

Higher Education, Better Regulation: towards a new culture of autonomy and accountability

The Government response to the *Interim
Report* of the Better Regulation Review
Group

17 June 2004

Introduction

At the UniversitiesUK conference at Warwick University last September, I paid tribute to the work of David VandeLinde and the Better Regulation Review Group. In doing so, I also set out my determination that universities must have the freedom to do what they do best with the minimum bureaucratic burden. That commitment stands. It forms part and parcel of our ambitious vision for higher education set out in the White Paper published in January 2003.



Reducing bureaucracy and reinforcing local autonomy are core objectives for the Government and are essential to building strong higher education institutions well placed to exploit new freedoms. The best way to nurture a creative and innovative HE sector is to support their autonomy and encourage their responsiveness to stakeholders. Effective accountability is the best protection of autonomy as it leads to stakeholder confidence and mutual trust, reducing the need for intrusive regulation. That is why the work of the Better Regulation Review Group is so important.

This report covers a wide range of activity, across Government departments and agencies, aimed at improving regulation. Within this work, there are two main messages which stand out.

Firstly, much has already been achieved and this must be welcomed. New independent research shows that, the cost of external bureaucracy to universities has fallen by 25% in real terms over the last four years. The proportion of HEFCE funding that universities spend on meeting external regulation is now estimated at 3.8%, compared with 6.3% four years ago. This is a real achievement and is testament to the hard work of many people in finding better ways of ensuring legitimate accountability demands are met.

Secondly, we know that there is more to do and we must now look to embed the good regulation agenda. This month sees the launch of the Higher Education Regulation Review Group, chaired by Dame Patricia Hodgson. The HERRG will work to terms of reference devised by the BRRG. It will, for the first time, introduce a stage of informed scrutiny into the policy making process, working with partners from across Whitehall and agencies. The HERRG will make sure that significant new regulation is devised in accordance with the principles of good regulation with an open consideration of costs, benefits and the impact of change. The approach is ambitious and I am confident that the care taken by the BRRG to design a

mechanism which reflects so closely the distinctive character of English higher education will be welcomed across the sector.

The introduction of the HERRG will help embed a systematic approach to new regulation where greater consideration is taken of evidenced risk and variation in institutional performance. It will help move us beyond an accountability model built on the assumption that one size can fit all circumstances and towards a more sophisticated engagement with institutions. I am delighted that Patricia has agreed to chair the HERRG. She brings with her a wealth of experience of regulatory practice and will speak with authority and energy to both the funders and regulators of higher education and to leaders of higher education institutions.

We are moving towards a higher education world which, subject of course to parliamentary approval, will be different after 2006. Increasingly distinctive institutions will have access to new sources of funding, independent of the public purse, and we will see new relationships with students and stronger engagement with business and the community. As this new world evolves, it may prove timely to consider anew the overarching higher education accountability framework to assure ourselves that we have in place the best possible arrangements to build and protect strong institutions while maintaining public confidence and safeguarding public expenditure.

I am grateful to the Better Regulation Review Group for its work. It has championed good regulation with partners across the higher education world. As this report shows, good regulation is at the forefront of minds across Government and real progress has already been made. Now, as we move towards a new culture of accountability and autonomy, is the time to build on this achievement.



Rt. Hon. Alan Johnson MP
Minister for Lifelong Learning, Further and Higher Education

Executive Summary

The BRRG was established in March 2003 to oversee implementation of the recommendations in the Better Regulation Task Force's (BRTF) report *Higher Education: Easing the Burden* and to advise ministers on tackling excessive bureaucracy. The BRRG's *Interim Report*, published in November 2003, reported significant progress in implementing the Task Force's recommendations.

This Government Response sets out further progress to date and looks forward to the embedding of new approaches to regulation, notably the operation of the new Higher Education Regulation Review Group (HERRG). In doing so, it acknowledges the BRRG's influence across Whitehall in moving good regulation up the agenda for change in higher education.

Understanding accountability

The BRTF report, the BRRG *Interim Report* and the recent Lambert Report all identified options for reducing the accountability burden on higher education. In 2000 the overall cost of this was assessed as £250 million. A new assessment, using the same methodology, concluded that the accountability burden has reduced by 25% in real terms over the last four years. The proportion of HEFCE funding that higher education institutions spend on meeting external regulation is now estimated at 3.8% compared to 6.3% four years ago. A number of the developments set out in this paper have been identified as key elements in reducing this burden, notably the move to Institutional Audit overseen by the QAA.

New approaches to regulation: assessing impact

Regulatory Impact Assessments (RIA) – The importance of assessing the impact of new measures is widely recognised. The RIA methodology is a prime means of achieving this. All Government departments, agencies and NDPBs interacting with higher education institutions are adopting a common RIA framework for assessing the impact of measures. In advance of this, DfES published an RIA for the HE Bill and HEFCE published an impact assessment for the revised Research Assessment Exercise.

The Higher Education Regulation Review Group (HERRG) – This new independent advisory group, chaired by Dame Patricia Hodgson, has been established in line with recommendations by the BRRG. It is an exciting new development and will support partners across Whitehall in keeping regulatory demands to a minimum. It will also be able to explore existing areas of bureaucratic demand and will issue annual reports. Terms of reference are given at Annex 1.

Supporting strong institutions

Measures are in hand to reinforce the autonomy of higher education institutions and prevent poor regulation from undermining institutional freedom. Work is ongoing with partners on how Privy Council processes might be revised to encourage greater flexibility on governance arrangements. Other work includes: a new voluntary Code of Practice being developed by the Committee of University Chairmen; and the establishment of the Leadership Foundation.

Good Regulation in Practice

Funding and student finance – Proposals in the Higher Education Bill on variable fees will, subject to Parliamentary approval, reinforce autonomy by providing institutions with a new independent source of income with institutions benefiting from administrative savings from the proposal to allow students to defer fees. While it is recognised that the proposed introduction of the Office for Fair Access will involve new demands these plans have been developed in keeping with the principles of good regulation to avoid disproportionate burden. Work is being taken forward with institutions to minimise data requirements.

From an institutional perspective, the regulatory advantages of consolidating public funding are significant. The Department of Trade and Industry has in recent years rationalised its support for knowledge transfer from university research and action to reduce special funding initiatives was announced in November 2003. HEFCE are currently reviewing all remaining special funding streams and will publish the results in the summer.

On additional financial support for students, the number of discretionary student support funding streams is being reduced and the new non-repayable Access to Learning Fund will ease the administrative burden on institutions.

Audit requirements - Progress is being made in ensuring that audit requirements follow the principles of good regulation. The new Quality Assurance Framework based on institutional audit is both consistent with, and proportionate to, current evidence of risk. The ongoing evaluation of the Framework, due to report in 2005, will inform changes for introduction in 2006. Quality assurance for professional healthcare education, overseen by the Department of Health, is also being streamlined and consultation has begun on a shared framework to reduce the burden on institutions and promote further streamlining. The Teacher Training Agency (TTA) is also taking active steps to reduce inspection burdens on institutions delivering Initial Teacher Training.

On financial and management audit, a more targeted and proportionate approach by HEFCE has already reduced the audit burden and the Funding Council's revised Code of Practice should reduce this further.

Data management and sharing – In recent years, action has been taken to reduce data demands on institutions. The TTA has reduced its demands significantly. HESA has discontinued the 'December return' and its detailed review of data demands will lead to radical simplification of one of its five data streams. In addition, data required by Research Councils on post-graduate employment has been incorporated into a similar HESA exercise thereby reducing duplication. Work is also being taken forward to enhance data sharing: the HE Bill includes new powers to share data electronically; and projects overseen by the Managing Information Across Partners Group are exploring innovative ways of supporting data sharing (see Annex 2).

Looking forward: towards a culture of good regulation

The BRRG has championed the cause of good regulation. Its influence is felt in a number of important developments taking place over the summer, notably with regard to demands on Mixed Economy Institutions and the quality assurance of provision. The BRRG is due to issue its final report in the autumn and, looking further ahead, the HERRG will publish its first annual report in summer 2005.

Towards a culture of autonomy and accountability

The contribution of the Better Regulation Review Group

1 The Better Regulation Review Group (BRRG) was established in March 2003 to oversee the implementation of the recommendations contained in the Better Regulation Task Force's report *Higher Education: Easing the burden*, and to advise ministers in tackling excessive bureaucracy in higher education. An update on progress against the recommendations is given in this report (see boxes 1 – 5). Subsequently, the BRRG has proved itself to be a catalyst for change, bringing together senior representatives from leading regulatory agencies with leaders of higher education institutions to support the introduction of new approaches to regulation while bringing a distinct and influential perspective to current, and proposed, regulation.

2 The BRRG has championed good regulation in dealings with a wide range of regulatory bodies. Among its many responsibilities, it has advised Government on plans for the Office for Fair Access, helped in the introduction of a new culture of impact assessment, influenced reforms to quality assurance frameworks, and interrogated plans to review research funding and standards. It is a strength of the BRRG, including senior representatives from the Department of Health, the Research Councils, the Higher Education Funding Council for England (HEFCE), Teacher Training Agency (TTA), the Quality Assurance Agency (QAA), Student Loans Company (SLC), Higher Education Statistics Agency (HESA) as well as the Department for Education and Skills, that its membership reflects the complexity of higher education accountability. The BRRG has been well placed to advise ministers on the structures and approaches required to ensure effective engagement with the key regulatory issues facing English higher education.

3 This report, a response to the *Interim Report* of the BRRG published in November, looks back at what has been achieved to date in improving the quality of regulation and reducing the volume of bureaucracy, and looks forward to a continuing interrogation of regulatory demand to ensure its fitness for purpose. It is the intention of the BRRG to dissolve in the autumn. The most tangible legacy of the BRRG will be in the operation of the new Higher Education Regulation Review Group. Its influence, however, is felt across Whitehall as Government embraces a new approach to regulation. Good regulation has moved to the centre of an ambitious agenda for change in higher education.

Understanding accountability

4 English higher education exists within a complex framework of accountability mechanisms and funding patterns. In recent years, a series of important studies have deepened the collective understanding of the complexity and purposes of regulation in higher education, the dangers of excessive bureaucracy and the need for an effective balance between accountability and institutional autonomy.

- In 2000, the Higher Education Funding Council for England (HEFCE) commissioned PA Consulting to investigate the then growing burden facing higher education institutions. It concluded that in 2000 the costs to institutions of the whole accountability burden were in the region of £250 million.¹
- In 2002, the Better Regulation Task Force (BRTF) report, *Higher Education: Easing the burden* (2002) deepened understanding of the need for action and improved approaches to regulation.² It listed five recommendations to tackle bureaucracy in the HE sector.
- In 2003, these themes were developed further in the *Interim Report* of the Better Regulation Review Group (BRRG) in which significant progress in meeting the BRTF's recommendations was reported.³
- Also in 2003, the Lambert report, *Review of Business-University links*, was published setting out a number of recommendations for simplifying the overarching accountability framework for the sector.⁴

5 Collectively, these studies deepened understanding of the character of the accountability framework and identified options for change in reducing the overall accountability burden recognised in 2000 as excessive. Since then, considerable energy has been focused at reducing the volume of bureaucracy aimed at higher education and recent independent research indicates that this work has borne significant results.

6 In the spring of 2004, HEFCE commissioned PA Consulting to re-evaluate the costs to institutions of the accountability framework. *Better Accountability Revisited* concluded that:⁵

- The cost of accountability has reduced by some 25% in real terms from an estimated total cost of £250 million in 2000 (equivalent to £280 m in 2004 prices) to a current figure of £211 million (equivalent to £188 m in 2000).

1 http://www.hefce.ac.uk/Pubs/hefce/2000/00_36.htm

2 www.brtf.gov.uk/taskforce/reports/entry%20pages/Highedentry.htm

3 <http://www.hero.ac.uk/images/pdfs/23396.pdf>

4 http://www.hm-treasury.gov.uk/consultations_and_legislation/lambertconsult_lambert_index.cfm

5 <http://www.hefce.ac.uk/Pubs/rdreports/2004/>

7 Moreover, this real terms decrease in external requirements is set against a period of considerable growth in public funding for higher education. In 2000, an accountability burden of £250 million represented 6.3% of public funding aimed at higher education channelled through HEFCE. The current accountability burden of £211 million now represents 3.8% of a public investment totalling nearly £6 billion and set to grow still further.

8 PA Consulting identified the following key developments in reducing the burden to date:

- The move, overseen by the Quality Assurance Agency (QAA), from subject-based quality assessment to the Institutional Audit methodology, based on assurance of institutions' own quality management processes;
- Reduced data demands, notably the cancellation of the 'December return' to the Higher Education Statistics Agency (HESA);
- Introduction by HEFCE of a more targeted and proportionate methodology for financial and management audit;
- The elimination by HEFCE of a number of separate competitive bidding programmes by allocating relevant funds by formula;
- Improved alignment of external regulatory requirements with internal institutional processes contributing to greater reliance on central university administrative systems and lessened demands on academic staff.

9 Further research, however, is essential to understand fully the complexity of demands on individual HEIs. The work of PA Consulting was limited, for example, to considering the results of the new Quality Assurance Framework overseen by the QAA. Soon work will begin to look more widely at this important area of external regulation. Consultants are being appointed to assess the costs, benefits and impacts of external quality assurance activity including, but going beyond the impact of Institutional Audit and Teaching Quality Information. This new work, overseen by the DfES and commissioned by HEFCE, will also explore the significance of external review of NHS-funded provision, OfSTED and Adult Learning Inspectorate inspection of teacher training and provision funded by the Learning and Skills Council (LSC) as well as the work of professional and statutory bodies. Reporting early in 2005, the study represents a commitment from all relevant Government departments and agencies to understand the true impact and opportunities of external review and inspection.

10 Further research must also look more widely to allow broader evaluation to be undertaken. The publication, later this year, of the OECD's comparative review of accountability frameworks across eight countries, including England, promises an informed sense of how the experience of English higher education compares internationally.

BRTF Recommendation 1: Establishing the BRRG and gatekeeper mechanism

The BRRG was set up in response to the recommendation that there should be a group to ensure progress on reducing burdens on institutions and to take on a gatekeeper role to prevent new burdens being placed on HEIs. The BRRG's work on developing a gatekeeper mechanism has resulted in the establishment of the Higher Education Regulation Review Group which will: operate a policy gateway within policy making procedures; support the embedding of good regulation; and improve understanding of essential regulatory demands.

Box 1

New approaches to regulation: assessing impact

11 Effective regulation targets risk and is proportionate to it, and is developed with a clear sense of the costs and benefits likely to follow any policy implementation. Close attention has been paid to ensuring that the right mechanisms are in place to improve the quality of regulation aimed at higher education institutions and minimise the legitimate demands placed on them. Such an approach has led, over the recent past, to significant reductions in the accountability burden falling to HEIs. Now, with the significant help of the BRRG, a new, systematic approach to considering regulation is being introduced.

12 A prime means of clarifying policy intent and consequences is through the introduction of Regulatory Impact Assessments (RIA) to accompany significant policy development. The RIA methodology requires the purpose of new regulatory changes to be explicit, for the costs and benefits to be set out alongside an explanation of why it is not an option to do nothing.⁶ Government has now adopted the RIA methodology with regard to policy targeted at higher education.

- An RIA was published for the Higher Education Bill and White Paper *The future of higher education*.⁷ DfES officials worked openly and closely with the BRRG to make sure it was fit for purpose;
- In early 2004 HEFCE published an extended impact assessment to accompany confirmed proposals for the revised Research Assessment Exercise (RAE) to run in 2008. Responses to consultation on the proposed RAE suggested some of the peripheral elements added unnecessary complexity to the process. Recognising that this could increase burden on institutions some of these elements were not

⁶ Further details of the new approach to impact assessment is available at <http://www.cabinet-office.gov.uk/regulation/ria-guidance/>

⁷ <http://www.dfes.gov.uk/hegateway/hereform/index.cfm?cid=4>

implemented leading to a significant reduction in complexity from the original proposals.

13 From this year, all Government departments, agencies and NDPBs interacting with higher education institutions have adopted a common RIA framework for assessing the impact of measures. This approach builds upon initiatives undertaken by many partners in measuring impact, such as the Accountability Scorecard system which HEFCE has operated for a number of years.

14 An important role of the newly established Higher Education Regulation Review Group (HERRG) is to support partners in developing impact assessments, confirming thresholds where assessments should be undertaken and how they can best be achieved. The HERRG will scrutinise impact assessments and provide advice for regulatory bodies to help embed further the principles of good regulation.

BRTF Recommendation 2: Publishing impact assessments

DfES is working with partners to embed the use of impact assessments:

- The 2004-2005 grant letter to HEFCE requires HEFCE and partners to publish assessments of the regulatory impact of significant new proposals where a public assessment has not previously been made (www.hefce.ac.uk/news/hefce/2004/grant04/letter.asp);
- A common framework for impact assessment is being adopted by Government departments, agencies and NDPBs.

In response to specific points raised by the BRTF:

- HEFCE published an impact assessment on the revised RAE;
- Approaches to the evaluation of the new QAA quality framework have been agreed with the BRRG.

Box 2

The Higher Education Regulation Review Group

15 At the heart of the new approach to assessing impact and improving the quality of regulation is the Higher Education Regulation Review Group. The HERRG introduces an unprecedented new stage into the policy making process. For the first time, an independent advisory group will operate across Whitehall, considering new initiatives aimed at higher education emerging from the Department for Education and Skills, the Department of Trade and Industry and the Department of Health, as well as engaging with leading regulatory agencies.

16 In Patricia Hodgson, the HERRG has a chair who is independent of higher education, but who has a wealth of experience in the operation of effective regulation. Members of the HERRG are drawn from the ranks of senior university managers who between them have considerable expertise covering the range of different regulatory areas and the diversity of institutional types.

17 The terms of reference for the HERRG were developed by the BRRG and have been approved by ministers. The BRRG's proposals drew on expertise from across the sector, and followed careful examination of mechanisms already established in other sectors. The BRRG rightly recognised that institutions are autonomous organisations existing within a complex, and highly differentiated, framework of funding sources and accountability requirements where the individual profiles of institutions vary significantly and the predominant culture of policy development is through partnership and consultation. The composition of the HERRG will allow it to speak with authority to both regulators and HEIs.

18 The HERRG:

- will support key partners to keep regulatory demands on English higher education to a minimum by ensuring that new proposals are exposed to critical, but informed, consideration at an early stage in their development, prior to publication;
- has been designed to address regulatory burden from across Government, regardless of departmental origin. It will interact with the Department for Health and Department for Trade and Industry as well as the Department for Education and Skills;
- will have the authority to explore existing areas of bureaucratic demand and recommend ways of doing things better;
- will provide advice and guidance through a website to be launched in the autumn, to improve understanding of essential regulatory demands and the principles of good regulation to help prevent excessive internal institutional bureaucracy.

19 The HERRG will publish annual reports which will contribute further to the collective understanding of regulatory demands. Its first annual report in 2005 will be an opportunity to assess progress and an independent evaluation of the HERRG in 2006 will review its effectiveness in embedding good practice amongst funders and regulators and the consequences of this work on the overall burden in the higher education sector. The HERRG introduces a new dimension into the policy making process. The Group's terms of reference and membership are given at Annex 1.

Supporting strong institutions

20 The BRRG recognises that English higher education institutions are autonomous organisations with significant powers. It is a core Government objective to prevent the erosion of institutional autonomy due to poor regulation and the burden of excessive bureaucracy. Indeed, measures are in hand to reinforce the autonomy of institutions still further.

21 The nature of regulation surrounding institutional governance is subject to close current consideration. The Department for Education and Skills is working with the Association of Heads of University Administration and other partners, to identify how Privy Council processes might be revised to afford institutions greater flexibility to amend their governance arrangements. The BRRG has been kept informed of this review and firm proposals will be published during the summer. From a different perspective, with support from HEFCE, the Committee of University Chairmen (CUC) is developing a new voluntary code of governance which will help institutions identify and incorporate good practice in governance. In providing this support, HEFCE are taking forward a recommendation from the Lambert Review which will help to build trust between institutions, funders and other regulators.

22 Well run, successful institutions must have the freedom to act in exploiting new opportunities presented. The Government is pleased to support the higher education sector to put in place structures, notably in the form of the Leadership Foundation, to ensure wide dissemination on good practice in institutional leadership.

23 In this vein, the Task Force on Increasing Voluntary Giving to Higher Education, led by Eric Thomas, Vice-Chancellor of the University of Bristol, reported in May and encouraged HE institutions to take a more professional approach to fundraising. The report set out recommendations for institutions which should lead in the long-term to greater resources for the sector, increasing financial independence and allowing institutions to undertake projects and activities which they could not otherwise afford. The report has been welcomed by the Government and a formal response will be published later this year.

Good regulation in practice: i) funding and student finance

24 By 2006, English higher education will be in receipt of some £10 billion of public funding. On top of this, the White Paper *The future of higher education* set out proposals to give institutions greater freedom to raise their own funding independent of the public purse. As financial freedom and resources grow, it is incumbent on funders to ensure that new freedoms are not frustrated by regulatory processes which are disproportionate or poorly targeted.

Variable fees

25 Subject to Parliamentary approval, institutions are being offered the freedom to set their own undergraduate tuition fees up to £3,000, providing access to a new separate source of income independent of Government meaning an increase of up to 30% on the average funding per student. As institutional funding rises, other measures will free up resources by easing administrative burdens thereby reinforcing autonomy. Institutions will make considerable administrative savings from the proposal to allow students to defer fees. Where students choose to defer their fees, the money will be provided up-front to the institution by the Student Loans Company, thereby simplifying the process of collecting fees for the institution, and reducing the associated costs, as it will be the Government that bears the cost of debt collection, including the costs of late payment and bad debt.

26 It is recognised that some proposals in the HE Bill involve new regulatory demands, notably those relating to the Office for Fair Access (OFFA). These will, subject to Parliamentary approval, apply to institutions wishing to charge variable fees in excess of the standard fee for any of their courses. As acknowledged in the BRRG's *Interim Report*, the Department for Education and Skills worked closely with the BRRG to ensure that plans for OFFA represented the lightest possible regulatory touch and considerable effort was made to avoid unnecessary or disproportionate burden. Moreover, the Department is exploring how institutions might best approach Access Agreements, and associated costs, with a working group from the sector, so that management information and data collection requirements are minimised. OFFA has an important role to play in ensuring that the introduction of variable fees is not accompanied by reduced opportunities for students from disadvantaged backgrounds. However, its impact can be minimised by careful planning and the advice of the BRRG has been highly valued.

Links with business

27 The financial autonomy of institutions will be further enhanced by Government support to build effective links between higher education and business. As part of the commitment to building long-lasting, successful links between universities and industry, funding for so-called third leg activities is set to double to £187 million for the next two years. In addition the funding process has been simplified by consolidating all funding schemes to reduce bureaucracy and making it easier for less research intensive departments and groups to collaborate. Alongside this, the Lambert Review recommended that the Department for Education and Skills both introduce two new funding streams to support business-university collaboration and act to reduce the total number of special funding streams. A full response to this recommendation will be made in the summer's Government response to the Lambert report.

Reducing special funding initiatives

28 Hypothecated funding can provide a very powerful stimulus to the sector and achieve positive outcomes, but the Government acknowledges the burden that can arise from too many funding streams existing at one time. Recent reports from the BRTF and BRRG have called for a reduction in the number of special funding streams and PA Consulting's recent report *Better Accountability Revisited* notes that competitive bidding for special funding streams has been reduced. From an institutional perspective, the regulatory advantages of consolidating funding are significant. Institutions can incur significant transaction costs, for example, in bidding for funding and in the monitoring of expenditure. By maximising core funding, institutions gain greater freedom of action in fulfilling their distinct missions. Action in November 2003 illustrated the will to remove ring-fenced funding where policy objectives can be achieved by less burdensome means (see Box 3).

29 The Department of Trade and Industry has, moreover, in recent years rationalised its support for knowledge transfer from university research from three schemes to one, and has also reduced the range of business support products which foster business R&D and networking with the UK research base. DfES and HEFCE have recently reduced the total amount of money diverted to related hypothecated funding from core grant from £303m in 2003-04 to £269m in 2005-06. As part of this process, the Higher Education Reach-out to Business and the Community (HEROBC) scheme was absorbed in the first round of the Higher Education Innovation Fund (HEIF) which subsequently evolved into HEIF2. Within HEIF2, previous separate funding for the University Challenge Fund and Science Enterprise Centres has been combined to provide a single stream of funding and earmarked human resources funds are being consolidated as part of the mainstream teaching grant.

30 However, calls from the sector to introduce new special funding to support specific initiatives remain strong. Consideration of the special funding initiatives supported by HEFCE, for example, shows that many of these funds are designed to support national facilities or to prime new areas of institutional activity frequently in response to the recommendations of external advisory groups.⁸ Where special funding streams are retained, it is essential that they are operated in a manner which is proportionate to the issue and, where possible, targeted to reflect the different characteristics of institutions.

31 HEFCE are reviewing all remaining special funding streams to identify the extent to which they comply with the principles of good regulation. This will enable HEFCE to identify schemes which could be changed, merged or abandoned, and to underline those schemes where a strong case exists for continuing under current arrangements. HEFCE intends to publish the results of the review in the summer.

BRTF Recommendation 3: Reducing funding streams

In November 2003 Ministers announced the mainstreaming of four special funding streams, totalling £60 million, into larger funding allocations to ease the burdens on institutions:

- Funding for Golden Hellos and Promising Researcher Fellowship Scheme mainstreamed into the Human Resources Allocation
- Funding for Knowledge Exchanges mainstreamed into the Higher Education Innovation Fund (HEIF)
- Funding for Additional Capital for leading research institutions mainstreamed into the Science Research Investment Fund (SRIF)

Box 3

Additional financial support for students

32 Concentration on transaction costs has informed a review and reform of support aimed at helping HEIs help disadvantaged students. Changes being made to the systems for providing additional financial support will ease the administrative burden faced by institutions:

- The number of discretionary student support funding streams which institutions administer for low income and vulnerable students requiring additional financial support, are being reduced from fourteen to six.
- In 2004/05 a new non-repayable discretionary fund, the Access to Learning Fund (ALF) will be introduced to replace the current Hardship Fund and the repayable Hardship Loans. There will be a single funding stream, the ALF, for the HE sector to administer.
- A new standard assessment form for the ALF is currently being piloted and positive feedback has been received on the administrative improvements of the new system.

33 In addition, the burden of administering student finance has been eased by enabling first loan instalments to be paid directly into students' account rather than being distributed by the institution.

Good regulation in practice: ii) audit requirements

34 The five principles of good regulation set out by the BRTF – that regulation should be proportionate, accountable, consistent, transparent and targeted – are valuable guides to regulators and have been effective tools in considering plans for the revised Research Assessment Exercise and OFFA. These principles encourage all those responsible for regulation to consider evidence of risk closely to ensure that what is proposed is fit for the purpose intended.

Quality Assurance

35 The new Quality Assurance Framework overseen by the QAA and introduced in 2002 drew on an extensive evidence base to inform a methodology that focuses on the effectiveness of an institution's quality assurance structures and mechanisms. Aside from a small number of 'discipline audit trails', more detailed scrutiny and targeted intervention will only follow where concerns are identified. Institutional Audit is consistent with available evidence and proportionate to need for regulation. The forthcoming publication of information on the Teaching Quality Information website will also aid transparency. Good regulation requires policy to be regularly reviewed and approaches to the formal evaluation of the Quality Assurance Framework, carried out with UniversitiesUK and SCOP, have been agreed with the BRRG. The evaluation will report in early 2005, informing possible changes to the Framework, such as greater targeting by risk, for introduction from 2006.

36 Significant progress is also being made in the quality assurance of professional healthcare education, overseen by the Department for Health, where enhanced co-operation between different regulators is leading to a significantly lighter touch. A radically streamlined and more effective quality assurance framework has been developed which is shared by all stakeholders. This includes a single review process replacing subject review, periodic review by statutory regulatory bodies and contract review. As a result, the QAA excludes healthcare programmes from discipline audit trails during Institutional Audit. Consultation has also begun on other aspects of the shared quality framework, such as monitoring, and approval of learning programmes, which are designed to replace the annual monitoring by several bodies with a single process.⁹ The intention is to produce a robust quality framework which will reduce the burden on institutions and promote streamlining.

37 The Teacher Training Agency is working with OfSTED, the QAA and other partners to ensure that burdens on HEIs delivering Initial Teacher Training (ITT) are proportionate to evidence risk. External inspection of ITT has been reduced over the last five years in step with improvements in training quality across the country,

resulting in an estimated reduction of some 40% in the number of inspection days per provider.

38 Building on this, the TTA will soon consult on plans to reduce inspection burdens further from 2005/06. Proposals include moving from inspecting individual secondary subject teacher training to overall inspections of secondary provision and removing the requirement for full inspections for good teacher training providers and replacing these with short inspections. It is estimated by the TTA that these changes would lead to a further reduction of 40% in the inspection burden, in terms of the number of inspection days. Well-run, successful providers would not receive a full inspection during the new six year inspection cycle.

39 This work of the TTA builds upon the commitment of leading agencies – QAA, ALI and OfSTED – to minimise burdens generated by the interaction of parallel quality assurance methodologies. This is an issue of particular concern to institutions delivering both higher and further education and has been closely considered by the FE/HE Practitioner Group reporting to a joint board of HEFCE and the LSC. The work of the Group promises to form the basis for a new approach, developed by frontline staff, to rationalising demands on institutions caught between currently distinctive accountability frameworks. A report will be published in the summer.

Financial and management audit

40 In its *Interim Report*, the BRRG welcomed HEFCE's move to a more targeted and proportionate approach for auditing institutions which focuses on high level governance, audit and accountability issues. As a result, this audit burden on institutions has been reduced by 70% in terms of days spent by auditors at institutions.

41 HEFCE has recently consulted on a revised Code of Practice on financial and management audit designed to minimise the audit burden whilst encouraging institutions to discharge their audit and reporting obligations diligently. The response has been generally positive and the revised Code will be published in time to take effect from August 2004 when the audit burden should be reduced further.

42 Good regulation encourages auditors to make use of available evidence before requiring new information from institutions. For example, HEFCE and the LSC have arranged an annual exchange of letters confirming to each other their ability to rely on each others' audit. Recent improvements have also been made to the process for obtaining research grants under EC Framework Programme Six. HEFCE have successfully won the right for institutions to use their own internal auditors to certify these grant claims or to continue to use their external auditors. This can avoid the need to engage a separate firm of auditors and in these cases auditing should be simpler to manage.

BRTF recommendation 4 : Reducing audit burdens

- A revised Code of Practice on Financial and Management Audit will apply from August 2004.
- A new method of reviewing HE provision in FE colleges is being developed with the aim of piloting it in 2005-06 and introducing it in 2006-07.
- A pilot co-ordinated inspection/review by QAA, OFSTED and ALI has taken place at an FE college offering HE and is currently being evaluated. A similar pilot exercise at an HEI offering FE is planned for the summer.
- The QAA is taking work forward to clarify that its Code of Practice for quality assurance is non-prescriptive and consultations on revision to three sections of the Code have been carried out.

Box 4

Good regulation in practice: iii) data management and sharing

43 In recent years, action has been undertaken to stem the proliferation of data demands on HEIs. The TTA's Information Management Group ensures, for example, that the Agency seeks out opportunities to rationalise data demands. As a result, since 2002, the time spent by TTA stakeholders, including HEIs, in providing data to the Agency has reduced by some 40%.

44 Looking across higher education, the work of the Higher Education Information Task Force (IMT) has been central to introducing a more coherent overview of data requirements. Building on the cessation of HESA's December Student Record, the IMT has overseen a thorough and independent review of the totality of data requirements collected by HESA on behalf of its statutory customers. A significant conclusion of the review is that scope exists to radically reduce data collected in the Non-credit Bearing Course Record (NCB). HESA is therefore exploring with stakeholders a revised specification for the stated NCB data requirement, prior to introducing a streamlined replacement collection.

45 The review of data collected by HESA (see box 5) has also been used as an opportunity to increase transparency in why data is collected at all. Detailed reports on each of HESA's funding streams, setting out why each data item is collected, are available on the Information Management Taskforce's website.¹⁰ This new level of transparency, to be incorporated by HESA into its own updated handbook guides, deepens understanding of the necessities behind data collection and addresses frustration which can emerge from ignorance of the rationale behind the data item.

46 Adherence to the principles of good regulation encourages the recipients of data collected from HEIs to identify and exploit opportunities to co-ordinate information management. Historically, for example, each of the Research Councils conducted surveys, through universities, of the employment of postgraduate students at the end of their studies. HESA has also collected information about the destinations of leavers from higher education.

47 Recently, HESA decided to change the existing First Destination Survey collection methodology and invited the Research Councils to be included in the survey. The data required by Research Councils is now incorporated into the HESA survey. The results of the first integrated survey will be available in June 2004, replacing the separate collections of destinations information formerly carried out by the Research Councils, so easing the overall burden on universities.

48 Work is now being taken forward to introduce new structures to allow greater use to be made of data collected and enhance data sharing between institutions and their partners.

- New powers in the HE Bill to share data electronically with other bodies will, subject to Parliamentary approval, save students and family members who financially support them from having to provide the same information repeatedly to different organisations. Such measures present the opportunity for improved access to information to be made available to institutions considering the introduction of new, targeted bursary schemes for low-income students, providing the individual gives consent for the information to be shared.
- Projects are currently being undertaken by the Managing Information Across Partners (MIAP) Group which explore the feasibility of creating innovative and radical means to support data sharing, and promise to improve provision to adult learners while easing demands on institutions (see Annex 2). A key element within the MIAP work is a project exploring options, costs and possible benefits of the introduction of a Unique Learner Number (ULN). Many HEIs responded to a Spring consultation on the merits of an ULN and these responses have been valuable in considering the further development of the project.

BRTF recommendation 5 : Rationalising data demands

- The HESA “December return” is no longer collected.
- HESA’s recently completed review of data collected from institutions found that one of the five datastreams (on non-credit bearing courses) can be radically simplified.
- Harmonisation of HESA/UCAS data: improvements to the Joint Academic Coding System (JACS) will be consulted on in the autumn; and HESA and UCAS are working together to improve the transaction for institutions to download UCAS data for direct inclusion in the HESA student return.
- The Managing Information Across Partners (MIAP) group is taking forward a number of feasibility projects (see Annex 2) Its work on a *unique learner number* and *common data definitions* meets points raised by the BRTF.

Box 5

Looking forward: towards a culture of good regulation

49 The Better Regulation Review Group has been a determined and consistent champion of new approaches to regulation. A number of important developments will take place over the summer to build on this work:

- Publication by HEFCE and the LSC of new plans to ease burdens on mixed economy institutions;
- Publication of Government responses to the Lambert review and the report of the Task Force on Increasing Voluntary Giving to Higher Education;
- Announcement by the Department for Education and Skills of confirmed proposals to revise Privy Council procedures;
- Publication by the Teacher Training Agency of proposals to reduce further inspection demands on Higher Education providers;
- Confirmation by the Department of Health of a new co-ordinated framework for quality assurance of provision in healthcare provisions.

50 In the autumn, the Better Regulation Review Group is due to issue its final report. The summer of 2005 will see the first annual report of the Higher Education Regulation Review Group.

Annex 1: Terms of reference and membership of the Higher Education Regulation Review Group

The group will be established by the Minister for Lifelong Learning, Further and Higher Education, with whom it will have an annual meeting and to whom it will ultimately report.

Terms of reference

The purpose of the Higher Education Regulation Review Group will be to support key partners to keep regulatory demands on English higher education to a minimum by:

- improving the quality of regulation across the Higher Education (HE) sector;
- ensuring that the regulatory demands on the HE sector are effectively assessed by those who impose them.

Specifically this will be achieved by:

1. Providing an advice and guidance function within the HE sector

- 1.1 promoting a common language and framework (for all stakeholders) to improve regulation and to spot and challenge poor regulation;
- 1.2 supporting government and non departmental public bodies in public assessment of policy impact (using regulatory tools)
- 1.3 communicating with and influencing institutions on their implementation of policy, on their own policy development, and on their engagement with policy developers.

2. Operating a policy gateway function

- 2.1 being informed of new policy developments, from the government and related bodies, which are designed to impact on all or most deliverers of higher education (see below), in advance of publication, and having the power to select particular policy developments to confirm that policy has been effectively developed and assessed in keeping with the principles of good regulation;
- 2.2 selecting other policy areas, arising from any organisation or body where heavy demands are identified, for assessment and comment;

- 2.3 having the power to ask Ministers and senior officials, in government or related bodies, or to recommend to any regulatory body, to think again about proposed policies, if they are judged to be unduly demanding; or, to recommend systemic review of a policy area, for example, where policy is proposed by multiple agencies;
 - 2.4 having the power to issue a public opinion in relation to a proposed regulatory activity.
3. **Monitoring and evaluation**
 - 3.1 producing an annual report that considers relevant information relating to regulatory demands and the effectiveness of the gatekeeper mechanism in meeting its purpose;
 - 3.2 participating in an independent evaluation of its achievements, and efficacy, after two years.

Membership

1. The Group will be chaired by an individual who can demonstrate understanding of the HE sector, but is independent of it.
2. The Group will consist of up to twelve members who between them will be knowledgeable about the HE sector. Members will be drawn from:
 - senior people from the HE sector and with expertise and understanding of the principal regulatory demands relating specifically to finance, management, teaching, research, student administration and the operation of mixed economy institutions;
 - at least one member independent of the HE sector with an informed perspective on public sector regulation;
 - at least one member with an informed perspective of the student interest;
 - the Chair or nominee of the Information Management Taskforce.
3. The Group will routinely invite non members who will, typically, be representatives of policy developers and regulators to attend meetings as issues related to their bodies arise. Indeed, care should be taken to ensure that key representatives of all leading regulators impacting on HE have some exposure to the operation of the group over a reasonable period of time.
4. The Group will be supported by a Secretariat from the Department of Education and Skills.

Operation

1. The Group will meet 6 times a year or less frequently should business allow. Between meetings it is expected that the Group will carry out business by correspondence where necessary (see 6 below).
2. The Group will consider new policies and regulation arising from the bodies and agencies listed below and according to the terms of reference in 2.1 above.
3. The Group will consider business on the advice of the Chair and Secretariat and in the light of the knowledge and expertise of its members.
4. The Group will take care not to delay policy development unnecessarily. Departments and related bodies working through the gatekeeper mechanism can normally expect an initial view from the Group within two weeks. This may ask for further information to be provided, or may determine that no further consideration by the Group is needed.
5. The Secretariat will act as the initial point of contact for policy makers, and with whom departments and related bodies can establish the information needed for consideration by the Group.
6. The format of the documents to be submitted to demonstrate an evaluation of regulatory or policy impact will be considered on a case by case basis. This is intended to ensure that the Group works with the relevant department or related body to determine the most appropriate format and to avoid prescriptive requirements and unnecessary demands.
7. The Group will liaise with the Further Education Bureaucracy Review Group and other relevant bodies, in order to ensure a coordinated approach to the consideration of regulatory demands.

Relationships with regulatory bodies

1. The HE Gatekeeper Group will engage with regulatory bodies, and other partners, in three distinct modes:

Group A

Policy makers that would be required to work through the Gatekeeper Group

- i) the government, and related bodies contracted by them (directly or indirectly), whose policies are designed to impact on all or most deliverers of higher education, for example this would currently include:

- * Department for Education and Skills
 - * Department for Trade and Industry/Research Councils
 - * Department of Health
 - * Higher Education Funding Council for England
 - * Higher Education Statistics Agency
 - * Quality Assurance Agency
 - * Student Loans Company
 - * Teacher Training Agency
 - * Ofsted
 - * Adult Learning Inspectorate
 - * UCAS
- ii) Additionally, where other government departments develop policy targeted at the university sector, it would be expected that such activity would be notified to the Gatekeeper Group.

Group B

Policy makers that would be encouraged to operate according to the principles of the Gatekeeper Group, for example

- i) non-governmental bodies which individually have a less direct impact on all HEIs and which have greater independence from government. Such bodies would be encouraged to adopt self evaluation tools developed by Gatekeeper Group and respond seriously to any concerns raised. For example
- * Regional Development Agencies
 - * Charitable bodies
 - * Professional and Statutory bodies

Group C

Higher Education Institutions, and representative bodies, would be encouraged to embed the principles of good regulation within their own cultures.

Membership

Dame Patricia Hodgson	Chair
Jonathan Baldwin	Registrar, University of Warwick
Hannah Essex	National Women's Officer, National Union of Students
Dr Ruth Farwell	Pro Vice Chancellor, London South Bank University
David Holmes	Registrar, University of Oxford
Steve Igoe	Director of Resources, Edge Hill College of Further Education
John Lauwerys	Secretary and Registrar, University of Southampton (nominee of Information Management Taskforce)
Dugald Mackie	Registrar and Secretary, University of Manchester
Sally Neocosmos	Registrar and Secretary, University of York
Michael Pearson	Finance Officer, Loughborough University
Maxine Penlington	Secretary and Registrar, University of Central England
Dr Philip Rushbrook	Deputy Director, Cabinet Office Regulatory Impact Unit

Annex 2: Managing Information Across Partners (MIAP) projects

The MIAP group of Government officials and stakeholders is undertaking a number of projects to reduce management information demands in post 16 education and learning across the UK, in accordance with the 'collect once, use many times' philosophy. MIAP has worked with many in the HE sector, and particularly with the Information Management Taskforce, to ensure that radical proposals for change are subjected to critical examination.

Unique Learner Number (ULN) – A feasibility report on introducing a ULN found that a ULN could enable much greater integration of learner data thereby reducing bureaucracy. A recent consultation paper (<http://www.dfes.gov.uk/consultations2/33/>) sought views on a ULN. The strongest response to the consultation came from the HE sector and views from the sector have been invited as costs, benefits and impact of a ULN are considered.

Data Warehouse – A feasibility report on establishing a data warehouse, bringing together a wide range of data to maximise data sharing and usability was completed in the Spring. It recommended a system based on existing data matching developments which could be enhanced by a ULN.

Common data definitions – This project aims to develop a common set of coding standards over a very wide range of data collections to reduce bureaucracy and improve the usability and comparability of data. It has established a relatively high level of commonality between data definitions and is exploring these common definitions further. A feasibility report has been completed.

Data sharing framework – This project is developing a framework to facilitate effective data sharing between all MIAP members and hence between organisations involved in the Post 16 learning sector.

National Register of Providers – A feasibility report, completed in March 2004, confirmed that a UK-wide register of all post-16 UK learning providers is feasible. The preferred option is to extend the Ufi learning directory and introduce a unique provider identifier to improve data sharing across the post-16 sector.

Next steps – Work is now underway to take forward the interrelated projects in a manner which will: build on the findings of the feasibility reports and consultations; be underpinned by the principles governing MIAP; and contribute to tackling bureaucracy.