



Department
for Business
Innovation & Skills

**ALTERNATIVE PROVIDERS:
SPECIFIC COURSE DESIGNATION**

Draft Guidance for Applicants:
Criteria and Conditions

APRIL 2013

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Introduction

Who should read this draft guidance?

This draft guidance is for alternative providers of higher education courses in the UK who wish to apply for courses to be specifically designated for student support purposes allowing eligible English-domiciled students to access loans and grants from the Student Loans Company (SLC). It is also for alternative providers who already have specific course designations as they will be expected to meet the requirements of the new process as part of the transition to new arrangements.

Specific designation of courses for the purposes of student support provided by the authorities in Scotland, Northern Ireland and Wales is a matter for those authorities and they have their own procedures and guidance.

This draft guidance sets out detailed information on the new specific course designation system, the new criteria for granting designation and the conditions that may be applied to providers with specifically designated courses, how student number controls will be applied, and the application process and timetable.

It should be read in conjunction with the information about the application process and applications forms which will be published on the Higher Education Funding Council for England (HEFCE) website at <http://www.hefce.ac.uk/whatwedo/reg/desig>

A list of definitions is provided at Annex A.

The new specific course designation criteria and conditions have been approved by the Department for Business, Innovation and Skills (the 'Department'), following consultation with key stakeholders.

If providers feel anything in this draft is unclear then it would be helpful if they could email the Department at designation.enquiries@bis.gsi.gov.uk by 10 May. The document will then be reviewed and final version will be issued alongside the application form and pack in May.

IMPORTANT NOTE:

All providers who are not already reviewed by the Quality Assurance Agency (QAA) should contact QAA as soon as possible and if they wish to make a new specific course designation application should submit an application to QAA before 24th May 2013. The contact details will be published on the QAA website by 26 April 2013 at <http://www.qaa.ac.uk/InstitutionReports/types-of-review/designated-providers>.

Summary of Key Principles, Changes and Requirements

- The new arrangements will apply to all new specific course designation applications for 2013/14. For new courses starting during the 2013/14 academic year there will be a single application window open from June 2013 until the end of August 2013.
- From 2014/15 onwards there will be two application windows, in August and February, and the process will take up to four months to complete (subject to the provider submitting the necessary information). Each application window will be open for six weeks.
- Those wishing to have courses specifically designated for September/October 2014 need to submit their application in either August 2013 or February 2014. Further information will be available by the end of May.
- The new arrangements will apply to all existing specifically designated courses following the transition process which will begin in June 2013.
- A QAA review is a pre-requisite for a successful specific course designation under the new process and will be a requirement for existing providers as part of the transition; only providers with a successful and recent review will be eligible to apply for new courses to be specifically designated. Providers will be required to meet the cost of this review, details of which can be found on the QAA website.
- All providers will be expected to provide copies of the last three years' externally audited accounts as part of the Financial Sustainability, Management and Governance (FSMG) checks when seeking specific course designation.
- Providers will be required to sign up to a set of terms and conditions of Specific Course Designation including complying with annual monitoring and data collection requirements.
- The Student Number Control (SNC) will be introduced in 2014/15 for full-time undergraduate courses and will be set on an annual basis. A specific SNC will be set for each provider; it will be for providers to manage their specifically designated courses within the SNC limit. Some providers will be required to pay a subscription to the Higher Education Statistical Agency (HESA) as part of this process.
- Providers are responsible for ensuring that their application is complete and that all requested information is provided. Incomplete applications will not be assessed.
- If a provider fails to comply with the terms and conditions and/or there are concerns raised during monitoring the Department will consider whether the course(s) should continue to be specifically designated. Possible action could include the issuing of an improvement notice, a freeze or cut in student numbers and possible withdrawal of designation for the course or courses in question.

Chapter 1: The New Specific Course Designation System

Introduction

The Government's response to the Higher Education White Paper and associated Technical Consultation announced that the system of specific designation of higher education courses at alternative providers would be strengthened in the interests of giving students a real choice.¹ This document sets out how the new specific course designation system will work.

Specific course designation of a course allows eligible English-domiciled students on that course to access loans and grants from the SLC. It is therefore essential that government ensures that there are robust processes in place to protect the interest of students, the reputation of UK higher education and the public investment.

Aims and Principles of the New Specific Course Designation System

Our overall aims are to ensure that under the new system:

- students have assurance that the Department has, through the specific course designation process, satisfied itself that there is a reasonable expectation that they will not be at risk of being unable to complete their course as a result of institutional failure;
- students have assurance that the provider will be subject to independent, consistent, external, quality assurance;
- the reputation of the UK higher education sector as a whole is protected;
- taxpayers have assurance that the Department is protecting the public interest; and
- the Department has assurance that providers with courses specifically designated for student support will operate in ways consistent with the budget for student finance in England.

The principles of regulation applied to alternative providers subject to the specific course designation process are designed to be consistent, as far as possible, with those applied to the HEFCE-funded sector in relation to the financial health, academic standards and quality of institutions.

All providers seeking specific course designation will be expected to meet the same standard in relation to the three key criteria:

- quality assurance;

¹ Available at <http://www.bis.gov.uk/assets/biscore/higher-education/docs/g/12-890-government-response-students-and-regulatory-framework-higher-education>

- financial sustainability, management and governance; and,
- course eligibility.

A lighter touch approach may apply to the annual monitoring of providers with specifically designated courses taking into account different types of institutions, their size, growth rates, and the specialist nature of some provision and track record of complying with the annual monitoring requirements. We intend to keep the administrative burden for providers to a minimum and, where possible, the process will use information that is produced for other purposes, e.g. the statutory returns to Companies House or the Charity Commission.

The applicant is responsible for disclosing any information requested by the Department and other organisations during the application process, and providing any other information that may be relevant to the application and its operation after specific course designation is awarded.

Failure to disclose or notify the Department and other organisations with such information may be treated as a failure to comply with the terms and conditions of specific course designation and the Secretary of State may use his discretion and apply sanctions as outlined below in order to protect the student and public interest.

Legal Framework

Section 22(1) of the Teaching and Higher Education Act 1998 provides that there should be regulations authorising or requiring the Secretary of State to make grants or loans to eligible students on higher and further education courses. The most recent version of these regulations for higher education courses is the Education (Student Support) Regulations 2011 ('the regulations'). Section 22(1) states that eligible students are only entitled to support if they are on "designated courses". The conditions for course designation are set out in the regulations – see regulations 5 (full-time courses), 139 (part-time), 161 (postgraduate) and schedule 2.

At present courses that are wholly provided by publicly-funded institutions in the UK are automatically designated under the regulations. In addition, the Secretary of State has discretion to designate courses delivered at alternative providers under the following regulations: regulation 5(10) (full-time), regulation 139(7) (part-time) and regulation 161(4) (postgraduate).

The Department is setting out in this guidance document the criteria and process under which applications will be assessed. This will be subject to annual review and may be updated at any time. Providers are advised to check the HEFCE website for the latest version of the guidance and any further information about the process before submitting an application.

HEFCE will administer the process and will advise the Department on applications working closely with a range of other organisations, including the SLC and QAA. HEFCE will submit the assessments and advice to the Department based on the criteria determined by the Department, but will not decide on the success or otherwise of applications. Final decisions will remain the responsibility of the Secretary of State.

HEFCE will maintain a register of specifically designated providers and courses, including the date and period of specific course designation and the validating or awarding body details. These will be published on the HEFCE website. In the interim SLC will continue to have a list of specifically designated courses on its website at:
<http://www.practitioners.slc.co.uk/policy-information/designated-courses.aspx>

Scope of the New Arrangements

This new specific course designation system applies to all alternative providers that are based in England, Wales, Scotland or Northern Ireland seeking specific course designation for the purposes of student support funded by the Department for Business, Innovation and Skills via SLC.

Designation of courses for the purposes of student support provided by the authorities in Scotland, Northern Ireland and Wales is a matter for those authorities. Providers seeking designation in these circumstances should contact the Student Awards Agency for Scotland (SAAS), the Department for Education and Learning in Northern Ireland (DELNI) or the Welsh Government, as appropriate.

The Department will work with HEFCE, SLC and the devolved administrations to consider whether reciprocal arrangements in relation to the specific course designation process are feasible in the longer term.

Student Support Arrangements for Specifically Designated Courses

Once a course has been specifically designated, eligible students can apply to the SLC for student support. For 2013/14 the maximum tuition fee loans available to new eligible students on specifically designated courses provided by alternative providers are £6,000 (full-time students) and £4,500 (part-time students). Alternative providers are not subject to a fee charging cap so if alternative providers charge more than £6000 (or £4500 for part-time courses) students will need to pay a contribution to their fees upfront. Students can access all other forms of support, such as maintenance loans and grants, on the same basis as students at publicly-funded providers. All students will repay on the same basis as other students regardless of where they study.

New Criteria for Specific Course Designation

The new specific course designation system has three criteria which a provider has to satisfy to enable its courses to be approved for student support. These are:

- quality assurance;
- financial sustainability, management and governance; and
- course eligibility.

Providers will be expected to satisfy the quality assurance requirement before applying for specific course designation, and should be aware that, if they have not yet met this requirement, they will need to seek a quality assurance review well in advance of applying for designation.

The financial sustainability, management and governance checks will relate to the provider as a whole, whilst the third criterion relating to course eligibility will apply to the course itself.

Quality Assurance Requirements

Before applying for specific course designation a provider will need to have undergone a successful quality assurance review. In addition courses must be validated by a body with UK degree awarding powers or in the case of Higher National Diplomas (HNDs), Higher National Certificates (HNCs) or Initial Teacher Training (ITT) courses approved by a UK awarding body or delivered by a provider accredited by the National College for Teaching and Leadership (NCTL).

The QAA safeguards academic standards and quality in UK universities and colleges, so that students have the best possible learning experience. The QAA offers advice, guidance and support to help providers of higher education to offer the best possible experience of higher education. It conducts reviews and publishes reports highlighting good practice and making recommendations to help assure standards and improve quality.

Principles of the Quality Assurance Requirement

In the majority of cases providers seeking specific designation of courses for student support will need to be reviewed by the QAA. There are exceptions for ITT in schools or other courses which are subject to inspection by Ofsted, and for which we will require no further quality assurance review. For specific designation of courses in ITT in Further Education, providers will need to be reviewed by the QAA. Where providers are reviewed by Ofsted but are seeking designation for other HE courses which are not subject to Ofsted review, they will need to be reviewed by the QAA.

We will try, wherever possible, to avoid overlap and duplication with other external quality assurance processes that may apply to the provider.

Some alternative providers are subject to independent, external inspection or review by UK bodies other than the QAA. For example, some alternative providers offering a small amount of higher education in addition to other provision are reviewed for Educational Oversight by bodies approved for that purpose by the Home Office. These reviews entirely meet the purposes for which they were intended. We have assessed the extent to which reviews conducted under these frameworks meet the requirements we have established as part of the specific course designation process for higher education courses. This assessment shows they meet some but not all of our requirements, which are clearly articulated through the expectations of the QAA's UK Quality Code for Higher Education. To avoid duplication, where providers undergo review processes for another purpose, through one of the review frameworks on a list maintained by the Department, they will be able to meet the quality requirement for specific course designation by also

undergoing a modified QAA review. The review will focus in particular on the management of the academic standards of their HE provision.

Review frameworks that will be included on the list are those operated by the following UK bodies:

- Independent Schools Inspectorate
- Bridge Schools Inspectorate

Other bodies wishing to be included on this list, or providers who wish to nominate other bodies for inclusion should contact the Department for consideration. Providers that are not reviewed under one of these listed review frameworks will need to undergo a full QAA review as described below.

QAA's review will be based on the same principles that apply to all other higher education providers involving external assurance about the academic standards of their higher education awards and the quality of the learning opportunities available of students. QAA will assess the reliability of the information produced by providers about their academic programmes and their general commitment to continuous quality improvement.

The Quality Assurance Review Process

The QAA review process will involve:

- a focus on the student experience;
- assessment of providers against the UK Quality Code for Higher Education;
- self-evaluation and presentation of key documentation;
- evaluation of published information; and
- evidence-based judgements on the management of academic standards, the management and enhancement of the quality of learning opportunities, and a conclusion on the information about learning opportunities.

Providers will need to demonstrate that they currently provide sufficient public information for prospective students and other stakeholders. They would be expected to publish:

- a full list of all their HE programmes;
- details of the awarding body, or bodies, that will award any higher level qualifications (Levels 4 – 8);
- details of course fees and any bursary arrangements;
- details of course delivery showing the proportion of time spent in different modes of learning (scheduled teaching, practical classes, placements etc); and
- arrangements for assessment.

Further detail of QAA review is available at <http://www.qaa.ac.uk/InstitutionReports/types-of-review/designated-providers>.

Providers who have had a recent, successful QAA review² and who demonstrate commitment to maintaining their relationship with the QAA by paying a subscription or the annual maintenance fee are likely to meet the quality assurance requirement for specific course designation and can proceed with an application. If a provider is uncertain whether their review meets the requirement, they should check with the QAA. If a provider is being investigated under the QAA Concerns scheme, then their application cannot proceed until the outcome of the investigation is known.

Providers who have no independent, external quality assurance arrangements in place will be required to have a successful quality assurance review by the QAA **before** applying for designation. Details of how to apply for higher education review through the QAA can be found at <http://www.qaa.ac.uk/InstitutionReports/types-of-review/designated-providers>. The review fees for higher education review for the purpose of specific course designation are set out on the QAA website. QAA will charge a non-refundable application fee. Providers should be aware that, if they choose to apply to the QAA for review, any cost incurred will not be refundable should the review outcome be unsatisfactory or their application for specific course designation unsuccessful. The interval between reviews will be four years. QAA will require annual returns in order to monitor progress, and will charge an annual maintenance fee. QAA reserves the right to visit the provider if circumstances require it, at the provider's cost.

All providers should note that by applying to be reviewed and monitored by the QAA, they become liable to be investigated in the event of a concern about their management of academic standards or quality which proves eligible for investigation under QAA's Concerns scheme. In the event, that a full investigation is required, costs would need to be covered by the provider. Details of QAA's Concerns scheme can be found at <http://www.qaa.ac.uk/Complaints/concerns/Pages/default.aspx>

Outcomes of QAA review

Reports of all reviews will be published on the QAA website, in line with the QAA's practice for all types of review. These reports will include judgements about:

- the provider's management of its responsibilities for academic standards;
- the provider's management and enhancement of the quality of learning opportunities;
- whether reliance can be placed on the information the provider produces for its intended audiences about the learning opportunities it offers.

Financial Sustainability, Management and Governance Requirements

²'Recent' means within the current appropriate review cycle as determined by the QAA; 'successful' means that all review judgements resulted in at least 'confidence' or 'meets UK expectations' as appropriate to the form of review; 'QAA review' includes Institutional Review (England and Northern Ireland), Enhancement-led Institutional Review, Review for Educational Oversight

The overall purpose of the new financial sustainability, management and governance (FSMG) checks will be to ensure that providers with specifically designated courses are financially viable and sustainable with a low risk of failure on financial grounds over the medium term. An assessment against these criteria will be made at the point of designation and as part of the annual monitoring process. This will give students reasonable confidence that they should not be at risk of being unable to complete their course as a result of institutional failure. The assessment of the provider may take account the financial, management and governance arrangements of any subsidiary, parent company or linked organisation.

The following is an illustrative list of the evidence that providers will need to give:

- Demonstration of the identity of the provider as an organisation and key individuals (for example, the principal, directors, shareholders, trustees) to ensure that the provider is owned, managed and run by ‘fit and proper persons’;
- Adequacy and appropriateness of corporate governance arrangements;
- The status of the specific course validation agreement or powers to award taught degrees;
- Sufficient track record financial performance, evidenced by the last three years’ externally audited accounts The basis of accounts and forecasts will be Generally Accepted Accounting Practice in the UK (UK GAAP) (or successor requirements) or International Financial Reporting Standards (IFRS) (if appropriate)³. New entrant providers or new entities without a track record will need to demonstrate strong support from a parent company or guaranteed financial backing;
- Financial sustainability, evidenced by a business plan and full financial forecasts for the current year and future three years. This will include a commentary on the assumptions being made and how any financial risks are being managed. In order to assess the financial position and performance, the application must cover other relevant contextual information; and
- Accountability for the accuracy of the application.

In short, providers need to give assurances that they:

- Have adequate cash flow to remain solvent (i.e., have sufficient liquidity to pay their debts as they fall due);
- Have an adequate balance sheet (i.e., maintain a net total assets position and not incur deficits if these would result in a net total liabilities position); and

³ Even if providers are not required to prepare full financial statements for statutory purposes, they will still need to provide audited financial statements as part of their application – these will include income and expenditure statement, balance sheet, cashflow statement and notes to the accounts. The accounts must be audited each year by a registered auditor. The register of statutory auditors can be found at <http://www.auditregister.org.uk/Forms/Default.aspx>.

- Are fit to receive public funds.

Providers should be aware that any change of ownership or control will automatically require a re-assessment of designation.

Course Eligibility Requirements

In order to be specifically designated each course should meet the general course eligibility criteria as set out in the student support regulations. The key requirements are that:

- a. The course must be of at least one academic year's duration;
- b. It must be a course of a standard higher than that of advanced level of the General Certificate of Education ('A' Levels), the National Certificate, National Diploma of the Business and Technician Education Council (BTEC) or the Scottish Qualifications Authority (SQA) but not higher than that of a first degree course; and for entry to which a first degree (or equivalent qualification) is not normally required.
- c. Courses should lead to one of the following qualifications: a first degree (including Integrated/Undergraduate Masters), Foundation Degree (FD), Diploma of Higher Education (DipHE), Certificate of Higher Education (CertHE), Higher National Diploma (HND), or Higher National Certificate (HNC) or an Initial Teacher Training (ITT) qualification;
- d. All courses should lead to qualifications validated by a body with UK degree awarding powers who are primarily responsible for monitoring quality and ensuring that academic standards are maintained. The validating body should be on the Department's list of Recognised Bodies which can be found at <http://www.bis.gov.uk/policies/higher-education/recognised-uk-degrees>, or in the case of HNCs, or HNDs they should be approved by EdExcel or the SQA. ITT courses should be approved by a recognised UK awarding body or be delivered by a provider accredited by the National College for Teaching and Leadership;
- e. A part-time course starting on or after 1 September 2012 must not exceed four times the period ordinarily required to complete a full-time course leading to the same qualification; and
- g. Courses leading to postgraduate qualifications may be designated for the purposes of Disabled Students Allowance (DSA) only. (see Special Cases)

The detailed information requirements for course eligibility checks will be set out in the application pack published on the HEFCE website and will include:

- a prospectus or an internet weblink that provides full details about the course;
- copies of their current validation or provider approval agreements, including a validation or approval certificate from the validating or awarding body that demonstrates that the specified alternative provider has been approved to run the

course(s) at specified locations and plans for their renewal if the duration of the course exceeds the remaining period of validation/approval;

IMPORTANT NOTE: Specific course designation is specific to the particular course(s) at a specific location(s) and not to the institution. If a provider wishes to have additional courses specifically designated or if it wishes to deliver courses at different locations, these will need to be designated in their own right. However as long as the provider has met the initial QAA requirement and the FSMG checks they will only be required to submit a course application during the next application window (See Chapter 2) and not go through the whole process again.

Conditions of Specific Course Designation

If the Department decides to grant specific course designation, it will issue a terms and conditions document to the provider, which a nominated accountable officer will be required to sign and return on behalf of the provider. The Department will then confirm the specific course designation. The terms and conditions will include:

- details of the specifically designated courses;
- the duration of the specific course designation if appropriate;
- the responsibilities of the accountable officer;
- compliance requirements;
- annual monitoring and data collection requirements;
- a requirement to notify HEFCE of any change of circumstance at both provider and course level;
- ensuring that any renewal conditions are met; and
- potential sanctions, in the event of a breach of the terms and conditions of the specific course designation.

From 2014/15 the terms and conditions will also require the accountable officer to ensure that the provider manages its provision in accordance with its student number control.

The accountable officer will normally be the Principal or Chief Executive Officer or hold a position of equivalent status within the organisation.

A sample terms and conditions document will be published on the HEFCE website when the specific course designation process is launched in June 2013.

Provider Responsibilities

Providers will need to provide the Department, HEFCE, SLC and QAA with information about their viability and the way they operate. The basic information requirements are set out in this document and this will be supplemented by detailed information in the application pack published on the HEFCE website. Where possible we will ask for information already available and in the public domain.

In accordance with the provider's own statutes and constitution, there should be effective arrangements for providing assurance that the provider:

- has a robust and comprehensive system of risk management, control and corporate governance;
- has regular, reliable, timely and adequate information to monitor performance;
- plans and manages its activities to remain sustainable and financially viable;
- informs HEFCE of any change in its circumstances which – in the judgement of the accountable officer – is a material adverse change, as well as any significant developments that could impact on the mutual interests of the provider and the Department, HEFCE, SLC and/or QAA;
- complies with the terms and conditions of course designation;
- sends HEFCE:
 - the annual monitoring return(s)
 - other information the Department, HEFCE, SLC and/or QAA may reasonably request to understand the institution's risk status;
- has effective arrangements for the management and quality assurance of data and information submitted to the Department, HEFCE, QAA, SLC and (if applicable) HESA; and
- has an effective framework to manage the quality of learning and teaching and to maintain academic standards.

Responsibility for the quality of data used for internal decision making and external reporting rests with the provider itself.

For the purpose of their specific course designation, providers will be held fully accountable for the actions of any third party recruitment agency they choose to use, and will be required to ensure that any fees they pay to such agencies in respect of the recruitment of students are disclosed to the student before they enrol.

Providers with specifically designated courses can not franchise or sub-contract their designation to a third party without the Department's consent.

Change of Circumstances

The accountable officer will be required to inform HEFCE immediately if there are any material changes that could affect the quality of provision and student interest. These could include:

- compliance with monitoring conditions;
- compliance with student number control;
- notification of change of institutional ownership;
- notification of changes in contact details, registered office or trading address;
- materially increased gearing;
- significant legal action;
- adverse regulatory outcome (including quality assurance) or loss of validation;

- changes in directors, trustees, shareholders, principal or accountable officer where this results in a change in control;
- changes impacting the fit and proper persons test;
- changes in governance arrangements from those at application;
- reputational risk.

The Department retains the right to review specific course designation following a notification of change and depending on the nature and extent of the change providers may be required to submit a new specific course designation application and the original designation may be brought to an end.

Failure to notify HEFCE may be deemed to be a failure to comply with the terms of the designation. The Secretary of State reserves the right to suspend payments or withdraw specific course designation if a provider fails to notify HEFCE of any material changes or if the Department has serious concerns about a provider's compliance with their student number control, the quality of their provision and/or their financial viability.

Process of Applying Student Number Controls

Following the consultation on 'Applying Student Number Controls to Alternative Providers with Designated Courses' the Government has announced that student number controls will be introduced for alternative providers from academic year 2014/15⁴.

Guidance will be published on the operation of the student number control system for alternative providers in Autumn 2013 in respect of academic year 2014/15. This will also include an opportunity for alternative providers with significant committed new investment prior to the publication of the consultation response to submit a case for exceptional treatment. The Government remains committed to moving to a more flexible and dynamic HE system, including provision at alternative providers which will respond to the demands from students, giving students real choice and greater flexibility for all institutions.

The student number controls for individual providers in academic year 2014/15 will be published during winter 2013/14.

Method for Controlling Student Numbers

The student number control for a provider will be based on the number of UK and EU students starting full-time study on specifically designated courses in academic year 2012-13. Method 1, as described in the consultation document, will be used to implement the control. This means that the control will apply to most students who are eligible for publicly funded student support, regardless of whether or not they have in fact accessed publicly-funded student support. The number control will operate on the basis of the following assumptions:

⁴ The consultation and the response are available at <https://www.gov.uk/government/consultations/applying-student-number-controls-to-alternative-providers-with-designated-courses>

- The student number control will be a single limit per provider and will apply to all of the provider's courses which have been specifically designated for student support purposes. This means that the provider must decide how to apportion their numbers to designated courses and gives flexibility for providers to move numbers from one designated course to another.
- Where a provider has a subsidiary, parent company or another linked organisation which has designated courses the student number control will take account of the relationship between providers. This means that connected organisations, in this instance, will not be judged to be small providers (see below) if their combined eligible student numbers exceed 50.
- The student number control will not apply to non-designated courses, which gives the provider freedom to increase numbers on non-designated courses without pressure on the public purse.
- As with HEFCE-funded providers, the student number control will not apply to non-EU students, as they are not eligible for publicly-funded grants and loans.
- As with HEFCE-funded providers, we do not currently intend for the student number control to apply to part-time students or to any postgraduate students aside from those on Postgraduate or Professional Graduate Certificate in Education. Part-time undergraduate students could come under student number controls in future years, subject to Ministerial decisions.
- As with HEFCE-funded providers, the number control will only apply to certain students starting full-time study, rather than to those in all years of study at a provider.

In order to collect data for the student number control baseline HEFCE will conduct a survey of student numbers in 2012/13 (and numbers in preceding years as appropriate) in autumn 2013.

To avoid incentivising providers to recruit students in 2013/14 solely to boost their baseline figure for the 2014/15 student number control, the control will use 2012/13 recruitment data as a baseline rather than the 2013/14 recruitment data. The decision on whether the baseline figure will have an increase or decrease applied (that is, 2012/13 entrant numbers plus or minus X%) and if so, what this might be, will be taken at a later date once the Department has more information on student finance expenditure, most likely in winter 2013/14.

To allow for new investment by providers (such as new campuses) where significant prior financial commitments to expansion were made prior to the publication of the response to the student number consultation, the Department will consider these on a case-by-case basis and in exceptional circumstances may increase the initial allocation of student numbers accordingly.

Providers that are awarded specific course designation for the first time for 2013/14 or 2014/15 will be treated as small providers. This means that the total number of full-time students accessing student support in any given year will be limited to 50. This control applies to all students studying with the provider, not just to students starting full-time study. Such providers will therefore need to decide how many new students to recruit each year (taking into account factors such as course length and retention rates) in order to

ensure that the total number of students accessing student support does not exceed 50. Exceptionally, providers awarded course designation for the first time in 2013/14 or 2014/15 might be given a higher allocation, but this must be discussed with the Department in advance of recruitment.

If providers exceed their student number control allocation, they will be given the opportunity to repay to the government a sum which reflects the actual costs associated with the excess students, as an alternative to the loss of designation for all courses.

Submission of Data to the Higher Education Statistics Agency

Alternative providers with designated courses (aside from the smallest providers, set out below) will be required to subscribe to HESA as a condition of specific course designation. We expect subscription to begin from the 2014/15 academic year though providers may need to work with HESA before this date. Currently, HESA subscriptions take the form of a full institutional subscription as with HEFCE-funded institutions or specifically tailored subscriptions to allow alternative providers to put their courses onto the Unistats website in order to provide public information for prospective students – further details are available on the HESA website.⁵ Further tailored subscriptions to HESA may be developed following the publication of this guidance to meet the Department's expectations for alternative providers with specifically designated courses. Over time, this will allow alternative providers to produce Key Information Sets for the benefit of prospective students.

Providers with fewer than 50 students in total accessing support from the SLC will not be expected to subscribe to HESA but other conditions will apply.

Monitoring

HEFCE will undertake annual monitoring of alternative providers with specifically designated courses and will produce detailed guidance on the requirements each year. This is likely to include requirement to provide:

- confirmation from QAA of a satisfactory annual monitoring return;
- externally audited annual accounts;
- financial forecast information and commentary which provides an indication of future plans and the financial position of the provider;
- evidence of continued approval/validation from the awarding/validating body; and
- data to support the student number monitoring and annual allocation.

HEFCE may review HESA returns where required and SLC data to review compliance with student number controls.

⁵ Unistats: <http://unistats.direct.gov.uk/>; HESA website: www.hesa.ac.uk/subs or contact liaison@hesa.ac.uk

In addition if two academic years elapse and no students access student support for any of a provider's specifically designated courses we would generally consider that the designation has lapsed meaning that the provider will be required to reapply.

Sanctions

If providers of specifically designated courses do not continue to meet the terms and conditions of specific course designation and/or there are concerns raised during monitoring, then the Department will consider whether the course(s) should continue to be specifically designated. Such cases will be considered on an individual basis taking into account the particular circumstances. Possible action could include the issuing of an improvement notice, a freeze or cut in student numbers and possible withdrawal of designation for the course or courses in question.

Exceptions and Special Cases

Postgraduate Only Courses

Providers seeking designation of Postgraduate courses only, for the purposes of making students on those courses eligible for Disabled Students Allowance support, please contact the Department at designation.enquiries@bis.gsi.gov.uk for further guidance.

Initial Teacher Training (ITT)

The Department has agreed a separate specific course designation arrangement with the National College for Teaching and Leadership (NCTL) in respect of providers that hold a current NCTL accreditation to deliver ITT courses. The NCTL will provide the Department with the necessary assurance over provider quality, sustainability and governance through an annual Accounting Officer letter. As a result NCTL accredited ITT providers will not be required to go through the specific course designation process in respect of their ITT courses. However if an accredited ITT provider intends to deliver any non ITT courses then they will be required to go through the new specific course designation process.

Chapter 2: The Application Process and Transition

Introduction of the New Arrangements

The new arrangements will apply to all existing and new alternative providers applying for the specific course designation of new courses from the 2013/14 academic year.

In all cases the new specific course designation application process is being co-ordinated by HEFCE and decisions will be made by the Department.

The quality assurance requirement is a pre-requisite for applying for designation and the review process takes an average of six months to complete. Providers wishing to apply for specific course designation and who do not already meet the quality assurance requirement should therefore contact the QAA as soon as possible.

Providers who meet the quality assurance requirement and wish to make an application should visit <http://www.hefce.ac.uk/whatwedo/reg/desig> where an application pack will be published by June 2013.

Application Timetable from 2014/15 Academic Year

For courses starting on 1 September 2014 and thereafter there will be two application windows for the specific designation of courses. Each application window will be open for six weeks.

The first application window will open in August, and the Department will aim to issue decisions in November for courses starting the following September. The second application window will open in February and the Department will aim to issue decisions in May. This window is intended mainly for applications for courses due to start the following January. In both cases applications for courses with earlier start dates will be considered exceptionally.

It is important to note that providers will no longer be able to submit applications at any point in the year.

Application Timetable for Courses Starting in 2013/14 Academic Year

For courses starting during the academic year starting on 1 September 2013 there will be a single application window which will be open from June 2013 until end of August 2013.

Transition of Existing Specific Course Designations

All existing specific course designations will be reviewed, and providers will be expected to meet the requirements of the new specific designation process if they wish new students to access student support for their courses.

We expect to review all existing providers during 2013/14 and the Department will write to providers in May or June this year confirming the transitional arrangements. Where providers meet the new requirements the designation will continue and where appropriate providers will be allocated with a student number control for 2014/15. Where providers do not meet the requirements new courses will not be approved and depending on the extent to which the new criteria are not met the Department will determine our approach on a case by case basis taking into account the particular circumstances. Possible action could include the issuing of an improvement notice, issuing time-limited designation or in some cases revoking designation. It is our firm expectation that in all cases existing eligible students that are already in receipt of student support will be able to continue doing so until they complete the course - however we reserve our right to revoke designation in respect of existing students in exceptional circumstances for example where there is serious misconduct by a provider.

Application Pack

The specific course designation application pack will be published on HEFCE's website by June 2013. It will include detailed instructions on the information providers are required to submit as part of the application process.

In addition to the information required to assess providers' financial sustainability and management and governance arrangements and the course eligibility requirement providers will be expected to provide contextual information to support their applications including:

- copies of their policies and procedures on student attendance and dealing with student complaints; and
- details of any recruitment agencies that will be involved in recruiting students to designated courses.

We recognise that there are some similarities between the requirements for the process for being awarded University College Title (UCT), University Title (UT) and UK degree awarding powers (DAPs) so we will consider, where appropriate, taking account of information supplied for these processes. All providers with specifically designated courses will be subject to annual monitoring regardless of any other status they hold.

Processing Applications

Once the provider has submitted an application, HEFCE will undertake an initial review of the application to assess whether the information provided is complete. Following this HEFCE will either contact the provider to give them an opportunity to supply any missing information or it will undertake an assessment of the application against the financial

sustainability, management and governance and course eligibility criteria in consultation with SLC, QAA and other bodies as appropriate. During the assessment process HEFCE may request further information or seek clarification on specific issues from the applicant provider. Once HEFCE has reviewed all of the information that has been submitted, it will collate an application assessment and prepare and submit advice to the Department. Annex B provides a flowchart summary of the specific course designation process.

Specific Course Designation Decisions

The Department will consider HEFCE's advice and make the specific course designation decision.

If the Department decides to grant specific course designation, it will issue a terms and conditions document to the provider. A nominated accountable officer will be required to sign and return this on behalf of the provider and the Department will confirm the specific course designation.

If the Department is minded not to grant specific course designation, the Department will notify the provider of their intention before reaching a final decision setting out the reasons for the proposed decision. The provider may comment and make further representations before the final decision is made.

Where applications are refused the reasons for rejection will be clearly set out in the decision letter and providers will be advised that they have the option to re-apply no earlier than 12 months later subject to the unsatisfactory issue being resolved. Where the concerns identified are particularly serious, a longer time period before resubmission would be considered may be specified.

Appeals

There will be no appeals process as providers will be given the opportunity to comment before the specific course designation decision is finalised.

Student Information

Providers should note that the Department takes no responsibility should information about the availability of student support for particular courses be advertised to students in literature or websites before the specific designation of those courses is confirmed.

Confidentiality and Data Protection

In general the information supplied by providers as part of the application process will be treated in confidence and only shared with parties involved in the assessment of the specific course designation application.

However the Department will comply with its obligations in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004) and with the statutory Code of Practice under FOIA

Providers should note that if specific course designation is granted provider and course details will be published on the HEFCE website.

Complaints

If anyone is unhappy about any aspect of the Department's service they can use the Department's complaints procedure. More information about this is on the Department for Business, Innovation and Skills website at:
<https://www.gov.uk/government/organisations/department-for-business-innovation-skills/about/complaints-procedure>

Abuse of Specific Course Designation

The Department treats any allegation of abuse of specific course designation in the strictest confidence. Anyone with information about abuse of specific course designation can contact the Department by emailing: designation.enquiries@bis.gsi.gov.uk

Annex A: Definitions

The document uses a number of terms to describe and distinguish between different types of higher education provider, funding and quality assurance arrangements defined as follows:

Alternative provider means any provider of higher education courses which is not in direct receipt of recurrent funding from HEFCE or from equivalent funding bodies in the Devolved Administrations; or does not receive direct recurrent public funding (for example, from a local authority, or the Secretary of State for Education); and is not a Further Education College.

Franchise is an agreement by one institution (usually an HEI) that another institution may deliver all or part of a programme approved and owned by the first institution. The franchising institution normally retains overall control of the programme's content, delivery, assessment and quality assurance arrangements.

Full-Time students are normally required to attend the institution, or elsewhere, for periods amounting to at least 24 weeks within the year and, during that time, they are normally expected to undertake periods of study, tuition, learning in the workplace, or sandwich work-placement that does not meet the criteria to be sandwich year-out, which amount to an average of at least 21 hours per week.

Further Education College (FEC) is a body corporate, established or designated under the Further and Higher Education Act 1992, for the purpose of establishing and conducting an educational institution, which may provide further and higher education for those who are over compulsory school age. FECs are eligible to receive funds from the Skills Funding Agency and HEFCE in the pursuit of their educational purposes.

HEFCE is the Higher Education Funding Council for England, a Non-Departmental Public Body established under the Further and Higher Education Act 1992.

Higher Education Institution (HEI) is defined as i) a university, or ii) an institution conducted by a higher education corporation, or iii) a institution designated as eligible to receive support from funds administered by HEFCE (aside from Further Education Colleges, which are defined above). At present, all English HEIs with the exceptions of the University of Buckingham and the University of Law receive support from funds administered by HEFCE and are listed here:

<http://www.hefce.ac.uk/whatwedo/invest/unicoll/highereducationinstitutions/>

Higher Education (HE) providers refer to any providers of higher education courses whether provided directly as a teaching body or indirectly as an awarding body.

HESA is the Higher Education Statistics Agency, the official agency for the collection, analysis and dissemination of quantitative information about UK higher education. It is a private limited company funded by subscription from UK Higher Education Institutions and is not a Government body. It was established in 1993 following the Further and Higher

Education Act 1992, which sets out a duty to Higher Education Institutions to give information to their respective Funding Councils across the UK (including HEFCE).

International Financial Reporting Standards (IFRSs) are accounting standards and interpretations published by the International Accounting Standards Board (IASB).

QAA is the Quality Assurance Agency for Higher Education, whose role is to safeguard quality and standards in UK universities and colleges, so that students have the best possible learning experience. The QAA is an independent body, a registered charity and a company limited by guarantee. It is funded through subscriptions from higher education institutions and through contracts and agreements with the major UK funding councils.

Sets (KIS) Key Information Sets are comparable sets of information about full- or part time undergraduate courses and are designed to meet the information needs of prospective students.

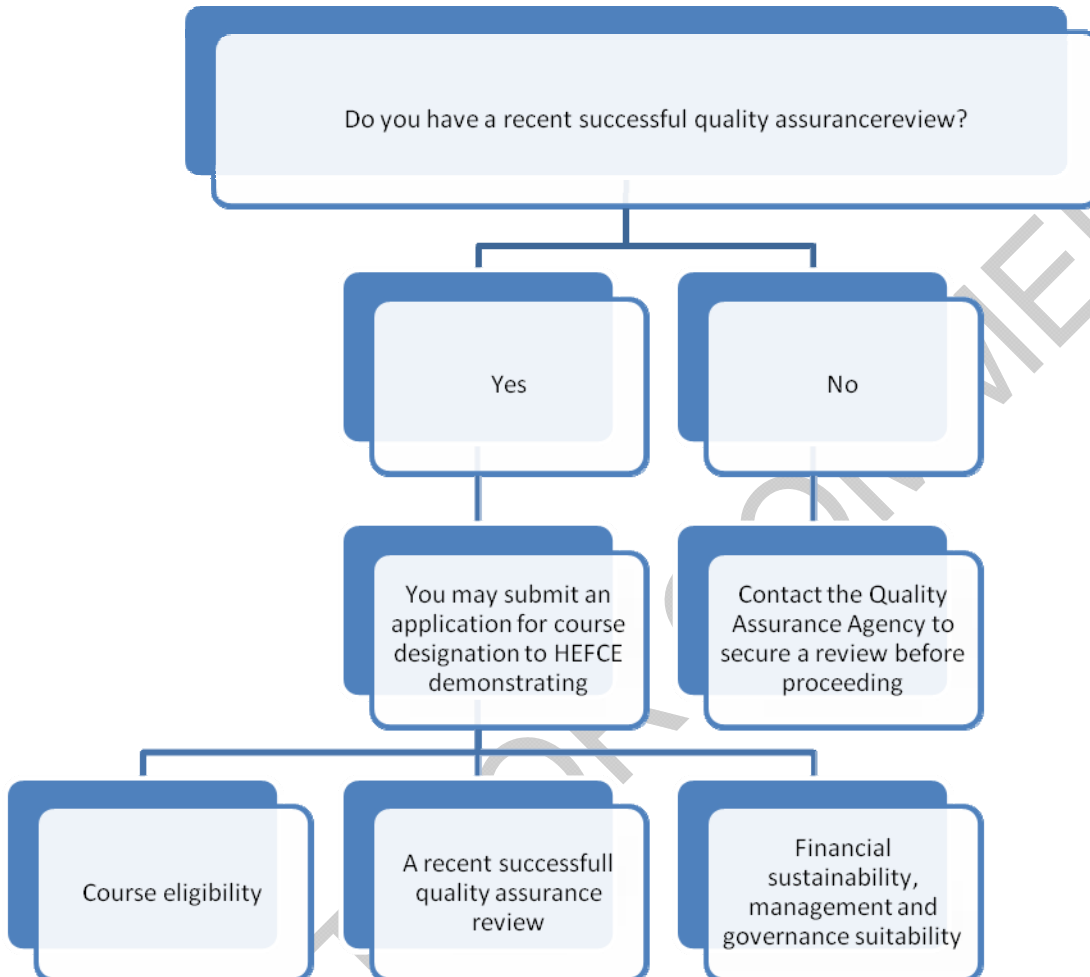
Specific course designation is the process by which the Secretary of State designates courses of higher education, which are not automatically designated under the regulations for the purposes of student support.

Student support is financial support for higher education students' tuition and living costs and supplementary grants provided by the Government in the form of grants and loans.

Generally Accepted Accounting Practice in the UK (UK GAAP) is the body of accounting standards and other guidance published by the UK Accounting Standards Board (ASB).

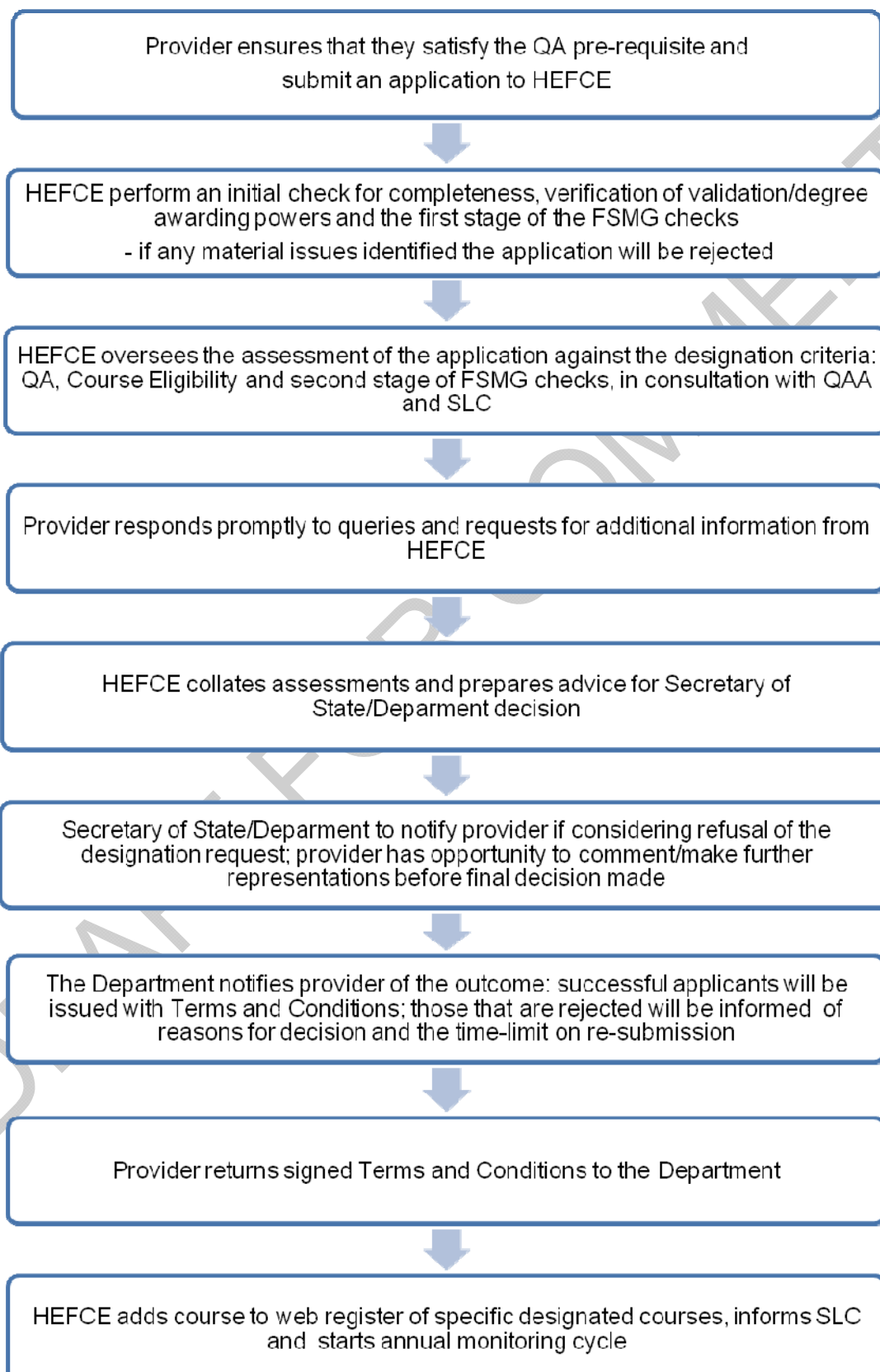
Validation is the process by which a degree-awarding body ('the validating organisation') judges a module or programme developed and delivered by another organisation ('the teaching organisation') and approves it as being of an appropriate standard and quality to contribute, or lead, to one of the validating organisation's awards. Students normally have a direct contractual relationship with the teaching organisation.

Annex B: Flow chart 1: Provider Process for Preparing to Apply for Specific Course Designation



Applications may be submitted in one of two windows. Once submitted, HEFCE will process the application on behalf of the Department as in flowchart 2 below.

Annex C: Flowchart 2: Specific Course Designation Assessment Process



Annex D: Checklist for Providers

In order to be eligible to apply for course designation the provider must give evidence that it satisfies the QA pre-requisite:

A recent and successful QAA review (Institutional Review, Educational Oversight or modified QAA review if subject to inspection by the Independent Schools Directorate, Bridge Schools Inspectorate, Schools Inspection Service or Education Scotland).

or OFSTED review for specific ITT courses

Demonstrate that the course satisfies the course eligibility requirements:

Must be of at least one academic year's duration

Is of a standard higher than that of advanced level of the General Certificate of Education ('A' Level); the BTEC or SQA National Certificate, National Diploma but not higher than that of a first degree course; and for entry to which a first degree (or equivalent qualification) is not normally required.

Will lead to one of the following qualifications: a first degree (including Integrated/Undergraduate Masters), Foundation Degree (FD), Diploma of Higher Education (DipHE), Certificate of Higher Education (CertHE), Higher National Diploma (HND), or Higher National Certificate (HNC) or an ITT

or

Will lead to a postgraduate qualification and will be designated for the purposes of Disabled Students Allowance (DSA) only.

If the course is to be delivered in a part-time basis it must not exceed four times the period ordinarily required to complete a full-time course leading to the same qualification.

Provide evidence that the course will lead to a qualification validated by a body with UK degree awarding powers, is approved by a recognised UK awarding body

The validating/approving body should either be:

- Named on the Department's list of Recognised Bodies.
- For HNC/HND qualifications either EdExcel or the Scottish Qualifications Authority.
- For Initial Teacher Training courses for the FE sector a recognised UK awarding body
- For those with UK degree awarding powers, a statement indicating when this was granted will be sufficient.
-

Demonstrate that it meets the Financial Sustainability, Management and Governance Criteria:

- The identity of the provider as an organisation and that key individuals (for example, the principal, directors, shareholders, trustees) to ensure that the provider is owned, managed and run by 'fit and proper persons';
- Adequacy and appropriateness of corporate governance arrangements;
- The status of the specific course validation agreement or powers to award taught degrees;
- Sufficient track record financial performance, evidenced by the last three years externally audited accounts. New entrant providers or new entities without a track record will need to demonstrate strong support from a parent company or guaranteed financial backing;
- Financial sustainability, evidenced by a business plan and full financial forecasts for the current year and future three years.
- Accountability for the accuracy of the application.

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