



Department
for Business
Innovation & Skills

**ALTERNATIVE PROVIDERS:
SPECIFIC COURSE DESIGNATION**

Alternative Provider Specific
Course Designation:
Supplementary Guidance for
Providers

MARCH 2015

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Introduction

Summary of Key Changes

This guidance updates the 'Specific Course Designation: Guidance for Higher Education Providers: Criteria and Conditions' guidance that was published in August 2014.

This guidance:

- Provides an **update to Chapter 3 (Criteria for Specific Course Designation)** of the August 2014 guidance – to reflect that there has been an important change to one of the three criteria for specific course designation, the quality criterion. It is now the Department's policy that from April 2015 onwards, all higher education providers in England who wish to access public funds will be subject to a single quality assurance framework, Higher Education Review. **The other two criteria (financial sustainability, management and governance; and course eligibility) are unchanged and the August 2014 guidance in respect of these criteria remains unchanged.**
- Provides revised guidance that replaces those previously published in August 2014. The revised chapters are:

Chapter 5: Conditions of Designation

Chapter 7: Student Number Controls

Chapter 8: Sanctions and De-designation

Annex D: Addressing less than successful review judgement from QAA Higher Education Reviews and QAA annual monitoring

These new Chapters replace those that were published in August 2014.

Summary of New Terms and Conditions of Designation

This guidance contains important information about new terms and conditions attached to specific course designation. These changes are summarised below.

- **Annual Re-Designation:** All institutions, other than those with UK Degree Awarding Powers must have their courses re-designated every year as part of the annual re-designation (formerly annual monitoring) process rather than those courses remaining designated indefinitely. **Effective immediately.**
- **Change of location.** As a condition of designation, alternative providers that wish to **change the location of an already designated course or add another campus** must apply to the Department, through a change of circumstances form (available on the HEFCE website) that must be sent to and received by HEFCE at least 3

months in advance of the proposed change of location taking place. **Effective January 2015 (previously notified by letter to all alternative providers that hold specific course designations).**

- **Quality Requirements.** Providers will now be required to undergo a strengthened quality assurance process, Higher Education Review, which will apply to all higher education providers and be the common review framework of the Quality Assurance Agency for Higher Education in England. **This change is being introduced on a phased basis during 2015 as follows:**
 - all new applicants for Quality Assurance Agency review, seeking BIS course designation for student support, will be required to successfully complete Higher Education Review;
 - all existing providers will be reviewed under Higher Education Review;
 - all alternative providers will need to undergo annual monitoring visits (these may become less frequent if there is strong evidence that they are performing to a very high quality standard).
- As a condition of re-designation, providers will be required to notify the Department of changes of Directors as and when they occur rather than annually and we will apply the fit and proper person test. **Effective April 2015.**
- As a condition of designation, all alternative providers, irrespective of the number of eligible students, will be required to submit information on students' previous qualifications, demographic characteristics and achievements. This information will be collected through the Higher Education Statistics Agency. **Effective 2015/16 academic year.**

Additional Terms and Conditions of Specific Course Designation

- As a condition of designation, prior to an alternative higher education provider confirming attendance and claiming fee payments for a student, this student must now be registered with the relevant awarding body by the provider. **Effective 1 January 2015 (previously notified by communication from SLC, HEFCE and a letter from BIS on 17 December 2014 to all alternative providers that hold specific course designations).**
- **Student Number Controls** will also be employed to limit the expansion of distance learning and part time courses. It is now a condition of designation that providers must ensure, from the 2015/16 academic year, that the number of new eligible distance learning and part time students recruited to these courses, if they are specifically designated, does not collectively exceed the student number control allocated to those courses for that year. **Effective 2015/16 academic year.**
- Providers are reminded that student number controls will be used to limit recruitment at providers with unsatisfactory student completion rates or those deemed to be providing an unsatisfactory service.

- Providers are also reminded that controls will be developed for those courses which alternative providers deliver for HEFCE funded institutions under franchise arrangements. We may limit recruitment to these courses on the grounds of affordability or when there is a risk that rapid expansion may be at the expense of quality. BIS will introduce these controls, if and where that proves necessary.
- As a condition of designation, all alternative providers will have to routinely provide information to the Department about their recruitment policies and practices, attendance policies, and drop-out and success rates. **Effective 2015/16 academic year.**
- As a condition of designation, alternative providers are required to give access to their premises and records – the Department shall give alternative providers reasonable advance notice in writing of proposed visits to the provider or its sub-contractors. **Effective immediately.**
- As a condition of designation, alternative providers are required to give an immediate right of access to their premises and records where the Department has a reasonable suspicion that the provider is engaged in fraudulent activity. **Effective immediately.**
- As a condition of designation, providers must not engage in any activity that might bring the sector into disrepute. **Effective immediately.**

Providers are advised that the Department has opened a consultation (that closes 27th March 2015) on three other proposals:

- The introduction of a minimum English language requirement to ensure that students studying for qualifications at alternative providers have sufficient language skills to succeed at their course;
- For alternative providers to provide prospective students with the information they need to make informed choices about their course, for example student satisfaction ratings, graduate salaries and employment, tuition fees, financial support and the cost of accommodation;
- How best to link the number of students providers can recruit (student number controls) to performance of the provider in the longer term.

Chapter 3: Criteria for Specific Course Designation

Revised Quality assurance Requirement

The specific course designation system has four key criteria which a provider has to satisfy to enable its courses to be approved for student support. These are:

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

Alternative providers are expected to satisfy the quality assurance requirement before applying for specific course designation and to continue to satisfy the quality assurance requirement once specific course designation has been granted. This means having a published report for a recent, successful review prior to application. In order to maintain designated status once approval has been given, providers will need to undergo further periodic reviews (usually every four years), as well as demonstrating satisfactory progress in QAA annual monitoring.

NB From April 2015 onwards, all higher education providers in England who wish to access public funds will be subject to a single quality assurance framework, Higher Education Review. This means that, from September 2015:

- **all new applicants for course designation will need to achieve a successful Higher Education Review;**
- **all alternative providers will now be required to undergo annual monitoring visits (see Chapter 5);**
- **all alternative providers due for a re-review by the Quality Assurance Agency will have to undergo a full Higher Education Review.**

Detailed information on the Higher Education Review quality assurance framework, processes and how to apply can be found at <http://www.qaa.ac.uk/reviews-and-reports/how-we-review-higher-education/higher-education-review>

Quality Assurance Requirements

Providers need to demonstrate a commitment to maintaining their relationship with the QAA by paying a subscription or annual maintenance fee to the Agency. Further periodic reviews (usually every four years), as well as annual monitoring, will be necessary in order to maintain designated status once approval has been given. From September 2015, QAA annual monitoring will take the form of annual monitoring visits (if a provider has demonstrated an exceptional track record this requirement may be varied). If a provider is being investigated under the QAA

Concerns scheme, then an application for annual re-designation cannot proceed until the outcome of the investigation is known. Neither can a provider's application to have new courses designated proceed.

As outlined above, the QAA review will now take the form of the new common review framework for higher education providers, Higher Education Review.

<http://www.qaa.ac.uk/reviews-and-reports/how-we-review-higher-education/higher-education-review>

This will provide external assurance about the academic standards of alternative providers' higher education awards; the quality and enhancement of learning opportunities; and information available to students.

Reports of reviews, including formal judgements, will be published on the QAA website, in line with the QAA's practice.

The quality assurance requirements do not apply to providers seeking specific designation of postgraduate courses only.

Costs relating to the Quality Assurance Review Process

The review fees for the purpose of specific course designation are set out on the QAA website. QAA will charge a non-refundable application fee. Further review will be needed periodically, depending on the type of review, and the provider will need to meet the cost of these and, as required, of annual monitoring visits. QAA reserves the right to visit the provider if circumstances require it, at the provider's cost.

Providers should be aware that, if they choose to apply to the QAA for review, any cost incurred will not be refundable should the review outcome be unsatisfactory or their application for specific course designation unsuccessful.

Chapter 5: Conditions of Specific Course Designation and Annual Re-Designation

Conditions of Specific Designation

If the Department has granted specific course designation, a nominated accountable officer is required to sign a declaration to confirm that he or she accepts responsibility for ensuring compliance with the conditions of specific course designation.

The conditions of specific designation are set out below.

- 1) On-going compliance with the criteria and conditions of designation as set out in the Department's guidance and providing HEFCE and the Department with clear assurance to this effect as specified in the Guidance;
- 2) All institutions, other than those with UK Degree Awarding Powers must apply to have their courses re-designated every year;
- 3) Maintaining high quality standards of teaching and learning – as evidenced by successful outcomes of QAA Higher Education Reviews and annual monitoring; and successful compliance with agreed QAA action plans;
- 4) Providers are required to deliver satisfactory student retention and completion rates – which will be benchmarked against other providers. These benchmarks will be developed by the Department and HEFCE and will take into account factors such as differences in student mix, for example age, subject, domicile and household residual income;
- 5) From 1 September 2015 to provide information relating to their students' enrolment and progression (to the Department. This includes information about recruitment and attendance policies (on an annual basis, and if/when they change), and data relating to: enrolments, drop outs, progression, performance, course completion and qualifications awarded (on a termly basis);
- 6) Providers must allow the Department access to their premises, records and staff. The Department shall give alternative providers reasonable advance notice in writing of proposed visits to the provider or its sub-contractors – but providers are required to give an immediate right of access to their premises and records where the Department has a reasonable suspicion that the provider or its students are engaged in fraudulent activity;
- 7) Providers must not draw down tuition fee payments for a student from the Student Loans Company before that student has been registered with the relevant Awarding Body;
- 8) Providers must not undertake any activity which brings the sector into disrepute;
- 9) Providers that wish to change the location of an already designated course must apply to the Department, through a change of circumstances form (available

from the HEFCE website) that must be sent to and received by HEFCE at least 3 months in advance of the proposed change of location taking place;

10) Providers must notify the Department, through HEFCE, of any change of Director, or their circumstances, as and when those changes take place – to enable a ‘fit and proper person’ test to be applied;

11) All providers (irrespective of the number of eligible students studying designated courses) are required to subscribe to the Higher Education Statistics Agency (HESA) and to pay a subscription or annual fee to the Quality Assurance Agency for Higher Education, (QAA), in addition to meeting the costs of periodic QAA reviews;

12) Ensuring the number of eligible students recruited to specifically designated courses collectively does not exceed any student number control allocated to the provider each year where applicable;

13) In the case of small providers the total number of full-time students that access support on specifically designated full-time courses does not exceed the allowance of 50 in an academic year;

14) Meeting obligations to the SLC to provide information necessary to administer student support in line with the regulations including ensuring term dates are only input for specifically designated courses at specified locations on SLC system (see also Requirements of the SLC below);

15) Not franchising or sub-contracting designation to a third party without the Department’s consent;

16) Being responsible for any information advertised to students in literature or websites about the availability of student support for particular courses;

17) Being held fully accountable for the actions of any third party recruitment agency the provider chooses to use, and ensuring that any fees the provider pays to such agencies in respect of the recruitment of students are disclosed to the student before they enrol;

18) Advising the Department if, at any time, any action or policy under consideration by the provider appears to be incompatible with the criteria and conditions of designation set out by the Department in the Guidance and to inform the Department in writing immediately if they decide nevertheless to proceed with such an action or policy;

19) Ensuring that the use to which the provider puts funds received from the SLC is consistent with propriety and regularity and in particular the purposes for which those funds were given;

20) Ensuring the provider has the appropriate financial management, governance, and operational systems in place to deliver the designated courses; and

21) Notifying HEFCE of any change of circumstances set out in the Guidance. In particular: any adverse variance in the financial position which in the accountable officer’s judgement is material to the institution’s financial sustainability; and any fraud, serious weaknesses, or any major accounting breakdown reported to him or her by external or internal auditors or which come to light by any other means.

Providers may be subject to sanctions in the event of a breach of any of the criteria or conditions of designation. Further information on possible sanctions is provided in Chapter 8.

Further information on some of the conditions of designation is provided below.

Provision of Information to HEFCE

The governing bodies of all alternative providers (or the equivalent controlling body appropriate for the corporate form) with specific course designation for student support are required to provide information to HEFCE. HEFCE will request such information as is necessary to monitor alternative providers to ensure continuing compliance with the conditions of specific course designation. The governing bodies of alternative providers are legally required to provide this information under the Further and Higher Education Act 1992.

Provision of Information to the Department

From 1 September 2015 the governing bodies of all alternative providers (or the equivalent controlling body appropriate for the corporate form) with specific course designation for student support will be required to provide information relating to their students' enrolment and progression to the Department. This will include information about the alternative provider's recruitment and attendance policies (on an annual basis, and if/when they change), and data relating to: enrolments, drop outs, progression, performance, course completion and qualifications awarded (on a termly basis). The Department may request additional information, or more regular reporting of this information from specific alternative providers as and when it deems necessary, for the purposes of performance monitoring. Further, more detailed guidance will be issued prior to the commencement of the 2015/16 academic year.

Where the Department has concerns that providers are not meeting their obligations to provide this information, depending on the nature and severity of these concerns they will either be considered as part of the annual re-designation process or may result in the Department implementing designation enforcement action as described in Chapter 8.

Higher Education in Alternative Provider Early Statistics survey (HEAPES)

Alternative providers that are allocated a student number control are required to complete a Higher Education in Alternative Providers Early Statistics (HEAPES) survey each year. It will be completed in the autumn by alternative providers subject to the student number control and is used to monitor recruitment against each provider's student number control allocation as set by the Government. The HEAPES survey may also be used to set the 2015/16 SNC allocation, especially for those that opt in to HEAPES14.

From 2014 new providers that have not been allocated a number control will be given the option to participate in HEAPES.

Further details can be found on the HEFCE website:

<http://www.hefce.ac.uk/whatwedo/reg/desig/snc/> and in the HEAPES14 guidance published by HEFCE in August 2014.

Submission of Data to the Higher Education Statistics Agency

Alternative providers with designated courses (including those previously treated as small providers (see Chapter 7)) will be required to subscribe to HESA as a condition of specific course designation. Subscriptions commenced in the 2014/15 academic year for many providers and will include all providers with specifically designated courses from the new academic year 2015/16. Further details on HESA subscriptions will be published on the HESA website.

Subject to consultation (this ends 27 March 2015) we are considering whether alternative providers should also be required to provide the Key Information Set to help prospective students choose their higher education course. The consultation highlights the fact that there are particular issues for smaller providers in providing meaningful and comparable data at course level. This guidance will be updated, as appropriate, following the publication of the Government response to the consultation.

Requirements of the Student Loans Company

Providers with specific course designation are expected to meet their obligations to the SLC to provide the information necessary to administer student support in line with the student support regulations. The information requirements relate to the following areas:

- Data related to the course of study that is designated for support;
- Verification that the fee charged to the student, and the course quoted by the student in their application are accurate and directly relate to the student's course of study;
- Information related to student registration and attendance;
- Confirmation of changes of any circumstance that affect the student's entitlement; and
- Timely reporting of when a student withdraws from their course.

Where SLC have concerns that providers are not meeting their obligations to provide the information necessary to administer student support in line with the student support regulations these will be reported to HEFCE and the Department. Depending on the nature and severity of these concerns they will either be considered as part of the annual re-designation process or in some cases may result in the Department implementing designation enforcement action as described in Chapter 8.

Registration of Students with Awarding Bodies

It is a condition of designation that providers must not draw down tuition fee payments for a student from the Student Loans Company before that student has been registered with the relevant qualification Awarding Body.

Change of Location

Providers that wish to change the location of an already designated course must apply to the Department, through a change of circumstances form (available on the HEFCE website) that must be sent to and received by HEFCE at least 3 months in advance of the proposed change of location taking place.

Apart from exceptional circumstances beyond a Provider's control e.g. a building becoming unsafe necessitating urgent action, in the event that a provider fails to give the Department the required 3 months' notice, not only will the new location not be designated for new students, the Secretary of State may also consider withdrawing student support from students that started to study at the previous location.

Changes of Alternative Provider Directors: Fit and Proper Person Test

It is a condition of designation that where any changes of Director occur at an alternative provider, these are notified immediately to HEFCE – to enable a 'Fit and Proper' person test to be undertaken, which includes:

- A check against public registers of disqualified directors (available on Companies House) and disqualified trustees (available on the Charity Commission website);
- A review of County Court Judgements;
- Where professional affiliations / memberships are declared, these are verified with the professional organisations' member lists (where these are publicly available);
- A general internet search to identify publicly available information of relevance.

Bringing the Sector in to Disrepute

It is a condition of designation that alternative providers must not engage in any activity that brings the sector into disrepute. Alternative providers must operate honestly and with integrity. Alternative providers are expected to display high standards of probity and to uphold high ethical standards at all times, and to work in harmony with the Department and to co-operate fully.

Right of Access

It is a condition of designation that alternative providers must allow the Department access to their premises, records and staff.

Generally, the Department shall give alternative providers reasonable advance notice in writing of proposed visits to the provider or its sub-contractors.

The Department or its representatives, the National Audit Office, the Student Loans Company, the Higher Education Funding Council for England and the Quality Assurance Agency for Higher Education shall have the right to visit all or any site(s) and view operations relating to courses that are designated for student support and to inspect

relevant documents and interview students and the Provider's staff during these visits in order to:

- examine, audit or take copies of any original or copy documentation, accounts, books and records of the Provider and its subcontractors that relate to designated courses;
- visit, view or assess the design, management and delivery of designated courses at any premises where those operations are carried out (including those of any sub-contractors) and conduct relevant interviews, including interviews with students, during these visits at any reasonable time;
- carry out examinations into the efficiency and effectiveness with which the provider has used funds provided by the Student Loans Company for the delivery of courses designated for student support.

Alternative providers shall, if required by any of the representatives stated above, provide appropriate oral or written explanations.

The Department reserves the right, at any reasonable time, and as it may deem necessary, to require the Provider at its own cost to:

- provide evidence of financial resources and the level of turnover sufficient to enable it to continue to deliver designated courses;
- provide such assurance as the Department may require that the delivery of the designated courses complies with the conditions of designation;
- obtain a report by an independent accountant of the Department's choice on:
 - the financial systems and controls operated by the Provider or its subcontractors;
 - the accuracy and regularity of funding claims in respect of payments claimed or received in relation to the designated courses;
 - the evidence held by the Provider or its subcontractors to support delivery of designated courses in accordance with the terms and conditions of designation.

Fraud and Irregularity

The Provider shall notify the Department immediately where it becomes aware of any instance of suspected fraud or financial irregularity including, but not limited to, cases of:

- collusion with members of the staff of the Department;
- computer fraud;
- the submission to the Department of inaccurate, incomplete, misleading or falsified information for the purpose of funding;
- fraud involving awarding bodies;
- fraud involving sub-contractors;
- fraud involving students.

provided that nothing in these paragraphs shall require the Provider to do anything which may cause it to infringe any law.

Where the Department has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of designated courses and associated payments, the Department shall have the right of access to the Provider's premises at any reasonable time with or without notice to examine and remove or copy all relevant documents and records including electronic records and to interview the Provider's servants or agents engaged with the delivery of the Services.

Where the Department has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of designated courses the Department reserves the right to suspend payments whilst it investigates; and/or require the Provider to suspend recruitment of students.

The Department may from time to time brief the Provider as to the co-operation and assistance it reasonably requires including the provision of information regarding fraud by Students. The Department shall provide a named contact or telephone answering machine for receiving such information.

Quality Assurance Monitoring

The Government expects all higher education providers to maintain high quality standards of teaching and learning for all their courses. Our system has a worldwide reputation for quality and all providers need to help strengthen this reputation by rigorously monitoring standards and taking prompt remedial action where necessary. We also expect providers to continually look for areas of further improvement and enhancement.

As set out above, the Department will require providers to submit information on student progression, drop out and course completion. This will be reviewed annually against HEFCE produced benchmarks for each provider which will reflect their student mix (i.e. age, subject, domicile and household residual income). The Department then may investigate further and take any necessary action. This will be triggered where performance differs significantly from the benchmark.

All providers will be subject to annual monitoring by the QAA. From September 2015 this will take the form of an annual monitoring visit. This will explicitly consider quality indicators including retention and completion rates. Prior to the visit providers will need to complete an annual monitoring return which will include reporting of material changes as well as an assessment of progress and performance and relevant supporting data.

QAA will inform the Department and HEFCE if any information in the monitoring process leads to any doubt about a provider maintaining expected levels of quality.

The provider will need to maintain successful Higher Education Reviews (this usually requires re-assessment every four years) in order to maintain designated status once approval has been given. The Department and HEFCE will be informed when an

alternative provider with courses designated for student support receives a published QAA review judgement including any less than a satisfactory outcome. These judgements will impact on specific course designation status –please see Chapter 8 and Annex D for details.

Review reports and judgements are published in the public domain.

Where the Department has any concerns about the quality of provision or maintenance of academic standards it will require immediate action. Sanctions are set out in full at Chapter 8 and can include: a block on further recruitment; reduction of SNCs; a suspension of payments; the issuing of an enforcement notice; and, in the most serious cases, de-designation.

Concerns about the standards and quality of higher education

In addition to the above, all providers should note that by applying to be reviewed and monitored by the QAA, they become liable to be investigated in the event of a concern about their management of academic standards or quality which proves eligible for investigation under QAA's Concerns scheme.

QAA investigate concerns about the standards and quality of higher education provision raised by students, staff and other people and organisations, where QAA think these concerns indicate serious systemic or procedural problems.

Details of QAA's Concerns scheme can be found at <http://www.qaa.ac.uk/Complaints/concerns/Pages/default.aspx>

In the event that a full investigation is required, costs would need to be covered by the provider.

If a Concern is upheld, QAA will refer this to the Department, who will review next steps on a case by case basis.

Annual Re-Designation

All alternative providers with specific course designation, other than those that hold UK Degree Awarding Powers, are subject to annual re-designation. Designations will be granted for the following academic year only. These designations replace those that were previously open ended. Those alternative providers with UK Degree Awarding Powers will not be subject to annual re-designation – but we will continue to monitor their performance against the conditions of designation once a year.

HEFCE will undertake the annual re-designation exercise, and an exercise to monitor providers with UK Degree Awarding Powers, and will report the findings to the Department for consideration.

If as a result of either exercise concerns are raised about a provider's compliance with the conditions of designation the Department will consider designation enforcement action as described in Chapter 8. The Department reserves the right not to re-designate the courses of those alternative providers without UK Degree

Awarding Powers that fail to demonstrate that they continue to meet the conditions of designation.

HEFCE will produce detailed guidance on the requirements each year which will be published on their website. This is likely to include requirements to provide:

- confirmation from QAA of a satisfactory QAA annual monitoring return;
- annual return to Companies House or the Charity Commission showing the directors / trustees and other key governance information;
- externally audited annual accounts (these will be subject to the same requirements as at application and therefore must be audited by a registered statutory auditor who is independent of the preparation of the accounts and must include income and expenditure, balance sheet, cash flow statement and full notes to the accounts, irrespective of any statutory exemptions to which a provider may be entitled);
- student number and financial forecast information and commentary which provides an indication of future plans and the financial position of the provider;
- evidence of continued approval/validation from the awarding/validating body; and
- data to support the student number monitoring and annual allocation.

HEFCE will also take account of any escalations from SLC or QAA in relation to concerns over adherence to the obligations of providers to meet the requirements of SLC or management of academic standards and quality.

A lighter touch approach may apply in future to the annual re-designation of providers with specifically designated courses taking into account different types of institutions, their size, growth rates, and the specialist nature of some provision, track record of complying with the annual monitoring requirements and taking account previous history of error rates on SLC's systems, failures to achieve SLC service standards and level of student complaints. We intend to keep the administrative burden for providers to a minimum and, where possible, the process will use information that is produced for other purposes, e.g. the statutory returns to Companies House or the Charity Commission.

In addition if two academic years elapse and no students access student support for any of a provider's specifically designated courses we would generally consider that the designation has lapsed.

The Office of the Office of the Independent Adjudicator's Complaints Handling Scheme

Subject to the passage of the Consumer Rights Bill, all providers of higher education courses with students in receipt of student support funding will be required, through primary legislation, to join the complaints handling scheme operated by the Office of the Independent Adjudicator for Higher Education. This includes all alternative providers with designated courses. The legislation is planned to take effect from 1 September 2015 and will mean that all higher education students in England, wherever they study, can take

their unresolved complaints to the Office of the Independent Adjudicator. More information on the OIA and their role can be found at <http://www.oiahe.org.uk/>.

Chapter 7: Student Number Controls (SNCs)

Overview of Student Number Controls

Following the consultation on 'Applying Student Number Controls to Alternative Providers with Designated Courses' full time student number controls were introduced for alternative providers in academic year 2014/15. We left open the possibility of introducing student number controls for part time, distance and franchised course in later years.

On 29 January 2015, we announced our approach to full time student number controls at alternative providers in 2015/16. We are removing and relaxing controls for those providers which offer students a high quality, value for money experience. We are retaining controls on all other providers and tightening those controls where we have concerns about quality.

On 27 February 2015, we announced that we are introducing part time and distance learning number controls at alternative providers in 2015/16. Almost half of designated courses are part time or distance learning and we need to ensure that expansion of these courses is within the constraints of what Government can afford to support. We also set out that we would develop controls for those courses which alternative providers deliver for HEFCE funded institutions under franchise. We will consider institutions' plans to expand this provision on the grounds of affordability and limit recruitment to these courses, if and where that proves necessary.

Full Time Student Number Controls

We are removing Student number controls for those alternative providers which currently have UK Degree Awarding Powers, bringing them into line with the HEFCE-funded sector. To ensure parity with the HEFCE funded sector, the Government will seek additional assurance that these alternative providers are able to identify and address any early signs of concern about the quality of the student experience that may have resulted from significant variations in student numbers. As in the HEFCE funded sector, these providers will be required to review their arrangements with their student union/organisation for identifying and resolving early signs of student concerns or complaints and implement any changes which are necessary for the start of the 2015/16 academic year. BIS will also ask these providers to ensure their governing body receive an annual review of such issues and how the institution has resolved them. We will seek annual assurances from these providers on the effectiveness of their arrangements as part of the annual monitoring process which is administered by HEFCE.

For all other alternative providers, full time student number controls will remain.

Providers where a majority of students (defined as more than 50% of eligible full-time students that were returned in the Higher Education Alternative Provider Early Statistics Survey (HEAPES) 14) is studying for qualifications awarded or validated by organisations

with UK degree awarding powers will have the flexibility to increase the number of full time students they recruit by 20% in 2015/16 compared to 2014/15. The High Grades policy will no longer apply. Instead, the total number of students with high grades that were returned as exempt in 2014/15 will be added to the student number control for 2014/15, on which the 20% flexibility will be calculated, to arrive at the SNC for 2015/16.

No provider where a majority of students (defined as more than 50% of eligible students that were returned in HEAPES14) is studying for qualifications which are not awarded or validated by an organisation with UK degree awarding powers will be allowed to recruit more full time students in 2015/16 than in 2014/15. The High Grades policy will no longer apply and the total number of students with high grades that were returned as exempt in 2014/15 will be added to the student number control for 2014/15.

In addition, we said, in the guidance we published in August 2014, that we might review a provider's student number control in the light of their student retention and completion rates. We announced on 27 February 2015 that we now intend to follow this approach. We will write to any providers where we have concerns to inform them of our intention or decision to review their student number control for 2015/16.

Small providers, with fewer than 50 full time students accessing student support in all years of study remain exempt from full time student number controls unless they have subsequently opted into the Higher Education Alternative Provider Early Statistics Survey or had a student number control allocation in 2014-15. Small providers must not grow beyond the allowance of 50. Those that do will no longer be treated as a small provider and will become subject to the additional conditions of designation, including the student number control.

New providers gaining designation in 2015/16 will be treated as small providers and given an allowance of 50 full time students accessing student support in total across all years of study.

Each year the Department will decide if there will be a mechanism available if providers wish to grow beyond the allowance of 50. This will be announced in separate guidance.

Introducing Student Number Controls to Part Time and Distance Learning

In our original consultation on applying student number controls to alternative providers (November 2012) we left open the possibility of extending controls to part time and distance learning courses. Almost half of designated courses are part time or distance learning and we need to ensure that expansion of these courses is within the constraints of what Government can afford to support. So, the Government has now decided to introduce a control on entrants to all part time and distance learning courses (full-time and part-time) in alternative providers in 2015/16. This control will apply to all eligible entrants to all part time courses at alternative providers. It will apply to entrants to all distance learning courses regardless of whether the course is designated as full time or part time or, indeed, both. The High Grades policy no longer applies. So, no exemptions will be made on the basis of entrants' existing qualifications.

Broadly speaking, we will implement part time and distance learning number controls on the same basis as full time controls. So, these controls will not, as a rule, apply to providers with UK degree awarding powers. Providers where a majority of students (defined as more than 50% of part time and distance learning students who were drawing down support from the Student Loans Company (SLC) in 2013/14) is studying for qualifications which are awarded or validated by an organisation with degree awarding powers will have the flexibility to increase their part time and distance learning numbers by 20% in 2015/16 compared to 2013/14. Providers where a majority of students (defined as more than 50% of part time and distance learning students who were drawing down support from the Student Loans Company (SLC) in 2013/14) is studying for qualifications which are not awarded or validated by an organisation with UK degree awarding powers will not be able to increase their part time or distance learning numbers in 2015/16 compared to 2013/14.

As a general rule, we will use 2013/14 as the baseline year for calculating part time and distance learning SNCs. We will use SLC data to calculate a student number control which will apply to all eligible students who are receiving student support. Where, however, this is not possible (for example, where a course was first designated in 2014/15) we will use 2014/15 data. Where it is necessary to rely on 2014/15 data, we will make reasonable assumptions about recruitment during the rest of the academic year. Our aim here is to avoid the risk of providers seeking to inflate their 2015/16 SNC with unsustainable recruitment in the remainder of 2014/15. BIS will offer providers the opportunity to discuss their provisional part time and distance learning SNCs with us. If the use of data from two years ago in setting the SNC baseline should cause demonstrable unfairness, we will consider adjusting the figure (as an exception to the general rule).

These exceptional circumstances include, but are not limited to, situations where:

- A provider's financial sustainability depends on a previously planned growth of part time and distance learning provision which is above their SNC allocation; or
- Where a provider has already incurred expenditure investing in such growth.

Providers will need to provide evidence to support their case for exceptional treatment.

Small providers will be given an allowance for students accessing student support for part-time and/or distance learning courses for the first time in 2015/16. Those with fewer than 50 students on part time or distance learning courses accessing student support across all years of study will be exempt from the part time and distance learning student number control, provided they do not grow beyond this allowance. Those that do will no longer be treated as small providers and will become subject to the additional conditions of designation, including the student number control.

New providers gaining designation in 2015/16 will be treated as small providers and be given an allowance of 50 part time and distance learning students accessing student support in total across all years of study.

Each year the Department will decide if there will be a mechanism available if providers wish to grow beyond the allowance of 50. This will be announced in separate guidance.

Franchised Courses

All courses which HEFCE funded institutions deliver in partnership with alternative providers and which meet the BIS definition of a franchise, are required to have specific course designation. The Secretary of State may impose conditions on specific course designation including student number controls.

The Government announced, on 27 February 2015, its desire to develop controls on entrants to provision which alternative providers deliver, under franchise, for HEFCE funded providers. Again, the Government needs to ensure that any expansion in the number of students on franchised courses at alternative providers is affordable. BIS is working with HEFCE and HEFCE funded institutions to explore how it might achieve this. BIS will consider institutions' plans to franchise with alternative providers in 2015/16, on the grounds of affordability. We intend to introduce controls on entrant numbers, if and where that proves necessary.

Method for Controlling Student Numbers

Student number controls apply to UK and EU students starting full-time, part time or distance learning undergraduate study or post graduate initial teacher training study on specifically designated courses in the academic year. The controls will apply to most students who are eligible for publicly funded student support, regardless of whether or not they have in fact accessed publicly funded student support. The number controls will operate in 2015/16 on the basis of the following key points:

- There will be two separate student number controls. The first will apply to all specifically designated full time courses. The second will apply to all specifically designated part time and distance learning courses (regardless of whether those distance learning courses are designated as full time, part time or, indeed, both).
- Each of these separate student number controls is a single limit per provider and will apply to all of the provider's courses which have been specifically designated for student support purposes. This means that the provider must decide how to apportion their numbers to designated courses and gives flexibility for providers to move numbers from one designated course to another but not between part time/distance learning and full time provision.
- Where a provider has a subsidiary, parent company or another linked organisation which has designated courses each student number control will take account of the relationship between providers. This means that linked organisations, in this instance, will not be judged to be small providers. All linked organisations will therefore be subject to the student number controls and data reporting requirements accordingly, irrespective of their size.
- The control on full time students and the control of part time and distance learning students are separate. Some providers may be subject to both controls. Some providers may be treated as small for the purposes of one control and large for the

purposes of the other. Providers cannot transfer any under recruitment against one control to the other control.

- Student number controls do not apply to non-designated courses, which gives the provider freedom to increase numbers on non-designated courses without pressure on the public purse.
- Student number controls do not apply to most non-EU students, as they are not eligible for publicly funded grants and loans. In addition students who cannot access student support because they are aiming for an Equivalent or Lower Qualification (ELQ) will not be subject to number controls.
- The number control will only apply to students starting study, rather than to those in all years of study at a provider. (Note: the limit of 50 students for small providers is different and **does** include students in all years of study)
- Providers should also note that the number control applies to students who study with the provider on designated full-time courses for at least two weeks, or have their attendance on such a course confirmed positively to SLC or the SAAS. Students who withdraw (or transfer to a course that is not a designated course) before they have completed two weeks of study would not therefore be counted in the SNC, unless the provider has positively confirmed attendance.
- In 2015/16, student number controls will not apply to any postgraduate students aside from those on postgraduate initial teacher training courses. Other post graduate students could come under student number controls in future years, subject to Ministerial decisions.
- BIS retains the right to introduce student number controls on entrants to any provider or any mode of study where we have concerns about student retention or completion. We will write to any provider to which we intend or have decided to introduce a number control.

Monitoring, Penalties and Sanctions for Providers with a Student Number Control

Each year providers with an SNC will need to complete a HEAPES survey. This will monitor recruitment of controlled students (those that count against a provider's SNC allocation) and of exempt students (those students that are in the HEAPES population, but which do not count against the SNC allocation in virtue of their entry qualifications or qualification aims). Providers are also required to submit data to the Higher Education Statistics Agency (HESA) on an annual basis.

Working with HEFCE, the Department will use the HEAPES15 and SLC data to monitor providers' recruitment against their SNC allocation.

During 2015/16 and beyond, HEAPES data will be checked using data from other sources, including HESA, the SLC, and Pearson Education Limited, as they become available. If we

find that the HEAPES data were inaccurate, we may enforce sanctions, including the withdrawal of specific course designation. We will also reassess recruitment against the 2015/16 SNC allocation using these other data sources, and will review any sanctions for over-recruitment that may apply.

We regard a provider as over-recruiting if it recruits above any of its SNC allocations. When this happens, we will give providers the option to repay a sum corresponding to the estimated average cost of providing student support, multiplied by the number of students recruited above the SNC allocation. In this context, student support includes both tuition fee loans and maintenance grants and loans. The rate per full time excess student will be up to £5,000 per year of study, reducing pro rata for excess part time students, depending on the intensity of study.

If a provider chooses not to repay the penalty for over recruitment this will be treated as a failure to comply with the conditions of specific course designation. In these cases the Secretary of State may use his discretion to apply sanctions, as outlined in Chapter 8. These will be considered on a case by case basis but are likely to lead to loss of designation in these circumstances.

The Department will carry out retrospective monitoring after the end of the 2015/16 academic year and at this point we will inform providers of any repayments necessary to avoid sanctions. Finally, since students can claim student support up to 9 months after they begin their course, we will continue to monitor SLC academic year 2015/16 data throughout 2016/17 and will if necessary calculate (additional) repayments if at some later point we find that the allowance has been (further) exceeded.

Next Steps

HEFCE will make available, on BIS's behalf, providers' student number controls for 2015/16, where they apply, on an individual basis via the secure HEFCE extranet.

HEFCE will be carrying out a survey of student numbers in autumn 2015. This will be the third annual Higher Education Alternative Providers Early Statistics (HEAPES) survey.

Further details on which students are covered by student number controls will be explained in full in the HEAPES15 guidance, which will be published by HEFCE in autumn 2015. In the meantime, providers are advised to refer to the HEAPES14 guidance.

Chapter 8: Designation Enforcement: Sanctions and De-designation for Alternative Providers

Specific course designation is subject to providers meeting a range of on-going conditions. In order to ensure providers are held accountable and comply with those conditions and to protect the student and public interest the Department retains the right to review specific course designation at any time.

The circumstances where the Department might review specific course designation may include (but are not restricted to):

- 1) Concern or evidence that the provider is not complying with the conditions of designation, including student number controls or the 50 allowance, either through annual monitoring, annual re-designation or from information received in year, including information that relates to academic performance such as drop out, withdrawal, completion, and success rates;
- 2) Information from QAA that a provider with specific course designation has had a less than successful QAA Higher Education review judgement or QAA annual monitoring visit (see Annex D) or has been subject to the QAA Concerns scheme and had a concern upheld;
- 3) Non-compliance with QAA or Departmental action plans;
- 4) Concerns that the provider is not securing value for money, for example in terms of student retention, achievement, or course completion rates;
- 5) Other concerns about the quality of their provision;
- 6) Failure to disclose or notify the Department or HEFCE of any change of circumstance which may impact on the status of designation (as outlined in Chapter 6);
- 7) Failure to disclose or notify the Department or HEFCE of any change of Director;
- 8) Where the Director of an alternative provider fails the 'fit and proper persons' test;
- 9) Information from the SLC that providers are not meeting their obligations to the SLC to provide the information necessary to administer student support in line with the student support regulations;
- 10) Information that providers have drawn down tuition fee funds from the Student Loans Company, without first registering students with the relevant awarding body;
- 11) Concerns about a provider's financial viability;

- 12) Where providers have brought the alternative provider sector into disrepute;
- 13) Where access to provider's premises, records, students, or staff has been denied to the Department or its representatives;
- 14) Failure to notify the Department at least three months in advance that there has been a change of location in respect of a designated course ;

Depending on the nature and extent of these issues, action might include:

- Suspension of payments;
- The Department requiring specific actions being put in place by a specific date through an enforcement notice. Where a provider fails to meet these conditions, further action would be taken;
- Imposing a freeze on new recruitment at the provider
- Requiring the provider to submit a new specific course designation application (either for full set of checks or course eligibility checks only);
- Suspending designation (of some or all of the courses at that organisation);
- Reducing student number controls for future years or applying SNCs to small providers who exceed the annual allowance;
- Withdrawal of specific course designation (either for particular courses or for all courses at that organisation).

When the Department decides it is appropriate to implement sanctions we will write to the provider setting out the reasons for our concerns and the action we propose to take. Providers will be given the opportunity to respond before the final action is taken.

In some circumstances such as suspension of payments or designation the enforcement action will be taken immediately and the process and timescales for dealing with this are set out below.

Suspension of Payments or Designation:

SLC may immediately suspend designation or payments (tuition fee loan payments to providers, and/or maintenance payments to students) if the Department or the SLC has reasonable grounds to believe that a provider is not complying with the conditions of its designation or alternatively the Department may suspend designation in respect of new students.

The circumstances that may be expected to lead to a suspension of payments include (but are not restricted to):

- Reasonable grounds that a provider may be claiming payments to which it is not entitled, for instance because students are not studying a designated course, are not in attendance, or there has been systematic misrepresentation of students' eligibility.

- Failure by a provider to notify HEFCE of a change of control or other material adverse change that brings under question the on-going sustainability and/or governance of the provider or other matters that could affect the student interest.

Where payments are suspended it is the provider's responsibility to notify students. However SLC may also write to students to explain the situation and the reason for the suspension of payments.

Action that the Department or SLC will take following suspension of payment or designation:

In the event that a decision is taken to suspend payments or designation, the Department will write to the provider within 5 working days, setting out the nature of the concerns.

The provider will be given 14 working days to comment and provide evidence. If necessary a meeting between the Department and SLC, where appropriate, and the provider will be arranged to discuss the concerns.

Following the completion of any necessary investigations, the provider will be informed of whether further action is proposed by the Department, and, in the event that action is proposed, will have 5 working days to comment.

Action that the Department will take following the conclusion of investigation:

The action taken may include:

- Immediate withdrawal of the provider's course designations for all students;
- Withdrawal of the provider's designations in respect of new students;
- Issue of an enforcement notice specifying actions to be taken by the provider and the timescale for completing those actions.

Enforcement notices may include (but are not restricted to):

- A requirement for additional information and monitoring;
- An instruction to carry out, at the provider's expense, improvements to student or employee facilities;
- A direction to conduct an independent audit or investigation;
- A direction to publish information;
- A public instruction to improve whichever aspects of performance are deficient (improvement notice); and,
- A direction to remove or suspend members of the board of governors or accounting officer.

Failure to comply with an enforcement notice within the specified timescale may lead to a withdrawal of designation.

Providers should note that the Department may issue an enforcement notice in respect of any relevant matter without having first suspended payments. Failure to comply with such an enforcement notice within the specified timescale may lead to a withdrawal of designation.

Reapplying for designation

In circumstances where designation for some or all of its courses is removed, a provider would be eligible to reapply for specific course designation when the issues of concern have been addressed.

Providers should note that if they fail a QAA Higher Education Review they cannot be re-reviewed by the QAA for designation purposes within 18 months. Only if that review is successful will they be able to reapply.

Annex D: Addressing less than successful review judgment from QAA Higher Education Reviews and QAA annual monitoring

These arrangements apply to alternative providers that already have courses specifically designated for student support and have had a successful initial QAA review, but who receive one or more judgments which are less than satisfactory during a subsequent review, or concerns are raised following an annual monitoring visit including not making sufficient progress against an action plan.

Appeals against QAA Higher Education Review Judgements

If a provider receives a QAA judgement of less than 'meets expectations' (i.e. 'requires improvement to meet UK expectations', or 'does not meet UK expectations') in any of the judgement areas, it will be given an opportunity to appeal, using QAA's Consolidated Appeals Procedure before the judgement and review report is published.

If the provider chooses not to appeal or appeals unsuccessfully, then the report will be published, and the QAA process for follow-up action will commence.

The process once a QAA judgement of less than 'meets UK expectations' is confirmed

This process is initiated at the point of a published QAA review judgement of anything less than 'meets UK expectations'.

If a provider receives such a review judgement, they will have an opportunity to seek a further review in order to overturn that judgement and will need to meet the costs of further review. If the provider chooses not to seek a further review, then they indicate their intention to withdraw from the designation process. In those circumstances one or more of the sanctions listed in the designation enforcement section of this guidance could be invoked i.e.

- Immediate withdrawal of the provider's course designations for all students;
- Withdrawal of the provider's designations in respect of new students;

- Issue of an enforcement notice specifying actions to be taken by the provider and the timescale for completing those actions;
- Failure to comply with an enforcement notice within the specified timescale may lead to a withdrawal of designation.

Judgements of ‘requires improvement to meet UK expectations’

A provider receiving a published QAA review judgement of ‘requires improvement to meet UK expectations’ must supply an action plan to the QAA within 30 days of publication of the review report. Alongside this the Department can take actions as set out in Section 8 which may include blocking further recruitment to the course until it is shown to meet expectations.

The provider will need to undergo a follow-up review within six months of publication of the report. If the provider either fails to submit an action plan within the 30 days, or fails to commit to a follow-up review, this would indicate their intention to withdraw from the designation process.

The provider will be expected to have made substantial progress with implementing the action plan at the time of the follow-up review and should have addressed the concerns that led to the limited judgements. The requirement for a follow-up review within six months is in the interests of maintaining a high quality experience for all students.

Should the follow-up review result in a further judgement of anything less than ‘meets UK expectations’ in any area, the Department will take action following sanctions listed in Chapter 8.

Where the enforcement proceedings lead to withdrawal of the provider’s course designation, the Department would expect the provider and its validating institution(s) or awarding body to make provision for existing students to complete their studies with another approved provider.

Once a provider has failed a QAA follow-up review for the purposes of specific course designation, they cannot be reviewed again by the QAA for those purposes within 18 months.

‘Does not meet UK expectations’ judgements

A provider receiving a published 'does not meet UK expectations' QAA review judgement must supply an action plan to the QAA within 30 days of publication of the review report. The provider will need to undergo a follow-up review within three months of publication of the report because these judgements are only reached where QAA review teams have very serious concerns about the quality of provision. These serious concerns need urgent attention and early resolution in the best interests of the students. The Department will take action as set out in Chapter 8, including blocking further recruitment to the course until the provider demonstrates the course meets the required standards.

The provider will be expected to have made substantial progress with implementing the action plan and by the time of the follow-up review should have addressed the concerns that led to the failing judgements.



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