



Department  
for Education

# **Office for Students: registration fees (stage 2)**

**Government consultation**

**Launch date 18 October 2017**

**Respond by 22 December 2017**

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## Introduction

The Higher Education and Research Act 2017 (HERA) includes powers for the new Office for Students (OfS) to charge registration fees and 'other fees', in accordance with regulations made by the Secretary of State. These fees set by government will fund the majority of the OfS's operating costs, and because the government has committed to fund the cost of transition to the new system, they will begin to be charged in academic year 2019/20 once the new regulatory framework is fully operational.

The introduction of registration fees will realise a saving to the general taxpayer and is consistent with the government's policy that regulators should generally be funded through charges on those they regulate. Income from registration fees will enable the OfS to ensure that the English higher education (HE) market is delivering positive outcomes for students – past, present, and future. This primary aim will be at the heart of the organisation and its proposed regulatory framework, on which there is a parallel consultation: 'Delivering positive outcomes for students – the new risk-based approach to regulation in higher education'.<sup>1</sup>

Responses to the government's initial consultation 'Office for Students: registration fees and other fees' conveyed a consistent message that the OfS will need to operate efficiently and be transparent about its costs.<sup>2</sup> This suggests that registration fees will incentivise providers to hold the new regulator to account for the overall efficiency of its regulatory approach.

Responses further exposed the inherent challenges of designing a fee model that balances the varied concerns of our diverse HE sector. They revealed divergent views about what might be perceived as a fair approach to charging. In particular, there was a desire to ensure that fees do not impose undue burdens on small, specialist and new providers but also concerns that they fairly reflect the increased costs that the OfS may face in regulating providers judged to be at greater risk of failing to meet its high-quality baseline expectations.

As the regulatory framework is finalised, the government will gain a better understanding of how an individual provider's risk to students will be managed in the new system. Once that regulatory framework is fully operational, we will start to understand the full resource implications, including the key drivers of cost in relation to regulating individual providers.

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<sup>1</sup> Government consultation '[Delivering positive outcomes for students – the new risk-based approach to regulation in higher education](#)'

<sup>2</sup> Government consultation '[Office for Students: registration fees and other fees](#)' (viewed on 6 September)

This consultation therefore puts forward a registration fee model where Registered Basic providers pay a flat fee and providers in the Approved and Approved (fee cap) categories pay a varied fee based on their size, as measured by their full-time equivalent (FTE) HE student numbers. As part of this preferred approach, the government proposes to review the fee model after two years of its operation. This review would take into account the views of providers paying the fees and could consider whether to include new measures of regulatory effort. This document briefly discusses and seeks early feedback on such an alternative approach.

Consistent with the government's ambition to create a level playing field, the consultation also proposes partial subsidy of new provider registration fees.

In developing these proposals, we have considered the representations and feedback received in response to the initial consultation. A summary and full analysis of these responses is included in this document (see annex A), which represents the government's response.

## **Impact assessment**

The accompanying impact assessment provides initial analysis on the impact of the proposed registration fee model. All cost estimates contained within the impact assessment, including those referenced in this consultation, should be seen as broadly indicative and subject to change following more detailed work on the size, shape and operation of the OfS.

## **Equality impact assessment**

Under the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, the Secretary of State is required to give due regard to the three equality aims, namely the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The protected characteristics that are recognised within that act are: disability; gender reassignment; pregnancy and maternity; race (including ethnicity); religion or belief; sex and sexual orientation.

Through the initial consultation 'Office for Students: registration fees and other fees', which ran from 14 December 2016 to 14 March 2017, the government sought views on

potential impacts under the PSED. Some respondents suggested that the additional cost burden of registration fees might lead providers to divert funding away from activities in support of protected groups or groups targeted by the government's access and participation policy.

It is our view that this risk is low as the registration fee will be very small compared to a provider's overall income, and is unlikely to affect the overall impact of a provider's access and participation plan or statement. The design of the proposed registration fee model, which is proportional to provider size and ensures that smaller providers are protected, will help to mitigate risk in this area. Our work to develop this model has not identified any new impacts on those with protected characteristics, although we will continue to keep this under review.

## **Family test**

We have considered the family test and concluded that our proposals do not have any effect on family relations and functions.

## **Who this is for**

This consultation is of primary relevance to higher education providers and others with an interest in higher education, including representative bodies, professional, statutory and regulatory bodies.

Higher education in the UK is a devolved matter. As such, this consultation applies to higher education providers whose activities are principally carried out in England.

We would encourage those responding to this consultation to read the proposals with reference to those set out in the parallel consultation 'Delivering positive outcomes for students – the new risk-based approach to regulation in higher education'.

## **Issue date**

The consultation was issued on 18 October 2017.

## **Enquiries**

If your enquiry is related to the policy content of the consultation you can contact the team on:

[HERA.consultations@education.gov.uk](mailto:HERA.consultations@education.gov.uk)

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: [Consultations.Coordinator@education.gov.uk](mailto:Consultations.Coordinator@education.gov.uk) or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

## **Additional copies**

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

## **The response**

The results of the consultation and the Department's response will be [published on GOV.UK](#) in spring 2017.

## About this consultation

This consultation document makes the following proposals:

- a registration fee model based on provider size and registration category, with Registered Basic providers paying a flat annual registration fee
- provider size is calculated on the basis of full-time equivalent (FTE) HE student numbers
- a banding model and percentage distribution of fees between bands
- a partial subsidy for new providers
- a review of the preferred model after two years of its operation that incorporates sector views

This document also considers:

- an alternative fee model based on regulatory effort, as well as provider size and category
- various operational aspects of the fee

We would like to hear your views on our proposals.

## Respond online

To help us analyse the responses please use the online system wherever possible. Visit [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations) to submit your response.

## Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, please contact us.

### By email

- [HERA.consultations@education.gov.uk](mailto:HERA.consultations@education.gov.uk)

### By post

Catherine Gregory  
Higher Education  
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Ground floor  
Sanctuary Buildings  
20 Great Smith Street  
London SW1P 3BT



## **Deadline**

The consultation closes at midnight on 22 December 2017.

# Context

## Legal framework

The OfS will be formally established on 1 January 2018. From April 2018 it will begin to discharge its functions in connection with maintaining and populating the register of providers and imposing registration conditions, before its regulatory framework becomes fully operational in August 2019. HERA confers powers on the OfS to charge fees to registered higher education providers for:

- initial and ongoing registration (section 70(1)), to recover costs it incurs in performing any of its functions and include elements of cost that do not relate to the costs incurred by the OfS in connection with the particular HE provider paying the fee
- any activity or service arising in the performance of any of its functions, separate to initial and ongoing registration (section 71(1)) covered by registration fees, which may include elements of cost that do not relate to the costs incurred by the OfS in connection with the particular HE provider paying the fee for that specific activity or service. These fees are referred to as 'other fees' in this document

HERA gives the Secretary of State for Education the authority to determine the level of fees that the OfS may charge for activities undertaken in the performance of any of its functions. The Secretary of State may, through regulations, determine the way in which fees are calculated and circumstances under which fees may be paid. Before making the regulations, the Secretary of State must obtain HM Treasury consent and they must pass successfully through Parliament.

In accordance with section 72 of HERA, OfS income derived from fees will be treated as income of the Secretary of State for Education unless the Secretary of State directs otherwise. In practice, this will mean that, subject to HM Treasury consent, income from registration fees and 'other fees', and the recovery of costs related to imposing fees and penalties on providers, will be retained by the OfS to cover the costs of its functions. Any surplus income, and income received from monetary penalties and interest will be remitted to the Consolidated Fund, from which general government expenditure is provided (including for the Office for Students).

## Interaction with other sector fees

A number of respondents to the initial consultation emphasised that they already pay fees to other bodies, including subscription fees for the membership of sector bodies such as the Quality Assurance Agency (QAA) and the Higher Education Statistics Agency (HESA). The government recognises this and therefore welcomes the general move that we have seen - driven by the sector itself - towards improving the efficiency

and effectiveness of sector-owned bodies, including considering value for money of subscription funding models.

The proposals put forward in this consultation relate specifically to fees that the OfS will charge for activities and services that it will carry out in the performance of its functions. They are therefore separate and so additional to the fees that will be charged by the Designated Quality Body (DQB) and Designated Data Body (DDB) in relation to quality assessments and data collection respectively. Under the new system, continuation of the co-regulated approach to quality and data collection will help to ensure that independent sector expertise informs key aspects of regulating higher education, and the legislation guards against double-charging.

Under sections 28 and 67 of HERA, the DQB and DDB have separate powers to charge appropriate fees to providers for the activities that they undertake in performing their statutory functions. This is explained in more detail in the separate consultations now taking place which set out the roles of the DQB and DDB and seek views on the suitability of the listed bodies to fulfil those roles ('Designation of a body for English higher education information: Government consultation in accordance with section 118 of the Higher Education and Research Act 2017' and 'Designation of a body to perform the assessment functions for higher education in England: Government consultation in accordance with section 118 of the Higher Education and Research Act 2017').<sup>34</sup>

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<sup>3</sup>Government consultation [Designation of a body for English higher education information: Government consultation in accordance with section 118 of the Higher Education and Research Act 2017](#)

<sup>4</sup>Government consultation [Designation of a body to perform the assessment functions for higher education in England: Government consultation in accordance with section 118 of the Higher Education and Research Act 2017](#)

## Stage 1 consultation

The government's initial (stage 1) consultation 'Office for Students: registration fees and other fees' ran from 14 December 2016 to 14 March 2017. The consultation set out and sought feedback on:

- underpinning principles and proposals to calculate the registration fee
- examples of where the OfS could use its power to charge 'other fees'
- guiding principles to inform judgments about government funding to the OfS

The proposals put forward were necessarily high-level given the early stage of the OfS's design. We therefore committed to undertake this further consultation to seek feedback on more developed proposals informed by responses to the initial consultation. These responses are summarised below and set out in detail at annex A.

## Summary of responses

We received 85 responses to the consultation, from a cross-section of the HE sector, including Higher Education Institutions (HEIs), Alternative Providers (APs) both with and without designated courses,<sup>5</sup> Further Education Colleges (FECs), representative bodies and HE mission groups. A full list of organisations who responded is attached at annex B.

Of the respondents:

- 78% confirmed their broad agreement with the underpinning principles for the registration fee funding model.<sup>6</sup> Those that registered their disagreement tended to disagree with the overall principle of charging fees for regulation
- 52% of respondents confirmed their broad support for the principle of varying the registration fee by a provider's category of registration. 38% were not sure, which we believe reflected the limited level of detail on the regulatory approach in

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<sup>5</sup>Designated courses are courses on which eligible students are able to access student support loans from the Student Loans Company (SLC)

<sup>6</sup>The principles proposed to underpin the design of the registration fee model are that it:

- is proportionate to the cost of regulating a provider, taking some account of provider size, the associated assurances and other benefits that they receive
- does not deter high-quality new entrants
- operates on a cost recovery basis, consistent with the guidance in ['Managing Public Money'](#)
- is as simple as possible, to enable providers to predict their likely fees
- is based on data that can be verified
- ensures a predictable and sustainable income to meet OfS costs
- is efficient and economical for the OfS to administer

respect of different registration categories available at the time of the initial consultation. Further detail on the registration categories can be found in the parallel consultation on the regulatory framework

- 55% of respondents confirmed their broad support for measuring the size of a provider by HE student numbers. Responses tended to highlight the range of possible approaches to counting HE student numbers, with many indicating a strong preference towards a full-time equivalent (FTE) measure
- 58% supported using a system of bands to group providers by size. 21 respondents stated that further information was needed on the structure of the banding system, whilst others stated that without an indication of the differences in charges between bands it would not be possible to judge the appropriateness of the proposal<sup>7</sup>
- 64% thought that additional specific ongoing registration conditions should be taken into account in the calculation of a provider's fee on the basis that these conditions could be a suitable proxy for risk, and thus OfS regulatory effort
- 53% thought that additional variables ought to be taken into account in the calculation of a provider's registration fee, although there was no consensus view on what these should be. Others stated that to add any other variables to the calculation could cause unnecessary complexity
- 55% suggested activities that they thought should be covered by 'other fees', or registered their agreement with the examples put forward in the consultation. Responses were generally supportive that 'other fees' would be a suitable method for recovering costs that do not apply to the majority of providers
- 80% confirmed their broad agreement with the proposed principles that would help inform judgements around where the government might contribute funding to the OfS
- 16% felt that there were activities/types of activity/types of provider/provider circumstances that should be exempt from the registration fee, though there was no consensus view on these. 39% felt that no exemptions should be given because this could create an uneven playing field. The remainder (40%) were not sure<sup>8</sup>
- 42% felt that there were areas that should be partially subsidised by government, with comments tending to highlight the importance of government continuing to contribute to the funding of new policy initiatives<sup>9</sup>

There was broad agreement overall with the principles and proposals that the government put forward in relation to registration fees in the initial consultation.

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<sup>7</sup>The response rate for this question was lower than 100%. See annex A.

<sup>8</sup>The response rate for this question was lower than 100%. See annex A.

<sup>9</sup>The response rate for this question was lower than 100%. See annex A.

However, some answers gained only a narrow majority, exposing differing views across the diverse range of HE providers around how registration fees might be calculated in a way that they perceive to be fair:

- some larger, more established providers and their representatives tended to express concerns that lower risk providers could end up subsidising the costs of regulating higher risk providers. These respondents often suggested that registration fees ought to be “risk-based”, in line with the planned risk-based regulatory framework, for example by incorporating a measure of a provider’s regulatory track record into the amount that they pay
- some smaller, more specialist and newer providers, including some Further Education Colleges (FECs) delivering HE, tended to highlight the importance of ensuring that fees are affordable and proportionate. These respondents often emphasised the importance of factoring provider size into registration fee calculations – as the government committed to do in its earlier white paper – in order to guard against pricing smaller providers out of the regulated sector<sup>10</sup>

Finally, there was a general theme in responses that the OfS will need to operate efficiently, demonstrate cost control, and be transparent about its costs to ensure value for money for providers, their students and the general taxpayer.

## Government response

The government recognises the importance of ensuring that registration fees are proportionate and affordable for providers, whilst securing a sustainable and predictable source of funding to enable the OfS to ensure that the English HE market is delivering positive outcomes for students. The underpinning principles that we have set out gained broad support but respondents were right to highlight inherent tensions and trade-offs that will need to be made, for example around achieving simplicity and proportionality in the fee model.

This second (stage two) consultation provides more detailed proposals on registration fees and aims to respond directly to responses and concerns raised by the sector and its representatives through the initial consultation exercise.

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<sup>10</sup>White paper: [Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice](#) (May 2016) (viewed on 6 September 2017)

# Consultation proposals

## Background

We intend that registered providers will pay registration fees to the OfS on an annual basis in order to be added to, and remain on, the new register of HE providers each year.

The government's initial consultation set out clear principles to underpin the development of the registration fee model and confirmed broad support for registration fees to be calculated on the basis of a provider's size and registration category. However, it also surfaced concerns from some areas of the sector that this approach might not be fully proportionate to the regulatory effort that the OfS could expend in relation to an individual provider under a risk-based regulatory framework (on which there is a parallel consultation). This was further evidenced by the high level of support expressed for incorporating specific registration conditions into the calculation of registration fees.

We are now seeking feedback from respondents on proposals that seek to reflect these concerns, whilst recognising the constraints of developing a registration fee model in the absence of a final regulatory framework and actual data on its key cost drivers. Any figures provided here are indicative only and do not represent final fee amounts. They are also subject to a series of assumptions explained in the accompanying impact assessment.

## Proposal and rationale

### Registered Basic category

We propose to charge Registered Basic providers a flat rate annual registration fee. This is because, based on the proposed regulatory framework, providers in the Registered Basic category will be subject to a basic form of regulation that focuses on recognising that they are providing HE. As such, the OfS will expend limited regulatory effort – both initially and on an ongoing basis - on these providers, which will also receive less direct benefit from being registered when compared with the Approved and Approved (fee cap) categories.

We do not propose to band their fees incrementally by size as we envisage that the fee amount will be comparatively small compared to fees for Approved and Approved (fee cap) providers. The impact assessment that accompanies this consultation assumes a flat annual fee of £1,000 for Registered Basic providers. This is an indicative figure only and the final amount would reflect bottom-up estimates on OfS costs in relation to this category.

## Approved and Approved (fee cap) categories

The government proposes that providers in the Approved and Approved (fee cap) categories would pay an annual registration fee based on their size as measured by their HE student numbers, consistent with its white paper commitment. In line with proposals for the new regulatory framework, providers in these categories would be subject to greater monitoring and assurance and be able to access substantively greater benefits than those providers in the Registered Basic category. Approved and Approved (fee cap) providers would be expected to comply with conditions of registration, common baseline requirements which focus on what matters most to students, and on providing value to students as well as the taxpayer.

In general, it is proposed that both categories will be subject to the same conditions, but with additional access and participation requirements associated with the fee cap. We do not envisage that these will be significant drivers of OfS cost and therefore do not propose to differentiate between fees for these categories. This approach is consistent with responses to the initial consultation which suggested that the regulatory effort that the OfS expends in relation to each of these categories would not differ enough to justify a differential in the fee. Additionally, this would minimise administrative burdens to the OfS and ensure simplicity in the model.

### Measuring provider size

We propose that registration fees for Approved and Approved (fee cap) providers will be varied by the size of a provider to help ensure affordability, as size is broadly correlated with ability to pay. Additionally, size is an established measure used by many market regulators, such as the Office of Gas and Electricity Markets (Ofgem) and the Financial Conduct Authority (FCA), as well as HE sector bodies HESA and the QAA.

We are proposing that size is measured on the basis of full-time equivalent (FTE) higher education (HE) student numbers. This measure will help guard against a potential disincentive to offer part-time provision, which was highlighted as a concern in a number of responses to the initial consultation.

We propose that the FTE measure will comprise all HE students, including undergraduate, postgraduate, home, EU and international students. It is our expectation that this will be based on the latest data collected by the Designated Data Body on a provider's FTE HE student numbers at the time that a provider is invoiced for their registration fee for the year in question, so that it is easily verifiable.

We recognise that providers' student numbers may fluctuate during the registration year, which may take them into a lower or higher fee band. However, it is important that fee amounts are predictable for both providers and the OfS, and provide a sustainable source of income to the regulator. We therefore do not propose to make in-year adjustments to fees for any changes in FTE HE student numbers. Any such changes



will not take effect until a provider's next annual registration fee is charged, and will be based on the latest data collected by the Designated Data Body.

For those new providers for which actual student numbers data does not yet exist, we propose that they would submit a forecast to the Designated Data Body for their first year of registration. In this instance, we would anticipate that, should the actual numbers be significantly higher than the forecast numbers, the regulations made by the Secretary of State would give the OfS the right to recover the difference.

### **Size bands**

We propose that providers in the Approved and Approved (fee cap) categories will be placed in different fee bands based on ranges of FTE HE student numbers. This is in line with the approach of other fee-charging regulators that place regulated bodies into fee bands depending on a measure of their size.

The majority of respondents to the initial consultation supported using a system of bands to group providers by size. Whilst some respondents suggested that a banded model could create sharp jumps in fee amounts between bands, we do not believe that this would distort provider behaviour in such a way that could influence their choices to recruit more or less students. It is also outweighed by the benefits of the simpler, more predictable model offered by a system of bands. We are now seeking views on a proposed banding model and the government's proposed approach to the percentage distribution of costs between these bands.

HE providers can vary significantly in size, and the proposed fee bands set out in table 1 are structured with this in mind. In particular, they reflect comments made in a number of responses to an example banding model in the initial consultation, that there ought to be a greater number of bands at the lower and middle ends to reflect this diversity and ensure that fees are proportionate. These responses outweighed a small number of suggestions that there should be fewer, broader bands because regulatory effort may not vary significantly between some size bands.

We are proposing that the distribution of fees between bands ensures that smaller providers are protected and that providers are charged appropriately to their size, but in a way that is affordable and fair. This responds directly to concerns raised in response to the initial consultation that smaller providers could be disproportionately affected by the requirement to pay registration fees.

An alternative distribution would be a linear increase in fee amounts between bands, as illustrated in table 2. The government does not propose to take this approach because it does not provide as great a protection to smaller providers, but we have included it here to enable broad comparison.

The fee amounts provided are highly indicative and included for illustrative purposes. They do not represent the final fee amounts, which we would expect to provide once the final fee model is confirmed.

	<b>FTE band (question 4)</b>	<b>% increase between bands (question 5)</b>	<b>Indicative fee amount</b>
A	up to 50	-	£18,200
B	51-100	10%	£20,000
C	101-300	10%	£22,000
D	301-500	10%	£24,200
E	501-1000	20%	£29,100
F	1001-1500	20%	£34,900
G	1501-2500	20%	£41,900
H	2501-5000	30%	£54,500
I	5001-10,000	30%	£70,800
J	10,001-20,000	30%	£92,000
K	20,001+	30%	£119,700

**Table 1: proposed fee bands**

	<b>FTE band</b>	<b>% increase between bands</b>	<b>Indicative fee amount</b>
A	up to 50	-	£25,300
B	51-100	10%	£27,800
C	101-300	10%	£30,600
D	301-500	10%	£33,700
E	501-1000	10%	£37,000
F	1001-1500	10%	£40,700
G	1501-2500	10%	£44,800
H	2501-5000	10%	£49,300
I	5001-10,000	10%	£54,200
J	10,001-20,000	10%	£59,600
K	20,001+	10%	£65,600

**Table 2: alternative distribution of fees between bands (for illustration)**

## Questions

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

*Yes/No/Not Sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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

*Yes/No/Not Sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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/No/Not Sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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

*Yes/No/Not sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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

*Yes/No/Not sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

## Alternative registration fee model

We consider that the preferred model represents a good fit with the overall set of principles identified for the registration fee funding model, and it has significant benefits of simplicity and transparency. However, it may be only partially proportionate to the actual costs of regulating providers; it would reflect differences in the size of providers and the level of benefits that they receive by being regulated, but it would not necessarily take into account the differential costs of regulating individual providers within the same category, where the OfS's regulatory approach will be risk-based and concentrate regulatory action only where it is needed.

This was particularly important to some respondents to the initial consultation, with a number suggesting that the charging model should take into account provider risk and complexity, and limit cross-subsidy between different providers as far as possible.

We are therefore also inviting early views on an alternative approach to designing the model, which would be intended to more closely reflect the level of regulatory effort, and therefore cost, that the OfS would incur in relation to individual providers. Our assumption is that a model designed using this approach would still have a proportion of the fee which would be based on provider size, as with the preferred model. We also assume that all Registered Basic providers would continue to pay a small flat fee to cover the costs of being registered.

The government is not proposing that the OfS could implement this alternative approach from the start. Such an approach needs to be based on a very clear understanding of the OfS's regulatory framework and the drivers of its costs. This understanding needs to develop through several key stages, including: the consultation on the regulatory framework that is running in parallel with this consultation; the publication of the final regulatory framework in early 2018; the transition of providers onto the register in 2018/19; and ultimately experience of operating the regulatory framework in steady state from 2019/20. However, this is a model that the OfS could move towards in the future following a review of the charging approach.

The main constraint in designing an alternative model would be choosing what information to use to reflect the level of regulatory effort. Any fee charging model must be transparent in design; it must be clear to providers what fees they will pay in what circumstances, and how these are calculated. For this reason, the information that could potentially be used to determine which providers require a higher level of regulatory effort, and therefore should pay a higher fee, would need to be information that would not cause unintended problems from being in the public domain. Ideally, it would be information that is already published, or intended to be published as part of the register of HE providers.

The regulatory framework consultation sets out the proposed information that would be published on the register. This includes what specific conditions of registration apply to each provider and it may include where the OfS has intervened. Specific conditions of registration and interventions may therefore be available to use as appropriate proxies for regulatory effort and cost. Responses to the previous consultation were generally supportive of specific conditions being taken into account when calculating registration fees: 64% of respondents thought that specific conditions should be taken into account, whilst 12% of respondents did not, and 25% were not sure.

In the future, it is possible that other information may become available, based on the OfS operating model and the final regulatory framework.

There would be a number of trade-offs that would need to be considered with a model based on regulatory effort. On the one hand, if an effective design could be found it would more closely reflect the actual costs the OfS incurs, reducing cross-subsidy within the registration fee compared to the proposed model. It would be consistent with the OfS's risk-based regulatory framework and would particularly benefit low risk providers.

However, there are also risks and issues with an alternative approach, which must be weighed against these benefits. The model would need to be designed to mitigate some of these, but it is likely that there would be some unavoidable trade-offs. The model would be more complex to design and implement, and would need to be based on imperfect proxies for regulatory effort. It could potentially lead to higher levels of transparency about those individual providers that require greater regulatory intervention from the OfS, which in a competitive market would benefit some providers and potentially disadvantage others. It would also place a higher cost burden on providers that may already be experiencing increased regulatory burdens as a result of enhanced monitoring or specific conditions applied to them.

In addition, it would be operationally complex and potentially more costly for the OfS to administer, thus leading to marginally higher overall fee levels. Depending on the model design, it could also result in a less predictable income stream for the OfS than a simpler model, affecting the ability of the regulator to deliver its objectives effectively.

Finally, caution would be needed in designing any model which could potentially act as a barrier to new entrants or those using innovative modes of provision. New providers entering the regulated system for the first time may require more OfS resource to regulate. The OfS will have less information about them in order to make risk-based judgements, and they may be more likely to have enhanced monitoring or specific conditions. But encouraging high quality new providers to enter the system is a core aim of the higher education reforms, and will likely form part of how the OfS discharges its general duty to have regard to the need to encourage competition. The case for subsidising the fees for new entrants is set out at the section 'subsidies and exemptions'.

## 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?*

*Yes/No/Not sure*

*Please explain your answer, including what you see as the advantages and disadvantages*

## Reviewing the model

The proposed registration fee model is a relatively simple model which differentiates fees based on provider size, and whether providers are in the Registered Basic category or one of the Approved categories. The government considers that there would be significant benefits to using this simple approach when the OfS first starts charging this new fee. It would be straightforward for all providers to understand and it would be possible to give them a clear indication of how much the fee would be before they apply to register.

However, we recognise that the simple model may be only partly proportionate to where the OfS's costs will actually fall. We do not yet have a complete understanding of the OfS's cost drivers, which will be contingent on the final regulatory framework and its implementation. This will be clearer following the parallel consultation on the regulatory framework but we will only have actual operational data once the OfS is fully established and operating in steady state.

Therefore, we propose to review the fee model after two years of its operation. This would enable the government and the OfS to reflect on operational data and the regulator's experience of administering the fee. A review could consider whether to incorporate new measures of regulatory effort into the model, such as those discussed in the section 'alternative registration fee model'. A review would also provide an opportunity to vary fee amounts should the number of students and/or registered providers be substantially different to the estimates used to set fees, and so generate more or less income for the OfS than expected.

We propose that the review should take into account the views of providers paying the fee and other interested stakeholders. This could be through using an advisory panel or task and finish group to review the model that includes HE providers. We would envisage setting the Terms of Reference for this review at a later date, confirming our approach.

## Subsidies and exemptions

All registered providers will be required to pay registration fees to be initially registered and to be registered by the OfS on an ongoing basis, as a condition of their registration. However, there may be a policy rationale to subsidise registration fees for certain types of provider, or exempt them from registration fees altogether, on the basis that these providers are regulated primarily by other bodies, and the OfS will therefore incur negligible costs in relation to these providers, or because charging these providers the full fee could have perverse effects in relation to wider government policy objectives. Section 70(2) of HERA allows the Secretary of State to make regulations specifying when the OfS may waive a fee, or charge only a proportion of it.

In the initial consultation, the question about guiding principles for government subsidy received broad support, with 80% of respondents agreeing to the principles identified.<sup>11</sup>

## New providers

In the initial consultation we indicated that the government may want to subsidise the cost of the registration fee for new entrants in their first three years, in order to ensure that the fee does not deter new entrants from entering the regulated sector.

In our preferred approach of a simple size-based model, new providers entering the Approved or Approved (fee cap) categories will already benefit from the fee being proportionate to the number of FTE HE students that they have, and therefore broadly proportional to the additional income they can generate by being registered and accessing student loans. New providers are more likely to be small when they enter the market, so would benefit from this.

The registration fee is therefore unlikely to act as a financial barrier to entry on its own, because the financial incentive to enter would always outweigh the cost of the fee. However, new providers may have considerable set-up costs, and uncertain levels of income in the first few years, and they will need to pay other fees, such as those to the Designated Data and Quality Bodies. These factors combined could cause a barrier to entry, which the government could help to ease by partially subsidising their registration fees.

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<sup>11</sup>These were that the government could provide funding to: ensure that providers do not incur the additional costs associated with transition; ensure that fees do not deter new entrants; and contribute towards activities that have wider economic and societal benefits.



We therefore propose that new providers in the Approved or Approved (fee cap) categories would receive a discount on their first three years of fees. Registered Basic providers will already pay a much smaller flat fee so would not receive this discount.

A new provider subsidy would also help to limit cross-subsidy by existing providers of new providers, which was a concern raised by several respondents to the initial consultation.

The level of discount would be set in regulations made by the Secretary of State, and would be dependent on available government funding and estimated numbers of new providers. New providers would include any providers that register in 18/19 and subsequent years that have not previously been HEFCE-funded institutions, Further Education Colleges offering HE, or Alternative Providers regulated by the Department for Education. It would also include any providers who moved from Registered Basic to the Approved or Approved (fee cap) categories, to ensure that the higher registration fee does not disincentivise providers from starting as Registered Basic and moving into Approved or Approved (fee cap) in the future, which may be the right approach for some new providers.

## **Providers where no subsidy or exemption is proposed**

In considering partial subsidies and full exemptions from registration fees, we have concluded that Further Education Colleges (FECs) providing HE will pay the same registration fee, varied by the size of their FTE HE student numbers, as other providers in the Approved and Approved (fee cap) categories. This is because, while assurance arrangements between the OfS and the Education and Skills Funding Agency (ESFA) have still to be confirmed, based on the current regulatory framework there will be a cost to the OfS in maintaining an overview of the HE sector and directly monitoring key aspects of the regulation of FECs providing HE.

The parallel consultation on the new regulatory framework proposes that, where providers are seeking public funding and a Tier 4 sponsorship licence, they will be registered in either the Approved or Approved (fee cap) categories. We recognise, however, that there may be providers that apply solely to register to be eligible to access a Tier 4 licence from the Home Office in order to recruit international students, but do not wish to receive public funding. It is proposed that those providers will be subject to the same conditions, including those around educational quality and financial sustainability, management and governance, as others in the Approved category. We are therefore proposing that these providers pay the same fee, varied by their size, as other providers.

## Questions

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

*Yes/No/Not sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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

## Timescales for introduction of fees

The government has considered the timescale for introducing registration fees. In particular, we are mindful of the significant amount of change envisaged over the next two years and the impact that this will have both on providers and on the OfS as the newly established organisation responsible for delivering the new regulatory framework. This must be balanced against the need for the OfS to have a sustainable income stream to support its activities, and to reduce taxpayer subsidy of regulation in line with the government's policy.

The government has committed to fund the costs of transition from the old regulatory systems to the new regulatory framework during the transition period. We have, however, considered whether the OfS should charge a fee at the point of registration (an initial fee) in 2018/19, which would allow the OfS to recoup some of the costs of ongoing regulation in its first year of operation, or whether to start charging in 2019/20, which is the first full year of registration and when the regulatory framework will be fully operational.

2018 will involve an exceptionally high number of registrations, because it is the point where we expect all providers currently regulated by HEFCE and DfE to apply to be on the new register. We also anticipate that we will see a number of 'brand new' applications in this first year.

New providers that register in 2018 for registration year 2019/20 will not start to receive the full benefits of being registered (including tuition fee income for those in the Approved and Approved (fee cap) categories) until 2019/20.

It would also be challenging for the OfS to develop the operational systems required to start charging providers at the point of initial registration in August-September 2018. On balance, we do not propose to charge a fee in 2018. The first fees would therefore be payable by all registered providers at the point of the new regulatory framework being fully operational at the start of the 2019/20 academic year.

## Operation of the registration fee

### Initial fees and application fees

The act allows the OfS to charge providers both a fee for initial registration in the register, and a fee for ongoing registration each year. We propose that the OfS will charge providers an annual registration fee that is calculated on the same basis regardless of whether it is the provider's initial year of registration or they are paying in respect of ongoing registration.

We do not propose for the OfS to charge a separate fee in respect of applications to join the register (i.e. one which would be payable even if the provider was not successful in obtaining registration). However, we would envisage revisiting this approach as part of the planned review of the registration fee model. This would enable full consideration of the costs of processing applications and an assessment of the benefits and burdens of administering a separate fee to recover those costs.

### Notification and payment of fees

Registration fees will be payable on a cycle that corresponds with the annual registration period, reflecting the traditional academic year. In a typical year, we expect fee levels to be confirmed by the preceding April to give providers sufficient notice. We anticipate that the OfS will issue invoices 30 working days prior to the date on which any amount falls due. Where the total fee amount falls below a given threshold, we expect that payment will be due, in full, on the first day of August of the registration year in question. Table 3 sets out how this could look practically, using the first year in which registration fees are to be charged as an illustrative example.

Date	Milestone
April 2019	Fee levels for 2019/20 confirmed
August 2019	Registration fee due in full (below set threshold) for registration year 2019/20

**Table 3: illustrative example of registration fee cycle**

### Multiple payments

Where registration fees meet, or exceed, a minimum threshold, it is our expectation that, in accordance with regulations to be made the Secretary of State, the OfS would allow fees to be settled in multiple payments, ordinarily of equal amounts, and at fixed intervals. We expect that this threshold would be agreed once fee levels are set and that payment would be permitted at a maximum of three points in the registration year.

The use of multiple payments would be used to align the payments with the activity of the OfS.

## **Late payment**

The OfS has the power to impose a financial penalty on a provider in the case of late payment of their fees. The penalty and the payment of interest for late payment of fees are intended to deter providers from late payment, thus ensuring the timely receipt of income to cover the OfS's operating costs. We propose to consult on late payment penalties as part of the later planned consultation on OfS sanctions.

Consistent with section 72 of HERA, the OfS cannot retain any income from penalties or interest, unless the Secretary of State directs otherwise, and in practice this would be remitted to the Consolidated Fund, from which general government expenditure is provided (including for the Office for Students).

## **Non-payment**

In the case of persistent non-payment of registration fees or 'other fees', the OfS would ultimately have recourse to its other sanctions powers, including its power to suspend or deregister providers, where payment of fees is an ongoing condition of registration, as set out in section 13 of HERA.

## **Fee increases year on year**

It is our expectation that annual registration fee amounts will be updated in line with the OfS's estimated operating budget for the year in question, including to incorporate inflationary increases where these have been applied. This will require approval from HM Treasury and for the corresponding regulations to be amended subject to Parliamentary scrutiny through the negative resolution procedure. We recognise the importance of ensuring that fee amounts are as predictable as possible for providers and in line with this we would fully anticipate that substantive increases to fee amounts would require adequate prior consultation with the sector.

## **VAT**

We can confirm that registration fees payable to the OfS will not attract value-added tax (VAT), based on current government policy.

## Other fees

The OfS has the power to charge ‘other fees’, separate to registration fees, for activities and services that it provides which do not apply routinely to all providers. Charging for these activities and services separately will help to ensure that the costs are broadly paid for by the provider accessing or benefiting from the activity or service, rather than being spread across all registered providers.<sup>12</sup> This is a principle that received general support in responses to the initial consultation, which sought feedback from the sector on the types of activity that providers might expect ‘other fees’ to be charged for.

The OfS’s power to charge other fees must be exercised in accordance with regulations made by the Secretary of State. It is our expectation that the OfS will not begin to charge ‘other fees’ until registration year 2019/20, at which point the new regulatory framework will be fully in place. This also aligns with the planned start date for charging registration fees.

The complete list of activities and services that will be charged for under ‘other fees’ will be largely determined by the final regulatory framework. We would also expect that the list of activities and services in scope will be limited, and evolve over time as the government gains a fuller understanding of the detailed activities that the OfS undertakes in the performance of its functions. As such, we do not set out here specific activities and services that will be charged for through ‘other fees’. Once we have a clearer understanding of the activities and services in scope, we would look to seek sector views.

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<sup>12</sup>Section 71 of HERA allows for some cross-subsidy within charges for the same activity or service, but not between different activities or services. The OfS may not charge ‘other fees’ for activities also covered by registration fees

## Summary of questions

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

*Yes/No/Not Sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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

*Yes/No/Not Sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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/No/Not Sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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

*Yes/No/Not sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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

*Yes/No/Not sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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?*

*Yes/No/Not sure*

*Please explain your answer, including what you see as the advantages and disadvantages*

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

*Yes/No/Not sure*

*Please give reasons if your answer is 'No' or 'Not sure'*

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



# Annex A: Analysis of responses to stage 1 consultation

## Registration fees

There was some duplication across questions 1-3, with respondents often repeating similar points in their answers. The following analysis therefore covers the points made under the most appropriate question heading, cross-referring to other questions where necessary.

### Question 1

**Do you broadly agree with the proposed set of principles to underpin the registration fee funding model? Please provide an explanation and identify any principles you feel should be removed or added to those already included in the consultation.**

	Total	Percent
Response rate	85	100%
Broadly agree	66	78%
Broadly disagree	14	16%
Not sure	5	6%

The majority of respondents broadly agreed with the underpinning principles for the registration fee model.<sup>13</sup> Those that broadly disagreed tended to express their general disagreement with moving to a model where the regulator is funded by the entities it regulates.

Responses highlighted an overarching sector view that there would be a need for the OfS to demonstrate efficiency, value for money and cost control in order to ensure that registration fees do not impose undue cost burdens on providers.

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<sup>13</sup>The principles proposed to underpin the registration fee were that it:

- is proportionate to the cost of regulating a provider, taking some account of provider size, the associated assurances and other benefits that they receive
- does not deter high-quality new entrants
- operates on a cost recovery basis, consistent with the guidance in 'Managing Public Money'
- is as simple as possible, to enable providers to predict their likely fees
- is based on data that can be verified
- ensures a predictable and sustainable income to meet OfS costs
- is efficient and economical for the OfS to administer

Some responses noted the importance of taking into account the other regulatory fees that providers may pay, for example to the Designated Data and Quality Bodies, in considerations about affordability.

Some respondents suggested that there should be no cross-subsidy between individual provider registration fees.

Respondents also put forward their own suggestions as to how registration fees might be calculated, including with reference to risk and track record, which are covered in the analysis for question 2.

### **Government response**

In view of the high level of broad agreement to the underpinning principles set out in the consultation, we do not propose to amend them. We recognise the importance of ensuring that the OfS operates efficiently and that its fees represent value for money for providers and the general taxpayer. The OfS has a statutory duty to have regard to the need to use its resources in an efficient, effective and economic way under section 2 of HERA, whilst section 72 stipulates that it must remit its income to the Secretary of State with the consent of HM Treasury, thereby guarding against any incentive to overcharge.

These statutory duties supersede any supplementary principles underpinning the registration fee. Furthermore, the government will establish strong accountability mechanisms, including requiring the OfS to lay an annual report before Parliament on the performance of its functions and its statement of accounts. Alongside the need to charge fees in accordance with regulations made by the Secretary of State, this will ensure that the OfS faces the appropriate level of scrutiny over how it exercises its fee charging powers.

The government acknowledges that providers will pay other regulatory fees and is mindful of the need to guard against any double-charging. In practice, the Designated Quality and Data Bodies have a separate statutory power to charge fees for the activities that they are designated by the OfS to undertake, and therefore the OfS will not be able to recover costs for these activities through registration fees. This co-regulated approach to quality and data collection recognises the significant benefits of independent sector expertise continuing to inform key aspects of regulating higher education.

### **Question 2**

**Do you support the principle of varying the registration fee by category of registration (currently: Basic/Approved/Approved (fee cap))? Please give reasons for your answer.**

	<b>Total</b>	<b>Percent<sup>14</sup></b>
Response rate	85	100%
Yes	44	52%
No	9	11%
Not sure	32	38%

A number of responses explicitly supported the justification for varying fees by registration category on the basis that this would broadly reflect both regulatory costs incurred and the benefits accessible to providers.

A significant proportion were not sure whether they supported the proposal, reflecting the lack of detailed information available at the time on how providers may be regulated according to their registration category.

Some respondents commented that:

- categories of registration would not reflect provider risk or the likely level of regulation that the OfS would be required to undertake in relation to individual providers. A few of these respondents suggested that Registered Basic providers would be likely to be newer and/or higher risk, and therefore require more regulatory oversight, imposing a higher cost on the regulator, and so should attract a higher fee
- there was not sufficient difference between the Approved and Approved (fee cap) categories to justify a difference in fees between the two
- adding more categories or sub-categories could better cater to the diversity of providers

### **Government response**

We have concluded that the registration fee payable should in part be varied by the category of registration in which a provider sits. Registration categories reflect the benefits that a provider will be able to access in the new system and the corresponding general initial and ongoing conditions that they will be expected to meet. However, we acknowledge that, in line with its risk-based approach to regulation, how the OfS applies these conditions and the resource that it expends in regulating an individual provider may vary according to other factors. We therefore propose that the fee model is reviewed after a period of two years of its operation.

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<sup>14</sup>Percentages may not sum due to rounding

### Question 3

**Do you support the proposal to measure the size of a provider by HE student numbers?**

	Total	Percent
Response rate	85	100%
Yes	47	55%
No	23	27%
Not sure	15	18%

Most respondents supported using higher education student numbers to measure provider size for the purposes of the registration fee.

Many highlighted that student numbers can be measured on a headcount or full-time equivalent (FTE) basis, and that there are a range of categories of student, such as postgraduates, that may or may not be counted. Almost a quarter of respondents called for provider size to be measured by FTE, which would consider the proportion of the full-time course a student is studying. They tended to justify this on the basis that the student headcount figure for providers with a higher proportion of part-time students would not reflect the lower level of tuition fee income that those providers would receive. FTE would therefore be a fairer and more consistent way of reporting the relative size of a student body, taking into account more diverse means of provision.

Some respondents put forward provider turnover as an alternative measure of size or to be considered alongside student numbers. A few suggested adopting a model based on income derived from HE provision.

A few respondents also used their answer to call for a flat fee for all providers, with others suggesting that the scale of a provider will not necessarily be the primary determinant of the level of costs that the OfS will incur in regulating them.

In addition, some respondents raised more operational questions, for example, about the point in time that student numbers data would relate to for the purposes of the registration fee.

### Government response

The government has already committed that we will take into account the size of a provider in the registration fee model. Size offers an objective, transparent and simple measure that can be efficiently applied across all providers. It is also a measure commonly used to differentiate fees for other regulators and within the HE sector. This second consultation proposes that the size of Approved and Approved (fee cap)

providers is measured on the basis of full-time equivalent (FTE) HE student numbers for the purposes of the registration fee.

#### Question 4

**Do you support using a system of bands to group providers by size? Please give reasons for your answer.**

	Total	Percent
Response rate	84	99%
Yes	49	58%
No	19	22%
Not sure	16	19%

A number of respondents called for further information about the size and distribution of the size bands to be used.

Some respondents noted that sharp jumps in fee amounts between bands could create a disincentive effect to move between bands. A few of these respondents suggested using a headcount measure instead of, or as well as, fee bands to smooth any such cliff-edge effect.

An illustrative example of how student numbers might be banded was included in the consultation (see table 4). A number of respondents used their responses to provide more detailed commentary on the size and distribution of the bands in this example.

Example band size (HE student numbers)	Fee band
Up to 100	A
101 to 1,000	B
1,001 to 4,000	C
4,001 to 7,000	D
7,001 to 10,000	E
10,001 to 15,000	F
15,001 to 20,000	G
20,001 to 30,000	H
30,001 and above	I

**Table 4: Example of fee bands by range of HE student numbers used in stage 1 consultation**

## Government response

The government believes that a system of bands is an appropriate means of reducing administrative complexity in the registration fee model. Based on responses to the initial consultation, we have designed a preferred banding model on which we are now seeking views.

### Question 5

**Do you think that, where additional specific ongoing registration conditions are placed on particular providers, these conditions should be taken into account when calculating their registration fee? Please give reasons for your answer.**

	Total	Percent <sup>15</sup>
Response rate	85	100%
Yes	54	64%
No	10	12%
Not sure	21	25%

Respondents raised a number of points to consider with regard to a registration fee model that takes into account specific ongoing registration conditions, including that such a model could:

- measure and account for provider risk and track record, thus helping to ensure that providers are accountable for their own costs and limiting cross-subsidy
- create undue burden on providers and risk deterring new entrants that may be more likely to be subject to these conditions
- be common amongst providers within the same category of registration and could therefore be absorbed into the fee associated with that category

A number of respondents indicated that they were not sure because the consultation did not provide enough detail on what specific registration conditions or the corresponding costs might be.

## Government response

The government recognises the concerns raised and so this consultation invites early views on a possible alternative fee model that could incorporate a measure of regulatory effort. Accounting for specific registration conditions could be one way of achieving this.

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<sup>15</sup>Percentages may not sum due to rounding

The government does not propose to move to such a model from the start and is seeking responses from the sector on its possible advantages and disadvantages. Please refer to sections alternative registration fee model and reviewing the model for more detail.

### Question 6

**Are there other variables that you think should be taken into account in the calculation of a provider’s registration fee? Please give reasons for your answer and specify which variables you feel should be taken into account.**

	Total	Percent
Response rate	85	100%
Yes	45	53%
No	23	27%
Not sure	17	20%

Some respondents used their answer to this question to reiterate previous points made about incorporating provider risk and track record as key variables in the registration fee model. However, there was no consensus view on what additional variable or variables ought to be taken into account in the calculation of a provider’s registration fee.

### Government response

We do not propose to take into account any additional variables in the calculation of the registration fee for the time being. The government’s proposal to review the fee model after two years will enable us to fully consider whether additional variables might appropriately be taken into account in future.

## Other fees

### Question 8

**Based on your experience of the HE sector and/or previous interactions with HEFCE and OFFA, please provide examples relevant to your organisation or the wider sector of the types of activity that you think should be covered by ‘other fees’. Please give reasons for your answer.**

55% of respondents provided examples of the types of activity that they thought should be covered by ‘other fees’. These included:

- applications for Degree Awarding Powers (DAPs) or other Designated Data Body and Designated Quality Body activities
- applications for University Title (UT)

- OfS activity that is requested by a provider, for example, changes to governance documents where mergers and acquisitions occur
- OfS activity in relation to high-risk or failing providers
- OfS activity to support market exit and student transfer

Those respondents that expressed a view were generally receptive to the idea of charging ‘other fees’ as an appropriate means of covering the costs of services or support that are optional and do not apply to the majority of registered providers.

### Government response

The complete list of activities and services that will be charged for under ‘other fees’ will be largely determined by the final regulatory framework. As such, this second consultation does not set out specific activities and services that will be charged for through ‘other fees’. Once we have a clearer understanding of the activities and services in scope, we will look to seek sector views.

## Government funding contribution

### Question 10

**Do you broadly agree with the proposed principles that would help inform judgements around where the government might contribute funding to the OfS? Please provide an explanation and identify any principles you feel should be removed or added to those already listed in the consultation.**

	Total	Percent
Response rate	85	100%
Broadly agree	68	80%
Broadly disagree	5	6%
Not sure	12	14%

The majority of respondents agreed with the proposed principles to inform judgments about the government’s funding contribution to the OfS. They were generally receptive to the idea of government potentially funding activities deemed to have wider societal and economic benefits, suggesting that the development and delivery of new government policy priorities would fall within this category.

Those that disagreed tended to indicate a preference for the government continuing to commit a significant proportion of overall funding to the higher education regulator. Some respondents noted that their answer would be contingent on the level of government funding provided.



Some respondents also suggested additional or alternative principles to be taken into account, including providing funding to:

- prevent cross-subsidy. Although, the only principle that a limited number of respondents thought should be removed was that of the government providing funding to ensure that fees do not deter new entrants
- protect students in the event of a provider's exit from the market
- ensure sufficient continued funding for widening participation activities

### Government response

In light of the high level of broad agreement from respondents, we do not propose to amend the principles. Work is ongoing to establish where the government will provide funding in line with these principles. Further detail can be seen at the section 'subsidies and exemptions'.

### Question 11a

**Are there any activities / types of activity / types of provider / provider circumstances that you feel should be exempt from the registration fee? Please give examples along with reasons.**

	Total	Percent
Response rate	81	95%
Yes	14	16%
No	33	39%
Not sure	34	40%

A significant proportion of respondents were not sure, and where suggestions were put forward there was not significant support for any one particular activity, type of activity, type of provider or provider circumstances to be exempted from registration fees.

Those respondents that did not support exemptions from the registration fee tended to do so on that basis that they could lead to an uneven playing field.

Responses were similar to those to question 10. Some respondents suggested that exemptions could be given:

- to Alternative Providers, charitable or not for profit providers that are small; some respondents suggested ceilings of student numbers between 250 and 1,000 students to qualify for an exemption, whilst others suggested that those with a very low turnover should be exempt; other types of provider suggested included

faith-based providers, validated colleges, dormant providers and overseas providers

- to providers that specifically support students with no or low qualifications to transition to higher education, and to those accepting student transfers from, or merging with, a struggling or failing provider
- to providers that are working with the OfS, for example on committees
- where the government commissions specific activities, or where providers are tasked with developing or delivering government policy, priorities or initiatives
- where providers deliver particular courses, where the students may not be counted as part of the HESA submission, such as short courses

## Government response

The government is mindful of the need to ensure that the use of exemptions does not adversely affect our aim to level the playing field for providers. We have considered the responses to the initial consultation and further detail is provided at the section 'subsidies and exemptions'.

## Question 11b

**Are there any activities / types of activity / types of provider / provider circumstances that you feel should be partially subsidised by government?  
Please give examples along with reasons.**

	Total	Percent <sup>16</sup>
Response rate	80	94%
Yes	36	42%
No	14	16%
Not sure	30	35%

Responses to this question tended to echo previous responses to related questions on principles for the government's funding contribution and possible exemptions from the registration fee. A clear theme was that additional government-driven initiatives that the OfS undertakes should be mainly centrally funded. Monitoring of the Prevent duty was provided as an example of this type of initiative.

Respondents provided other examples of circumstances for partial government subsidy, including:

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<sup>16</sup>Percentages may not sum due to rounding

- initiatives to protect the sector, its reputation and the wider public
- activities to promote access and widening participation, as well as providers with a high proportion of students from widening participation backgrounds
- providers who take on students from, or merge with, failing providers
- where providers are principally regulated by another regulator
- activities to support the transition and development work for the regulatory framework
- costs associated with regulatory changes arising from the United Kingdom's exit from the European Union (EU)

### Government response

Having considered responses to the consultation, the government proposes to partially subsidise registration fees of providers that are new to the regulated sector.

## Public Sector Equality Duty (PSED)

### Questions 7 and 9

**Questions 7 and 9 of the consultation sought evidence from respondents on any impacts that registration fees and 'other fees' (separate to the registration fee) might have under the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010.**

Respondents tended to reference both protected groups under the PSED and underrepresented groups targeted by the government's widening participation policy.<sup>17</sup> The main points made were broadly the same for both questions 7 and 9, and focussed on possible impacts of additional costs on providers, including that these costs could be passed on to, or divert funding from, students.

Some respondents used their answer to express concerns that registration fees and 'other fees' could cause a barrier to entry for new providers, cause existing new or small providers to cease operation, or in the case of 'other fees', prevent providers from accessing a service that could enhance their provision.

### Government response

It is our view that the risk of PSED impacts is low as the registration fee will be very small compared to a provider's overall income, and is unlikely to affect the overall impact of a provider's access and participation plan or statement. The design of the proposed registration fee model, which is proportional to provider size and ensures that smaller providers are protected, will help to mitigate risk in this area. Further, our work

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<sup>17</sup>Under-represented groups: lower socio-economic groups; low-participation schools

to develop this model has not identified any new impacts on those with protected characteristics, although we will continue to keep this under review.

## **Annex B: List of respondents to stage 1 consultation<sup>18</sup>**

Association of Colleges

Bath Spa University

Birkbeck, University of London

Birmingham City University

Birmingham Metropolitan College

Blackburn College

Blackpool and The Fylde College

Bournemouth University

Bristol Baptist College

Brunel University London

Buckinghamshire New University

Coventry University

De Montfort University

Edge Hill University

Elim Foursquare Gospel Alliance (operating as Regents Theological College)

GuildHE

Harper Adams University

ICMP Management Limited (operating as Institute of Contemporary Music Performance)

Imperial College London

Independent Higher Education

Institute of Cancer Research

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<sup>18</sup>Excluding respondents that declined to provide a name

INTO London

Jisc

Keele University

Kingston Maurward College

Lancaster University

Le Cordon Bleu Limited

Leeds Beckett University

London Business School

London School of Business and Management

Loughborough University

Luther King House Educational Trust

MillionPlus

Mixed Economy Group of Colleges

Moorlands College

Moulton College

Myerscough College

National Association of School-Based Teacher Trainers

Nazarene Theological College

Newcastle University

Newman University

Norwich University of the Arts

Plymouth College of Art

Queen Mary University of London

Ravensbourne College

Reaseheath College

Royal Northern College of Music  
Russell Group  
Sheffield Hallam University  
Solihull College and University Centre  
South Tyneside College  
Southampton Solent University  
Spurgeon's College  
Staffordshire University  
Sunderland College  
Teesside University  
The Open University  
The Queen's Foundation for Ecumenical Theological Education  
Tresham College of Further and Higher Education  
University Alliance  
University of Bath  
University of Bedfordshire  
University of Birmingham  
University of Brighton  
University of Cambridge  
University of Hertfordshire  
University of Leeds  
University of Lincoln  
University of Liverpool  
University of Northampton  
University of Nottingham

University of Oxford

University of Plymouth

University of Roehampton

University of Salford

University of Sheffield

University of Southampton

University of Sussex

University of the Arts, London

University of Winchester

UUK

Waverley Abbey College

Westminster Theological Centre





Department  
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