

**Office for
Students**



Calculating student numbers

Consultation on the principles guiding how we will calculate student numbers for regulatory purposes

Reference OfS 2018.32

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Publication date 7 September 2018

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Summary

1. This document asks for views on the principles guiding the way in which the OfS counts student numbers for regulatory purposes.
2. These regulatory purposes include:
 - to assess applications by higher education providers for degree awarding powers (DAPs) and university title
 - to determine mandatory participation by registered providers in the Teaching Excellence and Student Outcomes Framework (TEF) for ongoing condition of registration B6
 - to determine the fee band a provider is in for registration fees.
3. We are consulting to gather feedback on the proposed principles for the new method for calculating student numbers (detailed questions are set out throughout the document and summarised in Annex A).
4. Once we have confirmed these principles we plan to publish a detailed technical specification setting out how we will count students based on these principles.
5. We welcome views from anyone with an interest in the regulation of higher education, particularly current and potential future providers.
6. Responses to this consultation should be made online by noon on Friday 5 October 2018 using the link to the response form at paragraph 22.

Introduction

7. The Office for Students (OfS) is the new regulator for the higher education sector in England. It was created on 1 January 2018 by the Higher Education and Research Act of 2017 (HERA). We will be registering providers, granting funds and encouraging providers to improve access to courses from more disadvantaged members of society among other functions.
8. The OfS aims to be an intelligent data-led regulator: one that uses data to deliver its regulatory objectives in a low burden and risk-based manner. One of the pieces of data we rely on to deliver these regulatory objectives is the number of students registered at each provider (referred to as student number data).
9. Calculating student numbers is a key part of our regulatory activities. We do this in order to:
 - a. Assess applications for degree awarding powers and university title¹.
 - b. Determine whether participation in the Teaching Excellence and Student Outcomes Framework (TEF) is mandatory under ongoing condition of registration B6.
 - c. Determine the fee band a provider is in for registration fees.
10. This current consultation builds on two earlier consultations carried out by the Department for Education (DfE):
 - Simplifying access to the market: degree awarding powers and university title²
 - Office for Students: registration fees (stage 2)³.
11. In the first of these, simplifying access to the market, the DfE consulted on changing how student numbers are calculated for the purposes of determining eligibility for university title. The consultation asked whether the approach should change from a method based on a weighting based on mode of study⁴, to an intensity based method. Sixty-seven per cent of respondents either strongly agreed or agreed that intensity of study should be taken into account when calculating full-time equivalent (FTE) student numbers for applications for university title. Responses also noted that that the criteria for calculating student numbers should align with those for calculating registration fees.
12. Based on the responses to the consultation, the Secretary of State's guidance to the OfS⁵ set out that in calculating FTE student numbers, when assessing university title, the intensity of and not the mode of study (e.g. distance learning) should be taken into account. The OfS was

¹ For applications received under the new arrangements set out in the OfS regulatory framework.

² Simplifying access to the market: degree awarding powers and university title consultation: <https://www.gov.uk/government/consultations/market-access-degree-awarding-powers-and-university-title>.

³ Office for Students: registration fees (stage 2) - Government consultation response, 28 February 2018: <https://www.gov.uk/government/consultations/office-for-students-registration-fees-stage-2>.

⁴ The previous method of calculating student numbers for conferring university title was based on the weightings by mode of study set out in schedule 9 of the Education Reform Act 1988. <http://www.legislation.gov.uk/ukpga/1988/40/schedule/9>.

⁵ As published at www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/.

asked to publish its method for doing this. The Secretary of State's guidance also asked the OfS to set out the calculation used to determine whether the applicant meets the criterion for the majority of higher education students to be studying at Level 6 (or above) for applications for degree awarding powers (DAPs)⁶.

13. In the second DfE consultation, the OfS registration fees (stage 2), views were sought on whether a registration fee model should be based on provider size, with this factor being calculated on the basis of FTE higher education student numbers. The majority of respondents agreed with this proposal. On this basis, the DfE confirmed that the size of the provider would be determined by its FTE higher education student number, on the basis of data collected by the designated data body (DDB), and that further guidance on how these students would be counted would be issued. It also stated how the size of a provider would determine the band a provider is in for OfS registration fees.
14. As the DfE has already consulted on student FTE being based on intensity of study, where a full-time student would typically count as one, and a part-time student would be treated as a proportion of a full-time student, this is not the subject of this consultation. Instead, we are consulting on the detail of how we calculate intensity. Additionally, in line with the OfS's regulatory framework we will attribute each student to the provider with which they are registered (paragraphs 222, 250, 286 and 360 of the regulatory framework).
15. This consultation builds on the principles set out in paragraph 14 and is focused on the other principles guiding how we count students for regulatory purposes and seeking views on the overall approach. Once we have confirmed these principles we plan to publish a detailed technical specification setting how we will count students based on these principles.

⁶ See the DfE guidance at <https://www.officeforstudents.org.uk/media/1114/guidance-on-daps-and-ut.pdf>.

Consultation overview

Summary of the consultation questions

16. We are consulting to gather feedback on the proposed principles of the new method for calculating student numbers (detailed questions are set out throughout the document and summarised in Annex A).
17. The principles guiding our new method for calculating student numbers and how it will be applied is set out in the next section.

Consultation process

18. This consultation will close at noon on Friday 5 October 2018.
19. We expect to publish a summary and analysis of the consultation responses in autumn 2018, alongside our plans for publishing the detailed technical specification for the new student number calculation method.
20. We will commit to read, record and analyse responses to this consultation in a consistent manner. For reasons of practicality, usually a fair and balanced summary of responses rather than the individual responses themselves will inform any decision made. In most cases the merit of the arguments made is likely to be given more weight than the number of times the same point is made. Responses from organisations or representative bodies with high interest in the area under consultation, or likelihood of being affected most by the proposals, are likely to carry more weight than those with little or none.
21. The OfS is subject to the Freedom of Information Act 2000, data protection legislation and the Environmental Information Regulations 2004. If we receive a request for information related to your consultation response then we will seek to ensure any information that is exempt is protected. Where appropriate, we will consult with you.

Responding to the consultation

22. To respond to the consultation please visit the online SmartSurvey site at https://survey.officeforstudents.org.uk/s/Student_numbers/. Responses should be made by **noon on Friday 5 October 2018**.
23. This is an open consultation and we welcome views from anyone with an interest in the regulation of higher education, particularly current and potential future providers. We regret that we will not be able to consider responses received after the deadline.
24. If you have any questions about this consultation please contact the team at studentnumbers@officeforstudents.org.uk.
25. Thank you for taking the time to participate in this consultation.

Principles guiding the new method of calculating student numbers

Registered students only

26. In line with the OfS's regulatory framework, we will attribute each student to the provider with which they are registered (paragraphs 222, 250, 286 and 360 of the regulatory framework). Where students are registered with one provider but taught by another under a subcontractual arrangement, students will be attributed to the provider with which they are registered. Some students are studying for qualifications that are awarded or validated by another organisation. These too would be attributed to the provider with which they are registered. This would be consistent with the approach generally being taken across the OfS's regulatory activities.
27. For **DAPs**, this means that a provider that has the required track record only through a subcontractual relationship will not meet the eligibility criteria for Full DAPs (see paragraph 249 of the regulatory framework). This seems appropriate, because these providers are likely to be less able to demonstrate that they meet the DAPs full criteria set out in Annex C of the regulatory framework. These providers can instead apply for New DAPs⁷, and be eligible for time-limited Full DAPs, if successful at the end of the New DAPs probationary period.
28. For the **TEF**, this means that providers that teach students in a subcontractual relationship, but do not register students themselves, will not be required under ongoing condition of registration B6 to participate in the TEF. In such cases, the registering provider is likely to be required to take part in the TEF in its own right. This method of counting students is different from the coverage of students in TEF metrics, which is based on students taught directly by a provider.
29. For the purposes of **registration fees**, providers that teach as part of subcontractual arrangements only, and, therefore, have no registered students of their own, will be placed in the lowest fee band.
30. For **university title**, the previous method of counting students focused on registered students only, so there is no change with this approach. Additionally, in order to apply for university title a provider must hold DAPs that are not time-limited. As a consequence, providers that deliver higher education only through subcontractual arrangements are unlikely to be eligible to apply for university title.

Intensity of study rather than mode

31. The previous method of calculating student numbers for regulatory purposes, such as for determining eligibility to apply for university title, does not reflect current ways of delivering higher education. It was based on assigning different weighting to students according to their mode of study⁸. The new method will better reflect the changing nature of higher education in England: one that will take account of the wide variety of part-time and distance-learning pathways and the existence of accelerated degrees. It will treat all students equally on the

⁷ The eligibility criteria for New DAPs are set out in paragraph 221 of the regulatory framework.

⁸ The previous method of calculating FTE for university title was based on weightings by mode of study, as set out in schedule 9 of the Education Reform Act 1988.

basis of their actual activity during the year, rather than making assumptions based on their mode of study.

32. The proposed methodology is based on the student FTE data, reported by providers in the STULOAD field of HESA and ILR data⁹ they submit every year. A full-time student will typically be reported as one FTE and a part-time student will normally be reported with a lower FTE. By counting the FTE reported by providers, we aim to arrive at a more accurate measure of total student activity at each provider.
33. While our main focus is counting the activity of higher education students, we also need to count the activity of further education students, in particular to assess applications for university title. For further education students, FTE is not reported. In these cases, we propose deriving an FTE on the basis of standard learning hours per programme as published by ESFA or Ofqual. We will use the same approach to deriving an FTE for the minority of higher education students for whom FTE is not reported, while looking in the longer term to collect this data. This will be set out in the detailed specification for the method which is due to be published by the OfS later this year.

1. What do you think about how we propose to measure intensity of study?
 - What are the benefits of this approach?
 - Do you have any concerns about this approach? If so, what and why?

Inclusion of overseas activity

34. The regulatory framework (paragraph 88, page 40) states that the OfS will regulate providers' overseas activity on the basis that the obligations of the registered provider extend to students for whom it is the awarding body, wherever and however they study. This means that students studying overseas, who are registered with a registered provider and receiving an award from that provider, should be included in the calculation of student numbers. However, we do not currently hold the data required to include students studying wholly overseas in the calculation. We, therefore, propose that initially these students are not included, when calculating student numbers. This is a temporary situation, however, and we aim to include these students, once the data becomes available. Further information about our approach to data requirements will be included in the OfS's Data Strategy, due to be published in autumn 2018.

⁹ For further information about the STULOAD field, see the data specifications for the Student and AP Student return, available under the Data Collections section of the HESA website (www.hesa.ac.uk). A STULOAD of 100 is equivalent to one FTE.

2. What do you think about our proposal to include a provider's overseas activity in the student number calculation once reliable data becomes available?
 - What are the benefits of this approach?
 - Do you have any concerns about this approach? If so, what and why?

All higher education provision

35. When calculating total higher education numbers, we propose to include all students aiming for credit or qualification at Level 4 of the Framework for Higher Education Qualifications¹⁰ and above. We will include higher education provision that the OfS will not generally fund, such as provision listed on the Ofqual Register of Regulated Qualifications. This is because, although the responsibility for funding this provision lies with the ESFA, this provision is captured in the definition of 'higher education' in HERA, and so it is within our regulatory scope.
36. For the TEF, this proposed method of counting students is much broader than the coverage of students in the TEF metrics. The TEF population includes undergraduate students, taught directly by the provider on certain recognised courses of higher education. This means that some of the providers identified as above the threshold for mandatory TEF participation will have limited TEF data on which to be assessed. For example:
 - a. Providers that meet the size threshold only by inclusion of their postgraduate provision or inclusion of their franchised-out provision.
 - b. New providers that do not have the historical graduating cohorts required to produce TEF metrics.
37. The regulatory framework anticipates these circumstances. It states that any providers above the size threshold that cannot participate in the TEF because they are ineligible are not in breach of this ongoing condition of registration. Providers with insufficient data may apply for provisional awards until they accumulate sufficient data for a full assessment.

3. What do you think about our proposal to include all higher education provision, including provision the OfS will not generally fund, such as provision listed on the Ofqual register of regulated qualifications?
 - What are the benefits of this approach?
 - Do you have any concerns about this approach? If so, what and why?

¹⁰ Framework for Higher Education Qualifications: www.qaa.ac.uk/docs/qaa/quality-code/qualifications-frameworks.pdf?sfvrsn=170af781_14.

Based on existing data

38. To minimise the burden on providers, we intend to use existing datasets, wherever possible, to calculate student numbers, rather than asking for bespoke data. For existing providers, we will use data that has been collected by the DDB or by the ESFA. We will use the most recent data available. Where we need to calculate student numbers for providers that have not yet submitted data to the DDB or the ESFA, we will use the student number data submitted to the OfS during the registration process, as part of the provider's financial tables. We will use this in our calculations until data from the DDB or the ESFA is available. The exception to this is for new providers applying for DAPs, where we will need to ask for additional student number information, by level of study, because this will not have been provided as part of the financial information for registration.
39. The OfS will use the data as originally submitted and signed off by a provider's Accountable Officer and will only exceptionally take into account subsequent amendments to the data.

4. What do you think about our proposal to use existing data, where possible, to calculate student numbers?

- What are the benefits of this approach?
- Do you have any concerns about this approach? If so, what and why?

Consistent approach

40. In order to ensure that our regulatory approach is consistent we are proposing to use the same method of calculating student numbers across our regulatory activities. Therefore, we propose that the principles guiding how we count students be used for applications for degree awarding powers and university title, to determine mandatory participation in the TEF under condition B6, and for counting the FTE students for the purpose of determining the fee band a provider is in for registration fees. This will align the OfS's approach to calculating student numbers across its activities and make it more transparent and easier for providers to understand how we count students.
41. There may be circumstances when we take a different approach but we will be clear with providers when we do so. An example is how we count students to determine our grants to providers. This differs because we need to prioritise carefully and secure value for the money we allocate. This requires criteria to determine which students we count and how we count them for funding purposes, for example, to avoid counting students, whose funding is the responsibility of other organisations (such as the Education and Skills Funding Agency or Research England). Information on the data to be used for 2019-20 funding is set out on the OfS's website¹¹.

¹¹ Funding for academic year 2019-20: Approach and data collection: www.officeforstudents.org.uk/publications/funding-for-academic-year-2019-20-approach-and-data-collection/.

5. We have proposed that the same approach to counting student activity should apply across all the regulatory activities mentioned above (i.e. to assess applications for degree awarding powers and university title, to determine mandatory participation in the TEF and to determine what band a provider is in for registration fees). Do you have any concerns about its application to one or more of these activities? If so, which one(s) and why?

Concluding question

6. Overall, what do you think about the proposed principles of the new method for calculating student numbers?
 - Is there anything you would like to see added? If so, what and why?
 - Is there anything you would like to see changed? If so, what and why?

Annex A: Summary of consultation questions

1. What do you think about how we propose to measure intensity of study?

- What are the benefits of this approach?
- Do you have any concerns about this approach? If so, what and why?

2. What do you think about our proposal to include overseas activity once reliable data becomes available?

- What are the benefits of this approach?
- Do you have any concerns about this approach? If so, what and why?

3. What do you think about our proposal to include all higher education provision, including provision the OfS will not generally fund, such as provision listed on the Ofqual register of regulated qualifications?

- What are the benefits of this approach?
- Do you have any concerns about this approach? If so, what and why?

4. What do you think about our proposal to use existing data, where possible, to calculate student numbers?

- What are the benefits of this approach?
- Do you have any concerns about this approach? If so, what and why?

5. We have proposed that the same approach to counting student activity should apply across all the regulatory activities mentioned above (i.e. to assess applications for degree awarding powers and university title, to determine mandatory participation in the TEF and to determine what band a provider is in for registration fees). Do you have any concerns about its application to one or more of these activities? If so, which one(s) and why?

6. Overall, what do you think about the proposed principles of the new method for calculating student numbers?

- Is there anything you would like to see added? If so, what and why?
- Is there anything you would like to see changed? If so, what and why?



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