

**SPECIFIC COURSE DESIGNATION:
GUIDANCE FOR HIGHER EDUCATION
PROVIDERS**

Guidance for Providers: Criteria and
Conditions

AUGUST 2014

Withdrawn

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What is this guidance and who is it for?

This guidance sets out detailed information on:-

- the specific course designation system,
- the criteria for granting designation,
- the assessment and decision making process,
- the conditions of specific course designation, and
- how student number controls and sanctions will be applied.

This consolidated guidance updates and replaces previous documents published by the Department for Business, Innovation and Skills¹. It comes into effect on the date of publication.

It should be read in conjunction with the information about the application, annual monitoring process and student number controls published on the Higher Education Funding Council for England (HEFCE) website at <http://www.hefce.ac.uk/whatwedo/reg/desig>

This guidance applies only to Higher Education providers in the UK for the purposes of specific course designation to enable for eligible English-domiciled students access to student support funded by the Department for Business, Innovation and Skills (the Department) via the Student Loans Company (SLC). It is intended for those who wish to apply for courses to be specifically designated for student support purposes and for those providers with existing designation.

Specific course designation for the purposes of student support provided by the authorities in Scotland, Northern Ireland and Wales is a matter for those authorities and they have their own procedures and guidance.

Providers should apply separately to:-

The Student Awards Agency for Scotland: saaspolicy@scotland.gsi.gov.uk

Department for Employment and Learning, Northern Ireland: studentfinance@delni.gov.uk

Higher Education Division, Wales: studentfinancedivision@wales.gsi.gov.uk

The specific course designation process described in this guidance **does not apply** to Initial Teacher Training (ITT) courses delivered by ITT providers with accreditation from the

¹ 'Alternative higher education providers: specific course designation - guidance for applicants; criteria and conditions' – June 2013; 'Alternative higher education providers: specific course designation - technical note' – December 2013; 'Alternative higher education providers: specific course designation – supplementary guidance on criteria and conditions' – March 2014.

National College for Teaching and Leadership. In these cases the National College for Teaching and Leadership will provide the Department with the necessary assurance over provider quality, sustainability and governance through an annual Accounting Officer letter. However if an accredited ITT provider intends to deliver any non Initial Teacher Training courses then they will be required to go through the specific course designation process described in this guidance in their own right.

This guidance is subject to regular review and may be updated at any time. Providers are advised to check the HEFCE website for a link to the latest version of the guidance and any further information about the process before submitting an application.

A list of definitions is provided at Annex A.

Confidentiality and Data Protection

In general the information supplied by providers as part of the specific course designation application process will be treated in confidence and only shared with parties involved in the assessment of the application. This may include validation, awarding bodies and the Quality Assurance Agency for Higher Education (QAA).

It may also be used to prevent and detect crimes of any nature, including fraud and those relating to national security. We reserve the right to, or we may have to, give outside organisations, including the police, and other crime prevention and detection agencies, the Home Office, UK Visas and Immigration, the Student Loans Company, the Student Awards Agency for Scotland, the Welsh Government, Department for Employment and Learning, Northern Ireland, examination boards or awarding bodies, information from your application and associated records. We also reserve the right to authenticate your identity by using official, public and/or commercial identity checking services and we may request to see passports if this is judged to be necessary to verify the identities of key individuals at the provider.

The Department will comply with its obligations in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004) and with the statutory Code of Practice under FOIA

Providers should note that if specific course designation is granted provider and course details will be published on the HEFCE website.

Complaints

If you are unhappy about any aspect of the Department's service you can use the Department's complaints procedure. More information about this is on the Department for Business, Innovation and Skills website at:

<https://www.gov.uk/government/organisations/department-for-business-innovation-skills/about/complaints-procedure>

Abuse of Specific Course Designation

The Department treats any allegation of abuse of specific course designation in the strictest confidence. Anyone with information about abuse of specific course designation can contact the Department by emailing: designation.enquiries@bis.gsi.gov.uk

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Chapter 1: The Specific Course Designation System

Introduction

The Government's response to the Higher Education White Paper and associated Technical Consultation announced that the system of specific designation of higher education courses at alternative providers would be strengthened in the interests of giving students a real choice.² The new specific course designation system was introduced in June 2013.

In order to access Higher Education student support a higher education course must be a designated course. Eligible higher education courses that are wholly provided by authority funded institutions³ are automatically designated under the student support regulations⁴. In addition, the Secretary of State has the discretion to designate courses which are not automatically designated. These are generally validated courses which are developed and delivered by alternative providers (including private businesses, profit making institutions and private schools) but also include courses delivered by alternative providers under a franchise or other collaborative arrangements with authority funded institutions. Course designation is specific to the location at which the course is being delivered and in order for students to access student support for a course run by the provider at more than one location, each of those locations must be specifically designated.

Courses delivered by an alternative provider in partnership/collaboration with another provider (whether in whole, or part), must be specifically designated in order to attract student support even where the partner institution is authority funded.

Specific designation of a course allows eligible English-domiciled students on that course to access loans and grants from the Student Loans Company. It is therefore essential that government ensures that there are robust processes in place to protect the interest of students, the reputation of UK higher education and the public investment.

² Available at <http://www.bis.gov.uk/assets/biscore/higher-education/docs/g/12-890-government-response-students-and-regulatory-framework-higher-education>

³ "authority-funded" means—

(a) in relation to educational institutions in England, maintained or assisted by recurrent grants from the Higher Education Funding Council for England;

(b) in relation to educational institutions in Wales, maintained or assisted by recurrent grants from the Higher Education Funding Council for Wales;

(c) in relation to educational institutions in Scotland, maintained or assisted by recurrent grants from the Scottish Funding Council; and

(d) in relation to educational institutions in Northern Ireland, maintained or assisted by recurrent grants from the Department for Employment and Learning in Northern

Ireland or the Department for Agriculture and Rural Development in Northern Ireland.”;

⁴ Education (Student Support) Regulations 2011 (as amended)

Aims and Principles of the Specific Course Designation System

The overall aims are to ensure that under the specific course designation system:

- students have assurance that the Department has, through the specific course designation process, satisfied itself that there is a reasonable expectation that they will not be at risk of being unable to complete their course as a result of institutional failure;
- students have assurance that the provider is subject to independent, consistent, external, quality assurance;
- the reputation of the UK higher education sector as a whole is protected;
- taxpayers have assurance that the Department is protecting the public interest; and
- the Department has assurance that providers with courses specifically designated for student support will operate in ways consistent with the budget for student finance in England.

The principles of regulation applied to alternative providers subject to the specific course designation process are designed to be consistent, as far as possible, with those applied to the HEFCE-funded sector in relation to the financial health of institutions and the academic standards and quality of their higher education provision.

Student Support Arrangements for Specifically Designated Courses

Once a course has been specifically designated, eligible English-domiciled students can apply to the SLC for student support. The maximum tuition fee loan available will depend on the type of provider with overall responsibility for providing the course and whether the course is 'franchised' or 'validated' (see Annex B).

If the course meets the definition of a 'validated' course set out in Annex B it is considered as being delivered by the teaching organisation and the course will be designated in the name of the teaching institution. Where the teaching organisation is an alternative provider students will be eligible to apply for tuition fee loans of up to £6000 for full-time courses (£4500 for part-time courses). In these cases the course must be entered on to the Student Loans Company's Higher Education Institutions course database in the name of the alternative provider. All tuition fee loans are paid directly to the alternative provider.

Alternative providers are not subject to a fee charging cap so if alternative providers charge more than £6000 for full-time courses (£4500 for part-time courses) students will need to pay a contribution to their fees upfront.

If the course meets the definition of a Franchised Course set out in Annex B it is delivered 'on behalf of' the franchising institution for the purposes of the regulations and the course will be designated in the name of the franchising institution. Where the franchising institution is authority funded, students will be eligible to apply for tuition fee loans of up to £9000 full-time courses (£6750 for part-time courses). The course must be entered on to the Student Loans Company's Higher Education Institutions course database in the name

of the franchising institution. All tuition fee loans will be paid directly to the franchising institution.

There are no circumstances under which tuition fee loans of more than £6000 will be paid by the Student Loans Company to an alternative provider.

Eligible students on specifically designated courses can access all other forms of support, such as maintenance loans and grants via the Student Loans Company, on the same basis as students at publicly-funded providers. All students will repay on the same basis as other students regardless of where they study.

Student Information

Providers should not advertise the availability of student support for any course or location until specific course designation has been achieved.

Providers should note that neither the Department, HEFCE or the Student Loans Company take any responsibility should information about the availability of student support for particular courses be advertised to students in literature or websites before the specific designation of those courses is confirmed. Information advertised about the availability of student support for particular courses is not monitored. However the Department may write to the provider asking them to correct the information if it becomes aware of it.

Providers should be aware that including information on websites or in literature that suggests that student support is available prior to course designation being approved may constitute false advertising and the Department reserves the right to refer such cases to the Competition and Markets Authority.

Withdrawn

Chapter 2: Categories of Specific Course Designation Applications

The scope and nature of the specific course designation process and requirements will depend on:

- the type of course(s) the provider is seeking specific designation of
- the status of the provider applying for designation and
- whether or not the provider already has courses specifically designated under the new specific course designation process.

There are currently 5 categories which apply to:

- new alternative providers (i.e. providers that have not previously had courses designated under the new arrangements (New Applicants));
- alternative providers that have already had courses successfully specifically designated under the new specific course designation process (Repeat Applicants);
- alternative providers only seeking designation of Postgraduate courses for the purpose of Disabled Students' Allowances (Postgraduate Only Applicants);
- 'franchised courses' delivered 'on behalf of' the authority funded institution by an alternative provider (Franchised Applicants); and,
- alternative providers with University Title or University College Title who wish to obtain institutional level specific course designation (Institutional Level Specific Course Designation).

PLEASE NOTE: There is no guarantee of designation and courses must be designated for each location they are delivered at.

New Applicants

A new applicant is a provider that has not had any undergraduate courses specifically designated under the new system either because they have not previously applied or because their previous application was unsuccessful (see timescales for re-applying in Chapter 4). In these cases providers will be subject to the full application process as set out below.

Repeat Applicants

A repeat applicant is a provider that has achieved specific course designation under the new system and is seeking designation for additional courses, new locations or variations on existing courses. In these cases providers will be subject to course-eligibility checks and appropriate financial sustainability, management and governance checks if there has been a material change in circumstances.

Postgraduate Only Applicants

Postgraduate only applicants are providers seeking specific course designation for Postgraduate courses only.⁵ Postgraduate courses can be designated for the purposes of Disabled Student's Allowances only, there is therefore no direct financial benefit to the provider of specific course designation and the risk to public funds is lower than with specific designation of undergraduate courses. In recognition of the lower risk these cases will be subject to a lighter touch application process. This will mean less stringent evidence requirements for these providers.

The differences between the full requirements and the requirements for providers seeking specific course designation of postgraduate courses only are as follows:

- There is no requirement for a Quality Assurance Agency review;
- Three years of accounts are required but there is no requirement for these to be audited (please note that the requirement is for full financial statements which must include income and expenditure, balance sheet, and notes the accounts, a cash flow statement is to be included in the accounts if this is available; and,
- No financial tables and a slimmed down version of the application which asks for student numbers, fees etc.

Franchised Applicants

Courses delivered by alternative providers in partnership with another provider (usually one with its own degree awarding powers) are classified by the Department as either "franchised" or "validated" provision (Annex B).

These courses must be specifically designated in order to attract student support, even where the franchising institution is authority funded. The designation process will depend on whether the course is considered as 'franchised' or 'validated' provision and in the case of franchised courses whether the franchising institution is authority funded or an alternative provider.

If the course meets the definition of a 'Franchised Course' the course is considered as being delivered 'on behalf of' the franchising institution. Where the franchising institution is authority funded the Department has decided to provide blanket specific designation of franchised courses in the 2014/15 academic year. This is in recognition of the fact that some authority funded institutions that have established franchise arrangements in place or that plan to start new franchise arrangements in 2014/15 may not have been aware of the need for specific designation. This decision means that authority funded providers will continue to be able to add any courses delivered under franchise arrangement directly onto the Student Loans Company's Higher Education Institutions course database for 2014/15. The Department is currently reviewing its policy on franchises between authority

⁵ This guidance does not apply to providers offering postgraduate Initial Teacher Training courses leading to Qualified Teacher Status—these are subject to separate arrangements agreed with the National College for Teaching and Leadership

funded institutions and alternative providers and will issue further guidance in relation to the 2015/16 academic year in due course.

Where the franchising institution is an alternative provider, the franchising institution must apply for specific course designation and the application process will depend on whether the franchising institution is a new or repeat applicant.

Institutional Level Specific Course Designation

Alternative providers that have been awarded University Title or University College Title have already met a set of rigorous entry requirements including independent quality assurance (linked to their degree awarding powers) and an assessment of their corporate governance and financial sustainability (through their application for University Title or University College Title⁶). In recognition of this once such providers have successfully gone through the initial assessment under the new specific course designation process and subject to them having satisfied the most recent annual monitoring review under the new specific course designation process they will be able to apply for/seek an institutional level specific course designation agreement. There will be no specific application requirements the provider will simply put a request in writing to the Department copied to HEFCE

Institutional level specific course designation is a variation on specific course designation which means that all eligible courses at the specified institution are specifically designated and they don't have to be approved on a course by course basis. The maximum tuition fee loan will be the same as for any other alternative provider and the provider will not be able to offer any off quota provision.

Providers will be required to sign up to a tailored Accountable Officer declaration. Institutional level specific course designation will be location specific so if an alternative provider with institutional level specific course designation opens a new campus or starts delivering at a new location they will have to seek approval from the Department to extend the designation to new campuses/locations.

Providers with institutional level specific course designation will be required to participate in The Higher Education Alternative Providers Early Statistics Survey and subscribe to the Higher Education Statistics Agency.

As with all providers under the new specific designation system these providers will be required to maintain their relationship with the Quality Assurance Agency and will be subject to annual monitoring which will include financial sustainability, management and governance and quality and they will be subject to student number controls, where applicable. Student number controls will apply to all eligible full-time HE courses where providers have institutional level specific course designation.

⁶ As set out in the BIS Guidance and Criteria for Degree Awarding Powers and University Title - <https://www.gov.uk/government/publications/applying-for-powers-to-award-taught-degrees-research-degrees-and-university-title>

Chapter 3: Criteria for Specific Course Designation

The specific course designation system has three key criteria which a provider has to satisfy to enable its courses to be approved for student support. These are:

- quality assurance;
- financial sustainability, management and governance; and
- course eligibility.

Alternative providers will be expected to satisfy the quality assurance requirement before applying for specific course designation. This means having a published report for a recent, successful review prior to application.

Providers that do not already meet this requirement will need to seek a quality assurance review well in advance of applying for designation as the review process takes an average of six months to complete. The Quality Assurance Agency normally requires evidence that a provider has delivered approved higher education programmes in the UK for at least 12 months at the date of application for review.

Detailed information on the quality assurance review process and how to apply can be found at <http://www.qaa.ac.uk/InstitutionReports/types-of-review/designated-providers/Pages/default.aspx>

The financial sustainability, management and governance (FSMG) checks will relate to the provider as a whole, whilst the third criterion relating to course eligibility will apply to the course itself.

It is important to note that while there are parallels with the requirements in the publicly funded sector the detailed requirements and eligibility criteria set out in this document apply to providers and courses subject to the specific course designation process only.

Detailed information on the application process and information providers are required to provide to enable HEFCE to undertake the Financial Sustainability, Management and Governance and course eligibility checks can be found on the HEFCE website at:

<http://www.hefce.ac.uk/whatwedo/reg/desig/>

Providers applying for specific course designation will be expected to meet a number of costs both at the outset and on an on-going basis, these include paying for the Quality Assurance Agency review and for accounts to be independently externally audited, and where successful, paying an annual subscription to the Higher Education Statistics Agency (HESA) and paying a subscription or annual maintenance fee to the Quality Assurance Agency where applicable

Providers should be aware that there is no guarantee of designation therefore applications are made at the provider's own risk.

Quality Assurance Requirements

A recent, successful Quality Assurance Agency review⁷ is a pre-requisite for making an application for specific course designation. Applications will not be accepted in the absence of the publication of such a review.

PLEASE NOTE: the form of review required for specific course designation is subject to change and providers are advised to refer to the Quality Assurance Agency's website for up- to-date information.

Providers will also need to demonstrate a commitment to maintaining their relationship with the Quality Assurance Agency by paying a subscription or annual maintenance fee to the Agency. Further periodic reviews (usually every four years), as well as annual monitoring, will be necessary in order to maintain designated status once approval has been given. If a provider is being investigated under the Quality Assurance Agency's Concerns scheme, then their application cannot proceed until the outcome of the investigation is known.

The Quality Assurance Agency's review will be based on the same principles that apply to all other higher education providers involving external assurance about the academic standards of their higher education awards and the quality of the learning opportunities available to students. The Quality Assurance Agency will assess the reliability of the information produced by providers about their academic programmes and their general commitment to continuous quality improvement.

Some alternative providers are subject to independent, external inspection or review by UK bodies approved by the Home Office to carry out reviews for Educational Oversight purposes in relation to Tier 4 status. Where this is the case providers may be eligible for an adapted review. Please see Annex C for further information on adapted review.

Reports of reviews, including formal judgements, will be published on the Quality Assurance Agency's website, in line with the Quality Assurance Agency's practice.

The quality assurance requirements do not apply to providers seeking specific designation of postgraduate courses only.

⁷ Recent' means within the current appropriate review cycle as determined by the QAA; 'successful' means that all review judgements resulted in at least 'confidence' and 'reliance' or 'meets UK expectations' as appropriate to the form of review; 'QAA review' includes Higher Education Review or Institutional Review (England and Northern Ireland), Review for Specific Course Designation, Enhancement-led Institutional Review, Review for College Higher Education, Review for Educational Oversight or Higher Education Review Plus, Integrated Quality Enhancement Review, the granting of taught Degree Awarding Powers, and Institutional Review (Wales). Providers applying for specific designation of osteopathic courses only who are successfully reviewed by the QAA on behalf of the General Osteopathic Council do not need further review. However, where such providers wish to apply for specific course designation for non-osteopathic programmes, the QAA will consider each application on a case by case basis, to determine whether a further review is required.

Costs relating to the Quality Assurance Review Process

The review fees for the purpose of specific course designation are set out on the Quality Assurance Agency's website. QAA will charge a non-refundable application fee. Further review will be needed periodically, depending on the type of review, and the provider will need to meet the cost of these and, as required, of annual monitoring visits or returns. The Quality Assurance Agency reserves the right to visit the provider if circumstances require it, at the provider's cost. Providers should be aware that, if they choose to apply to the Quality Assurance Agency for review, any cost incurred will not be refundable should the review outcome be unsatisfactory or their application for specific course designation unsuccessful.

Financial Sustainability, Management and Governance Requirements

The overall purpose of the Financial Sustainability, Governance and Management checks is to ensure that providers with specifically designated courses are financially viable and sustainable with a low risk of failure on financial grounds over the medium term. An assessment against these criteria will be made as part of the application process and the annual monitoring. This should give students reasonable confidence that they should not be at risk of being unable to complete their course as a result of institutional failure. The assessment of the provider may take account the financial, management and governance arrangements of any subsidiary, parent company or linked organisation.

The following is an illustrative list of the evidence that providers will need to give:

- Demonstration of the identity of the provider as an organisation and key individuals (for example, the principal, directors, shareholders, trustees) to ensure that the provider is owned, managed and run by 'fit and proper persons';
- Description of the corporate governance arrangements (including submission of the articles of association) to enable assessment of the adequacy and appropriateness of these;
- Sufficient track record of financial performance, evidenced by the last three years' externally audited accounts. The accounts must be audited each year by a registered auditor⁸. This must not be the same firm and / or individual that prepared the accounts⁹. The basis of accounts and forecasts will be Generally Accepted Accounting Practice in the UK (UK GAAP) (or successor requirements) or International Financial Reporting Standards (IFRS) (if appropriate)¹⁰. New entrant providers or new entities without a

⁸ The register of statutory auditors can be found at: <http://www.auditregister.org.uk/Forms/Default.aspx>. It is the provider's responsibility to ensure that the audit firm and the auditor signing off the audit opinion are listed on the register.

⁹ We are aware that the accountancy institutes allow, in certain circumstances, auditors both to prepare and audit the accounts. For the purposes of specific course designation, the auditor **must** be independent of the preparation of the accounts to ensure that BIS can have full confidence in the audit.

¹⁰ Even if providers are not required to prepare full financial statements for statutory purposes, they will still need to provide audited financial statements as part of their application – these will include income and expenditure statement, balance sheet, cash flow statement and notes to the accounts. The accounts must be audited each year by a registered auditor, this should not be the same auditor that prepared the accounts. The register of statutory auditors can be found at: <http://www.auditregister.org.uk/Forms/Default.aspx>.

track record will need to demonstrate strong support from a parent company or guaranteed financial backing;

- Financial sustainability, evidenced by full financial forecasts for the current year and future three years. This will include a commentary on the assumptions being made and how any financial risks are being managed. Providers may submit a business plan to support their case in addition to the information specifically requested. In order to assess the financial position and performance, the application must cover other relevant contextual information; and
- Accountability for the accuracy of the application.

As part of the financial sustainability assessment, indicators will be used to analyse the provider's financial performance and position. It is important to note that the indicators will not be used for benchmarking against other providers (or publicly funded higher education institutions) and they will not be used in isolation to determine the financial sustainability assessment of the provider; but rather the financial sustainability assessment will be an overall judgment that considers the context of the provider's financial position and performance (such as its strategic or business plan). The indicators will be used to inform the assessment process and as a suggestion of areas that may require a closer review and understanding by the assessor. The indicators are as follows:

- a) Surplus / (deficit) before dividends as per cent of income;
- b) Dividends as per cent of surplus / (deficit);
- c) Liquidity (in days' expenditure): calculated as $([\text{cash less overdrafts}] / [\text{expenditure less depreciation}]) \times 365$;
- d) Current ratio (current assets / current liabilities);
- e) Borrowing as per cent of total income;
- f) Net total assets / (liabilities) as per cent of total income; and
- g) Cash flow from operating activities as per cent of total income.

In order to inform the financial sustainability assessment, additional contextual information provided in the application will be considered. This contextual information will come from the financial statements themselves as well as the commentary around specific questions that providers will need to complete.

In short, providers need to give assurances that they:

- Have adequate cash flow to remain solvent (i.e. have sufficient liquidity to pay their debts as they fall due);
- Have an adequate balance sheet (i.e. maintain a net total assets position and not incur deficits if these would result in a net total liabilities position); and
- Are fit to receive public funds.

Providers should be aware that any change of ownership or control will automatically require a re-assessment of designation. (See Chapter 6)

Where providers are seeking specific course designation of postgraduate courses only, the Financial Sustainability, Governance and Management requirements are slightly different:

- Three years of accounts are required but there is no requirement for these to be audited; and,
- No financial tables and a slimmed down version of the application which asks for student numbers, fees etc.

Course Eligibility Requirements

In order to be specifically designated each course should meet the general course eligibility criteria as set out in the student support regulations. The key requirements for undergraduate courses are that:

- a. The course must be of at least one academic year's duration;
- b. It must be a course of a standard higher than that of advanced level of the General Certificate of Education ('A' Levels), the National Certificate, National Diploma of the Business and Technician Education Council (BTEC) or the Scottish Qualifications Authority (SQA) but not higher than that of a first degree course; and for entry to which a first degree (or equivalent qualification) is not normally required.
- c. Courses should lead to one of the following qualifications:
 - a first degree (including Integrated/Undergraduate Masters),
 - Foundation Degree ,
 - Diploma of Higher Education (DipHE),
 - Certificate of Higher Education (CertHE),
 - Higher National Diploma (HND), or Higher National Certificate (HNC) (see below),
 - an Initial Teacher Training (ITT) qualification¹¹, or
 - an undergraduate qualification awarded by a body with UK degree awarding powers, which is not listed above

PLEASE NOTE: The Department is not accepting specific course designation applications for any new HND or HNC courses in the September 2014 application window. This was communicated to providers on 17 July 2014.

The consultation 'Further Education - Future Development of Loans' published on 19 June 2014 includes a proposal to move Higher National Diplomas (HNDs) and Higher National Certificates (HNCs) from the Higher Education(HE) funding system to the Further Education funding system, and therefore within the scope of Advanced Learning Loans. The consultation closed on 21 August 2014 and it is anticipated that the Government response will be published by 13 November 2014.

¹¹ For the purposes of student support courses which lead to Qualified Teacher Status (in the schools sector) or the Diploma in Education and Training (in the FE sector) are currently treated as Initial Teacher Training courses.

The Department will review its approach to specific designation of HND/C courses for 2015/16 in light of the outcomes of the consultation. We expect this to happen before the second 2015/16 application window opens in February 2015.

In the meantime, the Department expects that any HND/C courses that have been designated for 2014/15 under the new specific designation process (or that are still to be designated for 2014/15 as a result of applications currently being assessed) will continue to attract HE student support in 2014/15 and 2015/16 subject to providers complying with the conditions of designation. However, the Department retains the right to review specific designation at any time in order to protect the student or public interest.

Postgraduate courses are courses which require a first degree (or equivalent qualification) or higher to enter. They must be of at least one academic year's duration in order to be designated.

Validation

The course must be validated or approved by an appropriate body. The validating or approving body should either be:

- a) A body with UK degree awarding powers and should be on the Department's list of Recognised Bodies (<http://www.bis.gov.uk/policies/higher-education/recognised-uk-degrees>)
- b) For HNC/HND qualifications, either EdExcel or the Scottish Qualifications Authority.
- c) For Initial Teacher Training qualifications in the further education sector a recognised UK awarding body.

Further information on recognised UK bodies can be found at <http://www.accreditedqualifications.org.uk/qualification-awarding-bodies-in-the-uk.html>. A list of recognised awarding organisations can be found on the Register of regulated qualifications (<http://register.ofqual.gov.uk/Organisation/Browse>).

As part of the eligibility checks providers will need to supply a copy of the relevant validation contracts or approval agreements for each course. This should include the signed contract between the provider and validating body and any schedules or letters setting out the specific courses that are covered. The nature and content of the validation contracts will vary depending on the type of arrangement. However as part of the course-eligibility criteria, checks will be made to assure that the validation or approval agreement included, but was not limited to, the following information:

- titles and level of validated courses (including any interim courses)
- details of delivery model (duration of course and mode of study)
- start and end/renewal date of the validation arrangement (this must match what is entered on the course template)
- arrangements for periodic review of the validation agreement (date and mechanism)
- name of delivery organisation and specified location(s) of the course delivery
- signature of agreement from the relevant authority within both organisations.

For courses approved by other recognised UK awarding bodies, a centre approval letter or certificate from the relevant awarding body will be required confirming that the provider is approved to deliver courses at specified locations, and plans for their renewal if the duration of the course exceeds the remaining period of validation or approval. We would also expect the letter or certificate signed by the awarding body to confirm that the centre is approved to deliver each course covered by the application.

Providers with degree awarding powers that are listed on the Department's list of Recognised Bodies are not required to provide evidence of validation.

The detailed information requirements for course eligibility checks will be set out on the HEFCE website.

Additional Information Relating to Course Eligibility

PLEASE NOTE: If a provider wishes to offer an existing course at new location, as a different mode of study or changes validating partner these will be treated as new courses for specific course designation purposes and a separate application will be required in an appropriate application window.

The following paragraphs provide further guidance on the Department's definitions and expectations in relation to course eligibility for the purpose of specific course designation.

Location: Course designation is specific to the particular course(s) at a specific location(s) and not to the provider. Courses delivered at different locations or campuses will all require specific courses designation in their own right. Where courses are delivered partly at one location and partly at another by the same provider (i.e. split-site courses) the course should be specifically designated at both locations.

Mode of study: Mode of study should be either full-time or part-time and should also identify distance learning courses.

Full-Time: A full-time course is one where students are normally required to attend the institution, or elsewhere, for periods amounting to at least 24 weeks within the year and, during that time, they are normally expected to undertake periods of study, tuition, learning in the workplace, or sandwich work-placement that does not meet the criteria to be sandwich year-out, which amount to an average of at least 21 hours per week. For courses of two years or more, full-time students are normally required to attend the institution, or elsewhere, for periods amounting to at least for a minimum of eight weeks in the final year.

Part-time: Part-time courses must not exceed four times the period ordinarily required to complete a full-time course leading to the same qualification.

Distance Learning: Distance learning, sometimes called flexible or open learning, is a programme of study which enables the student to study at home. Students are not required to attend traditional on-campus courses, although there may be occasional and short periods of attendance. Distance learning courses can be classed as full-time or part-time. A distance learning course may be treated as full-time if the students are expected to undertake the course for periods equivalent to full-time students that attend.

Sandwich Course: A course is defined as having a sandwich year-out if it includes a period of work-based experience and falls within the definition of 'sandwich' in Regulation 2(10) of the Education (Student Support) Regulations 2011 (SI 2011 No. 1986), as amended. This includes language year-abroad courses where the year abroad is spent working.

Foundation Year: A foundation year and other provision commonly referred to as 'Level 0', will be classed as part of a 'recognised HE course' only if they are an integrated part of a recognised HE qualification, such that both of the following apply:

- a. Students are already registered for the recognised higher education qualification at the same institution.
- b. Progression to the recognised higher education qualification is guaranteed, subject to satisfactory completion of the foundation year.

Integrated Masters: The qualification awarded on completion is equivalent to a first degree award i.e. an undergraduate award. If the courses are integrated Masters programmes with no degree awarded at the end of the third year then they continue to be eligible for student support for the four years.

Postgraduate Courses: Specific designation of postgraduate courses allows eligible students access to Disabled Students Allowance only. No other form of student support can be accessed for postgraduate courses.

Exit Awards: An exit award is an award given to a student who does not complete the requirements for the final award to which the course leads. Exit awards do not need specifically designating in their own right but will be treated as a new course, requiring specific course designation, if a provider intends to recruit to them as standalone awards.

Pathways: If a course has different subject pathways that result in a different award titles these will require separate specific course designation for example Business Management, Business Management with Finance, Business Management with Human Resource Management should be designated as separate courses.

Duration of Course: The list below shows the expected full-time duration of the main courses eligible for specific course designation. Where applications include courses which vary from the expected durations HEFCE may contact providers for further details.

- Undergraduate degree: Three years but may take four if there is a sandwich or foundation year
- Integrated Masters: Four years
- Foundation degree: Two years
- Diploma of Higher Education: Two years

- Higher National Diploma (HND): Two years
- Certificate of Higher Education: One year
- Higher National Certificate (HNC): One year

It is for providers to determine the duration of a course, in terms of the number of weeks of study per year. However, the Department generally expects similar courses, delivered by the same provider, to be delivered over a similar number of weeks irrespective of when the course commences.

Where courses are likely to attract the long course loan (i.e. they exceed 30 weeks and 3 days duration) you may be asked to provide further evidence to justify this as part of the application assessment process.

Other Information Required to Support Applications

In addition to the information required to assess providers' financial sustainability, management and governance arrangements and the course eligibility requirements, providers will be expected to provide contextual information to support their applications including:

- copies of their policies and procedures on student attendance and dealing with student complaints; and
- details of any recruitment agencies that will be involved in recruiting home and EU students to designated courses.

Provider Responsibilities

Providers will need to provide the Department, HEFCE, the Student Loans Company and Quality Assurance Agency with information about their viability and the way they operate. This information should be supplied directly by providers and not via their validating or awarding body. The basic information requirements are set out in this document and this will be supplemented by detailed information published on the HEFCE website. Where possible providers will only be asked for information already available and in the public domain.

In accordance with the provider's own statutes and constitution, there should be effective arrangements for providing assurance that the provider:

- has a robust and comprehensive system of risk management, control and corporate governance;
- has regular, reliable, timely and adequate information to monitor performance;
- plans and manages its activities to remain sustainable and financially viable;

- informs HEFCE of any change in its circumstances which – in the judgement of the accountable officer – is a material adverse change, as well as any significant developments that could impact on the mutual interests of the provider and the Department, HEFCE, SLC and/or QAA;
- complies with the conditions of course designation;
- sends HEFCE:
 - the annual monitoring return(s)
 - other information the Department, the Student Loans Company and/or the Quality Assurance Agency may reasonably request to understand the institution's risk status;
- has effective arrangements for the management and quality assurance of data and information submitted to the Department, HEFCE, the Quality Assurance Agency, the Student Loans Company and (if applicable) the Higher Education Statistics Agency; and
- has an effective framework to manage the quality of learning and teaching and to maintain academic standards.

Responsibility for the quality of data used for internal decision making and external reporting rests with the provider itself.

The applicant is responsible for disclosing any information requested by the Department and other organisations during the application process, and providing any other information that may be relevant to the application and its operation after specific course designation is awarded. HEFCE or the Department may check the authenticity of supporting documents with the relevant source.

Failure to disclose or notify the Department and other organisations with such information may be treated as a failure to comply with the conditions of specific course designation and the Secretary of State may use his discretion and apply sanctions as outlined in Chapter 8 in order to protect the student and public interest.

An accountable officer will be required to sign a declaration at the point of application to provide assurance that the provider is fit to receive public funds. If the Department decides to grant specific course designation the accountable officer will be required to sign a declaration to confirm they accept responsibility for ensuring compliance with the conditions of specific course designation. (See Chapter 5)

Chapter 4: Application, Assessment and Decision Making Process

In all cases the specific course designation application process is being administered by HEFCE with decisions made by the Department.

Application Process

Full details of the application process, including the application window dates, application forms and explanatory notes can be found on HEFCE's website at <http://www.hefce.ac.uk/whatwedo/reg/desig/>

There will be two application windows each year, normally in September and February/March. Each application window will be open for four weeks. These windows are intended for applications for courses starting in the following academic year e.g. applications in September 2014 are for courses starting in academic year 2015/16. If providers wish to apply for courses with start dates in the current academic year then these will be considered on a case by case basis. The assessment process will take up to four months to complete (subject to the provider submitting the necessary information).

Assessing Applications

Once the provider has submitted an application to HEFCE, HEFCE will undertake an initial review of the application to assess whether the information provided is complete. Following this HEFCE will contact the provider, if necessary, to give them an opportunity to supply any missing information. If all the information is provided, HEFCE will undertake an assessment of the application against the financial sustainability, management and governance and course eligibility criteria determined by the Department in consultation with the Student Loans Company, the Quality Assurance Agency and other bodies as appropriate.

During the assessment process HEFCE may request further information or seek clarification on specific issues from the applicant provider. Once HEFCE has reviewed all of the information that has been submitted, it will collate an application assessment and prepare and submit advice to the Department. HEFCE will not decide on the success or otherwise of applications. Final decisions will remain the responsibility of the Secretary of State.

Specific Course Designation Decisions

The Department will consider HEFCE's advice and make the specific course designation decision.

Incomplete Applications

If, after being given an opportunity to supply missing information by a specified deadline, providers fail to supply all of the information necessary for HEFCE to undertake an

assessment the application will be referred directly to the Department for decision. Incomplete applications will be rejected by the Department. Providers that have an incomplete application rejected may reapply in the next application window.

Unsuccessful Applications

If the Department is minded not to grant specific course designation, the Department may notify the provider of its intention before reaching a final decision setting out the reasons for the proposed decision. In that event the provider would have the opportunity to make representations to address the issues raised in the letter before the final decision is made. This is not an opportunity to submit a brand new application or revised accounts and address the reasons set out for rejection. Providers will have 14 days to submit the relevant documentation.

Where applications are ultimately refused the reasons for rejection will be clearly set out in the decision letter.

In general unsuccessful applicants will be advised that they have the option to re-apply no earlier than 12 months from the date of the original application subject to the unsatisfactory issue/s being resolved. In some cases providers may be allowed to re-apply sooner but where the concerns identified are particularly serious, a longer time period before resubmission may be specified.

If a provider has an application which is still being processed when the next application window opens they can submit an application for new courses as a repeat applicant. However these will not be assessed until a final decision is reached on the initial application. If the initial application is ultimately successful the repeat application will be processed, if not the repeat application will not be considered and the provider will have to resubmit all courses again if they choose to reapply in future.

Successful Applications

If the Department decides to grant specific course designation, the Department will notify the provider that they propose to award specific course designation, in principle, for the specified courses at specified locations. The provider must nominate an accountable officer, who must be the Principal or Chief Executive Officer or hold a position of equivalent status within the organisation. The nominated accountable officer will be required to sign and return an Accountable Officer declaration on behalf of the provider. The Accountable Officer is responsible for ensuring compliance with the conditions of specific course designation as set out below.

Once the declaration is returned the Department will confirm the specific course designation.

It is important to note that specific course designation is specific to the particular course(s) at a specific location(s) and not to the institution (except in the case of institutional level specific course designation). If a provider wishes to have additional courses specifically designated or if it wishes to deliver courses at different locations, these will need to be designated in their own right and the

provider will need to apply for specific course designation in an appropriate application window.

Once the Department has confirmed specific course designation the information is passed to HEFCE and the Student Loans Company for action.

HEFCE Register

HEFCE will maintain a register of specifically designated providers and courses, including the date and period of specific course designation and the validating or awarding body details. These will be published on the HEFCE website and is now available at:

<http://www.hefce.ac.uk/whatwedo/reg/design/listtellme/>

Student Loans Company Courses Management system

In order to allow students to apply to the Student Loans Company for student support funding, specifically designated courses need to be uploaded onto the Student Loans Company Courses Management System. As part of the SLC Transformation Project the Courses Management system is being replaced from academic year 2015/16. It is anticipated that the new Courses Management system will go live in Autumn 2014 and as a result the process for uploading specifically designated courses at alternative providers onto the Student Loans Company's systems will change.

Under the new arrangements, where alternative providers have course by course designation the Student Loans Company will upload details of any new and existing specifically designated courses directly onto the new database on an annual basis using information supplied by HEFCE on the Department's decisions. Alternative providers with specifically designated courses will be given access to enter term-dates and will submit a request for making the courses live in the system.

Alternative providers with institutional level specific course designation will be able to submit details of their eligible HE courses directly onto the courses management system and submit requests to the Student Loans Company for making the courses live on the system.

The procedures for uploading specifically designated courses onto the Student Loans Company's systems will be issued to all providers, upon receipt of confirmation of course designation, in respect of new courses and existing courses that have been confirmed as designated as part of the annual monitoring process. The Student Loans Company will issue specific operational guidance on specific course designation to alternative providers. The Student Loans Company will also provide advice, guidance and training to providers to minimise operational errors.

PLEASE NOTE: Providers should only request that the Student Loans Company make live on their systems, courses and locations that have been confirmed as specifically designated. The Student Loans Company will be monitoring this

closely. Any cases of non-compliance will be reported to HEFCE and the Department.

Advice to students

Once courses are available on the Student Loans Company systems and SLC has launched the student finance application system for the relevant academic year and mode of study, providers can advise eligible students that they can start submitting their student finance applications.

Withdrawn

Chapter 5: Conditions of Specific Course Designation and Annual Monitoring

Conditions of Specific Designation

If the Department decides to grant specific course designation a nominated accountable officer will be required to sign a declaration to confirm that he or she accepts responsibility for ensuring compliance with the conditions of specific course designation.

The conditions of specific designation are set out below.

- On-going compliance with the criteria and conditions of designation as set out in the Department's guidance and for providing HEFCE and the Department with clear assurance to this effect as specified in the Guidance
- Complying with annual monitoring requirements,
- Where applicable subscribing to the Higher Education Statistics Agency (HESA) and paying a subscription or annual fee to the Quality Assurance Agency for Higher Education, (QAA), in addition to meeting the costs of periodic QAA reviews.
- Ensuring the number of new eligible full-time students recruited to specifically designated courses collectively does not exceed the student number control allocated to the provider each year where applicable
- In the case of small providers the total number of full-time students that access support on specifically designated full-time courses does not exceed the allowance of 50 in an academic year. Meeting obligations to the SLC to provide information necessary to administer student support in line with the regulations including ensuring term dates are only input for specifically designated courses at specified locations on SLC system (see also Requirements of the SLC below).
- Not franchising or sub-contracting designation to a third party without the Department's consent.
- Being responsible for any information advertised to students in literature or websites about the availability of student support for particular courses.
- Being held fully accountable for the actions of any third party recruitment agency the provider chooses to use, and ensuring that any fees the provider pays to such agencies in respect of the recruitment of students are disclosed to the student before they enrol.
- Advising the Department if, at any time, any action or policy under consideration by the provider appears to be incompatible with the criteria and conditions of designation set out by the Department in the Guidance and to inform the Department in writing immediately if they decide nevertheless to proceed with such an action or policy.
- Ensuring that the use to which the provider puts funds received from the Student Loans Company is consistent with propriety and regularity and in particular the purposes for which those funds were given.

- Ensuring the provider has the appropriate financial management, governance, and operational systems in place to deliver the designated courses.
- Notifying HEFCE of any change of circumstances set out in the Guidance. In particular: any adverse variance in the financial position which in the accountable officer's judgement is material to the institution's financial sustainability; and any fraud, serious weaknesses, or any major accounting breakdown reported to him or her by external or internal auditors or which come to light by any other means.

Providers may be subject to sanctions in the event of a breach of any of the criteria or conditions of designation. Further information on possible sanctions is provided in Chapter 8.

Further information on some of the conditions of designation is provided below.

Provision of Information

From 1 September 2014 the governing bodies of all alternative providers (or the equivalent controlling body appropriate for the corporate form) with specific course designation for student support will be required to provide information to HEFCE. HEFCE will request such information as is necessary to monitor alternative providers to ensure continuing compliance with the conditions of specific course designation. The governing bodies of alternative providers are legally required to provide this information under the Further and Higher Education Act 1992.

Higher Education in Alternative Provider Early Statistics survey (HEAPES)

Alternative providers that are allocated a student number control are required to complete a Higher Education in Alternative Providers Early Statistics (HEAPES) survey each year. It will be completed in the autumn by alternative providers subject to the student number control and is used to monitor recruitment against each provider's student number control allocation as set by the Government. The Higher Education Alternative Providers Early Statistics survey may also be used to set the 2015/16 Student Number Control allocation, especially for those that opt in to the Higher Education Alternative Provider Early Statistics Survey 2014.

From 2014 new providers that have not been allocated a number control will be given the option to participate in the Higher Education Alternative Provider Early Statistics Survey.

Further details can be found on the HEFCE website:

<http://www.hefce.ac.uk/whatwedo/reg/desig/snc/> and in the HEAPES14 guidance published by HEFCE in August 2014.

Submission of Data to the Higher Education Statistics Agency

Alternative providers with designated courses (aside from those treated as small providers (see Chapter 7)) will be required to subscribe to the Higher Education Statistics Agency as a condition of specific course designation. Subscription will begin from the 2014/15

academic year for providers that have specifically designated courses for that year. Further details on Higher Education Statistics Agency subscriptions will be published on the Higher Education Statistics Agency website.¹² Over time, and where sufficient data is available, alternative providers that subscribe to the Higher Education Statistics Agency can choose to produce the Key Information Set to provide public information to prospective students.

Requirements of the Student Loans Company

Providers with specific course designation are expected to meet their obligations to the Student Loans Company to provide the information necessary to administer student support in line with the student support regulations. The information requirements relate to the following areas:

- Data related to the course of study that is designated for support;
- Verification that the fee charged to the student, and the course quoted by the student in their application, accurately reflect the student's position;
- Information related to student registration and attendance;
- Confirmation of changes of any circumstance that affect the student's entitlement; and
- Timely reporting of when a student withdraws from their course.

The Student Loans Company will incorporate these requirements and define the detailed controls in Service Agreements which they are planning to develop with providers in 2014.

Where the Student Loans Company have concerns that providers are not meeting their obligations to provide the information necessary to administer student support in line with the student support regulation these will be reported to HEFCE and the Department. Depending on the nature and severity of these concerns they will either be considered as part of the annual monitoring process or in some cases may result in the Department implementing designation enforcement action as described in Chapter 8.

Quality Assurance Monitoring

All providers will be subject to annual monitoring by the Quality Assurance Agency. The Quality Assurance Agency will inform the Department and HEFCE if any monitoring reviews lead to any doubt about a provider maintaining expected levels of quality. These could lead to requirement for a further review and/or to sanctions. These would be considered on a case by case basis.

Material changes should be reported to the Quality Assurance Agency in the provider's annual monitoring return and could trigger a monitoring visit by the Quality Assurance Agency, at the provider's expense. Providers should consult the appropriate QAA review handbook for details of the changes that should be reported.

¹² Unistats: <http://unistats.direct.gov.uk/>; HESA website: www.hesa.ac.uk/subs or contact liaison@hesa.ac.uk

In addition, further periodic Quality Assurance Agency reviews (usually every four years) will be necessary in order to maintain designated status once approval has been given. The Department and HEFCE will be informed when an alternative provider with courses designated for student support receives a published Quality Assurance Agency review judgement of anything less than a satisfactory outcome. Unsatisfactory judgements will impact on specific course designation status –please see Annex D for details.

Review reports and judgements are published in the public domain.

Concerns about the standards and quality of higher education

In addition to the above, all providers should note that by applying to be reviewed and monitored by the Quality Assurance Agency, they become liable to be investigated in the event of a concern about their management of academic standards or quality which proves eligible for investigation under the Quality Assurance Agency's concerns scheme.

The Quality Assurance Agency investigates concerns about the standards and quality of higher education provision raised by students, staff and other people and organisations, where the Quality Assurance Agency thinks these concerns indicate serious systemic or procedural problems.

Details of the Quality Assurance Agency's Concerns scheme can be found at <http://www.qaa.ac.uk/Complaints/concerns/Pages/default.aspx>

In the event that a full investigation is required, costs would need to be covered by the provider.

If a Concern is upheld the Quality Assurance Agency will refer this to the Department, who will review next steps on a case by case basis.

Annual Monitoring

All alternative providers with specific course designation, including those with institutional level specific designation will be subject to annual monitoring regardless of any other status they hold.

HEFCE will undertake the annual monitoring of alternative providers with specifically designated courses and will report the outcomes to the Department for consideration.

HEFCE will produce detailed guidance on the requirements each year which will be published on their website. This is likely to include requirement to provide:

- confirmation from the Quality Assurance Agency of a satisfactory annual monitoring return;
- annual return to Companies House or the Charity Commission showing the directors / trustees and other key governance information;
- externally audited annual accounts (these will be subject to the same requirements as at application and therefore must be audited by a registered statutory auditor who is independent of the preparation of the accounts and must include income and

expenditure, balance sheet, cash flow statement and full notes to the accounts, irrespective of any statutory exemptions to which a provider may be entitled);

- student number and financial forecast information and commentary which provides an indication of future plans and the financial position of the provider;
- evidence of continued approval/validation from the awarding/validating body; and data to support the student number monitoring and annual allocation

HEFCE will also take account of any escalations from the Student Loans Company or the Quality Assurance Agency in relation to concerns over adherence to the obligations of providers to meet the requirements of the Student Loans Company or management of academic standards and quality.

A lighter touch approach may apply in future to the annual monitoring of providers with specifically designated courses taking into account different types of institutions, their size, growth rates, and the specialist nature of some provision, track record of complying with the annual monitoring requirements and taking account previous history of error rates on Student Loans Company systems, failures to achieve Student Loans Company service standards and level of student complaints. We intend to keep the administrative burden for providers to a minimum and, where possible, the process will use information that is produced for other purposes, e.g. the statutory returns to Companies House or the Charity Commission.

In addition if two academic years elapse and no students access student support for any of a provider's specifically designated courses we would generally consider that the designation has lapsed meaning that the provider will be required to reapply.

If as a result of annual monitoring concerns are raised about a provider's compliance with the conditions of designation the Department will consider designation enforcement action as described in Chapter 8.

Withdrawn

Chapter 6: Change of Circumstances

One of the conditions of specific course designation is that providers must notify the HEFCE of any change of circumstances that may affect the specific course designation.

The Department retains the right to review specific course designation following a notification of change and depending on the nature and extent of these changes providers may be required to submit a new specific course designation application and the original designation may be brought to an end.

Failure to notify HEFCE may be deemed to be a failure to comply with the conditions of the designation. Where this is the case the provider may be subject to sanctions as outlined in Chapter 8. These will be determined on a case by case basis.

The following sections provide detailed guidance on what changes should be reported and the process for reporting them as part of the specific course designation process. Details of how to report changes can be found on the HEFCE website

<http://www.hefce.ac.uk/whatwedo.reg.desig/>

Changes affecting status of the quality assurance review

As part of the Quality Assurance Agency's annual monitoring providers are required to report any significant material changes to the Quality Assurance Agency in the annual monitoring return. This could trigger a monitoring visit by the Quality Assurance Agency, at the provider's expense. Details of the changes that should be reported are set out in the appropriate Quality Assurance Agency review handbook.

Changes impacting on financial sustainability, management and governance status

The accountable officer will be required to inform HEFCE immediately if there are any material changes that could affect the financial sustainability, management and governance status or quality of provision and student interest. These could include:

- notification of changes in contact details, registered office or trading address;
- notification of change of institutional ownership; (see below)
- changes in directors, trustees, shareholders, principal or accountable officer where this results in a change in control; (see below)
- merger with another college or acquisition of a new branch;
- changes impacting the fit and proper persons test;
- changes in governance arrangements from those at application;
- non-compliance with student number control;
- adverse regulatory outcome (including quality assurance) or loss of validation;
- significant legal action;
- materially increased gearing (whether this is from external borrowing or loans from directors, shareholders or other related parties);

- reputational risk;
- any adverse variance in the financial position which in your judgement is material to the institution's financial sustainability; and
- any fraud, serious weaknesses, or any major accounting breakdown reported to you by external or internal auditors or which come to light by any other means.

Change of Ownership and Control

For the purposes of specific course designation a change in control refers to a change of 50% or more in the control of the organisation e.g. 50% or more change in the shareholding or the beneficial interest.

A change in control will trigger a review of the specific course designation. The new individual(s) in control will be required to apply for specific course designation in their own right if they acquire specifically designated courses as part of the educational concern and wish to retain specific course designation. As specific course designation applies to each course where an existing Alternative Provider acquires a new Alternative Provider, a review of the designation would still be required. In practice this could be a straightforward assessment of evidence that may already have been provided to HEFCE for assurance that the Quality and Financial Sustainability, Management and Governance criteria continue to be satisfied following the acquisition and that any new courses are eligible for designation for student support purposes.

The rationale for the requirement, explanation of what will constitute a change of ownership or control and the process and timescales for application are set out in Annex E

Changes affecting course eligibility status

All changes to courses should be reported to HEFCE by email. Depending on the nature of the change these may be considered as a change to an existing course or a new course.

Changes to an existing course will be:

- Correction of typing error in original course template
- Change of course title

Changes which will require a new course application are:

- Change of location
- Additional location/s
- Change of validating body
- Change from franchise to validation or vice-versa
- Exit awards becoming courses in their own right
- Change to the level of qualification
- Change to the mode of study

Chapter 7: Student Number Controls

Process of Applying Student Number Controls

Following the consultation on 'Applying Student Number Controls to Alternative Providers with Designated Courses' the Government announced, in March 2013, that student number controls will be introduced for alternative providers from academic year 2014/15¹³.

Since then it has been announced that student number controls will be lifted from 2015/16 onwards for publicly funded providers. We have not yet decided in which circumstances number controls will be lifted for alternative providers. However, if controls are lifted they will still apply to providers offering sub-degree courses such as HNCs or HNDs because we judge the financial risks to be too high. Student number controls for these providers will therefore be retained for 2015/16.

Detailed guidance will be published in autumn 2014 on the operation of the student number control system for alternative providers in respect of academic year 2015/16.

Small Providers

Providers with fewer than 50 students accessing support on specifically designated full-time courses across all years of study, or providers who have had specifically designated full-time courses for the first time will be treated as small providers unless they have subsequently opted into the Higher Education Alternative Provider Early Statistics Survey and have a Student Number Control. Otherwise small providers do not need to submit student number data to HEFCE or subscribe to the Higher Education Statistics Agency.

Small providers have an allowance of 50 students on specifically designated courses receiving student support and are required to make sure they do not exceed this number of students over the whole year. This applies to all students from England or the EU who are on a designated full-time course and who are receiving student support. For each small provider, its allowance applies across all its designated full-time courses. That is, it is an allowance per provider and not per course. The allowance applies across all years of study: this means for example that students recruited in 2013/14 or earlier who continue into 2014/15 count against the allowance. Students count against the allowance regardless of the amount of full-time student support they receive. Small providers will therefore need to decide how many new students to recruit each year (taking into account factors such as course length and retention rates) in order to ensure that the total number of students accessing student support does not exceed the 50 allowance.

Students on designated full-time courses that are not receiving full-time student support do not count against the allowance. Similarly, students on courses that are designated as part-time courses, distance learning courses or postgraduate courses do not count against the allowance.

¹³ The consultation and the response are available at <https://www.gov.uk/government/consultations/applying-student-number-controls-to-alternative-providers-with-designated-courses>

Monitoring, Penalties and Sanctions for small providers

The Department will monitor numbers at small providers using Student Loans Company data. Initial monitoring will be carried out late in 2014 and then throughout the academic year. We will contact providers during the year if we become aware that they have exceeded their allowance.

If a small provider exceeds the allowance in 2014/15, they will be given the opportunity to repay a sum corresponding to the estimated average cost of providing student support, multiplied by the number of students (on designated full-time courses and receiving full-time student support) in excess of the allowance. If a provider chooses not to repay, we will consider further sanctions, which may include withdrawing specific course designation.

If a small provider exceeds its allowance they will no longer be treated as a small provider and the additional conditions will apply (i.e. they will be required to complete a Higher Education Alternative Providers Early Statistics survey and subscribe to HESA). However their allowance of 50 will remain unchanged unless they successfully apply for additional numbers.

The Department will carry out retrospective monitoring after the end of the 2014/15 academic year and at this point we will inform providers of any repayments necessary to avoid sanctions. Finally, since students can claim student support up to 9 months after they begin their course, we will continue to monitor Student Loans Company academic year 2014/15 data throughout 2015/16 and will if necessary calculate (additional) repayments if at some later point we find that the allowance has been (further) exceeded.

Each year the Department will decide if there will be a mechanism available if providers wish to grow beyond the allowance of 50. This will be announced in separate guidance.

Method for Controlling Student Numbers

The student number control is the number of UK and EU students starting full-time undergraduate study or PG ITT study on specifically designated courses in the academic year. The control will apply to most students who are eligible for publicly funded student support, regardless of whether or not they have in fact accessed publicly funded student support. The number control operates on the basis of the key points:

- The student number control is a single limit per provider and will apply to all of the provider's full-time courses which have been specifically designated for student support purposes. This means that the provider must decide how to apportion their numbers to designated full-time courses and gives flexibility for providers to move numbers from one designated course to another.
- Where a provider has a subsidiary, parent company or another linked organisation which has designated courses the student number control will take account of the relationship between providers. This means that linked organisations, in this instance, will not be judged to be small providers. All linked organisations will therefore be subject

to the student number control and data reporting requirements accordingly, irrespective of their size.

- The student number control does not apply to non-designated courses, which gives the provider freedom to increase numbers on non-designated courses without pressure on the public purse.
- As with HEFCE-funded providers, the student number control does not apply to most non-EU students, as they are not eligible for publicly funded grants and loans. In addition full-time students who cannot access student support because they are aiming for an Equivalent or Lower Qualification (ELQ) will not be subject to number controls.
- We do not currently intend for the student number control to apply to part-time students or to any postgraduate students aside from those on postgraduate initial teacher training courses. Part-time undergraduate students could come under student number controls in future years, subject to Ministerial decisions.
- As with HEFCE-funded providers, the number control will only apply to certain students starting full-time study, rather than to those in all years of study at a provider. (Note: the limit of 50 students for small providers is different and **does** include students in all years of study)
- Providers should also note that the number control applies to students that study with the provider on designated full-time courses for at least two weeks, or have their attendance on such a course confirmed positively to SLC or the SAAS. Students who withdraw (or transfer to a course that is not a designated full-time course) before then have completed two weeks of study would not therefore be counted in the Student Number Control, unless the provider has positively confirmed attendance.

HEFCE will be carrying out a survey of student numbers in autumn 2014. This will be the second annual Higher Education Alternative Providers Early Statistics (HEAPES) survey.

Further details on which students are covered by the student number control and the exemptions are explained in full in the Higher Education Alternative Providers Early Statistics Survey 2014 guidance, which will be published by HEFCE in August or September 2014. In the meantime, providers are advised to refer to the Higher Education Alternative Providers Early Statistics Survey 2013 guidance (www.hefce.ac.uk/pubs/year/2013/201324/) and to the recent circular letter from HEFCE about the Higher Education Alternative Providers Early Statistics Survey 2014 (www.hefce.ac.uk/pubs/year/2014/cl232014/name.87732.en.html)

HEFCE also provides an exemptions list which can be viewed on their website <http://www.hefce.ac.uk/data/year/2013/sncexempt1415/>

Monitoring, Penalties and Sanctions for Providers with a Student Number Control

Each year providers with a Student Number Control will need to complete a HEAPES survey. This will monitor recruitment of controlled students (those that count against a provider's Student Number Control allocation) and of exempt students (those students that are in the HEAPES population, but which do not count against the Student Number Control allocation in virtue of their entry qualifications or qualification aims). Providers are also required to submit data to the Higher Education Statistics Agency (HESA) on an annual basis.

Working with HEFCE, the Department will use the HEAPES data to monitor providers' recruitment against their Student Number Control allocation. During 2014/15 and beyond your

Higher Education Alternative Providers Early Statistics Survey data will be checked using data from other sources, including the Higher Education Statistics Agency, the Student Loans Company and Pearson Education Limited, as they become available. If we find that the Higher Education Alternative Providers Early Statistics Survey data were inaccurate, we may enforce sanctions, including the withdrawal of specific course designation. We will also reassess recruitment against the 2014/15 Student Number Control allocation using these other data sources, and will review any sanctions for over-recruitment that may apply.

We regard a provider as over-recruiting if it recruits above the Student Number Control allocation. When this happens, we will give providers the option to repay a sum corresponding to the estimated average cost of providing student support, multiplied by the number of students recruited above the Student Number Control allocation. In this context, student support includes both tuition fee loans and maintenance grants and loans. The rate per excess student will be up to £5,000 per year of study.

If a provider chooses not to repay the penalty for over recruitment this will be treated as a failure to comply with the conditions of specific course designation. In these cases the Secretary of State may use his discretion to apply sanctions, as outlined in Chapter 8. These will be considered on a case by case basis but are likely to lead to loss of designation in these circumstances.

Withdrawn

Chapter 8: Designation Enforcement: Sanctions and De-designation for Alternative Providers

Specific course designation is subject to providers meeting a range of on-going conditions. In order to ensure providers are held accountable and comply with those conditions and to protect the student and public interest the Department retains the right to review specific course designation at any time.

The circumstances where the Department might review specific course designation may include (but are not restricted to):

- Concern or evidence that the provider is not complying with the conditions of designation, including student number controls or the 50 allowance, either through annual monitoring or from information received in year;
- Information from the Quality Assurance Agency that a provider with specific course designation has had a less than successful Quality Assurance Agency review (see Annex D) or has been subject to the Quality Assurance Agency's concerns scheme and had a concern upheld;
- Failure to disclose or notify the Department or HEFCE of any change of circumstance which may impact on the status of designation (as outlined in Chapter 6);
- Information from the Student Loans Company that providers are not meeting their obligations to the the Student Loans Company to provide the information necessary to administer student support in line with the student support regulations;
- Concerns about the quality of their provision and/or a provider's financial viability;
- Concerns that the provider is not securing value for money, for example in terms of course completion rates

Depending on the nature and extent of these issues action might include:

- requiring the provider to submit a new specific course designation application (either for full set of checks or course eligibility checks only);
- suspending designation (of some or all of the courses at that organisation);
- reducing student number controls for future years or applying Student Number Controls to small providers who keep exceeding the annual allowance;
- withdrawal of specific course designation (either for particular courses or for all courses at that organisation);
- suspension of payments.

When the Department decides it is appropriate to implement sanctions we will write to the provider setting out the reasons for our concerns and the action we propose to take. Providers will be given the opportunity to respond before the final action is agreed.

In some circumstances such as suspension of payments or designation the enforcement action will be taken immediately and the process and timescales for dealing with this are set out below.

Suspension of Payments or Designation:

The Student Loans Company may immediately suspend payments (tuition fee loan payments to providers, and maintenance payments to students) if the Department or the Student Loans Company has reasonable grounds to believe that a provider is not complying with the conditions of its designation or alternatively the Department may suspend designation in respect of new students

The circumstances that may be expected to lead to a suspension of payments include (but are not restricted to):

- Reasonable grounds that a provider may be claiming payments to which it is not entitled, for instance because students are not studying a designated course, are not in attendance, or there has been systematic misrepresentation of students' eligibility.
- Failure by a provider to notify a HEFCE of a change of control or other material adverse change that bring under question the on-going sustainability and/or governance or that could affect the student interest.

Where payments are suspended it is the provider's responsibility to notify students. However the Student Loans Company may also write to students to explain the situation and the reason for the suspension of payments.

Action that the Department or the Student Loans Company will take following suspension of payment or designation:

In the event that a decision is taken to suspend payments or designation, the Department will write to the provider within 5 working days, setting out the nature of the concerns.

The provider will be given 14 working days to comment and provide evidence. If necessary a meeting between the Department and the Student Loans Company, where appropriate, and the provider will be arranged to discuss the concerns.

Following the completion of any necessary investigations, the provider will be informed of whether further action is proposed by the Department, and, in the event that action is proposed, will have 5 working days to comment.

Action that the Department will take following the conclusion of investigation:

The action taken may include:

- Immediate withdrawal of the provider's course designations for all students;
- Withdrawal of the provider's designations in respect of new students

- Issue of an enforcement notice specifying actions to be taken by the provider and the timescale for completing those actions.

Failure to comply with an enforcement notice within the specified timescale may lead to a withdrawal of designation.

Providers should note that the Department may issue an enforcement notice in respect of any relevant matter without having first suspended payments. Failure to comply with such an enforcement notice within the specified timescale may lead to a withdrawal of designation

Reapplying for designation

In circumstances where designation for some or all of its courses is removed, a provider would be eligible to reapply for specific course designation when the issues of concern have been addressed.

Providers should note that if they fail a Quality Assurance Agency review for designation purposes they cannot be re-reviewed by the Quality Assurance Agency for those purposes within 18 months. Only if that review is successful will they be able to reapply.

Withdrawn

Annex A: Definitions

The document uses a number of terms to describe and distinguish between different types of higher education provider, funding and quality assurance arrangements defined as follows:

Alternative provider means any provider of higher education courses which is not in direct receipt of recurrent funding from HEFCE or from equivalent funding bodies in the Devolved Administrations; or does not receive direct recurrent public funding (for example, from a local authority, or the Secretary of State for Education); and is not a Further Education College.

This includes a wide range of providers which are for-profit, not-for-profit and charities.

Franchise is an agreement by one institution (usually an HEI) that another institution may deliver all or part of a programme approved and owned by the first institution. The franchising institution normally retains overall control of the programme's content, delivery, assessment and quality assurance arrangements. (See Annex B)

Full-Time Course is defined as one where students are normally required to attend the institution, or elsewhere, for periods amounting to at least 24 weeks within the year and, during that time, they are normally expected to undertake periods of study, tuition, learning in the workplace, or sandwich work-placement that does not meet the criteria to be sandwich year-out, which amount to an average of at least 21 hours per week. For courses of two years or more, full-time students are normally required to attend the institution, or elsewhere, for periods amounting to at least for a minimum of eight weeks in the final year.

Further Education College (FEC) is a body corporate, established or designated under the Further and Higher Education Act 1992, for the purpose of establishing and conducting an educational institution, which may provide further and higher education for those who are over compulsory school age. FECs are eligible to receive funds from the Skills Funding Agency and HEFCE in the pursuit of their educational purposes.

HEFCE is the Higher Education Funding Council for England, a Non-Departmental Public Body established under the Further and Higher Education Act 1992.

Higher Education Institution (HEI) is defined as i) a university, or ii) an institution conducted by a higher education corporation, or iii) an institution designated as eligible to receive support from funds administered by HEFCE (aside from Further Education Colleges, which are defined above). At present, all English HEIs with the exceptions of the University of Buckingham and the University of Law receive support from funds administered by HEFCE and are listed

here: <http://www.hefce.ac.uk/whatwedo/invest/unicoll//highereducationinstitutions/>

Higher Education (HE) providers refer to any providers of higher education courses whether provided directly as a teaching body or indirectly as an awarding body.

HESA is the Higher Education Statistics Agency, the official agency for the collection, analysis and dissemination of quantitative information about UK higher education. It is a private limited company funded by subscription from UK Higher Education Institutions and is not a Government body. It was established in 1993 following the Further and Higher Education Act 1992, which sets out a duty to Higher Education Institutions to give information to their respective Funding Councils across the UK (including HEFCE).

International Financial Reporting Standards (IFRSs) are accounting standards and interpretations published by the International Accounting Standards Board (IASB).

(KIS) Key Information Sets are comparable sets of information about full- or part time undergraduate courses and are designed to meet the information needs of prospective students.

Part-time courses must not exceed four times the period ordinarily required to complete a full-time course leading to the same qualification

QAA is the Quality Assurance Agency for Higher Education, whose role is to safeguard quality and standards in UK universities and colleges, so that students have the best possible learning experience. The QAA is an independent body, a registered charity and a company limited by guarantee. It is funded through subscriptions from higher education institutions and through contracts and agreements with the major UK funding councils.

Specific course designation is the process by which the Secretary of State designates courses of higher education, which are not automatically designated under the regulations for the purposes of student support.

Student support is financial support for higher education students' tuition and living costs and supplementary grants provided by the Government in the form of grants and loans.

UK GAAP - Generally Accepted Accounting Practice in the UK is the body of accounting standards and other guidance published by the UK Accounting Standards Board (ASB).

Validation is the process by which a degree-awarding body ('the validating organisation') judges a module or programme developed and delivered by another organisation ('the teaching organisation') and approves it as being of an appropriate standard and quality to contribute, or lead, to one of the validating organisation's awards. Students normally have a direct contractual relationship with the teaching organisation. (See Annex B)

Annex B: Franchised and Validated Provision

Introduction

Courses delivered by alternative providers in partnership with other providers (usually one with its own degree awarding powers) are classified by the Department as either “franchised” or “validated” provision. Any courses delivered by an alternative provider in partnership with another provider (whether in whole, or part) must be specifically designated in order to attract student support even where the franchising institution is authority funded. The designation process will depend on whether the course is considered as ‘franchised’ or ‘validated’ provision and in the case of franchised courses whether the franchising institution is authority funded or an alternative provider.

This guidance clarifies the definitions of ‘franchised’ and ‘validated’ provision for the purpose of specific designation, and sets out the rules that apply to each. If you are unsure a course meets the definition please check with HEFCE in the first instance. The Department will determine the treatment in a particular set of circumstances.

Franchised Courses

A Franchised course, for purposes relating to specific course designation and student number controls, is a course subject to an agreement by one institution (the franchising institution - usually a provider with its own degree awarding powers) that another institution may deliver all or part of a programme approved and owned by the first institution¹⁴. For the purposes of student support these courses are considered as being delivered ‘on behalf of’ the franchising institution. To qualify as franchised provision for the purpose of specific course designation, the following conditions must be met:

- A written legally binding agreement is in place between the franchising institution and the provider which sets out the conditions of the franchising agreement;
- The course is registered on the Student Loans Company (SLC) HEI course database in the name of the franchising institution and the fee loan is paid to the franchising institution;
- The student is a student of the franchising institution, is included within their HESA and other data returns and when appropriate, counts against that institution’s student number control (SNC) allocation;

¹⁴ In respect of awarding body qualifications i.e. HNDs, HNCs and Diplomas in Education and Training (DETs), the programme of study will be approved and owned by the awarding body e.g. Pearson/Edexcel, SQA, City and Guilds etc. who will also be responsible for the standard of the award. The franchising institution will normally retain control over all other aspects. To be treated as franchised provision for the purpose of specific course designation will require the other conditions, set out above, to be met.

- The student has a contractual relationship with the franchising institution for delivering the course, and
- The conditions of the franchise agreement meet the expectations set out in the UK Quality Code for Higher Education (QAA) in respect of managing higher education provision with others

We expect students on franchised courses to be able to access the complaints procedures of the franchising institution. Where a student exhausts the complaints procedures and remains dissatisfied with the final outcome, they can contact the Office of the Independent Adjudicator for Higher Education (OIA).

Where the franchising institution is subject to the fee cap under the Higher Education Act 2004, the fees for a franchised course are regulated. The franchising institution may charge the student up to the basic fee level, or up to the higher level where an approved Access Agreement is in place. As the fee for the franchised course is regulated, the franchising institution must ensure that the alternative provider does not charge the student a fee above the statutory caps.

Franchised Provision and Designation Applications

If the course meets the definition of a 'Franchised Course' the course is considered as being delivered 'on behalf of' the franchising institution. Where the franchising institution is authority funded the Department has decided to provide blanket specific designation of franchised courses in the 2014/15 academic year. This is in recognition of the fact that some authority funded institutions that have established franchise arrangements in place or that plan to start new franchise arrangements in 2014/15 may not have been aware of the need for specific designation. This decision means that authority funded providers will continue to be able to add any courses delivered under franchise arrangement directly onto the SLC HEI course database for 2014/15. The Department is currently reviewing its policy on franchises between authority funded institutions and alternative providers and will issue further guidance in relation to the 2015/16 academic year in due course.

Where the franchising institution is an alternative provider, the franchising institution must apply for specific course designation and the application process will depend on whether the franchising institution is a new or repeat applicant

Where a course does not meet the conditions for a franchised course set out above, for example, where the alternative provider wishes to have their own SNC allocation and the student registered with them, or there is another form of partnership arrangement between the two institutions, then, irrespective of the terminology used to describe that arrangement, the course will not be treated as a franchised course and will be subject to the full specific designation arrangements. These courses will need to meet the quality and standards expected of validated provision (the exception will be where the alternative provider holds their own Degree Awarding Powers).

If the alternative provider runs a mixture of franchised and non-franchised courses, the alternative providers will still be subject to the full specific designation process in their own right in respect of the non-franchised courses and the students on these courses will, when appropriate, count against the alternative provider's SNC allocation.

Franchised Provision and Tuition Fee Regulation

Where the franchising institution is HEFCE funded, a specifically designated franchised course is a qualifying course for the purpose of the fee cap. The course fees are regulated, within the definitions of the Higher Education Act 2004, the student cannot therefore be charged a fee for the course above the higher fee cap (currently £9000 for a full-time course and £6750 for a part-time course).

Such courses will also be subject to any limits set out in the franchising institution's Access Agreement. In these cases we expect the course to be specifically referred to in the approved Access Agreement between the franchising institution and the Office of Fair Access – both in the published agreement and in the accompanying tables that list course fees. In these cases students will be able to access a fee loan to cover the full cost of their course.

All fee income over the basic amount (currently £6000 for a full-time course and £4500 for a part-time course) received in respect of students on franchised courses must be included in the franchising institution's Access Agreement and the students on franchised courses must be able to benefit from appropriate access measures.

Where the course does not meet the conditions of franchised provision the fees are not regulated and providers are free to determine their own fee levels. The maximum fee loan students can access will be £6000 for a full-time course and £4500 for a part-time course.

Validated Courses

A validated course, for purposes of specific course designation and student number controls, is a course subject to arrangements under which a degree-awarding body¹⁵ ('the validating organisation') judges a module or programme developed (or jointly developed with) and delivered by another organisation ('the teaching organisation') and approves it as being of an appropriate standard and quality to contribute, or lead, to one of the validating organisation's awards. Students normally have a direct contractual relationship with the teaching organisation. To qualify to be treated as validated provision for the purpose of specific course designation the following conditions must be met:

- A written legally binding agreement is in place between the validating organisation and the teaching organisation which set out the conditions of the validating agreement;
- The course is registered on the SLC HEI course database in the name of the designated teaching organisation (the alternative provider) so that the fee loan is paid direct to that provider;

¹⁵ In respect of awarding body qualifications i.e. HNDs, HNCs and DETs the validating organisation will be the awarding body .e.g. Pearson/Edexcel, SQA or City and Guilds etc. To be treated as validated provision for the purpose of specific course designation will require the other conditions, set out above, to be met

- The student is a student of the designated teaching organisation (the alternative provider), counts against that organisation's student number control allocation where appropriate¹⁶ and, where required, will appear within their HESA returns; ,

The conditions of the validation agreement meet the expectations set out in the UK Quality Code for Higher Education (QAA) in respect of managing higher education provision with others

Withdrawn

¹⁶ Students on validated courses will count in respect of whether a teaching organisation can be classified a 'small provider' for purposes relating to course designation and student number controls

Annex C: Adapted QAA review

Some alternative providers are subject to independent, external inspection or review by UK bodies approved by the Home Office to carry out reviews for Educational Oversight purposes in relation to Tier 4 status.

These reviews entirely meet the purposes for which they were intended and remain a requirement for highly trusted sponsor status. Providers where the majority of provision is not higher education will remain with their respective approved bodies for Educational Oversight purposes.

We have assessed the extent to which reviews conducted under these frameworks meet the requirements we have established as part of the specific course designation process for higher education courses. This assessment shows they meet some but not all of our requirements, which are clearly articulated through the expectations of the QAA's UK Quality Code for Higher Education.

To avoid duplication, where providers undergo inspection/review processes for Educational Oversight purposes, through one of the review bodies listed below, they will be able to meet the quality requirement for specific course designation by also undergoing an adapted QAA review. The review will focus in particular on the management of the academic standards of their HE provision.

- Independent Schools Inspectorate
- Bridge Schools Inspectorate
- Schools Inspection Service
- Education Scotland
- Education and Training Inspectorate

In the event that the Home Office changed those bodies currently approved to carry out educational oversight reviews for Tier 4 purposes, or made any substantive changes to the rules or processes for the assurance of quality, it would prompt a review of the Department's arrangements.

Annex D: Addressing less than successful QAA review outcomes

These arrangements apply to alternative providers that already have courses specifically designated for student support under the new arrangements introduced in 2013 and have had a successful initial QAA review, but who receive a less than successful QAA review outcome in a subsequent review.

Appeals against QAA judgements

If a provider receives a QAA judgement of less than 'confidence' or 'meets expectations' (i.e. 'limited confidence', 'requires improvement to meet UK expectations', 'no confidence', 'reliance cannot be placed' or 'does not meet UK expectations') in any of the judgement areas, it will be given an opportunity to appeal, using QAA's Consolidated Appeals Procedure before the judgement and review report is published.

If the provider chooses not to appeal or appeals unsuccessfully, then the report will be published, and the QAA process for follow-up action will commence.

The process once a QAA judgement of less than 'confidence' or equivalent is confirmed

This process is instigated at the point of a published QAA review judgement of anything less than 'confidence', 'reliance' or less than 'meets UK expectations', depending on the type of QAA review under which the provider is assessed.

If a provider receives such a review judgement, they will have an opportunity to seek a further review in order to overturn that judgement and will need to meet the costs of further review. If the provider chooses not to seek a further review, then they indicate their intention to withdraw from the designation process. In those circumstances one or more of the sanctions listed in the designation enforcement section of this guidance could be invoked i.e.

- Immediate withdrawal of the provider's course designations for all students
- Withdrawal of the provider's designations in respect of new students
- Issue of an enforcement notice specifying actions to be taken by the provider and the timescale for completing those actions
- Failure to comply with an enforcement notice within the specified timescale may lead to a withdrawal of designation.

Judgements of 'limited confidence' or equivalent

A provider receiving a published QAA review judgement of 'limited confidence' or equivalent¹⁷ must supply an action plan to the QAA within 30 days of publication of the review report. The provider will need to undergo a follow-up review within six months of publication of the report. If the provider either fails to submit an action plan within the 30 days, or fails to commit to a follow-up review, this would indicate their intention to withdraw from the designation process and could invoke one or more of the sanctions listed in Chapter 8.

The provider will be expected to have made substantial progress with implementing the action plan at the time of the follow-up review and should have addressed the concerns that led to the limited judgements. The requirement for a follow-up review within six months is in the interests of maintaining a high quality experience for all students.

Should the follow-up review result in a further judgement of anything less than 'confidence', 'reliance', or 'meets expectations' in any area, the provider will be deemed to have fallen below the standard which is a prerequisite for designation for student support purposes. That would result in one or more of the sanctions listed in Chapter 8.

Where the enforcement proceedings lead to withdrawal of the provider's course designation, the Department would expect the provider and its validating institution(s) or awarding body to make provision for existing students to complete their studies with another approved provider.

Once a provider has failed a QAA follow-up review for the purposes of specific course designation, they cannot be reviewed again by the QAA for those purposes within 18 months.

'No confidence' and equivalent judgements

A provider receiving a published no confidence, or equivalent¹⁸, QAA review judgement must supply an action plan to the QAA within 30 days of publication of the review report. The provider will need to undergo a follow-up review within three months of publication of the report because these judgements are only reached where QAA review teams have very serious concerns about the quality of provision. These serious concerns need urgent attention and early resolution in the best interests of the students. If the provider fails to submit an action plan within the 30 days, or fails to commit to a follow-up review, this would result in one or more of the sanctions listed in Chapter 8.

The provider will be expected to have made substantial progress with implementing the action plan and by the time of the follow-up review should have addressed the concerns that led to the failing judgements.

¹⁷ For the purposes of review for course designation, this could be a judgement of either 'limited confidence' or 'requires improvement to meet expectations', depending on the type of review

¹⁸ For the purpose of review for course designation, this could be a judgement of either 'no confidence', 'no reliance', or 'fails to meet expectations', depending on the type of review

Should the follow-up review result in a further judgement of anything less than 'confidence', 'reliance', or 'meets expectations' in any area, the provider will be deemed to have fallen below the quality standard which is a prerequisite for designation for student support purposes. Such cases would result in one or more of the sanctions set out in Chapter 8.

Should the enforcement proceedings lead to withdrawal of the provider's course designations, the Department would expect the provider and its validating institution(s) or awarding body to make provision for the students to complete their studies with another approved provider.

Once a provider has failed a follow-up review for the purposes of specific course designation, they cannot be reviewed again by the QAA for those purposes within 18 months.

QAA reviews of validating institutions

If a QAA judgement of a validating institution has triggered action under HEFCE's Unsatisfactory Quality Policy, then most resulting actions should apply principally to that institution. The detail of the judgement in the QAA review report will determine whether partner providers are affected.

Withdrawn

Annex E: Changes of Ownership and Control

The rationale for the requirement, an explanation of what will constitute a change of ownership or control and the process and timescales for application is set out below.

The rationale for the requirement

Legally, there is no right to automatic transfer of designation to a new owner, therefore where a change of ownership or control is under consideration, for students to be able to continue to access student support, the prospective new owner(s) or those in future control of the provider must notify the department and reapply for specific course designation within the timescale specified by the Department and meet the designation criteria in their own right. A new designation assessment is necessary to ensure the new owners meet the financial sustainability, management and governance, and quality of provision criteria introduced from 2013/14 to safeguard the service and educational outcomes for students. The assessment may take account of the financial, management and governance arrangements of any subsidiary, parent company or linked organisations.

What constitutes change of control

Change of control, ownership or significant beneficial interest will trigger the need to re-apply for designation. This could be from a change in owners, directors or senior managers and would arise where this results in:

A 50% change in the balance of control over the provider by a legal person or group of legal persons in terms of ownership of the provider. This does not mean a specific proportion of shares would be involved as this will depend on the balance of shareholding across the company. The principle will be where control of 50% or more of the shares and/or beneficial interest changes.

The same principle of a 50% change in control applies to other business models. For example for a company limited by guarantee, a change of control arises where there is change of 50% of members; for a charity, 50% of trustees; for a partnership, 50% of partners.

Beneficial interest refers to the right of individuals or companies to receive benefits on assets held by the provider. A change in beneficial interest may arise, for example, where there is a change in the recipients of the provider's profits (e.g. as a dividend or by other means)

Any change of ownership or control that meets the above criteria must be notified immediately the change 50% has been reached any time after the provider's courses were originally designated. For example if a company had five shareholders, each with 20% shareholdings at the time of designation and two shareholders sold their shares, there

would not be a change of ownership or control until a third shareholder sold their shares, i.e. 60% of shares have now changed hands.

Timescale and process for applying for designation

New students at any provider where a change of ownership or control occurs would not be able to access student support until the Department has approved the specific course designation application. Students who are in receipt of student support when the change of ownership takes place will be able to continue to access student support for the duration of their course¹⁹. The Department will not deem the change in ownership or control to be completed for course designation purposes until the prospective owners have met the conditions of specific course designation. It is recommended that prospective owners are made aware of this caveat before the completion of change in ownership or control.

Providers should notify HEFCE immediately of an imminent change in ownership or control and before any change in acquisition. This will trigger the review of the prospective owner or of those in control of the provider for specific course designation. Prospective owners will have 3 months from the date of notification to submit the specified information for the specific course designation assessment. The Department will undertake to provide a decision within 3 months of receiving the full information. Providers should be mindful that the overall timescale following notification may therefore be up to six months, although in practice the typical timescale would be 6 weeks from the receipt of full information.

Whilst the prospective owner or new individual with control over the provider is being reviewed, existing students will continue to be able to access student support under the existing specific course designations. New students will however be unable to access student support until the prospective owners have been reviewed and designations approved for each course. We expect the change in ownership or control to be a sequential process with ownership or control changing once the new provider has been reviewed and approved by the Department.

Once a provider has courses designated following a change in ownership/control, the Department reserves the right to time limit the designation.

Providers at risk of going into administration

The exception to these arrangements would be where a provider is failing financially and a change in ownership may be needed to avoid the provider going into administration or to enable a provider in administration to be bought and continue trading. In such cases the Department will consider the change in control arrangements as a matter of priority to avoid hardship to students.

¹⁹ It is the Department's firm expectation that existing eligible students who are already in receipt of student support at the point of change of ownership will be able to continue doing so until they complete the course - however we reserve our right to revoke designation in respect of existing students in exceptional circumstances for example where there is serious misconduct by a provider

The Provider will need to demonstrate that the provider is failing financially and that extraordinary treatment is necessary.

In practice this is likely to mean that existing designations held by the failing provider are assigned temporarily to the new provider. Once the Department is assured that the new provider satisfies the Quality and FSMG criteria are met the specific course designation will be approved in respect of the new provider.

Criteria prospective owners will be expected to meet

Prospective owners will be expected to satisfy the specific course designation criteria introduced from AY 2013/14. These include a recent and successful QAA review, financial sustainability, management and governance criteria and from AY 2014/15 Student Number Controls where applicable.

There are a number of additional criteria that need to be met in addition to the 2013/14 criteria. Provided the core requirements for a successful QAA review and FSMG criteria are met these additional checks are unlikely to delay the specific course designation application.

We would need assurances over the “transfer” of Tier 4 license, if applicable, for those alternative providers for whom the ability to recruit international students is material.

Where the existing provider is financially weak, we would also need to see a fully costed business plan as part of the application including planned actions to address any underlying problems.

If the `acquiring provider' has a history of breaching a Student Number Control or other conditions of designation this may have a negative impact on the assessment of the specific designation application.

Failure to meet any and all of this criteria could result in the designation not being approved or withdrawn.

Withdrawn