

No.	Question	UA response
1a	Do you agree or disagree with the proposed definitions of 'quality' and 'standards' set out in Table 1 of Annex A and that this should be used to express minimum baseline requirements for quality and standards in revised B conditions?	<p><u>Disagree</u></p> <p>We have significant concerns about the definitions set out in Table 1 of Annex A. The Table is made up of a collection of statements which uses quality and standards interchangeably and contains no definition of either 'quality' or 'standards'. They are a mix of unmeasurable principles and measurable outcomes. In addition, many of the statements are inherently subjective and difficult and/or burdensome to evidence (e.g., 'staff members who design and deliver a course are sufficient in number' and 'employers are satisfied with the graduates they employ'). There is no mention of student engagement, satisfaction, or wellbeing, which are important indicators of quality.</p> <p>Whilst much of the text aligns with the new UK Quality Code for Higher Education, which was revised following extensive sector consultation, it is not clear what role the Designated Quality Body (DQB) will play in enforcement going forward. This is perplexing as the DQB is responsible under HERA 2017 for the setting and assessment of eligible standards in higher education in England. We do not believe this situation will provide 'greater clarity' for students and providers.</p> <p>We are concerned about the UK-wide impact of providers in England decoupling from the Quality Code, which could weaken the desirability of the UK as a destination for international students and damage the country's higher education reputation.</p> <p>Finally, the expansion of scope to include TNE and non-recognised provision shows a disregard for institutional autonomy in managing quality and standards. This will add significant regulatory burden and it is not clear how this is proportionate and in line with the Regulator's Code.</p>
1b	<i>Do you have any comments about how the proposed definitions of quality and standards set out in Table 1 of Annex A should be assessed for individual providers?</i>	<i>No response</i>
1c	<i>Do you agree or disagree with the proposal in paragraphs 41</i>	<i>No response</i>

	<p>to 43 to express initial requirements differently from the equivalent ongoing requirement for providers seeking registration?</p>	
2a	<p>Do you agree or disagree with the proposed approach to assessing student outcomes set out in Annex B?</p>	<p>Disagree</p> <p>In principle we are highly supportive of moves to improve quality and standards in higher education in England. However, whilst we are justifiably proud of our student outcomes, and do not object to OfS making use of these in principle, these are only some of a group of indicators which should be used to measure higher education quality. We also do not believe that data alone is ever sufficient to measure higher education quality.</p> <p>Furthermore, we strongly disagree with the principle of absolute minimum baselines. The process of setting these is fraught with difficulty and is likely to have a wide range of unintended consequences. Student outcomes metrics are very unevenly distributed across different groups of students, courses and employment sectors, and this approach would not serve to deliver quality for all students fairly. In our view it is also highly likely to undermine Widening Participation and Access and Participation Plan objectives and will disproportionately impact providers with the highest widening participation populations. This is because it creates perverse incentives for providers to reduce risk by moving away from key areas of provision, such as: underrepresented students; flexible provision (which is not well-served by student outcomes data); and diverse/innovative provision (which may lack a clear/well-established progression pathway but is nonetheless vital to the resilience of the UK knowledge economy).</p> <p>UA members are of view that baselines should be benchmarked as they are for the Teaching Excellence and Student Outcomes Framework (TEF). OfS guidance on the TEF explains that benchmarking ‘enables more meaningful interpretation of a provider’s actual performance and <i>ensures that factors which may have an effect on student outcomes which are outside of the control of a provider are taken into consideration for assessment purposes</i>’ (para 122, our emphasis).¹ We fully concur. We do not accept the premise that benchmarking these indicators leads to students from underrepresented groups being expected to accept</p>

¹ Office for Students (2018), *Teaching Excellence and Student Outcomes Framework: Subject-level pilot guide* (Bristol: OfS), www.officeforstudents.org.uk/media/57eb9beb-4e91-497b-860b-2fd2f39ae4ba/ofs2018_44_updated.pdf.

		<p>lower quality, including weaker outcomes, than other students. There is a multitude of evidence to show that both continuation and completion are closely linked to socioeconomic and family background. Students stop studying for a range of reasons, many of which are wholly unconnected to their experience of higher education. It would better reflect the performance of providers if an element of the distance travelled by students were introduced for these indicators.</p> <p>Moreover, a recent report from the Higher Education Policy Institute (HEPI) on non-continuation in UK universities found that the UK has the highest completion rates for students on bachelor’s degrees among comparable developed countries.² There is therefore evidence to suggest UK universities are already too cautious about who they enrol in higher education. Continuation rates are strongly correlated to entry tariff. Disabled students, BAME students, LGBT+ students, mature students and part-time students are all more likely to drop out than other groups of students. There is a real risk that the measures outlined in the consultation will create further incentives for providers to make admission judgements based on likelihood of continuation and completion. As the HEPI report concludes, ‘any institution which believes it will be punished financially for a high or increasing drop-out rate may seek to limit their recruitment of people with characteristics that put them at higher risk of not completing their course.’</p> <p>The continuation and completion indicators are also at odds with government’s plans to increase modular and flexible HE provision, for example through the Lifelong Loan Entitlement (LLE). As the Dearing Report noted back in 1997, ‘non-completion will become an increasingly difficult concept to measure if more students undertake higher education programmes in a flexible way, over a long period of time.’³</p> <p>In addition, we have serious concerns about the proposed progression indicator, which draws on new experimental statistics. As currently constructed, the progression indicator and the proposed definition of higher skilled employment provide a narrow definition of success that does not fully capture progression into some careers e.g., the arts and humanities. There are also many useful and fulfilling forms of employment, as well as entrepreneurial routes to success and societal contribution, that are not defined as managerial or professional employment.</p>
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² N. Hillman (2021), *A short guide to non-continuation in UK universities* (Oxford: HEPI), www.hepi.ac.uk/2021/01/07/a-short-guide-to-non-continuation-in-uk-universities/.

³ The National Committee of Inquiry into Higher Education (1997), *Higher Education in the learning society* (London: Her Majesty’s Stationery Office), www.educationengland.org.uk/documents/dearing1997/dearing1997.html.

		<p>Recent OfS analysis has found that provider-level projected rates of progression are strongly linked to entry tariff, with students from high tariff providers more likely to score highly.⁴ It also found graduate outcomes are heavily influenced by geographical location and subject. These disparate outcomes point again to the need for benchmarking. Without it, low quality courses with fewer students from underrepresented groups and/or direct links to professional employment will escape scrutiny, as they may easily meet the baseline (though should be performing far above the level to which they are). Conversely high-quality programmes may find themselves just below the baseline due to factors not directly within their control such as geography and the local labour market.</p> <p>We have serious reservations about using a ‘reasonableness’ or public interest test to set absolute baselines. When it comes to higher education, commonly held beliefs are not necessarily backed up by evidence and we do not think they should be used for regulatory purposes. It is unclear how a parent or member of the public could have an informed view of what acceptable continuation, completion and progression rates should be.</p> <p>Baselines should not be set at the same level for all subjects, particularly for the progression indicator. As noted above, significant labour market variances by geography and sector means that it takes longer to find graduate-level employment for some subjects than others in different parts of the country. In addition, for some subjects the current SOC coding does not reflect standard entry level jobs for a successful career.</p> <p>It is unclear how the outcomes of international students will be measured, and it is difficult to see how baseline performance based on UK-based provision could be applied with any confidence to TNE provision.</p> <p>In addition, extending the baselines to partnership arrangements and non-recognised HE could stifle diverse and innovative provision and have unintended consequences.</p>
2b	Are there any other quantitative measures of student outcomes that we	We appreciate the opportunity to expand on the list of lead indicators used and are of the view that additional indicators should be considered that relate to a) access and participation and b) student engagement and voice.

⁴ Office for Students (2020), *Developing an understanding of projected rates of progression from entry to professional employment* (Bristol: OfS), www.officeforstudents.org.uk/publications/developing-an-understanding-of-projected-rates-of-progression-from-entry-to-professional-employment/.

	<p>should consider in addition to continuation, completion, and progression (see Annex B paragraph 18)?</p>	<p>For access and participation there should be alignment with providers' action and participation plans (APPs) to ensure the two core elements of the OfS regulatory regime are joined up. OfS could also consider adding a social mobility indicator which measures outcomes for disadvantaged students.</p> <p>The TEF draws on data from the NSS related to student satisfaction, and something along these lines should be included here as well, either from the NSS or the 'graduates' reflections on activity' section of the Graduate Outcomes Survey.</p> <p>Higher education lags behind the rest of the education sector when it comes to understanding and measuring the institutional contribution – the value that it adds – to its student's education. OfS should work with the sector, government, and others to create a meaningful 'value added' metric for higher education.</p>
2c	<p>Do you agree or disagree with the proposals for the levels of study at which indicators should be constructed? Should any additional indicators be considered (see Annex B paragraph 25)?</p>	<p><u>Neither agree nor disagree</u></p> <p>We largely agree with the indicators listed. However, the completion metric currently groups together postgraduate taught and research students. These should be disaggregated considering the vastly different delivery and time frames of these types of study.</p> <p>We also propose that the following additional indicators:</p> <ul style="list-style-type: none"> • Extended degrees • Foundation years • Apprenticeships <p>In addition, a separate category for higher technical education at levels 4 and 5 should be considered, as 'other undergraduate' may be too broad and end up deterring innovation in sub-degree qualifications for fear of impact on measurable indicators.</p> <p>It will be vital to ensure that the indicators used for these non-standard qualifications are appropriate, as they are specifically designed to meet the needs of non-traditional students.</p>
2d	<p><i>Do you have any comments about an appropriate balance</i></p>	<p><i>No response</i></p>

	<i>between the volume and complexity of indicators and a method that allows us to identify ‘pockets’ of performance that are below a numerical baseline (see Annex B paragraph 32)?</i>	
2e	Do you agree or disagree with the demographic characteristics we propose to use (see Annex B paragraph 36)? Are there further demographic characteristics which we should consider including in the list of ‘split indicators’?	<p>Agree</p> <p>We agree with the demographic characteristics listed but we propose that OfS sets a threshold level for all data sets to ensure they are statistically robust. Intersectional data should be considered in cases where providers are able to demonstrate they have sufficient data. For significantly underrepresented groups (e.g., care leavers and estranged students) aggregated data should be used.</p> <p>OfS should additionally consider prior eligibility for free school meals (FSM) which is included in access and participation datasets, as well as prior attainment.</p>
2f	Do you agree or disagree that the longitudinal educational outcomes dataset should be used to provide further indicators in relation to graduate outcomes (see Annex B paragraph 46)?	<p>Disagree</p> <p>We strongly disagree that the longitudinal educational outcomes (LEO) dataset should be used to provide further indicators in relation to graduate outcomes. We do not believe that average graduate earnings should be used by the regulator as a proxy for provider or course value. If 2020 has taught the world anything it is that salary is a poor measure of value, and even less of a proxy for quality. Highly valued but not highly remunerated public service professions such as nursing, teaching and social work fall into the lower graduate salary band and work force capacity is already a risk.</p> <p>The usefulness of the LEO data is severely constrained by the limited time frame for which it is available (complete data is only available for graduates at age 30) and the fact that it does not include part-time and self-employed workers. The latter in particular accounts for a large amount of the growth in overall employment, and affects some subjects more than others (e.g., creative arts). In addition, there is the problem of the time-lag inherent in the data. Courses today are very different to those students experienced a decade ago in terms of content, pedagogy, and technology.</p>

		<p>There is another fundamental reason why the LEO dataset should be used with extreme caution by OfS. The Institute for Fiscal Studies (IFS) has found that the earnings of graduates from poorer backgrounds are considerably lower, <i>even conditional on studying the same subject at the same university</i>.⁵ It is also potentially discriminatory its implications and effects and is biased in favour of certain geographical areas. Male graduates earn more on average than female graduates, are more likely to be in highly skilled employment and less likely to be in part-time employment. A recent report from HEPI found that the overall graduate gender pay gap is not accounted for by subject of study, type of university attended, prior attainment, social background, or ethnicity.⁶ Given this gendered impact, the authors strongly caution against using comparative earnings ‘as a measure of the worth of programmes or the quality of institutions’. The Social Mobility Commission recently found that in areas of England with low social mobility, up to 33% of the pay gap is driven by family background and local market factors, <i>over and beyond educational achievement</i>.⁷</p> <p>Finally, students pursue higher education for a wide range of reasons, and salary is only one of them. A 2019 survey from Universities UK found that only one in three (34%) of students and recent graduates said they decided to go to university to get a higher salary than they otherwise would have.⁸ OfS should consider including additional indicators of graduate success, satisfaction/fulfilment and/or contribution that more accurately align with students’ own reasons for pursuing higher education.</p>
2g	Do you have any comments about how the range of sector-level performance should be taken into account in setting	<p>We think it is highly risky to set the numerical baseline at a level that would explicitly seek to improve the bottom 10-20 per cent of provider performance in the sector, as this could have a number of unintended consequences, particularly on access to and participation in higher education for underrepresented groups. Merely deciding that the bottom 10-20% could be the baseline is arbitrary, without a full consideration around the range and variability in the data and the impact on the higher education market. There is a real danger that</p>

⁵ J. Britton, L. Dearden, N Shephard & A. Vignoles (2016), How English domiciled graduate earnings vary with gender, institution attended, subject and socio-economic background, IFS Working Paper W16/06 (London: Institute for Fiscal Studies), www.ifs.org.uk/publications/8233.

⁶ B. Cornell, R. Hewitt & B. Bekhradnia (2020), *Mind the (Graduate Gender Pay) Gap* (Oxford: HEPI), www.hepi.ac.uk/wp-content/uploads/2020/11/Mind-the-Graduate-Gender-Pay-Gap_HEPI-Report-135_FINAL.pdf.

⁷ Social Mobility Commission (2020), *The long shadow of deprivation: Differences in opportunities across England* (London: SMC), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/923623/SMC_Long_shadow_of_deprivation_MAIN_REPORT_Accessible.pdf.

⁸ Universities UK (2019), ‘Government is wrong to focus on future salaries – new survey of students and graduates suggests’ (London: UUK), www.universitiesuk.ac.uk/news/Pages/Government-is-wrong-to-focus-on-future-salaries-%E2%80%93-new-survey-of-students-and-graduates-suggests.aspx.

	numerical baselines (see Annex B paragraph 57)?	this would serve to reduce provision for communities with high HE aspiration but from IMD quintile 1 areas with relatively poor outcomes at level 3 compared to more affluent areas.
2h	Do you have any comments about the other contextual factors that should be taken into account and the weight that should be placed on them (see Annex B paragraph 68)?	<p>We strongly agree that OfS should take contextual factors into account when assessing a provider. As we explained above, we believe that student outcome indicators should be benchmarked. If these indicators are not benchmarked, then there must be sufficient scope for contextual factors to include different student characteristics and subject mix.</p> <p>However, we need to see more details about how contextual factors will be considered by OfS. For example, the Coronavirus pandemic has affected providers differently based on their geographical location and the make-up of their staff and student bodies. How will OfS ensure their analysis is sufficiently nuanced to take these kinds of differences into account? Any procedure for analysing contextual factors needs to include a feedback mechanism that allows providers to submit supporting evidence. This consultation does not have enough detail on how providers can feed back to the OfS (aside from reportable events).</p>
3	Do you agree or disagree with the proposals in Annex C for monitoring ongoing compliance with regulatory requirements for quality and standards?	<p><u>Disagree</u></p> <p>We are concerned that the proposals could amount to a significant increase in the amount of in-year data that OfS will be monitoring, which is likely to lead to an increased regulatory burden for providers. We are not convinced that this is proportionate or represents value for money. It is not clear how the proposals link to existing processes providers have for submitting data to other regulatory bodies, and there is potential for duplication of effort.</p> <p>We are particularly concerned about the increased emphasis given to data from Professional, Statutory and Regulatory Bodies (PSRBs). While most PSRBs are linked to clear professional pathways, not all are. There is a cost both in terms of subscriptions and in complex data. PSRBs can change requirements and subscription levels and can be motivated by the need to maintain solvency.</p> <p>We do not believe that is appropriate to use TEF as a risk indicator, not least because it is currently under review. Doing so fundamentally blurs the distinction between the quality baseline quality enhancement.</p> <p>Finally, we do not believe that it is appropriate for the regulator to highly unreliable indicators such as the press and social media to ascertain risk.</p>

4	Do you agree or disagree with the proposals in paragraphs 86 to 101 for our approach to intervention and gathering further information about concerns about quality and standards?	<p>Disagree</p> <p>The implication of the proposals is that OfS will not address falling standards in a provider with good student outcomes until they fall below absolute standards. We do not think this is fair to students.</p> <p>However, any enhanced monitoring should be proportionate and focussed on the student category of concern. For example, if there are concerns with the experience of part time students then the enhanced monitoring should focus on part-time students, not the student body as a whole.</p> <p>If the proposals are implemented, providers are likely to invest significant further resources into the administration of regulatory compliance. It is important to note that monetary penalties can exacerbate issues by reducing resource available to invest in improvement.</p> <p>We would welcome the input of the DQB on whether other bodies should be able to carry out statutory functions for the assessment of quality and standards, as this does not appear to be permitted by HERA.</p>
5	Do you have any comments about any unintended consequences of these proposals, for example for particular types of provider or course or for any particular types of student?	<p>We believe that these proposals could have very serious unintended consequences. In our view they are likely to restrict innovation when it comes to new provision and partnerships and make providers more risk averse overall. Providers that admit students from groups that are statistically more likely to have poorer outcomes may be incentivised to adjust their admissions practices so that those students with higher risk factors are not admitted. Courses with poorer employment outcomes (or lower average graduate salaries if the LEO salary data is used) due to geographical and /or sector/industry features beyond a providers' control – for example creative arts courses – may be impacted, with an effect on the UK's creative industries, and social mobility in the creative arts more broadly.</p>
6	Do you have any comments about the potential impact of these proposals on individuals	<p>As OfS has documented extensively, higher education outcomes vary significantly for groups of students holding different sets of characteristics.⁹ If the regulator revises the B conditions to include student outcome indicators that are not benchmarked, many providers will be disincentivised to admit certain groups of students to improve their own metrics. There is a particular concern about doing so at a time when the demand for HE will be</p>

⁹ See for example, OfS analysis of associations between characteristics of students: www.officeforstudents.org.uk/data-and-analysis/associations-between-characteristics-of-students/.

	<p>on the basis of their protected characteristics?</p>	<p>increasing due to demographic growth, particularly in areas of high HE aspiration. The numbers and proportion of young people finding themselves frustrated in their ambitions to attend HE could be very significant.</p> <p>As we outlined in Q.2f above, many differences in student outcomes cannot be attributed to education. The Institute for Fiscal Studies has found that the earnings of graduates from poorer backgrounds are considerably lower, even conditional on studying the same subject at the same university.¹⁰ We know that the number of children in poverty has risen rapidly since 2017 and is likely to rise even further in light of the catastrophic impact of the pandemic on jobs and the economy.¹¹ The ensuing recession is likely to have an adverse impact on the continuation, completion and progression rates in the coming years, despite providers' best efforts (and particularly without further resources). In our view it is perverse to impose absolute baselines during a time of rapidly rising poverty.</p>
7	<p>Do you have any comments about where regulatory burden could be reduced?</p>	<p>As far as Alliance universities can see, none of the proposed reforms would reduce regulatory burden, and there is considerable risk that the regulatory burden will be increased significantly.</p> <p>Providers are likely to invest further in regulatory compliance units, such as exist in other regulated industries. This may be a desired outcome by OfS, but the requirement to be able to provide detailed evidence in the case of investigation is likely to divert resources from front line activity.</p> <p>We cannot yet comment on any reduced burden which might come from reduced or increased data returns until we have had further outcomes from the review of Data Futures.</p> <p>The consultation states that that providers that do not pose specific increased risk should have less regulatory burden. However, this places greater burden on institutions in terms of data reporting (in particular, the expansion in expectations for TNE provision).</p>

¹⁰ J. Britton, L. Dearden, N Shephard & A. Vignoles (2016), How English domiciled graduate earnings vary with gender, institution attended, subject and socio-economic background, IFS Working Paper W16/06 (London: Institute for Fiscal Studies), www.ifs.org.uk/publications/8233.

¹¹ S. Fitzpatrick, G. Bramley, J. Blenkinsopp, J. Wood, F. Sosenko, M. Littlewood, S. Johnsen, B. Watts, M. Treanor & J. McIntyre (2020), *Destitution in the UK 2020* (York: Joseph Rowntree Foundation), www.jrf.org.uk/report/destitution-uk-2020.

8	Do you have any other comments?	<p>Producing employable, enterprising graduates is at the heart of University Alliance’s mission. We are pioneers in working with employers to develop flexible, innovative higher technical provision such as degree apprenticeships in key growth areas. As institutions deeply rooted in our communities, we work with local employers to power jobs across our regions.</p> <p>Widening participation activity is integral to our way of working. Many Alliance university students are the first in their family to go on to post-18 study. A quarter of the students from Alliance universities in England were eligible for Free School Meals – almost twice the national average. We offer opportunities for life changing study for those who may not wish to move long distances, who instead may choose to commute to their local anchor institution. Through our provision of flexible learning opportunities, we widen access to higher education for those who may not have considered or may not be able to undertake a study programme.</p> <p>Alliance universities all have significant concerns that the proposals in this consultation will have unintended consequences for these two core planks of our mission. Firstly, there is a significant risk that the measures will stifle innovation and make it more difficult for us to offer the flexible provision our communities so desperately need in the wake of the Coronavirus pandemic. Secondly, it is difficult to see how the proposals will not have an adverse impact on widening access and participation to higher education, rolling back the enormous amount of progress that has been made over the past several decades, and putting OfS access and participation targets in jeopardy.</p> <p>For these reasons, we strongly advise OfS to reconsider these proposals. Student outcome indicators must be benchmarked, as they are in the TEF, including at subject level, and should be joined up with Access and Participation Plans and should be broadened to include an indicator measuring student engagement, satisfaction or learning gain. We call on OfS to work with us to ensure that the proposals do not have an adverse impact on higher technical education, apprenticeships, and modular and flexible provision that is vitally needed to support the post-pandemic recovery.</p>
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