



Department
for Education

Access and Participation

**Secretary of State for Education
Guidance to the Office for Students (OfS)**

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Introduction

Legal framework

1. Section 2(3) of the Higher Education and Research Act 2017 (HERA) requires that the Office for Students (OfS), in performing its functions, must have regard to guidance issued to it by the Secretary of State. This guidance sets out some of the wider strategic priorities we expect the OfS to consider in the development of its strategy for access and participation (paragraphs 8-17). It also sets out the specific priorities that the Government would like the OfS and the higher education sector to focus on when developing and seeking approval for access and participation plans. We expect this guidance to influence the OfS strategy and approach to access and participation plans from the outset and until such time as it is updated.
2. HERA places a statutory duty on the Office for Students (OfS) to “have regard to the need to promote equality of opportunity in connection with access to and participation in higher education” in performing its functions. This includes postgraduate provision. The duty is placed on the OfS and the OfS Board will be collectively accountable for fulfilling this duty.
3. HERA (sections 29-34) also sets out the statutory requirements surrounding the approval of access and participation plans. Any provider who wishes to register as an Approved (fee cap) provider and charge above the basic amount of fees for undergraduate or initial teacher training courses must have an access and participation plan approved by the OfS. HERA gives the Director for Fair Access and Participation responsibilities for overseeing and reporting on the performance of the OfS’s access and participation functions, including regarding the approval of access and participation plans.
4. HERA importantly supports the whole student lifecycle approach for students from disadvantaged and under-represented groups and uses the term “access and participation”. The aim is to ensure that students from these backgrounds can not only access higher education but also participate successfully in higher education (through activities aimed at retention and helping students succeed and progress from higher education).
5. HERA also brings forward the requirement from the Higher Education Act 2004 by placing on the OfS a duty to protect academic freedom with regard to access and participation plans (section 36 HERA).
6. Regulations setting out the procedures for approval and the required contents of access and participation plans have received Parliamentary approval and are due to be in force from April 2018.

7. The consultation “Securing student success: risk-based regulation for teaching excellence, social mobility and informed choice in higher education” ended in December 2017. This consultation on behalf of the OfS contained proposals regarding the regulatory framework required by HERA including the proposed approach to access and participation and the related registration conditions. The OfS will publish its response to that consultation in due course.

OfS approach to access and participation

8. The establishment of the OfS and the new regulatory framework for providers of higher education is a unique opportunity to take a fresh look at our approach to managing the important transition points between the stages of learning for an individual and their whole educational experience. The relationships between schools, further and higher education and employers will be important in ensuring that students from all backgrounds are supported to access, succeed in and progress from higher education. The relationship between higher education providers and schools, in particular, is critical. For example, the prior attainment of pupils is pivotal in determining their ability to access higher education. The OfS should have a role in encouraging deeper relationships between these two sectors.

9. Protecting students’ interests will be at the heart of everything the OfS does and it will want to consider its approach more generally. It will, however, be particularly important for the OfS to recognise the needs of students from disadvantaged backgrounds; given that they are less likely to access, succeed in, and progress successfully from higher education, even once their entrance characteristics are taken into account.

10. Providers spend approximately £1bn every year to widen access and successful participation but not all of the activity is supported by robust evaluation as to their impact. We would like the OfS to take forward the work on the proposed Evidence and Impact Exchange, with the aim of exploring what works in order to support providers’ efforts to widen access and successful participation for disadvantaged and under-represented groups. The sharing of best practice drawn from robust evaluation of widening access and participation activities will help ensure that every pound spent is used as effectively as possible in keeping with one of the OfS’ key objectives. We would expect this project to be self-financing by 2020.

11. The OfS will also have new and additional data available to it including from its broader activities such as TEF. It will be important for the OfS to consider how it can use this broader range of data to drive improvements across the sector.

12. The Transparency condition will require providers to make data available. In addition, we would like the OfS to consult on what other information, including characteristics such as age; providers should be publishing in order to advance equality of opportunity. See paragraphs 47-48 below.

13. We expect that the OfS will consider access and participation holistically; ensuring that it is a fundamental consideration in everything the OfS does and the decisions it takes, leading to further change across the sector. We believe access and participation is an area where market forces alone will not deliver the outcomes we are looking for and as such, we are looking for the OfS to take a different approach in this area. This will include regulating for continuous improvement through access and participation plans and should be supported by the wider regulatory conditions for example on quality, support for students and the OfS' sector wide regulatory activities.

14. We expect that the OfS will use the levers at its disposal to address issues and bring about continuous improvement in access and participation (and access and participation plans). These levers include funding through the teaching grant and the operation of the regulatory framework and the power to set registration conditions. We expect these levers to work in concert.

15. We would like the OfS to map the coverage of outreach activity across the country to identify where there are potential cold spots in the coverage, building on any existing activities that have mapped such provision, and developing measures to address any cold spots through the levers it has.

16. It is a concern that non-continuation rates, while still low compared with most other countries, have shown a recent rise. In particular, there is evidence that for disadvantaged students or those from particular ethnic minorities non-completion rates are higher than would be expected where prior educational attainment and other factors have been considered. We would like the OfS to gather both quantitative and qualitative evidence on what is driving the recent changes in outcomes across the higher education sector.

17. We would also like the OfS to maintain a focus on flexible provision including part-time study, given the decline in numbers and recognising its role in widening participation. This could take the form of recognising and promoting best practice from providers who are successful in supporting part-time students. This might include providing advice on good practice, by setting out in guidance to providers how the OfS will recognise their efforts in this area, and through having particular regard to the proposed registration condition requiring HE providers to publish information on student transfer arrangements.

Government priorities for access and participation plans

18. The Government is committed to driving social mobility, so that all young people, from whatever their background, have the opportunity to fulfil their potential. Over recent years, access agreements have made an increasingly significant contribution in ensuring that disadvantaged students can access, participate and succeed in higher education. Anticipated expenditure on widening participation through plans is predicted to rise from £404m under Access Agreements in 2009/10 to over £860 million by steady state (2020/21).

19. Eighteen year olds living in the most disadvantaged areas became more likely to enter full time higher education in 2017 with entry rates reaching their highest ever levels. Application rates for English domiciled 18 year olds from the most disadvantaged areas are at an all-time high: 22.5% for entry in 2017 compared to 15.2% in 2009, for full-time higher education.¹

20. Given the strength of our ambitions for access and participation we will be looking for the OfS to push providers to set challenging targets for themselves within their plans and so drive further improvements across the sector. The goals for higher education² published under the previous Government remain in place and our expectation is that the OfS will want to consider these when developing its own ambitions for the sector.

21. While progress has been good, we know that there is more still to do in ensuring that students from disadvantaged backgrounds and under-represented groups can access and succeed in higher education. This includes tackling the differential outcomes for some groups of students in their retention, attainment and progression from higher education and the progression of students from disadvantaged backgrounds and under-represented groups to the most selective institutions. These priorities are reflected in this guidance.

22. It is important to ensure providers are committing the right resources to widening access and successful participation and £860m of expenditure from

¹ Entry rates is UCAS end of cycle report 2017: <https://www.ucas.com/corporate/data-and-analysis/ucas-undergraduate-releases/ucas-undergraduate-analysis-reports/ucas-undergraduate-end-cycle-reports>. Application rates figures are UCAS 2017 January Deadline report: <https://www.ucas.com/file/92746/download?token=4lj-BMlr>

² i) To double the proportion of young people from disadvantaged backgrounds entering higher education by 2020 from 2009 levels.
ii) To increase the number of students from Black and Minority Ethnic communities studying in higher education of 20% by 2020 from 2014 levels)

providers is a sizeable investment in this important area. In the future, in addition to rightly focusing evidence-led inputs we would also like plans to feature a better balance between inputs and outcomes as formal commitments. This will also help drive the evaluation culture OFFA has hitherto rightly prioritised.

23. We understand that given the time-constraints, the OfS will not be able to bring about substantial changes through plans for 2019-20. However, we are clear that we continue to expect high ambition and continuous improvement in the plans that are approved. We would expect the OfS to develop and consult on further enhancements to its expectations for plans in future years.

24. We have recently published the Social Mobility Action Plan which sets out the actions Government plans to take to improve social mobility and drive forward progress across all sectors of education. The plan recognises that some of these issues are long standing and will take time to address with support from our partners.

Supporting better engagement with schools

25. This Government has emphasised its strong desire to harness the resources and expertise of our higher education sector to work in partnership to improve outcomes across the state school system. The Government expects more higher education providers to establish stronger long-term relationships with schools. This could include becoming involved in school sponsorship, opening free schools and supporting mathematics education in schools (although support need not be limited to those means), with the aim of raising attainment and progress for disadvantaged and under-represented groups so that more pupils are qualified to progress to higher education. As part of this providers should be able to demonstrate clearly the impact their support is having on the schools and pupils.

Target groups

26. The target groups referred to in our last guidance to the Director of Fair Access³ remain those that we have identified as requiring the most attention and support. These include:

- students from less advantaged backgrounds, students with disabilities, students from some ethnic minority groups, and care leavers;
- access for young white males from disadvantaged backgrounds;

³ <https://www.offa.org.uk/wp-content/uploads/2016/02/11-02-2016-OFFA-Guidance.pdf>

- outcomes, such as the attainment gap, for students from black and minority ethnic backgrounds; and
- access and success of students with specific learning difficulties or mental health needs.

Improving access to the most selective institutions and those institutions that provide the best outcomes

27. This remains an important priority for this Government. English 18 year olds from the most disadvantaged areas were 5.5 times less likely to enter full-time study at higher tariff institutions in 2017 than those from the most advantaged areas.⁴

28. The OfS may wish to consider whether further progress could be made in this area through supporting the further exploration of the use of contextual data, such as the UCAS trial of their modernised contextual data service. The OfS will however, want to consider this in the context of acknowledging institutional autonomy and whilst maintaining academic standards.

29. Previously, through its strategic plan, the Office for Fair Access had set an objective, to be achieved by 2019-20, to make faster progress to increase the entry rate of students from under-represented and disadvantaged groups entering more selective institutions. We expect that the OfS will want to consider this objective as it develops its own ambitions for access and participation.

30. We remain convinced that these institutions could and should do more, and we look to the OfS to push hard to see that more progress is made. Providers must use evidence and good practice to lever better results.

Student retention and success

31. Closing the gap in the differing outcomes that some students achieve is a priority for this Government. The sector has placed an increasing focus on activities aimed at supporting students to not only access, but also participate, succeed and progress from higher education. HERA supports the whole student life cycle approach and it is an area that we expect the OfS to focus on.

⁴ <https://www.ucas.com/corporate/data-and-analysis/ucas-undergraduate-releases/ucas-undergraduate-analysis-reports/ucas-undergraduate-end-cycle-reports>

32. We continue to be concerned about the rising numbers of disadvantaged students leaving their courses before completion and that a student's degree outcome depends on their ethnicity.

33. Official data for the 2014/15 academic year, shows 8.8 per cent of young, full-time disadvantaged undergraduates did not continue in higher education beyond their first year, up from 8.2 per cent the year before, and the highest level since 2009/10.⁵ In comparison, in 2014/15, less than 5 per cent of those from the richest backgrounds terminated their studies early. Non-continuation rates for black students are almost 1.5 times higher than for white and Asian students.⁶ While more than three quarters (76 per cent) of white students graduated with a first or a 2:1, only 52 per cent of black students did the same.⁷

34. We look to the OfS to encourage providers to consider the work already undertaken in this area and to build on this through their access and participation plans. This includes projects such as the collaborative projects that have been funded through HEFCE's Catalyst Fund aimed at addressing barriers to student success.

Mature learners

35. Studying later in life can bring enormous benefits for learners, the economy and employers. Higher education can be life-changing for people who missed out on such opportunities when they were younger, especially those from more disadvantaged backgrounds. Retraining can help individuals improve their own prospects and address skills shortages within the economy.

36. We have legislated to enable us to remove barriers to the growth of accelerated courses (often two-year degrees with teaching taking place throughout the summer), as these have shown to be popular with younger mature students who wish to gain a new qualification and re-enter the workforce more quickly than a traditional course would allow.

37. We would like the OfS to encourage providers to consider the recruitment and support of mature learners. These learners often find part-time study to be a more convenient option, reflecting family and other commitments, and in paragraphs 38-39

5 HESA performance Indicators: <http://www.hefce.ac.uk/analysis/ncr/timeseries/>

6 Non-continuation rates by ethnic group: HEFCE (Non-continuation rates: trends and profiles): <http://www.hefce.ac.uk/analysis/ncr/timeseries/>

7 OFFA monitoring outcomes report: <https://www.offa.org.uk/wp-content/uploads/2017/06/OFFA-Monitoring-Outcomes-Report-2015-16-Final.pdf>

below we explain that we would like the OfS to help strengthen the focus on part-time study, which should be of particular benefit to many prospective mature learners where this supports the access and success of students from disadvantaged backgrounds.

Part time study

38. HESA statistics show that since a high point in 2008/09, the number of entrants to undergraduate part-time study has declined by 67% to its current level in 2016/17 of 92,705. To help address the decline in part-time study and promote career learning, the Government has introduced up-front tuition fee loans and relaxed the Equivalent and Lower Qualifications rules to cover all STEM subjects. We have also announced our intention to offer maintenance loans from 2018/19 to part-time learners.

39. We would like the OfS to help to provide a strong focus on part-time study, recognising that the traditional three-year degree does not suit some learners and may discourage their participation. This focus could be provided by, for example, providing advice on good practice and, in the OfS' guidance to providers on access and participation plans, setting out how it will recognise the effort that providers take to promote flexible study routes. Part-time study, two-year degrees, evening degrees and foundation years are amongst the models of higher education delivery that should be considered with renewed vigour for their contribution to widening participation.

Degree Apprenticeships

40. Degree apprenticeships provide an excellent training route enabling employers to cultivate talent that meets their skills needs, helping businesses to grow and be more productive. They complement our education system and represent an attractive route to obtain a degree for those that might not have considered traditional full time education an option. We would like the OfS to encourage providers to work in partnerships with employers to ensure degree apprenticeships widen access to professions and that people of all ages, ability, backgrounds and disadvantaged areas are represented.

Place

41. We recognise there is a place-element to social mobility, as there are parts of the country that do not offer adequate opportunity for our young people. Government is keen that the HE sector plays its role alongside Government, employers and the third sector to tackle the barriers to opportunity and ensure that all young people have equal opportunity. This means looking harder at those areas that face the greatest disadvantage.

42. As well as work with schools to raise attainment, we want to see providers continue and deepen their outreach work with schools, to raise young people's

aspirations and expectations. It is important that this is targeted effectively and we want to see more providers have a greater focus on those parts of the country with the greatest challenges, including our Opportunity Areas.

43. The consortia being funded through the National Collaborative Outreach Programme will provide an important contribution. These projects deliver in those wards of the country where progression to higher education is lower than it should be given typical GCSE attainment, including in our twelve Opportunity Areas. We are keen to see the pace and depth of this partnership approach continue in these areas.

Careers strategy

44. The “Careers Strategy: making the most of everyone’s skills and talents” published in December 2017 explains how Government will bring together the different elements of our careers system to deliver significant improvements for people of all ages.

45. Through the Strategy we have said that we would like the OfS to encourage higher education providers to do more as part of access and participation plans to make sure that students from disadvantaged backgrounds are able to make good use of their careers services. This could include offering mentors, access to alumni networks or specialist careers outreach programmes.

46. There is evidence including from reports such as The Bridge Group report “Social Mobility and University Careers Services” that students from disadvantaged backgrounds do not make as effective use of these services as other groups of students. More targeted access to careers services, to address the gaps in education and employment outcomes between advantaged and disadvantaged groups could help achieve better outcomes in terms of progression from higher education.

Transparency condition and equalities data

47. We intend that the transparency condition will require all providers captured by the condition to publish and share with the OfS information on application, offer, acceptance, non-completion and attainment rates broken down by gender, ethnicity and socio-economic background as a condition of being on the Register of Higher Education Providers. That is an important first step in shining a light on those institutions that need to go further in improving access and success of students from all backgrounds. However, there is room for even greater transparency.

48. We would like the OfS to undertake a consultation with those higher education providers captured by the duty and other relevant stakeholders on what other equalities data should be collected and published. This would include, in particular, age amongst other characteristics. Any new expectations arising from the outcomes of the consultation will not become part of the Transparency condition, which is discrete

and limited to the fields set out in HERA, but we would like to see the new data expectations forming part of approved access and participation plans. More published data will help the sector support everybody to fulfil their potential, regardless of their background.

Evaluation of access and participation activities

49. We want the OfS to continue to encourage providers to invest wisely in widening participation, basing their decisions on robust evaluation plans and evidence. This depends on having good data and using it effectively. The OfS will have an important role in championing these issues and driving improvements across the sector by providing advice on effective practice.

50. The latest OFFA monitoring report showing how providers were evaluating the activities in their 2015/16 access agreements and the financial support they offer shows there is still much to do in this area. Whilst the proportion of institutions reporting that they were at an advanced stage of evaluation grew from 7 per cent in 2013-14, to 20 per cent for access activities, slightly fewer institutions had conducted evaluation of progression activities and programmes.

51. An increased proportion of institutions evaluated their financial support in 2015-16 (88 per cent, up from 79 per cent in 2014-15). Whilst this progress is welcome, the report identified that £37 million was spent on financial support in 2015-16 with no evaluation of impact.

52. It is, of course, for providers to invest their own money as they see fit, but it is in their interests to take evidence-led approaches and we think it is important that the OfS challenges investment for which there is little justification, based on evidence and the provider's targets and performance.

53. We expect the OfS to be firm with providers about the way their investment should be allocated, encouraging more investment in outreach and other activities, and less on financial support where appropriate. Outreach inspires students into higher education and maximises the numbers reached, whereas too much focus on bursaries can have the effect of cherry-picking a small number of students at the expense of others who also have the potential to benefit.

54. We also expect that financial support should be backed up by clear and robust evaluation plans and supporting evidence that shows that the investment is proportionate to the contribution it is expected to make towards widening access. The balance between the number and amount of bursaries offered by providers through their access and participation plans when compared with other investments should be determined by evidence about their contribution towards widening participation.

Effective practice

55. Through section 35 of HERA, the OfS has a power to identify and give advice on good practice in relation to access and participation. Advising providers on effective practice has previously been an important part of OFFA's and HEFCE's work and we will expect that the OfS will strengthen its role in this area by ensuring that effective research and evaluation activities are taking place to ensure effective practice is in place particularly relating to the Government's ambitions.

Monitoring and review of access and participation plans

56. The establishment of the OfS provides an opportunity to consider afresh the arrangements for monitoring and reviewing access and participation plans. This is important given our ambitions for access and participation and seeking faster and stronger progress. The OfS will also have new information and data available to it including from its broader activities such as TEF.

57. We will be looking for the OfS to challenge those providers that are not judged to be taking sufficient steps to meet the commitments in their access and participation plans. We would also expect the OfS to consider the action they might take in relation to those providers where access and/or participation from those from disadvantaged groups is poor, or those providers that include poorly focused measures in their plans that are not supported by robust evaluation.

58. The OfS will have a broad range of enforcement powers available to it where it considers that a provider has failed to comply with commitments set out in its access and participation plan and so breached an ongoing registration condition. These could include increased monitoring, imposing additional specific registration conditions or imposing a monetary penalty in accordance with regulations made by the Secretary of State. The OfS will also have powers to refuse to renew an access and participation plan or suspend a provider's registration (entirely or for specified purposes) or de-register a provider.



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