohort and the academic standards applied for admission) is vital in determining the approach which a provider should take to access and widening participation.

The approach which the Office for Fair Access has taken in highlighting and disseminating best practice about widening participation has been constructive and has facilitated widening participation and access across the sector as a whole. The University is of the view that there should be flexibility in determining access and participation plans dependent on institutional context and a recognition that a targets-based approach does not always recognise the full range of outreach activities undertaken by individual institutions. It is also important to recognise that the impact of access and widening activities by one institution might not necessarily result in a student applying to that institution but, rather, to applying elsewhere in the sector. There should be a focus across the sector on aspiration-raising for students from all backgrounds and on supporting them in identifying the provider which best meets their needs. That support should include bursary provision which enables students to maximise value from their courses of study and research, enhance the student experience and reduce anxiety about debt which is a very significant factor in successful student progression. The significance of this should be explicitly acknowledged by the OfS.

The University firmly believes that applicants should be provided with relevant and meaningful data which allows them to make informed applications to HEIs of their choice. We note, and support, the intention that data relating to admissions and student success by gender, ethnicity and background should be made available. However, it will be important to contextualise this data, noting that there are already rich datasets available from UCAS. It is vital that applicants can access data straightforwardly and transparently through a more streamlined process. Consideration might be given to embedding contextual admissions as core practice across the sector.

3.7 The regulatory burden

In terms of the regulatory burden, the University notes that the proposals set out an expectation that reporting should be 'in as near time as possible'. This is likely to impose a disproportionate burden on institutions to no specified end. There is also reference to 'random annual sampling' although no real clarity as to what this might involve or what it is intended to achieve. There is a real risk that it will result in a proliferation and duplication of effort both for institutions and for the OfS. It is also

worth noting that, during the transition period, there will be a significant burden on institutions which will be subject to both the old and the new regime.

It goes without saying that any increase in the regulatory and reporting burden on institutions is at the expense of other activities which might directly benefit students. It will be important for the OfS to quantify the risk which this additional burden is intended to mitigate and to identify instances in which the burden will be lightened for low risk institutions.

4. Protecting the link between education and research

4.1 As noted above, the University is of the view that one of the great strengths of the UK Higher Education sector ‘derives from inextricable and mutual links between education, research and innovation.’ This symbiotic relationship has been fundamental in building the international reputation and renown of UK Higher Education. Breaking these links would be to the detriment of both education and research. Research-led education is absolutely central to the quality of the education experience which the University of Cambridge provides to its students throughout their studies and to whatever level they choose to pursue them. This is of benefit to them as individuals, but it also delivers wider economic, cultural and social benefits. The University, again, notes the diversity of the sector in this regard.

4.2 The HERA contains a provision for ‘co-operation and information sharing between the OfS and UKRI’ in ‘exercising any of their functions’. However, it does not set out how this would work. The University is firmly of the view that formal mechanisms must be established to ensure effective, coherent and efficient cooperation between OfS, UKRI and, indeed, other regulatory bodies and to avoid duplication of effort. This will be vital in safeguarding the health, sustainability and reputation of the sector as a whole as well as of individual providers. The risk of fragmented and inconsistent regulation is intensified now that OfS and UKRI sit within separate government departments. The University would, in particular, welcome clarification about how research students will be supported given that they are likely to fall under the aegis of both OfS and UKRI.

4.3 It is not clear why registration as an Approved fee cap provider is required in order for an institution to have ‘access to research funding from the Science and Research budget – including Quality Related research funding from Research England.’ Further, registration as an Approved fee cap provider will be approved and monitored only by the OfS. This appears to be a regulatory muddle which requires rapid resolution.

5. The Office for Students as regulator

5.1 The consultation document is explicit in indicating that the proposed approach of the OfS will represent a ‘marked shift from the current approach to regulation’. This is likely to manifest itself in a number of ways but, of particular significance is the fact that the OfS, by contrast with the Higher Education Funding Council for England, will not seek to establish an understanding of institutional context as part of its regulatory duties. It is therefore absolutely vital that the OfS fully engages providers

in the design, implementation and monitoring of the regulatory framework. This will allow the OfS to draw on academic and institutional expertise and to establish its own credibility within the sector. This approach will be of benefit to the sector as a whole, to individual institutions and, most importantly, to students in maximising their educational experience. The OfS should also engage with students through formal representative structures and with student unions in determining an ongoing regulatory approach.

5.2 There is much emphasis on the need for individual providers to demonstrate value for money. It will also be necessary for the OfS to operate efficiently and effectively (including through its interaction with UKRI and other regulatory bodies) and to provide value for money for students, providers and taxpayers.

5.3 The University wrote, in its submission to the consultation on the OfS registration fees model in January: 'the consultation is not specific in determining the form and content of the annual report which the OfS will be required to produce. We recognise the safeguards around transparency and scrutiny inherent in the requirement that Parliament will be required to approve the final fee model; however, we would ask that efficiency targets for OfS should be stipulated from the outset.' We see much in the consultation document about the reporting requirements on institutions; very little about the reporting requirements on the OfS. The introduction of a registration fee to fund an HE regulator is a significant change for the sector and the expense, in many institutions, is likely to be borne by the tuition fee and therefore at the expense of other activities which might directly benefit students. There must be absolute transparency around the setting of OfS fee levels and the way in which those fees are expended by the OfS in the interests of the sector and individual students. There should be formal mechanisms by which students and providers (and other stakeholders) should be able to provide feedback, as part of the annual reporting cycle, on value for money considerations.

6. Conclusion

The University believes that there are some significant issues both of principle and of detail which must be resolved before the regulatory framework comes into force. The timeframes are tight but, if the OfS is to establish early credibility within the sector and with other stakeholders, these issues must be addressed. This will also be essential in preserving the quality and reputation of the UK Higher Education sector.

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