



Department
for Education

Specific course designation guidance

**Policy and guidance for alternative
providers of higher education: criteria
and conditions**

July 2017

Contents

Summary	6
Purpose of the guidance	6
Higher Education and Research Act and Office for Students	7
Application process - summary diagram	9
Introduction	10
Who is it for?	10
Devolved Administrations	10
Initial Teacher Training	10
16-19 Academies	11
Aims and principles	11
Legislative basis for specific course designation	11
Confidentiality and data protection	12
Discrimination and harassment on campus	13
Complaints	13
Abuse of specific course designation	13
Section 1: Who is eligible to apply	14
Category of designation	14
1) New applicant	14
2) New applicant (Disabled Students' Allowance only)	15
3) Existing providers	15
4) Institutional Level specific course designation	15
Section 2: Criteria for Specific Course Designation	16
Summary of criteria	16
1) Quality assessment	16
2) Academic performance/track record	16
3) Financial sustainability, management and governance	17
4) Course eligibility	17
Section 3: Making an application	18
Before making an application	18

New applicant	18
New applicant (Disabled Students' Allowance only)	18
Existing providers	18
Application process	19
New applicants (including for Disabled Students' Allowance only)	19
Existing providers	20
Institutional level specific course designation	22
Provider responsibilities when making an application	22
Advertising the availability of student support prior to designation	22
Submitting complete information	23
Dealings with the Department and HEFCE	23
Section 4: Assessment of your application	24
Details of HEFCE checks and provider responsibilities	24
Initial decision and representations process	24
Minded to approve	24
Minded to refuse	25
Notification of final decision	25
Successful applicants	25
Unsuccessful applicants	26
Withdrawal of specific course designation - existing providers	26
Designation for teach out	27
Section 5: Meeting the conditions of designation	28
Continuing to meet quality assurance criteria	28
Annual returns and re-designation	29
Process for seeking re-designation for 2018/19	29
Categories of providers	29
Types of return	30
Reporting relevant changes	32
Change of circumstances	32
Change of control or ownership	32
Data returns	32

HEAPES survey	33
HESA AP Student Record	33
Public information	34
Exceptions	35
Student support and using SLC systems	35
Office of the Independent Adjudicator for Higher Education	36
Prevent	37
Student number control mechanisms	37
2018/19 student number control policy	38
English language requirements	40
Sanctions	40
Annex A: Regulatory partners' roles and responsibilities	42
Department for Education	42
Higher Education Funding Council for England	42
Student Loans Company	42
Quality Assurance Agency	43
Higher Education Statistics Agency	43
UK Visas and Immigration	43
Annex B: Franchise (subcontracting) policy	44
Definition of franchise (sub-contracting)	44
Designation for franchise (sub-contracted) courses	44
Annex C: Evidence required to meet criteria	46
Quality assessment	46
Costs relating to the Higher Education Review Process	47
Academic performance/track record	47
Financial sustainability, management and governance	48
Demonstrating financial sustainability	49
Requirements for financial statements	50
Exception for providers that are designated for DSA purposes only	50
Course eligibility	51
Eligible courses – undergraduate student support	51

Eligible courses – disabled students' allowances	52
Eligible courses – postgraduate master's loans	52
Validating and awarding body arrangements	54
Additional information and definitions	55
Annex D: Reporting changes of circumstance	58
Changes that must be reported	58
Accountable officer and key personnel	58
Compliance risk	59
Reputational risk	59
Change of name	59
Changes which may affect fit and proper persons	59
Material change in financial performance/position	60
Fraud, serious weakness or accounting breakdown	60
Changes to courses	61
Changes that must be reported annually	61
Registered office	62
Directors, trustees, shareholders	62
Changes in governance arrangements	62
Trading address	62
Annex E: Conditions of designation	63
Conditions that apply to all providers	63
Conditions that apply to designation for undergraduate student support only	65
Annex F: Sanctions	66
Sanctions which may be imposed	66
Process for imposing sanctions	66
Standard process	66
Urgent process	67
Annex G: Changes of control and/or ownership	68

Summary

The Higher Education and Research Act 2017 affirmed our commitment to promoting competition and choice in higher education, in order to deliver better outcomes and value for students, employers and taxpayers. New, challenger institutions and alternative providers play an important role in that.

A consultation is expected to be launched in the autumn, on key aspects of the new Office for Students' regulatory framework. Providers are encouraged to engage with the consultation to understand and influence how the changes are likely to affect them.

Until the new regulatory framework comes into effect, the Department for Education will continue to regulate alternative providers that have courses that are specifically designated for student support by the Secretary of State. Alternative providers that wish to offer courses specifically designated for student support purposes up to and including the 2018/19 academic year must continue to meet the terms and conditions set out in this document until it is updated, replaced or revoked.

We want to continue to attract new high quality entrants to the market, stimulate competition, give students more choice and grow quality provision. At the same time, we will continue to ensure providers offer students and the taxpayer good value for money, by maintaining a rigorous approach to quality and financial sustainability, management and governance. Therefore, this guidance makes no substantial changes to last year's, with no major changes to policies or processes – providing stability and consistency to help facilitate transition to the new system.

Purpose of the guidance

Specific course designation is the process by which alternative providers of higher education can gain access for their eligible students to undergraduate student support (tuition fee and maintenance loans), postgraduate master's loans and disabled students allowances (DSA). This student support is funded by the Department for Education (the Department) via the Student Loans Company (SLC). Details of the roles and responsibilities of different agencies in the process can be found in **Annex A**.

It is essential that Government ensures that there are robust processes in place to protect the interest of students and the reputation of UK higher education.

Alternative Providers

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

This guidance explains the specific course designation process for alternative providers. In particular:

- the criteria for granting designation;
- the assessment and decision making process; and
- the conditions of specific course designation.

It updates and replaces previous iterations published by the Government and comes into effect on the date of publication and will remain in force until otherwise revoked.

It should be read in conjunction with the information published on the [Higher Education Funding Council for England \(HEFCE\) website](#)¹.

It should also be read alongside the Quality Assurance Agency's (QAA) guidance on Higher Education Review (AP) and associated annual monitoring information which can be found [here](#)².

Higher Education and Research Act and Office for Students

The Higher Education and Research Act 2017 provides for the establishment of the Office for Students (OfS), as a single regulator and the creation of a new risk-based regulatory framework with a single register for all English higher education providers.

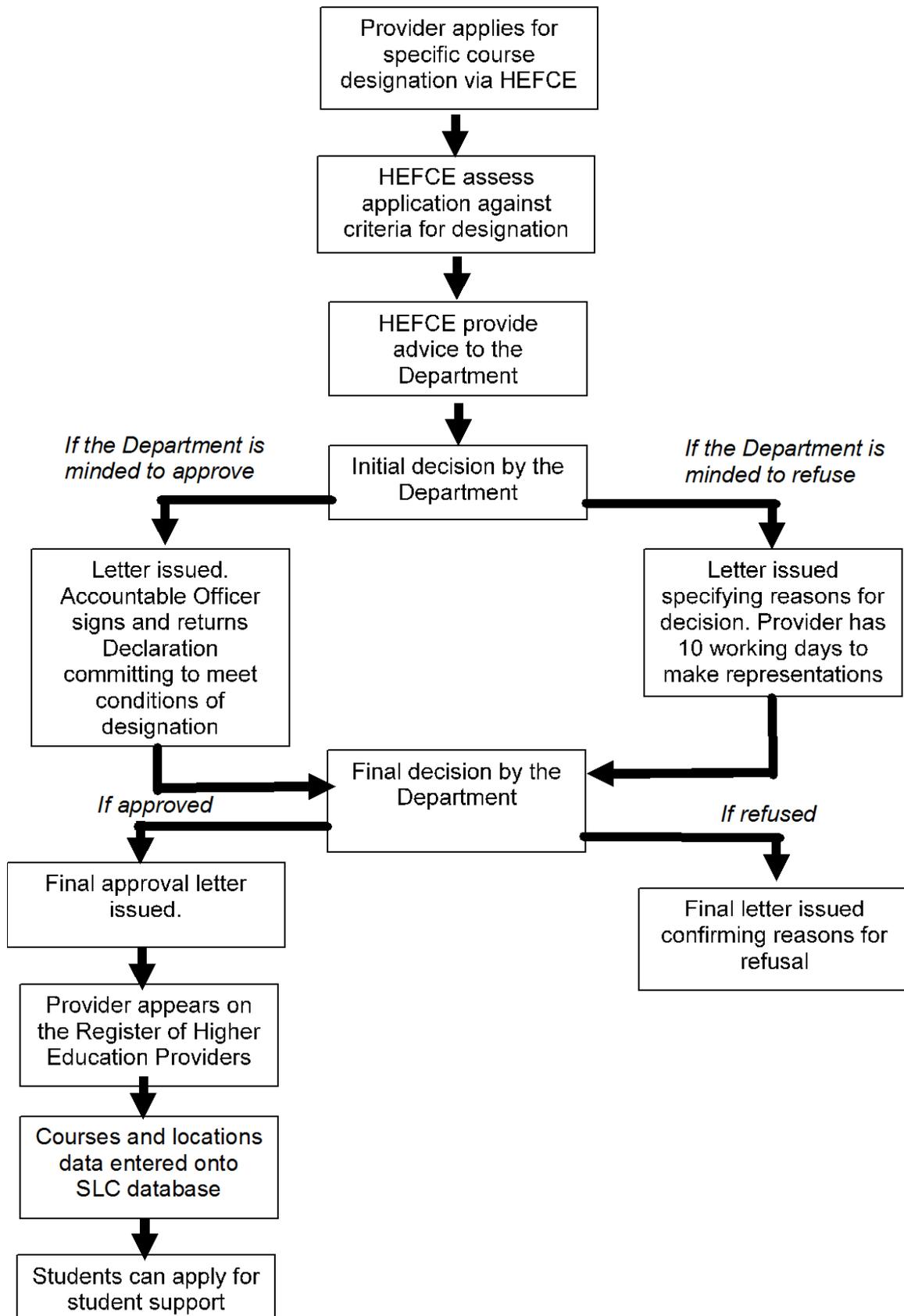
Compliance with the conditions of designation will be monitored as set out in this guidance. However, once in place, the OfS must establish and maintain a register of English higher education providers. It will be for the OfS to determine conditions for entry on the register, subject to consultation requirements set out in the Act. Once the register is open for applications, designated providers and providers that have previously been designated may wish to apply to be registered. Information that is relevant to compliance

¹ <http://www.hefce.ac.uk/reg/desig>

² <http://www.qaa.ac.uk/en/ReviewsAndReports/Pages/RSCD.aspx>

with the conditions of designation set out in this guidance may also be relevant to compliance with conditions of registration determined by the OfS.

Application process - summary diagram



Introduction

Who is it for?

This guidance is intended for providers who wish to apply for specific course designation and for those with existing designation. It applies to designation for undergraduate student support, postgraduate master's loans and disabled students' allowance.

HEFCE-funded providers operating franchise (also known as sub-contracting) and validation arrangements with alternative providers will also find it of interest. In particular, they should note **Annex B** which contains the Department's franchise policy.

Devolved Administrations

If you are an alternative provider in any of the devolved regions in the United Kingdom and want students domiciled in England to have access to student support, then you must apply under the process set out in this guidance.

If you want students domiciled in any of the devolved regions to have access to student support, then you will need to apply to the authorities in Scotland, Northern Ireland and Wales as each has their own procedures and guidance for student support. The contact details are listed below:

- The Student Awards Agency for Scotland:
www.saas.gov.uk
- Department for the Economy, Northern Ireland:
studentfinance@economy-ni.gov.uk
- Higher Education Division, Wales:
studentfinancedivision@wales.gsi.gov.uk

Initial Teacher Training

The designation process described in this guidance does not apply to Initial Teacher Training (ITT) courses delivered by ITT providers with accreditation from the Department. In these cases, the Department's Director of Teachers and Teaching Group will provide the Department's Higher Education Directorate with the necessary assurance over provider quality, sustainability and governance.

16-19 Academies

Any 16-19 Academies delivering higher education courses and seeking to have their higher education provision designated should contact the Department:
designation.enquiries@education.gov.uk.

Aims and principles

The overall aims and principles of Government policy for alternative providers are to promote a greater diversity of provision and choice for students, widen access, and ensure value for money for students and the taxpayer.

We aim to ensure that:

- students have assurance that the Department has, through the specific course designation process, satisfied itself that there is a reasonable expectation that they will be able to complete their course;
- students have assurance that the provider is subject to independent, consistent, external, quality assessment;
- the reputation of the UK higher education sector as a whole is protected; and
- students get value for money from their course, and taxpayers have assurance that the Department is protecting the public interest.

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

Legislative basis for specific course designation

In order for students to access higher education student support they must be studying on a higher education course that is designated. The Teaching and Higher Education Act 1998 (section 22(1)) allows the Secretary of State to designate courses for the purposes of higher education student support.

Eligible higher education courses that are wholly provided by authority funded institutions³ are automatically designated under the student support regulations⁴.

³ A term used in the student support regulations for any provider of higher education that is directly funded with recurrent grant by either one of the four higher education funding bodies in the UK.

The Secretary of State has the discretion to designate courses which are not automatically designated.⁵ These are generally courses which are developed and delivered by alternative providers.

Postgraduate master's courses are designated under the Education (Postgraduate Master's Degree Loans) Regulations 2016 (SI 2016 No. 606) as amended by the Education (Postgraduate Master's Degree Loans) (Amendment) Regulations 2017 (SI 2017 No. 594).

Course designation is specific to the location at which the course is being delivered. In order for students to access student support for a course run by the provider at more than one location, each course at each of those locations must be specifically designated.

Where courses are delivered by an alternative provider in partnership/collaboration with another provider (whether in whole, or part), these too must be designated in order to attract student support. **Annex B** contains more information on the approach to designation where the partner institution is authority-funded.

Designation as a result of the processes in this guidance allows eligible English students, and English-domiciled EU students, to access loans and applicable grants from the SLC.

Confidentiality and data protection

It is important that providers comply with their legal obligations under the Data Protection Act 1998, in addition to their own data protection policies.

Information relating to specific course designation provided to the Department will be treated in confidence and, subject to the paragraph below, will only be shared with parties involved in the specific course designation process. This may include validation/awarding bodies, the Quality Assurance Agency for Higher Education (QAA), the Higher Education Statistics Agency (HESA), HEFCE, and the Office for Students (OfS) once established.

The Department's sharing of any personal data with other parties will only take place where its policies and the law allows it. This might require the sharing of relevant personal data with (for example): the police and other crime prevention and detection agencies; the Home Office; UK Visas and Immigration; Student Loans Company; Her Majesty's Revenues and Customs (HMRC); the Student Awards Agency for Scotland; the Welsh

⁴ <http://www.legislation.gov.uk/ukxi/2011/1986/contents/made>

⁵ Under Regulation 5(10) of the Education (student support) Regulations 2011

Government; the Department for the Economy, Northern Ireland; examination boards or awarding bodies.

Information about designated providers, and full details of their course information and designation history, will be made publicly available through the Register of Higher Education Providers and as part of information released by HESA.

The Department will comply with its obligations in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 (FOIA) and Data Protection Act 1998(DPA).

Discrimination and harassment on campus

Higher education providers have a responsibility to ensure that they provide a safe and inclusive environment for all students, and that students do not face discrimination, harassment or victimisation.

Government expects all higher education providers to discharge their responsibilities fully and to have robust policies and procedures in place to comply with the law, and to investigate and swiftly address hate crime, including any anti-Semitic incidents that are reported.

Complaints

If you are unhappy about any aspect of the Department's service, you can use the Department's complaints procedure.

More information about this is available [here](#)⁶.

Abuse of specific course designation

The Department treats any allegations of abuse of specific course designation seriously and in the strictest confidence.

Anyone with information about abuse of specific course designation should contact the Department by emailing: designation.enquiries@education.gov.uk.

⁶ <https://www.gov.uk/government/organisations/department-for-education/about/complaints-procedure>

Section 1: Who is eligible to apply

Applicants should be alternative providers (see definition on page 7) who are not operating under a franchise (sub-contractual) arrangement (see Annex B for definition).

Category of designation

If you are seeking to apply for specific course designation you will fall into one of the following categories, which each have their own eligibility criteria and outcomes for a successful applicant.

Please note: There is no guarantee of designation for any category and courses must be designated for each location at which they are delivered.

1) New applicant

Who is eligible?

Any provider that does not have current designation for undergraduate student support or postgraduate master's loans for new students. This includes providers that have current designation for disabled students' allowances only or have previously held designation for undergraduate student support.

What do successful applicants get?

Your eligible, English-domiciled students studying on designated courses will be able to access undergraduate student support (tuition fee and maintenance loans) and/or postgraduate master's loans for eligible courses. Students will also be able to access disabled students' allowance and other grants.

Successful undergraduate applicants will be subject to the undergraduate student support fee loan cap. This means that you may set fees at any level, but your students will not be able to receive more than the maximum tuition fee loan. This is a maximum of £6,000 for a full time course in 2017/18 and £4,500 for a part-time course. Where an alternative provider has achieved a Teaching Excellence Framework (TEF) Rating of Meets Expectations in Year One, this is up to a higher maximum of £6,165 for a full-time course (£4,625 for a part-time course). See p35 for more details on student support.

Students attending eligible designated postgraduate master's courses at alternative providers without degree awarding powers may apply for a postgraduate master's loan of

up to £10,280. This is a contribution to the costs of undertaking the course and is paid directly to the student.

Any changes to student support for 2018/19 will be announced in due course.

2) New applicant (Disabled Students' Allowance only)

Who is eligible?

A provider that does not have current designation for undergraduate student support or postgraduate master's loans for new students and that only wishes their postgraduate students to be eligible to receive disabled students' allowance.

What do successful applicants get?

Your eligible, English-domiciled students on designated postgraduate courses will be able to apply for disabled students' allowances.

Your students will not be able to access undergraduate student support or postgraduate master's loans.

3) Existing providers

Who is eligible?

A provider that has current designation for undergraduate student support and/or postgraduate master's loans for new students.

What do successful applicants get?

Additional designated locations or, by registering additional courses with HEFCE, new designated courses.

4) Institutional Level specific course designation

Who is eligible?

A provider that has current designation for new students, holds UK degree awarding powers and whose most recent annual return to HEFCE assured the Department that they continue to meet the criteria and conditions of designation.

What do successful applicants get?

All eligible courses at designated locations are automatically designated and you do not have to be approved on a course by course basis. Additional locations need to be applied for.

Section 2: Criteria for Specific Course Designation

Summary of criteria

Specific course designation has four key criteria which you have to satisfy for your courses to be designated. These are:

- quality assessment;
- academic performance/track record;
- financial sustainability, management and governance; and
- course eligibility.

Full details of how the criteria will be assessed is included at **Annex C**.

1) Quality assessment

To meet this criterion, you must demonstrate that you are able to offer students a high quality higher education experience.

The Department's policy remains that all higher education providers in England, who want their students to be able to access student support, must have a successful Higher Education Review (Alternative Providers) (HER AP) from the QAA on entry (See **Annex C**).

A successful HER (AP) is defined as one where the provider achieves a "meets UK expectations" and/or a "commended" rating for each of the four judgement areas.

You must also maintain your relationship with the QAA and continue to meet the expected standards during QAA annual monitoring and in any future reviews. You will also be subject to the QAA Concerns Scheme (See **Annex C**).

The HER (AP) process is likely to take a minimum of nine months to complete. New applicants, who have not already received a satisfactory HER (AP) judgement or had a review scheduled, should contact QAA by 31 August 2017 to schedule a HER (AP) review by February/March 2018. The Department will not confirm its decision on designation until you have a published HER (AP). However, you can apply for designation at any time prior to 31 January 2018 (see p20), with designation contingent on a successful HER (AP) review.

2) Academic performance/track record

You must demonstrate that your academic outcomes represent value for money for students and the taxpayer. You must also demonstrate 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 your academic performance and track record. It will rely upon information from data supplied by HESA and other agencies to determine whether you have met this criterion. The Department will determine what indicators of performance it uses to assess this criterion - see **Annex C** for more details.

3) 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 the criteria, you must demonstrate that your organisation is:

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

Full details of how the criteria will be assessed is included at **Annex C**.

4) Course eligibility

You must demonstrate that the course(s) you wish to have designated are validated or approved by an appropriate body and meet the course eligibility criteria set out in the student support regulations (see Teaching and Higher Education Act 1998).

Further details concerning the course eligibility criteria are included at **Annex C**.

The Department is not accepting any specific course designation applications for any new Higher National qualifications (Higher National Certificates or Higher National Diplomas). However, providers with existing designation for HNC or HND courses will be able to replace these existing courses with new HNC or HND courses on a 'one-in, one-out' basis. Courses being replaced would be designated for teach out (see p27) until there are no existing students claiming student support, at which point the course will be de-designated. A change in courses will not result in a change to providers' Student Number Control (see p37-40).

The Department may refuse the application for a new HNC or HND course on the "one-in, one-out" basis where it has serious concerns about the existing course, including where there has been a suspension or block on validation or approval.

Section 3: Making an application

Before making an application

Before making an application for specific course designation you should ensure that you have everything you will need to submit a complete application.

New applicant

- A UKPRN⁷.
- Have applied for, or hold a successful, Higher Education Review (Alternative Providers) from the QAA.
- Relevant information to demonstrate financial sustainability (see **Annex A**).
- Course(s) with the necessary validation or approvals in place for their duration (see **Annex C**).

New applicant (Disabled Students' Allowance only)

- A UKPRN.
- Course(s) with the necessary validation or approvals in place for their duration (see **Annex C**).

Existing providers

- Course(s) with the necessary validation or approvals in place for their duration (see **Annex C**).

As part of the application pack, HEFCE will provide you with a checklist of evidence requirements to help you ensure that you have submitted everything required for a complete application. See **Application process** below for more details.

⁷ A UKPRN is a unique identifier for learning providers. You will need to register with the UK Register of Learning Providers (UKRLP) to receive this number. Registration on the UKRLP means that an individual or organisation has been verified against a recognised legal source. It is not an accreditation and provides no guarantee of quality learning provision. You can find out more at www.ukrlp.co.uk.

Application process

HEFCE is responsible for managing the application process on behalf of the Department. Technical details of how to submit an application are available on the HEFCE [website](#)⁸. HEFCE will offer you support if you are considering applying for course designation. If you have any questions about the process you should contact coursedesignation@hefce.ac.uk.

New applicants (including for Disabled Students' Allowance only)

To enable specific course designation to be granted in time for the start of the 2018/19 academic year, please submit your application by 31 January 2018 at the latest. New applicants should contact HEFCE at coursedesignation@hefce.ac.uk at the earliest opportunity to discuss the application process.

Please note that the application process takes around four months from the submission of a complete application to a final decision from the Department. If you receive an initial "minded to refuse" decision this process may take longer (see **Section 4**). Providers cannot advertise the availability of student support until designation is granted (see page 22).

You should plan when to submit your application to make sure that students are given as much time as possible to apply for student support if your application is successful. You should also note that it takes up to six to eight weeks⁹ from a student's application to receipt of student support.

The key dates below may be useful in planning:

Date	Threshold
From November	Courses are uploaded to the SLC system for the next academic year
February	Students begin to apply for student support for the next academic year

⁸ <http://www.hefce.ac.uk/reg/desig/>

⁹ This assumes that the SLC has launched its application cycle for the associated Academic year.

Date	Threshold
27 May 2018	Last date by which eligible students must apply in order to be guaranteed student support for the start of the academic year

It is your responsibility to ensure that you plan your application and recruitment to ensure that, if successful, your students can apply for student support and receive it on time.

If you decide to submit an application you should first contact coursedesignation@hefce.ac.uk and include the following details in your email:

- UKPRN of the organisation applying;
- legal name and correspondence address of the organisation applying;
- full details (name, job title, phone number and email) for your main contact during the application (see **Annex D** for definition);
- full details (name, job title, phone number and email) of your nominated Accountable officer (see **Annex D** for definition);
- expected date of submission for the application; and
- confirmation that you have obtained a HER AP or have applied to the QAA for this (see p46).¹⁰

You will then receive details of how to access the application pack via the HEFCE extranet.

Existing providers

Existing providers can submit applications for new courses or for new locations to be designated at any point during the year.

1) New locations

Each location where students receiving support are to be taught must be designated. You will have been designated for specified locations when you first received designation. If you subsequently want to add additional locations, then you must apply for these separately.

¹⁰ Please note HEFCE will contact the QAA for confirmation prior to issuing an application pack.

Please note that the application process is likely to take between four and six weeks from submission of a complete application to final decision from the Department.

To submit an application for a new location, providers should access the forms required via the HEFCE extranet. Applications must be submitted to HEFCE at least three months before teaching is due to begin at the new location.

If you wish to remove or change a location (i.e. entirely replace one designated location with another) then you should follow the change of circumstances process (see **Annex D**).

For designation purposes, teaching sites that are within walking distance may be designated as a campus. In these circumstances you do not need to apply for new locations. However, you should follow the change of circumstances process (see p61) to apply for campus designation before teaching commences at the additional sites.

All applications for additional or changed locations should be accompanied by evidence of support from the validating or awarding body.

2) New courses

The Department will have registered specified courses when you were first designated. After this, if you want to add a course at a designated location, you must register it with HEFCE.

To register a new course, providers should access the forms required via the HEFCE extranet. You will be required to submit evidence that each course is eligible for student support and that the appropriate validation or awarding body approvals are in place (see p54).

Please note that the application process is likely to take between two and three weeks from submission of a complete application to registration. Courses will be designated from the date of registration.

You should plan when to submit your application to make sure that students are given as much time as possible to apply for student support if your application is successful.

HEFCE will monitor the number and type of courses applied for by each provider and the proximity of application to the intended start date. Where concerns are raised these will be reported to the Department.

Institutional level specific course designation

To apply for institutional level specific course designation, you must have UK degree awarding powers. You will then need to write to the Department,¹¹ copied to HEFCE,¹² to request institutional level specific course designation. You should include in your email the full addresses of all locations that you wish to be covered by your institutional level specific course designation.

Institutional level specific course designation is location specific so if you subsequently wish to have a new location designated you will have to gain approval from the Department using the new location process set out above (p20).

Provider responsibilities when making an application

Advertising the availability of student support prior to designation

It is your responsibility to ensure that any information you give your students about any application you make for specific course designation is appropriate. In particular, **you should not advertise the availability of student support until designation has been granted.**

If you publish information that suggests that student support is, or will be, available prior to designation being granted this may constitute false or misleading advertising and the Department reserves the right to refer such cases to the [Competition and Markets Authority](#).¹³ The Department will take this and any other evidence of misleading advertising into account when determining your designation status. Neither the Department, HEFCE nor the SLC take any responsibility for information provided to students by providers about the availability of student support.

If you wish to advertise that you have applied for designation, but do not yet know the outcome, standard wording is available from HEFCE (coursedesignation@hefce.ac.uk).

If the Department becomes aware of incorrectly advertised courses it may write to you asking you to correct it.

¹¹ designation.enquiries@education.gov.uk

¹² coursedesignation@hefce.ac.uk

¹³ <https://www.gov.uk/government/organisations/competition-and-markets-authority>

Submitting complete information

HEFCE provides detailed information on the required evidence that must be submitted with applications and it is your responsibility to ensure that your application is complete.

If you submit an incomplete application, HEFCE will take reasonable steps to obtain the information from you so that the application can be processed in a timely manner. If the required information is not received, HEFCE will refer the application to the Department who will write to you refusing the application.

Dealings with the Department and HEFCE

You are expected to act in an open, honest and transparent way in all dealings with the Department and HEFCE.

You are responsible for the content of your application and any communications with the Department and HEFCE.

Please note that timings for decisions are reliant on prompt and complete responses to queries from either HEFCE or the Department. Where information is not provided, or if it is incomplete, this delays the assessment and decision making process. In such cases, neither HEFCE nor the Department will bear responsibility for the consequences of such delays.

Section 4: Assessment of your application

Details of HEFCE checks and provider responsibilities

HEFCE will carry out a detailed assessment of your application against the criteria set out in **Section 2** and **Annex C**. In doing so, it will consider all relevant information including advice received from other agencies, for example, the QAA.

You must be prepared to engage with HEFCE during its assessment and to submit any other information that HEFCE may reasonably request in connection with your application.

The assessment process is rigorous and thorough. Checks against publicly available information (for example with Companies House) will be performed to verify the information you provide with your application. Further reports will not normally be commissioned during the process, but reference may be made during the assessment process to publicly available information.

It is important that you submit complete information that allows HEFCE to process your application. HEFCE may, if necessary, contact you where information is not clear. Any additional information that is provided will inform HEFCE's advice to the Department.

Following its detailed assessment, HEFCE will submit formal advice on all aspects of your application to the Department to inform the Secretary of State's decision.

Initial decision and representations process

The Department will review HEFCE's assessment and decide whether it is minded to approve or refuse an application.

At this stage, the Department may also contact you with a request for further information if this is necessary.

Minded to approve

If the Department is minded to approve designation it will inform you, in writing, of its decision in principle. This letter will include details of the courses and locations to be designated, the proposed period of designation and the conditions of designation. Your nominated accountable officer (see **Annex D**) will be required to sign and return a declaration on behalf of the provider. They will then be responsible for ensuring compliance with the conditions of designation. The Department will confirm designation in writing once the declaration is returned (see **Successful applicants** below).

Minded to refuse

If the Department is minded to refuse designation, it will notify you of its intention in writing before reaching a final decision. This letter will state the reasons for proposed refusal and the Department's concerns.

You will be given the opportunity to make representations to address the issues raised in the letter before a final decision is made. This is not an opportunity to submit a brand new application and/or introduce new issues at this stage, unless there has been a material change of circumstances. The Department reserves the right to disregard any new information which does not address its specific concerns. You will have 10 working days to make a representation.

Notification of final decision

Successful applicants

Once you have returned the accountable officer declaration, you will receive a letter from the Department confirming the start date for designation and the next steps. You will be required to comply with the conditions of designation (see **Section 5**) from the date of designation, including future requirements for re-designation.

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](#)¹⁴ within 7 working days

Within the same 7-day period, HEFCE will contact the SLC with details of the course(s) and location(s) designated. SLC will contact you to finalise term dates and fee rates and 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.

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 so that they can make an informed decision.

¹⁴ <http://www.hefce.ac.uk/TheRegister/>

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)).

Alternative Provider Intelligence Unit (APIU)

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 Alternative Provider Intelligence Unit (APIU), and provide details of a named contact within HEFCE who will be responsible for ongoing engagement with you on matters beyond the designation process.

Your 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 APIU 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.

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 final decision and clearly setting out its reasons. You will be expected to have addressed the Department's concerns and meet all the appropriate criteria before a new application is submitted.

Withdrawal of specific course designation - existing providers

The withdrawal of specific course designation by the Department for an existing provider means that none of its continuing eligible students will be able to access student support. It also means that any new students would not be able to access student support.

However, it is the Department's expectation that in most circumstances, subject to the provider continuing to meet the required conditions, continuing eligible students will be able to continue to receive student support for the ordinary duration of (or until withdrawal from) their course. In these circumstances, the provider will be granted designation for 'teach out' and will be required to meet the conditions of designation for teach out.

The Department reserves the right, where significant concerns exist, to withdraw specific course designation without offering teach out, meaning that neither new nor continuing students will be able to access further student support.

Designation for teach out

Designation for teach out is intended to provide protection for continuing students, allowing them to complete their designated courses, achieve their qualifications and help to safeguard the investment that students and the taxpayer have made.

During the period of designation for teach out, the provider is designated for existing students only; any new students the provider recruits will be unable to access student support.

Where the Department intends to grant designation for teach out, it will write to the provider with details of the terms and conditions. The accountable officer will be required to sign a declaration, accepting the terms and conditions for the period of teach out designation and agreeing to ongoing monitoring (see p31).

Providers with designation for teach out only, who wish to apply for specific course designation (so that they can access student support for new students), will be required to make a new application in line with this guidance and will be treated as a new provider.

Section 5: Meeting the conditions of designation

All providers that receive specific course designation are subject to a number of conditions. This section sets out further detail on a number of the conditions (see Annex E for further details). Some conditions do not apply to providers with degree awarding powers, or to providers with designation for teach out, postgraduate master's loans or disabled students' allowance only.

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 periodic review. You may also be subject to investigation under the QAA's Concerns Scheme. Each of these may result in an unsatisfactory judgement (e.g. one or more HER (AP) judgements of less than "meets UK expectations", or an annual monitoring outcome of less than "making acceptable progress"), or an upheld concern.

Definitions of all unsatisfactory QAA judgements and follow-up actions that providers are expected to take to address these can be found in the QAA's guidance on HER (AP) and annual monitoring which can be found [here](#).¹⁵

If you receive an unsatisfactory judgement, or have an upheld concern, the Department reserves the right to take action 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 academic performance data.

Under current arrangements, if you receive an unsatisfactory QAA HER (AP) or annual quality monitoring judgement, you will be expected to undergo a second QAA review within 6-9 months of publication of the review report. If you fail a second QAA HER (AP) review, you cannot be re-reviewed by the QAA for specific course designation purposes within 18 months.

¹⁵ <http://www.qaa.ac.uk/en/ReviewsAndReports/Pages/RSCD.aspx>

Annual returns and re-designation

Designated providers seeking re-designation for 2018/19 will be required to submit an annual return to HEFCE. The type of annual return required varies for different categories of provider. The arrangements that will apply for submission of annual returns in 2017 are set out below.

Process for seeking re-designation for 2018/19

HEFCE will run the annual return assessment process for providers seeking re-designation for 2018/19. HEFCE will use the information submitted by providers to produce an assessment against the designation criteria for the Department. Providers with designation for teach out will also be required to submit a return in order to continue to be designated for teach out.

You must submit an annual return to HEFCE on or before 5 September 2017. Early submission of your return is encouraged.

The Department will follow the assessment and decision making process set out in **Section 4** to determine the outcome following its review of each provider's annual return. HEFCE will contact accountable officers with information on how to submit returns.

Categories of providers

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

These providers will be required to submit a *full return* (details below). The Department will review this information and inform the provider by early 2018 whether they will be designated for the 2018/19 academic year. They will also be notified of the student number control mechanisms that will apply to them (where applicable).

2) Providers with course designation and UK degree awarding powers

These providers will be required to submit a *full return* (details below). These providers are not subject to student number control mechanisms nor annual re-designation. The Department will therefore write to them by early 2018 confirming whether their 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 are required to 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 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.

3) Providers with designation for disabled students' allowances only

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

4) Providers with designation for teach out

Providers with designation for teach out are subject to a teach out return (details below). This return is required as continuing students on courses designated for teach out are still able to access student support, and it ensures that students' interests continue to be protected.

Types of return

Details of types of returns 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 40);
- confirmation of arrangements with your student union/organisation for identifying and resolving early signs of student concerns or complaints (providers with UK degree awarding powers only);
- your latest available financial statements (subject to the requirements set out on page 50);
- 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 SLC, HESA & National Students Survey (NSS);
- 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 make a request for which student number control mechanism they wish to have in 2018/19 and whether they wish to receive an increase (including opting into the performance pool), if eligible.

Reduced return

You will be required to submit:

- an application form including information on any changes of circumstances (see **Annex D**) that have not previously been reported; and
- confirmation that your organisation meets the condition regarding the English language requirements for students (see page 40).

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

Teach out return

For providers with designation for teach out, the return requirements will vary depending on the provider's expected teach out timetable. The Department will confirm to the provider its specific return requirements following confirmation of the withdrawal of designation for new students, but providers designated for teach out will generally be required to submit:

- an application form including information on any changes of circumstance (see **Annex D**) that have not previously been reported;
- Confirmation from validating partner/awarding body that appropriate teach out arrangements are still in place;
- Audited financial statements; the Department does not require an audited cash flow statement if the provider is eligible for a statutory exemption;
- Updated financial tables, including forecasts up to the expected teach out end date;
- Updated commentary to the financial tables.

Where available, the Department is likely to use the following additional information to inform its decision:

- student level data from the SLC and HESA
- the 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.

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 changes that require reporting 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 return to HEFCE.

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.

Full details of the reporting requirements for a change of control or ownership are set out in **Annex G**.

Data returns

Compliance with conditions for designation requires providers to complete a number of data returns. These are summarised in the following section. You should note, however, that a detailed understanding of what is required is expected and links are therefore 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 to supply the data. Returns are expected to be made in accordance with the [Code of practice for higher education data collections](https://www.hesa.ac.uk/code-of-practice-for-higher-education-data-collections).¹⁶ Your organisation must bear the costs of submitting the data required.

¹⁶ <https://www.hesa.ac.uk/code-of-practice-for-higher-education-data-collections>

The Department and HEFCE may carry out audits to gain assurance over the quality of data provided. If such audits identify concerns about the accuracy of the data submitted the Department may require re-submission at your own cost. Completion of such a re-submission is a condition of designation.

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.¹⁷ It records actual and forecast student numbers at course level. For further details providers should refer to the [HEFCE website](#)¹⁸.

There is no requirement to complete a HEAPES return in 2017 for providers designated for postgraduate master's loans only.

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, including those on postgraduate master's courses from 2017/18 regardless of whether those courses are designated or not, with only a few exceptions.

For further information on the coverage of the HESA return, providers should see the [HESA website](#).¹⁹

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

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.

¹⁷ In future it may also monitor recruitment at providers with designation for postgraduate master's loans.

¹⁸ <http://www.hefce.ac.uk/data/collect/heapes/>

¹⁹ https://www.hesa.ac.uk/index.php?option=com_studrec&task=show_file&mnl=15054&href=coverage.html

More information (including subscription costs) and support, can be found on the [HESA website](#).²⁰

Public information

Providers are 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. In addition to submitting student data to HESA, you are required to participate in or submit data for the following:

Destination of Leavers from Higher Education survey (DLHE)

The DLHE survey is carried out on students who have left your organisation up to six months after completing their course. Further details of coverage, timetables and other supporting information can be found on the [HESA website](#).²¹

This survey is expected to be replaced by a new Graduate Outcomes survey in 2018. For providers designated from 2018/19, the first survey of 2017/18 graduates is planned to take place in December 2018. Further details of coverage, timetables and other supporting information can be found on the [HESA website](#).²²

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.

Unistats

You are required to submit a Unistats data return to HESA which has replaced the previous KIS return. This data collection includes all undergraduate courses of more than 1 year (full time equivalent) and contains information relating to those courses such as mode of study and qualification aim. A data specification for the revised collection was

²⁰ https://www.hesa.ac.uk/index.php?option=com_studrec&Itemid=232&mnl=15054

²¹ https://www.hesa.ac.uk/collection/c16018/data_collection_schedule

²² <https://www.hesa.ac.uk/innovation/outcomes>

published in September 2016. However, for further information on the current coverage of the return, providers should see the [HESA website](#).²³

Exceptions

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

Providers that are designated for postgraduate master's courses do not currently need to participate in the NSS (though they may if the coverage of this survey is extended) or complete the Unistats return. These providers will still be required to participate in DLHE.

Providers designated for teach out only are not required to complete HEAPES, participate in the DLHE or NSS surveys, or provide a Unistats data return. They may however wish to continue to participate in DLHE, NSS and Unistats data return as they offer helpful opportunities to provide institutions with valuable data. Providers will also need to have results from these metrics as part of the eligibility criteria to apply for the Teaching Excellence Framework, should they wish to do so.

Providers that are located entirely outside England are not required to complete HEAPES, HESA AP Student Record, DLHE, or the NSS.

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.

Providers' eligible, English-domiciled students studying on designated courses will be able to access undergraduate student support (tuition fee and maintenance loans) and/or

²³ <https://www.hesa.ac.uk/collection/C17061>

postgraduate master's loans for eligible courses. Students will also be able to access disabled students' allowance and other grants.

For the 2017/18 academic year, eligible, English-domiciled undergraduate students studying at alternative providers in the UK will be able to apply for tuition fee loans towards the costs of their fees up to a maximum of £6,000 for a full time course (£4,500 for a part-time course), or where an alternative provider has achieved a Teaching Excellence Framework (TEF) Rating of Meets Expectations in Year One, up to a higher maximum of £6,165 for a full-time course (£4,625 for a part-time course).

Students attending eligible designated postgraduate master's courses at alternative providers without degree awarding powers may apply for a loan of up to £10,280. This is a contribution to the costs of undertaking the course and is paid directly to the student.

Any changes to student support for 2018/19 will be announced in due course.

SLC enter designated courses on to the SLC's Courses 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 (sub-contracted) 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;
- 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.

SLC has established a set of service standards, in relation to these obligations, which are published on their HEP Services website. 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 at <http://www.oiahe.org.uk>.

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, amongst others.

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 and implementing appropriate policies and processes 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 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 can admit 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.

Student Number Allowance (SNA) – this control restricts the total number of students who claim student support at an individual provider to 50 across all designated 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 submitted to providers by HEFCE each year following the Department's decision.

2018/19 student number control policy

The student number control policy for 2018/19 continues the Government's policy of freeing up controls on 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 courses.

Existing providers with an SNC and predominantly validated provision²⁴ will be able to apply, as part of the 2017 annual return exercise, for an increase of up to 20% on their 2017/18 SNC. The Department may refuse the uplift or award a lower percentage to that requested if there are evidenced concerns about a provider's capacity and capability to grow while delivering positive, value for money outcomes for students and taxpayers.

Providers have the option to apply for an additional 10% through the performance pool.²⁵ This applies to both full-time and distance learning/part-time SNCs.

²⁴ Eligibility will be based on a provider's HEAPES17 return.

²⁵ If a provider is successful in their application for the Performance Pool they will receive a 30% increase in total on their 2017/18 SNC.

Applying for the performance pool

The Performance Pool allows the best performing alternative providers, offering predominantly validated (full time, part time, and distance learning) provision, to grow.

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 (i.e. 30% total) should do so as part of their annual return to HEFCE, who will provide further details on the process. The criteria providers will be expected to meet will be as follows:

- their academic performance is of a high standard;
- they have clear plans that will improve student choice (a short submission by providers will be required); and
- they have the capacity to deliver the growth without having a negative impact on existing students.

To assess applications to receive the Performance Pool uplift, the Department will use the latest available academic performance data. This may include UK performance indicator (UKPI) non continuation rates, results from the National Students Survey (NSS) and Destination of leavers Higher Education (DLHE) surveys, where the Department will take into account any statistically significant differences from the available benchmarks. The Department will also require a provider submission on strategy and plans to improve student choice.

Applications will be declined if insufficient published data is available to assure the Department that the provider has a high standard of academic performance, the submission fails to make a convincing case on its plans to improve student choice, or the Department has concerns about the provider’s capacity to deliver growth.

Existing providers with an SNA that deliver predominantly validated provision²⁶ 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’ baselines for the next academic year. However, the Department may apply sanctions where providers over-recruit against their SNC.

²⁶ i.e. 50% or more of students that claimed student support in 2016/17 were studying on validated provision.

New applicants, that will deliver predominantly validated provision, are able to choose whether they wish 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 at 50 (English) students as a default, but those who require a higher SNA may request an increase up to 100.

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 providers 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, which do not undergo annual re-designation.

Providers must also comply with Pearson English Language requirements for applicants for HN qualifications.

Sanctions

The Department will monitor compliance 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 reserves the right to put in place a range of sanctions, including withdrawal of specific course designation.

When the Department decides it is appropriate to implement sanctions, it will write to the provider 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 Education

The Department for Education (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 re-designation and whether to impose sanctions rest with the Secretary of State for Education.

Higher Education Funding Council for England

The Higher Education Funding Council for England (HEFCE) is responsible for managing the processes related to specific course designation and re-designation.

Once the provider has submitted an application to HEFCE, HEFCE will undertake an initial review to assess whether the information provided is complete. During this stage, HEFCE will contact providers, if necessary, to give them an opportunity to supply any missing information. Once all the information is provided, HEFCE will undertake an analysis of the application against the specific course designation criteria. When HEFCE has reviewed all of the information that has been submitted, it will submit advice to the Department.

HEFCE does not make decisions on applications. These decisions 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

To allow students to apply to the Student Loan Company (SLC) for student support funding, specifically designated courses must be listed on 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 the Department's decisions as confirmed by HEFCE.

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 onto CMS on behalf of the alternative provider.

Quality Assurance Agency

To meet the conditions for specific course designation, providers will need to demonstrate that they have been subject to independent, consistent, external quality assessment.

Since September 2015, the Department's policy has been that all alternative providers in England, who wish to access public funds, must have a current 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 from UK higher education providers. 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 subscriptions from higher education providers and it also provides an information service for the procurement of expertise, analysis and bespoke information.

HESA is asked by the Department 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 on 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 indicates whether they can have international students as well as domestic/EU students. This is particularly relevant when assessing the financial sustainability of the provider.

Annex B: Franchise (subcontracting) policy

Franchise arrangements between an authority-funded provider (the franchisor institution) and an alternative provider (the franchisee) require designation for student support purposes. Providers often refer to this arrangement as “sub-contracting” and the parties involved being the “sub-contractor” and the “sub-contractee”. This annex sets out the Department’s policy on such arrangements.

For 2018/19, the Department considers any course that meets the definition below to be designated for undergraduate student support purposes.

Where a provider has a mixture of franchised and validated courses, designation will still be required for validated courses.

The Department will treat franchised master's courses as designated for postgraduate master's loans purposes.

Definition of franchise (sub-contracting)

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 (sub-contractor) 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 Courses Management Service 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 (sub-contracted) courses

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 (HESES/HEIFES) to HEFCE that detail correctly their franchise (sub-contractual) arrangements which include franchise courses.²⁷

Franchise (sub-contractual) arrangements are publicly displayed on the [Register of HE Providers](#)²⁸ 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.

²⁷ 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.

²⁸ <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 these criteria.

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 wish to access student support, must have a successful Higher Education Review (Alternative Providers) (HER (AP)) on entry. This provides external assurance about the academic standards of alternative providers' higher education awards; the quality and enhancement of learning opportunities; and information available to students.

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

New applicants for undergraduate student support and/or postgraduate master's loans must have applied for a HER AP before they submit their application for specific course designation. You can choose to submit your specific course designation application after you have applied for your HER AP, but the Department will not confirm its decision on designation until you have a published HER AP. To enable specific course designation to be granted in time for the start of the 2018/19 academic year, please submit your application by 31 January 2018 at the latest.

The HER (AP) process is likely to take a minimum of nine months to complete. New applicants, who have not already received a satisfactory HER (AP) judgement or had a review scheduled, should contact QAA by 31 August 2017 to schedule a HER (AP) review by February/March 2018.

Under the current quality assessment arrangements, once you have achieved a successful HER AP, you will be subject to periodic review. 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 a decision on your 2017 return to HEFCE may not be made until the Department has considered the risks arising from the concern or, where considered appropriate, the outcome of the investigation is known.

Existing providers with an ongoing QAA Concerns investigation may not be able have a new location designated or register new courses.

Reports of QAA reviews and updates to these reports following annual quality monitoring visits 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.

Under current arrangements, you are required to undergo full periodic reviews. Reviews may occur more frequently in certain circumstances, such as where concerns emerge about the quality of your provision.

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

Academic performance/track record

Alongside the Quality Assessment criteria, 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 within the expected course lengths for such a course (set out in section on **Course eligibility** on p51). The Department will therefore consider providers' academic performance.

The Department will focus on indicators such as student recruitment, progression, and qualifications. The approach used to measure providers' academic performance may change over time, however, the Department will rely on performance indicators drawn from data supplied by HESA and other agencies to determine whether this criterion has been met.

QAA will consider the provider's track record of managing quality and academic standards when determining the duration and focus of a provider's Higher Education

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

Designated providers will be required to submit data to HESA (see page 33). This data will be used to generate performance data for all providers, such as non-continuation rates. Providers will also be required to provide the Unistats record (where applicable). Data from this, including results from the National Student Survey, may also be used to establish whether providers meet the academic performance 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, and it will also be used throughout the year to understand a provider's performance. Data will be used whenever it is available and will be benchmarked against other providers whenever possible. The Department may use the expected course lengths (set out in **Course eligibility** below) to inform methodologies for performance indicators.

From 2017 onwards, the Department is using performance indicators drawn from HESA data as a key measure of academic performance to support its decision-making. The key indicator used is continuation from first- to second-year, but the Department may also rely on other indicators. The Department may impose sanctions where data indicates concerns about a provider's performance, either in absolute terms or relative to other providers.

The Department may 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.

In your application for designation or re-designation you will need to:

- 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 cash flow 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 that your organisation is owned and managed by fit and proper persons, including identifying key personnel (accountable officer, head of higher education, main contact, main 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 assess your organisation's financial performance and position. It is important to note that indicators will be used to inform this assessment, 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 these 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 be able to demonstrate that these organisations meet the financial sustainability 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 or the Charities Commission;
- 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 company directors, trustees 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 sheet, full notes to accounts, and cash flow statement and notes;
- are externally audited by a registered auditor²⁹ 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 DSA purposes only

Providers that are designated for disabled students' allowances (DSA) 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 this is required for other purposes. Cash flow statements and notes should be provided if available, but these do not need to be audited. You will not need to submit the

²⁹ The register of statutory auditors can be found at www.auditregister.org.uk.

financial forecast tables, but will be asked for limited information on student numbers and typical fees.

Course eligibility

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

Eligible courses are defined below. These are different for undergraduate student support, disabled students' allowances and postgraduate master's loans.

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)³⁰.

A course is eligible to receive undergraduate student support if it:

- is of 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 master's),
 - Foundation Degree,
 - Diploma of Higher Education (Dip HE),
 - Certificate of Higher Education (Cert HE),
 - a course for the initial training of teachers.

Higher National Certificates (HNC) and Higher National Diplomas (HND) are also eligible to receive student support (but see below).

³⁰ <http://www.legislation.gov.uk/uksi/2011/1986/contents/made>

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 (OfS) regulatory regime is in place under the Higher Education and Research Act 2017. The OfS will then determine its approach as part of its wider consideration of risk-based regulation.

Existing providers are 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.

The Department may refuse the application for a new HNC or HND course on the “one-in, one-out” basis where it has serious concerns about the existing course, including where there has been a suspension or block on validation or approval.

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 master's loans are set out in detail in the Education (Postgraduate Master's Degree Loans) Regulations 2016³¹ (as amended).

A course is eligible to be designated for postgraduate master's loans if it is:

- a full-time course of one or two academic years' duration;
- a part time course which it is ordinarily possible³² to complete in no more than twice the period required to complete its one or two academic year full time equivalent offered by the same provider;

³¹ <http://www.legislation.gov.uk/ukxi/2016/606/contents/made>

³² “ordinarily possible to complete” recognises that students may receive funding over a longer period. For example, this may occur where there are extenuating circumstances such as compelling personal reasons which arise while a student is completing a course. It does not allow part-time courses to be designated that have a maximum length exceeding the specified durations, even if it may be possible for students to

- a part-time course of up to three academic years that does not have a full-time equivalent offered by the same provider 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 taught programmes of study, programmes of research, or a combination of both (and may include one or more periods of work experience), which lead, on successful completion, to the award of a postgraduate master's degree. There are no subject restrictions.

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)

Where a master's course incorporates a lower level postgraduate qualification, it may still be designated as eligible for the postgraduate master's loan, providing it meets other course eligibility criteria (including those for duration). For example, an LLM (Master of Law) course may be designated as eligible whether or not it incorporates a Legal Practice Course (LPC) (the LPC being a Postgraduate Diploma qualification), providing the total duration of the course (inclusive of the LPC element if applicable) does not exceed the course duration limits as set out above.

Courses that are not eligible for the postgraduate master's loan include:

- courses with a postgraduate element that are currently eligible for undergraduate support (e.g. integrated master's or Initial Teacher Training (ITT) courses).
- postgraduate courses (taught or non-taught) that do not result in a postgraduate master's qualification, such as Postgraduate Certificates (PgCert) and Postgraduate Diplomas (PgDip);

complete those part-time courses over a shorter period by, for example, taking a greater number of modules per year.

- doctoral degrees;
- master's degrees that are undertaken as an integral part of a doctoral degree; and
- top-up courses to convert lower level postgraduate courses (such as PgCerts and PgDips) to master's degrees with the addition of extra credits.

Additional guidance on individual and course eligibility requirements for the postgraduate master's loan is available in the Student Loan Company Guidance for Practitioners' chapter on the postgraduate master's loan, available [here](#).³³

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 on the [Department's list of Recognised Bodies](#);³⁴
- for HNC/HND qualifications, either Pearson or the Scottish Qualifications Authority; or
- for Initial Teacher Training qualifications in the further education sector, a recognised UK awarding body.³⁵

Providers must ensure that their courses (and locations) have appropriate awarding or validating body approval in place. HEFCE will seek assurance that this is in place when providers apply and when they submit their re-designation applications. 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 however 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);

³³ <http://www.practitioners.slc.co.uk/policy>

³⁴ <http://www.dfe.gov.uk/policies/higher-education/recognised-uk-degrees>

³⁵ 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>).

- 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 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; or
- 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 - see below) 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 students' 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.

To qualify for postgraduate master's loans support, a part-time course must be meet the part-time course duration requirements outlined on p52-53.

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)³⁶.

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

³⁶ <http://www.legislation.gov.uk/uksi/2011/1986/contents/made>

Duration of courses

The Department has established expected full-time duration for the main courses eligible for designation (see below). Where applications include courses with longer duration 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.

The expected duration for eligible courses is as follows:

- 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
- HND – two years
- HNC – one year
- Postgraduate master's degree – one or two years full-time, or up to four years part-time (for more detail, see description of course duration criteria on p52-53).

Location of courses

You must have each location at which courses are delivered designated separately. If you use a location for any teaching, you must apply to have it designated.

For designation purposes, teaching sites that are within walking distance may be designated as a campus (see p21).

Annex D: Reporting changes of circumstance

This annex gives designated providers information about the changes that must be reported 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

The following changes must be reported either in advance or as they occur, or as soon as practicable thereafter.

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 titles may vary depending on the nature of 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 official communications from the Department and HEFCE.

This individual should 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 fulfil 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 delegated authority in place.

Head of higher education provision

This individual should be the person in the organisation with overall responsibility for the higher education academic provision. 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 the Department and HEFCE will usually contact for day to day queries. This person may be copied into official communications from the Department and HEFCE.

Data contact

The person with oversight for completion of data returns, for example HEAPES and HESA.

Prevent contact

The person with oversight for compliance with and monitoring of HEFCE's Prevent Duty under section 26(1) of the Counter Terrorism and Security Act 2015.³⁷

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 or change (e.g. a block) in 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 and proper persons

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:

³⁷ <http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted>

- 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;
- 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.

Material change in financial performance/position

You must report whenever your financial performance and/or financial position is likely to become, or has become (whichever arises sooner), materially different to that forecast in your last annual return. For example:

- You will move from a surplus to a deficit;
- The level of deficit or surplus has materially increased or decreased;
- A significant injection of funds means you will move from a deficit to a surplus;
- Material changes in a parent company or Group occur which may adversely affect your position;
- Any transactions and other exceptional financial events that result in a material change to assets, revenue or capital, for example:
 - Any material investments or other transactions that occur in year;
 - Any loans, overdrafts or mortgages taken out that are of a significant size relative to the assets of the organisation;
 - Any change in capital structure.

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, or involve a change in type of award. Notifications should however be accompanied by evidence of support from the validating or awarding body.

If changes are made to courses that result in a significant change to course content, title, mode of study, duration or validating body, then the changed course will need to be registered with HEFCE as a new course (see **Section 3**).

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 replace, 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.

For a location to be considered as a change of location, you must close an existing location and replace it with another. This means that the existing designated location will be de-designated and its provision and students must move to the replacement location.

If you are adding an additional teaching location, you will need to apply for a new location designation (see p20).

Addition of locations to a campus designation

If you have a campus location designated (see page 21) and you wish to add a location to this campus, then you must report this to HEFCE three months in advance of teaching of designated courses beginning there.

All applications or notifications relating to new locations should be accompanied by evidence of support from the validating or awarding body.

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.

For example, if you have five directors and, over the course of the year, three of these change, this would be reported as a change of control at the point at which the third director was 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 master's 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 master's loans. Where this is the case it is clearly indicated below.

Providers with teach out designation are subject to a range of terms and conditions. The Department will write to providers confirming designation for teach out with appropriate terms and conditions. Providers will be expected to adhere to those teach out terms and conditions and confirm this through an accountable officer signed declaration.

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 subcontract 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

1. 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.
2. Providers must ensure that they do not breach any student number control mechanism set by the Department.
3. 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.
4. 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.
5. 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 have 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;
- 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 provider).

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.

Annex G: Changes of control and/or ownership

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 HEFCE (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 continue 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 4** for details of HEFCE assessments). A final decision will be made by the Secretary of State and the Department will inform you 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 date of the change completing for the checks to be carried out).

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

If the Department determines that the criteria for 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.³⁸

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 cases³⁹ the Department will consider whether to grant temporary designation to the new owners to protect the interests of students.

³⁸ The Department reserves the right to revoke designation in respect of existing students in exceptional circumstances.

³⁹ 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.



Department
for Education

© Crown copyright 2017

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/publications

Reference: DFE-00187-2017



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk