



Department
for Education

Higher Education and Research Bill:

**Technical note on market entry and
quality assurance**

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In the BIS White Paper “*Success as a Knowledge Economy: Teaching Excellence, Social Mobility & Student Choice*” Government set out its plans to enable greater competition in higher education by simplifying the regulatory landscape.

*“We will create a level playing field with a single route to entry and risk based approach to regulation. We will seek to reduce unnecessary barriers to entry, but, recognising the public interest in ensuring the quality and sustainability of the system, we will ensure that quality is built into our reforms at every stage”.*¹

The Higher Education and Research Bill will provide the powers necessary to enable the OfS to regulate the system as set out in the White Paper. This technical note sets out our current expectations of how the system outlined in the White Paper will work – in many respects we expect this will build on the existing HEFCE and QAA quality arrangements that have recently been reformed.²

However, the OfS will publish via guidance the detail of how it will take forward this risk-based regulatory framework, following consultation with students, providers, and other regulatory bodies.

The detail of the proposed changes to DAPs and UT processes will be set out in new DFE criteria and guidance on which DFE intends to consult in due course. The OfS will need to have regard to this guidance.

¹ www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper p9

² The existing quality assessment system is the responsibility of HEFCE (which holds the current statutory responsibility for quality in providers in receipt of public grant). In previous years, the system has been largely operated on HEFCE’s behalf by the Quality Assurance Agency (QAA), through a system of 4/6 yearly review visits to check a provider’s internal quality processes. HEFCE will introduce a reformed quality assessment approach in a transitional capacity in 2016/17. It will feature: baseline regulatory requirements tested through review visits to providers seeking to enter the higher education system; a period of closer engagement and monitoring for recent entrants; risk-based and context-sensitive review arrangements for established providers, introducing Annual Provider Reviews based on enhanced data checks, that will prompt quicker intervention where there is evidence or concern about a provider’s performance.

Risk-based regulation

Chapter 1 of the White Paper describes how *“we will create the conditions to improve the overall quality and diversity of the higher education sector, through a risk-based approach to regulation”*.³

Planned reforms will make it easier and quicker for providers to enter the higher education market, but only if they can demonstrate they have the potential to deliver high quality provision. All providers with access to student loan or public grant funding will need to continue to meet at least the current baseline financial, management and governance, and quality requirements; and we will improve quality across the sector by introducing better incentives and unified regulation. We will not allow entry and growth from poor quality and financially unsustainable providers; and we will deal with, and if necessary exit, poor quality providers already in the system.

Under planned reforms all providers in receipt of fee loans or public grant will be regulated in the same way, on the basis of the risk that they pose to student outcomes and to the investment of public money, rather than supposing that all providers of a particular type are the same.

The risk-based regulatory system will be underpinned by a Register of Higher Education (HE) Providers, maintained by the OfS. Judgements about risk will be based on analysis of a range of indicators and other intelligence like patterns of under- or over- recruitment; student admission and where possible will be focussed on assessing how far data demonstrates positive outcomes for students. This will include assessing , progression and achievement data to establish evidence of progression to graduate employment or further study, in particular professional jobs and postgraduate study, taking account of differential outcomes achieved by students with different characteristics.

Judgements about the risk to value for public money invested in HE will be based on the analysis of a range of financial and governance information, including audited accounts, and the ability of the provider to meet principles of good governance and management. This new risk-based approach will define how OfS protects value for money and quality by:

Regulating entry to the higher education sector

Only high quality providers will gain access to student loan or public grant funding – poor quality or financially unsustainable providers will not be able to access, or continue to receive, these benefits; there will continue to be tough and rigorous tests for providers who want to enter the system and enable their students to receive funding for degree level provision. This approach will apply to all higher education providers that are currently HEFCE-funded and to alternative providers.

If the OfS has reason to believe that it is necessary, the OfS will also be able apply specific additional conditions of registration to reflect the risk represented by the provider. This could include, for example, imposing student number controls, or

³ www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper p21

asking the designated quality body to arrange for independent external verification of marking standards for a selection of student assessed work.

(See [Annex A](#) for more detail on these proposals).

Making decisions about granting Degree Awarding Powers and University Title to providers

There will continue to be robust criteria for obtaining Degree Awarding Powers (DAPs), building on the current system, to ensure that a provider has the capability to set and maintain our high quality degree standards. DAPs will be reformed to be more flexible to ensure that there are no artificial barriers for smaller or specialist providers.

One example will be the introduction of single-subject DAPs facilitating new entrants to the system, but only allowing them to award degrees in their specialisms.

For new providers seeking probationary DAPs, a test will be undertaken at the same time as the baseline regulatory assessment. This probationary DAPs test would be included to assess the provider's readiness to enter the 3 year probationary DAPs period and determine whether it is likely to be able to set and maintain UK agreed academic standards for its HE qualifications.

Only providers that have successfully operated with full DAPs for three years and that demonstrate a robust performance against the full range of outcome metrics listed in Annex C will be eligible for University Title.

(See [Annex B](#) for more detail on these proposals).

Monitoring and assuring ongoing quality and standards

We will take action to ensure the standard of degrees continues to meet the minimum standards defined and established by the sector. These must be outcome focussed and assess how far providers are delivering high quality employment and other graduate opportunities for its students.

We will adopt planned reforms to strengthen the external examining system, and focus the quality regime more clearly on ensuring that quality and standards have been maintained in practice, rather than simply reviewing the operation of processes designed to achieve this.

Providers will be subject to light-touch Annual Provider Reviews bringing together the desk-based scrutiny of a range of indicators including changes in student numbers, retention and progression of students, and their employment outcomes; information from the existing annual visit; and any other intelligence. Previously, HEFCE-funded providers could go for 6 years between reviews; and alternative providers had to undergo reviews every four years plus annual monitoring and re-designation. If there is evidence from this annual check that indicates concern about a provider's performance, this will trigger more intensive scrutiny including more detailed quality review visits by peer reviewers with expertise and experience in setting, maintaining and assuring academic standards and quality. The frequency and focus of these intensive reviews will vary according to the risk profile of the

provider, with most providers seeing less of a burden than now but a few seeing significantly more.

Current HEFCE powers will transfer to the OfS and will be strengthened to ensure that OfS has the necessary powers to intervene quickly if there are concerns over the quality or standards at an institution. For example OfS will be given new powers and could: require an action plan to address areas of weakness; impose student number controls; charge fines; not-renew, vary or, as a last resort, remove DAPs and remove university title; and ultimately remove a provider from the register if it continues to cause concern.

(See [Annex C](#) for more detail on these proposals).

Maintaining a co-regulatory approach

The OfS and designated quality body will maintain the existing co-regulatory approach to determining the baseline requirements for quality and standards, currently set out in the expectations of the UK Quality Code and including the sector agreed Framework for Higher Education Qualifications of UK Degree-Awarding Bodies. As the BIS Select Committee recommended in February 2016 it is *“essential that the quality assurance of universities should remain administratively and visibly independent from Government or the new regulator. As part of its considerations of how the OfS should exercise this function in relation to other bodies, the Government should ensure that independent quality review is retained”*.

The SoS will have the power to designate an external ‘quality body’ to carry out specific quality assessment activity on behalf of, and within the parameters set by, OfS. Only a body recommended by the OfS, where those who determine its strategic priorities are representative of the sector and have the confidence of a broad range of registered providers, will be designated.

Where designated, the quality body will be under a duty to perform assessment functions of the OfS, for example to design and operate the quality assessment system, reporting to and within the parameters set by the OfS. OfS and the designated quality body will work together more collaboratively than has been possible in the current regulatory environment. This will ensure that future development of the quality assessment system is undertaken through a co-regulatory approach whilst ensuring that it continues to meet the needs of OfS as a regulator. The designated quality body will also exercise operational independence as it carries out review activity and produces outcomes for OfS to incorporate into wider regulatory activities.

We anticipate an arrangement where the primary quality duty will remain with the OfS, whose powers will be unchanged by the designation. The OfS will have a duty to monitor how well the designated quality body is performing its functions and to report regularly to the Secretary of State. The designated quality body will be obliged to provide the OfS with information the OfS requires to inform its use of sanctions and interventions to address quality concerns, as well as to carry out its monitoring function.

The OfS and designated quality body will work with sector and student representative bodies, as well as the Devolved Administrations to convene a UK-

wide standing committee to provide sector-led governance arrangements for the baseline requirements.

(See [Annex D](#) for more detail on the respective roles of the OfS and designated quality body).

Annex A: Baseline regulatory requirements

*“We will replace the current burdensome and fragmented system with a single route to entry, providing a single simpler, clearer way to become a higher education provider”.*⁴

1. **We will keep the current set of baseline regulatory requirements, but make it easier for new providers to prove they meet them.** The risk-based regulatory system will be underpinned by a Register of HE Providers, maintained by the OfS. The Register will cover HE providers regulated by OfS and those that choose to be registered at a basic level to be officially recognised as HE providers.

Table 1: Types of HE providers

	Registered	Approved	Approved (Fee Cap)
Part of English HE			
Eligible for student support			
Eligible for grant support			

2. A provider wishing to achieve ‘Approved’ or ‘Approved (fee cap)’ status will need to meet the current set of baseline regulatory requirements which include: the expectations of the UK Quality Code, the Frameworks for Higher Education Qualifications of UK Degree-Awarding Bodies, financial sustainability and good governance and management criteria, plus student protection requirements.
3. A brand new provider looking to enter the HE system will be able to make a case in advance to the OfS that it should attract student support for its students from day one of its operations. This will build on reforms that are already underway – HEFCE’s revised operating model for quality assessment published in March 2016 for operation in AY 2017/18 sets out a Gateway process for new providers. For providers that do not have a track record in delivering HE in the UK the OfS will be able to make judgements based on its confidence in the provider’s readiness to meet the ongoing conditions of registration.
4. A provider will need to convince the OfS that it has the ability to offer high quality higher education provision; and give students a reasonable expectation that they will not be at risk of being unable to complete their course as a result of provider failure. We expect the OfS to be able to be flexible in the range of evidence that it accepts as part of its baseline regulatory assessment.
5. How a provider might go about meeting these baseline regulatory requirements is set out in some more detail below; and how these provide the basis for an assessment for probationary, or full, Degree Awarding Powers (DAPs) is covered in Annex B.

⁴ www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper p24

Financial Sustainability, Management and Governance (FSMG)

6. As is currently the case with all providers, the OfS will ask for a minimum of three years of financial projections. The OfS could base its judgement about the FSMG of a provider on:
 - Legally binding guarantees from financial backers alongside robust financial plans;
 - Audited accounts filed in other jurisdictions where there is mutual recognition of international account conventions in place; and
 - Compliance with an appropriate corporate governance code or with agreed principles of good governance, including academic governance, and the track record of the key staff.
7. As is the case now, and in line with the risk-based approach to regulation, the OfS will be able to apply more extensive and rigorous FSMG baseline requirements for providers registered as 'Approved (fee cap)' if they are in receipt of public grant funding.

Quality

8. As is the practice now, if a provider wants to access student loans or public funding it needs to meet baseline quality requirements. The provider's ability to meet these baseline regulatory requirements will be informed through an Entry Review visit carried out by the designated quality body and carried out by trained academic and student reviewers. Assessment will be against the Expectations of the Quality Code, including examination of standards against the FHEQ. In circumstances where a provider does not have a track record of delivery of HE in England, a review team will make judgements about the readiness of the provider to deliver high quality provision, and a judgement about its capacity to do so into the future based on criteria such as demonstrating:
 - a relevant quality track record in other countries;
 - sufficiently experienced teaching staff and faculty;
 - an appropriate curriculum and course materials;
 - appropriate teaching and learning facilities;
 - appropriate mechanisms and assessment methodologies to assure degree standards and the quality of the academic experience.
9. OfS will consider the outcomes along with its own review of FSMG and, in making its baseline regulatory assessment, will reach one of three broad conclusions:
 - The provider **fully satisfies** all of the requirements, and can be allowed to enter the HE system and draw down student support as long as it continues

to meet the ongoing conditions of registration. This will not be achievable for a brand new provider without a UK teaching track record, as the FSMG and Quality criteria cannot be fully met without evidence of actual performance.

- The provider **provisionally satisfies** the requirements, and can be allowed to enter the HE system, but with ongoing registration conditions attached to support it to fully meet the baseline regulatory criteria. For example, more intensive monitoring, an action plan, blind marking of student assessed work, imposition of student number controls etc. This will be the best achievable outcome for a brand new provider without a UK teaching track record.
 - The provider **does not satisfy** the requirements, and cannot be allowed to enter the regulated HE system.
10. The new provider will be subject to ongoing monitoring and review, with conditions of registration set by OfS to reflect the risk represented by the provider. This Annual Provider Review process (see Annex C) will be operated by OfS and will draw on, among other things, site visits, soft intelligence and live data drawn from the SLC.

Link to wider benefits

11. The register will include all HE providers that want a Tier 4 licence. All Approved or Approved (fee cap) providers that pass through the Entry Review process and fully satisfy the baseline regulatory conditions will be considered to have met the Home Office's requirements for educational oversight, and will be able to apply to the Home Office for a Tier 4 licence.
12. Where a provider with either 'Approved' or 'Approved (fee cap)' status applies for a **TEF** rating, if successful they would be able to secure the relevant uplift in tuition fees or fee loans. A provider which provisionally satisfies the requirements may be eligible for TEF, and associated benefits, depending on its circumstances. A provisionally satisfies requirement will always state explicitly whether the provider is eligible for TEF.

Transition arrangements for current providers

13. The OfS will put in place transitional arrangements for all current providers to ensure that a decision can be made about the provider's entry onto the new Register. Where necessary this will include putting in place any specific conditions proportionate to the level of risk that the provider might pose, e.g. keeping, or imposing, student number controls. These assessments will be made in light of the part of the Register on which the provider requests to be registered.

Annex B: Degree Awarding Powers and University Title

*“It will be possible for high quality providers to enter the sector on the basis of their potential (subject to rigorous quality controls) and gain probationary foundation or taught DAPs as soon as the OfS is satisfied that the conditions of being an Approved provider have been provisionally met”.*⁵

1. A provider may choose to have its provision validated by an established partner, or to seek its own Degree Awarding Powers (DAPs).
2. DAPs will be reformed to be more flexible to ensure that it does not create artificial barriers for smaller or specialist providers. For example, through the introduction of single-subject DAPs, facilitating new entrants to the system, but only allowing them to award degrees in their specialisms.
3. To be eligible for DAPs a provider will first have to meet, or provisionally meet, the entry baseline regulatory requirements on quality and FSMG (see Annex A) without the support of an incumbent validating partner, and the majority of its HE students will still have to be studying for qualifications at L6 or above.
4. **DAPs criteria and the scrutiny process for DAPs will remain broadly as at present** (in the system operated by HEFCE and the QAA, this is a peer review process where applications are scrutinised against specific quality-based criteria). However, how a provider can prove it has, or will, meet these criteria will change to allow new high quality providers to design and deliver their own degrees:
 - **Full DAPs.** A provider with a three-year track record of delivering HE (currently four years) and able to demonstrate that it meets the DAPs criteria will be eligible for ‘full’ DAPs. As now, applications will take the form of a self-critical analysis and will be scrutinised against specific criteria covering: governance and academic management; academic standards; scholarship and pedagogy; and the environment supporting HE programmes. Providers will need to demonstrate a self-critical, cohesive academic community with a proven commitment to quality assurance supported by effective quality and enhancement systems that deliver high quality student outcomes.
 - **Probationary DAPs.** Where a provider does not yet meet the track-record requirement it may still apply to the OfS for probationary DAPs for three years. Probationary DAPs will allow the provider to build up a track record and the evidence base to demonstrate it meets the DAPs criteria. Throughout that period the provider will be subject to a number of restrictions. If successful, the provider can obtain full DAPs after the three year probationary period.

⁵ www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper p29

Probationary DAPs test

5. The new proposal for “probationary” DAPs will allow high quality institutions to award their own degrees more quickly than now but on a monitored basis, and with restrictions.
6. Unlike “full” DAPs holders, holders of probationary DAPs will not be able to validate degrees from other institutions and they will not be eligible to apply for University Title. Their probationary DAPs will be time limited to three years and restrictions will remain in place until they have successfully completed the probationary period. In order to ensure only institutions with the capability to proceed to full DAPs enter the system at this elite level, applicants for probationary DAPs will be required to undertake a preliminary assessment or “test” (probationary DAPs test), based on the full DAPs criteria, of their readiness to hold DAPs, even on a probationary basis.
7. The inclusion of this probationary DAPs test in the process would enable a developmental element in the probationary period through focused monitoring. This would maximise the likelihood of probationary DAPs holders proceeding to full DAPs in due course and thereby mitigate the risk to students and HE reputation of institutional failure or withdrawal at the end of the probationary period.
8. The probationary DAPs test will take place at the same time as the Entry Review (see Annex A). This will test the provider’s readiness to enter the probationary period and operate DAPs. As part of this, the OfS will ensure that the FSMG test at the Entry Review covered the issues relevant to DAPs, including sufficient resource allocation to systems and staffing necessary to set and maintain academic standards. Broadly, this process would seek to:
 - determine whether a provider is likely to be able to set and maintain UK agreed academic standards for its HE qualifications;
 - set appropriate probationary plans – expressed as ‘specific conditions of registration for DAPs’ that will be monitored through the next three years.
9. The probationary DAPs test would test a self-evaluation from the provider setting out the proposed (or actual, if track record exists) management of academic standards and the plans, preparations and procedures in place to enable expectations to be met. This would be based broadly on the current DAPs criteria (governance and academic management; academic standards and quality assurance; staff; environment) but rather than expecting evidence of existing practice would ask for and test the proposals. This test would assess the provider’s understanding of what holding DAPs entails.
10. To minimise burdens on providers, the required desk-based analysis and a visit by qualified peers and the designated quality body would be integrated into the Entry Review. These would seek factual information about the proposed probationary DAPs plan and assurance of a sufficient level of understanding and awareness of the responsibilities involved in exercising DAPs. The visit would include meetings with governors, managers, staff and students (if available).

11. The Entry Review would incorporate a collaboration/developmental discussion of the probationary DAPs plan, to increase likelihood of successful delivery of provision, protection of standards and management of the powers. This could also help to inform the focus and pattern of the scrutiny process that will operate concurrently with the probationary period, perhaps intensifying around certain key periods – e.g. programme approval, first term of delivery, assessment or focusing more closely on identified weaker areas.

Outcome of probationary DAPs test

12. If the provider was found to be a long way from the requirement and unlikely to be able to progress to full DAPs within the three year period then probationary DAPs would be refused.
13. If a provider passed the probationary DAPs test it would be required to implement an agreed **probationary DAPs plan** and participate in the scrutiny process to achieve full DAPs. Throughout that period the provider would be subject to a number of restrictions, e.g. it would not be able to validate provision.
14. The proposed probationary DAPs plan would set out the structures and arrangements that are already in place, those that are planned and the milestones and resources intended to fulfil the plan. For example, academic governance and management structures (existing or planned) and regulatory framework (existing or planned). Once agreed the confirmed probationary plan would be for the provider to implement, monitored by the designated quality body through the incorporated scrutiny process.

Variation/revocation of DAPs

15. In order to protect students and safeguard HE reputation, express powers will be introduced for the OfS, enabling it to vary or revoke DAPs – this also applies to indefinite DAPs. The OfS and the designated quality body will work with providers to address any emerging problems early on. Hence this is likely to be a very rarely used, but necessary, safeguard for quality in the system. The powers are intended to be applied only if other sanctions and interventions have been unsuccessful. (There will be an associated power to remove university title).
16. The detailed circumstances in which these powers will be used will be consulted on and set out in guidance.

University Title

17. Finally, holders of full DAPs will be able to secure University Title, after successfully completing a review three years after they are first awarded full DAPs.
18. There will no longer be a minimum student numbers requirement for university title; we will, however, retain the requirement that when taking into account any ownership structures more than 55% of full time equivalent students should be studying HE.

Annex C: What does Quality Assessment involve for regulated providers?

*“The OfS will ensure the ongoing quality of provision. It will be given the necessary powers to set out and operate a risk-based regulatory framework for monitoring and compliance. The risk-based framework will cover all conditions of registration – FSMG as well as quality”.*⁶

Maintaining the existing approach to FSMG monitoring

1. Under the new system, HEFCE’s existing and well established approach to FSMG monitoring will be retained and extended to ‘Approved’ providers. There will be no increase in burden on providers as a result of this, nor will it alter the well-established relationships between governing bodies and senates, or academic boards (or equivalent).
2. All providers with ‘Approved’ or ‘Approved (fee cap)’ status will be subject to ongoing FSMG monitoring by OfS. As is currently the case for HEFCE-funded providers and Alternative Providers, this will involve an annual submission of data (to include annual accounts and financial forecasts) as well as assurances by the provider’s governing body to OfS (as is the case now for HEFCE-funded providers). The governing body will not be asked to provide any additional quality-related submission or additional evidence as part of providing these assurances. It will also involve a five-yearly light-touch Assurance Visit, similar to the one HEFCE carry out now for the providers it funds, to test the basis on which the Accountable Officer and governing body has reached its annual assurances to provide OfS with confidence in the ability of the provider to continue to manage its affairs effectively into the future. This will allow OfS to be confident that public funding – whether through student loans or public grant – is protected, and that each provider continues to operate effective management and governance arrangements.
3. In a risk-based regulatory system it is important to confirm that a provider’s governance and management arrangements are effective at identifying and managing risk. This will provide OfS and UKRI with reassurance that the student and tax payer interest is being protected into the future and is an important counterbalance to the retrospective nature of many of the indicators used in the Annual Provider Review process.

Annual Provider Review (APR) – annual monitoring

4. Once a provider has met the baseline regulatory requirements and is registered by OfS as ‘Approved’ or ‘Approved (fee cap)’, the quality assessment framework will consist of two principal mechanisms: (a) regular and routine monitoring through Annual Provider Review and (b) in-depth review visits where these are considered necessary.

⁶ www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper p33

5. All providers with 'Approved' or 'Approved (fee cap)' status will be subject to Annual Provider Review by the OfS. This process will bring together the desk-based scrutiny of a range of indicators, information from the existing annual visit and any other intelligence (drawn, for example, from the OIA, PRSBs, whistleblowers, recently conducted Higher Education Reviews under the former system or the work of the designated quality body) for each provider. It will not require a separate 'quality submission' or additional evidence. This monitoring process will allow OfS to develop a rounded and complete picture of each provider that integrates information and judgements about financial sustainability, management capacity, quality and standards and considers this in the context of the provider's mission, location and strategy.
6. The purpose of this annual monitoring process is to detect early warning signs of concern about the student academic experience or student outcomes, and to understand the performance of a provider over time. Both raw and benchmarked data will be examined to ensure that any discussion about performance takes account of input measures – such as student background and prior educational attainment – and is grounded in the context of an individual provider, whilst also ensuring that providers are meeting the broader minimum expectations of the sector.
7. The key indicators will include:
 - a. Overall student numbers and, in particular, unplanned or unmanaged over- and under-recruitment patterns
 - b. Student entry requirements/UCAS tariff data
 - c. Non-progression and non-completion rates
 - d. National Student Survey results
 - e. Number, nature and pattern of student complaints to the OIA
 - f. Degree and other HE outcomes, including differential outcomes for students with different characteristics, or where there is an unexpected and/or unexplained increase in the number of firsts and 2:1s awarded
 - g. Graduate employment and, in particular, progression to professional jobs and postgraduate study
 - h. TEF scores
8. Routine discussion with a provider about the trends in its data will be incorporated into the annual meeting conducted by OfS. In all cases, both the absolute value and changes in the indicators will be monitored. The identification and analysis of data trends and patterns – for example a provider consistently performing less well than its peer group – will provide the basis for further specific dialogue with the provider to establish whether or not they represent a genuine issue requiring resolution. If, after the relevant APR, evidence remains of persistent decline or underperformance, OfS will commission a tailored quality review visit by the designated quality body. Such a review visit will not necessarily in itself indicate a cause for concern or result in a change to a

provider's status; it simply indicates that there is a reason for further investigation.

In-Depth Quality Review visits

9. Whilst all providers will be subject to Annual Provider Review, which includes an annual visit, under the new risk-based system we will abolish the unnecessarily burdensome system of cyclic review, in which all providers, regardless of risk, received a detailed quality review after a fixed number of years. Instead, an in-depth quality review will only be triggered where the OfS considers that this is needed. Furthermore, even when such a review is required, it will be tailored to focus on the specific areas of concern, rather than being carried out in a one-size-fits all approach, examining all areas of provision equally.

10. Circumstances that would trigger an in-depth quality review include:
 - a. As a result of a previous Provisionally Satisfied assessment against the baseline regulatory requirements, which may set out as a specific condition of registration that the provider should be reviewed again after a certain time period. An in-depth quality review visit by the designated quality body will be tailored to focus on those issues leading to the previous 'Provisionally Satisfied' judgement.
 - b. If a provider has been awarded probationary DAPs, or is seeking to gain full or probationary DAPs.
 - c. If there is a significant change in the governance of a provider, such as a merger or change of ownership, which the OfS considers may warrant an in-depth quality review.
 - d. If an APR gives cause for concern about an individual provider – an in-depth quality review will focus on those issues giving cause for concern: this may be a quality review or, for example, an investigation of the reliability of submitted data or of a provider's financial performance.
 - e. If any problems are reported by stakeholders about an individual provider for investigation by OfS – an in-depth quality review visit by the designated quality body will again be tailored to focus on those issues giving cause for concern.

11. Having all providers under one system will make it much easier for the OfS to regulate on the basis of risk:
 - Compared to the current HEFCE-funded system, in which every provider, regardless of risk, is reviewed in detail every six years as well as undergoing annual monitoring, most providers will see a much reduced burden, whilst some – those about which we have potential concerns – may be reviewed more frequently. In particular, a provider who consistently achieves Fully Satisfied and where no concerns are flagged due to metrics or other reasons, will not be required to have an in-depth quality review.

- BIS took a number of steps to tighten up regulation of Alternative Providers, but in a similar “one size fits all approach” to that in the HEFCE-funded sector, all Alternative Providers, other than those with UK Degree Awarding Powers, must apply to have their courses re-designated every year, regardless of the risk that they pose. Where necessary, and where the evidence requires it, DFE will maintain these controls, but we will ease the regulatory burden for those providers where there are few or no concerns.
12. Freeing regulatory capacity and resource by moving away from the current cyclical, or annual, approach to quality assessment means that interventions can be quickly mobilised to respond to concerns that have emerged through OfS monitoring or through complaints/concerns processes that will allow all students and other stakeholders to raise serious and systemic issues. This approach will result in closer scrutiny, in the form of more frequent checks and visits where it is clearly needed, and less burden where there is strong evidence that a provider is maintaining the high levels of quality and standards that students and tax payers expect.
 13. The quality system will have peer review at its heart and will be sufficiently flexible to tailor assessments to the diversity of the system, without compromising on the high standards expected. This is distinct from the Ofsted approach which tests against a much more standardised curriculum and set of expectations that would inhibit the unique value that HE providers offer to different students.
 14. In each case the in-depth quality review will be commissioned by OfS. Where an in-depth quality review is necessary it will be undertaken by the designated quality body. OfS may itself investigate a range of other regulatory concerns, or may commission other independent expert bodies to investigate further, e.g. an external audit firm may be asked to look at FSMG issues.
 15. In-depth quality reviews will be carried out by academic experts and trained student reviewers. This will ensure that scrutiny is undertaken by independent experts with high levels of academic experience. The process will be designed to provide an assessment about the quality of the student academic experience and the standard of degrees against the baseline regulatory requirements, including the expectations of the UK Quality Code and the FHEQ.
 16. The first step in an in-depth quality review will be to conduct a desk-based analysis to identify lines of enquiry and scope of the review, determine review team size/length of visit etc. The scope will depend on the reason for the review. In the case of a provider seeking to gain Approved Status, Approved (Fee Cap) Status or to gain DAPs, the review will focus on the baseline regulatory requirements and DAPs criteria. If the review is a result of a previous Provisionally Satisfied assessment, it will focus on the specific area/s that weren't satisfied. Similarly, if concerns arising from Annual Provider Review, or from a reported concern, were the trigger for the review, it will focus on the specific area/s of concern.
 17. The review process will include a review visit to the provider's delivery site, or sites, by the review team. The visit will include detailed conversations with staff and students, as well as a more extensive examination of the key elements identified during the scoping phase. The review may provide an assessment

that: curriculum and standards expected in UK qualifications and across subjects are rigorous and meet expected standards; suitable academic staff are involved in teaching; students are having an appropriate amount and sort of contact time with teaching staff; facilities are appropriate and fit for purpose; providers have robust assessment processes in place to pick up and manage problems quickly; the external examining system is functioning properly and that the standards achieved by students in practice are at an appropriate level; and students wider learning needs are being met to equip them to progress and succeed beyond university.

18. In considering degree standards, the detailed quality review visit will test the provider's approach to setting, monitoring and reviewing the standards used to assess its students however and wherever they study. The purpose of this aspect of a review visit is to ensure that the standard of UK degrees is maintained. A review team may consider:
- evidence that academic staff have sufficient understanding of setting and maintaining standards with reference to the FHEQ:
 - evidence of the appointment of a suitable range of external examiners;
 - evidence of the involvement of internal markers and external examiners in subject-based calibration activities
 - confirmation of the use of guidance produced on acceptable algorithms for calculating degree or grade classification boundaries, or else to confirm why they are not being followed
 - consideration of the reports of external examiners and PSRBs, and any necessary follow-up action
 - samples of student work, if this exists
 - OfS analysis of trend data on the range of awards made to all students, including those studying through partnership arrangements, both in the UK and internationally.

Outcome of in-depth quality reviews

19. Following the review visits, the designated quality body will provide the outcomes and recommendation to the OfS, which will take the final judgement about whether the provider continues to fully, or provisionally meet the baseline regulatory requirements and determine whether it is necessary to attach any specific conditions of registration (see Annex A).

Concerns about quality

20. There will be a visible and accessible mechanism through which concerns about the integrity of standards, or the quality of the student academic experience, can be reported directly to OfS by stakeholders including external examiners,

PSRBs, the OIA, the CMA, UKRI, student representative bodies and others. The quality body will be consulted during the establishment of this process. OfS will operate a two-stage process: the first stage, operated by OfS itself, will establish whether there is sufficient evidence of a serious problem to require further investigation and intervention. Where evidence of a serious problem is confirmed and this relates to the quality of the student academic experience or to the credibility of degree standards, the OfS will commission a tailored review visit by the designated quality body. The review visit will follow the process outlined above, using expert peer reviewers and gathering information from a range of sources including PSRBs as relevant to inform investigations.

21. Other features of the scheme will include:

- OfS will set a general and ongoing condition of registration for providers with 'Approved' or 'Approved (fee cap)' status that the provider's staff and students are clearly informed about the investigations process.
- Ongoing intelligence sharing between the OfS and, for example, the SFA, the designated quality body, and the OIA, or UKRI, on cases where providers are not meeting baseline regulatory requirements.

Regulatory bodies and PSRBs

22. The outcomes of PSRB assessment and other regulatory outcomes will be considered by OfS as part of the intelligence gathered to inform the Annual Provider Review process:

- Any systemic issues identified by PSRB activity could trigger a detailed quality review;
- Regulatory decisions taken by OfS in relation to an individual provider, to include evidence collected by the designated quality body, will be shared with relevant PSRBs.

Transnational Higher Education reviews:

23. The reformed approach to quality assessment will include monitoring and scrutiny of transnational higher education (TNE). The approach, building on HEFCE's reforms, and operated by the designated quality body on behalf of OfS will:

- integrate with, and be informed by, strategic engagement activity, to target review activity where it is most needed, promote the expansion and enhancement of UK TNE, and minimise regulatory burden
- be proportionate and risk-based, recognising the diversity within the UK sector and in overseas regulation and processes
- be flexible enough to accommodate the different contexts in which TNE may be reviewed within the new model.

24. TNE provision of providers will be considered as part of the Entry Review, and there may also be a need to review those who initiate significant TNE provision during the early years of operation.
25. If TNE issues are identified through Annual Provider Review or from international engagement, the approach will be tailored to each case. Typically, this could include a request for specific further information, a focused visit to the provider in the UK, a meeting with students and a video-conference with the overseas delivery site.

Annex D: Responsibilities for process and judgements in a risk-based regulatory system

	Activity	Responsibility
Baseline regulatory conditions	Financial sustainability assessment	OfS
	Management and Governance assessment	OfS
	Initial quality assessment	QB ⁷
	Attaching ongoing and specific conditions of registration	OfS
Post-probation/established provider assurances	Annual Provider Review	OfS
	Five-yearly FSMG assurance review	OfS
	In-depth quality reviews	QB
	Receives concerns	OfS
	Targeted quality reviews in response to concerns	QB
	Attaching specific conditions to registration	OfS (on quality issues, on the basis of QB assessment of quality)
	Applying sanctions	OfS (on quality issues, on the basis of QB assessment of quality)
	Removing registration	OfS (on quality issues, on the basis of QB assessment of quality)
	Student protection measures	OfS
Degree Awarding Powers	Probationary DAPs assessment	OfS informed by QB scrutiny
	Full DAPs assessment	OfS informed by QB scrutiny
	Varying or revoking DAPs	OfS with advice from QB
University title	Awarding	OfS
	Revoking	OfS
Governance of baseline quality and standards requirements	Expectations of Quality Code and Frameworks for Higher Education Qualifications	UK-wide standing committee consisting of OfS, QB, sector and student representatives.

⁷ The OfS will be given a power to carry out a consultation, to consider, whether there is a sector-owned body that is best placed to design and operate the quality assessment, reporting to and within parameters set by the OfS, and to then make a recommendation to the Secretary of State who would designate that body. www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper p36



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Reference: DFE-00207-2016



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