

## UA submission to the OfS consultation on Quality and Standards Conditions

### About us

University Alliance (UA) is the voice of professional and technical universities. We represent 12 large to mid-sized universities working at the heart of their communities.<sup>1</sup> Alliance universities partner with industry and the professions to deliver the workforce of today and tomorrow through practical, skills-based learning and applied research. We welcome the opportunity to make a high-level submission to the Office for Students' consultation on quality and standards conditions.

### Our position: more information is needed

Alliance universities are deeply committed to providing a high-quality academic experience for students, and we are broadly supportive of the principles-based and risk-led approach to regulation outlined in the consultation document. Indeed, **we are largely in agreement with both the revised and new conditions for quality and standards.**

However, as a mission group of universities **we are unable to lend our support to the proposals without additional information about how they will operate in practice.** This is particularly given the extension of OfS regulatory oversight to modular provision, transnational education (TNE), partnership and franchise provision, and non-OfS funded provision such as ITT training and degree apprenticeships. Moreover, the content of Condition B3 and the Teaching Excellence and Student Outcomes Framework (TEF) will not be consulted on until later this year. It is difficult to provide views on the regulatory consequences for breach of these conditions until more information is provided and the future of the TEF decided.

**We are therefore calling on OfS to develop the full suite of B conditions and TEF as a coherent set of proposals, and delay implementation until they are ready to be rolled out together, preferably no earlier than the start of the 2022/23 academic year.**

Below we outline areas where additional clarity is particularly needed, as well as some of the potential unintended consequences of the proposals as currently formulated.

### Key information gaps

There are several aspects of the proposals where Alliance universities would like to see more detail:

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<sup>1</sup> Our members are Anglia Ruskin University, Birmingham City University, University of Brighton, Coventry University, University of Greenwich, University of Hertfordshire, Kingston University, Leeds Beckett University, Oxford Brookes University, University of South Wales, Teesside University and University of the West of England, Bristol.

### Regulatory thresholds

The most fundamental gap pertains to the level at which investigations will be triggered; what proportion of an institution's provision would need to be affected before that threshold is reached; and how these patterns will be identified by OfS. We recommend that OfS provides further information under each condition about what would necessitate an investigation, and what response OfS plans to take in relation to different levels of breach.

We have concerns about the use of compliance history and to what extent this will be retrospective, particularly vis-à-vis Condition B4; more information about this is also essential.

Whilst we appreciate the fact there is no intention to collect additional data in relation to the proposals, we believe that it may be all too easy to make tenuous links between certain metrics and conditions without understanding the specific context, for example using continuation data to conclude student support is inadequate.

### Academic judgments

We strongly welcome the input of expert academic judgements into the regulatory process. However, more information is needed about the process of how expert academic judgements would be sought, and the role of the DQB given the removal of the UK Quality Code. For example, how will 'appropriate academic experts' be selected and have their independence ensured? If OfS is only 'drawing on' these experts can their views be completely disregarded? What happens when the experts disagree? What role will they play in the investigatory process and regulatory intervention?

### Contextualisation

Central to OfS's renewed approach to quality and standards is the notion of absolute minimum baselines. University Alliance voiced our members' deep concerns to this methodology in our [submission](#) to the phase one consultation. In lieu of benchmarking, it is essential that OfS take contextual factors into account when assessing a provider. However, we need to see more details about how contextual factors will be considered by OfS. It is imperative that a consistent approach is taken across different types of provision which mirrors that which is applied to B3. The diversity of provision in UK HE is only set to increase with the reforms being pioneered by the current Government. This means minimum baselines will be difficult to apply consistently between providers and provision without a clear way of contextualising how OfS registered providers score against these baselines.

### Sector recognised standards

In principle, we welcome the incorporation of sector recognised standards into the regulatory framework via Condition B5. Nonetheless we have several questions and concerns. These standards were not intended for regulatory purposes when they were agreed by the sector. Where will ownership with these standards lie in the future – with QAA and UKSCQA or OfS? How and when will they be updated, and how will sector consensus be maintained?

### Professional, Statutory and Regulatory Bodies (PSRBs)

It is unclear to what extent PSRBs have been consulted on the proposals, and how they might be impacted by the changes. Alliance universities are particularly concerned about the potential burden of extending OfS's regulatory oversight to those areas already regulated by another PSRB, for example Ofsted when it comes to degree apprenticeships and Initial Teacher Training (ITT). We note that there is a proposal that external examiners no longer be mandatory (which we do not support), but this will continue to be a requirement of most PSRBs.

### Modular provision

The proposals would extend the reach of OfS regulation to 'any volume of learning'. It is not clear which courses and/or modules would fall within this category and, crucially, how OfS will be carrying out its general monitoring activities at modular level without the requirement for additional data or information from providers. It is also not apparent whether other types of flexible and modular provision, for example non-credit bearing modules or continuing professional development (CPD) courses, are within scope. It is hoped that further information will be provided when the Skills and Post-16 Education Bill that is currently going through Parliament becomes legislation, and the details of the Lifetime Loan Entitlement are worked out. This again underscores why a delayed implementation is necessary.

### TNE

Alliance universities continue to have grave concerns about the extension of regulatory oversight to TNE, and how this will work in practice. Like most of the higher education sector, we believe there is a serious risk of damaging the reputation of a prominent, highly respected export product for the UK if this is not handled sensitively and carefully. The OfS should draw on the wealth of in-country knowledge and experience of delivering and creating partnerships of both the DQB and providers such as Alliance universities.

### Unintended consequences

University Alliance believes that these proposals could lead to a number of 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 – an argument we also made in our phase one [submission](#).

We have serious concerns about the extension of regulatory oversight to include all partnership arrangements including validation arrangements, franchise and TNE. We believe that this will significantly increase regulatory burden and discourage HE providers from engaging in partnership activity which is of benefit to the wider education sector and the economy and plays a key role in promoting UK HE internationally. Like much of the sector, Alliance universities are gravely concerned about the decoupling of English providers from the UK Quality Code, which is a mature, well-developed, understood, and respected quality framework. This could weaken the desirability of the UK as a destination for international

students and damage the country's higher education reputation. It is not clear what role the Designated Quality Body (DQB) will play in enforcement going forward.

We are also concerned that these proposals could hamper innovation when it comes to domestic partnerships. They could make institutions risk adverse particularly towards working in partnership with other institutions, for example further education colleges, given the scope of the conditions. This could have an impact on access to higher education, as many students from non-traditional backgrounds access HE through FE. We are calling on OfS to undertake an impact assessment of the proposals on partnerships, both international and domestic.

In addition, tensions remain in the proposals outlined in the consultation and providers' access and participation targets and plans – most notably the tension between controlling grade inflation and narrowing degree awarding gaps between different groups of students. The requirement for technical proficiency in English is also potentially discriminatory against students with speech and language difficulties (e.g., dyslexia), as well as an infringement on institutional autonomy.

## Conclusion

Ensuring higher education provision in England is high quality is rightfully a core objective of the Office for Students. University Alliance largely agrees with the new and revised quality and standards conditions outlined in the consultation. However, there are too many information gaps in the proposals for us to lend them our support. We are concerned that they could have several unintended consequences which could hamper key government priorities around levelling up, international education and lifelong learning. For this reason, we are calling on OfS to publish more details and delay implementation until the full suite of B conditions and TEF are finalised.