

Office for  
Students



# Equality impact assessment

Regulatory framework for higher  
education

Reference **OfS 2018.08**

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Date of publication **28 February 2018**

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## Summary

1. This document summarises the equality impact assessment undertaken on the conditions of registration for higher education providers under the new regulatory framework for higher education, to be operated by the Office for Students.
2. In undertaking our assessment of the equality impact of our regulatory framework we have focussed on those initial and ongoing conditions of registration we have determined will have the greatest impact on students with protected characteristics. This is our initial assessment. All the conditions of registration and our wider sector-wide work to support students will be kept under review and further assessments undertaken of their equality impact, as necessary.
3. The conditions of registration deemed to have the greatest impact on students with protected characteristics and for which the full equality impact assessment is provided are:

### **Conditions A1 and A2: Access and participation for students from all backgrounds**

Condition A1: An Approved (fee cap) provider intending to charge fees above the basic amount to qualifying persons on qualifying courses must:

- i. Have in force an access and participation plan approved by the OfS in accordance with the Higher Education and Research Act 2017 (HERA).
- ii. Take all reasonable steps to comply with the provisions of the plan.

Condition A2: An Approved provider or an Approved (fee cap) provider charging fees up to the basic amount to qualifying persons on qualifying courses must:

- i. Publish an access and participation statement.
- ii. Update and re-publish this statement on an annual basis.

### **Conditions B1, B2, B3, B4, and B5: Quality, reliable standards and positive outcomes for all students**

Condition B1: The provider must deliver well-designed courses that provide a high quality academic experience for all students and enable a student's achievement to be reliably assessed.

Condition B2: The provider must provide all students, from admission through to completion, with the support that they need to succeed in and benefit from higher education.

Condition B3: The provider must deliver successful outcomes for all of its students, which are recognised and valued by employers, and/or enable further study.

Condition B4: The provider must ensure that qualifications awarded to students hold their value at the point of qualification and over time, in line with sector recognised standards.

Condition B5: The provider must deliver courses that meet the academic standards as they are described in the Framework for Higher Education Qualification (FHEQ) at Level 4 or higher.

### **Condition B6: Quality, reliable standards and positive outcomes for all students**

Condition B6: The provider must participate in the Teaching Excellence and Student Outcomes Framework (TEF).

### **Condition F1: Information for students**

The provider must provide to the OfS, and publish, in the manner and form specified by the OfS, the transparency information set out in section 9 of HERA.

### **Conditions F3 and F4: Information for students**

Condition F3: For the purpose of assisting the OfS in performing any function, or exercising any power, conferred on the OfS under any legislation, the governing body of a provider must:

- i. provide the OfS, or a person nominated by the OfS, with such information as the OfS specifies at the time and in the manner and form specified;
- ii. permit the OfS to verify, or arrange for the independent verification by a person nominated by the OfS of such information as the OfS specifies at the time and in the manner specified and must notify the OfS of the outcome of any independent verification at the time and in the manner and form specified;
- iii. take such steps as the OfS reasonably requests to co-operate with any monitoring or investigation by the OfS, in particular, but not limited to, providing explanations or making available documents to the OfS or a person nominated by it or making available members of staff to meet with the OfS or a person nominated by it.

The requirements in paragraphs (ii) and (iii) do not affect the generality of the requirement in paragraph (i).

Condition F4: For the purposes of the designated data body's (DDB) duties under sections 64(1) and 65(1) of HERA, the provider must provide the DDB with such information as the DDB specifies at the time and in the manner and form specified by the DDB.

# Introduction

4. This document summarises the equality impact assessment undertaken on the conditions of registration for higher education providers under the new regulatory framework for higher education, to be operated by the Office for Students.
5. The Higher Education and Research Act 2017 (HERA) makes provision for the establishment of a new regulator – the Office for Students (OfS) and a new regulatory framework. Taken together, HERA and the regulatory framework enact the government’s ambition to boost competition and choice in higher education, and strengthen the ways in which the sector is regulated and research is funded.
6. At the time the HERA was introduced as a bill, an equality analysis<sup>[1]</sup> was published, setting out an initial assessment of the possible impacts of the reform proposals on those groups in society who are underrepresented in higher education (in terms of those living in areas of low higher education participation, low-income households, or socioeconomic status) or have one or more the following nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, marriage and civil partnership.
7. It has been necessary to update this analysis to reflect the changes the bill (now Act) underwent through its parliamentary journey and the subsequent public consultation on the draft regulatory framework, published on 17 October 2017. This impact assessment has been performed on the final version of the framework’s conditions.
8. The regulatory framework states how the OfS intends to perform its various functions, and provides guidance for registered higher education providers on the ongoing conditions of registration. The OfS will have regard to it when exercising its functions. The regulatory framework is composed of five parts:
  - a. Part I – The OfS’s risk-based approach
  - b. Part II – Sector level regulation
  - c. Part III – Regulation of individual providers
  - d. Part IV – Validation, degree awarding powers and university title
  - e. Part V – Guidance on the general ongoing conditions of registration
9. The framework and the conditions are published in conjunction with this analysis at <https://www.officeforstudents.org.uk/#documents>.

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<sup>[1]</sup> Published by the Department for Business, Innovation and Skills in May 2016, see <https://www.gov.uk/government/publications/higher-education-and-research-bill-equality-analysis>

## Scope of this equality impact assessment

10. Under the Equality Act 2010, the Office for Students, as a public authority, is legally obliged to give due regard to equality issues when making policy decisions – the Public Sector Equality Duty (PSED), also called the general equality duty.
11. Equality analysis is an important component of the policy decision making process. It helps identify the likely positive and negative impacts that policy proposals may have on certain protected and underrepresented groups, and to determine whether these impacts are likely to be disproportionate.
12. As a public sector authority, the OfS must, in the exercise of its functions, have due regard to the need to:
  - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - advance equality of opportunity between people who share a protected characteristic and those who do not
  - foster good relations between people who share a protected characteristic and those who do not.
13. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, to the need to:
  - remove or minimise disadvantages suffered by persons with protected characteristics
  - take steps to meet the needs of persons who share a relevant protected characteristic
  - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
14. The general equality duty covers the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The first element of the duty (to eliminate unlawful discrimination, harassment and victimisation) additionally applies in public authorities to the protected characteristic of marriage and civil partnership.
15. This equality analysis takes a considered and proportionate view of the expected impacts of the conditions of registration set out in the regulatory framework, in particular on those individuals with protected characteristics.
16. In this equality analysis, we use the terms ‘protected groups’ and ‘underrepresented groups’: protected groups are a reference to people with protected characteristics, while underrepresented groups refer to low income groups and groups more generally with low participation rates (recognising that these groups will also have protected characteristics). As under-representation in higher education is still apparent in connection to family income and

economic status, we also consider the impact of these measures on individuals from lower income groups. We are mindful, when undertaking our assessment, of the intersectional nature of protected characteristics and under-representation.

17. The focus of this equality analysis is the likely impact on protected and underrepresented groups of the proposals set out in the regulatory framework.
18. In conducting this analysis, we have analysed the likely impact of each condition on students with protected characteristics, and on the OfS's ability to further promote equality or good relations between different groups. We have taken a proportionate approach, and focussed our analysis and evidence gathering on the conditions we assessed as having the greatest impact, relevance or opportunity for students with protected characteristics or to the OfS's ability to meet the general equality duty. Where conditions were assessed as having low relevance, or where they were accepted to affect all students equally positively, we have not carried out a full assessment.
19. We regard this analysis as a live document, reviewed annually and updated with new evidence when it becomes available. Should it come to light that a condition for which we have not carried out a full assessment may be of greater relevance in terms of its impact on students with protected characteristics, then a full assessment of that condition would be undertaken immediately and this document updated. If we detect, through our ongoing analysis, that the implementation of a condition has an adverse impact on any protected group of students we will take action to mitigate this.
20. We will publish an equality statement, equality objectives and action plan which will describe in more detail our approach to meeting our PSED general and specific duties, as well as our values and operating principles around equality and diversity. Equality impact assessments for specific programmes will be produced and published as they are developed.

# Equality impact assessment

21. The following equality impact assessment includes analysis on the conditions we assessed as having the greatest impact, relevance or opportunity for students with protected characteristics or to the OfS's ability to meet the general equality duty. The conditions are addressed below in order of their appearance in the regulatory framework.

## General ongoing conditions of registration

### Conditions A1 and A2: Access and participation for students from all backgrounds

Condition A1: An Approved (fee cap) provider intending to charge fees above the basic amount to qualifying persons on qualifying courses must:

- i. Have in force an access and participation plan approved by the OfS in accordance with the Higher Education and Research Act 2017 (HERA).
- ii. Take all reasonable steps to comply with the provisions of the plan.

Condition A2: An Approved provider or an Approved (fee cap) provider charging fees up to the basic amount to qualifying persons on qualifying courses must:

- i. Publish an access and participation statement.
- ii. Update and re-publish this statement on an annual basis.

## Background

22. The HERA establishes a general duty for the OfS to have regard to the need to promote equality of opportunity with regard to access and participation in higher education. By focusing on participation, as well as access, the Act recognises that social mobility requires equality of opportunity beyond the point of entry to higher education. The Act requires every higher education provider intending to charge the higher fee level for qualifying courses to agree an access and participation plan with the Director of Fair Access and Participation.
23. The regulatory framework identifies access, success and progression as the first primary regulatory objective for OfS. The framework also makes clear that OfS will promote access and participation through other conditions, such as those on quality (B1), support for students (B2) and successful outcomes (B3), and its broader sector-level activities.
24. Removing barriers to competition provides strong incentives for higher education providers to sustain and grow their activity by reaching out to students who are currently underrepresented in higher education. However, market forces alone will not achieve our ambitions for access and participation, and we will therefore regulate through the access and participation plans to secure

compliance with the PSED and promote continuous improvement for **all** students (regardless of background or protected characteristic(s)) by all providers charging the higher fee.

25. By expecting those providers in the Approved category to produce and publish an access and participation statement, there is a clear expectation that all higher education providers have a role to play in removing barriers to access, success and progression for all students.
26. Notwithstanding the expectation for continuous improvement by all providers, greater ambition and commitment – in terms of investment, activity and progress on outcomes – will be expected from those providers in the Approved (fee cap) category that have the greatest distance to travel at different points of the student lifecycle.
27. We will also serve as a champion in this area, for example by promoting effective practice and improving evaluation.

## Evidence

### Access to higher education

28. Universities and colleges have been successful in improving access to higher education during the last decade.
29. Students are, though, still substantially less likely to achieve the qualifications needed to study in higher education if they are from an underrepresented group and these gaps in educational attainment are apparent from early years<sup>1</sup>.
30. Among young entrants, the entry rate for those from the lowest participation neighbourhoods<sup>2</sup> increased by 82 per cent between 2006 and 2017. Students are still, however, 2.3 times less likely to enter higher education if they are from the lowest participation neighbourhoods relative to those from the highest participation neighbourhoods, and 5.5 times less likely in the higher tariff institutions. These figures rise to 3.9 and 9.8 once intersections of student characteristics are taken into account; the higher education participation rate for white males on free school meals (FSM) in the lowest participation areas for example is 6.5%<sup>3</sup>.

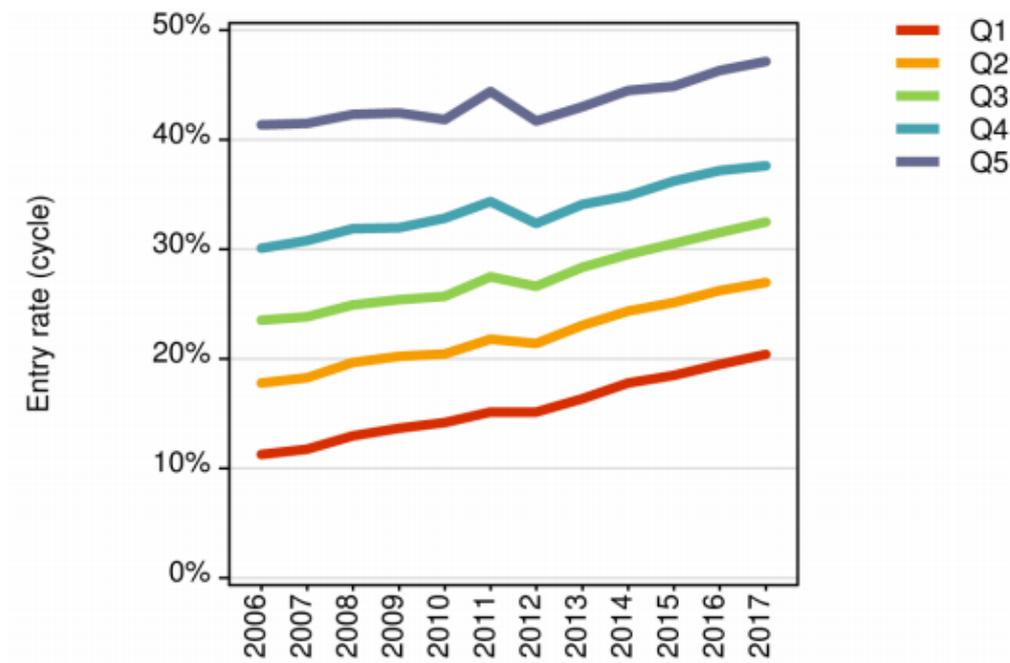
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<sup>1</sup> OFFA 2017, Raising Attainment in Schools and Colleges to Widen Participation – <https://www.offa.org.uk/universities-and-colleges/guidance/topic-briefings/topic-briefing-raising-attainment/>

<sup>2</sup> POLAR4 Quintile 1 – Participation of Local Areas – [www.hefce.ac.uk/analysis/yp/POLAR/](http://www.hefce.ac.uk/analysis/yp/POLAR/)

<sup>3</sup> UCAS 2017, End of Cycle Report: Patterns by Applicant Characteristics – <https://www.ucas.com/file/140396/download?token=ekh0PW6p>

Figure 1: 18 year olds in England, entry rates by POLAR3 groups (Q5 = most advantaged areas)



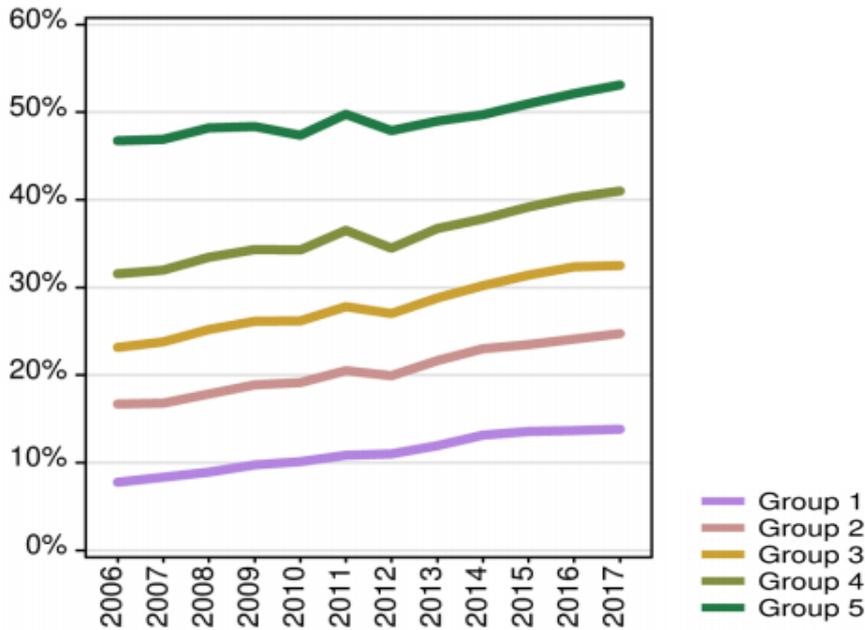
Source: UCAS End of cycle report 2017<sup>4</sup>

31. Recognising the intersections of under-representation and protected characteristics is critical. UCAS has already developed one way of doing this through its Multiple Equality Measure (MEM)<sup>5</sup>. The MEM brings together information on several equality dimensions for which large differences in the probability of progression into higher education exist. These equality dimensions include sex, ethnic group, where people live (using the POLAR3 classification), secondary education school sector (state or private), and income background (as measured by whether a person was in receipt of FSM). These are then combined, the probability of entering in higher education calculated and the numbers grouped 1 to 5, with group 1 having the lowest probability of entry to higher education and group 5 the highest probability.

<sup>4</sup> UCAS 2017, End of Cycle Report: Patterns by Applicant Characteristics – <https://www.ucas.com/file/140396/download?token=ekh0PW6p>

<sup>5</sup> UCAS 2016, see interactive MEM data explorer – <https://www.ucas.com/corporate/data-and-analysis/ucas-undergraduate-releases/equality-and-entry-rates-data-explorer>

**Figure 2: Entry rates for English 18 year olds by multiple equality measure groups**

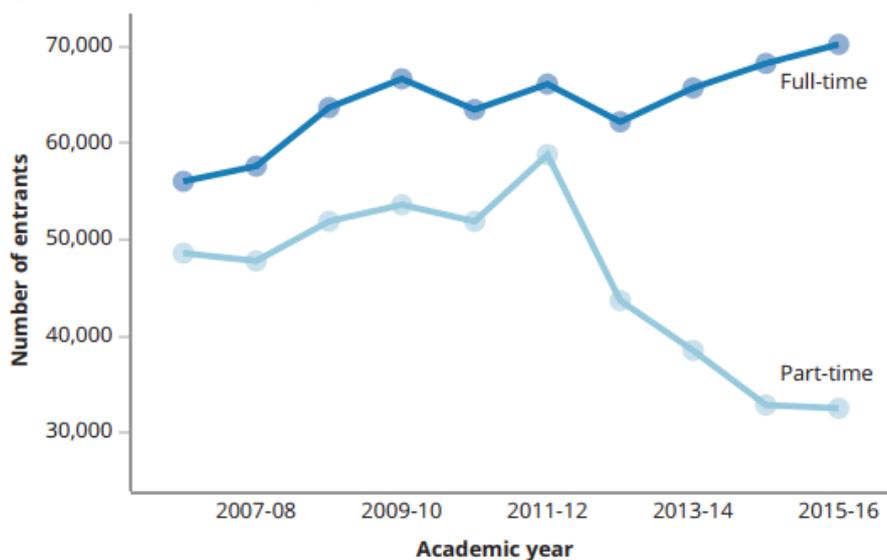


Source: End of cycle report 2017, UCAS

32. The OfS will undertake work to develop further approaches to more effectively measure and consider the intersectionality of protected characteristics and under-representation across the whole of the student lifecycle, encompassing access, success and progression.
33. Alongside the gaps in access for young people, fewer people are improving their capabilities and credentials by entering higher education whilst they are in work and later in life. Part-time study has more than halved since 2011-12, with most of this due to the decline in study by people older than 25 and studying at less than 50 per cent intensity<sup>6</sup>.

<sup>6</sup> HEFCE 2017 analysis from HESA 2015-16 student record

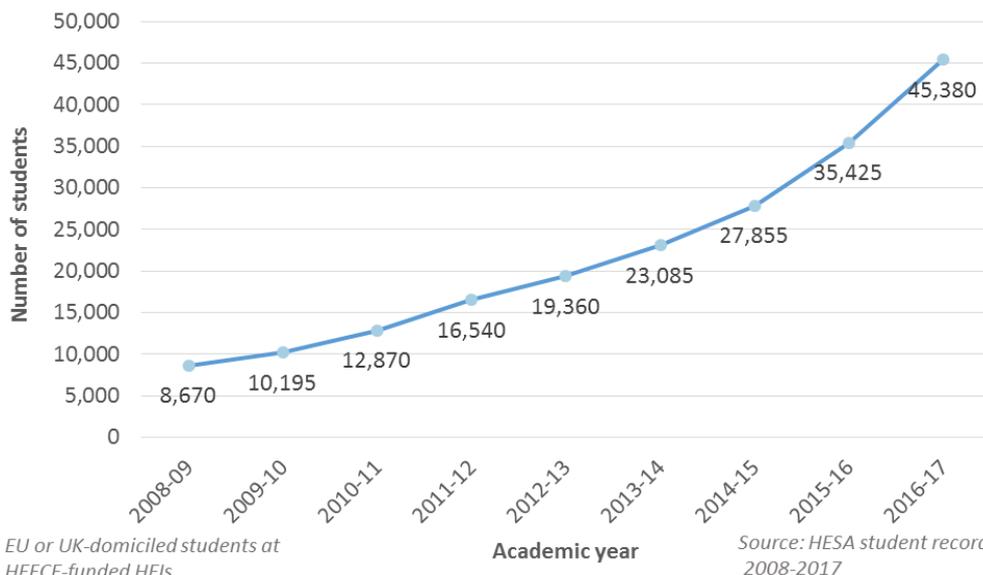
**Figure 3: Mature first degree entrants by mode of study**



Source: HEFCE Higher Education in England<sup>7</sup>

34. There has been an upwards trend for access to higher education for disabled students. In 2015-16, the number of entrants to full-time first degree courses with a known disability had increased by 56 per cent since 2010-11. Of those with a known disability, approximately 42 per cent were in receipt of Disabled Students' Allowance (DSA)<sup>8</sup>. Alongside this, there have also been large increases in recent years in the number of students with a known mental health condition. This increased by 253 per cent between 2010-11 and 2016-17.

**Figure 4: Number of students with declared mental health problems**



Source: Higher Education Statistics Agency (HESA) Student record (2008-09 to 2016-17)

<sup>7</sup> HEFCE 2017 Higher Education in England – [www.hefce.ac.uk/analysis/HEinEngland/students/age/](http://www.hefce.ac.uk/analysis/HEinEngland/students/age/)

<sup>8</sup> HEFCE 2017 Higher Education in England – [www.hefce.ac.uk/analysis/HEinEngland/students/disability/](http://www.hefce.ac.uk/analysis/HEinEngland/students/disability/)

## Student success

35. In order for individuals to unlock their potential, they need not just to gain access to higher education, but also to have a successful experience during their studies.
36. Non-continuation rates are low in English higher education compared with many other countries, and they have been sustained despite the expansion and diversification of the student body. Notwithstanding this, the data shows that they are affected by student background and characteristics, reaching 9 per cent for those from the lowest participation neighbourhoods<sup>9</sup> within the young student population, and more than 10 per cent for black students. This represents a 4 percentage point gap between the rates for the most and least underrepresented groups, and between white and black students<sup>10</sup>.
37. There is also long-standing evidence that your background and characteristics affect your likelihood of being satisfied with your academic experience and achieving the best grades. Black Caribbean and Asian Bangladeshi students respectively report 4.1 per cent and 2.1 per cent lower satisfaction with their experience than white students, even once their characteristics other than ethnicity are taken into account. Disabled students are 2.7 per cent less satisfied using the same analysis. There is a broad correlation between these patterns and the degree outcomes for these groups<sup>11</sup>.
38. There is a profound gap in degree outcomes based on ethnicity; black students, for example, are 15 per cent less likely to gain a first or upper second class degree than white students and there are gaps across all entry grades.

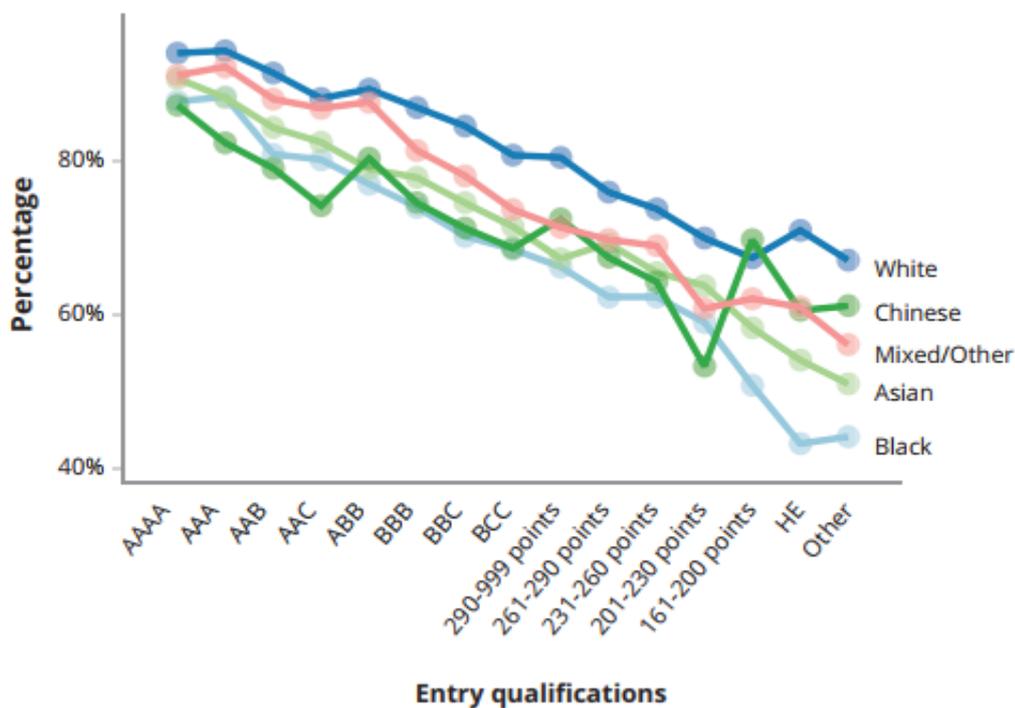
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<sup>9</sup> POLAR4 Quintile 1 – Participation of Local Areas – [www.hefce.ac.uk/analysis/yp/POLAR/](http://www.hefce.ac.uk/analysis/yp/POLAR/)

<sup>10</sup> HEFCE 2017 analysis from HESA student record

<sup>11</sup> HEFCE 2018 tbc, National Student Survey 11 Year Review: Results and Trends Analysis

Figure 5: Percentage of graduates achieving a first or upper second class degree



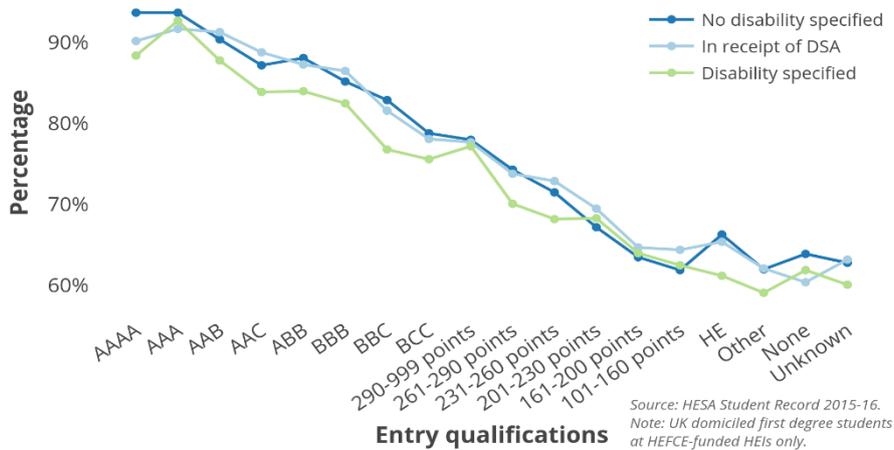
Source: HEFCE Higher Education in England<sup>12</sup>

39. Degree outcomes for disabled students in receipt of DSA are broadly in line with those of students with no known disability. However, outcomes are typically worse for students who have declared a disability, but who are not in receipt of DSA. Disabled students not in receipt of DSA are less likely than their peers to achieve a first or upper second class degree. For most levels of prior attainment, these students are between three and five percentage points less likely to achieve this than a student with no disability, whereas the degree outcomes for students in receipt of DSA are not notably different from those with no disability<sup>13</sup>.

<sup>12</sup> HEFCE 2017 Higher Education in England – [www.hefce.ac.uk/analysis/HEinEngland/students/](http://www.hefce.ac.uk/analysis/HEinEngland/students/)

<sup>13</sup> HEFCE 2017 Higher Education in England – [www.hefce.ac.uk/analysis/HEinEngland/students/disability/](http://www.hefce.ac.uk/analysis/HEinEngland/students/disability/)

**Figure 6: Percentage of graduates achieving a first or upper second class degree by disability**

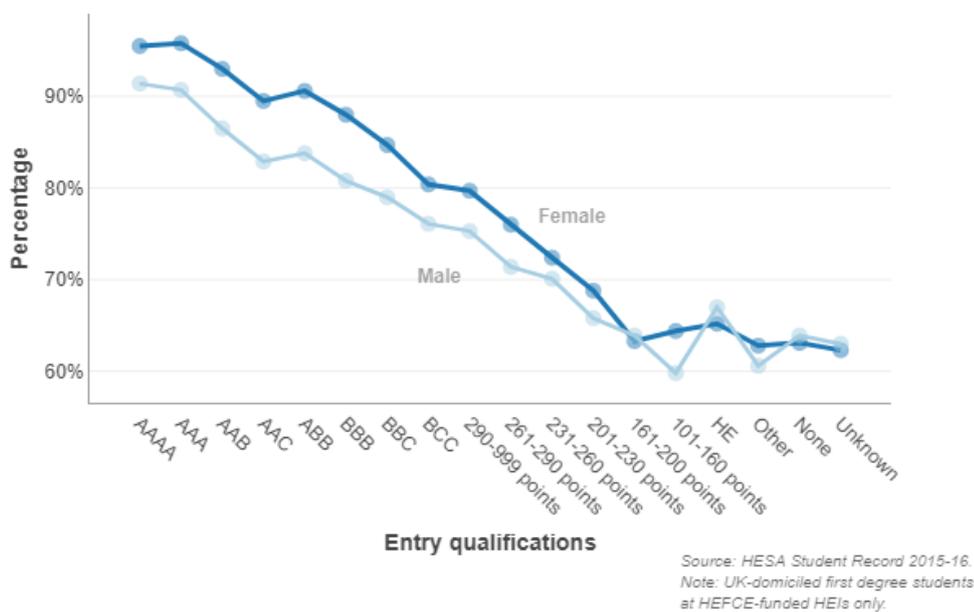


Source: HESA Student Record 2015-16

40. There are more female than male entrants to first degrees in England, and women are more likely to achieve better degree outcomes. The most recent data suggests that the differences between the sexes are growing. Women are less likely to leave higher education at the end of their first year than men; and while non-continuation rates have increased for all students since 2011-12, the rate for male students has increased more than that for female students, widening the gap between the two sexes.
41. In terms of degree outcomes, for nearly all levels of prior attainment, female students have on average better degree outcomes than male students. The rate at which women achieve first and upper second class degrees is typically between two and seven percentage points higher than men<sup>14</sup>.

<sup>14</sup> Higher education in England 2017 – [www.hefce.ac.uk/analysis/HEinEngland/students/sex/](http://www.hefce.ac.uk/analysis/HEinEngland/students/sex/)

**Figure 7: Percentage of graduates achieving a first or upper second class degree by sex**



Source: HESA student record 2015-16

42. The gap in attainment between those aged 21 and under, and those aged 25 and over has narrowed considerably. In academic year 2015-16, the gap between those achieving a first class degree was just 2.2 percentage points, with 21.8 per cent of under 21s and 24.0 per cent of over 25s achieving a first. In 2009-10 the same gap was 4.8 percentage points; with 11.7 per cent of under 21s and 16.5 per cent of over 25s achieving the grade.
43. Non-continuation rates for young and mature students have improved from 7.1 per cent and 13.1 per cent in 2009-10 to 6.3 per cent and 11.6 per cent in 2014-15. However, mature students are much more likely to leave after one year of a first degree than young students, and large gaps persist between the rates for young and mature students<sup>15</sup>.

### Progression to further study and graduate employment

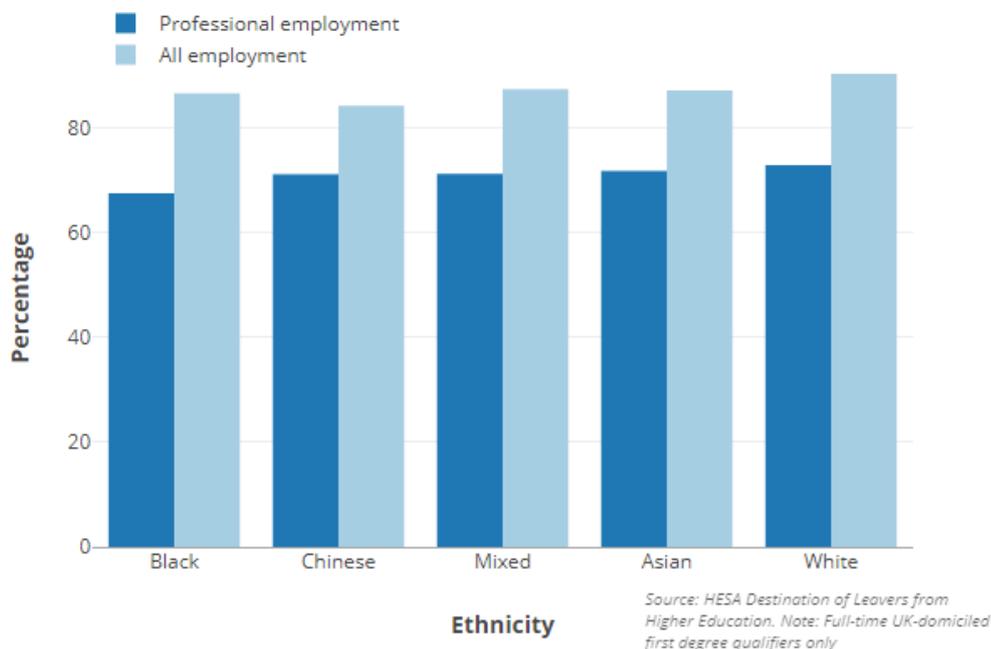
44. These patterns influence progression to postgraduate study, but the availability of finance has until recently been a greater concern. Even among students who say they intend to progress to postgraduate study, the proportion who ultimately progress is 9 percentage points lower for the most underrepresented group than for the most represented<sup>16</sup>. The introduction of masters loans from 2016-17 has supported an upturn in postgraduate demand, but we have not yet been able to draw conclusions about their take-up by different groups of students.

<sup>15</sup> Higher Education in England 2017 – [www.hefce.ac.uk/analysis/HEinEngland/students/age/](http://www.hefce.ac.uk/analysis/HEinEngland/students/age/)

<sup>16</sup> HEFCE 2016, Intentions After Graduation Survey Analysis – [www.hefce.ac.uk/analysis/iags2016/](http://www.hefce.ac.uk/analysis/iags2016/)

45. Higher education can enhance wellbeing and resilience<sup>17</sup>, enabling insights and friendships that can last throughout life. It also serves as the recognised route to many high skilled and professional jobs. Graduates from most courses continue to be more likely to gain employment and earn a premium beyond those who do not enter higher education<sup>18</sup>. Employers also continue to report high demand for graduates with higher level skills<sup>19</sup>. Employment prospects after graduation can, however, be affected by students' social and economic capital, which can influence the experience, connections and attributes that help in many areas of the jobs market.
46. The proportion of graduates entering professional jobs within 40 months of their studies is 17 percentage points lower for black Caribbean students than their white peers<sup>20</sup>.

**Figure 8: Employment outcomes by ethnicity**



Source: HESA 2015 Destinations of Leavers from Higher Education (DLHE) data

47. Disabled students not in receipt of DSA are 2 percentage points lower in terms of general employment six months after graduation, compared to their counterparts who have no disability specified. For graduate level employment they are 3 percentage points lower.

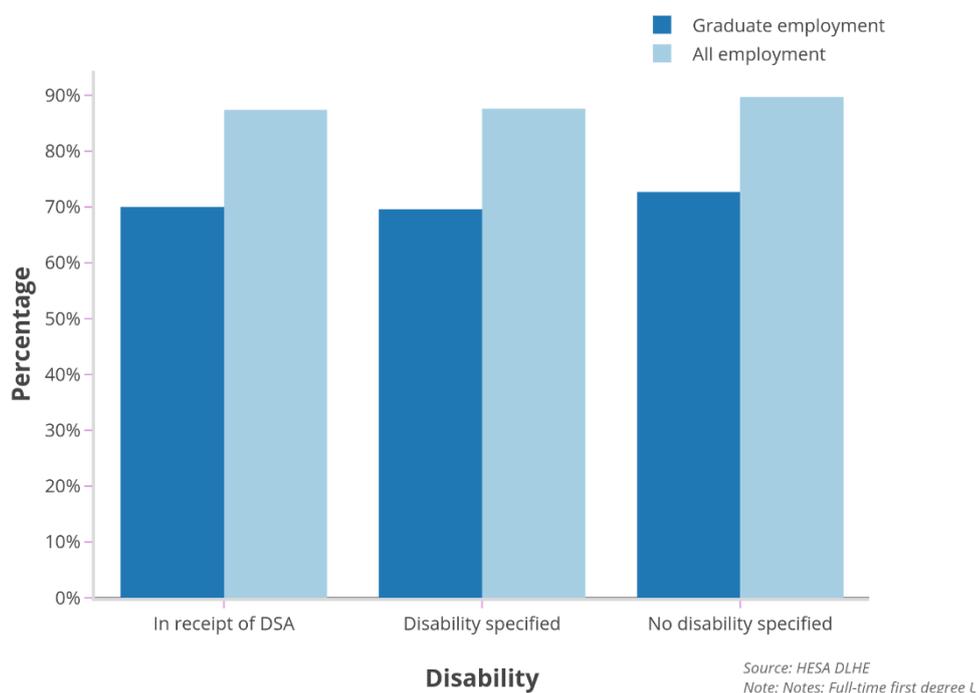
<sup>17</sup> HEFCE 2017, The Wellbeing of Graduates – [www.hefce.ac.uk/pubs/year/2017/201731/](http://www.hefce.ac.uk/pubs/year/2017/201731/)

<sup>18</sup> IFS and Nuffield Foundation 2016, Family Background and University Success - <https://www.ifs.org.uk/uploads/Presentations/Family%20Background%20and%20University%20Success.pdf>

<sup>19</sup> CBI / Pearson 2017, Education and Skills Survey 2017 – [www.cbi.org.uk/index.cfm/\\_api/render/file/?method=inline&fileID=DB1A9FE5-5459-4AA2-8B44798DD5B15E7](http://www.cbi.org.uk/index.cfm/_api/render/file/?method=inline&fileID=DB1A9FE5-5459-4AA2-8B44798DD5B15E7)

<sup>20</sup> HEFCE 2016, Differences in Employment Outcomes – [www.hefce.ac.uk/analysis/employment/201011/](http://www.hefce.ac.uk/analysis/employment/201011/)

**Figure 9: Employment outcomes by disability six months after graduation**



Source: HESA 2015 DLHE data

48. If you are from a lower income family your career earnings are likely to be lower, even given the same characteristics<sup>21</sup>. The earnings for students from higher income families are reported to be 25 per cent higher at the median than lower income families, and 10 per cent higher once entry characteristics and the institution attended are taken into account. This represents a lower return on the investment in higher education but also a failure to unlock potential, both for individuals and for society as a whole.

49. Based on these patterns, we can see that higher education has increased opportunity, but not secured equality of opportunity, and this extends through all stages of the student lifecycle, including transition into work. In this context, the imperative for the new regulatory regime is to address the sustained gaps in access between underrepresented and other groups and the decline in mature students, particularly those studying part-time, whilst focusing more on addressing gaps in attainment within and progression from higher education for students from ethnic minority groups, disabled students and students from underrepresented groups. This needs to be addressed both within individual providers and across the sector as a whole.

### Other protected characteristics covered by the Public Sector Equality Duty

50. We do not yet have sufficient data to monitor the non-continuation rate or degree attainment trends of individuals possessing other characteristics covered by the PSED. However, there is some information available on the characteristics of these entrants. We will continue to collect and

<sup>21</sup> IFS 2016, How English Domiciled Graduate Earnings Vary With Gender, Institution Attended, Subject and Socio-economic Category – <https://www.ifs.org.uk/publications/8233>

monitor trends for students possessing these protected characteristics and ensure that due regard is given to these students in future regulatory functions and policy making.

### Religion and belief

Religion and belief	2015-16 entrants (%) <sup>22</sup>
Buddhist	1%
Christian	32%
Hindu	2%
Jewish	0%
Muslim	10%
Sikh	1%
Spiritual	1%
Other	1%
No religion	45%
Information refused	6%

### Sexual orientation

Sexual orientation	2015-16 entrants (%) <sup>23</sup>
Heterosexual	88%
Bisexual	2%
Gay man	1%
Gay woman / lesbian	1%
Other	1%
Information refused	7%

### Gender identity

Is your gender identity the same as you were assigned at birth?	2015-16 entrants (%) <sup>24</sup>
Yes	95%
No	3%
Information refused	2%

<sup>22</sup> HEFCE 'Additional equality and diversity data' [www.hefce.ac.uk/analysis/opthesa/religion/](http://www.hefce.ac.uk/analysis/opthesa/religion/)

<sup>23</sup> HEFCE 'Additional equality and diversity data' [www.hefce.ac.uk/analysis/opthesa/sexorient/](http://www.hefce.ac.uk/analysis/opthesa/sexorient/)

<sup>24</sup> HEFCE 'Additional equality and diversity data' [www.hefce.ac.uk/analysis/opthesa/gender/](http://www.hefce.ac.uk/analysis/opthesa/gender/)

## Assessment of impact (positive, negative, neutral)

51. The impact of conditions A1 and A2 in the regulatory framework has been assessed as **positive**, both in terms of reducing the disparities in access, success and progression between different groups, and extending equality of opportunity for students from underrepresented backgrounds, including those with protected characteristics.
52. In particular, it is likely that those who are underrepresented most in higher education will benefit the most, given the specific focus on reducing the disparities in access, success and progression for students from different groups.
53. Furthermore, it is anticipated that students with protected characteristics and underrepresented students will see an improvement in achievement and outcomes, both through the incentives put in place for providers to do more to assist these groups, and through the improvement of information available to students, allowing them to make better informed decisions about where and what to study in order to get the best experience and value for them.

## Measures to mitigate negative impacts or opportunities to further promote equality

54. To meet the access and participation plan condition (A1), providers will be required to demonstrate continuous improvement by a credible plan for: reducing the gaps in student access, success and progression among the provider's own students; enhancing their practice, including through better use of evidence and evaluation; and through sustained engagement with schools, communities, employers and other agencies.
55. More stretching targets, activity and investment will be sought from those providers, to support those student groups and at those stages of the student lifecycle where the evidence identifies that the gaps are widest. This should be determined on the basis of local and national data and other forms of evidence. We may identify some providers that require conditions to be applied to their registration or more intensive monitoring to ensure they improve. We will deploy these powers, and ultimately our ability to refuse or to renew plans if our risk-assessment and monitoring indicates that a provider is not making sufficient progress or it is not taking reasonable steps to implement its plan.
56. This will be supported by our regulation of the conditions relating to quality, reliable standards and positive outcomes for all students (conditions B1 – B6), which will consider each provider's position with regard to students with different backgrounds and characteristics to secure baseline assurance for all students.
57. We can also deploy our funding mechanisms to address gaps in activity where the evidence suggests market forces may not be sufficient, for example because they are particularly innovative, high risk or collaborative, and to leverage investment by other parties.
58. To further work on addressing the decline in mature students, we are developing a Working Age Participation Index, at the national level, which will enable us to identify our access ambitions for all students, not just young people.

59. We are also developing an Evidence and Impact Exchange in line with the existing What Works Network, which will gather expertise and resources to improve the conduct, dissemination and use of analytical and evaluative work throughout the sector.

### **Conditions B1, B2, B3, B4, and B5: Quality, reliable standards and positive outcomes for all students**

Condition B1: The provider must deliver well-designed courses that provide a high quality academic experience for all students and enable a student's achievement to be reliably assessed.

Condition B2: The provider must provide all students, from admission through to completion, with the support that they need to succeed in and benefit from higher education.

Condition B3: The provider must deliver successful outcomes for all of its students, which are recognised and valued by employers, and/or enable further study.

Condition B4: The provider must ensure that qualifications awarded to students hold their value at the point of qualification and over time, in line with sector recognised standards.

Condition B5: The provider must deliver courses that meet the academic standards as they are described in the Framework for Higher Education Qualification (FHEQ) at Level 4 or higher.

## **Background**

60. These initial and ongoing registration conditions relate to the quality of, or the standards applied to, higher education provision from providers registered in the Approved and Approved (fee cap) categories.
61. Compliance with these conditions will be assessed with particular regard to the need to ensure that students with protected characteristics, and students who are underrepresented in higher education, are receiving a high quality academic experience.
62. Assessments of compliance with these conditions will be undertaken by the OfS, drawing on advice from the Designated Quality Body (DQB). The OfS will use the advice of the DQB to determine whether the conditions B1, B2, B4 and B5 are met. These processes will be underpinned by one of the OfS's main objectives that all students, from all backgrounds, receive a high quality academic experience, and their qualifications hold their value over time in line with sector-recognised standards.
63. When a provider has been registered, the initial conditions become ongoing conditions of registration. If the risk of non-compliance with these ongoing conditions for quality and standards is considered to be low, the OfS will use its routine approach to monitoring to assess compliance. It may draw on the DQB to undertake more detailed scrutiny of quality and standards issues in an individual provider should the OfS consider this necessary. Any consultations undertaken on the OfS's approach to quality assessment will comply with the Public Sector Equality Duty.

## Evidence

64. These conditions relate to the OfS's objective of ensuring that all students from all backgrounds receive a high quality academic experience, and their qualifications hold their value over time in line with sector-recognised standards.
65. The evidence presented in relation to conditions A1 and A2 has all been taken into consideration in the creation of these general ongoing conditions of registration.

## Assessment of impact (positive, negative, neutral)

66. The impact of conditions B1, B2, B3, B4 and B5 has been assessed as **positive**. The conditions have been carefully framed, taking account of the OfS's objectives, to achieve a positive impact on students with protected characteristics and other underrepresented students. The mechanisms that underpin OfS's assessment of these conditions will monitor whether providers are meeting these conditions for all groups of students; if they are not, OfS will intervene appropriately.
67. The quality and standards conditions are broadly to ensure: the delivery of well-designed courses that provide a high quality academic experience and enable a student's achievement to be reliably assessed (condition B1); that providers support students, including through the admissions system, to successfully complete and benefit from a high quality academic experience (condition B2); and providers deliver successful outcomes for all students (condition B3).
68. Where a provider complies with these conditions, it is expected to take full responsibility for the quality of its provision, wherever and however its provision is delivered. A provider will be expected to ensure fair access to courses for students from all backgrounds and with different characteristics, and to ensure that students are matched to appropriate courses and provided with the support necessary for a high quality academic experience and successful completion. The conditions require that providers pay particular attention to the varying needs of students, including those with protected characteristics and those who are underrepresented in higher education.
69. Condition B3 sets out the parameters for how we will assess the impact on student outcomes. We expect to be able to draw on various data and intelligence to reach a nuanced understanding of how each provider ensures successful outcomes for those students from underrepresented groups and with protected characteristics.
70. Providers will also need to comply with conditions B4 and B5, which set out that the provider must ensure the value of qualifications awarded to students, at the point of qualification and over time. In this way the OfS will ensure that all groups of students, from all backgrounds and with different characteristics, receive a qualification that supports their long term career aspirations.

## Measures to mitigate negative impacts or opportunities to further promote equality

71. Each provider will have an individual risk profile, which will outline any increased risks for non-compliance against the quality and standards conditions (among others). The OfS will undertake

enhanced monitoring of a provider, possibly drawing on investigation by the DQB of the relevant area, should we deem it necessary.

### **Condition B6: Quality, reliable standards and positive outcomes for all students**

Condition B6: The provider must participate in the Teaching Excellence and Student Outcomes Framework (TEF).

## **Background**

72. The Government introduced the Teaching Excellence and Student Outcomes Framework (TEF) to:
- better inform students' choices about what and where to study
  - raise esteem for teaching
  - recognise and reward excellent teaching
  - better meet the needs of employers, business, industry and the professions.
73. The TEF aims to assess the quality of teaching at institutions – and, in due course, on the courses they offer – with the results published in a way that facilitates comparison across institutions, enabling prospective students to make more informed decisions about where teaching excellence can be found. Requiring providers in the Approved categories with over 500 undergraduate students to participate in the TEF is intended to increase the reach of these benefits.
74. Participating higher education providers receive a provider-level Gold, Silver, Bronze or provisional TEF award. Higher education policy is often implemented differently by the devolved administrations, but individual providers in Scotland, Wales and Northern Ireland are able to participate in the TEF if they wish to.
75. The Department for Education (DfE) in England specifies the assessment framework, criteria, evidence and process for the TEF. The DfE has asked the Office for Students to implement the TEF according to the DfE's specification. The OfS is also responsible for implementing the DfE's specification for a pilot of TEF at a subject level. The pilot will inform the future development of the TEF by testing how ratings could be assigned at subject level as well as institutional level. This has the potential to provide students with more detailed information to inform their choices of where to study.

## **Assessing compliance with the Public Sector Equality Duty**

76. As stated in the TEF specification<sup>25</sup> the government places importance on supporting the aspirations and achievement of students from a diversity of backgrounds. This aspiration is aligned

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<sup>25</sup> <https://www.gov.uk/government/publications/teaching-excellence-and-student-outcomes-framework-specification> paragraph 4.11 'supporting the needs and attainment of all students'

with the PSED aims, and elements of the TEF specification and implementation directly and proactively support the aims of the PSED. For example:

- a. TEF metrics are split by a number of equality protected characteristics (age, disability, ethnicity and gender) to highlight any disparities and encourage providers to address inequalities.
  - b. All providers participating in the TEF must have an approved Access and Participation Plan, Access and Participation Statement or equivalent, setting out their commitment to fair access and successful participation. The OfS will use these statements as an additional lever to promote greater access, progression and success of students from disadvantaged and underrepresented groups.
  - c. TEF metrics are benchmarked to include factors that influence outcomes, such as POLAR quintile, age and ethnicity, to ensure providers are not penalised for taking students from these backgrounds<sup>26</sup>.
  - d. TEF applications are assessed for an award by a panel of student, academic, expert peers. Applications from underrepresented groups were proactively encouraged, applicant diversity was monitored at each recruitment stage and reported to the TEF Project Board, and applicants were asked for permission to use protected characteristics in the event of a tie-break selection decision.
  - e. The TEF panel includes access and participation experts to ensure appropriate and consistent consideration of access, success and progression issues in deciding TEF awards.
  - f. All panellists and assessors receive training on understanding and using core and split metrics in the assessment process.
77. The DfE is responsible for the specification and development of TEF policy, and it consulted on the operation of the TEF in year two, including the assessment framework and process<sup>27</sup>. It has also published research into a number of areas relating to TEF, including; the data underlying TEF metrics<sup>28</sup>; factors determining high skill employment outcomes<sup>29</sup>; fairness of the assessment by a

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<sup>26</sup> Teaching Excellence and Student Outcomes Framework: lessons learned from year 2, p.40-41, [www.gov.uk/government/publications/teaching-excellence-framework-lessons-learned](http://www.gov.uk/government/publications/teaching-excellence-framework-lessons-learned).

<sup>27</sup> <https://www.gov.uk/government/consultations/teaching-excellence-framework-year-2-technical-consultation>

<sup>28</sup> <https://www.gov.uk/government/publications/teaching-excellence-framework-review-of-data-sources>

<sup>29</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/557107/Teaching-Excellence-Framework-highly-skilled-employment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557107/Teaching-Excellence-Framework-highly-skilled-employment.pdf)

number of factors including student characteristics<sup>30</sup>; the influence of the National Student Survey metrics compared to other metrics<sup>31</sup>; and the lessons learned from year two<sup>32</sup>.

78. The DfE is also conducting research on the potential impact of subject-level TEF on applicant choice and the impact of TEF Year Two on students. It will also run a public consultation on the technical aspects of subject-level TEF in spring 2018. The OfS will continue to support the DfE with TEF policy development.
79. The OfS will also support the independent review of TEF (commissioned by DfE, due to take place 2018-19). The HERA stipulates that the review must include 'an assessment of whether the scheme is in the public interest' and 'any other matters that the appointed person considers relevant' (section 26, 5(e-f)).

## Evidence

### TEF Year Two

80. The TEF is designed to measure the extent to which positive outcomes are achieved for all students, including those from disadvantaged backgrounds and/or with protected equality characteristics, to drive improvements for all students. The DfE research into the impact of the TEF<sup>33</sup> concluded that:
  - a. TEF outcomes were not affected by the characteristics of students (ethnicity, gender, disability or background), nor the region where a provider was located.
  - b. There is no evidence that having a higher percentage of students from deprived areas has an adverse effect on getting a gold award.
  - c. For providers with a high percentage of older students (aged over 30 at start of study) who are local students, the proportion of bronze awards is significantly lower than for those who have high percentage of older students who are not local students.
  - d. As a result of the analysis, the DfE made a number of changes to the assessment process for providers with significant proportions of part-time students, and explicitly referenced local students in the TEF specification<sup>34</sup>.

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<sup>30</sup> <https://www.gov.uk/government/publications/teaching-excellence-framework-analysis-of-final-award>

<sup>31</sup> <https://www.gov.uk/government/publications/teaching-excellence-framework-analysis-of-metrics>

<sup>32</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/651157/DfE\\_TEF\\_Year\\_2\\_Lessons\\_Learned-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/651157/DfE_TEF_Year_2_Lessons_Learned-report.pdf)

<sup>33</sup> <https://www.gov.uk/government/publications/teaching-excellence-framework-analysis-of-final-award>

<sup>34</sup> <https://www.gov.uk/government/publications/teaching-excellence-and-student-outcomes-framework-specification>

## Evidence of differential outcomes in higher education

81. There is evidence that some students with protected characteristics and students from underrepresented groups experience less favourable outcomes than some of their peers, as demonstrated by the evidence presented in relation to conditions A1 and A2. Additionally, recent research from the Institute for Fiscal Studies (IFS)<sup>35</sup> shows that a graduate's family income background influences earnings long after graduation.
82. The TEF is designed to measure the extent to which positive outcomes are achieved for all students, and includes an explicit criterion on this.

## Representation of equality protected groups across the higher education sector

83. There is some evidence of variation in the representation of equality protected groups at different types of higher education provider. For example HEFCE analysis of higher education students by equality characteristics at higher education institutions (HEIs) compared to further education colleges (FECs)<sup>36</sup> showed proportionally more students at FECs than HEIs are mature, white, male, local or studying part-time; and proportionally more students at FECs than HEIs are in receipt of Disabled Students' Allowance.
84. HESA Performance Indicators (HEIs only)<sup>37</sup> and Experimental Indicators (HEIs and APs)<sup>38</sup> evidence that the proportions of young full time entrants registered at English FECs who were from low participation neighbourhoods were higher than the equivalent proportions among entrants registered at HEIs. They also show that students studying at alternative providers compared to publicly funded providers have a higher proportional representation of female, mature and black and minority ethnic (BME) students.
85. Not all FECs and alternative providers have sufficient data records to be eligible for the TEF currently. In the short-term, students at these providers may be indirectly disadvantaged by not having access to the benefits of TEF information to inform their choices if their provider falls below the threshold for compulsory participation in the TEF and chooses not to participate.
86. The introduction of TEF participation as a condition of registration will reduce any such disadvantage.

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<sup>35</sup> What and Where you Study Matter for Graduate Earnings – but so does Parents' Income – IFS (2016)  
[www.ifs.org.uk/uploads/publications/pr/graduate\\_earnings\\_130416.pdf](http://www.ifs.org.uk/uploads/publications/pr/graduate_earnings_130416.pdf)

<sup>36</sup> [www.hefce.ac.uk/analysis/maps/lg/](http://www.hefce.ac.uk/analysis/maps/lg/)

<sup>37</sup> <https://www.hesa.ac.uk/data-and-analysis/performance-indicators/releases/2015-16-widening-participation>

<sup>38</sup> <https://www.hesa.ac.uk/data-and-analysis/performance-indicators/releases/2015-16-experimental>

## Information barriers and exercising choice

87. Evidence suggests that those from lower socioeconomic groups, women and ethnic minority groups face the greatest information barriers<sup>39</sup>, while individuals from disadvantaged backgrounds can lack the family and social networks with the experience and knowledge to help them achieve their aspirations<sup>40</sup>. This reduced 'social capital' limits students' access to the information and opportunities they need.
88. Therefore, these groups will particularly benefit from the information provided on teaching quality and outcomes as a result of TEF.

## Assessment of impact (positive, negative, neutral)

89. The impact of condition B6 in the regulatory framework has been assessed as **positive**. TEF is expected to provide a benefit to current and potential students regardless of their individual equality protected characteristics or social background. By offering reputational rewards and imposing regulatory conditions, we expect the TEF to drive improvements in teaching quality and student outcomes across the sector for all students.
90. Making the TEF compulsory for most higher education providers will bring a further 10 FECs, three alternative providers and one HEI into the TEF that had not previously participated in the TEF in the first year the condition is in place. This condition of registration will therefore extend the reach of the benefits of TEF to students at these providers, and extend the reach of the drive to improve outcomes for all students across more of the higher education sector.
91. Although the TEF will benefit all students, our assessment is that it may particularly reduce or eliminate indirect disadvantage for those from groups that find it hardest to obtain reliable information on course quality and have traditionally experienced poorer outcomes, by reducing information asymmetries, increasing teaching quality and improving employment outcomes for all groups of students across the whole sector.
92. All providers with suitable TEF metrics are provided with secure access to the TEF core metrics for their students, whether or not they participate in the TEF. The metrics are presented separately for full time and part time students and presented as a series of sub groups (called splits) reflecting access, success and progression priorities. TEF metrics and submissions for all providers that participate in the TEF are published.

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<sup>39</sup> Supporting analysis for the Higher Education White Paper, BIS Economics Paper No.14 (June 2011). [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/32110/11-1007-supporting-analysis-for-higher-education-white-paper.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32110/11-1007-supporting-analysis-for-higher-education-white-paper.pdf)

<sup>40</sup> Educational aspirations: how English schools can work with parents to keep them on track – Menzies, L (2013) JRF Viewpoint <https://www.jrf.org.uk/report/educational-aspirations-how-english-schools-can-work-parents-keep-them-track>

93. As set out in the TEF specification<sup>41</sup>, TEF metrics are split by age (young/mature), disability (disability/no disability), ethnicity (white/BME/and black, Asian and other where there is significant variation within the BME category), domicile (UK/other EU/non EU), sex (female/male), disadvantage based on national Index of Multiple Deprivation (IMD) (quintiles 1-2/3-5) and participation groups (POLAR quintiles 1-2/3-5).
94. Panellists and assessors are directed to pay particular attention where the pattern of significance flagging in the assessment process varies between groups. Providers are encouraged to explicitly address any differences between groups in their TEF submission.
95. Through the above mechanisms, the TEF operates to proactively promote equality of opportunity and eliminate unfair disadvantage.
96. The TEF is expected to benefit students regardless of their protected characteristics. It is not, though, specified to produce core or split metrics by the following equality protected characteristics: gender identity, marital status, maternity status, religion, sexual orientation.
97. Some data are available on the protected characteristics of gender identity, sexual orientation, and religion and belief through a number of optional HESA fields<sup>42</sup> that were added to the HESA student return in 2012-13. But there is insufficient evidence to suggest that the introduction of a mandatory TEF condition would lead to any direct or indirect disadvantage to people possessing one or more of these equality protected characteristics.

## **Measures to mitigate negative impacts or opportunities to further promote equality**

98. The TEF to date has been a high profile exercise and attracted comment, challenge and analysis by various stakeholders. For example, the Higher Education Academy published an analysis of TEF Year Two provider submissions<sup>43</sup>, Universities UK published a review of TEF Year Two<sup>44</sup> and the Higher Education Policy Institute published an analysis of Year Two provider submissions<sup>45</sup>. We welcome this attention as an opportunity to publicly hold the OfS to account and ensure we are meeting our commitments under the PSED.

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<sup>41</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/658490/Teaching\\_Excellence\\_and\\_Student\\_Outcomes\\_Framework\\_Specification.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/658490/Teaching_Excellence_and_Student_Outcomes_Framework_Specification.pdf) para 5.67.

<sup>42</sup> [www.hefce.ac.uk/analysis/opthesa/](http://www.hefce.ac.uk/analysis/opthesa/)

<sup>43</sup> <https://www.heacademy.ac.uk/knowledge-hub/evidencing-teaching-excellence>

<sup>44</sup> [www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2017/review-of-the-teaching-excellence-framework-year-2.pdf](http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2017/review-of-the-teaching-excellence-framework-year-2.pdf)

<sup>45</sup> [www.hepi.ac.uk/2017/10/19/going-gold-lessons-tef-provider-submissions/](http://www.hepi.ac.uk/2017/10/19/going-gold-lessons-tef-provider-submissions/)

99. While it is too early in the development of TEF to report evidenced causal impact, there is emerging evidence of differential unintended consequences of TEF. A recent report indicates that 11 per cent of students from ethnic minority groups saying that they would have reconsidered applying or not applied to their university if it had been rated Gold, compared to only 5 per cent of white students<sup>46</sup>.
100. The DfE is carrying out research on TEF's impact, and there will be a statutory Independent Review of the TEF. Additionally, HEFCE is carrying out research into applicant awareness and understanding of TEF Year Two awards. The research will involve focus groups with a diverse sample of applicants who have recently applied to undergraduate courses starting in academic year 2018-19. It will focus on applicants' understanding of the TEF awards, in order to inform the language, key messaging and explanations directed at this audience on the publication of TEF Year Three outcomes. We expect to receive the findings in late March/April 2018. Any equality differentials emerging from the findings will be fully considered.
101. Evaluation of the TEF Year Three Subject Pilot by the OfS will also include the following equality impact assessments:
- a. A summary report on access and participation considerations. The summary report will be authored by two access and participation experts who will sit on the pilot main panel and observe a number of subject panels.
  - b. Feedback from participating providers on potential equality impacts, including how data is used to inform institutional strategy.
  - c. An analysis of TEF metrics, including subject-level implications for benchmarking factors and split metrics.
102. Our findings will feed into the development of a suite of communication information and tools about the TEF for students, applicants, parents and advisors to ensure a clearer understanding of TEF and how award levels should be interpreted.
103. Related research continues, for example HEFCE supported learning gain projects<sup>47</sup> which focus on developing and testing new ways of capturing educational outcomes and analysing how students benefit from higher education.
104. The above measures provide further opportunity to promote equality, eliminate discrimination and promote good relations between people from different groups.

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<sup>46</sup> <https://studentsunionresearch.files.wordpress.com/2017/11/tef-pr-research-report.pdf>

<sup>47</sup> [www.hefce.ac.uk/lt/lg/work/](http://www.hefce.ac.uk/lt/lg/work/)

## Condition F1: Information for students

The provider must provide to the OfS, and publish, in the manner and form specified by the OfS, the transparency information set out in section 9 of HERA.

### Background

105. The transparency information condition is an ongoing condition of registration for all providers in the approved and approved (fee cap) categories on the Register.
106. The condition states that higher education providers publish such information that the OfS requires in relation to the following:
- a. The number of applications for admission on to higher education courses that the provider has received.
  - b. The number of offers made by the provider in relation to those applications.
  - c. The number of those offers accepted.
  - d. The number of students who accepted those offers and completed their course with the provider.
  - e. The number of students who attained a particular degree or other academic award, or a particular level of such an award, on completion of their course with the provider.
107. In each case, the information must be broken down by the following student characteristics:
- a. The gender of the individuals to which they relate.
  - b. Their ethnicity.
  - c. Their socioeconomic background.
108. The purpose of the condition is to ensure that higher education providers publish and are transparent with respect to applications, offers, acceptances, completions and attainment for students with the characteristics described.

### Evidence

109. The evidence presented in relation to conditions A1 and A2 has been fully considered in the development of this ongoing condition.

### Assessment of impact (positive, negative, neutral)

110. The impact of condition F1 in the regulatory framework has been assessed as **positive** for particular groups with protected characteristics, as it will enable an assessment of the performance

of individual higher education providers in attracting and supporting these students to realise their potential. The requirement that this information should be prominently displayed on providers' websites has the potential to incentivise activity to improve performance, and allows the OfS to understand where it needs to challenge providers to do more.

111. However, the condition covers only a limited number of protected characteristics. Therefore, we will consult on additional information we will require of higher education providers which would be included in the transparency condition information. This would include other characteristics such as disability and age.

## **Measures to mitigate negative impacts or opportunities to further promote equality**

112. As stated above, the transparency condition covers only two of the protected characteristics and socioeconomic background. We will, therefore, undertake a consultation to determine what further information should be included in the transparency condition information. A key part of this consultation will address which of the other protected characteristics it would be both desirable and feasible to collect and publish information.

### **Conditions F3 and F4: Information for students**

Condition F3: For the purpose of assisting the OfS in performing any function, or exercising any power, conferred on the OfS under any legislation, the governing body of a provider must:

- i. provide the OfS, or a person nominated by the OfS, with such information as the OfS specifies at the time and in the manner and form specified;
- ii. permit the OfS to verify, or arrange for the independent verification by a person nominated by the OfS of such information as the OfS specifies at the time and in the manner specified and must notify the OfS of the outcome of any independent verification at the time and in the manner and form specified;
- iii. take such steps as the OfS reasonably requests to co-operate with any monitoring or investigation by the OfS, in particular, but not limited to, providing explanations or making available documents to the OfS or a person nominated by it or making available members of staff to meet with the OfS or a person nominated by it.

The requirements in paragraphs (ii) and (iii) do not affect the generality of the requirement in paragraph (i).

Condition F4: For the purposes of the designated data body's (DDB) duties under sections 64(1) and 65(1) of HERA, the provider must provide the DDB with such information as the DDB specifies at the time and in the manner and form specified by the DDB.

## General provision of information

### Background

113. The ongoing registration condition requires the provision of information to the OfS in relation to a number of areas including:

- any of the provider's conditions of registration or in respect of any of the OfS's functions
- 'reportable events' that are detailed in the ongoing registration conditions
- Transparent Approach to Costing (TRAC) where a provider is required to submit this
- information necessary for the Student Loans Company (SLC) to administer student support in line with regulations made under section 22 of the Teaching and Higher Education Act 1998. This information includes, but is not limited to:
  - a. Data related to eligible courses.
  - b. Confirmation that the fee charged to a student correctly matches the student's course of study.
  - c. Information about student registration and attendance.
  - d. Information about any changes that may affect a student's eligibility for student support.
  - e. Timely information of a student's withdrawal from their course.
- any information relating to the provider that a reasonable regulator in the OfS's position could regard as material to any of the matters that it regulates
- sufficient and appropriate resource and expertise to be able to provide reliable and timely information.

114. The purpose of the condition is to ensure that providers are open and honest with the OfS and provide timely, accurate and reliable information to the OfS to enable us to regulate effectively and in so doing support **all** students to succeed, irrespective of their background or of any protected characteristics.

### Evidence

115. The condition relates to the provision of information by providers and, as such, underpins the other ongoing registration conditions that more directly support and protect students with protected characteristics and who are underrepresented. The evidence and data therefore are not unique to this condition.

116. The quality of data and information and the timeliness of reporting of reportable events (previously to HEFCE) and of student withdrawals to the SLC, is variable across the sector. This means that there may be considerable room for improvement in ensuring equitable treatment for all students. However, we have no evidence that this differentially impacts students with protected characteristics or from underrepresented groups. Improvement of data quality would enable us to understand whether there are in fact differential impacts, and this ongoing registration condition

enables us to establish whether this is the case and take steps to address any issues that we identify.

### **Assessment of impact (positive, negative, neutral)**

117. The impact of condition F3 in the regulatory framework as it relates to the provision of general information has been assessed as **neutral** as, in this context, it does not specifically support students with protected characteristics and from underrepresented groups. Rather, it underpins the other ongoing registration conditions to ensure that the information and data provided to OfS is accurate, timely and reliable. This ensures that OfS can act quickly and robustly to identify and address any areas where such students may not be being sufficiently supported or protected. As noted above, we have no evidence that the quality of data and information provided to the regulator differentially impacts students with protected characteristics or underrepresented students.

### **Measures to mitigate negative impacts or opportunities to further promote equality**

118. As noted above, improvement of data quality and the reporting requirements imposed by condition F3 will enable us to understand whether there are in fact differential impacts. This ongoing registration condition enables us to establish whether this is the case, and to take steps to address any issues that we identify. These would emerge from the analysis of the data submitted under the other ongoing registration conditions, but which would have added weight from condition F3 to require improvements in timeliness, accuracy and reliability of providers' reporting of relevant information where this were necessary.

## **Provision of information for students**

### **Background**

119. Under conditions F3 and F4 (and related conditions noted below) the regulatory framework makes proposals for OfS working with the DDB to coordinate, collect and publish **reliable and improved information for students**, to enable all students to make better informed choices which in turn enable competition that will deliver high quality outcomes for students. This work includes:

- publication of Teaching Excellence and Student Outcomes Framework
- ensuring annual publication of admissions data (transparency duty, condition F1)
- collecting and publishing the National Student Survey and publication of the graduate outcomes survey
- redevelopment of Unistats to support students' decision making, as well as providing accessible, authoritative data
- publication of Longitudinal Education Outcomes information
- collecting, publishing and raising the profile of student transfer arrangements (condition F2)
- ensuring providers have given due regard to guidance about how to comply with consumer protection law (condition C1)

- ensuring students have access to advice and guidance, particularly those from disadvantaged backgrounds
  - consider development of a feedback survey for taught postgraduate students.
120. We will assess compliance at both the initiation and design stage of activities and on an ongoing basis to monitor impact and make improvements where needed.
121. We will look at both direct impact and indirect impacts of our work and so consider whether:
- **information and its use improves** e.g. students and their advisers report high levels of satisfaction with information support they received particularly students who are disadvantaged or protected under the equality duty
  - **increased information drives student choice behaviours**, resulting in better outcomes for students from all backgrounds and greater provider responsiveness to meeting student demand e.g. for flexible provision.
122. We will use a range of research methods to consider both these types of impact to ensure that the provision of information enables effective choice-making, and ultimately improves opportunities and outcomes for all students. We will also use research with information users (students and advisers) together with regular consultation with students from different backgrounds and key stakeholders to design resources, but also to ensure we seek user feedback and on the resources we provide to monitor and drive improvements. The approach will be underpinned by robust quantitative and qualitative research to understand and reflect diverse student information needs and information behaviours based on behavioural science and real-world decision making, rather than idealised models of decision making behaviour. We will also reflect how student information interacts with other influencers on student choice making.
123. We will also analyse large-scale student datasets to review and monitor patterns in student decision making, higher education provision and student outcomes combined with bespoke research and data, and we will take into account whether the types of information and data collected and published drive institutional behaviours that are in the best interests of students.
124. Through these methods, we will consider whether improved information is successful in addressing existing choice and decision making limitations experienced particularly by underrepresented students and those with protected characteristics. Research suggests these groups may experience choice barriers because they: lack information; have no family or adviser support to understand what higher education is like, and what type of information to use in making decisions; experience 'information overload'; or have limited choices owing to practical considerations (limited geographical mobility, work or life responsibilities or financial circumstances).
125. The approach will take into account the differences between student groups with protected characteristics in terms of social capital, guidance support and outcomes.

## Evidence

126. We have some evidence in this area, but we will be seeking to strengthen this.

127. There is existing quantitative and qualitative evidence that suggests that:

- a. Students from underrepresented groups, and some students who have protected characteristics, are concentrated in particular institutions.
- b. Some of these student groups have poorer satisfaction, degree outcome and employment outcomes than other student groups once other factors are controlled for<sup>48</sup>.
- c. Students from underrepresented groups or with protected characteristics lack the support they need in helping them to understand what information is helpful and how to interpret it or have limited choices. This is because they lack support to make an informed choice, or have other limitations<sup>49</sup>.

### **Assessment of impact (positive, negative, neutral)**

128. The impact of conditions F3 and F4 in the regulatory framework as they relate to provision of information for students has been assessed as **positive**. Current research evidence suggests both economically disadvantaged students and some student groups with protected characteristics experience limited choice, owing to a range of information barriers as well as practical limitations. In addition, improved information, if provided in a way which recognises and reflects information behaviours (identified in behavioural science), has the potential to:

- widen students' choices
- support informed decisions, so courses chosen better reflect students' needs, potentially enhancing their own outcomes and success
- empower students to influence providers to improve what they offer to such students through their choices.

129. It should be noted that there is potential for neutral or negative impacts, for example:

- a. Information is only one factor which drives competition in the system; some students have less influence as they have lower entry grades or because they represent greater financial risk (to

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<sup>48</sup> HEFCE Differences in outcomes – [www.hefce.ac.uk/pubs/year/2014/201403/](http://www.hefce.ac.uk/pubs/year/2014/201403/) and [www.hefce.ac.uk/pubs/year/2013/201315/](http://www.hefce.ac.uk/pubs/year/2013/201315/)

HEFCE Differences in student satisfaction – [www.hefce.ac.uk/pubs/year/2014/201413/](http://www.hefce.ac.uk/pubs/year/2014/201413/)

<sup>49</sup> Department for Business, Innovation and Skills (BIS) and The Sutton Trust (2012) Tracking the Decision-making of High Achieving Higher Education Applicants' – [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/82789/12-1240-tracking-decision-making-of-high-achieving-higher-education-applicants.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82789/12-1240-tracking-decision-making-of-high-achieving-higher-education-applicants.pdf)

CFE Research report for UK higher education funding bodies (2015) research with students and their advisers - [www.hefce.ac.uk/media/HEFCE,2014/Content/Pubs/2015/201527/HEFCE2015\\_27b.pdf](http://www.hefce.ac.uk/media/HEFCE,2014/Content/Pubs/2015/201527/HEFCE2015_27b.pdf)

income and retention rates); improved information may have limited benefits for these students.

- b. Extensive research indicates that decision making is influenced by emotional and intuitive factors (belonging, place, 'will I fit in?') rather than factors related to institutional performance which may limit the impact of improved information.
- c. That recruitment at institutions which have improving performance are negatively impacted on the basis of lagging/out of date indicators and/or information which do not fully reflect those improvements. Such institutions may be meeting the needs of diverse students who would be impacted.
- d. That information or indicators reflect factors outside the influence of providers, which result in competition not delivering expected benefits or delivering unintended consequences for disadvantaged groups (e.g. areas of economic disadvantage experience weaker graduate retention owing to higher salaries in the south east).
- e. That information provided generally benefits those who already have advantages and exert strong choice in the system.
- f. That numbers of students from diverse and protected backgrounds (e.g. disabled students) may be insufficient within the system to allow their choices to influence providers.
- g. That information (e.g. on admissions) reinforces stereotypes or creates choice limitations (e.g. that some providers 'do not admit people like me' or 'I would not fit in at that university').

### **Measures to mitigate negative impacts or opportunities to further promote equality**

130. It will be necessary through regular monitoring and review to:

- assess diversity of provision, particularly in relation to the choices available to students who may have practical considerations of geographical mobility and may require flexible delivery and accommodation of additional support needs
- consider year on year feedback from students about their access to information, with a focus on students from economically disadvantaged backgrounds or with protected characteristics
- undertake data analysis on choice making to review patterns according to background characteristics
- undertake analysis of longer term outcomes data, including employment and other measures including comparisons by student background characteristics.

131. Key mitigations will include closely involving students, prospective students and their advisers in the design of information tools, to minimise negative unintended consequences.

132. It will be necessary to consider the role information plays within a competitive system as a whole, particularly in relation to student finance and life circumstances, and the potential that students from underrepresented groups and with protected characteristics continue to experience choice limitations.



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