

Office for Students: Registration Fees (stage 2)

Response to Government Consultation by Independent Higher Education – December 2017

Summary of key points and overarching themes

1. The Office for Students will be funded largely by students. Fees charged to providers will ultimately be paid for by students, especially at independent providers which are unlikely to have other sources of income to draw upon.
2. The fees charged should not act in opposition to government policy objectives, including the broadening of choice for students and the widening of access to higher education. The breadth and diversity of higher education choices available to students will be shaped to a significant degree by the overall cost burden of regulation.
3. Small and less well-established institutions will face considerable challenges in adapting to the expectations of the Office for Students in terms of data capability, internal systems and processes. The cost of making such adaptations must be considered alongside the recurring cost of OfS registration fees and the (as yet unknown) charges which will be due to the Designated Bodies for Data and Quality in order to calculate the overall cost burden of regulation, and how this burden falls on individual students.
4. Every effort should be made to minimise and level the cost of regulation paid by each student through their tuition fees, wherever they choose to study. Students should not be penalised for choosing a small or specialist institution by having their fees diverted from the learning experience to pay for regulation.
5. Specialist institutions which offer high quality provision in a single subject, discipline or industry can be small but still have an outsized impact on the richness of this diversity and on the development of individuals with exceptional talent who make a lasting contribution to our economy, culture and society.
6. IHE members would greatly prefer that a single fee for all regulatory activity were collected by the OfS and distributed to the Designated Bodies, OIA and anyone else tasked by the OfS for regulation. The OfS should closely monitor all statutory regulatory activities to ensure that providers are not charged above cost (as required by the Higher Education and Research Act) and that costs are effectively controlled. The direct collection and distribution by the OfS of all statutory fees would better ensure the effectiveness of such controls.

Response to the Consultation Impact Assessment

This consultation and its proposed levels and banding of fees have been designed on the basis of certain assumptions which are set out in the Consultation Impact Assessment published by the Department for Education in December 2017. There are a number of difficulties with these assumptions, which we respond to below.

Paragraph 65 states:

“Analysis of publically funded HEI income data shows that in this method no HEI would be paying more than 0.31% of their total income in OfS registration fees. This very small proportion of a provider’s income should not distort competition in the HE market. We acknowledge that this is a low estimate as incumbent HEIs tend to have higher and more diverse total income than APs, FECs and new providers, and so the provider fee may be proportionately less of their total income than other types of providers.”

This paragraph raises the possibility that Alternative Providers and new providers may see a higher proportion of their total income go towards paying OfS registration fees (which is very likely to be true), but makes no attempt to calculate the proportion. This is a significant weakness in the evidentiary basis for the consultation proposals, given that the ‘AP sector’ is highly diverse with the majority of providers being far smaller than publicly funded HEIs. The government itself estimates that as many as 70% of the providers who will pay fees to OfS will be APs, FECs and new providers. It is perhaps unwise to design a distribution of fees on assumptions derived from the data of only 30% of those who will pay them.

Based on IHE’s knowledge of the sector and data from our most recent survey, the fees proposed for the smallest providers (including those with under 50 students) do in fact represent a significant proportion of the income for these providers, and their imposition would be sufficient to distort competition in the HE market. We therefore strongly urge the OfS to use both a revised set of fee bands and specific fee subsidies to support smaller providers and ensure that registration fees do not represent a barrier to their competing in the market.

Paragraph 105 states:

“Smaller institutions are likely to be newer to the regulated system and so could potentially suffer disproportionately from the burden of regulation. To mitigate this and ensure that registration fees do not act as a barrier to entry, the government proposes to subsidise the registration fees for new providers in their first 3 years of operation, subject to overall departmental budgets and agreement with HM Treasury. Based on the proposed model, fees would also be proportionate to the number of FTE HE students attending the provider. So while this measure constitutes a new burden, it ensures that the burden is proportionate for smaller providers and may be additionally reduced for new providers.”

The proposal to subsidise the registration fees of new providers rather than small providers is partly justified by the premise stated above that smaller institutions are likely to be newer to the regulated system. This is a mistaken assumption, and in fact many high-quality, specialist providers in the independent sector have been operating for a very long time but remain small either because there is a natural limit to the market for students and graduates in their particular niche, or because remaining small is integral to delivering the quality of student experience that characterises their provision.

While IHE supports all necessary steps to remove barriers to entry into the sector, we do not consider that all new providers require public subsidy irrespective of their size or business model, but that support should be targeted where it is needed most, at smaller providers. The level of registration fees proposed is unlikely to have a material impact on investment decisions where a new provider with anticipated broad appeal is launched under a business plan predicated on rapid growth over the first three years.

Consultation Questions

QUESTION 1

Do you support the proposal to charge Registered Basic providers a flat rate annual registration fee?

YES

Registered Basic providers will not be required to submit any student data, so it would not be possible to charge them a variable fee based on student numbers.

QUESTION 2

Do you support the proposal to charge Approved and Approved (fee cap) providers an annual registration fee varied by their size?

YES

Registration fees should vary by the size of provider, but it is also crucial that they be viewed from the perspective of the students who will usually pay for them through their tuition fees. The cost per student should not disincentivise specialist provision by penalising small providers and their students. This would only lead to more homogeneity across the sector.

QUESTION 3

Do you support the proposal to measure the size of Approved and Approved (fee cap) providers for the purposes of calculating their annual registration fee on the basis of their full-time equivalent (FTE) higher education (HE) student numbers?

YES

An FTE calculation is essential to reflect the true levels of resource and revenue associated with each student. The FTE formula currently favoured, however, is not yet fit for purpose and should be reviewed to ensure its appropriateness for more diverse and innovative delivery models, including online and modular learning.

More clarity and consideration is required regarding which courses and which students will be counted towards the overall FTE calculation. Many independent providers offer short courses or internal awards which do not lead to a recognised higher education qualification but may attract large numbers of students. These programmes will not attract any of the 'benefits' of registration such as student finance, Tier 4 visas or teaching grant, and should not therefore contribute to the cost of registration. The OfS should be careful not to discourage providers from joining the register for whom their regulated higher education programmes represents a very small part of their provision.

The FTE calculation and charging model must also properly take account of the operating model of Study Abroad providers whose students are registered in the UK for a short period of time, often divided between study, work experience and tourism.

QUESTION 4

Do you support the proposed banding model to group Approved and Approved (fee cap) providers by their size?

NO

'Cliff edges' should be avoided using a per-student fee between bands, so as not to disincentivise growth in providers on the cusp of a new band. This is more likely to be an issue for providers at the smaller end of the scale where the bands are closer together.

QUESTION 5

Do you support the proposed percentage distribution of costs between size bands?

NO

What is an appropriate level of registration fee for any one provider must be considered from the perspective of the students whose tuition fees will pay for them. The superficially smooth cost curve of the proposed distribution of fees actually conceals large jumps in the per-student cost of regulation between providers. This is not fair to students and is likely to drive perverse behaviours.

The registration fees as proposed would represent a significant increase in the overall cost burden of regulation for IHE members and other independent providers as compared to what they currently pay, both annually and over a four-year cycle. Tuition fees are the sole source of funding for most independent providers, and the primary source for almost all of them. Many providers have informed us that if the proposals in this consultation stand, they would be forced to raise their tuition fees significantly in order to absorb the greater cost of regulation while still remaining financially sustainable.

Students who choose smaller providers should not be penalised for their choice by seeing so much of their money diverted away from supporting their learning experience towards funding sector-wide regulation instead. Under the proposed distribution, a provider with 25 reportable higher education students would have to pass on £728 to each student in OfS registration fees alone, even before accounting for any fees due to the Designated Data Body or Designated Quality Body, or for the internal cost of meeting regulatory requirements. In contrast, a provider with 20,001 students would pass on just £6 to each student in registration fees and would also share the internal cost of regulation across more students.

Providers in the higher bands are also more likely to be established public universities and therefore already enjoying considerable financial advantages, including the following:

- having received considerable amounts of public funding in the past to invest in the systems which will support them in meeting OfS requirements
- having DAPs and therefore not paying for validation by a partner institution, nor facing the considerable costs of securing DAPs for the first time in the near future
- having exempt status for VAT on their tuition fees

QUESTION 6

Do you support the idea of setting registration fees in the future to reflect the regulatory effort associated with the provider? What do you see as the advantages and disadvantages of this model compared with the proposed fee model?

NOT SURE

Any attempt to reflect the regulatory effort associated with providers should be careful not to create artificial groupings which characterise providers by type and should only assess risk based on individual track records. In doing so, the OfS should take account of the inherently low-risk profile of very small providers in relation to many of the risks identified.

QUESTION 7

Do you support the principle of a proposed discount for new providers in their first 3 years of fees?

NOT SURE

While it is very important to support the entry of new providers into the sector, this derives primarily from the objective of promoting greater diversity of provision and choice for students. Discounts on registration fees should therefore be targeted first and foremost at supporting providers which contribute to this diversity, including small institutions which might otherwise be driven out of the sector by a high fixed cost of regulation. It would be perverse and in nobody's interest to allow the cost of the system to push one provider out of business, only to subsidise the start-up of an identical one the following year.

Entirely new providers will of course need to show the OfS a financially sustainable business model and forecasts for growth at the point of registration. New specialist providers who plan to start small and grow slowly will welcome and should be eligible for exactly the same discount as established small institutions. On the other hand, those new providers who have larger ambitions, and a sufficient investment of resources to deliver them, are unlikely to need a discounted registration fee to make their business plans add up.

QUESTION 8

Please provide any further views you may have on the government's proposals on registration fee subsidies and exemptions.

Subsidies and exemptions should be targeted at providers which exhibit and promote the OfS's founding principles including widening participation, innovation, collaboration, and most importantly student choice.

Subsidies should be considered for providers which admit more than a certain threshold proportion of their students from disadvantaged backgrounds, in order to offset the additional cost of activities often required to help them succeed in their course.

Subsidies should also be considered for study abroad providers whose students remain registered on higher education courses at their home institutions and whose admissions process is largely controlled by these institutions. These providers require very little active regulation and many of the established processes (such as the National Student Survey and Graduate Outcomes survey) are unsuitable.