

Section 6: Notification of decision and next steps

Notification of final decision

Successful applicants

Once you have returned the accountable officer declaration, you will receive a letter that confirms the start date for designation and the next steps.

A copy of the final approval letter will be sent to HEFCE who will publish details of the designated courses and locations on the [Register of Higher Education Providers](#)¹⁵.

HEFCE will contact the SLC with details of the course(s) and location(s) designated. SLC will then contact you to finalise term dates and fee rates and SLC will then upload the data onto its database.

Once the course(s) and location(s) are promoted on the SLC HEI portal you can advise students that they can start submitting their student finance applications. You should note that it will take an eligible student approximately six to eight weeks from submitting a complete applications to receiving confirmation of their loan.

Designation will begin from the date stated in the letter from the Department. You should plan your application carefully to ensure that you have sufficient time to advertise the availability of student support to potential students.

You will be required to comply with the conditions of designation (see **Section 7**) from the date of designation, including the requirements to make an annual return to HEFCE.

HEFCE will also inform other organisations that you will be required to engage with in order to meet the conditions of designation (for example HESA and the Office for the Independent Adjudicator, Higher Education (OIA)).

Unsuccessful applicants

Following receipt of your representations, the Department will decide whether there is reason to change its initial decision. If it does not change its decision your application will be unsuccessful.

The Department will write to you confirming the decision and clearly setting out its reasons. You will also be informed of the next opportunity to apply for designation. This will usually be no earlier than 12 months from the date of the original application. If you

¹⁵ <http://www.hefce.ac.uk/TheRegister/>

have previously been refused designation you will be expected to have addressed the Department's concerns before submitting a new application.

Where an existing provider is de-designated its letter will include details of the arrangements for student support for continuing students. It is the Department's expectation in these circumstances that continuing eligible students will be able to continue to receive student support for the ordinary duration of their course (see **Annex C**) subject to the student and the provider meeting SLC requirements and the provider continuing to meet the conditions of designation. However, it reserves the right, where significant concerns exist, to remove access to student support for all students.

Alternative Provider Intelligence Unit (APIU)

The Department believes that alternative providers have an important role to play in contributing towards a diverse higher education sector. The joint BIS/HEFCE Alternative Providers Intelligence Unit (APIU) will seek to provide assurance to Ministers that designated alternative providers are delivering value for money, correctly spending student support and adopting good practice in the operation of higher education to provide a quality student experience. APIU's role is also to support designated providers as institutions providing higher education in the regulated HE sector.

Following designation, the Department and HEFCE will jointly write to you with fuller details of the role of the Department and HEFCE in relation to the APIU and provide details of a named contact within HEFCE who will be responsible for ongoing engagement with you on matters beyond the designation processes. The HEFCE contact will arrange an initial visit to explain to you the purpose of the APIU and discuss broader matters not covered by the designation process.

Following the initial meeting, your engagement may follow a variety of different forms depending on your circumstances. On occasion you may have a formal Engagement Plan with the APIU. This will set out the engagement that you will be expected to have with the Unit and this may include details of specific activities you are required to carry out.

You are encouraged to contact your named contacts at any time in order to discuss any matter of importance related to your operations and delivery of educational provision.

Section 7: Meeting the conditions of designation

All providers that receive specific course designation are subject to a number of conditions. The full list of conditions can be found at Annex D. This section sets out the detail of a number of the conditions which apply. Some conditions do not apply to providers with degree awarding powers and to providers with designation for postgraduate master's loans or disabled students' allowance only. Full details of the coverage of individual conditions can also be found in Annex D.

Continuing to meet quality assurance criteria

It is a requirement for all providers to continue to meet the quality assurance criteria (see **Annex C**). You are required to continue to maintain your relationship with the QAA. You will therefore be subject to QAA annual monitoring and regular re-review. You may also be subject to investigation under the QAA's Concerns Scheme. Each of these may result in a less than successful judgement (i.e. less than "meets expectations") or an upheld concern.

If you receive a less than successful judgment, or have a concern upheld, the Department reserves the right to take actions to protect students and ensure value for money for students and taxpayers. The Department's decision on any sanction it may impose (see **Annex F** for more detail) will take into account:

- the seriousness of the concerns raised by the QAA;
- the QAA's assessment of your engagement and willingness to address the concerns;
- your track record of compliance with the quality assurance criteria; and
- wider contextual information including known academic performance data.

Please note that if you fail a QAA Higher Education Review (Alternative Providers) you cannot be re-reviewed by the QAA for designation purposes within 18 months.

Annual returns and redesignation

You are required to submit an annual return to HEFCE. The evidence required from providers is different for each category of providers.

The arrangements that will apply from September 2016 are set out below.

The Department had intended to introduce multi-year designation for providers without degree awarding powers. However, the proposal to create the Office for Students (OfS)

means that this has not been possible and such providers will be redesignated for a single year in 2017-18.

Designation for 2018-19 will, subject to the parliamentary approval of the Higher Education and Research Bill, be part of transition arrangements to the Office for Students. These transition arrangements will take into account the outcomes of the redesignation process for 2017/18. Further details will follow in due course.

Process for making annual returns

HEFCE will run the process for providers to submit their annual returns and will use the information provided to produce an assessment of the provider against the criteria of designation for the Department.

You must submit an annual return to HEFCE by 15 September 2016.

The Department will use the decision making process set out in **Sections 5 and 6** to determine the outcome following its review of the annual return for each provider.

HEFCE will contact accountable officers with information on how to submit their annual return. The assessment process set out in **Section 4** will apply to annual returns.

Categories of providers

Providers with course designation for undergraduate student support and/or postgraduate master's loans

These providers will be required to submit a *full annual return* (details below). The Department will review this information and inform the provider in early 2017 whether they will be designated for the 2017-18 academic year, which student number control mechanisms will apply to them (where applicable) and the type of monitoring exercise they will be subject to in September 2017.

Providers with course designation and UK degree awarding powers

These providers will be required to submit a *full annual return* (details below). These providers are not subject to student number control mechanisms nor annual redesignation. The Department will therefore write to them in early 2017 confirming whether their annual return has been satisfactory or whether any issues have arisen that require the Department to take further action. If the Department has concerns, the sanctions process set out in **Annex F** will apply.

As these providers are not subject to student number control mechanisms they must review arrangements with their student union/organisation for identifying and resolving early signs of student concerns or complaints and implement any changes which are necessary for the start of each academic year. The Department requires these providers to give assurances, as part of their annual return to HEFCE, that this has happened and that their governing body has received an annual report of such issues and how the institution has resolved them.

Providers with designation for disabled students' allowances only

These providers are subject to a *reduced annual return* (details below) in recognition of the fact that they have no direct access to public funding.

Types of annual return

There are two types of annual return: full and reduced. The details of these are set out below.

Full return

You will be required to submit:

- an application form including information on any changes of circumstance (see **Annex D**) that have not previously been reported;
- confirmation that your organisation meets the condition regarding the English language requirements for students (see page 39);
- confirmation of arrangements with your student union/organisation for identifying and resolving early signs of student concerns or complaints (providers with degree awarding powers only);
- your latest available financial statements (subject to the requirements set out on page 48);
- updated financial tables; and
- updated commentary.

The Department is likely to use the following additional information to inform its decision:

- student level data from the SLC¹⁶;
- latest information from the QAA, including outcomes of annual monitoring visits and any Concerns Investigations; and
- contextual information, where applicable, from other regulatory partners, including SLC and UKVI.

The annual return exercise will also give providers the opportunity to:

¹⁶ Providers should note that the Department will separately review performance indicators drawn from the HESA AP Student Record in 2017 and may use this information to impose sanctions on providers that do not meet the academic performance/track record criterion.

- make a request for which student number control mechanism they wish to have in 2017-18 and whether they wish to receive an increase (including opting into the performance pool); and
- make a request for eligible courses to be designated for postgraduate master's loans for 2017-18

Reduced return

You will be required to submit:

- an application form including information on any changes of circumstance (see **Annex E**) that have not previously been reported; and
- confirmation that your organisation meets the condition regarding the English language requirements for students (see page 39).

The Department is likely to use the following additional information to inform its decision:

- contextual information, where applicable, from other regulatory partners, including SLC and UKVI

Reporting relevant changes

You are required to report to HEFCE any changes that may affect your ability to continue to meet the criteria or conditions of designation. You must also report any changes of control or ownership.

Change of circumstances

You are required to report change of circumstances to HEFCE (SCDchanges@hefce.ac.uk). The full list of change of circumstances can be found at **Annex D**. Please note that some changes require immediate reporting and other, lower risk, changes can be notified as part of your annual return to HEFCE.

You are also required to report information on certain changes to the QAA. HEFCE and the QAA will share information on change of circumstances that are reported to them. Steps will be taken to assess consistency of reporting to both organisations by designated providers and, if possible, to streamline reporting requirements.

Change of control or ownership

Designation is granted to an organisation based on the criteria set out in this guidance. A change of control or ownership can change the ability of an organisation to continue to meet those criteria. This means that if a change of control or ownership of a designated provider takes place designation does not automatically continue.

It is therefore important that you engage with the Department and HEFCE at the earliest possible opportunity before such a change occurs.

The Department requires providers that are subject to a change of control or ownership to re-apply for designation. This process, and the time it takes, will vary depending on the nature of the change. You should contact the Department and HEFCE in writing as soon as possible if such a change is likely to occur. The Department and HEFCE recognise the commercial sensitivities involved in such changes and will treat any communications appropriately.

The intention of the Department is to review designation where the power to direct the affairs of a provider changes. A change of control or ownership should therefore be reported, including if there is a change of more than 50% of the controlling interests or ownership of the designated provider (this includes, but is not limited to, a change in directors/trustees, shareholders or companies in control of an organisation).

The Department will determine whether the power to direct the affairs of a provider has changed, regardless of whether the change has been reported or not to the Department.

The potential for, and impact of, such a change will depend on a provider's individual circumstances. If you are unsure whether a change should be reported you should contact (coursedesignation@hefce.ac.uk).

Some examples of changes that should be reported include:

- instances where a controlling share of a provider, or its parent organisation/s, is acquired by another organisation;
- where control of more than 50% of shares in a provider changes; or
- changes of more than 50% of trustees, directors or shareholders at a provider, for example:
 - if you have one shareholder who sells 51% of shares to a second party; or
 - if you have five directors and, over the course of a year, three of these change (you would report this at the point that the third director changes).

If you wish to report a change of control or ownership you must email HEFCE (coursedesignation@hefce.ac.uk) with details of the change. HEFCE will then inform the Department.

Once the Department receives a notification of change it will confirm what information it requires to assess whether your organisation is likely to meet the criteria and conditions of designation after the change of control or ownership has occurred.

You will receive a letter from the Department that asks you to submit this information to HEFCE who will provide an assessment to the Department (see **Section 5** for details of HEFCE assessments). A final decision will be made by the Secretary of State and the Department will inform you of whether designation will continue.

You will have up to three months from receipt of the letter from the Department to submit the required information to HEFCE. The assessment and decision process may take up to three months from the receipt of full information. Timescales will be shorter than this where the checks required are more limited. Providers, and potential new owners, should note these timescales and, if they wish to have continuity of designation, notify the Department and HEFCE in sufficient time (i.e. sufficiently in advance of the sale completing for the checks to be completed).

New students at any provider after a change of control or ownership occurs are not able to receive student support until the Department has approved the continuation of designation except in exceptional circumstances when explicitly agreed in advance by the Department.

If the Department determines that the criteria of designation are no longer met after the change of control or ownership, then no new students will be able to access support. Students who were claiming student support at the point of the change of control or ownership will be able to continue to access student support for the duration of their course.¹⁷

The timeline will be different in cases of significant financial failure where a change of ownership is required to avoid a provider going into administration or to enable a provider in administration to be bought and continue trading. In these cases¹⁸ the Department will consider whether to grant temporary designation to the new owners to protect student interest.

Data returns

To ensure compliance with the criteria and conditions for designation it is necessary for providers to complete a number of data returns. These are summarised below, however the data returns require a detailed understanding of what is required and links are included setting out where you can find further information.

It is a condition of designation that you make accurate submissions for each of the data returns and ensure that you have systems in place that allow them to supply the data. Returns are expected to be made in accordance with the [Code of practice for higher education data collections](#).¹⁹ Your organisation must bear the costs of submitting the data required.

The Department and HEFCE may audit your organisation to assure themselves of the quality of data provided. If such audits identify concerns about the accuracy of your data submitted the Department may require the provider to resubmit this data your own cost. Completion of such a resubmission is a condition of designation.

¹⁷ The Department reserves the right to revoke designation in respect of existing students in exceptional circumstances.

¹⁸ Providers must demonstrate the exceptional financial circumstances for this to apply. This is likely to require evidence that a liquidator has been appointed or the provider has filed for administration.

¹⁹ <https://www.hesa.ac.uk/code-of-practice-for-higher-education-data-collections>

HEAPES survey

The HEAPES (the Higher Education Alternative Providers Early Statistics) survey is conducted by HEFCE each year. The survey monitors recruitment at designated providers with degree-awarding powers and those with a student number control.²⁰ It records actual and forecast student numbers on a course level. For further details providers should refer to the [HEFCE website](#)²¹.

There is no requirement to complete a HEAPES return in 2016 for providers designated for postgraduate master's loans only. However, the Department has asked HEFCE to collect separately forecast numbers from those providers applying for designation for postgraduate master's loans.

HESA AP Student Record

Each year every provider will be required to submit an individualised student data return to HESA. This is a wide ranging return that contains information on each student, including demographic information, their prior qualifications, the course they are studying, qualifications obtained and how they are funding their study.

This return covers all students, on all undergraduate courses, regardless of whether those courses are designated or not, with only a few exceptions.

In 2016-17, for providers with degree awarding powers, this return also includes postgraduate courses and, from 2017-18, all providers are likely to be required to include postgraduate students in their return. For further information on the coverage of the HESA return, providers should see the [HESA website](#).²²

The data collected as part of this return will be used to monitor compliance with student number controls and will form the basis of academic performance data from 2016-17.

You must ensure that you have in place the appropriate data collection and management systems to enable you to complete this return. Your organisation will need to subscribe to HESA to be able to submit your data.

More information (including subscription costs), and support, can be found on the [HESA website](#).²³

Public information

Every provider is required to provide data to enable the publication of information intended for prospective students for all of their eligible courses, not just those with designation. This information is currently published on the Unistats website, which will be replaced in 2017 with a new website. In addition to submitting student data to HESA, you are required to participate/or submit data for the following.

²⁰ In future it may also monitor recruitment at providers with designation for postgraduate master's loans.

²¹ <http://www.hefce.ac.uk/data/collect/heapes/>

²² https://www.hesa.ac.uk/index.php?option=com_studrec&task=show_file&mnl=15054&href=coverage.html

²³ https://www.hesa.ac.uk/index.php?option=com_studrec&Itemid=232&mnl=15054

Destination of Leavers from Higher Education survey (DLHE)

The survey is carried out on students who have left your organisation up to six months after completing their course. This means for each academic year there are two survey points. Further details of coverage, timetables and other supporting information are can be found on the [HESA website](#).²⁴

National Students Survey (NSS)

This survey is carried out on undergraduate final year students on courses of more than 1 year (Full Time Equivalent). The list of eligible students is taken from the student data submitted to HESA and carried out by a survey contractor on behalf of HEFCE. You will be required to assist the contractor with supplying contact details of the students in the autumn and will be contacted with further details regarding requirements in due course. Any queries should be directed to nss@hefce.ac.uk.

Key Information Set (KIS)

From 2017, you will be required to submit a data return to HESA which will replace the current KIS return. This data collection will continue to include all undergraduate courses of more than 1 year (Full Time Equivalent) and contain information relating to those courses such as mode of study, qualification aim. A data specification for the revised collection will be published in September 2016. However, for further information on the current coverage of the return, providers should see the [HESA website](#).²⁵

HEFCE has recently undertaken a review of information and conducted a consultation on proposals arising from this in autumn 2015. This included a review of Unistats and KIS which will result in changes to the KIS return specification and the development of good practice guidance for providers around provision of information on their own websites. The outcomes of the review also include revising the NSS and this means there will be a new questionnaire in 2017. For more detail see the [HEFCE website](#).²⁶

Exceptions

Providers that are designated for disabled students' allowances only are not required complete HEAPES, HESA AP Student Record or the public information returns.

Providers that are designated for postgraduate courses only are required to submit data on all eligible courses. In practice, this means that they do not currently need to participate in the NSS (though they may if the coverage of this survey is extended) or KIS. These providers will still be required to participated in DLHE.

Providers that are located entirely outside England are not required to complete HEAPES, HESA AP Student Record, DLHE, the NSS or to provide a KIS. However, these are sources for the proposed key metrics for the Teaching Excellence Framework (TEF) from the second year of its operation, therefore providers outside England are free to complete the data if they wish. While we will not require designated providers outside England to

²⁴ <https://www.hesa.ac.uk/C15018>

²⁵ <https://www.hesa.ac.uk/C16061>

²⁶ <http://www.hefce.ac.uk/lt/roiconsult/>

complete this information as a condition of specific course designation, if they choose not to this will limit their ability to engage with the TEF. Further detail will be included in the Government's response to the Technical Consultation for year 2 of the TEF where the full eligibility criteria will be set out. Providers will need to have finalised at least one full year of data before they are eligible for TEF. It will be for the devolved administrations to determine participation by institutions (including colleges) in Wales, Scotland and Northern Ireland in future years of the TEF.

Providers who are required by the Skills Funding Agency or the Education Funding Agency to provide an Individualised Learner Record (ILR), and who have an SNA rather than an SNC, may meet the requirement to provide individualised student data through their ILR, rather than through returning the HESA AP Student Record. To do this, you must:

- confirm, in advance, with HEFCE your intention to return in this way; and
- include all HE students on courses that lead to qualifications or institutional credit in your ILR.

Student support and using SLC systems

Once a course has been specifically designated, eligible English-domiciled students can apply to the SLC for student support.

In 2016-17, eligible, English-domiciled students will be able to apply for tuition fee loans of the lesser of: their course fee or the maximum amount of £6,000 for full-time courses (£4,500 for part-time courses)²⁷.

Designated courses must be entered on to the SLC's course management service in the name of the alternative provider. All tuition fee loans are paid directly to the provider on behalf of the student.

If the course meets the definition of a franchised course separate arrangements apply (see **Annex B**).

You are required to meet your obligations to the SLC to provide the information necessary to administer student support in line with the student support regulations. The information requirements relate to:

- data related to the designated course(s);
- verification that the fee charged to the student, and the course quoted by the student in their application, are accurate and directly relate to the student's course of study;

²⁷ Students at providers that are successful in the Teaching Excellence Framework (TEF): Year 1 will be able to access loans at higher level. For more details see <https://www.gov.uk/government/publications/teaching-excellence-framework-year-1-list-of-eligible-providers>

- information related to student registration and attendance;
- confirmation of changes of any circumstances that affect a student's entitlement; and
- timely reporting of when a student withdraws from their course.

If the SLC have concerns that you are not meeting these obligations these will be raised with the Department.

Office of the Independent Adjudicator for Higher Education

The Consumer Rights Act 2015 requires all providers with specific course designation to subscribe to the Office of the Independent Adjudicator for Higher Education (OIA). Subscription to the OIA will allow your students to access an independent Scheme which reviews student complaints against your organisation.

HEFCE will share information with the OIA about which providers have designation. However, once designated, you should contact OIA directly to discuss their requirements. You can find out more about the OIA [here](#).²⁸

Prevent

The Counter-Terrorism and Security Act 2015 sets out that specified authorities must have 'due regard to the need to prevent people from being drawn into terrorism'. This is known as the *Prevent* duty. This duty applies to all providers with designated courses.

HEFCE monitors compliance with the duty among higher education providers in England. Full details of the requirements placed on providers once they have specific course designation can be found at <http://www.hefce.ac.uk/reg/Prevent/>.

It is a condition of designation that providers comply with this duty and the arrangements put in place by HEFCE. It is also a condition of designation that providers have in place appropriate governance arrangements and operational systems to meet the conditions of designation, this includes putting in place the necessary arrangements to meet the *Prevent* duty.

Student number control mechanisms

Student number control mechanisms exist to allow the Department to control the number of students that can access undergraduate student support. These controls do not apply to students on courses designated for postgraduate master's loans.

Providers with UK degree awarding powers are not subject to student number control mechanisms. The Department reserves the right to impose student control mechanisms

²⁸ <http://www.oiahe.org.uk/>

on these providers if they breach the conditions of designation or where the provider is subject to a change of control or ownership.

There are two types of student number control mechanisms both of which apply only to undergraduate students:

Student Number Control (SNC) – this control places a limit on the number of students who are eligible for student support that a provider admits each year. This is a control on the number of students who are eligible to receive support and not the number who actually claim support. This means that students who pay their own fees, but who may be eligible for student support, are counted towards the Student Number Control.²⁹

Student Number Allowance (SNA) – this control restricts the total number of students who claim student support at an individual provider to 50 across all courses and all years. It does not place a restriction on the number of students that can be recruited in a given year. It also allows providers to recruit students who do not wish to access student support as these do not count towards the allowance. Only English and (for providers located in England) EU students count against the SNA.

Full details of the coverage of student number control mechanisms are sent to providers each year when their control is determined by the Department.

2017-18 student number control policy

The student number control policy for 2017-18 continues the Government's policy of freeing up controls on the validated provision and for the best providers. The Department will again use separate student number control mechanisms for full-time and distance-learning/part-time.

Existing providers with an SNC and predominantly validated provision³⁰ will be able to apply, as part of the 2016 annual return exercise, for an increase of up to 20% on their 2016-17 SNC. The best quality providers will also be given the option of applying for an additional 10% through the performance pool.³¹ This applies to both full-time and distance-learning/part-time SNCs.

²⁹ Full details of the students that count towards the SNC are issued to providers by HEFCE alongside their SNC each year.

³⁰ Eligibility will be based on a provider's HEAPES16 return.

³¹ If a provider is successful in their application for the performance they will receive a 30% increase on their 2016-17 SNC.

Applying for the performance pool

To allow the best performing alternative providers, offering predominantly validated provision, to grow, the Government introduced the SNC Performance Pool for full time provision in the 2016/17 academic year.

We are committed to continuing to enable growth in high quality provision, so are now extending the performance pool to cover the best performing full time, part time and distance learning providers offering predominantly validated provision. This applies to providers applying for re-designation for the 2017/18 academic year.

Providers that wish to apply for an additional SNC allocation through the Performance Pool of up to a further 10% beyond the “basic” 20% increase (so 30% total) should do so as part of their annual return to HEFCE. Further details will be provided by HEFCE, but providers will be asked to demonstrate that:

- their academic performance is of a high standard;³²
- they have clear plans that will improve student choice; and
- they have the capacity to deliver the growth without having a negative impact on existing students.

The Department will use this submission, alongside available information on the provider's academic performance, to assess requests to receive the performance pool.

Existing providers with an SNA that deliver predominantly validated provision³³ will be able to choose, as part of their annual return to HEFCE, to retain their SNA or opt in for an SNC of up to 100. This applies to both full-time and distance-learning/part-time SNAs.

Increased SNCs will become providers' baseline for the next academic year.

New applicants, that will deliver predominantly validated provision, are able to choose whether they wished to receive an SNC of up to 100 or an SNA.

Providers located entirely outside England will be awarded an SNA, rather than an SNC. The SNA will be set as 50 (English) students as a default, but those who require a higher SNA may increase this up to 100.

³² The Department may use student level data from the SLC to validate this information.

³³ 50% or more of students that claimed student support in 2015-16 were studying on validated provision.

English language requirements

Providers must ensure that all students recruited onto courses designated for student support meet the minimum language requirement equivalent to Common European Framework of Reference for Languages (CEFR) level B2, or 5.5-6.5 on the International English Language Testing System (IELTS) framework.

Providers must confirm the assessment processes they use to assure themselves that students recruited have the appropriate level of English proficiency. The Department may require further information and detail to consider compliance when it has specific concerns about a provider's completion and continuation rates. It will not routinely request evidence about individual students, but may do so where there are concerns about providers' processes.

It is for institutions to decide what is necessary to determine individual students' proficiency. The Department does not require, nor expect, providers to put all potential students through a formal language test. It does however expect all providers to consider language as part of the recruitment process.

In line with existing lighter touch requirements, this requirement does not apply to alternative providers with degree awarding powers, who do not undergo annual re-designation.

Providers must also comply with Pearson English Language requirements for applicants onto new HN qualifications, where appropriate.

Sanctions

The Department will monitor whether providers comply with the conditions of designation to ensure providers are held accountable and to protect the student and public interest. If, at any point, the Department determines that conditions have not been met it may put in place a range of sanctions including removal of course designation.

When the Department decides it is appropriate to implement sanctions it will write to you setting out reasons for its concerns and the action it will take and when. In circumstances where there are significant risks to student or taxpayer interest action will be taken immediately.

The sanctions that the Department may take are set out in full in **Annex F**.

Annex A: Regulatory partners' roles and responsibilities

Department for Business, Innovation and Skills

The Department is the regulatory body for alternative providers with specific course designation. It sets out the criteria and conditions for designation in published guidance.

Decisions on specific course designation applications, annual redesignation and whether to impose sanctions rest with the Secretary of State for Business, Innovation and Skills.

Higher Education Funding Council for England

The Higher Education Funding Council for England (HEFCE) is responsible for managing the specific course designation application process.

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. During this stage, 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 analysis of the application against the specific course designation criteria. Once HEFCE has reviewed all of the information that has been submitted, it will 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.

HEFCE is also the designated monitoring body for the *Prevent* duty for alternative providers.

Student Loans Company

In order to allow students to apply to the Student Loan Company (SLC) for student support funding, specifically designated courses need to be uploaded onto the SLC's Courses Management Service (CMS). Where alternative providers have specific course designation the SLC will upload details of any new and existing specifically designated courses directly onto their database following confirmation by HEFCE on the Department's decisions. Alternative providers with specifically designated courses will be requested to provide fee, term date and intake information for each specifically designated course to SLC who will then enter the course details to CMS on behalf of the alternative provider.

Quality Assurance Agency

In order to apply to have undergraduate and postgraduate provision designated, providers will need to demonstrate that they have been subjected to independent, consistent, external quality assessment.

Since September 2015, the Department's policy has been that all higher education providers in England, who wished to access public funds, have had to have a successful Higher Education Review (Alternative Providers) on entry. It is the responsibility of the Quality Assurance Agency (QAA) to conduct these reviews.

Higher Education Statistics Agency

The Higher Education Statistics Agency (HESA) collects a range of data every year UK-wide from universities, higher education colleges and other differently funded providers of higher education. This data is then provided to UK governments and higher education funding bodies to support their work in regulating and funding higher education providers. In addition information derived from the data is published as official statistics.

HESA is a charitable company which is funded by the subscriptions of the HE providers and it also provides an information service for the procurement of expertise, analysis and bespoke information.

HESA are asked by BIS and HEFCE to collect a number of data returns from alternative providers. They work directly with providers to collect this data and will provide ongoing support to providers with designation.

UK Visas and Immigration

UK Visas and Immigration (UKVI) is responsible for making decisions every year about who has the right to visit or stay in the country, with a firm emphasis on national security and a culture of customer satisfaction for people who come here legally. UKVI is also responsible for administering the Tier 4 points based system.

One of the many contextual issues considered when assessing course designation application(s) is whether the provider currently has a Tier 4 sponsorship licence, which also indicates whether they have international students as well as domestic/EU students. This is particularly relevant when assessing the financial sustainability of the provider.

Annex B: Franchise policy

Franchise arrangements between an authority funded provider (the franchising institution) and an alternative provider (the franchisee) require designation for student support purposes. This annex sets out the Department's policy on such arrangements.

Definition of franchise

The Department considers a course to be delivered as part of a franchise arrangement for designation purposes if:

- there is a written, legally binding agreement in place between the franchising institution and the provider which sets out the conditions of the arrangement;
- the conditions of the agreement meet the expectations set out in the UK Quality Code for Higher Education;
- the course is registered on the SLC's course management system in the name of the franchising institution, is marked as a franchise and the fee loan is paid to the franchising institution;
- the student is registered as a student of the franchising institution and is included within their HESA and other data returns;
- the student has a contractual relationship with the franchising institution;
- the student has access to the Office of the Independent Adjudicator for Higher Education (OIA) through both the franchising institution and the franchisee; and
- the franchising institution, where it is subject to the fee cap under the 2004 Higher Education Act, charges fees that are no higher than the fee cap. In addition, the course must be included in any Access Agreement that is in place.

Designation for franchise courses

For 2016-17 and 2017-18, the Department considers any course that meets the above definition to be designated for undergraduate student support purposes.

From 2017-18, the Department expects to treat franchised masters courses as designated for postgraduate master's loans purposes.

The Department remains concerned that only courses which meet its overall aims for specific course designation are designated. It will therefore review this position for individual courses and the sector more widely should it become aware of any concerns. It will therefore ask HEFCE to provide annual information on the scale, growth and nature of franchise provision across the sector and if there are cause for concerns. As such, it is

important that HEFCE-funded providers make accurate returns to HEFCE that detail correctly their sub-contractual arrangements (which include these franchise courses).³⁴

In future, franchise arrangements will be publicly displayed on the [Register of HE Providers](#)³⁵ with links to the franchising institution.

If a course does not meet the above definition, then the Department will not treat the course as a franchise for designation purposes. In these situations, the alternative provider must apply for course designation in its own right if it wishes its students to receive undergraduate student support, postgraduate master's loans or disabled students' allowances.

³⁴ All data returns must be accurate, but this refers specifically to the HESES (Higher Education Students Early Statistics) and HEIFES (Higher Education in Further Education Students) surveys.

³⁵ <http://www.hefce.ac.uk/reg/register>

Annex C: Evidence required to meet criteria

This annex sets out the criteria for specific course designation and the evidence that providers are required to supply to demonstrate that they meet them.

These criteria must be met in order to achieve and maintain designation. Providers will be tested against them both at entry and annually thereafter.

Quality assessment

To meet these criteria providers must demonstrate that they are able to offer students a high quality, higher education experience.

The quality assessment requirements do not apply to providers seeking specific designation of postgraduate courses for disabled students' allowance only.

Since September 2015, the Department's policy has been that all higher education providers in England, who wished to access student support, have had to have a successful Higher Education Review (Alternative Providers) (HER AP) on entry. This will provide external assurance about the academic standards of alternative providers' higher education awards; the quality and enhancement of learning opportunities; and information available to students.

You can apply to the QAA for a HER AP at any time and the process is likely to take around six months to complete. New applicants for undergraduate student support and/or postgraduate masters loans must have applied for a HER AP before they submit their application for course designation. You can choose to submit your application any time after you have applied for your HER AP, but the Department will not confirm its designation decision until you have a published, successful HER AP.

Existing providers that have received designation, but have not yet transferred to the HER AP are required to do so by the end of 2017.

Arrangements for quality assessment for alternative providers in 2018-19 will, subject to the parliamentary approval of the Higher Education and Research Bill, be part of transition arrangements to the Office for Students.

Once you have achieved a successful HER AP you will be re-reviewed every four years. In the years between reviews you will be subject to QAA's annual quality monitoring reviews. These will take the form of annual monitoring visits, although if you have demonstrated an exceptional track record this requirement may be varied. You will also be subject to the QAA Concerns Scheme.

If you are being investigated under the QAA Concerns scheme, then assessment of your annual return to HEFCE will not proceed until the Department has considered the risks

arising from the concern or, where considered appropriate, the outcome of the investigation is known.

Existing providers cannot apply to have a new location designated or register new courses if a QAA Concerns investigation is ongoing.

Reports of QAA reviews and updates to these reports following annual quality monitoring visits, including formal judgements, and results of Concerns investigations will be publicly available on the QAA website.

Costs relating to the Higher Education Review Process

The fees for the HER AP are published on QAA's website.

For all new applications, there is a non-refundable application fee. For providers who are accepted for review, the fees for review vary according to the size of the review team and the duration of the review visit. Further information is available on QAA's website.

You are required to undergo full review at least once every four years. Reviews may occur more frequently in certain circumstances, such as where concerns emerge about the quality of your provision.

You will also be required to pay an annual maintenance fee to QAA to cover the cost of QAA annual monitoring

Academic Performance

Providers must demonstrate that their courses offer value for money for students and the taxpayer and ensure that students who will access student support are likely to be able to achieve the qualification that they study for and achieve positive outcomes. The Department will therefore consider providers' academic performance.

The approach used to measure providers' academic performance may change over time. The Department will rely on performance indicators drawn from data supplied by HESA and other agencies to determine whether this criterion has been met.

On entry, QAA will consider a provider's track record on managing quality and academic standards when determining the duration and focus of a provider's Higher Education Review. Providers with a strong track record in managing quality and academic standards may be subject to a shorter Higher Education Review visit. This can be demonstrated by positive outcomes from previous QAA reviews and/or other external assessments by quality, professional, statutory and regulatory bodies and/or validating/awarding bodies and evidence that the provider has responded to those activities fully and effectively.

Once designated the Department and QAA will focus on indicators such as student recruitment, progression, and qualification.

Designated providers will be required to submit data to HESA (see page 32-35)³⁶. This data will be used to generate performance data for all providers, such as continuation rates. Providers will also be required to provide the Key Information Set. Data from this, including results from the National Student Survey, will also be used to establish whether providers meet this criterion. Data may also be drawn from other stakeholders, such as SLC and Pearson to further develop the Department's understanding of providers performance at an individual provider and sector-wide level.

Data will be considered as part of the annual return process to inform decisions about a provider's designation status, but will also be used throughout the year to build a picture of a provider's performance. This data will be used whenever it is available and will be benchmarked against other providers whenever possible. The Department will use the expected course lengths (set out in "Course Eligibility" below) to inform methodologies for certain performance indicators.

The Department will use performance indicators drawn from HESA to measure academic performance to support its decision-making from 2017 onwards. The key indicator used will be continuation from first- to second-year, but the Department may also rely on other indicators. The Department may impose sanctions where the HESA data indicates serious concerns about a provider's performance, either in absolute terms or relative to other providers. In addition, the Department may rely on student level data from the SLC to provide contextual information during the 2016 annual return exercise and in determining the outcomes of performance pool applications.

Providers will also be subject to QAA annual monitoring that will have a focus on academic outcomes.

The Department reserves the right to take any of the sanctions set out in **Annex F** if a provider's performance indicates that there is a risk that students may not be able to achieve the qualification that they are studying for or achieve positive outcomes.

Financial sustainability, management and governance

The overall purpose of the financial sustainability, management and governance (FSMG) criteria are to ensure that students can have reasonable confidence that they will be able to complete their course.

To meet these criteria providers must demonstrate that they are:

- financially viable and sustainable in the medium term;
- owned and managed by fit and proper persons; and
- properly constituted and fit to receive student support.

During the application and annual return process you will need to:

³⁶ Where providers are granted exception to the requirement to submit HESA data (see page 32-35) the Department will rely on data from other stakeholders to determine academic performance.

- demonstrate your organisation's financial sustainability by submitting externally audited financial statements (see “Demonstrating financial sustainability” below for more details) and financial forecasts for the current year and three future years;
- submit a commentary on the assumptions made in your forecasts and how any financial risks are managed. You may also submit a business plan to support your application;
- have adequate cashflow to remain solvent (i.e. have sufficient funds to pay your debts when 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);
- demonstrate your organisation is owned and managed by fit and proper persons, including identifying key personnel (accountable officer, head of organisation, main contact, shareholders, directors and trustees);
- confirm the legal status of your organisation; and
- describe your organisation's corporate governance arrangements (including submitting the memorandum and articles of association) and demonstrate that these are adequate, appropriate and adhered to.

HEFCE will provide details of the information to be submitted with your application pack.

HEFCE will use the information submitted to analyse your organisation's financial performance and position. It is important to note that indicators will be used to inform this analysis, but will not be used for benchmarking purposes (either against other providers or publicly funded higher education institutions). Indicators will not be used in isolation to draw conclusions about your organisation's ability to meet this criteria; but rather the assessment will be an overall judgement that considers the context of a provider's financial position and performance.

Where there are financial interdependencies between your organisation and a subsidiary, parent or otherwise linked organisation/s, you must also demonstrate that these organisations meet the FSMG criteria.

Demonstrating financial sustainability

There is no specific number of years that a provider must have traded for in order to apply for designation.

However, you must demonstrate your financial sustainability over the medium-term. The Department therefore requires you to submit the last three years of externally audited financial statements if your organisation has been trading for three years or more.

If your organisation has not been trading for three years you must submit:

- externally audited financial statements for every year of trading where accounts have been filed with Companies House;
- a three year business plan which includes robust and well evidenced forecasts and assumptions, including financial tables; and
- a student protection plan that will ensure that students are able to continue to achieve their academic outcomes in the event of the provider not being able to fully deliver their course. This must be endorsed by the provider's validating partner.

This may need to be supplemented by guarantees of financial backing from Directors or other investors, depending on the strength of evidence

Requirements for financial statements

Wherever you are required to submit financial statements you are responsible for ensuring that these:

- include income and expenditure, balance sheets, full notes to accounts, and cashflow statements and notes;
- are externally audited by a registered auditor³⁷ that is not the same firm, or individual, that prepared the accounts; and
- are based on Generally Accepted Accounting Practice in the UK (UK GAAP) (or successor requirements) or International Financial Reporting Standards (IFRS) as appropriate.

Exception for providers that are designated for disabled students' allowances purposes only

Providers that are designated for disabled students' allowances purposes only are required to meet the FSMG criteria. However, the evidence requirements are different in recognition of the fact that such providers do not receive any public funds directly as a result of designation.

If you intend to apply for designation for disabled students' allowances purposes only you will need to submit three years of financial statements (which must include income and expenditure, balance sheet and notes to accounts) these do not need to be audited unless they are required to be so for other purposes. Cashflow statements and notes should be provided if available, but these do not need to be audited. You will not need to submit the financial forecast tables, but will be asked for limited information on student numbers and typical fees.

³⁷ The register of statutory auditors can be found at www.auditregister.org.uk.

Course eligibility

To pass the course eligibility criterion a provider must deliver courses that are eligible to receive student support and have the appropriate awarding or validating body approval in place for these courses. This is to ensure that students can access support and that they will be able to achieve a qualification at the end of their course.

There are a limited number of eligible courses. These are different for undergraduate student support, disabled students' allowances and postgraduate master's loans.

You will be asked during the application and assessment process to demonstrate that you have the necessary approvals in place to deliver the courses you have applied for.

Eligible courses – undergraduate student support

The eligibility requirements for student support are set out in detail in The Education (Student Support) Regulations 2011 (S.I. 2011/1986) (as amended).

Courses are eligible to receive undergraduate student support if the course:

- is at least one academic year's duration;
- is 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; and
- it leads to one of the following qualifications:
 - a first degree (including Integrated/Undergraduate Masters),
 - Foundation Degree,
 - Diploma of Higher Education (Dip HE),
 - Certificate of Higher Education (Cert HE),
 - a course for the initial training of teachers, or
 - an undergraduate qualification awarded by a body with UK degree awarding powers, which is not listed above.

Higher national qualifications

Higher National Certificate and Higher National Diploma qualifications awarded by Pearson Education Ltd and the Scottish Qualification Authority are eligible for student support.

However, the Department is not accepting any further applications for designation for these courses from new providers. This moratorium will continue until the new Office for Students regulatory regime is in place (subject to parliamentary approval of the Higher Education and Research Bill). The OfS will then determine its approach as part of its wider consideration of risk-based regulation.³⁸

Existing providers will be able to apply for new HN courses on a “one-in, one-out” basis. This will mean that in order to register a new HN programme, they must relinquish designation for an existing course so the total number of HN courses designated at the provider does not increase.

Eligible courses disabled students' allowances

Disabled students' allowance is available to eligible students on any undergraduate or postgraduate course which is designated for student support purposes.

Eligible courses – postgraduate master's loans

The eligibility requirements for postgraduate masters loans are set out in detail in the Education (Postgraduate Master's Degree Loans) Regulations 2016.

A course is eligible to be designated for postgraduate masters loans if:

- it is a full-time course that is one or two years in duration;
- it is a part time course that is ordinarily possible to complete in no more than twice the period ordinarily required to complete its one or two academic year full time equivalent;
- it is a part time course that does not have a full time equivalent and which it is ordinarily possible to complete in up to three academic years;
- any overseas element does not exceed 50% of the total course; and
- it is awarded by a body with UK degree awarding powers.

Eligible courses may be a taught programme of study, a programme of research, or a combination of both, and which may include one or more periods of work experience, and

³⁸ For further details, please see Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice (May 2016) p. 26. <https://www.gov.uk/government/publications/higher-education-success-as-a-knowledge-economy-white-paper>

which leads, on successful completion, to the award of a postgraduate master's degree. There are no subject restrictions.

The student can attend an eligible course anywhere in the UK or study an eligible course by distance learning in England (subject to restrictions on personal eligibility).

Examples of courses that are eligible for postgraduate master's loan funding include the following:

MSc (Master of Science)

MA (Master of Arts)

MRes (Master of Research) on entry

LLM (Master of Law)

MBA (Master of Business Administration)

The following courses are examples of courses not eligible for postgraduate master's loans:

- courses that are currently funded by the undergraduate support system, such as integrated masters; and
- courses that result in other level 7 postgraduate qualifications that do not result in a masters qualification e.g. PGDip, PGCert Course approval by validating or awarding body

Validating and awarding body arrangements

All courses must be validated or approved by an appropriate body. The validating or approving body must either be:

- a body with UK degree awarding powers and should be on the [Department's list of Recognised Bodies](#)³⁹;
- for HNC/HND qualifications, either EdExcel or the Scottish Qualifications Authority; or
- for Initial Teacher Training qualifications in the further education sector a recognised UK awarding body.⁴⁰

³⁹ <http://www.bis.gov.uk/policies/higher-education/recognised-uk-degrees>

⁴⁰ 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>).

Providers must ensure that their courses have appropriate awarding or validating body approval in place. The Department will seek assurance that this is in place when providers apply and when they submit their annual return. In order for HEFCE to assess this criterion providers will need to submit signed copies of approval documents.

The nature and content of the validation contracts will vary depending on the type of arrangement so the exact documents required will be different for every provider. All providers must make sure that their documents include the following information:

- titles and qualification award aims of validated courses;
- details of delivery model (duration of course and mode of study);
- start and end/renewal date of the validation arrangement;
- arrangements for periodic review of the agreement (both the date and how this will happen);
- name of delivery organisation and specified location(s) of the course delivery; and
- 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 the courses applied for at the specified locations, and plans for their renewal if the duration of the course exceeds the remaining period of validation or approval.

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 and definitions

Courses require separate designation if they are:

- validated or approved by a different body;
- taught at different locations;
- a different mode of study or duration; and
- awarded with a different title.

These differences are not specifically referenced in the Student Support Regulations, so the Department has set out its expectations regarding these distinctions.

Full time

For undergraduate student support, 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. During that time they are normally expected to undertake periods of study, tuition or learning in the workplace (including sandwich work placements that do not meet the criteria for a sandwich year out) which amount to an average of at least 21 hours a week. For courses of two years or more, full-time students are normally required to attend the institution, or elsewhere, for periods amounting to a minimum of eight weeks in the final year.

Part time

For undergraduate student support and disabled student allowance purposes a part-time course must not exceed four times the period ordinarily required to complete a full-time course leading to the same qualification.

For postgraduate masters loans support a part-time course must be either

- a part time course that is ordinarily possible to complete in no more than twice the period ordinarily required to complete its one or two academic year full time equivalent; or
- a part time course that does not have a full time equivalent and which it is ordinarily possible to complete in up to three academic years.

Distance learning

A distance learning course is a programme of study where students are not required to attend on campus sessions, 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 the full-time definition given above.

Sandwich courses

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 (S.I. 2011/1986). This does not apply for courses eligible for Postgraduate Loan support.

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:

- students are already registered for the recognised higher education qualification at the same institution; and
- progression to the recognised higher education qualification is guaranteed, subject to satisfactory completion of the foundation year.

This does not apply for courses eligible for postgraduate master's loans support.

Integrated master's

A first degree that combines within a single programme of study a bachelor's degree with honours with study at master's level.

Exit awards

Providers may offer exit awards to students who do not complete the requirements of the final qualification. These do not need separate designation unless it is the provider's intention to recruit directly to the lower level qualification. This does not apply for Postgraduate Loan support.

Duration of courses

The Department has established expected full-time durations for the main courses eligible for designation. Where applications include courses with longer durations than the expected length, HEFCE will contact providers for further details. Courses may be accelerated and shorter than the expected length, as long as they remain at least one academic year in duration.

- Undergraduate degree – three years (or four with a foundation or sandwich year)
- Integrated master's – four years
- Foundation degree – two years
- Diploma of Higher Education – two years
- Certificate of Higher Education – one year

Where courses are likely to attract the long courses 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 process.

Location of courses

You must have courses at different locations designated separately.

For designation purposes teaching sites that are within walking distance may be designated as a campus.

Annex D: Reporting changes of circumstance

This annex gives designated providers information about the changes they must report to HEFCE and when. If you are unsure of whether to report a change you should contact HEFCE (SCDchanges@hefce.ac.uk).

Failure to report changes is a breach of the conditions of designation and may lead to a provider being subject to one of the sanctions set out in Annex F.

Changes that must be reported as they occur (or as soon as practicable afterwards)

Accountable officer and key personnel

You must report changes to, and supply contact details (telephone, email and postal address) for, the following positions in your organisation. The exact title of the following positions may vary depending on the organisation. If you are unsure which individuals to report then please contact HEFCE.

Accountable officer

The Department requires the provider to nominate an accountable officer to sign a declaration that commits the provider to meeting the criteria and conditions of designation. This person will receive all official communications from the Department and HEFCE.

This individual must be the head of the legal entity in receipt of designation. Within a charity/public organisation this individual would be expected to be the Chief Executive (or equivalent). Within a private company the individual would be expected to be a Director of the company and hold a position equivalent to the Chief Executive. Where there are particular circumstances that mean that this individual is not best placed to complete the role of accountable officer the Department will consider alternative nominations. Where this is the case the Department will require confirmation that this person has appropriate delegate authority in place.

Head of higher education provision

This individual must be the person in the organisation with overall responsibility for the higher education academic provision in the organisation. They may be the same individual as the accountable officer. This role will not be used as a point of contact for correspondence, but will be subject to a fit and proper person assessment.

Main contact

The person who HEFCE/BIS will usually contact with day to day queries. This person will be copied into all official communications from BIS and HEFCE.

Data contact

The person with responsibility for completing data returns, for example HEAPES and HESA.

Compliance risk

You must report the following changes:

- any breach, or suspected breach, of student number control mechanisms;
- any adverse regulatory outcomes, including from the Quality Assurance Agency or UK Visas and Immigration (including suspension or revocation of Tier 4 licence); and
- any loss of validation or awarding body approval.

Reputational risk

You must report any change of circumstance that may have a reputational risk for your organisation or the higher education sector, including any significant legal action.

Change of name

You must report any change of legal or trading name as soon as it is registered with Companies House or the Charity Commission.

Changes which may affect fit & proper person

You must report any changes that mean that the provider (as a legal entity), directors, trustees, shareholders (with more than a 20% holding) or the accountable officer has been:

- convicted of a criminal offence (anywhere in the world);
- subject of any adverse finding in civil proceedings;
- subject of any disciplinary proceedings by any regulatory authorities or professional bodies;
- involved in any abuse of the tax systems;
- involved with any entity that has been refused registration to carry out a trade or has had its registration terminated; and
- involved in a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within a year of that connection;
- investigated by a professional body, a court or tribunal, whether publicly or privately;

- dismissed from a position of trust or similar;
- disqualified from acting as a company director or from acting as a charity trustee; or
- involved with a provider that has had its designation application refused or has been de-designated.

Materially increased gearing

You must report when additional loans, overdrafts or mortgages are taken out that are of a significant size relative to the assets of the organisation.

Adverse variance in financial position

You must report when your financial position is significantly poorer than you had forecast in your last annual return. Some examples of an adverse variance are:

- the level or surplus you are going to make is significantly decreased;
- you will move from a surplus to a deficit; or
- you are going to make a larger deficit.

Fraud, serious weakness or accounting breakdown

You must report any incident that has occurred or serious control weakness that has been identified that raises concerns with regard to the reputation of the organisation or the control framework in place.

Changes to courses

You must inform HEFCE if a change is made to any of your designated courses that results in a minor change of title. These changes would typically not have a substantial effect on the course design or structure.

If changes are made to courses that result in a significant change to course content, title, mode of study, duration, validating body then the changed course will need to be registered with HEFCE as a new course (see **Section 4**).

Changes to courses that do not result in a change of title or other significant aspect of the course do not need to be reported. For example, revisions to course content or structure.

If you no longer wish to have designation for a particular course you should report this as a change of circumstance.

Change of location

You should inform HEFCE if you intend to change, or remove, one of your designated teaching locations. You must inform HEFCE prior to the change of location and, except in exceptional circumstances, at least three months before the change is due to take place.

If you are adding a new teaching location you will need to apply for a new location designation.

Addition of locations to a campus designation

If you have a campus location designated (see page 53) and you wish to add a location to this campus then you must report this to HEFCE in advance of teaching on designated courses beginning there.

Changes that must be reported annually

The following changes should be reported through your annual return to HEFCE. You do not have to report any of these changes in-year unless, in the opinion of your accountable officer, they will, or are likely to, have a material impact on your organisation's ability to meet the criteria and conditions of designation.

Registered office

You must report in your annual return to HEFCE any changes to the legal registered office for your organisation, even if this is not a teaching location.

Directors, trustees, shareholders

You must report in your annual return to HEFCE any changes to your directors, trustees or shareholders that have occurred since your last annual return.

If, as a result of changes to 50% or more of your organisation's directors, trustees or shareholders, control of your organisation changes then this must be reported immediately (see page 30).

For example, if you have five directors and, over the course of the year, three of these changes. This would be reported as a change of control at the point at which the third director appointed.

Changes in governance arrangements

You must report in your annual monitoring return any changes to the corporate governance structures that you reported in your application for designation.

You must report any changes in academic governance arrangements to the QAA.

Trading address

You must report any changes to trading addresses in your annual return to HEFCE. These do not necessarily have to be teaching locations. You should note that changes to teaching locations must be reported in-year (see above).

Annex E: Conditions of designation

Providers with designation for undergraduate student support, postgraduate masters loans or disabled students' allowance are subject to a range of conditions. These are set out below. A number of these conditions do not apply to providers that have designation for disabled students' allowance and/or postgraduate masters loans. Where this is the case it is clearly indicated below.

Conditions that apply to all providers

- 1) Providers must continue to meet the criteria for designation and comply with the conditions of designation as set out in the Department's guidance and give the Department clear assurances to this effect as specified in that guidance or as the Department may determine appropriate.
- 2) Providers must ensure that they have the appropriate financial, management, governance, quality assurance, and operational systems in place to deliver the designated courses and continue to meet specific course designation criteria and conditions.
- 3) Providers must submit an annual return in line with the requirements set out by HEFCE.
- 4) Providers must maintain successful outcomes from Higher Education Review (Alternative Providers) and QAA annual monitoring. They must also allow QAA to carry out investigation under its Concerns scheme. Where such investigations identify serious and systemic problems, this may affect a provider's designation status. Providers must pay an annual maintenance fee to QAA in addition to meeting the costs of reviews and monitoring visits.
- 5) Providers are required to deliver positive academic outcomes as defined by the Department.
- 6) Providers must allow the Department access to their premises, records and staff. The Department shall give alternative providers reasonable advance notice in writing of proposed visits to the provider or persons it nominates. However, providers are required to give an immediate right of access to their premises and records where the Department has a reasonable suspicion that the provider or its students are engaged in fraudulent activity.
- 7) Providers must not undertake any activity which brings the sector into disrepute.
- 8) Providers must report any relevant changes, as defined in this guidance, to the Department, via HEFCE.
- 9) Providers are required to submit accurately any data submission required of them in this Guidance and meet the cost of such submission, including any associated subscription cost.

- 10) Providers must meet their obligations to the SLC to provide information necessary to administer student support in line with the regulations.
- 11) Providers must not franchise or sub-contract designation to a third party without the Department's consent.
- 12) Providers are responsible for any information advertised to students in literature or websites about the availability of student support for particular courses.
- 13) Providers are fully accountable for the actions of any third party recruitment agency they choose to use, and must ensure that any fees the provider pays to such agencies in respect of the recruitment of students are disclosed to the student before they enrol.
- 14) Providers must advise 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.
- 15) Providers must subscribe to the complaints handling scheme operated by the Office of the Independent Adjudicator for Higher Education.
- 16) Providers must comply with their statutory duties under the Counter-Terrorism and Security Act 2015.
- 17) Providers must comply with any improvement notice or action plan issued by the Department in relation to course designation.
- 18) Providers must notify the Department immediately where it becomes aware of any instance of suspected fraud or financial irregularity.
- 19) Providers must allow HEFCE and the Department, or its nominated representative, to undertake any relevant audit activity to assure themselves that the criteria and conditions of designation have been met. Providers are responsible for ensuring that auditable records (including but not limited to student recruitment and attendance records) are kept to enable such assurance to be achieved.

Conditions that apply to designation for undergraduate student support only

- 19) Providers must not draw down tuition fee payments for a student from the Student Loans Company before that student has been registered with the relevant Awarding Body.
- 20) Providers must ensure that they do not breach any student number control mechanism set by the Department.
- 21) The governing bodies of all providers (or the equivalent controlling body) with specific course designation must provide information to HEFCE. HEFCE will request such information as is necessary to monitor providers to ensure ongoing compliance with the conditions of designation.

22) Providers must ensure that the use to which they put funds received from the SLC is consistent with the purposes for which those funds were given.

23) Providers must ensure that all students recruited onto courses designated for student support meet the minimum English Language requirement assessed at Common European Framework of Reference for Languages (CEFR) level B2, equivalent to 5.5-6.5 on the International English Language Testing System (IELTS) framework, or equivalent.

Annex F: Sanctions

The Department may choose to impose sanctions where it determines that providers no longer meet the criteria for designation or has failed to comply with the conditions of designation. This annex provides details of the sanctions that the Department may use. This list below is not exhaustive and other sanctions may be used if the following are not determined to be appropriate to the circumstances.

When imposing sanctions the Department will take into consideration the seriousness of the issue, provider's track record, previous incidences of non-compliance, compliance with any previous sanctions, whether the provider reported any breach and the impact of the breach on the interests of students and the taxpayer.

Sanctions which may be imposed

- notification to achieve certain targets or complete specific actions by a specific date through an improvement notice;
- changing the annual return requirements for a provider;
- suspending SLC payments to either the provider, its students or both;
- financial recovery for breaches of student number control mechanisms
- imposing a freeze on new recruitment at the provider;
- reducing or imposing student number control mechanisms for future years;
- suspending designation (for some or all of the courses at that organisation);
- requiring the provider to submit a new specific course designation application; and
- withdrawal of specific course designation (either for particular courses or for all courses at that organisation).

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

Process for imposing sanctions

Once the Department has decided to impose sanctions it will either follow a "Standard" or "Urgent" process depending on the risk to student or taxpayer interests.

Standard process

When the Department is minded to impose sanctions, but there is not an immediate or significant risk to student or taxpayer interest, it will write formally to you setting out the:

- reasons for its concerns;
- steps that it intends to take;
- actions which you can take to address the concerns; and
- implications for your organisation and your students.

You will have the opportunity to respond to the Department's letter. If you do not respond to the letter, the Department will impose the sanctions it set out.

If you choose to respond, you may include in this response additional evidence to address the Department's concerns. The Department will consider this evidence and write to you confirming whether it will apply the sanctions or not.

Urgent process

In certain circumstances, where there is an immediate or significant risk to student or taxpayer interest, the Department reserves the right to impose sanctions immediately. In such circumstances, the Department will:

- Impose the sanctions it determines to be appropriate;
- Inform you immediately of the reasons for its concerns and the sanctions taken;
- If relevant, inform you of any actions that you can take to address the Department's concerns which may lead to sanctions being lifted; and
- Describe any implications for your organisation and your students.



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