

Higher  
Education  
Review  
Group

*Less regulated:  
more accountable*

Initial Report 2005



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## Foreword from the Chair



The UK's universities and colleges have developed rapidly over twenty years, providing opportunities for around half of Britain's young people. They must not only maintain high academic standards but develop management, audit and governance standards fit for the 21st century. From 2006, variable tuition fees will mark a move towards a more market-based sector.

Rapid expansion (both in students and in resources) has caused an accretion of overlapping requirements for reporting, data production and inspection or audit in higher education. These have created an atmosphere of regulatory intervention, lack of trust and a compliance culture, with the potential to inhibit confident and innovative university management.

Government and funding bodies have recognised this and have been seeking to work with the HE sector to achieve simplifications and costs savings. But much more needs to be done. The challenge now is to develop a lighter touch framework of national standard setting, monitoring and inspection that can be used to assess risk in Higher Education Institutions and to link demands on HEIs to those risks.

The Higher Education Regulation Review Group was appointed as part of this process. It is made up of front line practitioners, mainly Registrars and Directors of Finance, with an independent Chair. HERRG has a mandate to review policies for their regulatory impact on HE in England, regardless of departmental origin, to explore existing areas of bureaucratic demand and to recommend ways of doing things better.

Over its two year life, the Group aims to make a practical difference to the way the sector operates. I believe our insights can build on the current trends in government thinking and that the experience and skills of our membership gives us a good chance of achieving our aims.

I am very grateful to all who have worked with us so enthusiastically, both inside and outside the higher education sector.

A handwritten signature in black ink that reads "Patricia Hodgson". The signature is written in a cursive, flowing style.



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# 1 Executive summary - less regulation; more accountability

- The core aim is better processes that reduce the cost of reporting and inspection, freeing universities to get on with their main jobs.
- Unless or until an institution is at risk of failure, funding bodies should expect to place greater reliance on management, audit and governance arrangements within colleges and universities themselves, with extra reporting by exception and only where justified by extra risk.
- Universities and colleges must guard against 'gold-plating' in meeting regulatory demands.

## Achievements

*In its first year the Group has helped to deliver some important successes:*

**1.1 Funding** In collaboration with the Group, HEFCE announced in January 2005 changes in its approach to funding, monitoring and data collection:

- cutting the number of special funding streams requiring separate bids from institutions to a maximum of six over time;
- establishing the principle that any new streams must then replace and not add to those on the list;
- moving to a 'single conversation' with universities and colleges using their own annual forecasts, abolishing multiple data demands during the year, except for institutions at risk; and
- monitoring by exception, so that institutions need only report on failures to meet particular regulatory requirements.

The Group will monitor implementation during the coming year.

**1.2 Legislation** The Group saw no new legislation specifically aimed at HE. However, we raised concerns about the Charities Bill and the Disability Discrimination Act, highlighting how HEIs can be affected by proposals not directly aimed at them. We were generally pleased by the government's response to our concerns and its willingness to rely on institutions' own reporting arrangements - eg their Annual Reports and Accounts - rather than requiring extra detail, but wait to see this implemented.

**1.3 Initiatives** We commented to government departments, HEFCE, HESA and other bodies on practices and proposals, ranging from unnecessary data collection to inappropriately prescriptive guidance. While this activity happens with good intentions, we are clear that much of it was adding little value to higher education, and we pointed this out as unnecessary.

## Looking to the future

*There could be much better coordination of quality assurance and data collection and fewer consultations*

**1.4 Concordat** A major burden is caused by the fact that different funding bodies across government have developed their own reporting, data collection and inspection/audit requirements, with which they ask HEIs to comply. Progress is being made in co-ordinating this activity but we think there is scope to go faster and further. The Group recommends a **formal concordat** between the relevant funding and inspection bodies in the sector so that:

- the Higher Education Statistics Agency becomes the single source of base data about HEIs; and
- the Quality Assurance Agency supplies basic inspection and quality assurance for the sector, with specialised requirements, such as those for medical or teacher training inspection, built into a single framework.

With this Concordat (and based on JM Consulting's calculations of costs of Quality Assurance) we think it is reasonable to build on the savings from the Quality Assurance Framework Review and aim for overall savings of a third in all or some £15 million.

**1.5 Consultation** Uncoordinated consultation across the sector has also become a problem. In 2003 universities were faced with around sixty consultation exercises from various bodies. While some of this might have been a temporary phenomenon following the HE White Paper, the Group recommends that:

- the Department for Education and Skills and its agencies should each establish a filter to ensure a more proportionate approach; proceeding by one of three routes, depending on whether the issue is a major policy matter, a technical issue, or a day-to-day decision the Department or Agency might be expected to take for itself;
- full consultations should pass the test of being meaningful and worthwhile for stakeholders. They should be straightforward about aspects of policy that have already been decided and where responses are genuinely invited. Decisions and rejected suggestions should be explained in terms of the responses received. Complaints regarding the conduct of a consultation should be established and directed to a senior member of staff in the Department who is identified in the consultation document and separate from the responsible policy officials; and
- the DfES should keep an up to date list of consultations on its web-site and should review their effectiveness with its Agencies on an annual basis. This list should also form part of the Cabinet Office Consultation Annual Report, which measures departments' compliance with the Code.

## 2 Introduction

*The higher education world is changing, and the accountability framework needs to evolve with it. The challenge is to move to lighter touch standard setting at national level, rooted in more effective self evaluation and risk management in universities and colleges*

- 2.1 Societies depend largely for their quality of life, as well as for their prosperity and place in the world, on the insights and innovations of their institutes of learning and higher education. Knowledge and learning is a good in itself. It also shapes our world. As manufacturing shifts to low wage and developing countries there will be a much greater need at regional, national and international level for the most skilled and innovative in the knowledge economy.
- 2.2 In this endeavour the UK relies heavily on its diversity of universities and colleges. These have developed and changed rapidly over the last 20 years, and are rightly seen as a success story. We have a critical mass of world class universities and a growing number of institutions offering leadership at national and regional level. Nationally, universities now educate more than 2.2 million students, employ over 300,000 staff and attract some £4 billion in foreign earnings. They must not only meet high academic standards but also develop management, audit and governance structures fit for ever more stretching purposes.
- 2.3 Such a fast growing sector needs growing investment. The HEFCE will this year channel more than £6 billion of public money into funding universities and colleges in England. This is matched by £3.4 billion of monies from Research Councils, Health Authorities and other bodies in a sector with an annual turnover of around £15.6 billion. From 2006, tuition fees for most courses will rise and funders of research will be paying its full economic cost. Government and taxpayers need to know such large sums are well spent. Stakeholders - from international partners and charities to students who amass significant debts to fund their courses - want to know their investment is effectively managed and delivers the highest standards. How is this best guaranteed?
- 2.4 The solution does not lie in a command and control model. Higher education is offered through approximately 130 independent universities and colleges in England. They include institutions whose main markets are local, regional, national and international; institutions that offer virtually any subject and those that specialise in a particular area; institutions that rely heavily on public funding and institutions for which it is a relatively small percentage of their turnover. Clearly such diverse activity cannot be effectively led by a central bureaucracy, even if academic freedom and institutional independence permitted it. Quality, innovation and drive depend on institutions being free to adapt to particular needs and ensure talented staff are supported in what they do best.

2.5 The challenge therefore is to achieve the right balance between national standard setting, monitoring and inspection on the one hand and individual accountability on the other. This needs coupling with the independence that allows universities and colleges to continue to offer academic leadership across their increasing range of diverse and specialised activity. In other words, the accountability framework needs to evolve with a sector that is becoming more mature and skilled at intelligent self evaluation and risk management.

## 3 Regulation and accountability: striking a better balance

*Predecessor groups have analysed the problem and set a clear direction; the challenge now is to deliver. Agencies are showing a commitment to cut bureaucracy but need to be bolder and go faster*

- 3.1 The costs of unnecessary bureaucracy and the dangers of the dependency culture associated with over-regulation are now well recognised by government. The Hampton Review<sup>1</sup> analysed administrative burdens on the private sector and its recommendations have been accepted. The recommendations of the Better Regulation Task Force<sup>2</sup> are being given authority at the heart of government with the new Better Regulation Executive in the Cabinet Office.
- 3.2 Last year, as part of the drive for reform, the DfES established the HERRG<sup>3</sup>, with a mandate to review government policies for their regulatory impact on higher education in England, regardless of departmental origin, to explore existing areas of bureaucratic demand and recommend ways of doing things better. The Group seeks to make a practical difference to the way the sector is run; supporting the move to proportionate, risk-based regulation of institutions whose own structures and processes ensure good management and accountability. It has a two year life and aims to embed permanent improvement: fostering a risk-based approach to regulation will ensure regulatory burdens are kept to a minimum in the future.
- 3.3 Much has already been achieved. Predecessor groups established a powerful understanding of the changes needed, which we endorse<sup>4</sup>. The DfES, HEFCE, QAA and others have accepted this modernising agenda as the right way to go. The Committee of University Chairmen has complemented the work by updating their own guidance on good corporate governance for the sector, following the Lambert Report<sup>5</sup>.
- 3.4 The direction established can be summarised as follows:
  - ❑ Taxpayers, students and other stakeholders need assurance that the money which funds higher education is well spent on high quality teaching and research.
  - ❑ Funding bodies have a proper responsibility for arrangements to set national standards, provide information to stakeholders and intervene to prevent failure when appropriate.

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1 *Reducing administrative burdens: effective inspection and enforcement*. March 2005.

2 *Regulation, Less is More*. March 2005.

3 Annex 1 gives the Review Group's terms of reference and membership.

4 A summary of the previous work the Group has drawn on is provided at Annex 2.

5 *Lambert Review of Business-University Collaboration. Final Report*, December 2003.

- ❑ But delivery in teaching and research is a matter for independent universities and colleges and, unless and until an institution is failing, public accountability should primarily be a matter for its governing body.
- ❑ Rapid expansion, both in students and in resources from different parts of government, have caused an accretion of overlapping requirements for reporting, data supply and inspection or audit in higher education. These have created an overall atmosphere of lack of trust, regulatory intervention and a compliance culture.
- ❑ The solution is to ensure that oversight by funding bodies and their agencies is proportionate to risk, with reporting, monitoring and inspection rooted in the institutions' own processes and tailored to the degree of perceived risk.
- ❑ Cost effective accountability for the sector is best delivered, therefore, on the basis of:
  - ❑ high level and co-ordinated data collection which enables both institutions and their funding bodies to inform decisions on the basis of shared national data;
  - ❑ a simple and integrated review and inspection regime;
  - ❑ an audit and risk approach which provides the funding bodies with early warning of failure; and
  - ❑ improving systems of management, audit and governance within universities, both to inform funders but, above all, to provide the best guarantee of delivery.

3.5 These principles are fully accepted by Government and agencies in the sector but there are many ingrained obstacles to progress. New initiatives from Ministers and agencies often come with new demands for evidence and monitoring. Universities and colleges themselves seek the approval of funding bodies, and prefer to err on the side of over-preparing for returns and inspections rather than risk loss of esteem or financial penalty. There are many incentives to over-insure against risk. It is hard to recognise achievements, bank them and move on.

3.6 Fortunately, there has also been clear evidence of good intentions and real effort being made. In 2002-2003 the QAA reformed its audit process to place greater reliance on auditing the institutions' own controls, with an estimated reduction in the cost burden on universities and colleges of 40%, or some £13.5 million. HEFCE has made a commitment to reducing bureaucracy in the ways described elsewhere in this report. Similarly, the TTA has made a commitment to bureaucracy reduction through its revised inspection methodology delivered through OFSTED. The Partnership Quality Assurance Framework for Healthcare commissioned by the Department of Health also promises to deliver similar reductions in bureaucracy.

3.7 Even so, the Group estimates that £64 million is currently spent by policy making and regulatory bodies across higher education as a whole. This includes the relevant parts of the DfES, the Office of Science and Technology and the Department of Health, and the different agencies and funding bodies that each department supports. And costs to the sector are much higher. In 2004 PA Consulting, in a study for HEFCE, estimated

the cost burden on the sector at around £210 million, even after reforms had cut the cost by 25%. The HERRG is committed to making substantial reductions in these costs as fast as possible.

- 3.8 The Group was clear at its inception that much could be done and we believe the achievements of our first year support this. We cannot tell experienced agencies and institutions how to run their affairs. What we can do is identify possibilities for change and urge the sector to be bolder and to go faster.

## 4 The first year's achievements

*Some important changes have been announced by HEFCE and provide a basis for more trust between funding body and educational institutions; but we have found no lack of guidance and consultation proposals on which we needed to comment. We propose a number of mechanisms to ensure better practice in future*

### 4.1 Streamlining process

4.1.1 The Group began its own work by assessing HEFCE's activities against the direction outlined in paragraph 3.4 above. HEFCE's plans already included measures to reduce the accountability burden placed on HEIs. The Council was collaborative and pointed to areas of further simplification - for example, the need to prevent duplication of student data returns - where it felt the Group could help broker change. But the Group also found processes which could be further scrutinised and areas where it believed planned progress could be faster. It felt more could be done to embed an understanding of proportionate regulation throughout the organisation and that this would be necessary to achieving the cost-cutting targets in its corporate plan.

4.1.2 Universities UK and SCOP drew attention to new or particular burdens - for example the likely impact of a Charities Bill which would give HEFCE a new responsibility to act as regulator on behalf of the Charity Commission, and the number of demands during the year for financial and planning returns. They voiced general scepticism about the pace and scale of reform, suggesting a need for:

- ❑ HEFCE both to raise its game in streamlining burdens and to communicate better its determination to do so;
- ❑ improved co-ordination between different funding and audit/inspection bodies to prevent duplication; and for
- ❑ the sector to see that best practice in management, audit and governance pays dividends, not only in terms of success for the institution but in a reduction in regulatory demands and costs.

The task was to improve trust on all sides.

4.1.3 After some months of fruitful joint working, HEFCE announced welcome changes in its approach to funding, monitoring and data collection, developed with HERRG. It proposed:

- ❑ cutting the number of special funding streams requiring separate bids to only six;
- ❑ establishing the principle that any new streams must then replace and not add to those on the list;
- ❑ moving to a 'single conversation' with universities and colleges, including relying where possible on their own forecasts and other data, abolishing multiple data demands during the year, except for the small number of institutions identified as being at risk; and



- monitoring by exception, so that institutions need only report on failures to meet particular regulatory requirements.

We are pleased with this response and will seek reports during the coming year on progress with implementation.

4.1.4 In response to a request from Universities UK, the Group also produced a checklist linking these commitments to the five principles of better regulation established by the Better Regulation Task Force.<sup>6</sup> This can be used by universities to scrutinise reporting and data requests and their own responses. As noted above, institutions are tempted to 'gold plate' their responses. Simplifying and aligning information used by universities for their own management and accountability needs with what is needed at a national level by HEFCE will reduce costs and raise standards. But both sides need to work at the required simplification and alignment.

## 4.2 Gatekeeper activity

4.2.1 HERRG's gatekeeper role is an important one - in many ways, the core of our work, since it seeks to pre-empt future burdens before they are imposed. We have been encouraged to see no new legislation emerging specifically for higher education; given that we started work just as a major Higher Education Act was passing into law, we would not have expected any. We noted, however, that the activities of universities and colleges cover such a wide sweep of activity that they will be affected by large amounts of general legislation - for example, the Disability Discrimination Act - and we followed and commented on these.

4.2.2 In this context, one issue deserves special mention: the Charities Bill. The Group held meetings with the Home Office about possible burdens arising for higher education from the Charities Bill, and arranged for a number of Peers to speak to an amendment when the Bill was debated in the Lords. The Minister noted that universities did comply with charities' law and that bringing them within new statutory arrangements should not involve any significant extra burden. HEFCE should offer simple checking mechanisms, such as a routine note of compliance as part of the auditors' report. We welcomed this response.

4.2.3 The Bill was lost as a result of the general election, but is being reintroduced in the coming session. We presume that the government will be happy to repeat its assurances and look forward to seeing them implemented.

4.2.4 We found no lack of guidance, 'best practice' documents and data requests which we felt deserved our interest. Most of these were produced with the best intentions but - sometimes inadvertently - gave the impression that the interests of institutions were subordinate to the interests of central administrators. We sought to challenge these. A full report of the Group's activities in its 'gatekeeper' role can be found in Annex 4.

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<sup>6</sup> A checklist of the five principles of Better Regulation, adapted by the HERRG for use by universities and colleges is provided at Annex 3.

## 4.3 Consultations

- 4.3.1 Better regulation is often the product of consultation with those affected. Under the terms of the 1992 Further and Higher Education Act, HEFCE consults with university governing bodies and sector representatives when attaching terms and conditions to grants. But universities and colleges told us that a culture of consultation across the sector was now too often a problem rather than a solution. There was a cynicism about consultations where institutions felt that too often substantive decisions had already been taken. Conversely, too much work was created by the need to respond on smaller issues which could be brokered at professional level.
- 4.3.2 In 2003, the year of the HE White Paper in preparation for the Higher Education Act, the Department published forty four consultations. HEFCE published fifteen consultations and guidance circulars. There were additional consultations from other bodies in the sector or from Universities UK in co-ordinating responses. Vice Chancellors told the Group it was hard to know which consultations merited their attention or that of their governing bodies. If consultations are more focussed, Councils will be enabled to give them the attention required.
- 4.3.3 The Group acknowledged that some of this consultation overload might have been temporary, but asked the DfES and HEFCE to propose ways of improving their approach. Building on some of HEFCE's proposals, it makes the recommendations below. The Group felt the DfES could usefully give more thought to the issue and to its own role in making sure consultations are fit for purpose and co-ordinated across the Department and its Agencies.
- 4.3.4 The Group recommends that, in addition to best practice as set out in Cabinet Office guidance<sup>7</sup>, the following principles be applied in higher education:
- The Department and its agencies should each establish a formal filter to ensure more targeted and proportionate approach to consulting; usually proceeding by one of three routes:
    - major issues involving a range of options require full consultation;
    - technical issues require a professional response, with clear sign-posting as to who would be best placed to respond; in some cases, responses might be co-ordinated through representative bodies, with an opportunity on a web-site for others to respond if they wished;
    - the department or agency concerned should be prepared to make informed judgements on matters within their day-to-day responsibility.
  - Full consultations should pass the test of being meaningful and worthwhile for stakeholders. They should be straightforward about aspects of policy that have already been decided and where consultation is genuine. Outcomes should be explained in terms of the responses received. Decisions and rejected suggestions should be explained in terms of the responses received. A process for dealing with complaints regarding the conduct of a consultation should be

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<sup>7</sup> Consultation Guidance, Cabinet Office, June 2004.

established, directed to a senior member of staff in the Department who is identified in the consultation document and separate from the responsible policy officials.

- ❑ As part of its co-ordinating policy responsibility and to inform the sector, the DfES should keep an up to date list of consultations on its web-site and should review their effectiveness with its Agencies on an annual basis. This list also forms part of the Cabinet Office Consultation Annual Report, which measures departments' compliance with the Code.

Consultations should be meaningful and not a bureaucratic insurance policy. The Group has written to relevant bodies with these recommendations and will publish the DfES response to its observations.

## 5 Priorities for the coming year

*Our main priority will be to broker agreement between the funding and inspection bodies in English HE, with a view to achieving ultimate savings to the sector of some 33%. A formal Concordat is needed to achieve real reform*

### 5.1 A better regulation concordat

5.1.1 As described above, a good deal has already been done to streamline process and move to risk based regulation. The initiatives described are designed to help embed these principles and, provided universities and colleges rise to the challenge, establish national monitoring and accountability with a light touch. But achieving this depends also on co-ordinating and integrating information and audit or inspection regimes that serve different funding bodies.

5.1.2 A scale of the challenge is illustrated briefly below;

- ❑ HEFCE currently provides around £6 billion of teaching, research and capital money. It deals directly with universities and colleges in relation to their strategic plans and financial situation. It contracts most of its data needs to the HESA, which is owned by the universities and supplies their data needs. At the end of the year, HESA collects data on activities during that year.
- ❑ However, in addition HEFCE, in common with all the other funding bodies including TTA, NHS and LSC, have their own separate means of monitoring student recruitment in year to assess the extent to which institutions have met their contracts, to determine future funding and for planning.
- ❑ HEFCE has responsibility for ensuring assessment of the quality of education across the sector and contracts with the QAA to carry out a rolling institutional audit of university arrangements to maintain and enhance academic standards and the quality of the student experience. The QAA is also contracted by Skills for Health (the Sector Skills Council for Health) to conduct the reviews required to assess quality in training in nursing and allied health professions.
- ❑ The Department of Health and Skills for Health, however, have separate reporting and data needs, only some of which are contracted to HESA. Even then the timing and specifications may differ from HEFCE's. Hence, for example, institutions can be asked for data on student numbers with varying frequency during the year and different specifications.
- ❑ The TTA provides £7m of funding and uses OFSTED, whose main work is in schools and with children, to provide an inspection regime. Teacher training for primary and secondary age ranges at degree level is offered in approximately 74 institutions.
- ❑ The LSC funds further education courses offered by universities and collects data to monitor and assess the amount of funding due for these courses. OFSTED and the Adult Learning Inspectorate jointly inspect these courses.

- ❑ OFSTED also inspects teacher training provision in universities for the post compulsory sector, i.e. further education.
- ❑ There are eight Research Councils, providing research grants across the disciplines from science to social science, medicine to music.
- ❑ In addition for appropriate universities there are the requirements of the General Medical and General Dental Councils for the provision of education in these areas.
- ❑ And, on top of all this, over fifty professional bodies, from the British Psychological Society to the Institute of Electrical Engineers, validate courses and have reporting and inspection requirements.

Universities may reasonably feel that responding to data and inspection demands is a full time occupation.

- 5.1.3** Important steps, as noted above, have already been taken to bring together some of the demands of the different funding bodies through HESA and the QAA. The Group has been impressed by work done during the year by the Quality Assurance Framework Group, chaired by Dame Sandra Burslem, on evaluating the QAA institutional audit process and making suggestions for further reducing overlaps in review/inspection<sup>8</sup>. Her Committee's work has been supported by the Department and by research commissioned through JM Consulting<sup>9</sup> to assess the costs and benefits of all external quality assurance processes in the sector. The work helped convince the HERRG that it is possible to develop a single and improved process with a lead agency for each of review/inspection and data collection, cutting costs significantly.
- 5.1.4** There are, however, real hurdles to achieving this. As described earlier, Agencies which have succeeded in driving change and improving standards may be understandably cautious about accepting that standards have risen and that simpler monitoring procedures would now be sufficient, provided reliable early warning systems make specialised intervention possible if needed. The Group judges that current progress cannot be relied on to deliver early breakthrough to the lighter touch system appropriate to a confident and competitive higher education sector fit for the 21st century. A formal concordat committing the relevant funding bodies and their agencies to working together is needed to achieve real movement.
- 5.1.5** The aim should be to develop HESA as the single source of base information about higher education institutions. HESA, of course, must be able to provide the range of data to the timeframes needed and the reliability required. Users will not embark on any agreement without these assurances and some proof of delivery. But, if this can be achieved, the prize is substantial for everyone in the sector.
- 5.1.6** Similarly, a single audit and inspection regime should supply basic quality assurance, with scope for users to obtain extra assurance on particular points where needed.

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8 Quality Assurance Framework Review Group reporting to HEFCE on the institutional audit methodology, Teaching Quality Information and the National Student Survey.

9 *The Costs and Benefits of External Review of Quality Assurance in Higher Education. A Study for the DfES and for the Quality Assurance Framework Group.* (Due to be published at the end of June 2005)

That basic regime should be run by the QAA and applied to institutions demonstrating commitment to quality by their own sound structures of monitoring and control. Particular requirements, for example, where a licence to practise is involved as in medical or teacher training inspection, can be built into an overall, single framework.

- 5.1.7 A single process for data collection and inspection respectively should be cost-effective for all concerned. There will always be particular needs for particular users and institutions will have to be able to meet those needs reliably or accept that funders will go back to using separate routes to get the assurance they need. Funding bodies will not put in money without evidence of successful outcomes. And all concerned will want the right to require urgent returns or special inspections if monitoring suggests serious failure.
- 5.1.8 But over time, a single system, shared by the funding agencies and independent universities and colleges, has the potential to cut through current burdens, build trust and provide reliable shared information for decision making by agencies, institutions, students and other stakeholders.
- 5.1.9 We therefore aim, over the next year, to:
- ❑ Broker agreement on a Concordat between funding and inspection bodies in higher education in England to develop a single and improved process for each of data collection and review/inspection and agreement on a body to drive implementation.
  - ❑ Publish estimates for reductions in administrative costs developed by the agencies involved and achieve a major reduction in the cost burden on the sector from the first year of implementation of the Concordat. Based on JM Consulting's calculations of the costs of external review of QA, we think that it is reasonable to build on the savings from the QAF Review and aim for overall savings of a third in all, some £15 million.
  - ❑ Monitor progress and agree occasional National Audit Office audit of the Concordat once the new system is operational.

## 5.2 Other Targets

- 5.2.1 The Concordat will be our major priority for next year, but it fits alongside other targets, as set out below. We aim to:
- ❑ Work with the Cabinet Office in producing a MORI survey of perceptions of bureaucracy and bureaucracy reduction in the HE sector, use the results of the survey in our future work and as a basis for future improvements.
  - ❑ Monitor implementation of the process of changes in funding and reporting for higher education in England agreed with HEFCE.
  - ❑ Broker further collaboration between HEFCE and higher education institutions to align and simplify reporting so that the information developed within colleges and universities for their own management and governance purposes also serves HEFCE.

- ❑ Review better procedures for consultation within the sector.
- ❑ Help to embed a system of monitoring and inspection of self-governing, autonomous universities and colleges, with a light touch system of national monitoring by HEFCE, based on the institutions' own management information, such as they would require for their own Annual Report and Accounts.
- ❑ Encourage non-Governmental bodies - in particular, the professional and statutory review bodies - to support a similar approach to meet their own needs and to utilise self-evaluation tools when appropriate.

The Group will continue to review new initiatives or legislation for regulatory impact.

**5.2.2** We have appreciated the information and feedback that we have received from the sector during our first year, but would like to see much more. We believe that leaders, managers and administrators in HE institutions are ideally placed to help us identify unnecessary bureaucracy and understand the practical implications of new developments. We therefore very much welcome your comment on any of these issues or any future initiatives (see Annex 5 for contact details).

# Annex 1

## Membership of the Higher Education Regulation Review Group

**Dame Patricia Hodgson**      **Chair**

Patricia began her career as a producer and journalist, later becoming Director of Policy & Planning at the BBC and then Chief Executive of the Independent Television Commission until the start of last year. She is a Governor of the Wellcome Trust, and a non-executive director of the Competition Commission and of GCap Media Group plc. She has been a Visiting Bye-Fellow of Newnham College, Cambridge, during the Lent and Easter terms 2004, and is a Member of the Statistics Commission and the Commission for Standards in Public Life.

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**Jonathan Baldwin**      **Registrar, University of Warwick (since May 2004)**

John was Secretary and Registrar at UMIST (2000-2004) and previously Registrar at University of Wolverhampton for 5 years. He is Vice President and Treasurer of the Institute of Chartered Secretaries and Administrators and Executive Member of the Association of University Administrators.

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**Hannah Essex**      **Vice-President (Education), National Union of Students**

Before becoming Vice-President for Education, Hannah was NUS Women's Officer and previously at Essex University.

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**Ruth Farwell**      **Pro Vice Chancellor, London South Bank University (since 2002)**

Ruth was Dean of Academic Affairs at South Bank (1998-2002) and before that at Brighton University.

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**Ron Haylock**      **Chairman of the Council, University of Nottingham (1997-2004)**

Ron was Chair of the Committee of University Chairmen (2001-2004) and is a Board member of the Leadership Foundation for Higher Education. He holds a number of non-executive director appointments in the travel & tourism sector, and is a governor of Chetham's School of Music in Manchester and the Perse School Cambridge, and Chairman of international conservation charity Fauna & Flora International.

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**David Holmes**      **Registrar, University of Oxford and Professorial Fellow of St John's College (since July 1998)**

David is also an Honorary Fellow of Merton College, Oxford. Prior to this he was Registrar and Secretary of the University of Birmingham (1988-98), Academic Secretary and Deputy Registrar, University of Liverpool (1982-88) and before that held a variety of administrative posts at the University of Warwick and a secondment to the University of Sheffield. He was Chairman of the Organising Committee for International Meetings for Administrators until January 2003 and Chairman of the UK Association of University Administrators Planning Forum (1993-95). Was a member of the National Committee of Inquiry (Dearing) into Higher Education's Working Group on Staff and Cost Effectiveness, 1996-97 and is currently a member of the national advisory committee on clinical academic employment matters.





## Terms of reference of the Higher Education Regulation Review Group

The purpose of the Higher Education Regulation Review Group will be to support key partners to keep regulatory demands on English higher education to a minimum by:

- ❑ Improving the quality of regulation across the HE sector;
- ❑ Ensuring that the regulatory demands on the HE sector are effectively assessed by those who impose them.

Specifically this will be achieved by:

### 1. Providing an advice and guidance function within the HE sector

- ❑ promoting a common language and framework (for all stakeholders) to improve regulation and to spot and challenge poor regulation;
- ❑ supporting government and non departmental public bodies in public assessment of policy impact (using regulatory tools);
- ❑ communicating with and influencing institutions on their implementation of policy, on their own policy development and on their engagement with policy developers.

### 2. Operating a policy gateway function

- ❑ being informed of new policy developments, from the government and related bodies, which are designed to impact on all or most deliverers of higher education, in advance of publication, and having the power to select particular policy developments to confirm that policy has been effectively developed and assessed in keeping with the principles of good regulation;
- ❑ selecting other policy areas, arising from any organisation or body, where heavy demands are identified, for assessment and comment;
- ❑ having the power to ask Ministers and senior officials, in government or related bodies, or to recommend to any regulatory body, to think again about proposed policies, if they are judged to be unduly demanding; or, to recommend systematic review of a policy area, for example, where policy is proposed by multiple agencies;
- ❑ having the power to issue a public opinion in relation to a proposed regulatory activity.

### 3. Monitoring and evaluation

- ❑ producing an annual report that considers relevant information relating to regulatory demands and the effectiveness of the gatekeeper mechanism in meeting its purpose;
- ❑ participating in an independent evaluation of its achievements, and efficacy, after two years.

## Annex 2

### Summary of previous work

*The HERRG is grateful to its predecessors and others whose work we have drawn on over the last year. Without input and support from such groups, our remit would have been more difficult*

- 1 In particular, we are grateful to the *Better Regulation Review Group* chaired by Professor David VandeLinde. The BRRG made progress in many areas of regulatory burden and provided us with a sound analysis for moving the agenda forward. They proposed that the HERRG be established and made recommendations about our terms of reference. We have taken note of the messages given to us in their final report - in particular the advice to ask searching questions, to look at the bigger picture and seek step rather than incremental changes.
- 2 We have also been influenced by the work of the *QAF Review Group* led by Dame Sandra Burslem. We are grateful for their co-operation in letting us have input to early drafts of their evaluation report. The group's recommendations, due to be published shortly, seek to further refine institutional audit methodology and reduce burdens. These include support for the HERRG's thinking on a concordat.
- 3 We also appreciate the work of *Government Departments, agencies and other bodies* whose policies and impact on HEIs we have examined over the year. They have been helpful and co-operative, have provided information at short notice and attended meetings where they were often 'put on the spot'. They are involved in their own programmes of action to reduce red tape, which we welcome.
- 4 We have pressed *HEFCE* particularly hard: this has required their presence at the majority of our meetings, where they have had to field difficult questions and we have often asked them to produce more information for us. They have generally been open to our desire to push them further and their professionalism and willingness to engage with us is laudable.
- 5 We must also mention the *CUC Code of Practice on Governance* which goes some way in supporting the achievements made so far and ensures that HEFCE's proposals to reduce the burden are deliverable and safe guarded. More reliance can now be placed on the outputs of an institution's own processes.
- 6 We have been very pleased to see such support across the variety of bodies, agencies and Government Departments. We are confident such support will grow in the future as a truly risk-based approach to regulation begins to be fostered by all.

## Annex 3

### Applying the principles of better regulation: as adapted by the HERRG for higher education

*As described in Annex 2, the HERRG has inherited a substantial body of work. One of its starting points has been the five principles of better regulation established by the BRTF. We adopted these principles but in order to foster the culture change we desire, these need to be taken further*

*In sharing the HERRG's approach to the better regulation principles, it is hoped that both the regulators and HEIs will be equipped with an effective way of measuring necessary and unnecessary bureaucracy*

#### **BRTF principle**

<b>Proportionality</b>	<b>Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs should be identified and minimised.</b>
HERRG approach	Is the intervention necessary? Could it be managed in a less onerous way? Could the institution be trusted to manage and account for itself and report that it had done so? Does the Agency use data collected for the institution's own managerial or governance processes and, if not, could it? Is the data or process adapted for multiple users to avoid duplication?
<b>Accountability</b>	<b>Regulators should be able to justify decisions and be subject to public scrutiny.</b>
HERRG approach	Is there annual independent as well as parliamentary scrutiny of the Agency's activities?
<b>Consistency</b>	<b>Government rules and standards must be joined up and implemented fairly.</b>
HERRG approach	Are all HE data and inspection requirements adequately risk based? Have duplications and inconsistencies between agencies been eliminated?
<b>Transparency</b>	<b>Regulators should be open and keep regulations simple and user friendly.</b>
HERRG approach	Is the purpose of the request clear? Is the process risk based and proportionate?
<b>Targeting</b>	<b>Regulation should be focussed on the problem, and minimise side effects.</b>
HERRG approach	Given the purpose, is this the minimum needed to deliver? Could the institution deliver through its own processes?

# Annex 4

## The gatekeeper role

*As an important part of its remit the HERRG was charged with a 'gatekeeper function' designed to ensure that any forthcoming policy or legislative proposal on the HE sector (whether from Government Departments, funding bodies, or other agencies) do not add to the bureaucratic burden of regulation*

*We believe we have done much by way of delivering against this responsibility and will continue to do so for the following year*

- 1 The following are some of the areas in which we have identified particular concerns about regulatory demand over the past year.

### **Charities Bill**

- 2 This Bill provides that the majority of HEIs, as exempt charities, will be monitored for compliance with charity law by HEFCE (the body designated by the Bill as the principal regulator for HEIs). Currently, the majority of HEIs are exempt charities and, although they have to comply with charity law, there is no monitoring of this compliance. We proposed that, rather than introduce a new HEFCE process, compliance might be achieved in a less burdensome way by using HEIs' external auditors to sign off compliance with charity law. The amendment was debated on 8 March 2005 when the Minister provided assurances which HERRG was seeking.
- 3 The Bill was lost due to lack of Parliamentary time because of the election. However we feel our approach to influencing the legislative process was effective and is something we will continue when the Bill reappears. We would now, however, be able to tackle the issue much earlier than we have previously as the Bill will be starting again from a first Reading stage. We will also work closely with HEFCE and other officials on how, if the Bill became law, compliance would be monitored.

### **New Disability Discrimination Act**

- 4 This Act, which received royal assent in April, requires HEIs to publish (by December 2006) a Disability Equality Scheme setting out how they will fulfil their "public sector duty" to promote equality for disabled people. While fully supporting the aims of the Act we have expressed concern about the length and complexity of the Disability Rights Commission's draft Statutory Code of Practice. We have recommended that a shorter guidance document, specifically for the HE sector, would both minimise the burden on HEIs and help them to meet the legislation. We continue to work with the DRC about bespoke guidance for HEIs.

### **HESA non credit bearing record**

- 5 In response to HESA proposals that this record should continue despite there being no requirement for it by Statutory Customers we suggested that this approach was

disproportionate. HESA has since confirmed that collection of non-credit bearing data would be voluntary for HEIs.

### **Destination of Leavers in Higher Education Survey**

- 6 We have identified this survey as placing significant burdens on HEIs and, in liaison with the Association of Graduate Careers Advisory Service we are discussing with HESA how these might be reduced. We are expecting to report on this issue later this year.

### **Use of HESA/HESES data**

- 7 We also gained agreement from DfES, HEFCE and UUK to explore removing the Higher Education Early Statistics Survey currently collected by HEFCE, with HEFCE then relying on the Individual Student Record collected by HESA. The thinking was that if institutions were funded on the basis of the HESA data then, although initial funding would relate to a previous year's student numbers, funding would be predictable and final and the HESES submission would then be unnecessary. We anticipate moving forward with this issue within the concordat work later this year.

### **Ten year investment framework for science and innovation**

- 8 We are aware of this framework published alongside the 2004 Spending Review and have identified the principal elements which are likely to have an impact on HEIs. These include:
- ❑ the Research Assessment Exercise - the Group will be considering this at its July 2005 meeting;
  - ❑ Transparent Approach to Costing and Full Economic Costing - the Group considered this at its March 2005 meeting when it concluded that despite the burdens of implementing this new system the benefits had been substantial. The Chair has written to Professor David Westbury, Chair of the Joint Costing and Pricing Group;
  - ❑ The Science and Research Infrastructure Fund and the Higher Education Innovation Fund - both these funding streams are mainstreamed and do not require bids from HEIs which reduces the need for additional monitoring or reporting in this area.
- 9 We will continue to keep a watching brief on this framework and will seek to ensure that Regulatory Impact Assessments are carried out appropriately for individual areas of policy development.

### **Fairer access to nursing and midwifery for black and minority ethnic Communities: DH-DfES joint framework for action**

- 10 We took the opportunity to feed comments in to the Department of Health and DfES during the development of this framework, in particular about the burdens associated with a recommendation that HEIs should record the reasons for applicants being rejected.

### **Self assessment tool for people management in HEIs**

- 11 We raised concerns with HEFCE about the complexities of the above toolkit which HEFCE consulted on earlier this year. After continued negotiations with HEFCE, we are

pleased that the HEFCE Board has now agreed that this tool should be voluntary and one of many that HEIs may use in this area.

### Consultations

- 12 Our work on reforming HEFCE and DfES consultation procedures has been referred to above. We are also keen to disseminate advice on good practice more widely, and have done this in the case of a recent survey by the Joint Information Systems Committee. We noted the very short response time, of ten days, for a survey by JISC in March 2005. The HERRG has drawn JISC's attention to Cabinet Office Code of Practice on Consultation. We will continue to foster better practice in regard to the consultation process across all areas affecting the HE sector.

### Future gatekeeper work

- 13 We will continue to scrutinise new policies and legislation for unnecessary burdens. The HERRG Secretariat regularly updates its database of forthcoming policies and issues but welcomes comments from the sector about what we should be examining (please see Annex 5 on how comments may be forwarded for the Group's attention).

- 14 Issues that we will be looking at in the coming months include:

**Teaching Quality Information** - full TQI datasets are required for all HEIs for the launch of the website ([www.tqi.ac.uk](http://www.tqi.ac.uk)) in summer 2005. The QAF Review Group, chaired by Dame Sandra Burslem, will begin evaluating the utility and impact of TQI later this year. We will work closely with the Review Group to ensure that the burden implications of TQI are fully considered.

**National Student Survey** - Linked to TQI requirements, the NSS has been agreed and it is intended that the results of the survey will be published alongside the TQI datasets. The QAF Review Group is also evaluating the NSS and again we will work closely with the Review Group to ensure burden implications are considered.

**Post qualification applications** - A formal public consultation will take place later this summer. The Group is involved in the consultation process for PQA proposals and will be discussing this issue in full at our July meeting. We will submit a response to the DfES on any action we decide needs to be taken in this regard.

### Code of practice on university-managed accommodation

- 15 The Housing Act 2004 introduced licensing for housing of multi-occupation but exempted HEIs, provided they meet standards of management acceptable to the Office of the Deputy Prime Minister. The UUK has developed a code of practice on student housing in order to meet these standards, on which it has just completed consultation. Whilst the Group feels the exemption is a move in the right direction, we are anxious to ensure that this does not become a further example of gold plating. We will be exploring the proposed code of practice in detail with the representative bodies to guard against any unnecessary burdens on the sector in this regard.

## **Partnership Quality Assurance Framework for Healthcare Education in England**

- 16 We have already had detailed discussions with representatives from Skills for Health (the Sector Skills Council for Health). We will continue to chart the progress of the partnership QAF: the HERRG will be represented at the autumn meeting, and will have early sight of the report being considered.



# Annex 5

## Who we have talked to

- 1 We have taken every opportunity to speak to those in the sector about our work. The Group has met with a variety of bodies and groups including:

AGCAS	HEFCE
ALI	HESA
BRRG	Higher Education Academy
CUC	Leadership Foundation for Higher Education
DoH	OFSTED
DTI	QAA
Healthcare Commission	TTA

- 2 We have also held meetings with representatives of UUK, SCOP, the Russell Group, the 94 Group and CMU. The Chair spoke directly to senior university administrators at the AHUA conference on 24 September and is attending further national meetings of senior university administrators and managers, such as the Academic Registrar's Council meeting at the end of June this year.

- 3 A key opportunity to get our message across was taken on 27 January 2005 when we held a reception in London to publicise the outcome of our work with HEFCE on reducing special funding streams and the 'single conversation'. But we would like to see more regional events and have started the ball rolling with a dinner held at University of York for Vice Chancellors in Yorkshire, Humberside and the North East in May. Further events of this kind are being planned.

## Your input is important

- 4 We are keen to hear the sector's views on which concerns or issues we should be examining and how we might best address the regulatory burdens faced by institutions.
- 5 If you would like to contact us or would welcome further information please get in touch with the Secretariat:

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# Annex 6

## Glossary of terms

AGCAS	Association of Graduate Careers Advisory Service
AHUA	Association of Heads of University Administration
AUA	Association of University Administrators
ALI	Adult Learning Inspectorate
BME	Black Minority Ethnic Communities
BRRG	Better Regulation Review Group
BRTF	Better Regulation Task Force
CMU	Campaigning for Mainstream Universities
CUC	Committee of University Chairmen
DAT	Discipline Audit Trail (as a part of Institutional Audit)
DES	Disability Equality Statement
DfES	Department for Education and Skills
DLHE	Destination of Leavers in Higher Education
DoH	Department of Health
DRC	Disability Rights Commission
FEC	Full Economic Costing
HEA	Higher Education Academy
HEFCE	Higher Education Funding Council for England
HEI	Higher Education Institution
HEIF	Higher Education Innovation Fund
HERRG	Higher Education Regulation Review Group
HESA	Higher Education Statistics Agency
HESDA	Higher Education Staff Development Agency
HESES	Higher Education Early Statistics Survey
ICSA	Institute of Chartered Secretaries and Administrators
ISR	Individual Student Record
JISC	Joint Information Systems Committee
LFHE	Leadership Foundation for Higher Education
LSC	Learning & Skills Council
NAO	National Audit Office
NSS	National Student Survey
ODPM	Office of the Deputy Prime Minister
OST	Office of Science and Technology
QAA	Quality Assurance Agency
QAF	Quality Assurance Framework
RAE	Research Assessment Exercise
RIA	Regulatory Impact Assessment
SCOP	Standing Conference of Principals
SRIF	The Science and Research Infrastructure Fund
TRAC	Transparent Approach to Costing
TTA	Teacher Training Agency
TQI	Teaching Quality Information
UUK	Universities UK



Further copies of this report may be obtained from:

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