

Nicholson House
Lime Kiln Close
Stoke Gifford
BRISTOL
BS34 8SR

0117 931 7317
www.officeforstudents.org.uk

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Dear [name of Accountable Officer]

Regulatory requirements during the coronavirus (COVID19) pandemic

I wrote to you on 17 March to let you know that the OfS will adapt its regulatory approach to support providers at this time. I am very grateful that the vast majority of providers are working flexibly and innovatively to protect the interests of their students in the current unprecedented environment.

This letter contains more detailed information about the regulatory requirements we have suspended and the specific information we need from you to allow us to meet the objectives set out in last week's letter. Those objectives are that we will:

- support the government's objectives by sharing information with providers and enabling them to respond effectively
- protect students by working with providers to develop practical ways to maintain teaching quality and standards, enable adequate exams and assessment, and support financial sustainability
- seek to minimise long-run disruption to the English higher education system – reducing permanent damage and laying the foundations for the sector to recover as quickly as possible once the pandemic is over.

These regulatory changes take place in a context where we do not know how long disruption will last. The requirements we are suspending and the additional information we are requesting are therefore temporary but open-ended by nature. While we will seek to minimise regulatory burden throughout this period, we may need to adjust these requirements to deal with changing circumstances.

Annex A to this letter sets out in detail our regulatory requirements for this period.

Also attached is revised guidance on reportable events that supersedes existing arrangements for reportable events, and that will continue to operate during this period.

Our wider approach to regulation

Approach to teaching and assessment

It is important that providers consider how their responses to the current situation will affect all students and, in particular, those who might be most vulnerable to disruption. This includes students suffering from coronavirus or who need to self-isolate, international students, and students unable or less able to access remote learning for whatever reason, together with care leavers, those estranged from their families, and students with disabilities.

We will be providing further information next week about how we will support providers to maintain standards and teaching quality during this period. Our expectation is that providers should make all reasonable efforts to enable students to complete their studies, for achievement to be reliably assessed, for qualifications to be awarded securely, and to enable a fair and robust admissions process for 2020-21 entrants.

Providers will already be making these arrangements and we expect only to take regulatory action where we consider that reasonable efforts have not been made or where standards have been compromised. We will not prescribe a particular approach and are working with the Quality Assurance Agency (QAA) to provide models of good practice that providers may find helpful.

Consumer rights

The current circumstances and government advice mean that providers are likely to need to make changes to the way they deliver teaching and assessment. Consumer protection law continues to apply and you will need to ensure that your contractual terms and conditions for students are fair and easily understood and that you abide by these in practice.

For example, to ensure that any arrangements for making contractual changes are fair, it will continue to be necessary for providers to provide clear communication (e.g. by email) to students to notify them about the changes in advance of them taking effect, the reasons for these, the impact the changes are likely to have, and the options available to students to avoid the changes without being adversely affected.

During the period of disruption, we do not intend to take regulatory action in this area unless we become aware of practices that appear to us likely to constitute a significant breach of consumer protection law.

Admissions

We do not expect to see changes to offers already made to applicants for 2020-21 as a result of coronavirus. In particular we do not consider that changing a conditional to an unconditional offer in response to the current situation is likely to be in the best interests of students. Where we see such

practices taking place we will take such action as we deem appropriate to protect the interest of students.

Third-party notifications

Our normal approach to regulation involves considering information submitted to us by students or other third parties. We will continue to accept such notifications about registered providers during this period and will pay particular attention to those that suggest concerns about the way a provider is protecting the interests of its students as it makes changes to teaching and assessment.

Reintroduction of normal regulatory requirements

The requirements set out in this letter will remain in place until further notice. We may revise our requirements as the situation changes and as our understanding of the position of individual providers and the sector as a whole develops. We will continue to monitor the government's advice about the actions higher education providers are expected to take during the coronavirus pandemic.

When it appears likely that the situation has improved such that higher education providers can return to more normal delivery of higher education courses to students, we will return to our normal policy position and therefore expect full compliance. When we do so, we will be clear about the expectations on providers and the timing for these. We will set any submission deadlines in a way that allows providers sufficient time to comply, working on the assumption that providers will not have worked on those requirements between the date of this letter and the requirements being reintroduced.

Further information

We will continue to send regular updates by email to accountable officers, and we will update the coronavirus page on our website with the latest information:

www.officeforstudents.org.uk/coronavirus

We will also link to those updates from our Twitter account: @officestudents

As you know, the Department for Education has launched a helpline to answer education questions about COVID-19. The helpline for higher education staff, students and parents is:

- Phone: 0800 046 8687
- Email: DfE.coronavirushelpline@education.gov.uk
- Opening hours: 0800 to 1800 (Monday to Friday), 1000 to 1600 (Saturday to Sunday).

Next steps

If you have any questions about the issues raised in this letter, about the requirements relating to reportable events, or other regulatory matters, please email us at regulation@officeforstudents.org.uk. You can also call the regulation helpline on 0117 931 7305 (0900 to 1700 Monday to Friday).

We have worked at pace to identify and set out the significantly reduced regulatory requirements contained in this letter. Please contact us if you think we have missed something that should be included in our guidance.

Yours sincerely

Susan Lapworth
Director of Competition and Registration

Annex A: Regulatory requirements from 25 March 2020 onwards

1. This annex sets out the changes to regulatory requirements we are making as a result of the coronavirus pandemic. These changes are being made on an open-ended basis, so will be in place until we notify you otherwise. References to 'this period' below refer to the period starting 25 March 2020 and continuing until further notice.
2. References to 'suspension' below mean that the OfS no longer expects providers to comply with a requirement during this period. In the case of requirements to submit information to the OfS we are giving force to the revised requirements set out below through the attached Notice. For suspended requirements flowing directly from particular ongoing conditions of registration we will not expect providers to meet these during this period and we will not take regulatory action if they do not do so, although the conditions themselves remain in place. After this period the requirements, including specific condition and enhanced monitoring requirements placed on individual providers, will resume unless the OfS specifies otherwise. We will provide clarity on what this means in practice at the point the requirements are reintroduced.
3. Any regulatory requirements that are not specifically listed in this annex continue to apply as normal. If you are unsure about our requirements you can contact us on regulation@officeforstudents.org.uk.

Reporting requirements

Reporting requirements under ongoing condition F3: Reportable events

4. Our normal regulatory requirements include an obligation for providers to report certain events which may be material to a provider's legal form or business model, and its willingness or ability to comply with its conditions of registration.
5. However, during this period, we will ask providers to report in relation to a reduced set of issues. The new reportable events guidance sets out these reduced reporting requirements: www.officeforstudents.org.uk/publications/regulatory-requirements-during-the-coronavirus-covid19-pandemic/.
6. The guidance describes how we are introducing a requirement to report short-term threats to a provider's financial viability. This is focused on threats to liquidity and is designed to allow us to identify risks to individual providers as well as patterns across the sector. We need this information to allow us to work effectively with government and other stakeholders. This requirement does not apply to further education colleges that have the Education and Skills Funding Agency (ESFA) as their primary regulator.
7. The guidance also introduces a requirement to report where a provider has, or intends to, cease or suspend delivery of higher education, including if it is unable to award qualifications or credit. This may be across the whole provider, or for certain courses or types of courses. We need this information to understand the impact of the pandemic on the delivery of teaching and what this means for different groups of students. We do not require a provider to report that it has moved its teaching to online delivery.

8. During this period, the guidance replaces the reportable events requirements set out in the regulatory framework and Regulatory Advice 16. The requirements in the Notice attached to the letter called 'Information request in relation to COVID-19', sent to providers on 9 March 2020, no longer apply.

Reporting requirements under ongoing condition C3: student protection plan

9. Our normal reporting requirements include an obligation for providers to inform us of events, except for the closure of an individual course, that require the implementation of the provisions of their student protection plan.
10. We do not require providers to meet these reporting requirements in this period. We can better act in the student interest through a requirement designed for the current circumstances, and we will therefore instead gather relevant information through the new reportable event on cessation or suspension of delivery of higher education, including the inability to award qualifications or credit as set out in the new reportable events guidance.

Reporting requirements under ongoing condition E1: public interest governance

11. We usually expect a provider to notify the OfS in advance of any changes to its governing documents that might affect the public interest governance principles, and to submit the revised document.
12. We do not require providers to meet these reporting requirements in this period.

Other regulatory requirements

Information requirements under ongoing conditions F3 and F4

13. We set out the normal requirements for providers for cyclical data returns in a Notice that for most providers was issued on 31 July 2019. Where a provider's registration date was after 31 July 2019 the Notice was issued within two weeks of its registration. We are removing the immediate deadlines for submission of the majority of these data returns, although this year's data is likely to be required at a future point so providers should continue to collect and retain data for this academic (or financial) year. We will give you sufficient notice of a requirement to submit this data when we reinstate our routine regulatory requirements. Where possible we will open our portal for submission at the normal time so providers that wish to submit at the normal point in the cycle can do so.
14. The following data returns still need to be returned on the basis of the previously set deadlines and as set out in the Notice [attached to this letter]:
 - a. Annual financial return – we need this to allow us to understand a provider's financial position. The requirement is amended as set out in the attached Notice to recognise the difficulties in forecasting. Our consideration of this information will be supplemented by any information reported on the basis of the revised guidance for reportable events accompanying this letter.
 - b. Graduate Outcomes survey contact details – we need this so we can continue to collect data about student outcomes.

- c. Individualised Learner Record (further education colleges only) – we need this to allow us to hold up-to-date information on the number and type of students studying at further education colleges and sixth form colleges, and the outcomes achieved for these students.
 - d. Unistats data – we need this so we can ensure applicants have access to information to inform their higher education choices.
15. The requirement to comply with the Prevent monitoring framework continues: we will shortly issue further guidance to all providers with Prevent responsibilities, setting out our approach.
16. For completeness and clarity, the data returns which **do not** need to be returned to the previously set deadlines are:
- Provider profile, HESA
 - Student Return or Alternative Provider Student Return, HESA
 - Medical and dental students survey, OfS
 - Aggregate offshore record, HESA
 - National Student Survey, Contractor
 - Higher Education Students Early Statistics (HESES) survey, OfS
 - Higher Education – Business and Community Interaction (HE-BCI), HESA
 - Staff record, HESA
 - TRAC and TRAC(T), OfS
 - Formula teaching capital monitoring, OfS
 - Annual fee limits, OfS
 - Estates Management Record 2018-19, HESA
17. In addition to the reduced requirements for data returns as set out above, we will not initiate any new data audit or data reconciliation activity.

Enhanced monitoring requirements under F3 previously imposed for individual providers

18. We are suspending all enhanced monitoring requirements currently in place for individual providers. This includes:
- Requirements referred to as ‘enhanced monitoring’ in a provider’s registration letter or in written communication from the OfS since registration
 - Requirements set out in an F3 Notice issued to a provider requesting information in relation to an increased risk of a breach of one or more conditions

- Requirements relating to the need for a Quality and Standards Review (QSR) by the QAA, or regulatory action as the result of such a review
- Information we have requested from a provider without formally requiring it in an F3 Notice.

Please contact us if you are not clear about how this applies to you.

19. The exception to the suspension of enhanced monitoring requirements is any enhanced monitoring requirement imposed before 25 March 2020 in relation to ongoing condition D (financial viability and sustainability). We will contact providers that have enhanced monitoring requirements in relation to condition D to confirm whether these requirements still apply during this period.

Specific ongoing conditions of registration in place for individual providers

20. We are suspending requirements imposed by specific conditions of registration that were imposed on or before 25 March 2020. The exceptions to this are:

- a specific condition that has been imposed in relation to condition B3 (student outcomes) that imposes a requirement to seek agreement from the OfS before recruiting new students or offering new courses
- a specific condition that has been imposed in relation to conditions D (financial viability and sustainability) or E2 (management and governance).

21. We will contact providers in relation to the specific conditions not suspended by this letter to ensure our requirements are clear.

Requirements under ongoing condition A1: access and participation plan

Approval of 2020-21 access and participation plans

22. We will seek to provide a decision about approval of an access and participation plan for 2020-21 onwards where both:

- a draft plan for 2020-21 onwards was submitted for approval on or before 28 February 2020
- the provider has an approved 2019-20 access and participation plan currently in force.

23. Approval of a 2020-21 plan may be granted for no more than a year because of the challenges of engaging with a provider to improve a draft plan during this period. Approving a plan for a year will allow the provider to continue to be able to charge fees up to the higher fee limit in 2020-21.

24. We will not be able to prioritise decisions about approval of an access and participation plan for 2020-21 onwards where:

- a draft plan for 2020-21 onwards was submitted after 28 February 2020; or
- the provider does not have an approved 2019-20 access and participation plan currently in force.

25. A provider in these circumstances should not assume approval of a 2020-21 plan and should plan on the basis that it will not be able to charge fees up to the higher fee limit in 2020-21.

Delivery of commitments in previously approved access and participation plans

26. Where a provider has an approved access and participation plan for 2019-20 or 2020-21, we expect it to seek to meet its commitments. It is particularly important that providers:

- deliver in full the financial commitments made to current students under a 2019-20 plan
- deliver in full the financial commitments made to future students under a 2020-21 plan.

27. After this period we will assess how providers sought to meet their commitments, but in doing so will take into account the circumstances and assess whether a provider has made reasonable decisions that take into account the needs of students, especially students from underrepresented groups.

Monitoring of access and participation matters

28. During this period we will not be undertaking routine monitoring activity in relation to:

- 2018-19 access agreements
- 2019-20 access and participation plans.

29. As set out in the sections above, enhanced monitoring requirements and specific conditions relating to condition A1 are suspended.

Requirements under ongoing condition A2: access and participation statement

30. The requirement to publish an access and participation statement is suspended during this period, although providers are free to do so if they wish.

Requirements under ongoing condition F1: transparency information

31. The requirement to submit transparency information in April 2020 is suspended, and we are withdrawing the requirement to do so that was set out in the F1 Notice issued on 19 February 2020. Instead, we will draw on HESA and ILR data to publish a reduced set of transparency information during this period. For providers that have already made a submission we will not undertake any further work on this or require any further information.

32. The requirement to publish transparency information in June 2020 is suspended.

OfS grant funding for providers registered in the Approved (fee cap) category

33. During this period, we will minimise or postpone any requirements for the submission of monitoring reports normally required in relation to the use of particular elements of funding, such as monitoring returns on the use of capital funding for the 2019-20 financial year.

34. We are considering the requirements we normally impose for reporting and monitoring of funding allocated through Challenge Competitions and the other funded projects and schemes (including for example, the Uni Connect partnerships).

35. We will write during the next week to those providers delivering projects currently running, providing guidance and requesting information about how projects are likely to be affected by the coronavirus pandemic. This approach recognises that providers and individual projects are likely to be affected in different ways during this period, and we want to provide appropriate support for those activities that can move forward as planned, and for those which cannot continue in the same way for now.