



Department  
for Education

# Higher Education and Research Bill

## Enhancing the quality of our world-class higher education sector

By lifting the cap on the number of students universities can recruit we have enabled more young people than ever before to go to university and benefit from the UK's world-class higher education system. But, as set out in the government's Higher Education and Research White Paper, it remains too difficult for new higher education institutions to enter the sector. We want to see greater competition which will drive up teaching quality and broaden the choices available to students.

Currently, for a new institution wanting to offer degrees, the only option at the outset is to offer a degree awarded by an incumbent university. This is a situation which the Competition and Markets Authority (CMA) has said could be creating barriers to entry and expansion<sup>1</sup>. The regulation of higher education in England is also fragmented, with the government directly regulating newer 'alternative providers', while 'publicly-funded universities' are regulated by the Higher Education Funding Council for England (HEFCE).

The Higher Education and Research Bill will ensure students can choose from a wider range of high-quality institutions. If a higher education institutions can demonstrate their ability to deliver high-quality provision we will make it easier for them to start awarding their own degrees and gain university title. Quality is at the heart of our higher education system and we want to focus regulation where it is most needed. Going forwards, we will take a more risk-based approach to quality assurance – focusing on the institutions were there are concerns about quality or standards.

**This note summarises how quality will be built in at every stage, from the way we regulate new entrants, to how we will deal with poorer quality provision. We have published a technical note setting all this out in more detail.**

**Accessing Student Loans:** In order to gain access to student loan funding, a higher education provider must:

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<sup>1</sup> [https://assets.publishing.service.gov.uk/media/550bf3c740f0b61404000001/Policy\\_paper\\_on\\_higher\\_education.pdf](https://assets.publishing.service.gov.uk/media/550bf3c740f0b61404000001/Policy_paper_on_higher_education.pdf)

- Deliver courses that are determined as being higher education, by complying with the Framework for Higher Education Qualifications in England, Wales and Northern Ireland (**FHEQ**);
- Subscribe to the Office of the Independent Adjudicator complaints mechanism (**OIA**);
- Be compliant with Competition and Markets Authority (CMA) [consumer law advice for higher education providers](#);
- Pass an **Entry Review test** and satisfy the Office For Students (OfS) that it meets the following:
  - existing financial sustainability, management and governance requirements (**FSMG**);
  - existing quality requirements, informed by a visit from the designated quality body (currently QAA), to test against the **expectations of the Quality Code** (e.g. experience of teaching staff, appropriateness of curriculum, mechanisms to assure quality etc).
- Have in place an **Access and Participation Agreement** before it can charge higher fees above the basic amount of up to £6,000, and up to the maximum amount currently up to £9,000'.

For new providers the OfS will be flexible in the range of evidence that it might accept in deciding that the above criteria have been met.

**Accessing Teaching Grants:** The Higher Education Funding Council for England (HEFCE) currently distributes circa. £1.5bn in teaching grants to higher education institutions, mainly to top-up the high cost of STEM subjects, and support student opportunity and small and specialist institutions. To protect public funding the Office for Students (OfS), will be able to apply **additional FSMG requirements** in order for providers to access this grant funding.

**Gaining Degree Awarding Powers (DAPs):** DAPs enable a provider to award its own degrees, rather than having to have its courses awarded by a competing incumbent. DAPs criteria and the scrutiny process for DAPs will remain broadly as at present – a peer review assessing whether an institution has the capacity to maintain the academic standards of the degrees it offers.

To gain DAPs a higher education provider must first meet all the expectations above for accessing loans and grant funding, and the majority of its HE students must be studying for qualifications at bachelor's degree level or above.

- **Probationary Degree Awarding Powers (DAPs):** A new higher education provider can enter the higher education sector without reliance on an incumbent provider to award its degrees by applying for probationary DAPs. Informed by an assessment from the designated quality body, the provider must pass **a new probationary DAPs test** and satisfy the OfS that it will be able to set and maintain UK agreed academic standards for its HE qualifications. If it does this,

it will be able to award its own degrees under a number of restrictions, while developing its capability to enable it to pass full DAPs scrutiny.

- **Gaining Full Degree Awarding Powers:** If a higher education provider has a three-year track record of delivering higher education (currently four years), and is able to demonstrate that it meets the DAPs criteria, it will be eligible for full DAPs. This will enable it to award its own degrees and to validate degrees elsewhere.

**Gaining University Title:** Not all higher education providers can call themselves a university. In order to access the protected title of university, a provider must:

- Successfully operate with full DAPs for 3 years, and
- Have more than 55% of its full time equivalent students studying HE.

**Risk-based regulation:** The OfS will have the statutory powers to take a smarter risk-based approach to regulation than HEFCE, or DFE, can at present. For those providers where there is the least risk to students and to value for money, the OfS will be able to take a more light-touch approach, freeing up resource to focus its attention and powers where there is greater risk.

If there are concerns about quality or standards at an institution the OfS will be able to require: an action plan to address areas of weakness; impose student number controls to limit growth; charge fines; not-renew, vary or, as a last resort, remove DAPs and/or remove university title; and ultimately remove a provider from the register if it continues to cause concern.

The legislation also preserves existing protections relating to academic freedom and establishes appeals mechanisms where OfS sanctions are being created.