



Department  
for Education

# **Higher Education and Research Bill: student protection plans**

**September 2016**

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## Introduction

1. This note sets out further information on Student Protection Plans, which the Office for Students may require registered higher education institutions to provide under the Higher Education and Research Bill.
2. This is an information note; it does not represent full guidance, which the Office for Students will develop in consultation with stakeholders as part of the new higher education regulatory framework.

## Context

3. Some providers already publish student protection plans. However, this requirement is voluntary and coverage is not consistent across the sector. Students can, in certain circumstances, claim protection under consumer law, but taking individual action can be costly and would not necessarily result in a continuation of studies.
4. Student protection plans are not a new concept, and we want to build on existing best practice to ensure more students can benefit from them; there are still too many students who would not know what would happen if their course, campus or institution were to close. We also need to ensure that students have a clear and long-lasting record to prove the value of their degrees, should their provider no longer exist after they have graduated.

## Rationale for student protection plans

5. Higher education can be a life-changing experience. Students invest significant amounts of time, commitment and financial resources in their education, and expect to receive value for money in return. Our reforms will give students greater clarity about what they can expect from their provider, and greater consistency about what would happen if unexpected problems occur, including if their course, campus or institution were to close.
6. While institutional closures happen infrequently in the higher education sector, as part of a diverse and innovative sector providers may need to stop providing a course or close a campus. Managed course changes and orderly institutional exits are a feature of a healthy, competitive and well-functioning higher education market.
7. Providers are responsible for ensuring their own financial sustainability, and it will remain the provider's decision whether to exit and their responsibility to implement any exit plans. It should not fall to Government or the Office for Students (OfS) to bail out failing institutions or micro-manage the consequences; our objective is to ensure that providers put in place clear and robust plans that will protect students if a course cannot be fully delivered.
8. Students should know upfront what support would be offered to them in a course closure situation. We are committed to upholding the reputation of the sector as well as minimising any impact on Government finances.
9. Our policy on student protection plans aims to do this in a proportionate and risk based way, which does not undermine student choice and competition, whilst minimising additional burdens on providers and without creating a barrier to entry to the higher education sector.

## Purpose of student protection plans

10. We want students to be reassured that they will not be left exposed if their chosen course or institution were to close.

11. The Higher Education and Research Bill gives the OfS the power to require institutions included in its register to put student protection plans in place (clause 13). The OfS will have the flexibility to impose a legally binding registration condition on institutions to put plans in place where it thinks it necessary; breach of this condition may allow sanctions to be imposed. This flexibility will support the risk-based approach taken by the OfS, enabling it to vary requirements between different types of provider. This will help to ensure adequate, appropriate and consistent protection for students across the registered sector.

12. The plans will be able to support continuity of study in the event of course, campus or institution closure, through adequate, appropriate and consistent protection for students across the registered sector. The plans will be able to set out how students' interests will be protected. In our view, key measures of whether a plan is effective will be whether it is fair, accessible, transparent and explicitly made known to students.

## **Institutions affected by the student protection plan requirement**

13. As set out in the Government's White Paper, all approved and approved (fee cap) providers, regardless of size, will be expected to have a student protection plan in place. A protection plan will meet the requirements of the Bill only if it is approved by the OfS.
14. More widely, all providers will be expected to make contingency plans to guard against the risk that courses cannot be delivered as agreed. Providers on the basic register will be encouraged to develop student protection plans as a matter of good practice, and to meet this need.
15. We anticipate that student protection plans should, at a minimum, apply to students who are studying at Level 4 or above, and be easily accessible to all prospective and existing students.
16. These measures to protect students should not act as a barrier to new providers entering the market. In line with the risk-based approach taken by the OfS across our reforms, any registered provider may be required to have a student protection plan in place, but measures in these plans and the protections they offer will depend on the risk profile of the provider.

## Regulatory framework for student protection plans

17. A student protection plan includes the requirement that the plan must be approved by the OfS.

18. To help enable providers to design plans that obtain this approval, the OfS will set out in guidance broad requirements and expectations about what student protection plans should cover. This guidance will be principles-based and illustrative rather than prescriptive. The OfS will consult on its guidance on student protection plans as part of developing the new regulatory framework for higher education.

19. The OfS guidance will include:

- examples of events which could trigger the implementation of student protection plans;
- examples of measures which could be included in these plans; and
- details of how the OfS will assess and monitor plans to ensure they are credible.

## Events which could trigger student protection plans

20. Student protection plans would be triggered by material changes specified by the OfS (as set out in clause 13(3)), particularly those which could affect students' continued participation in their chosen course or at the institution at which they are studying.

21. These changes could include, for example:

- a strategic decision by a provider to close a course or campus, or exit the market altogether;
- loss of key staff;
- insufficient enrolment and course take-up resulting in course or department closure;
- de-designation for student support purposes; or
- removal of a provider's Tier 4 Sponsor Licence (the Home Office issued licence which allows a provider to teach international students).

## Examples of measures to protect students

22. The OfS guidance will be able to set out examples of actions and measures which could be included in plans to protect students and minimise disruption to their studies.

23. These measures could include, for example:

- provision to teach out a course for existing students;
- offering students an alternative course at the same institution;
- making arrangements for affected students to switch to a different provider without having to start their course from scratch;
- measures to compensate affected students financially.

24. The existing sector owned “Higher Education Course Changes and Closures: Statement of Good Practice” provides an example of the sort of measures the OfS may expect student protection plans to contain.

25. The statement helps clarify expectations that are reasonable for both students and providers. A copy of this statement is attached to this note, and is also [available online](#).

26. The statement highlights the following standards as examples of good practice when preparing Student Protection Plans:

- Transparent, fair and accessible policies and practices governing course closure and changes. This mainly concerns ensuring terms and conditions are accessible in one place and set out in a way that is clearly understood by students; and made clear to potential students at all stages of the application and enrolment cycle.
- Clarity of options, timely notification and clear arrangements for consulting with students when changes occur. This should include a clear process to ensure continuity of their studies and minimise any potential negative impacts on students affected by changes and/or institution closures.
- Set out arrangements for continuity of provision for students in the event of the closure of a higher education course. If teaching out in the institution is not

possible, providers should seek to offer alternative courses either within the institution, help students to transfer to other providers including transfer of credits or where these options are not possible, refund all or part of the fees paid by the students.

- Consider how a provider can support the wider higher education sector and its students in the event of course, department or provider failure elsewhere.

27. The basic principles of any student protection plan could be applied across different faculties for the same institution in a relatively light touch way.

## Assessment and monitoring

28. The OfS, as the body which can require plans to be in place and the body that approves such plans, will have responsibility for ensuring student protection plans are credible. It will take a risk-based and proportionate approach to assessing whether a requirement to have a plan should be imposed.
29. The OfS will, in guidance, be able to set out how the student protection plans will be assessed and monitored, including the frequency with which plans should be reviewed and updated.
30. Plans will be able to require providers to inform the OfS if they plan to close a course, department, campus or institution. This will enable the OfS to maintain visibility across the sector, help build an intelligence base, as well as act as an early warning mechanism to understand how and whether students are being adequately protected.
31. The OfS will be empowered to work together with any higher education provider who is changing/closing a course, campus or institution, to ensure students are supported appropriately and that any institutional closure is managed properly.

## Market exit

32. Course closures and orderly exits are likely to continue to be a feature of the sector. This has happened before, for instance, through mergers or name changes.
33. Only a very small proportion of these exits may be due to financial insolvency. Insolvency has been historically extremely rare in the higher education sector, and we expect this to remain the case.
34. While it will remain the responsibility of providers to ensure their own financial sustainability, the OfS will monitor the financial health of registered institutions, and will require student protection plans to be implemented if a provider is at risk of being unable to deliver a course.
35. Instances of a provider suddenly and without warning exiting the market completely are likely to remain extremely rare. In such cases, the OfS will be able to work with students who want to transfer to alternative institutions, with the aim of their having banked credit for study already completed.
36. In addition, we plan for the OfS register to provide a list covering most current and past Degree Awarding Power holders, which will help to ensure students do not face difficulty in pointing to a clear and easily accessible record to prove the value of their degrees if their provider ceases to exist. This is to protect students who have graduated.
37. The ability of the OfS to require registered providers to create credible student protection plans will mean that students across the sector will have greater consistency in the protections they can expect, and greater clarity about what would happen if their provider were unable to deliver their course as agreed.



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