



Rt Hon Nadhim Zahawi MP

Secretary of State

Sanctuary Buildings Great Smith Street Westminster London SW1P 3BT

Tel.: 0370 000 2288 www.education.gov.uk/contactus/dfe

Lord Wharton of Yarm
The Office for Students
Nicholson House
Lime Kiln Close
Stoke Gifford
Bristol
BS34 8SR

31st March 2022

Dear Lord Wharton,

Guidance to the Office for Students on strategic priorities for FY22-23

We would like to thank the OfS for its continued hard work over the last year, in particular for all of its efforts leading to the publication of its consultations on quality and the Teaching Excellence Framework, and its progress in implementing the new approach to access and participation. The OfS has also made strong progress on other priorities, for example on mental health, sexual harassment, antisemitism and administering the Strategic Priorities Grant in a way that supports national priorities.

As we approach the start of the new financial year, we want to take the opportunity to set out our strategic priorities for higher education (HE) for the next year and beyond. This letter provides guidance from us to the OfS under section 2(3) of the Higher Education and Research Act 2017 (HERA). The policy areas included in this guidance reflect our strong view that the OfS should focus on delivering the government's skills mission, including significantly increasing the number of people successfully completing high quality skills training, driving up quality (including tackling pockets of unacceptable poor provision), ensuring that it delivers equality of opportunity and real social mobility for students and minimises unnecessary regulatory burden and bureaucracy.

This letter supersedes the statutory guidance letters from Ministers during and prior to February 2021, excluding the letter on the Teaching Grant (now Strategic Priorities Grant (SPG)) in January 2021, but including the letter from the previous Secretary of State on 2 February 2021. All guidance since February 2021 remains in place, including guidance in relation to the Strategic Priorities Grant which is being issued separately to this letter. The OfS will, of course, still need to perform all of its functions under HERA and its operational responsibilities, but this guidance letter will, we hope, provide clarity on our priorities and allow the OfS to focus its energy and resources on delivering them.

Skills and levelling up

The Levelling Up White Paper was published on 2 February 2022¹, setting out the government's vision for how we will spread opportunity more equally across the UK and deliver the skills mission. We are clear that HE has an important role to play in delivering the government's moral, economic and social vision for levelling up: supporting strong regional and economic growth, developing partnerships with Further Education colleges and local employers to improve the skills base nationally, and working with schools to drive up attainment. This will create equality of opportunity and deliver real social mobility.

The lifelong loan entitlement (LLE): The LLE, which will lead to a transformational change through its flexible modular approach to learning and facilitation of credit transfer, is a critical element of building skills and supporting local growth. We welcome the OfS's ongoing engagement on the development of the LLE to date and would like this engagement to continue in 2022-23. Together we need to ensure that the LLE is supported by an appropriate regulatory regime, fully equipped to support radically different, flexible arrangements, measuring quality using metrics that are meaningful in the new system and which interact positively with our admissions regime.

“Cold spots”: In the last two years we have seen new and innovative HE providers open their doors to students, work closely with employers and provide greater choice for students in terms of subjects, locations and different ways of learning. We would like the OfS to explore ways of encouraging the expansion of HE provision into new areas, while ensuring that high quality provision is maintained. We welcome the OfS introducing revised initial registration conditions that better enable new providers to identify and provide evidence that they are able to comply with quality and standards conditions.

Technical qualifications, degree apprenticeships and Institutes of Technology (IoTs): We are implementing a package of reforms to grow provision and uptake of high-quality technical education to address skills shortages, drive economic growth and to diversify modes of study.

Degree apprenticeship play a critical role in offering students a unique alternative to more traditional forms of HE, giving them the opportunity to combine studying at university with the benefits of being in a high-quality job and earning from day one. More and more employers and students are recognising this, with the number of degree apprenticeships almost doubling since 2018/19. We want to see that strong growth continue so that more people can access HE in a way that works for them.

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

¹ [Levelling Up the United Kingdom - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/white-papers/levelling-up-the-united-kingdom) – published 2 February 2022

The guidance we provided to you separately on the Strategic Priorities Grant also aims to support these priorities.

Quality

Government's work is geared towards securing a fair deal for students and, whilst our HE sector is rightly celebrated as world-class, driving up quality in HE, including tackling unacceptable pockets of poor quality provision, remains one of our highest priorities. This is a manifesto commitment and a major element of our levelling-up agenda, and it is vital that the OfS takes this work forward as rapidly as possible.

We have made clear our view that students must be able to expect high-quality teaching, including face-to-face education. The government has removed all restrictions on in person teaching, meaning providers are able to offer the full face-to-face teaching experience that they were offering before the pandemic. Virtual learning is a fantastic innovation, one that can be used to complement and enhance a student's learning experience, not detract from it, but it should not be used as a cost cutting exercise. The OfS should ensure that students receive the educational experience that their provider has promised.

We have made it clear that a key priority for government is to root out poor quality HE and so we welcome the OfS's recent consultation on quality and the proposals to set stringent minimum numerical thresholds for student outcomes on continuation and completion rates and progression to professional employment or further study as part your principles-based quality requirements. Government has announced that, as part of our HE Reform Agenda, we are consulting on policies that will help to ensure every student can have confidence that they are on a high-quality course that will lead to good outcomes. This will build on the work the OfS itself is taking forward to set minimum numerical thresholds for student outcomes that are applicable to all students regardless of background and ensure that all students are entitled to the same levels of quality. We must not "bake in" an acceptance of lower quality for certain students because they are from disadvantaged or underrepresented groups.

We recognise that the OfS has discretion and needs to exercise judgement to determine which providers and types of provision should be subject to scrutiny. However, it is our clear and firm expectation that the OfS will use the new outcome thresholds to identify providers with unacceptable levels of performance and challenge them. In the event that they cannot convincingly explain and justify their student outcomes data, then this should provide the basis for generating robust regulatory investigation and action. In cases where low and unacceptable quality is confirmed, action should include, where appropriate, financial penalties and ultimately the suspension or removal of the provider from the register (and with it, access to student finance).

In its response to the recent consultation on quality, and announcement of its decisions on revised conditions of registration, OfS confirmed that it expected the highest quality providers should 'normally expect to meet our minimum requirements comfortably'. In developing a proportionate and focused approach, OfS take into account that part-time and distance-learning provision, as well as high quality provision at Level 4 and 5, play an essential role in levelling up the country and providing retraining opportunities for those who have sometimes been less successful in their first experience of education. Further education colleges have a critical role in the government's efforts to expand high quality provision at level 4 and 5. Provision in these areas is currently undergoing considerable change and new and innovative approaches are expected. In addition to its existing priorities for quality regulation, we would like the OfS to focus most on some larger providers with university title, and full time Level 6 provision in some subject groupings.

Given the number of providers currently with performance below the proposed numerical thresholds that the OfS is consulting on, we would expect a significant number of investigations to be initiated as a result of the B3 condition in due course. As noted above, our priorities for investigation are:

- larger providers with university title which are below proposed numerical thresholds either for the whole provider, or multiple subject areas; and
- a set of investigations focused on a major subject grouping with large numbers of students and high variation in outcomes, such as Computer Science or Law, with the intention to drive up the quality of those courses across the sector as a whole; and
- providers where OfS has long-standing concerns about quality which are confirmed or strengthened by numerical data on student outcomes

In each case, investigations should be followed by robust regulatory action if appropriate.

We want to be clear that, when the proposals for student outcomes are introduced, providers delivering high quality provision should not be subject to additional administrative burden: the approach should be proportionate, risk-based and focused on low quality provision. We welcome the OfS's intention that the new regulatory regime will be fully implemented and operational no later than September 2022.

Where outcomes data is not below a threshold to trigger a regulatory intervention, it can still point to areas of concern that must be addressed. The OfS also receives information from students and others that may point to concerns about quality. Our expectation is that the OfS should deploy this regulatory intelligence to implement a visible and effective inspections regime against the other B (Quality) conditions of registration, that will involve on-site inspection of 10-15 providers next year, that will root out pockets of poor provision and will result in regulatory action where appropriate. Through this activity, we would expect the OfS to focus on the following priorities:

- that online learning should be used to complement and enhance a student's learning experience, not to detract from it;
- the provision of sufficient contact hours, particularly where this has been flagged by intelligence from students; and
- the importance of maintaining rigour in assessment, including appropriate technical proficiency in English necessary to secure a good outcome for all or some students.

Finally, we want to offer our support for the OfS proposals for a refreshed Teaching Excellence Framework (TEF) and, in particular, welcome the proposed introduction of the new 'Requires Improvement' category. We would also like the OfS to ensure that providers that are below the quality baseline, and so are not eligible to participate in the TEF, will be categorised appropriately to ensure that the information available to students on providers', government and third party sites is as clear as possible – a provider ineligible to take part in the TEF for reasons of quality should not appear better than a participating one that is categorised as Requires Improvement. Following the outcome of the OfS's current consultation exercise, we would like to see the new TEF framework in place, with assessments completed and new ratings published, as early as possible in 2023.

Other specific priorities

Access and participation

We were delighted to announce John Blake as the new Director for Fair Access and Participation last year, to take forward the ambitious programme of reforms that we set out in our guidance letter on the future of access and participation in November 2021. We confirm that the guidance issued to the OfS on his appointment remains active and welcome the progress that the OfS is already making on these reforms to deliver real social mobility, especially ensuring that all providers contribute, in earnest, to raising the prior academic attainment of all students, including those from disadvantaged and under-represented groups.

It is a key aim of the rebooted system that providers are strongly encouraged to quickly channel their efforts towards interventions which have a positive and lasting impact. We expect work with schools and colleges to become an integral part of providers' A&P plans. We also expect the sector to ensure all students, regardless of background, are confident that they will gain long-term benefits from investing in their education, including skills that are highly valued by employers.

To achieve this, we would like the OfS to work at pace to publish guidance this spring, calling for providers to bring forward variations to their current A&P plans where these do not currently meet the new expectations. We would like to see these approved this autumn, to take effect from September 2023. Where providers with substandard plans fail to bring forward variations voluntarily, the OfS should not hesitate in calling on those providers to submit a new plan for approval.

We endorse the OfS's proposal to move to a four-year A&P plan cycle, with a full rewrite of new A&P plans at the end of 2023, to come into effect by September 2024. It is time for the whole of our world-leading higher education sector to step up and take a greater role in raising attainment in education, and we do not expect the OfS to approve new plans where a provider shows insufficient ambition in delivering on these priorities.

We would also like to see providers incorporate data on completion rates and entry into professional employment, or further study, in all their advertising of subjects and courses from the start of the next admissions cycle. This information will assist prospective students as they make their choices about what and where to study. We would like the OfS to work with us and the sector in producing guidance for providers. We intend that this greater transparency will be introduced voluntarily, though we would want to discuss possible regulatory and enforcement mechanisms with you, should compliance turn out to be insufficient.

Antisemitism

Work should continue to build on our combined efforts to stamp out antisemitism in HE. This continues to be a key priority. We had a very successful summit, but problems remain. We would like the OfS to continue its strong engagement with the Department on this and welcome its offer to host and share best practice where providers are making progress.

Risk based regulation and reducing bureaucracy

We welcome the efforts of the OfS to date in identifying ways to ensure that regulatory burden is proportionate, and we see this work as a way of supporting the sector to focus on high quality teaching and learning. The progress the OfS is making on reducing enhanced

monitoring is a good example of moving towards a more risk-based approach. In our view, however, there is more to be done to reduce the burden on providers of responding to the OfS's requirements. We would like there to be further measurable and visible progress on this over the coming months. In particular, we would like the OfS to consider ways in which it can work with the sector to communicate more clearly its expectations, so that providers do not feel that they need to "gold plate" their responses, adding to their regulatory burden.

In addition, we would also like to confirm that, given the additional work next year, including on freedom of speech and other ministerial priorities, we will not be asking the OfS to deliver a registration fee reduction for AY 22-23.

Freedom of speech and academic freedom

Freedom of speech and academic freedom are fundamental principles which underpin our HE sector. Without action to counter attempts to discourage or even silence unpopular views, intellectual life on campus for both staff and students may be unfairly narrowed and diminished. We would like to thank the OfS for all the work that it has done in supporting these important aims and for its continued commitment to upholding these fundamental principles.

The OfS will continue to play an important role in monitoring and enforcing compliance with registration conditions relating to freedom of speech, in particular the requirement that providers have in place adequate and effective management and governance arrangements to deliver in practice the Public Interest Governance Principles relating to freedom of speech and academic freedom. Although the Higher Education (Freedom of Speech) Bill will strengthen protections in this area, it is important that the OfS effectively enforces the current relevant conditions in the interim.

Under the Bill, the OfS will have an expanded role in ensuring that these values are upheld across the sector, including through the appointment of a new Director for Freedom of Speech and Academic Freedom. We look forward to continued co-operation between the Department and the OfS in implementing the measures in the Bill. This will include further engagement with the sector and beyond in relation to future guidance.

Preventing and addressing harassment and sexual misconduct

Any form of harassment, violence or sexual assault is abhorrent and unacceptable anywhere in society, including at HE providers. We know that the OfS shares this government's strong view that HE provider leaders should prioritise a zero-tolerance culture to all harassment and sexual assault and improve the systems for reporting incidents.

We welcome the OfS's publication of the statement of expectations on sexual harassment and misconduct last Spring and follow up work since then. We understand that the OfS will continue its work to evaluate the implementation of the statement of expectations but, in our view, the OfS should include this in a condition of registration as soon as possible.

Admissions practices

We are grateful that the HE sector has provided invaluable support and shown flexibility wherever possible to students and applicants over the previous two admissions cycles.

In looking ahead to this year and beyond, we anticipate that there will be residual challenges in relation to admissions, and that 2022 will be a competitive cycle for applicants. Within this context and our recent announcement that we will not be reforming the admissions system

to a system of Post-Qualification Admissions² at this time, we would like the OfS to work with officials and sector stakeholders to consider how we can ensure that the student interest is placed at the centre of fair and transparent admissions practices, and that the sector avoids practices where students may feel pressured into making decisions, including through the use of 'conditional unconditional' offers.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Zahawi'.

Rt Hon Nadhim Zahawi MP
Secretary of State for Education

A handwritten signature in black ink, appearing to read 'Michelle Donelan'.

Rt. Hon. Michelle Donelan M
Minister of State for Higher and Further Education

² [Post-Qualification Admissions Reform Consultation - Department for Education - Citizen Space](#)