

Consultation

**Office for
Students**

The logo for the Office for Students, featuring a dark blue square with a yellow square in the top right corner containing the letters 'OfS' in white.

OfS

Consultation on the inclusion of higher technical qualifications in Office for Students' student outcome measures

This consultation runs from **27 July 2023**
to **9 November 2023**.

Reference OfS 2023.38

Enquiries to regulation@officeforstudents.org.uk

Publication date 27 July 2023

The Office for Students is the independent regulator for higher education in England. We aim to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers.

Our four regulatory objectives

All students, from all backgrounds, and with the ability and desire to undertake higher education:

- are supported to access, succeed in, and progress from, higher education
- receive a high quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure
- are able to progress into employment or further study, and their qualifications hold their value over time
- receive value for money.

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About this consultation

The Office for Students (OfS) is proposing to separate higher technical qualifications (HTQs) from other Level 4 and 5 qualifications in our student outcomes measures. This consultation sets out the background to our proposals, the reasons for them and what we expect them to achieve.

Timing

Start: **27 July 2023**

End: **9 November 2023**

Who should respond?

We are particularly (but not only) interested in hearing from **staff, academics and leaders at higher education providers** that will be subject to our regulation of HTQs. We welcome the views of all types and size of provider.

How to respond

Please respond by **9 November 2023**

Please use the online response form available at <https://survey.officeforstudents.org.uk/s/htq-consultation/>

How we will treat your response

We will summarise and/or publish the responses to this consultation on the OfS website (and in alternative formats on request). This may include a list of the providers and organisations that respond, but not personal data such as individuals' names, addresses or other contact details.

If you want the information you provide to be treated as confidential, please tell us but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

The OfS will process any personal data received in accordance with all applicable data protection laws (see our privacy policy).¹

We may need to disclose or publish information that you provide in the performance of our functions, or disclose it to other organisations for the purposes of their functions. Information (including personal data) may also need to be disclosed in accordance with UK legislation (such as the Freedom of Information Act 2000, Data Protection Act 2018 and Environmental Information Regulations 2004).

Next steps

We will publish a summary of responses to this consultation in early 2024. We will explain how and why we have arrived at our decisions, and how we have addressed any concerns raised by

¹ Available at www.officeforstudents.org.uk/ofs-privacy/.

respondents. We will then set out next steps in the policy and implementation process.

Enquiries

Email regulation@officeforstudents.org.uk

Alternatively, call our public enquiry line on 0117 931 7317.

If you require this document in an **alternative format**, or you need assistance with the online form, contact regulation@officeforstudents.org.uk. (**Please note:** this email address should **not** be used for submitting your consultation response.)

For more information about our work to date on outcome measures, please visit the OfS website: www.officeforstudents.org.uk/data-and-analysis/student-outcome-and-experience-measures/

Executive summary

Outcomes data for students on new higher technical qualifications (HTQs) is currently grouped with data for other Level 4 and 5 courses. This consultation proposes to separate out HTQs as an additional split indicator. Doing so will allow the OfS, other regulators, the government and anyone else with an interest to assess how providers are delivering positive outcomes for students on these courses.

HTQs are new or existing Level 4 and 5 qualifications, such as higher national certificates (HNCs), higher national diplomas (HNDs) and foundation degrees. They sit between A-levels or T-levels and degrees and can be taught at a further education college, an independent training provider or a university. They are developed to meet employer occupational standards and approved by the Institute for Apprenticeships and Technical Education (IfATE).

The government has set out its plans to improve higher technical education and how HTQs can help people train or retrain for high-skilled jobs.² The first cohort of students pursuing HTQs started in September 2022.

The government wants to establish these courses as a distinct type of higher education. It is giving students on them early access to the lifelong loan entitlement,³ and believes that they have the potential to attract considerable interest. Our view is that we should be able to understand performance on HTQs separately from other courses so we can protect the interests of students and taxpayers. This means we could take them into account in the way we regulate student outcomes.

Our regulation of student outcomes uses outcome measures that show the proportion of students who continue with their studies, complete their studies and go onto professional employment, further study or other positive outcomes. We look at these outcomes through indicators which reflect the performance of student cohorts on a particular mode and level of study (for example, part-time students on a first degree honours programme). We set minimum thresholds for the percentage of students that we expect to achieve positive outcomes for each indicator. We then use these thresholds in our judgements about whether a provider is delivering positive outcomes for its students. We also use our data to look at how providers' performance varies based on course and student characteristics. We use 'split indicators' to do this. These split indicators show, for example, whether there is difference in performance for different subjects or for mature students compared with younger students.

HTQs currently form part of the level of study that we classify as 'other undergraduate' (OUG). This places them with other Level 4 and 5 courses. If there is significant growth in the number of students on HTQs we think it would be appropriate to distinguish the way we regulate them from other Level 4 and 5 qualifications.

² For more information about the government's higher technical education reforms, see <https://www.gov.uk/government/publications/higher-technical-education-reforms/higher-technical-education-reforms>.

³ For more about the lifelong loan entitlement, see <https://www.gov.uk/government/consultations/lifelong-loan-entitlement>.

We are proposing therefore to show performance for these courses separately, as a 'split indicator'. This would allow us to:

- take into account the growing profile of HTQs
- test the extent to which a different numerical threshold may be appropriate in the future
- take regulatory action, where appropriate, in relation to the outcomes for students studying HTQs.

If we adopt this proposal, it would mean that anyone with an interest could identify the proportion of positive outcomes that individual providers deliver for their students on HTQs. We also anticipate that other regulators and government bodies may use the available data to inform policy.

We are keen, in particular, to hear the views of staff, academics and leaders at higher education providers that are already delivering HTQs or who may do so in the future.

Introduction to higher technical qualifications

1. IfATE is responsible for approving HTQs. Any qualification that is an approved HTQ will have been tested by IfATE against occupational standards.⁴
2. The approved qualifications aim to:
 - provide the knowledge, skills and behaviours that are needed to enter occupation(s) across the country
 - be understood and recognised as high quality by employers and so have national labour market currency
 - give learners confidence that those qualifications are recognised by employers and are perceived to be a credible, prestigious, and distinct pathway.⁵
3. IfATE has been approving new HTQs since 2020. Courses have been rolled out gradually in the first four cycles of the approval process. The first cycle opened in 2020 and covered occupational standards in digital and students could start on approved courses from 2022. Courses in related to occupational standards in health and science, and construction followed in the second cycle. Further courses were approved in the third cycle, relating to standards including business and administration, and engineering.⁶ The fourth cycle opened in 2023. IfATE is now approving courses across all occupational standards.
4. The first cohort of students on HTQs started in September 2022. IfATE and the Department for Education (DfE) expect to see a steady growth in the number of students on courses that are approved HTQs. This growth in student numbers means that we want to consider whether it is appropriate to identify these courses separately from other Level 4 and 5 courses in our approach to regulating student outcomes.

What is the current position?

Approval and support of HTQs

5. The total number of approved HTQs is currently 172.⁷ There are currently over 70 providers able to offer HTQs in 2022-23 and it is expected that this will double in 2023-24.
6. The DfE is focused on growing high quality Level 4 and 5 HTQ provision. It has asked the OfS to provide additional funding for these courses through the public grant funding that supports

⁴ See 'Introduction to higher technical qualifications and scope of approval', available at: <https://www.instituteforapprenticeships.org/qualifications/higher-technical-qualifications/introduction-to-higher-technical-qualifications-and-scope-of-approval/>.

⁵ See 'Reforming higher technical education – government consultation response', available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/899544/Higher_technical_education_government_response_to_the_consultation.pdf.

⁶ See 'Introduction to Higher Technical Qualifications and scope of approval: Rollout of routes', available at: <https://www.instituteforapprenticeships.org/qualifications/higher-technical-qualifications/introduction-to-higher-technical-qualifications-and-scope-of-approval/>.

⁷ For details of approved higher technical qualifications, see: <https://www.instituteforapprenticeships.org/qualifications/higher-technical-qualifications/approved-higher-technical-qualifications-cycle-one/>

strategic priorities.⁸ We have allocated £16 million of funding in the 2023-24 financial year to providers with eligible learners on Level 4 and 5 qualifications, with priority given to supporting courses leading to HTQs.⁹

7. The DfE has amended the criteria by which full- and part-time learners on IfATE-approved Level 4 and 5 HTQ courses can access funding.¹⁰ This means that any student on an approved HTQ can access student finance.
8. Each HTQ is approved by IfATE. IfATE asks the awarding body to provide evidence of:
 - meeting the approvals criteria
 - demonstrating alignment to relevant standard(s)
 - employer endorsement for the qualification
 - good knowledge skills and behaviours (KSB) coverage
 - fair assessment methods.¹¹

HTQs in the OfS's current approach to regulating student outcomes

9. Our approach to regulating student outcomes uses indicators for each higher education provider. These measure the performance of cohorts of students for a particular mode and level of study. The measures are:
 - a. **Continuation measures** report the proportion of students continuing in the study of a higher education qualification (or that have gained a qualification) one year and 15 days after they started their course (two years and 15 days for part-time students).
 - b. **Completion measures** report the proportion of students that have gained a higher education qualification (or were continuing in the study of a qualification) four years and 15 days after they started their course (six years and 15 days for part-time students).
 - c. **Progression measures** use responses to the Graduate Outcomes (GO) survey to report on qualifiers' labour market and other destinations 15 months after they left higher education. They report the proportion of qualifiers that identify managerial or professional employment, further study, or other positive outcomes among the activities that they were undertaking at the GO survey census date.

⁸ See 'Guidance to the Office for Students on the Higher Education Strategic Priorities Grant for the 2023-24 Financial Year', available at: www.officeforstudents.org.uk/media/9234cde5-5359-4538-92ac-1eab29f8596a/ofs-spg-guidance-2023-24.pdf

⁹See 'Recurrent funding for 2023-24', available at: www.officeforstudents.org.uk/publications/recurrent-funding-for-2023-24/.

¹⁰ See the Education (Student Fees, Awards and Support) (Amendment) Regulations 2023 (legislation.gov.uk), paragraphs 7.47-7.51, available at: https://www.legislation.gov.uk/uksi/2023/74/pdfs/uksem_20230074_en.pdf

¹¹ See Higher Technical Qualifications Cycle 4 Criteria, available at: <https://www.instituteforapprenticeships.org/media/6691/htq-c4-criteria.pdf> (instituteofapprenticeships.org)

10. We set minimum numerical thresholds in relation to student outcome measures as part of our regulation of student outcomes through condition B3.¹² We currently set different thresholds for each mode and level of study for each of the three student outcome measures.
11. We also produce ‘split indicators’, in which we disaggregate performance in relation to a specific indicator by time series, subject, student characteristics, course type and teaching arrangements. We use indicators and split indicators to disaggregate performance for individual providers based on different views of a provider’s student population, mode of study, level of study and other course or student characteristics.
12. Our student outcome measures cover all students who are reported with a qualification aim for their course that refers to a higher education qualification. This includes all qualifications at Level 4 and above, whether or not they are courses recognised for OfS funding, and whether or not they are studied as part of an apprenticeship.¹³
13. The data dashboards that we publish containing this data are:
 - a. A student outcomes data dashboard that shows data for individual providers.¹⁴
 - b. A dashboard that shows the sector distribution of student outcomes and experience measures.¹⁵
14. Students are attributed to levels of study by the level of the qualification for which they are aiming in the relevant year and for the student outcome measure in question:
 - a. Indicators that report on entrant cohorts (i.e. those measuring access to higher education, continuation and completion outcomes) are associated with the level of study of the student’s qualification aim in the first year of study.
 - b. Indicators that report on qualifier cohorts other than entrants (i.e. those measuring degree outcomes and progression rates) are associated with the level of study of the student’s qualification aim in the final year of study.¹⁶
15. Currently, all HTQs, and the students studying on them, are included in our ‘other undergraduate’ (OUG) level of study. If we made no changes to our current approach, student outcomes for HTQs would be counted with other Level 4 and 5 courses. A full explanation of

¹² For more information, see www.officeforstudents.org.uk/advice-and-guidance/quality-and-standards/how-we-regulate-student-outcomes/.

¹³ Qualifications that are not eligible to be included in the OfS funding calculations for Approved (fee cap) providers may include those that are regulated by the Office of Qualifications and Examinations Regulation (listed on the Register of Regulated Qualifications, and for which students may be entitled to Advanced Learner Loans). See paragraphs 1-2 in Annex B of ‘Higher Education Students Early Statistics Survey 2022-23 (HESES22)’ at www.officeforstudents.org.uk/publications/heses22.

¹⁴ See www.officeforstudents.org.uk/data-and-analysis/student-outcomes-data-dashboard/.

¹⁵ See www.officeforstudents.org.uk/data-and-analysis/sector-distribution-of-student-outcomes-and-experience-measures-data-dashboard/.

¹⁶ The application of mode and level of study is described in paragraphs 83-84 of the ‘Description of student outcome and experience indicators used in OfS regulation’ available at www.officeforstudents.org.uk/publications/description-and-definition-of-student-outcome-and-experience-measures/.

our hierarchy of data indicators can be found in Regulatory advice 20 and is reproduced for completeness in **Annex B** of this consultation.

16. Within the OUG level of study, we currently use split indicators to distinguish between courses that are Level 4, and Level 5 and above. We do not publish split indicators that distinguish between courses in other ways, for example to show that they are HTQs or leading to a foundation degree.
17. We set minimum numerical thresholds for each mode and level of study.¹⁷ These are used when we make judgements under initial and ongoing condition B3 about whether a provider is delivering positive outcomes for its students. These relate to the proportions of students we expect to achieve positive outcomes. The current minimum numerical thresholds that apply to OUG are:

Mode and level of study	Continuation	Completion	Progression
Full-time OUG	75%	65%	45%
Part-time OUG	55%	55%	65%

¹⁷ See www.officeforstudents.org.uk/publications/setting-numerical-thresholds-for-condition-b3/.

What we are proposing to change

18. We are proposing to change our outcome measures to show HTQs separately from other Level 4 or 5 qualifications. We are considering this because:

- a. The government is seeking to establish HTQs as a distinct type of higher education with common characteristics.
- b. The government's decision to give eligible students on HTQs access to the benefits of the lifelong loan entitlement before students on other courses means that HTQs will receive additional benefits. It is therefore important that we can understand performance on these courses so we can protect the interests of students and taxpayers.
- c. The government has asked us to consider ensuring that Level 4 and 5 provision and technical qualifications are fully reflected in our assessment of quality. To avoid duplication in regulatory effort our view is that we should be able to identify HTQs in student outcomes data.¹⁸
- d. Over time, the government expects that these courses will attract increasing numbers of students. If there were significant growth in HTQs, we would consider applying different numerical thresholds for them. Publishing data on HTQs as a split indicator now would allow us to test the extent to which a different numerical threshold compared with other OUG courses may be appropriate.

19. In considering the approach we should take we considered the following alternatives:

a. **Make no changes**

This would be the least burdensome option for providers. However, it would mean that we could not easily identify any differences in performance between HTQs and other qualifications.

b. **Establish HTQs as a split indicator**

This would mean that we would show performance separately for these courses. It would also allow us to take regulatory action in relation to the outcomes for students studying HTQs.

c. **Establish HTQs as a level of study**

This would allow us to show performance separately for these courses and also split this data by various characteristics. It would allow us to regulate the outcomes of students specifically studying HTQs and set minimum numerical thresholds that could be different to those for other Level 4 and 5 courses.

20. We have set out in **Annex C** the matters to which we have had regard when setting out the proposals in this consultation.

¹⁸ See 'Guidance to the Office for Students on strategic priorities for FY22-23', available at : www.officeforstudents.org.uk/media/be054f0b-696a-41fc-8f50-218eb0e3dcab/ofs-strategic-guidance-20220331_amend.pdf.

Proposal: Introduction of a separate split indicator for HTQs

21. Our preference at this stage is to introduce a separate HTQs split indicator. This would mean that for each provider we would create an additional split indicator for performance on HTQs. The split indicator would be a 'course type' split indicator as described in the data reporting structure set out in Annex A of Regulation advice 20 (reproduced in Annex B of this document). It would mean that for 'other undergraduate' we would produce three 'course type' split indicators:
- a. Level 4
 - b. Level 5+
 - c. HTQ
22. Our proposal is that these categories would be mutually exclusive. This means that a course that has been approved as an HTQ would appear only in the HTQ category.
23. Our reasons for proposing this approach are:
- a. There is currently similarity between features of other undergraduate courses and HTQs. For example, providers will run foundation degrees that are HTQs and some that are not. The numbers of students on HTQs means that we do not consider that we currently have evidence that there is a difference in course structure or approach such that we should expect an effect on student outcomes for all providers.
 - b. The numbers of students on HTQs are likely to grow in future. Our preferred approach would allow us to separate performance for HTQs from other courses without setting a different numerical threshold. It would be difficult to implement our method for setting numerical thresholds without historical data. We think that we could best do this after we have had a split indicator in place for at least two years. Our view is that the appropriate point to consider developing a separate indicator, and therefore threshold, would be at the next review of numerical thresholds.

What would the effect of this proposal be?

The effect of a new split indicator

24. If we adopted this proposal, it would have the following effects on our regulation of individual providers:
- a. It would introduce a new split indicator on the basis defined in paragraph B3.5k of condition B3. This would mean we could assess a provider's compliance with condition B3 based solely on the outcomes for students on HTQs, but only in relation the existing minimum numerical thresholds set for 'other undergraduate' courses.
 - b. It would mean that when a provider applies for registration, we would consider whether it had delivered outcomes above our minimum numerical thresholds for students on HTQs.

- c. We could choose to prioritise HTQs as part of our general monitoring of condition B3. This may result in us investigating a provider that had delivered outcomes below a relevant minimum numerical threshold for students on HTQs.

25. If we were to adopt this proposal, it would have the following effects on our presentation of data:

- a. Within our student outcomes and TEF data dashboards, we would include a new split indicator, labelled 'Other undergraduate, higher technical qualifications', within the 'Course type' split indicator type category. This change would also be reflected in the alternative data formats that are produced alongside the dashboards. This new split indicator would be presented in the same way as all other split indicators.
- b. Within our size and shape of provision dashboard, we would include a new type of provision on the 'Student numbers' tab to supplement the existing disaggregation of student numbers on courses at the 'other undergraduate' level of study.

26. If we were to adopt this proposal, there would be no direct effect on the data that OfS-registered providers would be required to return about individual students to either Jisc (as the designated data body) or the Education and Skills Funding Agency (ESFA). This is because changes have already been made to the specifications for data collection:

- a. The Jisc has already published a notification of change to the student record that requires providers to accommodate an additional course initiative to capture HTQs.¹⁹
- b. For further education colleges that return data to the ESFA, the ESFA is not making a change to the Individualised Learner Record (ILR) to accommodate HTQs. Instead, providers should work with the ESFA to ensure that information held on ESFA's database of learning aims is up-to-date. On this database, learning aims with an HTQ should have a specific category code (category code = 55). Each learning aim on the database has a reference code that is used to attach information from the database onto the ILR. Student records for an HTQ in the ILR will be identified using this category code.

27. If we adopted this proposal, it would mean the general public and other interested users could identify the proportion of positive outcomes that individual providers deliver for their students on HTQs. We anticipate that other regulators and government bodies may also use the available data in policy making.

What consequential changes would be needed?

28. We would need to make the following changes to the technical documents that underpin condition B3:

- a. Description of student outcomes and experience measures used in OfS regulation.²⁰ We would amend Annex B, Table B1 to incorporate an additional split indicator 'Other

¹⁹ See the header 'CourseInitiative.COURSEINITID and StudentInitiatives.STUINITID. at <https://www.hesa.ac.uk/innovation/records/reviews/student-2023-24> .

²⁰ The description of student outcome and experience measures used in OfS regulation is available at: www.officeforstudents.org.uk/publications/description-and-definition-of-student-outcome-and-experience-measures/.

undergraduate, higher technical qualifications', within the 'Course type' split indicator type category.

- b. Technical algorithms for student outcome and experience measures.²¹ We would add a new algorithm, IPHTQ, with the following derivation:

IPHTQ

IPSOURCE = DDB

Value	Description	Definition
1	The student is studying on a course categorised as a Higher Technical Qualification	In the latest student course session, at least one value of course initiative, COURSEINITID, = 035 where (COURSEINITVALIDFROM < SCSENDDATE or SCSENDDATE = BLANK) and (COURSEINITVALIDTO >= SCSSTARTDATE or COURSEINITVALIDTO = BLANK)
0	The student is not studying on a course categorised as a Higher Technical Qualification	Otherwise

IPSOURCE = ILR

Value	Description	Definition
1	The student is studying on a course categorised as a Higher Technical Qualification	Student is studying on a learning aim where LearningDeliveryCategory = 55.
0	The student is not studying on a course categorised as a Higher Technical Qualification	Otherwise

- c. Rebuilding student outcome and experience measures used in OfS regulation.²² We would amend Annex B, Table B1 to incorporate an additional split indicator 'Other

²¹ The technical algorithms for student outcome and experience measures is available at: www.officeforstudents.org.uk/publications/description-and-definition-of-student-outcome-and-experience-measures/.

²² The rebuild instructions for student outcome and experience measures is available at: www.officeforstudents.org.uk/data-and-analysis/student-outcome-and-experience-measures/documentation/.

undergraduate, Higher Technical Qualifications', within the 'Course type' split indicator type category, with the appropriate instructions to rebuild this.

When would the changes come into effect?

29. The student outcome and experience measures each make use of a number of years of data, so the coverage of each measure is influenced by the available years and coverage of the data on which it relies.
30. The first entrants onto HTQs started in 2022-23. The earliest we would expect to construct a continuation indicator for these entrants would be once student data from academic year 2023-24 is available.
31. For completion indicators we would expect to construct this once student data from the academic year 2026-27 is made available.
32. Progression indicators come from responses to the Graduate Outcomes (GO) survey. This survey reports on the activities of graduates 15 months after they leave higher education, including any job they have found or further study. Entrants onto HTQs in 2022-23 may qualify in the same academic year. As such, we would expect to receive responses to the GO survey that could be used to construct the progression indicator during the 2024-25 academic year.
33. This means that the OfS's data dashboard showing the size and shape of provision in English higher education could include the number of students on HTQs for new entrants from 2022-23.

What effect would this have on regulatory burden?

34. If we were to adopt the proposed approach, it would introduce up to nine additional split indicators for each provider. We understand that currently up to 70 OfS-registered providers have approved HTQs and may therefore have data published for these split indicators. However, we note that the first data on HTQs will relate to a smaller group of providers that had HTQs approved for teaching in 2022.
35. Providers with students on HTQs would therefore need to consider additional data in relation to these courses. However, our view is that any increase in regulatory burden would be limited because providers are already engaged with their student outcome data. Any provider with performance below our minimum numerical thresholds for their HTQ students may experience an increase in regulatory burden if they are selected for assessment on this basis. Our view is that such an increase would be justified as we would be acting to protect students in circumstances where courses may not meet our minimum expectations.

Publication of information

36. The data generated by adopting this proposal would become a feature of student outcome dashboards, sector distribution of student outcome and experience measures, the size and shape of provision data dashboard, and TEF data dashboards, which are published in line with our normal publication policy as set out in Regulatory advice 21.²³

²³ See 'Regulatory advice 21: Publication of information', available at www.officeforstudents.org.uk/publications/regulatory-advice-21-publication-of-information/.

37. We have also set out information we would normally expect to publish in relation to student outcomes in Regulatory advice 20. This information includes dashboards and individual provider workbooks that allow users to access data about each registered provider in relation to student outcomes, as shown by indicators and split indicators for each of our student outcome measures.²⁴

Consultation questions

1. Do you agree that the OfS should introduce a split indicator that would result in it publishing information and regulating the outcomes for students studying on HTQs?
2. If you do not agree, do you have a preference for the approach that the OfS should take to regulating outcomes for students studying on HTQs?

²⁴ See Annex D of 'Regulatory advice 20: Regulating student outcomes', available at www.officeforstudents.org.uk/publications/regulatory-advice-20-regulating-student-outcomes/.

Annex A: List of abbreviations and key terminology

Abbreviation	Meaning
DfE	Department for Education
DDB	Designated Data Body
ESFA	Education and Skills Funding Agency
GO	Graduate Outcomes survey
HTQ	Higher Technical Qualifications
IfATE	Institute for Apprenticeships and Technical Education
ILR	Individualised Learner Record
KSB	Knowledge skills and behaviours
LLE	Lifelong loan entitlement
OfS	Office for Students
OUG	Other undergraduate
QAA	Quality Assurance Agency for Higher Education
TEF	Teaching Excellence Framework

Annex B: Data reporting structure

This annex is reproduced from Regulatory advice 20. It is accurate at the point of publication of this consultation.

Please refer to Regulatory advice 20 to understand our approach to regulating student outcomes.

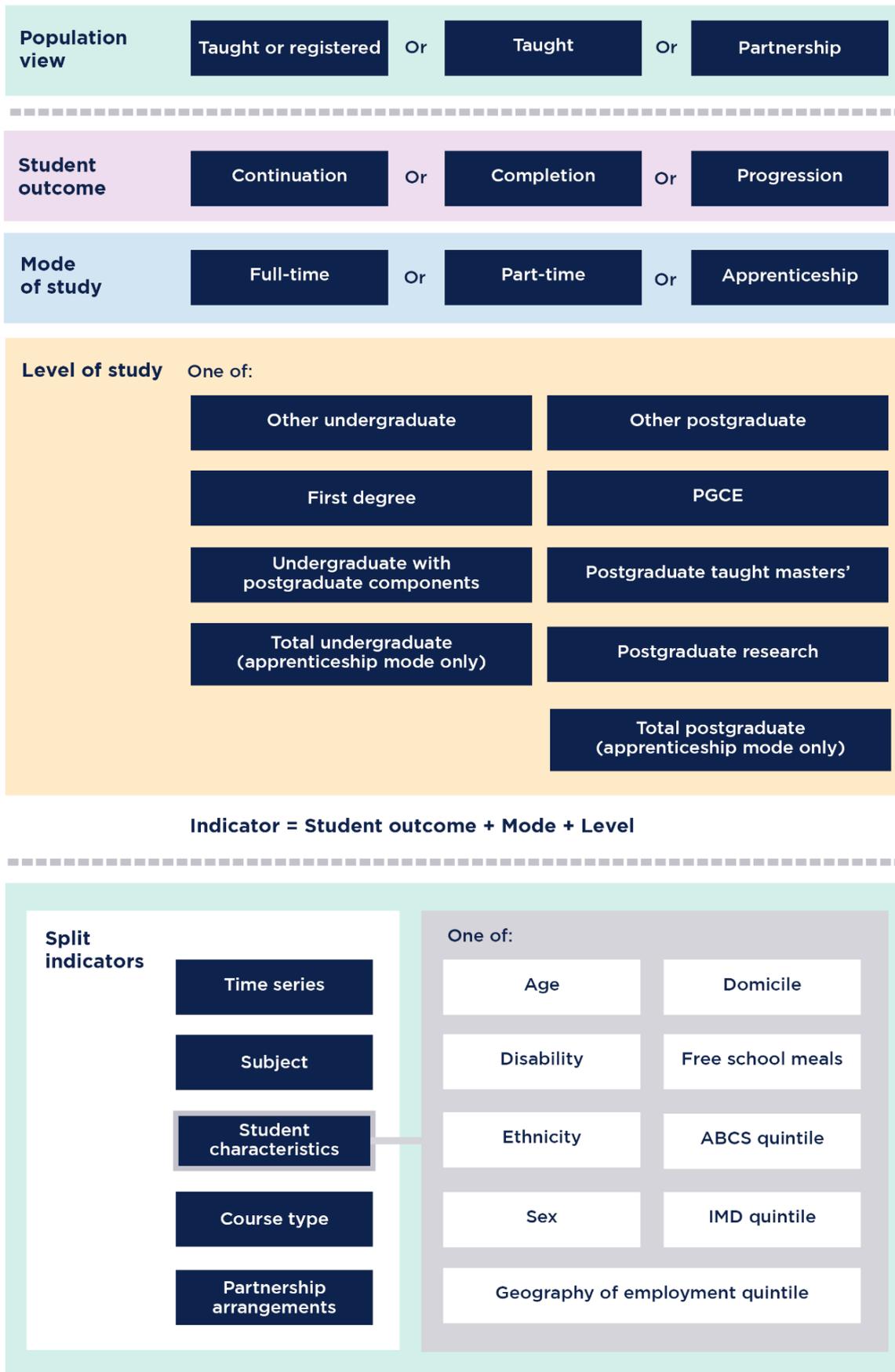
1. This annex explains the terminology we use to describe the different ways in which we disaggregate our student outcome measures. It explains what indicators and split indicators are, and provides a visual representation of our data reporting structure.

What are indicators and split indicators?

2. We set numerical thresholds in relation to three student outcome measures as part of our regulation of student outcomes through condition B3: continuation, completion, and progression.
3. In the future we may consult on including further outcome measures where we identify additional, reasonable statistical measures of the outcomes of cohorts of students on higher education courses.
4. We produce 'indicators' for each higher education provider that represent the performance of cohorts of students for a particular mode and level for a given student outcome measure. For example, we produce an 'indicator' for continuation for full-time, first-degree students.
5. We also produce 'split indicators', in which we disaggregate performance in relation to a specific indicator by time series, subject, student characteristics, course type (for example whether the course has an integrated foundation year) and teaching arrangements.
6. Finally, when we present data about providers, we can choose to apply different 'views'. These change the student population that is used to calculate the indicators and split indicators. We may use one or more of the following:
 - a. Taught or registered (TorR) population – these are students who are either registered or taught at the provider in question, including those who are taught and registered by the same provider, subcontracted into the provider for teaching, and subcontracted out to another provider for teaching.
 - b. Taught population – these are any students who are taught at the provider in question. This may be the same provider where they are registered or it may be that the provider in question is teaching the student on behalf of another one, under a subcontractual partnership arrangement (subcontracted in).
 - c. Partnership population – used for assessments of condition B3 only: These are students who are either:
 - i. Registered by the provider in question and taught elsewhere, at another provider, under a subcontractual partnership arrangement (subcontracted out); or

- ii. Neither taught nor registered by the provider in question, but that provider acts as the awarding body for the qualification that a student is studying (validation-only).
- 7. Figure B1 is a visual representation of the reporting structure we use to create indicators and split indicators for our student outcome measures.

Figure B1: Reporting structure for indicators



Notes: 'ABCS' = 'Associations Between Characteristics of Students', 'IMD' – 'Index of Multiple Deprivation'.

Annex C: Matters to which we have had regard in reaching our proposals

The OfS's general duties

1. In formulating these proposals, the OfS has had regard to its general duties as set out in section 2(1) of the Higher Education and Research Act 2017 (HERA); these are reproduced in Annex D. We consider that the proposals in this consultation are particularly relevant to general duties (a), (b), (c), (d), (e) and (g), which relate to: institutional autonomy; quality, choice and opportunities for students; competition where this is in the interests of students; value for money; equality of opportunity in connection with access to and participation in higher education; and best regulatory practice.
2. In formulating these proposals, we have given particular weight to (b) and (d): promoting quality, choice and opportunities for students and value for money.
3. The OfS's regulatory objectives reflect the things that are of significant importance to all students: high quality courses, positive outcomes, and the ongoing value of their qualifications. We consider it important that the OfS can intervene to ensure that current and future students are not exposed to courses of low quality. Our view is that we need to have appropriate disaggregation in the outcome measures we construct to allow us to identify where there are potential pockets of poor performance. We have placed particular weight on general duty (b) (promoting quality) when proposing to introduce a split indicator for HTQs because we consider that these courses represented a particular course structure and approach to learning that might have an effect on the outcomes delivered for students.
4. Value for money in the provision of higher education is important for both students and taxpayers. Students normally pay significant sums for their higher education and incur debt for tuition fees and maintenance costs. Investing in a higher education course that delivers weak outcomes is unlikely to represent value for money for students. Similarly, taxpayers contribute significantly to higher education through the provision of government-backed student loans and, for some providers, public grant funding. This investment is unlikely to represent value for money if, for example, courses are of low quality, continuation rates are low and students do not proceed to managerial and professional employment or further study.
5. Our view is that HTQs currently, and may in the future, receive additional funding or benefits when compared with other forms of higher education (for example, through additional funding from the OfS and earlier access to student support for modules as part of the lifelong loan entitlement). It is therefore appropriate to put in place measures to allow us to regulate student outcomes in the way described in this consultation to ensure that student- and taxpayer-investment is focused on providers and courses that deliver positive outcomes.
6. In formulating these proposals, we consider general duties (a), (c), (e) and (g) important, but have given less weight to these.
7. The OfS is required to have regard to the need to protect institutional autonomy. It does not, however, have an absolute obligation to protect the autonomy of providers. Our proposal may lead to regulatory action being taken in relation to a provider's delivery of HTQs. This may result in the provider being required to act in a way it may not otherwise have chosen. We are

giving weight to autonomy in these circumstances insofar as this is consistent with the need to protect the interests of students. However, we have attached significant weight to institutional autonomy in the overall design of our approach to regulating student outcomes, which provides significant autonomy in relation to the delivery, quality and student outcomes of higher education courses where these are above our minimum numerical thresholds.

8. We are required to have regard to the need to encourage competition, where that competition is in the interests of students and employers. Competition could be encouraged by removing regulatory barriers such that any provider is able to compete to recruit students on HTQs, regardless of the outcomes delivered for those students. However, our view is that such competition would not be in the interests of students or employers. The role of the regulator in this context is to set minimum requirements for student outcomes, to ensure that students are able to choose from a variety of providers and HTQs that meet that minimum regulatory standard.
9. We are required to have regard to the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers. In developing these proposals we considered whether it would be appropriate to include HTQs in our data reporting structure in a way that would allow us to show performance in relation to different student characteristics. This approach would have allowed us to have taken regulatory action where a particular group of students with a shared characteristic was not experiencing equality of opportunity.
10. Our view was that the current number of students on HTQs would mean that disaggregating student data in this way would result in the majority of split indicators having fewer than the minimum number of students required for the OfS to make a judgement in relation to condition B3. This would have the practical effect of restricting any benefits to equality of opportunity that may arise from creating split indicators. We intend to review this position as the number of students on HTQs increases.
11. We are required to have regard to the principles of best regulatory practice, including considerations of proportionality. We consider the approach set out in this document to be appropriate in ensuring that the OfS can protect the interests of students studying HTQs and balances this with the interests of providers. We have given particular consideration to this general duty in proposing not to increase the number of minimum numerical thresholds that we set because we consider that this would not be appropriate in the context of our view of the regulatory risk presented by the current number of students on HTQs.

Public sector equality duty

12. We have had regard to the Public Sector Equality Duty set out in section 149 of the Equality Act 2010. This requires the OfS to have due regard to eliminating unlawful discrimination, foster good relations between different groups and take steps to advance equality of opportunity.
13. When we established our approach to regulating student outcomes through condition B3, we considered whether there might be any tension between our approach to regulating student outcomes and equality of opportunity. Our view, as expressed in the outcome of the consultation on our new approach, remains that meaningfully extending equality of opportunity

means providing all students, irrespective of their characteristics, with the opportunity to benefit from their higher education. This is only possible if they are able to have positive outcomes that meet rigorous requirements set by the regulator. If a subset of students, particularly those who share protected characteristics, is not provided with sufficient support to achieve such outcomes, they have not had a genuine opportunity to benefit from higher education, and therefore have not experienced meaningful equality of opportunity.

14. We consider that this applies to students seeking to study an HTQ and therefore that our current proposals will have a positive effect on equality of opportunity. However, we consider that it may be possible to go further in taking steps to advance equality of opportunity for students studying for an HTQ by including HTQs as a separate level of study. This would have involved proposing to disaggregate performance by student characteristics. Our view, as described in Annex C, paragraph 10, is that this would have a limited impact at this time due to the low number of students on HTQs. We will continue to have due regard for our obligations under the Equality Act 2010, if we implement our proposal.

Guidance from the Secretary of State

15. We have had regard to guidance issued to the OfS by the Secretary of State under section 2(3) of HERA, and specifically 'Guidance to the Office for Students – Secretary of State's strategic priorities (31 March 2022)'.
16. We consider the aspects of that guidance set out below to be relevant to our approach to regulating student outcomes for HTQs.
17. We have had regard to this guidance in proposing an approach that allows us to identify performance on HTQs separate from other courses. This means that we would be able to contribute appropriately to quality assurance of HTQs. We have also chosen to propose an approach that limits the additional requirements placed on providers in relation to level 4 and 5 courses.

Technical qualifications, degree apprenticeships and Institutes of Technology (IoTs)

18. 'We would like the OfS to work with officials to help to grow the uptake of high quality technical education and degree apprenticeships including, where possible, through the use of access and participation targets, information and guidance, as well as supporting the raising of the profile of IoTs. We would also like the OfS to continue working with the Department, Ofsted, Ofqual, IfATE and the ESFA to ensure that Level 4/5 provision, and particularly the occupational focus of technical qualifications, is fully reflected in quality assessment arrangements. In addition, we would like the OfS to ensure it makes an appropriate contribution to the approval and quality assurance of HTQs, including using assessments made by the Quality Assurance Agency (QAA) to avoid the duplication of regulatory effort.'

Quality

19. 'In developing a proportionate and focused approach, OfS take into account that part-time and distance-learning provision, as well as high quality provision at Level 4 and 5, play an essential role in levelling up the country and providing retraining opportunities for those who have sometimes been less successful in their first experience of education. Further education colleges have a critical role in the government's efforts to expand high quality provision at Level

4 and 5. Provision in these areas is currently undergoing considerable change and new and innovative approaches are expected.'

The Regulators' Code

20. We have had regard to the Regulators' Code in developing these proposals.
21. We have considered Section 1, which discusses the need for regulators to carry out their activities in a way that supports those they regulate to comply and grow. We consider that our proposal to introduce an HTQ split indicator in the first instance is the least burdensome available approach to delivering our policy objectives. Our view is that this proposal would provide the certainty necessary for providers to commit to growth in their HTQ offer because it maintains the same minimum numerical thresholds as is currently the case for 'other undergraduate' courses. This means that there is continuity in the regulatory expectations in relation to these courses.
22. We have considered Section 2 which discusses the need for regulators to provide simple and straightforward ways to engage with those they regulate and hear their views. We have had regard to this section because our proposal would not change our approach to assessment of condition B3, which explicitly includes engagement with a provider before decision-making about compliance.
23. Section 3 of the code is particularly relevant, and discusses the need to base regulatory activities on risk:
 - a. Paragraph 3.1 provides for regulators to use an evidence-based approach to determine priority risks and allocate resources where most effective. Our proposal will increase our understanding of the regulatory risk posed by providers delivering HTQs.
 - b. Paragraph 3.5 provides for regulators to review the effectiveness of their activities and make necessary adjustments accordingly. We have set out in our proposal that we intend to review our approach to including HTQs in our student outcome measures as the number of students on these courses grows.
24. We have considered Section 4 of the Regulators' Code, which discusses sharing information about compliance and risk. We particularly had regard to this element of the code when proposing an approach that would allow other regulators and government bodies with an interest in HTQs to understand providers' performance without collecting further data.
25. We have considered Section 5 of the Regulators' Code, which discusses ensuring clear information, guidance and advice is available to help those we regulate meet their responsibilities to comply. We have had regard to this section when setting out that we would implement our proposal by making amendments to existing regulatory information that is familiar to providers and that offers clear guidance on the circumstances in which the OfS would consider providers to be compliant.

Annex D: Section 2 of the Higher Education and Research Act 2017

2. General duties

1. In performing its functions, the OfS must have regard to –
 - a. the need to protect the institutional autonomy of English higher education providers,
 - b. the need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers,
 - c. the need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers,
 - d. the need to promote value for money in the provision of higher education by English higher education providers,
 - e. the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers,
 - f. the need to use the OfS's resources in an efficient, effective and economic way, and
 - g. so far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be –
 - i. transparent, accountable, proportionate and consistent, and
 - ii. targeted only at cases in which action is needed.
2. The reference in subsection (1)(b) to choice in the provision of higher education by English higher education providers includes choice amongst a diverse range of—
 - a. types of provider,
 - b. higher education courses, and
 - c. means by which they are provided (for example, full-time or part-time study, distance learning or accelerated courses).
3. In performing its functions, including its duties under subsection (1), the OfS must have regard to guidance given to it by the Secretary of State.
4. In giving such guidance, the Secretary of State must have regard to the need to protect the institutional autonomy of English higher education providers.
5. The guidance may, in particular, be framed by reference to particular courses of study but, whether or not the guidance is framed in that way, it must not relate to—
 - a. particular parts of courses of study,
 - b. the content of such courses,

- c. the manner in which they are taught, supervised or assessed,
 - d. the criteria for the selection, appointment or dismissal of academic staff, or how they are applied, or
 - e. the criteria for the admission of students, or how they are applied.
6. Guidance framed by reference to a particular course of study must not guide the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study.
7. Guidance given by the Secretary of State to the OfS which relates to English higher education providers must apply to such providers generally or to a description of such providers.
8. In this Part, 'the institutional autonomy of English higher education providers' means –
- a. the freedom of English higher education providers within the law to conduct their day to day management in an effective and competent way,
 - b. the freedom of English higher education providers –
 - i. to determine the content of particular courses and the manner in which they are taught, supervised and assessed,
 - ii. to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
 - iii. to determine the criteria for the admission of students and apply those criteria in particular cases, and
 - c. the freedom within the law of academic staff at English higher education providers –
 - i. to question and test received wisdom, and
 - ii. to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at the providers.



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