



BRIEFING PAPER

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The Office for Students

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Summary

On 1 January 2018 the Office for Students (OfS) came into legal force and in April 2018 it took on the role of regulatory body for the English higher education sector.

As part of the restructuring process the Higher Education Council for England (HEFCE) has been closed and the Office for Fair Access (OFFA) has merged into the OfS.

The OfS was established under provisions in the *Higher Education and Research Act* (HERA) 2017. This Act has made significant changes in the higher education sector including merging the Research Councils and Innovate UK into a new body UK Research and Innovation (UKRI).

The functions of the OfS include: administering a register of higher education providers, granting degree awarding powers and university title, promoting equality of opportunity, assuring quality and standards, the administration of the Teaching and Student Outcomes Framework (TEF) and data collection.

When carrying out its functions the OfS should have regard to protecting institutional autonomy and maintaining the principle of co-regulation.

The OfS also has overarching duties to encourage competition in the sector and to promote value for money in the provision of higher education.

In February 2018, following a consultation with stakeholders and the sector, the OfS set out how it intends to perform its various functions in a regulatory framework for higher education. The framework adopts a risk-based approach to regulation. A transitional period is currently in place before the new regulatory framework is implemented in full from August 2019.

The OfS will take on a greater regulatory role than HEFCE and its remit to promote competition in the sector will provide a different focus for the OfS compared to its predecessor.

Concerns about the OfS mainly relate to the independence of the body - particularly following the objections raised over appointments to the board. Overall however the establishment of the OfS has been welcomed by the sector's representative organisation Universities UK:

"Universities UK (UUK) welcomes the establishment of the Office for Students (OfS) as an opportunity to develop risk-based regulation for English higher education that protects and promotes the interests of students".

1. Background

The higher education regulatory system in England has developed over time into a complicated framework of organisations and processes. At the centre of much of the administration of higher education was the Higher Education Funding Council for England (HEFCE). This body was established under the [Further and Higher Education Act 1992](#) to allocate funding to higher education institutions (HEIs) and to oversee quality assessment. The body also had a regulatory role through the application of Funding Agreements between HEFCE and HEIs.

In 2012 major reforms were introduced to the higher education funding system which included reducing the amount of direct public funding to HEIs and increasing funding from students via tuition fee loans. It was subsequently suggested that this changed higher education landscape of reduced public funding, uncapped student numbers and increased private providers called for a new approach to regulation and several reports called for the creation of a new regulatory system¹ and a new regulatory body.²

The reforms also reduced the role of HEFCE and proposals were brought forward to create a new role for HEFCE as lead regulator for the higher education sector.³

1.1 Government consultation

In November 2015 the government issued a green paper, [Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice](#).⁴ The paper proposed the creation of a new body the **Office for Students** (OfS):

Purpose of the Office for Students

The purpose of OfS will be to empower, protect and represent the interests of students, employers and taxpayers by:

- Ensuring the quality, value and financial accountability of higher education and promote excellent teaching in all providers
- Ensuring a competitive and dynamic system where new providers who meet quality conditions can easily enter the sector to give students more choice, while safeguarding public funding
- Empowering students to make the best choices through improved access to information
- Increasing the onus on, and progress of, providers to widen access for disadvantaged students, and ensure successful

“At the centre of the reforms to the system architecture is the creation of a student champion in the form of an Office for Students (OfS)”.

BIS, [Fulfilling Our Potential](#), November 2015 p62

¹ Department for Business, Innovation and Skills, [A new fit-for-purpose regulatory framework for the higher education sector-technical consultation](#), August 2011

² Higher Education Commission, [Regulating Higher Education](#) October 2013, Higher Education Policy Institute, [Unfinished Business? Higher Education Legislation](#), February 2014

³ Department for Business Innovation and Skills, [A new fit for purpose regulatory framework for the higher education sector](#), Technical Consultation, August 2011

⁴ Department for Business Innovation and Skills, [Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice](#), November 2015 Cm 9141

outcomes in terms of retention, attainment, and progression to work or further study

- Ensuring the rights of students to hold providers to account and get value for money for their investment, and to protect them in the event of a provider exiting the sector⁵

The paper laid out the proposed statutory duties and powers of the new body which included the operation of a **single entry route** into the higher education system and the duty to operate a **risk-based regulatory framework**. The paper also set out the powers of the Secretary of State with regards to the OfS.

In May 2016 the government published its white paper, [Success in a Knowledge Economy](#)⁶ in response to the consultation. In the paper the government published more details on the form, structure and duties of the OfS. The paper stated that “with the creation of the OfS, HEFCE and OFFA would be closed and the majority of their functions will transfer to the OfS”.⁷

The white paper proposals on the OfS are discussed in library briefing CBP 7600, [Higher Education White Paper Success as a Knowledge Economy](#), 18 May 2016 p17-19.

1.2 The *Higher Education and Research Act (HERA) 2017*

On 19 May 2016 the [Higher Education and Research Bill](#) 2016 was presented in the House of Commons. The Bill implemented the legislative proposals in the white paper and enabled the establishment of the OfS, the [Explanatory Notes](#) to the Bill gave an outline of the role of the OfS:

This Bill will create a new non-departmental public body, the Office for Students (OfS), which will become the main regulatory body, operating at arm's length from Government in line with the existing regulatory regime, and with statutory powers to regulate providers of higher education in England. The OfS will have duties to promote quality, greater choice and opportunities for students. It will also have a duty to encourage competition and value for money in the provision of higher education and the need to promote equality of opportunity in access to and participation in higher education. These duties will ensure the OfS will focus on fostering a more competitive system with the aim of driving up quality and outcomes for students and taxpayers, while maintaining the current protections for academic freedom and institutional autonomy.

The regulatory functions of the Higher Education Funding Council for England and the statutory powers of the Director of Fair Access to Higher Education will transfer to the OfS. The Higher Education Funding Council for England and the Office for Fair

⁵ Department for Business Innovation and Skills, [Fulfilling our Potential: Teaching Excellence, Social Mobility and Student Choice](#), November 2015 Cm 9141 p62

⁶ Department for Business Innovation and Skills, [Success in a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice](#), 16 May 2016, Cm9258

⁷ *Ibid* p64

6 The Office for Students

Access, which supports the Director of Fair Access to Higher Education, will then be wound up.

To provide assurance for students, the OfS will establish and maintain a register of higher education providers in England. The register will include, among others, all providers whose students can receive student support or have a Tier 4 licence for international students.

Other providers offering accredited higher education courses can join the register on a voluntary basis in return for compliance with the student complaints scheme of the Office of the Independent Adjudicator for Higher Education (OIA) but will not receive access to public funding and / or student support.

In June 2016 during the parliamentary stages of the Bill the Department for Business Innovation and Skills published a document, [Case for the Office for Students, A new public body in place of the Higher Education Funding Council for England \(HEFCE\) and the Office for Fair Access \(OFFA\)](#). The document set out the rationale for the new body:

There is a need for a simpler, less bureaucratic and less expensive system of regulation, that explicitly champions the student, employer and taxpayer interest in ensuring value for their investment in higher education. The current architecture is no longer fit for purpose and the role of the regulator needs to be updated to reflect the recent changes in government funding for HE and the growing diversity of the HE sector.⁸

The provisions on the OfS were contained in Part 1 of the Bill – clauses 1-77 and in schedule 1. These clauses establish the OfS, and include details on the structure and duties of the body.

The clauses on the OfS were extensively debated during the committee stage of the Bill in the House of Commons – these debates are discussed in library briefing paper, [Higher Education and Research Bill: Committee Stage Report](#), 16 November 2016. The main issues raised in debate were: the lack of student representation on the board of the OfS, the role of the OfS in access and participation, the role of the OfS in promoting competition in the sector, the administration of the register of higher education providers and the setting of registration conditions and the power of the OfS to impose penalties on providers.

The *Higher Education and Research Act 2017* received Royal Assent on the 27 April 2017.

⁸ Department for Business Innovation and Skills, [Case for the Office for Students, A new public body in place of the Higher Education Funding Council for England \(HEFCE\) and the Office for Fair Access \(OFFA\)](#) p3

2. The establishment of the OfS

The OfS legally came into force on 1 January 2018, and has been fully operational since 1 April 2018.⁹ HEFCE and the Office of the Director for Fair Access and Participation closed at the end of March 2018.

On 7 February 2017 Sir Michael Barber was appointed chair of the OfS.¹⁰ The recruitment process and the role of the chair were discussed in a report by the Education Committee, [Appointment of the Chair of the Office for Students](#), 24 February 2017.¹¹

In September 2017 Nicola Dandridge, ex-chief executive of Universities UK, took up the role of chief executive. Chris Millward is Director for Fair Access and Participation at the OfS.

A list of the 15 board members of the OfS is on the OfS website at [Our board and committees](#).

2.1 Transition period April 2018 to 31 July 2019

[The Higher Education and Research Act 2017 \(Consequential, Transitional, Transitory and Saving Provisions\) Regulations 2018](#) were laid before Parliament on 26 February 2018 and came into force on 1 April 2018.

The regulations provide for the OfS to take on the functions of HEFCE and the Director for Fair Access and Participation between 1 April 2018 and the implementation of the new regulatory framework in full from August 2019. This will allow for a transition period, during which the former system will be preserved where relevant under the OfS, and all providers will be entitled to register with the OfS.

The [explanatory memorandum to the regulations](#) provides further information.

On 16 March 2018 [Early Day Motion 1084](#) was tabled by the opposition to annul these regulations. The EDM resulted in a [debate](#)¹² on the OfS on 23 April 2018 - the motion to annul the regulations was defeated at the end of the debate by 291 votes to 211.¹³

A timeline showing the implementation process for establishment of the OfS is available on the Wonkhe website at [A beginner's guide to the English regulatory transitional period](#), 12 February 2018.

⁹ GOV.UK, "[New universities regulator comes into force](#)", 1 January 2018

¹⁰ HEFCE, "[Chair of Office for Students appointed](#)", 7 February 2018

¹¹ Education Committee, [Appointment of the Chair of the Office for Students](#), 24 February 2017 HC 882

¹² [HC Deb 23 April 2018 c681](#)

¹³ "[Labour bid to block regulatory powers for Office for Students](#)", *The Guardian*, 23 April 2018

3. Duties of the OfS

Under the HERA 2017 the OfS will be the regulatory body for the higher education sector. It will perform this role in several ways:

- through the operation of a **register of higher education providers**
- the application of a new **regulatory framework**
- the awarding of **degree awarding powers and university title**
- the monitoring of **access and participation**
- the assurance of **quality and standards**
- the oversight of **data collection and publication**

In performing these functions the OfS must have regard to the need to protect institutional **autonomy and academic freedom**, promote **choice** for students, encourage **competition** between providers, promote **value for money** and **equality of opportunity** in connection with access and participation.

In October 2017 the government launched a suite of consultations on the functions of the OfS:

- [*Simplifying Access to the Market consultation*](#)
- [*Securing student success: risk-based regulation for teaching excellence, social mobility and informed choice in higher education*](#)
- [*Office for Students: registration fees \(stage 2\)*](#)
- [*Designation of a body for English higher education information*](#)
- [*Designation of a body to perform the assessment functions for higher education in England*](#)

The responses to these consultations have shaped the implementation of HERA 2017 and the development and operation of the OfS.

3.1 Funding allocations

The OfS will take over HEFCE's role in allocating teaching funding to English HEIs.

A briefing by the OfS for board members, [*HE finance and funding*](#), 29 January 2018 gives an overview of how the OfS will allocate funding and the various budgets and funding streams.

Funding 2018-19

On 20 February 2018 Sam Gyimah the Minister of State for Universities and Science sent the OfS a letter setting out the government's priorities for higher education funding - [*Strategic Guidance to the Office for Students – Priorities for Financial Year 2018/19*](#). Similar letters were sent out annually to HEFCE. The Annex to the letter set out a total annual teaching funding of **£1,538 m for 2018/19**.

Details of OfS funding for providers is set out in a letter [*Teaching funding in the period from April 2018 to July 2019*](#).

Individual providers allocations for 2018-19 are set out on the OfS website at [Funding allocations for 2018-19](#).

4. The regulatory framework

4.1 Consultation

Section 75 (8) of HERA 2017 required the OfS to consult bodies representing the higher education sector and students before publishing a new regulatory framework. On 19 October 2017 the Department for Education launched a consultation on a new regulatory system for higher education, [Securing student success: risk-based regulation for teaching excellence, social mobility and informed choice in higher education, Government consultation on behalf of the Office for Students](#). The consultation closed on 22 December 2017. The consultation asked the sector for its views among other things on: the proposed **risk-based approach to regulation, registration conditions** for providers, **registration categories**, and **use of the TEF**.

The responses to the consultation were used to inform the design of the regulatory framework.

In February 2018 the government published the responses to the consultation in a document, [Securing student success: risk-based regulation for teaching excellence, social mobility and informed choice in higher education, Government consultation response](#).

4.2 The new framework

The new regulatory framework was published in February 2018, [Securing student success: Regulatory framework for higher education in England](#). This regulatory framework states how the OfS intends to perform its various functions, and provides guidance for registered higher education providers on the ongoing conditions of registration. The framework is composed of five parts:

- Part I: the OfS's risk-based approach
- Part II: sector level regulation
- Part III: regulation of individual providers
- Part IV: validation, degree awarding powers and university title
- Part V: guidance on the general ongoing conditions of registration

The new regulatory regime will apply to both old HEFCE funded providers as well as Alternative Providers, which were regulated by the Department for Education.

“The Office for Students (OfS) is a new regulator for English higher education. It will adopt a **bold, student-focused, risk-based approach**, reflecting the significant changes to higher education of the last 25 years and seeking to anticipate the changes still to come.”

OfS [Securing student success: Regulatory framework for higher education in England](#), February 2018 p14

Box 1: OfS regulatory objectives

The OfS [Regulatory Framework document](#) sets out four primary regulatory objectives:

All students, from all backgrounds, and with the ability and desire to undertake higher education:

1. Are supported to **access, succeed in, and progress** from, higher education.
2. Receive a **high quality academic experience**, and their interests are protected while they study or in the event of provider, campus or course closure.

3. Are able to **progress into employment** or further study, and their qualifications hold their value over time.
4. Receive **value for money**

5. Register of providers

Under s3 HERA 2017 the OfS must establish and maintain a register of English higher education providers, and may divide that register into different parts, representing different categories of registration.

Registration is not compulsory for all providers of higher education in England. However those who apply to register will, if successful, be able to access certain benefits that will not be available to non-registered providers - for example, certain registered providers' students will be able to access publicly funded student loans. Once **initial registration conditions** have been met a provider is added to the register, the OfS may attach **general and specific ongoing conditions** to categories of registration (or to different descriptions of providers).

5.1 Two registration categories

The white paper envisaged that providers could be included on the register in one of three categories based on level of access to public funding:

- **Registered basic** for those not in receipt of funding
- **Approved** providers with designation for student support
- **Approved fee cap** all providers receiving direct public funding

The final regulatory framework included only **two categories** for providers - **Approved** and **Approved fee cap**. The government response to the consultation stated that removing the registered basic category would give students more protection. Information given in answer to a [PQ](#) on 8 January 2018 stated that only five providers would have registered in the basic category and that in 2019/20 there would be around 540 providers outside of the OfS Register.¹⁴

5.2 Registration conditions

HEIs wanting to be included on the register must meet **initial registration conditions** – once on the register these will become **ongoing conditions**. Each registration category has its own initial and ongoing conditions of registration. The conditions are '**baseline requirements**' – in other words they are the minimum level a provider must achieve in order to be registered.

There are 19 registration conditions relating to areas such as:

- Access and participation
- Quality and standards
- Teaching excellence framework and student outcomes
- Consumer protection
- Student complaints

¹⁴ PQ 131583 [[Office for Students](#)] 8 January 2018

- Student protection
- Financial viability and sustainability
- Management and governance
- Accountability

Details of the conditions of registration are set out in Annex A of the OfS [Regulatory framework document](#) February 2018.

5.3 Registration fees

The OfS will have the **power to charge registration fees** and '**other fees**', in accordance with regulations made by the Secretary of State under HERA s70. These fees, set by government, will **fund the majority of the operating costs** of the OfS and they will be charged from academic year 2019/20 once the new regulatory framework is fully operational. It has been estimated that the OfS operating costs (before allowing for efficiency savings) will be around **£25.6m**.¹⁵

On 14 December 2016 the Department for Education launched an initial consultation on registration fees, [Office for Students: registration fees and other fees Government consultation](#). The responses to the consultation revealed **divergent views** about what would constitute a fair approach to charging. Respondents also expressed concerns about the cost of fees for small, specialist and new providers and the increased costs that the OfS may face in regulating providers judged to be at greater risk of failing to meet its quality baseline expectations.

On 18 October 2017 the Department for Education launched a **second consultation** on registration fees, [Office for Students: registration fees \(stage 2\) Government consultation](#) and an impact assessment of the proposals was published in December 2017, [Introducing registration fees for Office for Students Consultation Impact Assessment](#).

The second consultation proposed a registration fee model where Registered Basic providers **paid a flat fee** and providers in the Approved and Approved (fee cap) categories **paid a varied fee based on their size**, as measured by their full-time equivalent higher education student numbers.

The fee model would be **reviewed after two years** of its operation.

On 28 February 2018 the government published its response to the consultation, [Office for Students: registration fees \(stage 2\) Government consultation response](#). The response contained the following decisions:

- there would **no longer be a Registered Basic category**
- registration fees for Approved and Approved (fee cap) providers would **vary by size as measured by their full-time equivalent higher education student numbers**
- there would be more granularity in the smaller fee bands.

¹⁵ DfE, [Introducing registration fees for Office for Students Consultation Impact Assessment](#), December 2017 p12

- there would be a **review of the fee model after two years** of its operation
- costs in the smaller bands would be more affordable.
- **discount of fees for new providers** to the Approved categories in their first three years of paying registration fees.
- a registration fee subsidy for micro providers

5.4 OfS power to impose penalties on providers

The HERA 2017 makes provision for the OfS to impose sanctions on registered higher education providers in certain stipulated circumstances. In particular, the Act allows the OfS to impose two types of penalty:

- a monetary penalty where it appears to the OfS that there is, or has been, a breach by a provider of one of its ongoing registration conditions.
- a financial penalty on a provider for the late or non-payment of registration fees that it intends to charge from 2019/20 and for the late or non-payment of fees other than registration.

The government issued a consultation on imposing penalties, [Office for Students: monetary and financial penalties Government consultation](#), 14 December 2017. The government response to the consultation - [Office for Students: monetary and financial penalties Government consultation response](#), March 2018 contained the following decision:

The government has decided that to encourage compliance in the interest of students the **maximum penalty amount should be 2% of qualifying income or £500,000** (whichever is the higher amount).

Before the OfS can start imposing monetary penalties in August 2019, the OfS will publish guidance including further details on its processes and decision making.¹⁶

The Secretary of State will in due course pass regulations on monetary penalties, including setting the maximum amount that can be imposed and the matters to which the OfS must, or must not, have regard to when imposing a monetary penalty.

6. Degree awarding powers (DAPs) and University Title (UT)

Up until 31 March 2018 DAPs and UT were awarded by the Department of Education (DfE) and the Privy Council. From 1 April 2018 the OfS will be responsible for the granting of taught awards and research awards to registered higher education providers, and for the awarding of UT.

The powers of the OfS with regard to DAPs and UT were the subject of a [consultation](#)¹⁷ in October 2017. The government's [response](#)¹⁸ to the consultation was published in February 2018, the response stated that the current system would not be greatly altered:

However, it has been the government's position throughout the reforms that the process for obtaining Full DAPs is strong and well tested, and should not be completely overhauled.¹⁹

Transition arrangements for the transfer of the powers are set out in a document on the OfS website, [Regulatory Advice 4: Transition arrangements for degree awarding powers and university title](#).

The new arrangements for the awarding of DAPs and UT by the OfS are set out in:

- OfS [Securing student success: Regulatory framework document, February 2018](#), Annex C
- DfE guidance, [Degree Awarding Powers \(DAPs\) and University Title \(UT\) Secretary of State for Education Guidance to the Office for Students \(OfS\)](#) February 2018.

6.1 Criteria for granting DAPs

Under the OfS Framework there will be some changes to the awarding of DAPs.

New DAPs

Providers that have been delivering higher education for **less than three years** will not be eligible to apply for full DAPs and in these cases DAPs will be awarded on a **three year probationary basis** – this authorisation will be known as '**New DAPs**'. To apply for New DAPs authorisation, a provider must:

- Be or become registered with the OfS.
- Satisfy all of its ongoing conditions of registration.
- Normally have registered or intend to register more than 50 per cent of its higher education students on courses at level 6 of the

¹⁷ DfE, [Simplifying Access to the Market: Degree Awarding Powers and University Title Government consultation](#), October 2017

¹⁸ DfE [Simplifying access to the market: degree awarding powers and university title Government consultation response](#), February 2018

¹⁹ *Ibid* p11

FHEQ or above, or at level 5 or above for foundation degree only authorisation.²⁰

To address concerns expressed in responses to the consultation New DAPs will **not be available in respect of research degrees**.

Full DAPs

A provider that has been delivering higher education for **three or more years** may apply for full authorisation, this authorisation will be known as **'Full DAPs'**.

To apply for Full DAPs authorisation, a provider must:

- Be registered with the OfS.
- Satisfy all of its ongoing conditions of registration.
- Have had no fewer than three consecutive years' experience, immediately preceding the year of application, of delivering higher education courses in England at a level at least equivalent to the level of the DAPs authorisation for which the provider is applying.
- Normally have registered more than 50 per cent of its higher education students on courses at level 6 of the FHEQ or above, or at level 5 or above for foundation degree only authorisation.²¹

Review of the new system

The OfS is to conduct a review of the operation of the effectiveness of the reformed system for applying for, and obtaining DAPs after **at least three years** of operation of the new regime.

Revocation of DAPs

Under HERA 2017 the OfS has powers to vary or revoke DAPs. These powers include the ability to vary or revoke DAPs where authorisation was originally made under Acts or Royal Charters. The conditions for revocation of DAPs are set out in sections 44 and 45 of the Act together with a detailed statutory process that the OfS must follow if it intends to vary or revoke DAPs. A provider may appeal to the First Tier Tribunal against any decision to vary or revoke DAPs.

6.2 Validation of degrees

Validation is the process whereby a provider with DAPs agrees to award a degree for courses delivered by another provider. It has been suggested that some new providers have found it difficult to find a validator for their courses and that this can create a barrier for providers trying to enter the higher education sector. A DfE [report](#)²² published alongside the suite of consultation documents on the OfS website discusses alternative providers and validation arrangements.

²⁰ OfS [Securing student success: Regulatory framework document, February 2018](#), p68 para 221

²¹ *Ibid* p72 para 249

²² DfE, [Alternative providers of higher education: Views of the validation and franchise process and innovation in the sector Research report](#), October 2017

The HERA 2017 permits the OfS to enter into commissioning arrangements with existing higher education providers, or to become a validator itself. Granting the OfS power to act as a validator aims to facilitate course innovation and to further open up of the higher education market.

6.3 Criteria for awarding UT

The requirements for the award of UT and university college are set out in the OfS Framework document:

Eligibility to apply for university college or university title

A higher education provider is eligible to apply for university college title when it:

- Is registered with the OfS.
- Satisfies all of its ongoing conditions of registration.
- Has obtained authorisation to grant taught awards (other than foundation degree only **DAPs**) or **research awards and where that authorisation is not time limited**.

A higher education provider is eligible to apply for university title when it meets the criteria for university college title above and, in addition, the following criterion:

- The number of full time equivalent higher education students must exceed 55 per cent of the total number of full time equivalent students, of which at least 50 per cent must be on courses at level 6 or above on the Framework for Higher Education Qualifications.

7. Quality and standards

Another of the functions of the OfS is to ensure that quality and standards are maintained in higher education. This function will be discharged through oversight by a designated quality body (DQB) and through the operation of the Teaching Excellence and Student Outcomes Framework (TEF).

7.1 Quality assessment body

Section 118 of the HERA 2017 permits the OfS to appoint a DQB to carry out its quality assurance role. Under the previous system HEFCE appointed the [Quality Assurance Agency for Higher Education](#) (QAA) to carry out this function.

In October 2017 a [consultation](#)²³ was launched to get the sector's views on the appointment the DQB. The consultation asked respondents to comment on the continued use of QAA, or to suggest alternative bodies. The consultation document contained an Expression of Interest by QAA.

The government [response](#)²⁴ to the consultation was published in January 2018. The response said that the QAA had received "overwhelming support" and that no other bodies had been proposed. In February 2018 it was confirmed that QAA would be appointed as the DQB for the OfS.

7.2 Teaching Excellence and Student Outcomes Framework (TEF)

The [Teaching Excellence and Student Outcomes Framework](#) (TEF) measures teaching quality in higher education providers and recognises excellent teaching in UK higher education providers by rating them as gold, silver or bronze. The framework is intended to incentivise the improvement of teaching quality and to help prospective students choose where to study. The TEF was developed by the DfE and will be administered by the OfS.

Information on the TEF is available on the OfS website at [Teaching](#).

²³ DfE, [Designation of a body to perform the assessment functions for higher education in England Government consultation in accordance with section 118 of the Higher Education and Research Act 2017](#), 19 October 2017

²⁴ DfE [Designation of a body to perform the assessment functions for higher education in England Government consultation response](#), January 2018

8. Data collection

Under the HERA 2017 the OfS will appoint a body to collect higher education data. The role of the Designated Data Body (DDB) will include data collection, data processing, data storage, data publication and provision. This data will be disseminated to help prospective students make informed choices on higher education and to inform policy.

A [consultation](#)²⁵ was held to get the sector's views on the appointment of the DDB. The consultation document contained detailed information on the remit of the body and gave an overview of the purposes of data collection. The consultation asked respondents to comment on the continued use of the [Higher Education Statistics Agency](#) (HESA), or to suggest alternative bodies - the document contained an Expression of Interest by HESA.

The government [response](#)²⁶ to the consultation was published in January 2018. The response said that the HESA had received "overwhelming support" and that no other bodies had been proposed.

On 8 February 2018 it was [confirmed](#)²⁷ that HESA would be appointed as the DDB for the OfS.

Information on the work of the OfS with regard to data is given on the website at [Student information and data](#).

²⁵ DfE, [Designation of a body for English higher education information Government consultation in accordance with section 118 of the Higher Education and Research Act 2017](#), 19 October 2018

²⁶ DfE, [Designation of a body for English higher education information Government consultation response](#), January 2018

²⁷ DfE [Letter to HESA](#), 8 February 2018

9. Participation and Access

Under HERA 2017 the OfS has a general duty to **promote equality of opportunity** with regard to access to and participation in higher education - up until 31 March 2018 this function was carried out by the [Office For Fair Access](#) (OFFA).

The OfS's work in [promoting equal opportunities](#) will work across the student lifecycle and its priorities are stated as:

Access

- To increase the entry rates of students from underrepresented groups to higher education, in particular reducing the participation gaps at the most selective providers, where they are the widest.
- To reverse the decline in higher education participation by mature students from underrepresented groups.

Success

- To reduce the drop-out rates of students from underrepresented groups, particularly those from minority ethnic groups and those with disabilities, and to reduce the gaps between these groups and other students.
- To reduce the attainment gaps between students from underrepresented groups, particularly those from minority ethnic groups and those with disabilities, and those from other groups

Progression

- To improve the rates of progression of students from underrepresented groups, particularly those from minority ethnic groups and those with disabilities, into graduate-level employment or further study, and to reduce the gaps between these groups and other students.

The OfS promotes equal opportunities through its work with higher education institution's [Access and Participation Plans](#) and through the [National Collaborative Outreach Programme](#) (NCOP).

Detailed information on the role of the OfS in promoting equality of opportunity is set out in a DfE guidance document, [Access and Participation Secretary of State for Education Guidance to the Office for Students \(OfS\)](#), February 2018.

Chris Millward, the Director for Fair Access and Participation has said that the OfS would place at least as much emphasis on **improving student success rates** as on widening student access and that the OfS would make **better use of student data** on access and student success to support sector-wide improvement.²⁸

"Under the OfS, regulators have a **"much more nuanced and smarter set of powers"** than previous directors at the Office for Fair Access".

Chris Millward,
Director for Fair
Access, [Times
Higher Education](#) 5
March 2018

²⁸ ["England's new access tsar puts focus on student success"](#), *Times Higher Education*, 5 March 2018

10. Issues

The establishment of the OfS is a major structural change in the higher education sector and many concerns have been expressed about the new body and its role and focus. The organisation will have a different role to HEFCE and in his inaugural speech Sir Michael Barber signalled that the OfS would take a 'new approach' to higher education regulation.²⁹ The main areas of concern which have been raised are discussed below.

10.1 Independence of the OfS

It was frequently said that HEFCE acted as a 'buffer' between HEIs and the government. The OfS as regulator will assume a different role and concerns have been expressed about the independence of the body from government.³⁰

In January 2018 the membership of the board of the OfS was announced. The appointment of one particular member – Toby Young³¹ - was highly controversial and caused some commentators to question the independence of the organisation. Following much criticism Mr Young resigned from the board on 9 January 2018³²

Labour shadow education secretary Angela Rayner has also questioned the independence of the OfS:

"Ministers have sought to turn the so-called independent regulator into their puppet, pursuing their obsession with free markets and political pet projects instead of the sector's best interests."

[...]

Rayner said: "There are still serious unanswered questions about the shambolic process of appointment to the board ... The choice of student representative was blatantly politicised while university staff and the entire further education sector have been left unrepresented entirely,"³³

The [Strategic Guidance letter](#) from the Minister for Universities to the OfS asked the OfS to focus on various areas including monitoring the number of unconditional offers made to students and the publication of information on grade inflation. Reference to these areas has caused some commentators to express concern about micro-management of the OfS.³⁴

²⁹ Universities UK, "[Sir Michael Barber gives speech at Universities UK](#)", 23 June 2017

³⁰ "[How independent is the Office for Students?](#)" *Times Higher Education*, 8 March 2018

³¹ "[Appointment of Toby Young to Office for Students board criticised](#)", *Times Higher Education*, 1 January 2018

³² "[Toby Young resigns from university regulator](#)", *BBC News*, 9 January 2018

³³ "[Labour bid to block regulatory powers for Office for Students](#)", *The Guardian*, 23 April 2018

³⁴ "[Can Office for Students shake off rows and win over universities?](#)", *Times Higher Education*, 3 April 2018

Nicola Dandridge the chief executive of the OfS has however suggested that the OfS will be more independent than HEFCE:

The OfS will actually be a “much more powerful buffer” against political interference than its predecessor, Hefce, Ms Dandridge insisted.

“We have been set up and established with reference to a long and detailed act of Parliament [the Higher Education and Research Act 2017], which is very prescriptive about what we can and cannot do,” said Ms Dandridge, who described Hefce’s founding act from 1992 as being “extraordinarily broad brush” and thereby allowing far more interventions by ministers.

“In some aspects, independence [of the regulation] is better protected than ever,” Ms Dandridge added.³⁵

10.2 Student representation

The issue of student representation on the board of the OfS was much debated during the parliamentary stages of the HERA 2017. One member commented at the time that students ‘have their name on the door but they do not have a seat at the table’.³⁶ In addition it has been alleged that applicants for the role of student experience representatives on the board were vetoed by ministers.³⁷

Information given in answer to a [PQ](#) on 17 January 2018 stated the following on student input on the OfS board:

Office for Students: Written question - 123354

Mr David Lammy on: 17 January 2018

To ask the Secretary of State for Education, what steps he is taking to ensure that students’ views are represented on the board of the Office for Students.

Mr Sam Gyimah on: 25 January 2018

The Office for Students’ (OfS) central mission is to operate in the interests of student and its statutory duties reflect this. We will expect all members of the Board to engage with students to ensure they understand the issues that they face and have these as considerations when making decisions. However, to further strengthen the voice of students on the Board, the Higher Education and Research Act made provision for there to be at least one member of the Board with experience of representing or promoting student interests.

There is currently an interim student representative on the Board, who is also a full member of the Student Panel. The OfS’s Student Panel has been set up to advise the board and senior team of the OfS. It has thirteen members and this membership includes current undergraduate and postgraduate students, part-time and international students, prospective students and recent graduates.

³⁵ [“Can Office for Students shake off rows and win over universities?”](#), *Times Higher Education*, 3 April 2018

³⁶ Higher Education and Research Bill 2017, Public Bill Committee, 8 September 2016 c116 – Wes Streeting MP

³⁷ [“Ministers vetoed student champions from Office for Students board”](#), *Times Higher Education*, January 2018

They will bring a diverse range of views and perspectives to bear on the work of the OfS.³⁸

10.3 Collaboration with UK Research and Innovation (UKRI)

Under the previous system HEFCE had a role in the allocation of teaching funding and of quality related research funding. Under the new system UKRI will be responsible for the allocation of all research funding. Concerns have been expressed about the separation of research and teaching. Commentators have stressed the importance of the association between the OfS and UKRI and of the need for close collaboration.³⁹

The [Strategic Guidance letter](#) from the Minister for Universities to the OfS sets collaboration with UKRI as a priority:

Collaboration with UK Research and Innovation (UKRI)

Joined up working between the OfS and UKRI (including Research England) will be essential to ensure a co-ordinated and strategic approach to the funding and regulation of the higher education system in England. I would like the OfS to prioritise collaboration with UKRI on those areas of shared interest, including: skills; capability and progression; knowledge exchange; the ongoing financial sustainability of HE providers; accountability and assurance; infrastructure funding; building robust evidence and intelligence; and ensuring that the Research Excellence Framework (REF), Teaching Excellence and Student Outcomes Framework (TEF) and Knowledge Exchange Framework (KEF) are mutually reinforcing.

10.4 Postgraduate students

Particularly concerns have been expressed about the position of postgraduate students under the OfS, including whether their interests will be adequately represented by the new regulator.

A [PQ](#) on 26 February 2018 contained information on the relationship between postgraduate students, the OfS and UKRI:

Postgraduate Education: Written question - 129834

Daniel Zeichner on: 26 February 2018

To ask the Secretary of State for Education, if he will take steps to ensure that the interests of postgraduate students are properly reflected in the operations of the (a) Office for Students and (b) UK Research and Innovation.

Mr Sam Gyimah on: 06 March 2018

The Higher Education and Research Act 2017 (HERA) provides clarity on the respective responsibilities of the Office for Students (OfS) and UK Research and Innovation (UKRI), including with regard to postgraduate students.

The OfS is responsible for protecting the interests of all students (including postgraduate taught and research students) and the

³⁸ PQ 123354 [\[Office for Students\]](#) 17 January 2018

³⁹ "New age of regulation must not forget the lessons of the past", *Times Higher Education*, 19 April 2018

quality of all regulated provision, working with the designated quality body, the Quality Assurance Agency. OfS will be responsible for the funding of taught postgraduate education, including the teaching grant currently allocated for this purpose through Higher Education Funding Council for England (HEFCE). It will be the regulator for all degree awarding powers (DAPs), but in respect of research DAPs, there is provision for taking into account the views of UKRI.

UKRI will be responsible for all research funding, which will include the funds that Research Councils currently distribute for doctoral studies. UKRI will also be responsible for all research funding currently distributed by HEFCE, including quality-related research funding, which has an element to support the provision for doctoral students in England. UKRI, through its councils, will also be responsible for the financial sustainability of the research base. The two organisations will work together and with other bodies to understand the pipeline and take oversight of the health of disciplines through all levels of education, including postgraduate.

The two bodies are also committed to working effectively together on areas of mutual interest, including postgraduate provision, and are developing a collaboration agreement to support this aim. OfS must also have regard to any guidance given to them by the Secretary of State in performing its functions and duties, under HERA section 2(3), as must UKRI under HERA section 104.⁴⁰

10.5 Potential conflict of interest

The OfS has been given a new role as a validator of degrees (see section 7.2). It is intended that this power will be used as a last resort in cases where a higher education provider has been unable to find a validator by another route. In validation arrangements the validation provider is responsible for the academic standards of the award granted in its name.

It has been suggested that there is a conflict of interest with a regulator acting as a validator:

There is also widespread concern about the proposal for the OfS to act as a “validator of last resort” if a provider collapses or is unable to find a partner to accredit its degrees. In its response, MillionPlus argues that “a lack of a validation partner is a comment on the quality of provision in the provider seeking validation, rather than a reflection of market barriers”.

MillionPlus questions whether the OfS would have the “skills or credibility” to validate degrees, arguing that such a move would also represent a significant conflict of interest with the organisation’s regulatory responsibilities.⁴¹

An [article](#)⁴² on the Wonkhe website discussing validation arrangements suggests that the OfS’s validation power would be rarely used but could

⁴⁰ PQ 129834 [[Postgraduate Education](#)] 26 February 2018

⁴¹ “[English providers voice concerns over Office for Students regime](#)”, *Times Higher Education*, 2 January 2018

⁴² Wonkhe, [Seeking validation: OfS and collaborative provision](#), 19 October 2017

possibly encourage other providers to increase their offer of validation arrangements.

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