



Department  
for Business  
Innovation & Skills

DESIGNATION AS AN INSTITUTION  
ELIGIBLE TO RECEIVE HEFCE  
FUNDING

Guidance for Higher Education  
Providers: Criteria and process  
for applying for designation as  
an institution eligible to receive  
funding from the Higher  
Education Funding Council for  
England (HEFCE)

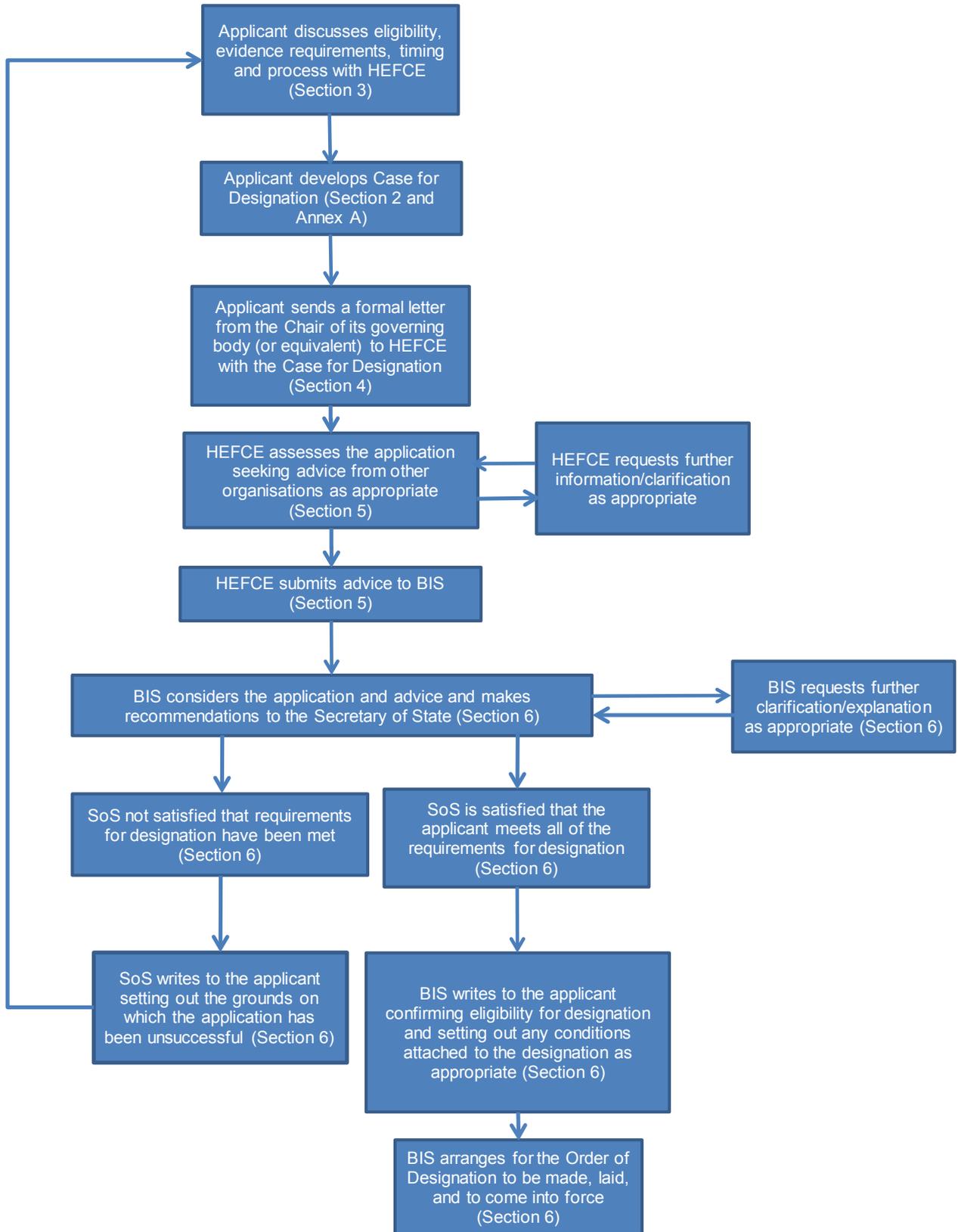
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# Process Flowchart



# Introduction

1. This guidance sets out the criteria and process for providers of higher education (HE) to seek designation as an institution eligible to receive funding from the Higher Education Funding Council for England (HEFCE). It updates and supersedes Annex A of the HEFCE report 'Transfers between the further and higher education sectors' (2001). In particular it:
  - explains the criteria and process in more detail;
  - provides detail on the evidence requirements to demonstrate the criteria; and
  - takes account of the transfer of responsibility from BIS to HEFCE for administration of the process.
2. Designation as an institution eligible to receive funding from HEFCE means that a provider is required to agree and comply with the terms and conditions set down in the Memorandum of Assurance and Accountability that reflect HEFCE's responsibility to provide annual assurances to Parliament that:
  - funds provided to HEFCE are being used for the purpose for which they were given;
  - risk management control and governance in institutions funded by HEFCE are effective; and
  - value for money is being achieved.
3. The criteria and process for obtaining designation are stringent and rigorous. They are designed to protect the interests of students and the wider public and to ensure that applicants have the capacity to comply with all the requirements of the Memorandum upon designation.
4. This guidance is relevant to HE providers that do not currently receive direct HEFCE funding and wish to do so.
5. Further details and instructions on how to apply can be found on the HEFCE website <http://www.hefce.ac.uk/reg/>
6. The process is administered by HEFCE on behalf of the Secretary of State for Business, Innovation and Skills (BIS). Following receipt of advice from HEFCE, BIS assumes responsibility through to notification of the decision and the coming into force of the Order of Designation.
7. There is separate guidance on the [transfer of Further Education Corporations to the HE sector](#), and there is a separate annual process for publicly funded institutions in England to seek HEFCE funding for the prescribed HE courses they provide (see [Direct funding: Guidance for applying for entry in 2016-17](#) (HEFCE 2015/12)).

# Section 1: Who is eligible to apply?

1. If you are a higher education provider in England and meet the legislative requirement below you are eligible to apply for designation as an institution eligible to receive HEFCE funding.

## Legislative requirement

2. Section 129 of the Education Reform Act 1988 provides that the Secretary of State may by Order designate a provider as eligible to receive funding from HEFCE if the full-time equivalent enrolment number for higher education courses<sup>1</sup> exceeds 55 per cent of the total full-time equivalent enrolment number.
3. The full-time enrolment number should be calculated in accordance with [section 161](#) and [Schedule 9 of the Education Reform Act 1988](#). However, satisfying this requirement does not make designation automatic. The Secretary of State has discretion whether or not to designate and will assess each application on its individual merits and circumstances applying the criteria set out in Section 2).

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<sup>1</sup> Higher education courses are programmes leading to qualifications, or credits which can be counted towards qualifications, which are above the standard of GCE A-levels or other Level 3 qualifications. They include degree courses, postgraduate courses and sub-degree courses such as those leading to HNCs or HNDs.

## Section 2: Criteria

1. In addition to meeting the enrolment threshold (Section 1) you must meet all the following criteria.

### Criterion 1

- You bring new or highly distinctive provision into the HE sector (primarily in terms of subject, but possibly also in terms of learning environment or approach), and so would add to the HE sector's diversity, but in an area which has academic credibility as a fit subject or specialism for an HE provider; and/or
- You make provision which, in subject coverage or delivery, is already found in the HE sector, but you have a standing and repute that would enhance the sector overall and/or you make provision that will add to the skills, growth or economy of your locality.

### Criterion 2

You can demonstrate strong demand from students and a strong employment record.

### Criterion 3: Quality assurance and academic standards and performance

We need to be assured as to the current and future management of your academic standards, the quality of your learning and teaching and your academic performance.

### Criterion 4: Financial sustainability

We need to be assured that you are financially viable and sustainable with a low risk of failure on financial grounds over the medium to long term. This should give students reasonable confidence that they will not be at risk of not being able to complete their course as a result of financial failure.

### Criterion 5: Management

We need to be assured that you are well managed with sound management practice in place and the capacity to develop in line with your strategic plans and the financial strategy that supports those plans.

### Criterion 6: Corporate governance

We need to be assured that you are well governed and comply with accepted principles of good governance.

2. Annex A provides information on the evidence required to demonstrate the criteria. Whilst similar to other processes, for example applying for University Title or Specific Course designation, criteria 3 - 6 and the evidence to demonstrate these have been designed to ensure that, upon designation, you can meet all the terms and conditions of the HEFCE Memorandum of Assurance and Accountability.

## Section 3: Before making an application

1. If you are considering making an application for designation you should contact HEFCE as soon as possible to discuss eligibility, evidence requirements, likely timescales and advice on how to proceed.
2. If you have already received specific course or institutional designation or Degree Awarding Powers, you will already be known to HEFCE and/or the Quality Assurance Agency (QAA) and checks that have already been undertaken will be taken in to account. In recognition of this you should discuss the evidence requirements with HEFCE before submitting your formal application as some evidence may not need to be re-submitted.
3. In all cases the application process is rigorous and thorough and you should expect it to take up to 12 months from initial contact with HEFCE through to formal notification by the Secretary of State of the outcome (Section 6). You may ask HEFCE about progress of your application at any time, however, it is likely that you will be in close contact with HEFCE throughout the process.
4. Further information is available at <http://www.hefce.ac.uk/reg/>

## Section 4: Submitting an application

1. To apply for designation you must submit:
  - a letter from the Chair of your governing body (or equivalent) stating that your organisation considers that it meets the criteria for designation;
  - the full Case for Designation setting out all the evidence to demonstrate that you meet all of the criteria in Section 2 and Annex A.
2. Where possible, you are encouraged to use documentation that has been produced in the normal course of your business or that is publicly available. Please note that the responsibility for the content of and submission of the Case for Designation rests wholly with you but HEFCE will provide advice to clarify criteria and suitability of evidence as required throughout the preparation of your Case for Designation.
3. In processing your application HEFCE will comply with its obligations regarding access to information regimes, primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004. Consequently, as your application may include commercially sensitive information, it will be made clear to you what information is being regarded as commercially sensitive for these purposes and what is not, and, where objections arise, HEFCE will judge each case on its merits.
4. You should submit your application by following the instructions at: [www.hefce.ac.uk/reg](http://www.hefce.ac.uk/reg)

## Section 5: HEFCE assessment of your application

1. HEFCE will carry out a detailed assessment of your application for designation against the criteria set out in Section 2 and Annex A. In doing so it will consider all relevant information including advice received from other interested parties as appropriate, for example, QAA and the Charity Commission where you are a registered charity.
2. You must be prepared to engage with HEFCE during its assessment and to submit such other information as HEFCE may reasonably request in connection with your application.
3. The assessment process is thorough and rigorous and checks, for example with Companies House and through web searches, will be performed to verify the information provided in the application. Further reports will not normally be commissioned during the process, but reference may be made during the assessment process to information published by organisations such as the Office of the Independent Adjudicator for Higher Education, the Higher Education Statistics Agency (HESA) and the National Student Survey (NSS).
4. In some cases it may also be necessary for HEFCE to schedule one or more visits to inform its assessment, in particular its assessment of your estates and data management (criteria 5).
5. Where you have specific course or institutional designation you should note that a satisfactory assessment for this purpose does not necessarily mean that you will meet all the criteria for designation as an institution eligible to receive HEFCE funding. This could be because, for example, the latter requires the applicant to demonstrate its readiness to comply with all the terms and conditions of the Memorandum of Assurance and Accountability which go beyond the requirements for specific course designation, or because specific course designation is focussed on the medium term (up to three years) whereas designation for HEFCE funding is focussed on the medium to long term to ensure your long term commitment to HE and the interests of your students.
6. If there are issues of concern arising during the assessment you will be given the opportunity to provide further clarification and explanation to inform HEFCE's assessment and advice to BIS.

### HEFCE's advice to BIS

7. Following its detailed consideration of your application and approval by its Board, HEFCE will submit its formal advice on all aspects of your application to BIS to inform the Secretary of State's decision.

## **BIS consideration of HEFCE's advice**

8. If, having considered all the advice received, BIS has any concerns about your application you will be informed of the outcome of the assessment and given the opportunity to provide further clarification and explanation before advice is submitted to the Secretary of State and a final decision made.
  
9. On the basis of all the advice received, including, as appropriate, any additional clarification and explanation as above, the Secretary of State will take a view as to whether you meet all the criteria for designation as an institution eligible to receive HEFCE funding.

# Section 6: Notification of decision and next steps

## Successful application

1. If the Secretary of State approves your application BIS will write to you to confirm that you meet the criteria and, as appropriate, setting out any conditions attaching to the designation.
2. The Secretary of State will lay an Order of Designation before Parliament which will usually come into force 21 days after laying<sup>2</sup>. It is only at this point that the designation takes legal effect. The decision letter will confirm the process and timing for laying the Order.

## Unsuccessful application

3. If the Secretary of State considers that the criteria for designation have not been met, BIS will write to you confirming that the application has been unsuccessful and setting out the reasons for the decision.

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<sup>2</sup> The Order is subject to negative resolution procedure and must be laid before Parliament for a minimum of 21 days before it comes into force. It is also subject to possible annulment for a total of 40 days. Annulment means that the Order can be revoked if either House passes a resolution annulling it within 40 days. Any member of either House can put down a motion that an instrument can be annulled. You are therefore advised to delay making a formal announcement on transfer until the full 40 days has expired.

# Section 7: Rights and obligations upon designation

## Eligibility for direct HEFCE funding

1. Whilst the Secretary of State has the power to designate an institution as eligible to receive funding from HEFCE, HEFCE has the power to fund institutions and to make allocation decisions. HEFCE will allocate funding in line with the funding allocation model in use at the time.
2. Funding follows the academic year and normally begins on 1 August following designation.

## Governing Documents

3. In accordance with sections 129A (for HEIs other than companies) and 129B (for companies) of the Education Reform Act 1988, as a designated institution you are required to have:
  - an instrument of government providing for the constitution of your governing body; and
  - articles of government providing for the conduct of your institution.
4. The instrument and articles should be effective before the Order of Designation comes into force (see Section 6).

## Designation for student support

5. Eligible HE courses at HEFCE funded institutions are automatically designated under the Education (Student Support) Regulations 2011 (as amended) and as such their students are eligible for student loan support. Further information can be found on the Student Loans Company HE Partners web pages <http://www.heinfo.slc.co.uk/> and at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/450090/BS-15-440-guidance-for-alternative-higher-education-providers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450090/BS-15-440-guidance-for-alternative-higher-education-providers.pdf)

## HEFCE regulation

6. HE providers in receipt of direct HEFCE funding are subject to regulation by HEFCE and must sign up to the Memorandum of Assurance and Accountability. Further information can be found at <http://www.hefce.ac.uk/reg/MAA/>
7. HE providers in receipt of HEFCE funding are also expected to demonstrate how they are accountable for their access to the publicly subsidised student support system. This is done through the voluntary [Agreement on Institutional Designation](#), which is signed by representative bodies on behalf of individual providers or by the provider if it is not a member of a representative body. The Agreement makes the link between institutional

accountability requirements and automatic designation for student support more explicit and sets out a process for addressing non-compliance with accountability measures.

## Office for Fair Access (OFFA) and Access Agreements

8. Fees for undergraduate courses at HE providers in receipt of HEFCE funding are regulated. They may set fees above the basic level (£6,000 for full-time courses in 2015-16) and up to a limit of £9,000, if they have an access agreement with the Director of Fair Access to HE. Access agreements set out how a provider intends to safeguard and promote fair access to HE through its outreach work and financial support. Further information can be found at <http://www.offa.org.uk/universities-and-colleges/introducing-access-agreements/>
9. You may therefore wish to engage with OFFA prior to your designation coming in to force if you wish to apply for an access agreement and for this to be effective upon, or shortly after, designation.

## The Office of the Independent Adjudicator (OIA)

10. All HE providers whose courses are eligible for student support are required to be members of the [Office of the Independent Adjudicator](#) for HE, the independent body set up to review student complaints.

## Privy Council approval of Governing Documents

11. All amendments, however minor, to the governing documents of an HE provider that has been designated for HEFCE funding must be submitted to the Privy Council for approval and must be approved by the Council before they can take effect. The contact point for discussion of this process is:

Senior Clerk with responsibility for Higher Education  
Privy Council Office  
2 Carlton Gardens  
London  
SW1Y 5AA  
Telephone 0207 747 5301  
Email: [pcosecretariat@pco.gov.uk](mailto:pcosecretariat@pco.gov.uk)

## Subsequent change of legal status, delivery model or control/ownership

12. As a designated institution, if at any point you are considering changing your legal status, delivery model or control/ownership (including where a merger is being considered) you should contact HEFCE as soon as possible to discuss the implications for your designation. As appropriate, this may also have implications if you hold degree awarding powers or university or university college title and these should be discussed with HEFCE at the same time.

# Annex A: Evidence required to demonstrate eligibility and criteria

## Legislative requirement

1. To meet the legislative requirement (see Section 1) you must provide evidence to demonstrate that 55 per cent of your total full-time equivalent students are studying courses of higher education. The full-time equivalent enrolment number should be calculated in accordance with [section 161](#) and [Schedule 9 of the Education Reform Act 1988](#).
2. As far as possible, HEFCE will base its assessment on information from HESA. You do not, therefore, need to submit any additional information with your application unless requested to do so by HEFCE at any time.

## Criteria

3. In your Case for Designation you are required to demonstrate how you meet the criteria set out in Section 2. Whilst similar to other processes, for example applying for University Title or Specific Course designation, Criteria 3 – 6 and the evidence to demonstrate these, have been designed to ensure that, upon designation, you can meet all the terms and conditions of the HEFCE Memorandum of Assurance and Accountability.

### Criteria 1 and 2

4. These criteria should be demonstrated in a self-assessment that outlines which of the aspects of the criteria are being addressed and how you meet them. Your assessment should include a comparison of provision against the existing sector. Reference to data on applications over earlier academic cycles and the employment of graduates should be made and the data provided, unless this is already available from HESA in which case you should state where this is the case.
5. When considering whether you meet these criteria, HEFCE will consider whether you are:
  - addressing a 'cold spot';
  - offering provision that is otherwise not available locally, regionally or nationally;
  - offering a model of delivery which provides students with a choice of study not available locally or regionally;
  - offering higher or degree apprenticeships;
  - offering HE provision which meets their local enterprise partnership priorities;
  - recruiting students from low participation areas;
  - making other contributions to the distinctiveness of HE;
  - making other contributions to the enhancement of HE;
  - making contributions to the local economy.

6. You do not need to demonstrate that you make a contribution to all of these areas in order to meet the criteria.

### **Criterion 3: Quality assurance and academic standards and performance**

7. You need to demonstrate the current and future management of your academic standards, the quality of your learning and teaching and your academic performance.
8. You must satisfy this criterion before applying for designation for HEFCE funding. This means having a published report for a successful quality assessment review by QAA prior to application. If your application is successful you must continue to satisfy this criterion and undergo further periodic reviews (usually every four years). You should discuss with HEFCE at your pre-application discussion the evidence requirements to demonstrate that you meet this criterion.
9. HEFCE will seek advice from QAA as to whether you have achieved a successful quality assessment review. This should normally have been within the last three years. If longer you should discuss the position with HEFCE at your pre-application discussion and agree what action might be needed. At the same time you should discuss with HEFCE whether the form of review you have still meets HEFCE requirements.
10. If you have not had a quality assessment review you should speak to QAA to arrange one. This can take several months to arrange and for the outcome to be determined. Detailed information on the Higher Education Review quality assurance framework for alternative providers and how to apply can be found at <http://www.qaa.ac.uk/en/ReviewsAndReports/Pages/RSCD.aspx>
11. HEFCE will also ask QAA if there is anything else known about you that could be relevant to their assessment of your application, including information from QAA's annual quality monitoring visits for alternative providers and information on whether QAA has activated its concerns procedure in the preceding three years.
12. If you are being investigated under QAA's concerns procedure your application for designation cannot proceed until the outcome of the investigation is known. This may have a bearing on the outcome of your application.
13. Where you are a member of the Office of the Independent Adjudicator for HE (OIA) you should also include in your application details and the outcome of any complaints made to the OIA in the preceding three years.
14. You should also inform HEFCE of any provision that is professionally accredited and provide summaries of the most recent reports with the application.
15. If you do not have degree awarding powers, validation contracts and/or approval agreements should be included with the application. If these contracts/agreements have been submitted and verified for specific course designation purposes you do not need to submit them again but you should confirm that there have been no changes to validation since approval for specific course designation.
16. Consideration will also be given to your academic performance and track record. As such, in its assessment of your quality and academic standards HEFCE will take into

account data on your student retention, completion and satisfaction. Where appropriate data from HESA or the National Student Survey will be examined as well as any other available information on your student retention and completion, for example, data from the Student Loans Company or information from QAA's annual quality monitoring visits for alternative providers. If you do not contribute data to HESA, or you believe that the available information may be incomplete, you should include with your application internal data on your student retention and completion. This should be verified by your validating or awarding partners.

17. HEFCE will also take into account any other relevant known information that could impact on its assessment against this criterion.
18. You can, where you feel it appropriate, provide any additional information on your academic standards, quality of learning and teaching or academic performance with your application.
19. HEFCE is currently consulting on quality assessment arrangements for HEFCE-funded providers with anticipated changes being introduced in 2017/18 following a pilot year in 2016/17. More information can be found at <http://www.hefce.ac.uk/reg/review/>

#### Criterion 4: Financial sustainability

20. You need to demonstrate that you are financially viable and sustainable with a low risk of failure on financial grounds over the medium to long term. This should give students reasonable confidence that they will not be at risk of not being able to complete their course as a result of financial failure.
21. As appropriate the assessment of financial sustainability may take in to account the financial arrangements of any group structure (including subsidiary and parent/holding companies) or linked organisation where it is considered relevant to your financial sustainability. You should therefore set out clearly in your application the details of any structure, companies or organisations.
22. Applicants with courses specifically designated for student support purposes will already be known to HEFCE and information submitted and checks that have already been undertaken will be taken into account. In recognition of this, you should discuss the evidence requirements in this area with HEFCE before preparing your Case for Designation.
23. You must demonstrate in your Case for Designation:
  - a track record of financial performance as evidenced by the annual reports and externally audited financial statements for the three years prior to the application<sup>3</sup>. The accounts must be audited each year by a registered auditor<sup>4</sup>. This must not be the same firm and/or individual that prepared the accounts to ensure that BIS can

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<sup>3</sup> In cases where the latest financial statements have been prepared but not yet audited and signed off, these should be submitted as part of the evidence on an in-confidence basis. It is important that the financial assessment is based on the latest financial information available. The final audited accounts should be submitted as soon as signed off.

<sup>4</sup> The register of statutory auditors can be found at: <http://www.auditregister.org.uk/Forms/Default.aspx>. It is the provider's responsibility to ensure that the audit firm and the auditor signing off the audit opinion are listed on the register

have full confidence in the audit<sup>5</sup>. The basis of the accounts and forecasts will be Generally Accepted Accounting Practice in the UK (UK GAAP) (or successor requirements) or International Financial Reporting Standards (IFRS) if appropriate. You must be able to demonstrate that you:

- have adequate cash flow to remain solvent i.e. you have sufficient liquidity to pay your debts as they fall due; and
- 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.
- that you have a financial strategy that reflects your overall strategic plan, sets appropriate benchmarks and performance indicators, shows how resources are to be used, and how activities and infrastructure will be financed. This should include how you assess and review your own sustainability, including the use of sustainability assessments. You should submit as part of your evidence your business plan and full financial forecasts for the current year and future three years. The evidence should include a commentary on the assumptions being made and how any financial risks are being managed.

24. In order to assess the full financial position and performance the application must also cover all other relevant contextual information.

25. Financial tables and a template for the commentary are available from HEFCE.

26. As far as possible reliance will be placed on financial data and information that you have produced to meet your own needs, however, it may sometimes be necessary to request additional financial details in order to consider fully the issues identified above.

27. The assessment of your financial performance and sustainability will not be used in isolation to determine whether you meet this criterion. The financial sustainability assessment will be an overall judgement that also takes into account the context of your financial position including from your strategic or business plan.

28. Unless otherwise agreed with HEFCE, the financial analysis must be based on [SORP: Accounting for Further and Higher Education](#) as this would help HEFCE to assess your financial sustainability against the standards for HE providers already in the HEFCE funded sector.

### Criterion 5: Management

29. You need to demonstrate that you are well managed with sound management practice in place and the capacity to develop in line with your strategic plans and the financial strategy that supports those plans.

30. You must therefore provide evidence to demonstrate that you:

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<sup>5</sup> Where the provider's own finance team provides all book-keeping services and the auditor simply translates the trial balance produced by the provider into the statutory format of the accounts, it is acceptable for the same firm to provide these services.

- plan and manage your activities to remain sustainable and viable;
- have robust and comprehensive systems of risk management and internal control;
- have effective arrangements for the management and quality assurance of data used for internal decision making;
- have regular, reliable, timely and adequate information to monitor operational and financial performance;
- manage your estate in a sustainable way in line with an estates strategy and the requirements of HEFCE's Capital Investment Framework; and
- be able to meet all the necessary data capture and reporting requirements for HEFCE including those administered by the Higher Education Statistics Agency (HESA). These include but are not limited to:
  - the annual HESES survey;
  - student, student destination, staff, estates, and business and community interaction data to HESA;
  - provision of data to support public information requirements;
  - annual data collections to support the transparent approach to costing
  - annual accountability return.

31. In assessing the data management capabilities consideration will be given to your track record in submitting data to HEFCE or other bodies including HESA, the Skills Funding Agency or the Student Loans Company. HEFCE is likely to undertake a data audit visit as part of the assessment process.

### Criterion 6: Corporate governance

32. You need to demonstrate that you are well governed and comply with accepted principles of good governance.

33. You must therefore demonstrate that you can comply, upon designation, with the principles of the [Higher Education Code of Governance](#) (Committee of University Chairs, December 2014) and the requirements of the Memorandum of Assurance and Accountability.

34. If you do not already comply with the Higher Education Code of Governance you should discuss with HEFCE at the outset how you might demonstrate this criterion.

35. In addition you must demonstrate that you:

- comply with the statutory requirements relating to external audit; and
- are owned, managed and run by 'fit and proper persons' by providing:

- a. evidence of your organisation's identity and that of key individuals (for example, the Principal, directors, shareholders, trustees); and
- b. evidence that your directors (if a company) or trustees (if a charity) are eligible to act and have not been disqualified from acting as directors or trustees.

36. Where you are, or expect to be, a charity you will need to take account of guidance on the responsibilities of trustees and effective trusteeship to be found the [Charity Commission](#) website.



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