



Department
for Education

Office for Students: registration fees and other fees

Government consultation

Launch date 14 December 2016

Respond by 14 March 2017

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Executive summary

This consultation builds on the white paper: ‘Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice’ (May 2016), which set out the government’s plans for the new higher education (HE) regulator, the Office for Students (OfS), to be primarily funded by registration fees from HE providers.

Subject to Parliament, the Higher Education and Research Bill will introduce a new, single gateway for registration that applies to all higher education providers that want to be formally recognised by government. We fully anticipate that the OfS will charge providers fees as a condition of registration to enter and remain in a regulated market.

We stated in the white paper that registration fees would be varied in part by the size of the provider and the benefits that they want to be able to access. We also committed to consult the HE sector on how the registration fee will be developed ahead of it being introduced.

The purpose of this consultation is two-fold:

Firstly, we set out further detail on how we envisage the funding arrangements for the OfS will operate, putting forward guiding principles to inform decisions around supplementary funding from government. This relates only to the operations of the OfS, and not to the funding it may distribute to providers.

Secondly, we propose principles to underpin the development of the registration fee model and put forward plans to calculate registration fees in line with these. We also provide further information on the OfS’s power to charge other fees, separate from the registration fee, and seek sector feedback on the types of activities they would expect to be covered.

This is an initial consultation that will be followed by a further technical consultation on detailed registration fee options, at which point we would expect to provide such further information as estimated fee amounts. The views of respondents expressed through this consultation exercise will help inform these options and future impact analysis on OfS fees. The final fee model will be set out in secondary legislation and agreed by HM Treasury and Parliament before it is introduced.

This consultation does not seek to reconsider the underlying principle of charging HE providers registration fees or other fees.

Introduction

The Office for Students (OfS) will be the new regulator for the higher education (HE) sector in England, operating on behalf of students and taxpayers, supporting a competitive environment and promoting choice, quality and value for money. It will create a level playing field, streamlining regulation under one body and providing a clear set of conditions for all types of registered higher education provider.

The OfS will operate a risk-based regulatory framework, underpinned by a single entry gateway (the register) for all HE providers that want to be formally recognised by government. Risk-based regulation is designed to ensure that, whilst a fair and even regulatory framework is operated, those institutions that the OfS does not require significant ongoing assurance from will (as far as is appropriate) benefit from a lighter-touch approach.

Further, the simpler means of access to the sector will promote competition, providing increased choice and quality for students. At the same time, bringing together the expertise and shared agenda of the Higher Education Funding Council for England (HEFCE) and the Office for Fair Access (OFFA) will give a single body the responsibility for all widening access and participation functions and student access spending, benefiting disadvantaged and under-represented groups.

The OfS will be funded through a combination of income from registration fees charged on the sector it regulates, and supplementary funding from government. This is in line with the funding approach for other regulators, including Ofsted, Ofgem and Ofcom.¹ Income from fees will enable the OfS to ensure, through the operation of its risk-based regulatory framework, that the overall quality and diversity of our world-class higher education sector is improved. This is in the interests of both students and providers. Registration fees will also provide a clear incentive for the sector to hold the OfS to account to perform its functions efficiently.

The Higher Education and Research Bill, as introduced in the House of Lords, gives the OfS the legislative powers to charge providers registration fees as a condition of registration, and to charge a limited number of other fees for activities outside of the scope of the registration fee. The fees will be its primary source of income, with supplementary funding provided by government. In line with HM Treasury guidance, the bill provides that these fees must be set in order to recover the costs of services

¹ The Office for Standards in Education, Children's Services and Skills (Ofsted), the Office of Gas and Electricity Markets (Ofgem), and the Office of Communications (Ofcom) are regulators funded by fees from the sectors they regulate and grant-in-aid from the government

provided, and should not generate a surplus.² In addition, the OfS will be subject to a significant level of scrutiny by Parliament, the Secretary of State and HM Treasury, and will have a legal duty to use its resources in an efficient, effective and economic way.³

This consultation document sets out the principles that the government foresees applying in developing a fee model for the OfS, and proposals for how the registration fee will be calculated in line with those principles.

We have already committed in the HE white paper: ‘Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice’ (May 2016) that the level of registration fee will in part be determined by the size of the provider. This document does not therefore consult on this core principle but instead seeks views on how the size of a provider might be measured.

It also proposes that the registration fee will vary by the category of registration in which the provider sits, broadly reflecting the level of assurance that the OfS requires from a provider and the level of government support that it is eligible to access.

It provides examples of where the OfS could use its power to charge other fees, separate to the registration fee. It also suggests guiding principles to be applied in making judgments about areas where the OfS might receive supplementary funding from government.

In developing these proposals, the Department for Education (DfE) has considered sector responses to the HE green paper: ‘Fulfilling our potential: Teaching Excellence, Social Mobility and Student Choice’ (November 2015) and evidence submitted to the Public Bill Committee for the Higher Education and Research Bill.

Impact Assessment

An impact assessment was published in June 2016, providing initial analysis on the impact of the introduction of a registration fee.⁴ Further design work is required to accurately estimate costs and impacts, since important parts of the system, such as the risk-based regulatory framework will need to be consulted on and finalised. The views of respondents expressed through this consultation exercise will help inform future analysis of potential impacts on different providers.

² Chapter 6 ‘Fees and Charges’ of [‘Managing Public Money’](#) (July 2013, with annexes revised as at August 2015) (viewed on 3 November 2016)

³ Clause 2 (1) (e) ‘General duties’, [‘Higher Education and Research Bill 2016-17’](#) as introduced in the House of Lords: page 2 (viewed on 23 November 2016)

⁴ [‘Higher Education and Research Bill: detailed impact assessment’](#) June 2016, Ref: BIS/16/295 (viewed on 3 November 2016)

Equality Impact Assessment

Under the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, the government is required to assess the impact of a policy, with a view to ascertaining its potential impact on equality.

At this stage, we have not identified any particular impact of our proposals for registration fees and other fees on the protected characteristics that are recognised within the Equality Act.

However, we would welcome any representations or evidence on the impact of our proposals for the purposes of the PSED. The protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race (including ethnicity); religion or belief; sex and sexual orientation.

Family Test

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

Who this is for

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

Higher education in the UK is a devolved matter. As such, this consultation applies to higher education providers in England.

Issue date

The consultation was issued on 14 December 2016.

Enquiries

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

- ofsfees@beis.gsi.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by

email: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

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

The response

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

About this consultation

This consultation document puts forward proposals around OfS registration fees and other fees.

The first part of the document sets out, for information:

- the legal framework that will govern fees, as provided for in the Higher Education and Research Bill, as introduced in the House of Lords
- OfS funding arrangements, including how we anticipate income will be directed and the process by which the OfS will be held to account for operating efficiently

The subsequent parts of the document set out and seek feedback on:

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

We would like to hear your views on these proposals, a number of which are necessarily high-level at this early stage in the design and set-up of the OfS. A further technical consultation on registration fees is planned in recognition of this.

Respond online

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

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example, because you use specialist accessibility software that is not compatible with the system, you may request a word document version of the form and email it or post it.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

By email

- ofsfees@beis.gsi.gov.uk

By post

Helen Smith
Department for Education
5 Abbey 1
1 Victoria Street

London SW1H 0ET

Deadline

The consultation closes on 14 March 2017.

The legal framework

When a charge for a public service is to be made, it is normally necessary to rely on powers in primary legislation so that ministers decide, or have significant influence over, both the structure of the charge and its level. Primary legislation is commonly framed in general terms, with secondary legislation used to settle the detail.⁵ This is the approach that we are taking with OfS registration fees and other fees.

Subject to the will of Parliament, the Higher Education and Research Bill will enable the OfS to charge fees to providers as a condition of their registration on the new register for English higher education providers.⁶

Fees may be charged for initial registration in the register and for ongoing registration each year. The legislation allows the OfS to charge registration fees to recover the costs of performing its core, routine functions and enables fees to include elements of cost that do not relate to the costs incurred by the particular institution paying the fee.

The bill provides for the OfS to charge other fees, separate to registration fees, for other activities or one-off processes.⁷ It allows for some cross-subsidy within charges for the same activity or service, but not between different activities or services.

The final fee model will be set out in secondary legislation, subject to Parliament and HM Treasury consent. As prescribed in the bill, these regulations will be subject to the negative resolution procedure, allowing Parliament to raise a debate and vote on them if it wishes.

⁵ Paragraph 6.3.1 of [‘Managing Public Money’](#) (July 2013, with annexes revised as at August 2015) (viewed on 3 November 2016)

⁶ Clause 64 ‘Registration fees’, [‘Higher Education and Research Bill 2016-17’](#) as introduced in the House of Lords: page 40 (viewed on 23 November 2016)

⁷ Clause 65 ‘Other fees’, [‘Higher Education and Research Bill 2016-17’](#) as introduced in the House of Lords: page 40-41 (viewed on 23 November 2016)

OfS funding arrangements

The Office for Students's (OfS) expenditure will be funded in two ways:⁸

- registration fees and other fees collected from higher education providers, which will be the primary source of OfS income; the Higher Education and Research Bill, in line with HM Treasury guidance, requires that these fees are charged on a cost recovery basis
- funding provided by the government to supplement income from provider fees

The OfS's expenditure, performance and objectives will be monitored each year through its sponsorship relationship with government.

Registration fees will be based on the OfS's estimated operating costs for the academic year in question.

The Impact Assessment for the Higher Education and Research Bill and Business Case, both published in June 2016, provided a figure for OfS operating costs of £30.9 million in 2018/19.⁹ They also anticipated that OfS operating costs would increase as high quality new providers entered the market, levelling the playing field between new and established providers and expanding higher education provision for the benefit of students.

At this point, further design work is required to accurately estimate costs, since key parts of the system, such as the risk-based regulatory framework, are not due to be developed until later in the reforms process and following sector consultation. As such, all cost estimates that are referenced should be seen as highly indicative and subject to change.

Treatment of income

The Higher Education and Research Bill treats OfS income as income of the Secretary of State for Education. In practice, this will mean that, subject to HM Treasury consent, income from registration fees and other fees, and the recovery of costs related to imposing fees and penalties on providers, will be retained by the OfS to cover the costs of its functions. Any surplus income, and income received from monetary penalties and

⁸ For the purposes of this document, 'expenditure' refers to costs to regulate the system and not funding to providers to support teaching

⁹ ['Higher Education and Research Bill: detailed impact assessment'](#) June 2016, Ref: BIS/16/295: page 161 (viewed on 3 November 2016); ['Case for the creation of the Office for Students: A new public body in place of the Higher Education Funding Council for England \(HEFCE\) and the Office for Fair Access \(OFFA\)'](#) June 2016, Ref: BIS/16/292: page 16 (viewed on 3 November 2016)

interest will be remitted to the Consolidated Fund, from which general government expenditure is provided (including for the Office for Students).

OfS efficiency and accountability

There are a number of safeguards built into the Higher Education and Research Bill that will ensure that the OfS operates efficiently, transparently and is properly held to account.

It will have a general duty, set in statute, to have regard to the need to use its resources in an efficient, effective and economic way in the performance of its functions.¹⁰ For each financial year, the OfS will also need to lay before Parliament an annual report on the performance of its functions. The report must include the statement of accounts in respect of that year.

Consistent with the principles in 'Managing Public Money' (July 2013), the charging provisions in the Higher Education and Research Bill provide that the OfS can never set fee levels intended to do more than fund its costs.¹¹ Furthermore, it can only retain income to cover its costs, guarding against any incentive to charge interest or impose fines for its own financial gain.

If it is passed in its present form, the bill will ensure that the final fee model will be set out in a statutory instrument (regulations), subject to Parliamentary scrutiny and HM Treasury consent.

¹⁰ Clause 2 (1) (e) 'General duties', ['Higher Education and Research Bill 2016-17'](#) as introduced in the House of Lords: page 2 (viewed on 23 November 2016)

¹¹ [Managing Public Money](#) (July 2013, with annexes revised as at August 2015) (viewed on 3 November 2016)

Registration fees

Background

Providers will pay registration fees to be added to, and remain on, the new register of higher education providers. The OfS will be able to charge a one-off fee for initial registration and an annual fee for ongoing registration.

The implementation of registration fees will:

- bring the model in-line with that of other established regulators; for example, the regulatory bodies for education (Ofsted), electricity and gas (Ofgem) and telecommunications (Ofcom) are co-funded through a combination of fees charged on the sectors that they regulate and funding from government
- enable the OfS to ensure, through the operation of its risk-based regulatory framework, that the overall quality and diversity of our world-class higher education sector is improved; this is in the interests of both students and providers
- make the funding of HE regulation more sustainable, reducing the reliance on general taxpayer funding
- create an incentive for providers to hold the new regulator to account for its efficiency

Registration fee principles

Sector responses to the HE green paper: 'Fulfilling our potential: Teaching Excellence, Social Mobility and Student Choice' (November 2015) highlighted the following concerns regarding the implementation of OfS registration fees:

- additional cost burden
- affordability and barriers to entry - especially for new and smaller providers
- fairness of charges

We have therefore drawn up a set of principles to underpin the development of the registration fee funding model that take these concerns into account, as well as the government's objectives for the fee.

These are that the registration fee funding model:

- is proportionate to the cost of regulating a provider, taking some account of provider size, the associated assurances and other benefits that they receive
- does not deter high-quality new entrants
- operates on a cost recovery basis, consistent with the guidance in 'Managing Public Money'¹²
- is as simple as possible, to enable providers to predict their likely fees
- is based on data that can be verified
- ensures a predictable and sustainable income to meet OfS costs
- is efficient and economical for the OfS to administer

Respondents are asked to confirm whether they broadly agree with the principles put forward.

1. Do you broadly agree with the proposed set of principles to underpin the registration fee funding model?

Broadly agree/Broadly disagree/Not sure

Please provide an explanation and identify any principles you feel should be removed or added to those already included in the consultation.

Interaction with other sector fees

We recognise the significant benefits attached to continuing with a co-regulated approach to quality and data collection, which enables us to ensure that independent sector expertise informs key aspects of regulating higher education in the future. As such, the Higher Education and Research Bill grants the Education Secretary the power to designate appropriate bodies with the quality and data functions, on the recommendation of the OfS.

This consultation does not seek views on the powers of those designated bodies to charge fees in respect of the functions that they are designated to undertake in accordance with the bill. Where they seek to charge a fee in respect of a function designated under the bill, the total fees charged can only recover costs incurred, in accordance with the detailed charging provisions set out in the bill. Any other powers to charge fees for other matters are unaffected by the provisions in the bill.

We are also committed to ensure that OfS registration fees do not duplicate fees charged by other bodies in respect of the same activity, and await with interest the

¹² ['Managing Public Money'](#) (July 2013, with annexes revised as at August 2015) (viewed on 3 November 2016)

recommendations arising from Sir David Bell's review of the sector-owned bodies landscape, undertaken on behalf of Universities UK (UUK).

Proposal and rationale

Differentiating fees

There are various methods that could be used to calculate fees. These range from a flat fee where each provider pays the same amount irrespective of their size or the registration benefits that they receive, to a more complex and administratively burdensome approach that could be a fee based on the exact resources used by the OfS on each provider.

In recognition of sector concerns raised in response to the HE green paper and in evidence to the Public Bill Committee, and in line with the underpinning principles set out above, we have considered how registration fees might be differentiated in such a way that strikes the appropriate balance between enabling a fair, proportionate and simple approach, and efficiency of administration.

We have already said we will vary registration fees in part by the size of a provider. We also propose in this document that registration fees are varied by the category of registration in which that provider sits in the new regime. It is our intention that, together, these two variables create a charging model that is broadly proportionate to both the size of the provider and the cost of OfS activity in relation to that provider.

We also ask the question of whether specific ongoing registration conditions, separate to ongoing registration conditions, should be taken into account in the calculation of provider registration fees.

We would welcome views from respondents on whether other variables should be taken into account when calculating provider fees, consistent with the underpinning principles that we have put forward. In particular, that the fee model strikes the appropriate balance between being as simple as possible, based on data that can be verified; is efficient and economical for the OfS to administer; and is fair and proportionate.

Registration category

Allocating costs by registration category and recovering those costs from providers that fall within each category will reduce the possibility of cross-subsidy. This is because it will broadly reflect the amount of assurance that the OfS will require from providers and the amount of government support that they are eligible to access, which will differ between registration categories.

Under current proposals for the new single gateway system, we anticipate that a HE provider could choose to operate in one of the following registration categories:

- “Registered – Basic” provider, where they are formally recognised by government, subject to a check of their qualifications and a protection requirement to subscribe to the Office of the Independent Adjudicator (OIA); they would not gain access to government funding or the ability to recruit international students and their students would not be able to access student support
- “Approved” provider, where they can gain access to up to £6,000 tuition fee loans for undergraduate students, with no cap on tuition fees, and no requirement to sign up to an access agreement (but with an alternative statement on widening participation); they will also have the ability to recruit international students as a Tier 4 visa sponsor
- “Approved (fee cap)” provider, where they can access up to the £9,000 tuition fee loan cap, have a cap on fees at £9,000, a requirement to sign up to an access agreement if fees charged are more than £6,000, and are eligible for government grant; they will also have the ability to recruit international students as a Tier 4 visa sponsor

We anticipate that those providers within the “Registered – Basic” category would not be required to submit data monitoring returns and would only undergo a light-touch check of the level of their qualifications. As such, we propose that the registration fee for these providers would be proportionately less than for the other two categories, acknowledging the narrower assurance that the OfS would require of providers in the “Basic” category.

The charging scales for “Approved” and “Approved (fee cap)” providers would be higher, in acknowledgement of the comparatively greater level of assurance involved. The difference between the charges for these two categories would be smaller, because the main cost differential would be the cost of assessing and monitoring access agreements, and more assurance in respect of the money they receive in grant funding, in line with ‘Managing Public Money’.

The above reflects a broad overview of the planned registration structure and the associated regulatory framework. Those matters are themselves subject to further consultation.

2. Do you support the principle of varying the registration fee by category of registration (currently: Basic/Approved/Approved (fee cap))?

Yes/No/Not Sure

Please give reasons for your answer.

Measuring provider size

We have already said that we will take into account the size of a provider when determining the level of registration fee to be charged. Size offers an objective, transparent, fair and simple measure that can be efficiently applied across all providers. It is also a measure commonly used to differentiate fees for other regulators and within the HE sector itself. The Quality Assurance Agency (QAA) and Higher Education Statistics Authority (HESA) vary subscription rates for providers according to student population statistics, placing providers in fee bands according to the number of students that they report.¹³

‘Managing Public Money’ provides guidance on how different charges can apply to different categories of service. This can include varying fees to recognise structural differences, for example, where it costs more to supply some consumers. Although it is not yet clear at this early stage in the move to the new regulatory system whether there will be a direct correlation between a provider’s size, and the cost of regulating them, varying fees by provider size will help ensure that they are affordable and do not create disproportionate barriers to entry for smaller providers on the basis of cost.

For the purposes of the registration fee, we propose that provider size is based on the number of HE students that a provider has. This offers a common measure that can be based on easily verifiable data, enabling providers to track back to understand how their fees have been calculated. It would also be efficient and economical for the OfS to administer because the data would be readily available, as our expectation is that it would be directly derived from data required of providers by the designated data body.

On balance, we consider that HE student numbers is preferable to turnover as a measure of the size of an institution. Total annual turnover may not reflect the amount of HE provision that a provider offers, or the amount of assurance that the OfS may require from them. It may also prove more complex to administer, should there be a requirement to differentiate between different sources of turnover in order to calculate the fee payable. We would welcome views from respondents on determining the size of provider by reference to HE student numbers.

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

Yes/No/Not sure

¹³ The HESA subscription fee is based on the HESA standard registration population data set, derived from the HESA Student Record Collection

Please give reasons for your answer and suggest any alternatives if your answer is “No”.

Size bands

As set out above, the current approach taken by the QAA and HESA places providers in different fee bands based on ranges of student numbers. An example is set out in Table 1, below.

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

Table 1 Example of fee bands by range of HE student numbers

We would anticipate taking a similar approach to OfS registration fees, whereby the registration fee amount that providers pay is based on their size band. We would appreciate views from respondents on using a system of bands in this way.

4. Do you support using a system of bands to group providers by size?

Yes/No/Not sure

Please give reasons for your answer.

Specific ongoing registration conditions

The OfS will have the power to impose specific ongoing registration conditions on individual providers if it feels that these are necessary to secure value for money for students or the quality of the higher education sector as a whole. These would be over and above the ongoing registration conditions attached to a registration category, and would be particular to individual providers, rather than universal.

Broadly, we envisage that specific ongoing registration conditions would entail more frequent or detailed reporting, or additional regulatory controls, such as student number

controls, being placed on a provider. Ultimately, this will depend on the detail of the regulatory framework, on which there will be a future consultation.

The imposition of specific ongoing registration conditions constitutes an additional level of scrutiny and assurance that the OfS has deemed necessary in the case of an individual provider. This additional activity is likely to attract a corresponding added resource cost for the OfS.

In order to reflect this, we would welcome views from respondents on whether specific ongoing registration conditions should be incorporated into the way in which registration fees are calculated. For example, by attaching a fixed rate supplement to the standard registration fee that will be payable in respect of each specific registration condition that the OfS imposes upon an individual provider.

5. Do you think that, where additional specific ongoing registration conditions are placed on particular providers, these conditions should be taken into account when calculating their registration fee?

Yes/No/Not sure

Please give reasons for your answer.

6. Are there other variables that you think should be taken into account in the calculation of a provider's registration fee?

Yes/No/Not sure

Please give reasons for your answer and specify which variables you feel should be taken into account.

7. You are invited to provide any additional evidence on the potential impact of registration fees, including any impacts under the Public Sector Equality Duty (PSED).

Other fees

Background

The OfS will have the power to make a limited number of additional charges for specific services and one-off processes that would not apply to all providers in a registration category. These 'other fees' would be for activities outside the scope of the registration fee, and the bill makes explicit that the OfS would not be able to recover costs under 'other fees' that it had already recovered through the registration fee.

Proposal and rationale

There will be activities that the OfS undertakes that will either be one-off or time-limited, rather than ongoing. These will be additional to the normal regulatory activities covered by the registration fee. In these instances, the OfS will pass on the full cost of these activities to providers. Attaching a separate cost to such activities will guard against spreading the cost to all providers through the registration fee.

For example, as the OfS takes on the responsibility for Degree Awarding Powers (DAPs), it may need the legislative power to charge individual providers for DAPs applications – either through the designated quality body or directly. Other examples of where other fees might be charged could include future work that the OfS does around supporting providers on specific investment plans that they have that require due diligence.

Based on their current experience of the regulatory system, we would welcome views from respondents on the kinds of activity that they think would be most appropriately charged for under 'other fees', as opposed to through the main registration fee.

- 8. Based on your experience of the HE sector and/or previous interactions with HEFCE and OFFA, please provide examples relevant to your organisation or the wider sector of the types of activity that you think should be covered by 'other fees'.**

Please give reasons for your answer.

- 9. You are invited to provide any additional evidence on the potential impact of other fees, including any impacts under the Public Sector Equality Duty (PSED).**

Government funding

Background

In the new regulatory system, the Secretary of State may make grants to the OfS to contribute to the costs of its functions, as they currently make grants to HEFCE and OFFA. This funding will supplement OfS income from fees. Ultimately, the amount of funding that the OfS will receive from government will be subject to HM Treasury approval.

Proposal and rationale

Continued government funding of regulatory activity will have a role to play in the new regime. This contribution recognises the government's shared interest in the sound regulation of the higher education sector in general, as well as the importance that we place on ensuring that registration fees do not deter new entrants or place a disproportionate burden on providers.

In addition, we envisage that the OfS will undertake activities, as HEFCE and OFFA currently do, that are aimed at achieving broader government objectives, such as those that realise economic and societal benefits. In the existing system, both organisations produce analysis and advice that supports the government in the development of higher education policy, as well as supporting the government in the implementation of new policy initiatives. For example, HEFCE has been tasked with the delivery of the 2017 Teaching Excellence Framework (TEF) exercise. Indeed, the government has already committed to fund the public sector administrative costs of running the TEF.

Indicative estimates on areas where government funding might be used to supplement registration fee income were provided in the Regulatory Impact Assessment and Business Case, published at time of the introduction of the Higher Education and Research Bill. It is our intention that these are refined significantly in light of the development of the new regulatory framework and responses to this consultation.

In particular, we would welcome views on the following principles to inform judgements around what grant funding the government might contribute. These are that the government, subject to Secretary of State and HM Treasury consent, could provide the OfS funding to:

- ensure that providers do not incur the additional costs associated with transition to the new body; there is expected to be government funding to support the transition to the new regulatory regime
- ensure that fees do not deter new entrants. The OfS will create a level playing field that enables greater competition. Our proposals on how registration fees will

be calculated will help ensure that they are broadly proportionate to both the size of the provider and the likely cost of OfS activity in relation to that provider. Nonetheless, we recognise that, for new providers in their very early years of operation, even with this approach, supplementary government funding may help to guard against any deterrent effect that fees may present to market entry. This could be in the form of charging a proportion of registration fees to new entrants in their first three years of operation. This will also help to ensure that, should newer providers prove to require a greater level of oversight, incumbent providers do not incur the additional costs associated with this

- contribute towards activities that have wider economic and societal benefits. Beyond its core functions in relation to the register and registration conditions, the OfS will perform other functions consistent with its general duties that would not solely benefit providers and/or their students.¹⁴ These sorts of activities might be prescribed by the Secretary of State in their guidance to the OfS, constitute a supplementary function conferred upon the OfS by government, or form part of the reporting requirements placed on the OfS. As an example, the government could contribute funding to cover the costs of the Prevent Duty or wider research and development work that the OfS conducts to support the development of government policy. These types of activity could be funded on the basis that they would have a clear beneficial effect on the economy or society

10. Do you broadly agree with the proposed principles that would help inform judgements around where the government might contribute funding to the OfS?

Broadly agree/Broadly disagree/Not sure

Please provide an explanation and identify any principles you feel should be removed or added to those already listed in the consultation.

11. a) Are there any activities / types of activity / types of provider / provider circumstances that you feel should be exempt from the registration fee?

Yes/No/Not Sure

Please give examples along with reasons.

¹⁴ Clause 2 of the '[Higher Education and Research Bill 2016-17](#)' as introduced in the House of Lords: pages 1-2 (viewed on 23 November 2016) sets out the general duties that the OfS must have regard to in the performance of its functions

b) Are there any activities / types of activity / types of provider / provider circumstances that you feel should be partially subsidised by government?

Yes/No/Not Sure

Please give examples along with reasons.

Annex A: Summary of questions

Registration fees

1. Do you broadly agree with the proposed set of principles to underpin the registration fee funding model?

Broadly agree/Broadly disagree/Not sure

Please provide an explanation and identify any principles you feel should be removed or added to those already included in the consultation.

2. Do you support the principle of varying the registration fee by category of registration (currently: Basic/Approved/Approved (fee cap))?

Yes/No/Not Sure

Please give reasons for your answer.

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

Yes/No/Not sure

Please give reasons for your answer and suggest any alternatives if your answer is “No”.

4. Do you support using a system of bands to group providers by size?

Yes/No/Not sure

Please give reasons for your answer.

5. Do you think that, where additional specific ongoing registration conditions are placed on particular providers, these conditions should be taken into account when calculating their registration fee?

Yes/No/Not sure

Please give reasons for your answer.

- 6. Are there other variables that you think should be taken into account in the calculation of a provider's registration fee?**

Yes/No/Not sure

Please give reasons for your answer and specify which variables you feel should be taken into account.

- 7. You are invited to provide any additional evidence on the potential impact of registration fees, including any impacts under the Public Sector Equality Duty (PSED).**

Other fees

- 8. Based on your experience of the HE sector and/or previous interactions with HEFCE and OFFA, please provide examples relevant to your organisation or the wider sector of the types of activity that you think should be covered by 'other fees'.**

Please give reasons for your answer.

- 9. You are invited to provide any additional evidence on the potential impact of other fees, including any impacts under the Public Sector Equality Duty (PSED).**

Government funding

- 10. Do you broadly agree with the proposed principles that would help inform judgements around where the government might contribute funding to the OfS?**

Broadly agree/Broadly disagree/Not sure

Please provide an explanation and identify any principles you feel should be removed or added to those already listed in the consultation.

11. a) Are there any activities / types of activity / types of provider / provider circumstances that you feel should be exempt from the registration fee?

Yes/No/Not Sure

Please give examples along with reasons.

b) Are there any activities / types of activity / types of provider / provider circumstances that you feel should be partially subsidised by government?

Yes/No/Not Sure

Please give examples along with reasons.



Department
for Education

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