

BIS | Department for Business
Innovation & Skills

**A NEW, FIT-FOR-PURPOSE
REGULATORY FRAMEWORK FOR
THE HIGHER EDUCATION SECTOR**

Technical Consultation

AUGUST 2011

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Introduction

The White Paper *Higher Education: Students at the Heart of the System* (June 2011) set out a commitment to introduce a new, fit-for-purpose regulatory framework to establish the Higher Education Funding Council for England (HEFCE) as lead regulator. This document is a technical consultation, to be read alongside the White Paper, to inform what changes in procedures, powers and duties will need to be considered, particularly in forthcoming legislation, in order to protect the student interest and provide a high quality experience.

Introduction

1. The Higher Education White Paper¹ set out the Government's vision for a more dynamic and innovative higher education sector in England. Our goal is a diverse sector of autonomous providers that are more responsive to the needs of students. Our reforms aim to put higher education on a sustainable financial footing; to deliver a better student experience; and to increase social mobility, so that anyone with the potential to benefit from successful participation in higher education will have the opportunity to do so.
2. We want to encourage greater diversity of higher education provision and a level playing field for all providers. We want to build on the international reputation of English higher education for excellence in learning and teaching, research, and knowledge exchange. Above all, we want to ensure that universities, colleges and other higher education providers have the freedom and incentives they need to deliver a high-quality student experience and that they become more accountable to students, employers and to the public.
3. Chapters 4 and 6 of the White Paper set out our proposals for a diverse and responsive sector and a proportionate, risk-based approach to regulation which protects and promotes the interests of students and taxpayers while keeping bureaucracy to a minimum and looking to find areas of regulation that can be improved, reduced or removed. Our aim is for a more integrated regulatory framework which promotes opportunity, choice and excellence in higher education. It proposes a new role for the Higher Education Funding Council for England (HEFCE) as the independent lead regulator for higher education in England. Under these proposals, HEFCE will continue to operate at arm's length from Government, respecting institutional autonomy and academic freedom. It will aim to reduce the regulatory burden on higher education providers and remove unnecessary regulation wherever possible. HEFCE will need clear arrangements with other bodies as to how information flows and regulatory actions are to be co-ordinated.

¹ <http://discuss.bis.gov.uk/hereform/>

4. The Government is keen to engage with students, the public, the higher education sector and other partners to develop a regulatory framework for the future which will ensure financial sustainability while delivering better outcomes for students.

Purpose

5. The purpose of the technical consultation is:
 - to provide, in conjunction with Chapters 4 and 6 of the Higher Education White Paper, an overview of the shape and purpose of the new regulatory framework for the sector;
 - to consult on aspects of a new regulatory framework and role for HEFCE to inform the legislative provisions required in a future Higher Education Bill, subject to Parliament, that will support the introduction of the new regulatory regime from academic year 2013/14;
 - to invite views, particularly from individuals, providers and representative bodies across the higher education sector, on aspects of how this will operate in practice; and
 - to seek responses to specific proposals where we are consulting on options.

Rationale for reform

6. The White Paper set out the following principles of future regulation:

We will respect the autonomy of providers and the prime importance of academic freedom, and

- create an open, dynamic and affordable higher education system, with more competition and innovation, and a level playing field for new providers;
 - maintain the highest quality of higher education, safeguarding the strong international reputation of English universities; and
 - reduce the regulatory and administrative burden, adopting a risk-based approach while improving accountability to students.
7. The regulatory framework should protect the interests of students and the public investment. Through our White Paper proposals we are committed to decreasing the regulatory burden in several areas while maintaining accountability in the public interest. The new system will adopt the better regulation principles of being transparent, accountable, proportionate, consistent and targeted, as set out by the Better Regulation Executive².
 8. We will look to remove, improve or simplify regulation where possible and will move to a risk-based approach to regulation which will reduce burdens on universities whilst still safeguarding students and maintaining confidence in English higher education.
 9. As we set out in the White Paper, HEFCE will, using existing powers, ensure quality assurance and financial monitoring systems are reviewed to adopt a more risk-based approach. Higher risk providers will receive the additional attention they require while

² <http://www.bis.gov.uk/bre>

high performing providers will benefit from lighter touch monitoring. HEFCE will be responsible for ensuring that the specific data and information requirements attached to student support designation and grant are proportionate. We will also be working with HEFCE and the Higher Education Statistics Agency to minimise data collections through the periodic review process.

Scope of consultation document

10. The key elements of change discussed in this document are:

Chapter 1: The introduction of an independent lead regulator

- What HEFCE's key objectives and duties need to be
- What different interventions and sanctions it might require to enable it to carry out its role effectively

Chapter 2: A single regulatory framework for provider designation for student support³ and HEFCE teaching grant

- Proposed changes to extend conditions of grant to also become conditions of designation for student support
- Discussion of impact on different types of provider and areas where risk-based approaches will allow for lighter touch regulation for high performing providers

Chapter 3: A single gateway for entry to the higher education sector

- Changes in procedures and, where necessary, transfer of responsibilities to HEFCE to enable it to operate as the single gateway organisation for Degree Awarding Powers, University Title, designation for student support purposes and HEFCE funding

Chapter 4: Reforms to Degree Awarding Powers (DAPs) and University Title (UT) criteria

- Proposed legislative changes for DAPs, to remove the barriers to non-teaching bodies being able to obtain DAPs
- Proposed changes to criteria for DAPs and UT, to introduce a simplified and proportionate system for obtaining and renewing DAPs, and to make it easier for proven institutions to achieve UT

Chapter 5: Simplifying the process for changing corporate status

- Consideration of whether legislative changes could make it easier for HEIs to change their legal status to allow them, for example, to attract private investment

Definitions

11. The document uses a number of terms to describe and distinguish between different types of higher education provider and funding defined as follows:

³ For courses of schools initial teacher training there may be exceptions or additions to these requirements or areas where responsibility for regulation lies with the Department for Education, the Training and Development Agency for Schools or the new Teaching Agency.

Alternative provider means any provider of higher education courses which does not currently receive grant funding from HEFCE and is not a Further Education College.

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, and 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.

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 exception of the University of Buckingham receive support from funds administered by HEFCE and are listed here: <http://www.hefce.ac.uk/unicoll/HE/>

Higher Education Corporation (HEC) is a body corporate, first established under the Education Reform Act 1988. HECs created in 1988 consisted of former polytechnics or colleges who were funded by Local Education Authorities who had significant provision of what was termed Advanced Further Education – this included degrees validated by the Council for National Academic Awards, higher national diplomas validated by the BTEC and a range of course validated by professional bodies in areas such as accountancy and engineering. The Secretary of State can create new HECs but only from ex-Local Education Authority funded institutions, generally Further Education Colleges.

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

Privately funded providers refers to any provider of higher education courses which does not receive funds from HEFCE or the Skills Funding Agency.

Publicly-funded providers refers to any provider of higher education courses which receives funds from HEFCE or the Skills Funding Agency

HEFCE Teaching Grant provides funding towards a number of aspects of teaching and learning, such as the extra costs of teaching clinical and laboratory-based courses. There are also specific grants to reflect additional teaching or student costs, such as for widening participation and improving student retention which reflect the higher costs that may be involved in supporting and reaching disadvantaged students. Other teaching allocations recognise the additional costs associated with particular types of provision or with specific providers. HEFCE is consulting on changes to the way Teaching Grant is distributed, to take account of wider funding reforms http://www.hefce.ac.uk/pubs/hefce/2011/11_20/.

Student support is financial support for higher education students' tuition and living costs provided by the Government in the form of grants and loans under the Teaching and Higher Education Act 1998.

Higher education sector refers in this consultation to the group of all higher education providers designated for the purposes of HEFCE funding, student support or degree awarding powers. It is not intended to refer solely to higher education institutions.

Chapter 1. The introduction of a lead regulator

1.1 HEFCE's functions

- 1.1.1 The White Paper set out a clear role for a high quality, independent lead regulator. In this role, HEFCE, as now, will operate at arms length from government, and work closely with the Office for Fair Access (OFFA), the Student Loans Company (SLC) and other non-statutory sector bodies, such as the Quality Assurance Agency for Higher Education (QAA) and the Office of the Independent Adjudicator (OIA) in overseeing and managing the regulatory framework. HEFCE will help to limit Government's financial exposure, oversee the financial health and sustainability of all higher education providers in receipt of public support (whether direct grant funding or via student loans), allocate additional Government funding to high-cost subjects, support strategic or vulnerable subjects and other national priorities and protect students by ensuring only reputable providers are eligible for Government support⁴.
- 1.1.2 This builds largely on HEFCE's role to date and a number of existing regulatory functions and conditions of grant. It extends that role in relation to the granting of designation for student support and so gives HEFCE a role in regulating providers where it does not have a direct funding relationship. HEFCE will also be given a new specific remit to champion the student interest, where appropriate with reference to competition. These revised and new functions will be set in the context of increased measures to introduce risk-based approaches within the regulatory framework to reduce bureaucracy and ensure that lighter-touch regulation is possible for high-performing providers.
- 1.1.3 To set out the parameters of HEFCE's role, we intend that the existing legislation is updated where necessary to set out the objectives, duties and powers for HEFCE. HEFCE's current functions will need to be amended so that it can operate as the lead regulator of the sector. The following existing and new responsibilities are intended as HEFCE's future role with regard to providers operating within the English HE regulatory system.

In performing its functions:

- Ensuring the quality and standards of provision are assessed
- Monitoring financial sustainability and accountability for funding
- Determining grant funding for eligible providers
- Supporting institutional autonomy and academic freedom including around academic standards, course content and admissions
- Retaining the role of principal regulator of HEIs that are exempt charities

⁴ HEFCE will also have a continuing role in research funding. This is beyond the scope of this consultation. Further details are set out at paragraph 3.2.12.

- Promoting knowledge exchange between the HE sector and the wider economy
- Ensuring the implementation of regulatory measures is proportionate
- Promoting widening participation and equality and assisting OFFA in promoting fair access.
- Providing advice to government and maintaining public confidence in the HE sector in England

HEFCE will also take on a number of new responsibilities, several of which will bring together a number of existing functions under the lead regulator:

- A transfer of some existing functions from the Student Loans Company and the Department for Business, Innovation and Skills (BIS) to HEFCE around the process of designation for student support purposes, and the ability to attach conditions to that designation, (see Chapters 2 and 3)
- A role based on current functions transferring to HEFCE from BIS, in maintaining registers of providers eligible under the three broad categories of the new regulatory framework – bodies holding taught degree awarding powers, providers designated for student support, and providers in receipt of teaching grants, (see Chapter 3)
- A duty to ensure not only the proper use of HEFCE’s own funding but also that of publicly-backed student loans as an essential part of the system to help manage overall government expenditure on higher education (see section 2.2)
- A new explicit remit for HEFCE to promote the interests of students, including as consumers, with a duty to take competition implications into account when making decisions on funding, (see section 1.3)
- A requirement for HEFCE to have due regard to guidance from the Secretary of State on good practice in regulatory approaches.

1.2 Interventions and sanctions

1.2.1 We intend that HEFCE retains its current obligation to monitor the financial sustainability of providers in the interests of students and taxpayers and take action where providers fail to meet the conditions of grant, and we intend to legislate so that the same types of conditions can apply in respect of awarding and maintaining designation for student support funding. As now, we would expect this to include:

- An ability to request information for the purposes of its functions
- Re-assessing a provider’s risk status, notifying it accordingly, and taking action to secure students’ interests as appropriate (currently set out in a support strategy)
- Discussing with the provider how best to resolve the issues giving rise to concern
- Making public the provider’s risk status where it is in the public interest to do so
- Responding to directions of the Director of Fair Access in connection with breaches of the fee and/or access regulations
- And in respect of grant funding only, being able to require the repayment of grant if any of the terms and conditions, subject to which it was paid, are not followed.

1.2.2 HEFCE’s ability to require the repayment of grant has been a necessary sanction for the control of public expenditure (though, with regard to student numbers, we have sought to move away from this where possible by starting to liberalise student

places). Because HEFCE will be paying out very much less grant and will be regulating providers that do not receive grant at all, withdrawal of grant will be a much less credible financial sanction in future. We have considered what alternatives are available. The option to withhold SLC payments to providers was considered and rejected on the basis that the money received by providers through that route has been directly borrowed by the student as their contribution to the costs of tuition. Instead we are proposing an alternative ability to fine providers if conditions of designation are not complied with, for example if financial expenditure controls were exceeded or in instances where, in spite of a period of support and engagement with a provider, no improvement was made to unacceptable levels of non-compliance with the framework. In extreme circumstances we think HEFCE should have the ability to suspend or remove a provider's designation for student support or HEFCE teaching grant. Providers would have an ultimate right of appeal to the Secretary of State against the suspension or removal of designation.

1.3 Duty to promote the student interest, where appropriate through promoting effective competition

- 1.3.1 HEFCE will be given a new explicit remit to promote the interests of students with a duty to take competition implications into account when making decisions about funding. This will be delivered as part of its regulatory oversight and the focus of the new remit will be to promote the collective student interest, while continuing as now to maintain a clear boundary with institutional autonomy and academic freedom including around academic standards, course content and admissions.
- 1.3.2 This role is intended to be complementary to that of the OIA⁵ in relation to complaints from individuals or groups of individuals. Crucially, HEFCE would also be able to respond to evidence of areas of concern other than complaints, and would be able to take action on behalf of *all* the students affected not just those making a complaint. Like the OIA, we intend that HEFCE's remit should cover all students at a provider. The OIA provides a valuable service and we will ensure this new role for HEFCE does not cut across or replicate its functions.
- 1.3.3 In practice we think this will mean that:
- HEFCE will be able to exercise a degree of oversight of the student interest as it will gather information about providers as a matter of course through its role as lead regulator. To complement this and enable it to perform its role as student champion, it could also hold dialogue on regulatory issues with partner organisations/student forums to discuss any emerging or systemic problems identified. On the basis of this information gathered from several sources, HEFCE could decide on any cases that might merit further direct HEFCE investigation or intervention and then engage with the provider and its board to investigate claims and work with them to rectify any apparent problems. As with OIA, HEFCE would expect providers to comply with reasonable requests for additional information.

⁵ OIA is the designated operator of the student complaints scheme for England.

- Again, as with OIA, there will be an expectation that providers comply with formal decisions and recommendations from HEFCE fully and promptly. HEFCE will be able to take action according to its regulatory functions as set out in the regulatory framework and if a provider failed to comply in spite of support given, would also have the option to publish the names of providers that did not comply.
- We are also proposing that, as a last resort, HEFCE should have a role, reflecting that of the OIA in regard of complaints, to recommend that providers award compensation where this is needed to secure a fair outcome for students. Where appropriate, this would apply to all the students affected. We are consulting on two options for awarding compensation with regard to collective interest cases brought by HEFCE:
 1. HEFCE would have the ability to make recommendations that providers pay compensation;
 2. HEFCE refers cases to the OIA for decision (with OIA's remit extended to be able to make recommendations for compensation for collective interest cases).

We also need to consider whether in the future this ability to make recommendations should become an ability to require compensation.

- As well as the OIA, HEFCE will continue to work through and with other bodies as appropriate in discharging its student interest role. For example, this would currently include the QAA in respect of quality issues.
- In respect of competition, HEFCE's new role will be complementary, rather than parallel, to that of the OFT, which has extensive powers to tackle anti-competitive behaviour and structures across the economy. HEFCE's new responsibilities will include agreeing a memorandum of understanding with the OFT and monitoring and gathering information to refer it as necessary to the OFT if it has concerns about anti-competitive behaviour. This could include any suggestion of price-fixing between providers, control of prices of one provider by another or abuse of market position to gain unfair advantage.
- HEFCE's new remit will also include ensuring it a) sets its funding and any student number controls (or future public expenditure controls) in a way that promoted competition in favour of the student interest, for example so that increasing choice or ensuring value for money was taken into account in the allocation process, and b) is able to take into account any OFT rulings in respect of HE providers on anti-competitive behaviour as part of its allocation criteria.

Consultation questions:

- **Question 2:** We have set out our proposals on what responsibilities HEFCE should have in its role as the lead regulator. In implementing these functions, are there any processes that could be improved, reduced or removed while still protecting the student interest and public funds?

- **Question 3:** Do we need to consider anything additional to the proposals set out to enable HEFCE's role as a student champion in terms of protecting the collective student interest?
- **Question 4:** With regard to HEFCE's role as a student champion, which of the two options is preferred around awarding compensation for collective interest cases – Option 1 where HEFCE would have this ability, or Option 2 where HEFCE would have to refer such cases to the OIA for its decision?
- **Question 5:** Should this remain as an ability to recommend compensation awards, as now with OIA (Option 1) or should we introduce new provisions which will require the governing body to pay compensation (Option 2)?

Chapter 2. A single regulatory framework for provider designation for student support and HEFCE teaching grant

2.1 Principles of regulatory requirements attaching to student support designation and HEFCE teaching grant

2.1.1 We have set out that there will be a new role for HEFCE in maintaining registers of providers eligible under the three broad categories of the new regulatory framework – bodies holding degree awarding powers, providers designated for student support, and providers in receipt of teaching grants. This simplifies the current procedures and replaces functions carried out now by BIS. This chapter sets out the framework of regulatory requirements that will apply as a condition of designation. Chapter 3 then describes the process for how providers will be able to sign up for designation and how criteria will be applied as part of that designation process. It also sets out HEFCE's role in managing a single gateway to ensure a simpler and clearer process for all providers that want to be designated for student support or to be eligible to receive HEFCE teaching grant meet required criteria.

Extending conditions of grant to designation for student support

2.1.2 The White Paper set out the rationale for a more risk-based single regulatory framework that would apply to all providers seeking designation for courses to be eligible for public support through direct grant or student support funding. Students will be asked to make a greater investment in their higher education, so the regulatory framework needs to ensure that providers with courses designated for student support funding are required to comply with regulations designed to protect the interests of their students with regard to quality, dispute resolution, information, fair access, financial sustainability and tuition charge levels. It will create a more level playing field for all providers, by extending a number of key requirements to be conditions of designation for student support, once this becomes the main source of public support, as well as being conditions of grant.

2.1.3 This means that for any provider that wants its courses to be eligible for student support or grant funding, a single framework of conditions will apply. This will be the case regardless of whether they are HEIs, FECs or alternative providers and whether or not they have DAPs.

2.1.4 For currently publicly funded providers this will, in most cases, represent no change in the range of regulatory conditions they must comply with, since they will already be meeting these through their conditions of grant. For providers that do not directly receive HEFCE funding and therefore do not currently have to meet conditions of grant, this will mean meeting extra conditions in order to be designated for student support funding. The detail of where this applies is discussed under section 2.2.

- 2.1.5 Designation for student support funding in effect allows designated providers to benefit indirectly from the loan funding that goes directly to the student. This is therefore not about applying new regulations to funding, but ensuring that the key regulatory requirements continue to attach to the main source of public support for teaching. As the balance of public support shifts from grants to student loan funding, there will be no unnecessary barriers to prevent all providers benefiting from the majority of public support. For those already receiving grant, the increase in loan support will be offset by cuts in grant funding so there is no case for increasing the range of regulation that applies to them. But for those not currently in receipt of grant, such as alternative providers, the level of support they can potentially benefit from per student will increase significantly between 2011/12 and 2013/14.
- 2.1.6 It is therefore appropriate to ensure that the new regulatory framework extends to all providers eligible to receive, via student loan funding, the main source of public investment in HE in return for indirect access to greater public support and the responsibilities to the student that this brings. Since the benefits of greater public support will now be available to more providers than when the bulk of this flowed through grant, it is reasonable to expect that more providers should be brought within the full regulatory framework than previously.
- 2.1.7 At the same time, we recognise the importance of ensuring that the burden is minimised as far as possible while protecting the student and public interest. Therefore the application of several of these conditions will be on a more risk-based or proportionate basis than currently, as described below in section 2.2.

Institutional level designation

- 2.1.8 Under the current system, eligible courses at HEIs and FECs are automatically designated for student support at institutional level, whereas alternative providers must apply for each individual eligible HE course to be specifically designated. In future, we are proposing that institutional level designation would apply to all providers. This would benefit all providers that currently have to apply for designation on a per-course basis, as a single designation process would then enable their students to claim support funding for any eligible HE course they chose to offer. Similarly the regulatory requirements would apply automatically to all of their eligible courses. This will streamline the designation and monitoring processes by ensuring all aspects of the regulatory framework can be applied and demonstrated at institutional level rather than having to be separately monitored on a course by course basis (although some requirements such as the tuition charge cap will continue to apply at course level).
- 2.1.9 The specific conditions which will be newly applied to designation for student support funding will also continue to be applied as conditions of HEFCE teaching grant. This will ensure the regulatory framework continues to apply to the small number of providers who are eligible for teaching grant funding but might not be eligible for, or choose to access, student support designation (for example, post-graduate only providers).

2.1.10 It is also essential that HEFCE retains its ability to attach further conditions of teaching grant over and above those which attach to student support designation, where it is appropriate to specify e.g. information and accountability requirements relating to the purpose of that direct grant funding. HEFCE will also continue to determine which types of courses and activity are eligible for teaching grant funding allocations. We intend that HEFCE will be able to fund prescribed HE courses at any not-for-profit provider (assuming they meet the necessary criteria). For non-prescribed provision, we are reviewing this following a commitment to consider how this relates to other forms of provision, but will ensure there are clear boundaries in the responsibilities between HEFCE and the Skills Funding Agency, to avoid any potential for double-funding.

2.2 Specific conditions that will apply to providers with designation for student support or HEFCE teaching grant

2.2.1 Applying a single regulatory framework for providers in receipt of teaching grant or student support funding is expected to have a differential impact on providers, according to the range of conditions they may already be subject to as conditions of their current grant funding or specific course designation⁶. The section below sets out how we would expect the requirements to impact on different types of provider, including where risk-based approaches are intended to enable lighter touch arrangements for high-performing providers and proportionate monitoring and charges. NB for the purposes of this section (2.2), 'designated providers' refers only to providers designated for student support and/or eligible for HEFCE teaching grant.

Quality

2.2.2 HEFCE will have a duty to monitor the compliance of all designated providers with quality assurance arrangements. This will mean that all designated providers, as a condition of designation for student support or HEFCE teaching grant, will be required to subscribe to the Quality Assurance Agency for Higher Education (QAA⁷) and be subject to the English HE quality assurance arrangements for all eligible courses. This would apply regardless of whether they are HEIs, FECs or alternative providers, and whether or not they have DAPs.

2.2.3 For providers that already subscribe to the QAA, including those alternative providers that already choose to do so, this will represent no additional requirements. For those FECs and alternative providers that do not currently subscribe to the QAA directly, this will represent either a new or a changed requirement in the form of a direct responsibility for assuring the quality of their own provision. However, many will already be complying with some quality assurance requirements via agreements with their validating institutions. We expect to achieve substantial deregulatory change for providers that can demonstrate low risk and will

⁶ For courses of schools initial teacher training there may be exceptions or additions to these requirements or areas where responsibility for regulation lies with the Department for Education, the Training and Development Agency for Schools or the new Teaching Agency.

⁷ This is the body contracted by HEFCE to assess the quality of provision.

ask HEFCE to consult on the criteria and ad hoc triggers which would be central to a risk-based approach to quality assurance. We understand that the QAA will consider a proportionate pricing strategy to cover both basic services and the varying intensity of review.

Dispute resolution

- 2.2.4 HEFCE will have a duty to monitor the compliance of all designated providers with dispute resolution arrangements, and require that students on eligible courses at designated providers have access to adequate internal dispute resolution procedures and to the Office of the Independent Adjudicator (OIA) for unresolved disputes. This will mean that all designated providers, as a condition of designation for student support or HEFCE teaching grant, will be required to subscribe to the OIA. This would apply regardless of whether they are HEIs, FECs or alternative providers, and whether or not they have DAPs.
- 2.2.5 Again this will represent no additional requirements for providers that already subscribe to the OIA. For those FECs and alternative providers that do not currently subscribe directly, this will represent either a new or a changed requirement to sign up directly. The OIA's remit will be adjusted accordingly, to enable it to allow new members to join their scheme. The OIA will also be consulting on a proportionate pricing strategy for future subscription charges for all members.

Information

- 2.2.6 HEFCE will have the ability to require designated providers to provide sufficient and proportionate information to ensure accountability to students and the public on quality, access, value for money and financial regularity and sustainability. Precise information requirements for individual providers will be a matter for HEFCE to determine through its regular review of provider agreements, but we would expect requirements to ensure that sources of information for students such as Key Information Sets (KIS) are available for all designated providers. We will also work with HEFCE and the Higher Education Statistics Agency (HESA) to minimise data collections through the periodic review process. In terms of the impact on types of providers, for HEIs and any providers with whom they have a franchising agreement for the foreseeable future, we would expect no significant additional requirements to apply beyond what is already being introduced via the KIS and any subsequent developments associated with it. For alternative providers this would represent a new requirement. For FECs with no HEFCE funding at present, there could be some additional requirements to comply with the KIS, but agreed exemptions e.g. from certain HESA data requirements, would be allowed to continue where compliance with Skills Funding Agency data requirements provides a recognised alternative.

Tuition charge cap and Fair Access

- 2.2.7 HEFCE will have a duty to monitor all designated providers required to comply with tuition charge cap legislation and, if charging above the basic amount, with OFFA requirements around fair access. This will mean that no provider will be eligible for designation for student support or teaching grant funding if they wish to charge

above the maximum tuition charge cap. It will also mean that all designated providers will be required to have an Access Agreement if they wish to charge over the basic tuition charge cap. For HEFCE funded HEIs and FECs which are already subject to tuition charge caps and OFFA requirements, this would not represent a change. For some providers, including alternative providers and FECs with no direct HEFCE funding, this will represent a new requirement. It has not applied previously because it flows from the legislation that caps tuition charges which only currently applies to HEFCE funded providers. However it is the Government's intention to harmonise arrangements for all providers in this area once legislation allows. It will also place a new requirement on OFFA to negotiate institutional level access agreements, applying to all courses eligible for student support, with alternative providers seeking to charge above the basic tuition charge cap.

- 2.2.8 The White Paper includes a commitment to encourage more flexible types of higher education, including two-year accelerated honours degrees, where demand exists. Two-year degrees have been shown to appeal particularly to mature students, people from ethnic minorities and employers with skills shortages. OFFA already recognises the potential for accelerated degrees to attract students from under-represented groups when assessing Access plans.
- 2.2.9 Compared with the traditional three-year degree, the costs to learners on accelerated courses are considerably lower. This is partly because they study over a shorter period and partly because they enter the labour market earlier.
- 2.2.10 However, the costs to institutions are likely to be greater. A small-scale 'Costing Study of Two Year Accelerated Honours Degrees'⁸ undertaken in 2010 put the additional cost per year at between 6% and 12% compared with equivalent three-year degrees. Other research, undertaken at Staffordshire University⁹, has put the extra costs somewhat higher. After a pilot study into this sort of provision, HEFCE concluded 'All the pilot institutions cite cost as the main disincentive for offering accelerated degrees.'¹⁰
- 2.2.11 Given the limited information available, we intend to work with HEFCE to improve the evidence base on the true costs of two-year accelerated honours degrees, and we welcome views on how flexible provision such as two year courses could be encouraged.

Public expenditure controls

- 2.2.12 HEFCE's current role in controlling student intakes will be developed and modified to ensure continuing control under the new funding system. This is necessary to help manage overall government expenditure on higher education. The precise system of expenditure controls, and whether or not this will continue to take the form of control on the number of student entrants as now, a financial control or

⁸ http://hefce.ac.uk/pubs/rdreports/2011/rd03_11/rd03_11.pdf

⁹ <http://www.staffs.ac.uk/schools/business/iepr/docs/FastTrackEvaluationFinalReport.pdf>

¹⁰ http://www.hefce.ac.uk/learning/flexible/Diverse_provision.pdf

another form of limit on the costs of student support to affordable levels, will be determined by HEFCE via future consultation due in winter 2011/12.

2.2.13 This future consultation will also consider which forms of study need to be included, e.g. part time provision. This will sit alongside the introduction of measures beginning in 2012/13 to free the control of student numbers to allow a more dynamic allocation system, which will also be reviewed in HEFCE's consultation. All designated providers will be subject to the new control system, once implemented, to the extent that they offer courses covered by the control. For HEIs and FECs with direct student number allocations or HEFCE teaching grant funding, they will continue to be subject to expenditure control requirements. For alternative providers, this will represent a new but necessary control to ensure adequate student support funding is available to meet the needs of all students in the system. The SLC will share information with HEFCE, particularly on institutional demands on the student support budget, to enable HEFCE to manage the budget.

Financial sustainability

2.2.14 HEFCE will have a continuing duty to assess the financial sustainability of designated providers and will engage with those that find themselves in financial difficulty. Precise requirements for individual providers will be a matter for HEFCE to determine through its regular review of providers, and HEFCE will consult on a risk-based approach. The aim will be to provide reasonable assurance that all providers in receipt of public subsidy are a going concern, are accountable for the public support they receive indirectly through student loan funding or directly through grant funding, and have sufficient arrangements in place to safeguard the interests of their students in the event of financial instability. HEFCE will continue to adopt a risk-based approach to financial monitoring where scrutiny will be focused on providers without an established track record or those for whom concerns have been raised, while for high-performing providers a more light touch approach to monitoring will be applied. HEFCE will work with the Skills Funding Agency to establish a suitable way to monitor the financial sustainability and other aspects of FECs' compliance with the regulatory framework. In common with previous governments, the Coalition has not guaranteed to underwrite independent HE providers. However we see a continuing role for HEFCE to work with providers at risk of financial difficulties.

Consultation questions:

- **Question 6:** This document sets out the regulatory framework for designation for student support and HEFCE teaching grant – are there any processes within this framework that could be improved or reduced to make it more risk-based and ensure proportionate requirements and a level playing field while still protecting the student interest and public funds?
- **Question 7:** While it is not Government's role to underwrite independent providers that have become unviable, how can we best protect the interests of students in the event a provider fails in some way or becomes insolvent?
- **Question 8:** we welcome views on how flexible provision such as two year courses could be encouraged.

Chapter 3. A single gateway for entry to the higher education sector

3.1 Introduction

3.1.1 The White Paper pledged to reduce bureaucracy in higher education which is why we want to simplify regulatory processes as far as possible whilst maintaining quality and standards in the system. This Chapter sets out our proposal to establish HEFCE as the registrar of HE providers which will operate a single gateway for entry into, and management of the regulatory processes in respect of:

- Designation for student support purposes
- Designation for HEFCE teaching grant funding
- Applications for Foundation, Taught and Research Degree Awarding Powers
- Applications for University Title
- Other activity relevant to its role as the sector regulator including use of the word ‘university’ in a company name and maintenance of the Recognised and Listed Bodies and Recognised Awards lists

This will be a simpler, clearer system for all providers wishing to enter the sector.

3.2 Designation for student support purposes and HEFCE teaching grant funding

Current process for designation for student support purposes

3.2.1 Eligible courses of higher education at publicly-funded HEIs or FECs are automatically designated for student support if they meet the eligibility requirements of the Education (Student Support) Regulations (ESSR) which tend to be updated each year by BIS. If the course meets the requirements then eligible students can apply for student support.

3.2.2 The Teaching and Higher Education Act 1998 empowers the Secretary of State to designate specifically for student support purposes higher education courses which are not automatically designated.¹¹ This specific designation is the Secretary of State’s discretion to allow courses to be eligible for support where they do not meet the eligibility criteria set out in the ESSR. Generally, specific designation applies to alternative providers who wish some of their courses to be eligible. It is also used to designate full-time distance learning courses at both publicly and privately funded

¹¹ The relevant regulations in the [Education \(Student Support\) Regulations 2009](#) are Regulation 6(9) - full-time, Regulation 118 –Distance Learning, Regulation 135(7) – Part-time and Regulation 152(4) - Postgraduate.

providers. Occasionally the discretion is used to allow other courses to be designated.

- 3.2.3 Currently if an alternative provider wants a course to be designated for student support the provider needs to make an application to the Student Loans Company (SLC). Courses are specifically designated on an individual basis and, in addition to meeting the criteria for designation as set out in the ESSR, the course must also be accredited by a recognised UK validating body, such as a university, which is responsible for monitoring quality control and ensuring that academic standards are maintained. Once the SLC has processed the application they send a recommendation to BIS for consideration.

Current process for providing financial support to HEIs

- 3.2.4 The current legislative framework for eligibility for HEFCE funding is set out in section 65 of the Further and Higher Education Act 1992¹². This states that HEFCE can fund activities linked to education and/or research at HEIs in England whereas for other providers, for example further education colleges, HEFCE can only fund prescribed courses of higher education¹³. This system helps to control both the number of organisations and the type of activities that can be funded and ensures clear boundaries in the respective funding responsibilities of HEFCE and the Skills Funding Agency (SFA) in relation to provision at further education colleges.

Future process

- 3.2.5 The shift in funding away from teaching grants distributed to HEIs by a central funding council to predominantly loans to eligible undergraduates to take to the higher education provider of their choice requires a new regulatory framework to support it and provide the right safeguards (see paragraph 3.2.1). This change in the flow of funds, combined with the introduction of a student interest obligation placed on HEFCE, requires new processes to be established to ensure the Government's aims and objectives for higher education are met.
- 3.2.6 The White Paper proposes that HEFCE becomes the lead regulator for higher education. As part of this role HEFCE will operate a robust system for assessing, awarding and reviewing designation of higher education providers against the relevant criteria for student support purposes or HEFCE grant (see section 2.2). This system will need to operate fairly and in the public interest. HEFCE will assign successful applicants to a section of its register reflecting its particular designation status. HEFCE will consult on the detail of the process. BIS will continue to determine the eligibility of students to access student support and the criteria for eligible courses as set out in the ESSR (see paragraph 3.2.1).

¹² [The Further and Higher Education Act 1992](#)

¹³ Prescribed HE courses are defined in Statutory Instrument 1998 No. 1970, here: <http://www.legislation.gov.uk/uksi/1998/1970/contents/made>. This extended to England the definition that had applied in Wales given in Statutory Instrument 1993 No. 481, here: <http://www.legislation.gov.uk/uksi/1993/481/contents/made>. The Schedule to SI 1993/481 gives the main categories of courses.

- 3.2.7 All providers that want to become designated for student support purposes or HEFCE funding will be required to enter into a legally binding agreement with HEFCE. This will cover all the requirements that need to be met by providers in order to continue to be designated (see section 2.2). It will be for HEFCE, in consultation with providers, to determine the requirements of the agreement in each case and what the differential arrangements are for satisfying the requirements for providers accepted on to different points of the register. This agreement will replace the current 'financial memorandum' that HEFCE holds with higher education institutions. If a provider fails to comply with the requirements in the agreement then they will be subject to an intensified engagement with HEFCE and an escalating set of steps will be taken until compliance is achieved. Ultimately, continuing failure may require HEFCE to apply its ability to fine and/or de-designate a provider (see section 1.2).
- 3.2.8 As now designation will be granted on an indefinite basis subject to compliance with the requirements laid down in the agreement. HEFCE will need to develop and operate a fair and robust process that enables it to identify where concerns are likely to arise and provides opportunities for providers to resolve weaknesses arising in discussion with HEFCE and its partner bodies¹⁴. However, where serious concerns arise as to the suitability or eligibility of an organisation to continue to be designated for government funding, HEFCE may need to determine that an organisation should no longer be designated. Where this arises, the affected organisation will ultimately have a right of appeal to the Secretary of State. We will consult on the appeal process as part of the HEFCE consultation on the overall process for designation.

Access to HEFCE teaching grant

- 3.2.9 HEFCE will only provide teaching funding for those areas and activities deemed to be high cost and/or public policy priorities and on the basis described above. However, in line with the commitment in the White Paper, HEFCE will in future be able to fund prescribed higher education courses at any not-for-profit provider provided they meet the necessary criteria.
- 3.2.10 To be eligible for this funding, providers will be expected to meet the standard conditions associated with designation for student support purposes (see Chapter 2), be not-for-profit, and meet any specific conditions of the funding as determined by HEFCE.

Transitional arrangements

- 3.2.11 The Government will announce the transitional arrangements in its response to this consultation early next year.

¹⁴ Currently the Quality Assurance Agency (QAA), the Office of the Independent Adjudicator (OIA), the Office for Fair Access (OFFA), the Higher Education Statistics Agency (HESA) and the Student Loans Company (SLC).

Research and other funding

3.2.12 HEFCE will retain its responsibility to fund research, knowledge exchange and other activities relevant to its higher education remit. This funding is outside the scope of this consultation, but we can confirm that we do not intend the changes proposed to the new regulatory framework outlined in this consultation to impact on HEFCE's ability to apply the current research funding criteria, and that we intend that the requirements of eligibility and accountability for HEIs to receive HEFCE grant for research (including research capital grant) and for knowledge exchange (currently the Higher Education Innovation Fund - HEIF) will be very similar in scope and effect to those now in force. The requirements connected to other grants will continue to be determined by HEFCE in response to Government policies.

3.3 Degree Awarding Powers and University Title

Current process

Application for degree awarding powers

- 3.3.1 Any organisation providing higher education, whether publicly funded or not, is entitled to apply for degree awarding powers.
- 3.3.2 Applications must be made to the Privy Council. On receipt of an application the Privy Council Office forwards the submission to the Secretary of State for advice as the relevant Privy Councillor. He then seeks advice from the Skills Funding Agency (SFA) in the case of applications for foundation degree awarding powers and, where relevant, from HEFCE regarding the financial status of the applicant organisation. Applications are then sent to the Quality Assurance Agency¹⁵ (QAA) for advice. In offering its advice the QAA observes criteria set by the Government governing the granting of powers (see Annex). The QAA Board makes a recommendation to the Secretary of State as the relevant Privy Councillor. The Privy Council then reviews the evidence and decides whether to award degree awarding powers.

¹⁵ This is the body contracted by HEFCE to assess the quality of provision

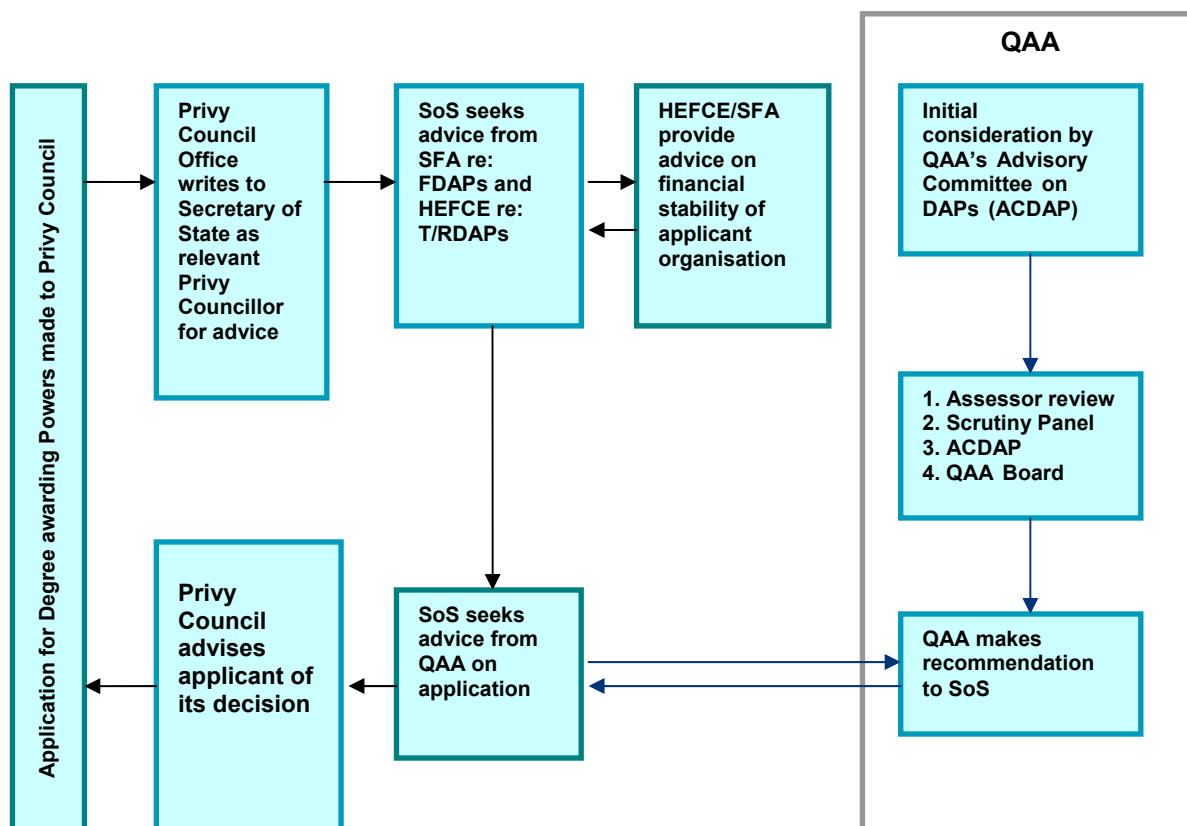


Figure 1: Current process for dealing with applications Degree Awarding Powers

Renewal of degree awarding powers

- 3.3.3 Degree awarding powers are currently granted indefinitely to publicly funded higher education institutions in all parts of the UK. In England taught degree awarding powers are only granted on a six-yearly renewable basis to alternative providers and, in the case of foundation degree awarding powers, for six years initially and then indefinitely upon renewal.
- 3.3.4 If an institution with time-limited degree awarding powers wishes to have those powers renewed, the Chairman of the organisation writes to the Privy Council expressing that wish about 2-3 months before the expiry date. The Privy Council then seeks advice from the Secretary of State, as the relevant Privy Councillor, who in turn seeks advice from the QAA. On the advice of the QAA that the institution has:
- subscribed to the QAA for the duration of the six years,
 - been subject to audit by the QAA, and
 - received judgements of confidence at the time of its institutional audit,

the Privy Council will review the evidence and decide whether to renew the degree awarding powers for a further six year period.

Applications for university title

- 3.3.5 If an organisation is in the higher education sector and has taught degree awarding powers under the 2004 criteria (see Annex) it may apply to the Privy Council for university title or university college title.¹⁶
- 3.3.6 On receipt of an application the Privy Council Office forwards the submission to the Secretary of State for advice as the relevant Privy Councillor who, in turn, seeks advice from HEFCE on which to assess whether the applicant meets the criteria of student numbers and good governance (see section 4.3).
- 3.3.7 Provided the student number and good governance criteria have been met and the organisation has consulted on the new proposed name and there are no objections, the Privy Council then considers the advice and, if it agrees, writes to the applicant confirming its approval.
- 3.3.8 Organisations not eligible to apply for university title via this process can apply to Companies House to use the sensitive word ‘university’ in their title.¹⁷ They will first need to seek the approval of BIS, as the specified body for the sensitive word ‘university’, which applies the same criteria as above in assessing the application. The documents sent to Companies House for the name proposed must include a statement that such a request has been made and provide a copy of any response from BIS. The decision to approve is taken by the Registrar of Companies on behalf of the Secretary of State, not by BIS as the specified body.

¹⁶ This process applies to those institutions which come under Privy Council control i.e Chartered institutions, designated institutions and higher education corporations

¹⁷ Prior approval from Government is required both for the registration of a company name and for the adoption of a name to carry on a business in the UK if the name includes a sensitive word or expression specified in the Company, Limited Liability Partnership and Business Names (Sensitive Word and Expressions) Regulations 2009.

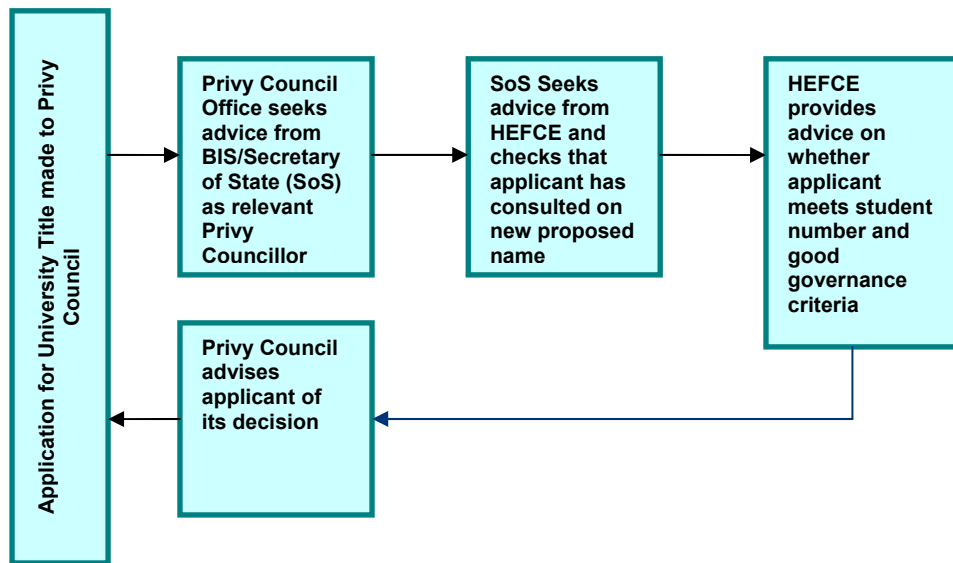


Figure 2: Current process for dealing with applications for University Title for organisations under Privy Council control

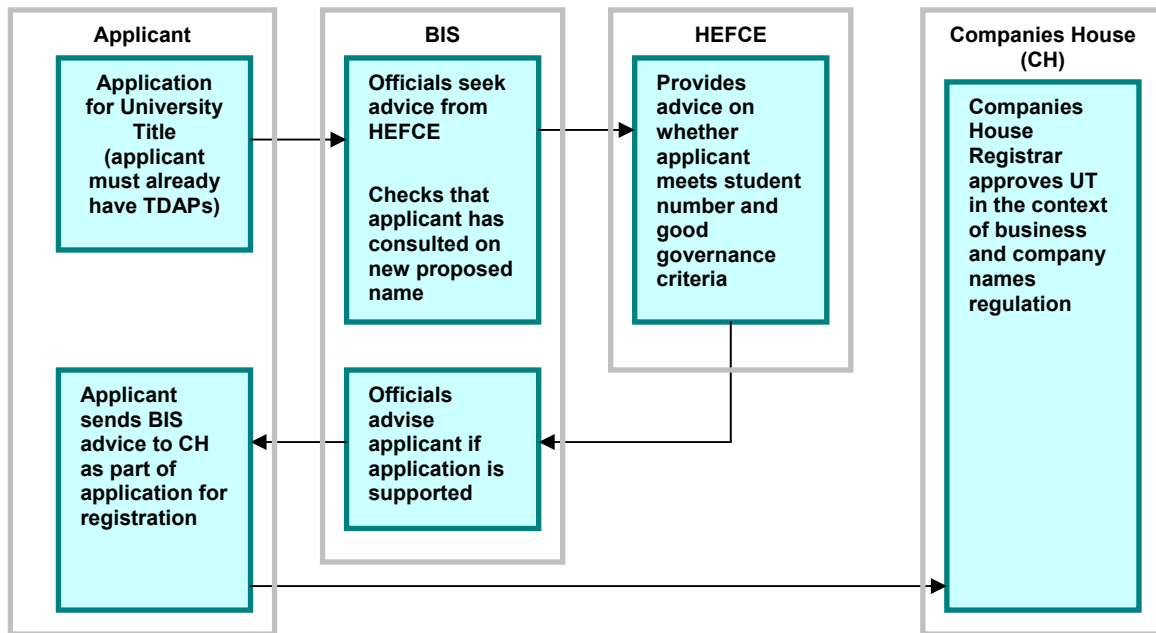


Figure 3: Current process for dealing with applications for University Title for organisations under business and company name regulations

Future process

3.3.9 As far as possible we want to simplify the processes for granting degree awarding powers and university title while maintaining the standards, value and integrity of what these represent.

3.3.10 We have considered the role of the Privy Council in the regulation of higher education providers and whether it represents an unnecessary level of bureaucracy in the process. We believe that it is important to retain this element of independence in the processes for both degree awarding powers and university title. It separates the decision making process from the assessment and helps to ensure that standards are met before degrees can be awarded or an institution can become a university. The Privy Council has played a very significant role throughout the history of our universities. Its role in approving degree awarding powers and university title contributes to the reputation of UK higher education.

Consultation question:

- **Question 9:** Do you agree that it is important to retain the Privy Council as an independent element in the process for awarding, renewing and removing degree awarding powers and university title?

3.3.11 In future, responsibility for administering the process for both granting, renewing and, where appropriate, removing degree awarding powers (see paragraph 4.2.18) and for granting university title (taking into account reviews of the organisation's quality assurance arrangements), as well as responsibility for advising the Secretary of State and the applicant on such applications, will rest with HEFCE. As the regulator for the HE sector HEFCE will be the body best placed under the new regulatory system to undertake this role.

3.3.12 In future, HEFCE will become the specified body for the sensitive words 'university' and 'polytechnic'.¹⁸ As the regulator for the HE sector and with responsibility for the process for granting university title, it will be the body best placed to protect these sensitive words, thus helping to safeguard the reputation of England's higher education sector, and to provide a view to Companies House on its use in a business or company name.

¹⁸ Although no longer used by institutions the use of the word 'polytechnic' is still a sensitive word in the Company, Limited Liability Partnership and Business Names (Sensitive Word and Expressions) Regulations 2009 and BIS is currently the specified body. Its use would only be supported if the applicant met the criteria for the use of the word 'university'. This is because the concept of a polytechnic as an institution which offers broadly a university type education still remains and BIS considers that it would be confusing if the term were to be adopted by an organisation which did not conform to the broad criteria formerly used for polytechnic designation.

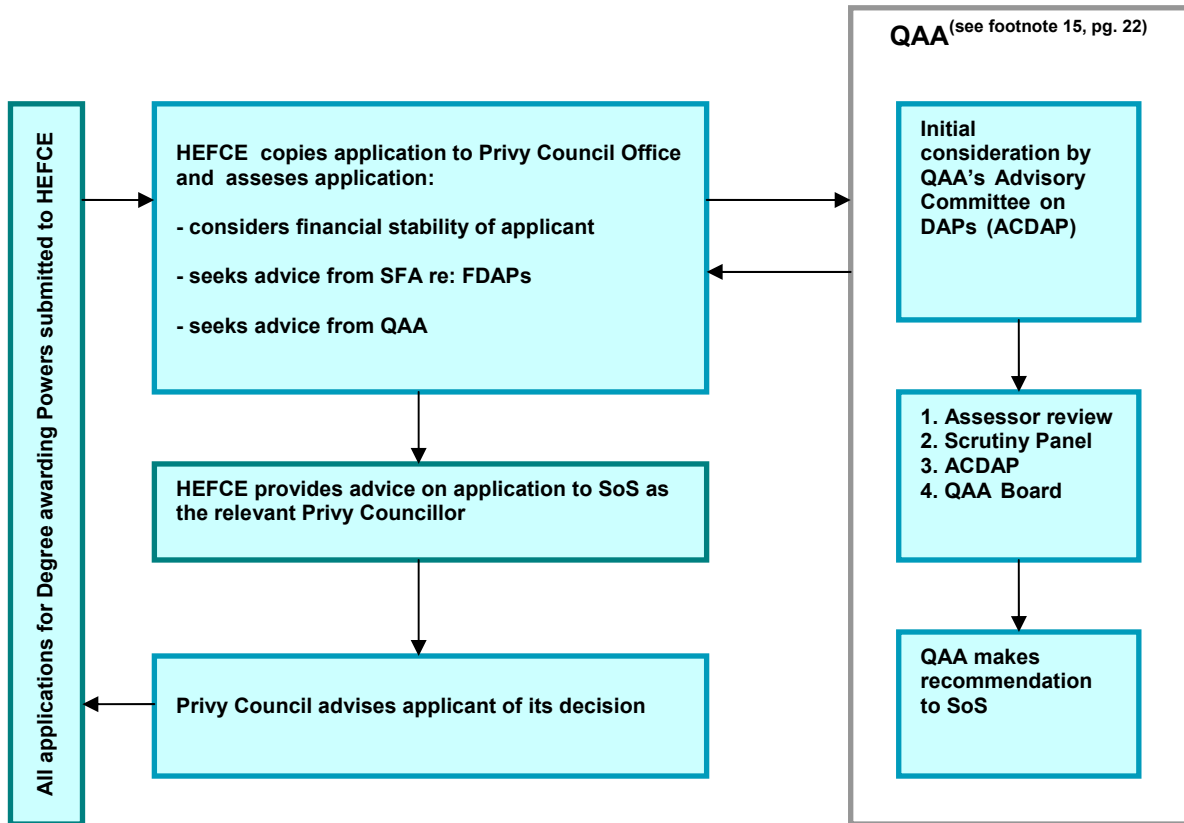


Figure 4: Future process for dealing with applications for Degree Awarding Powers

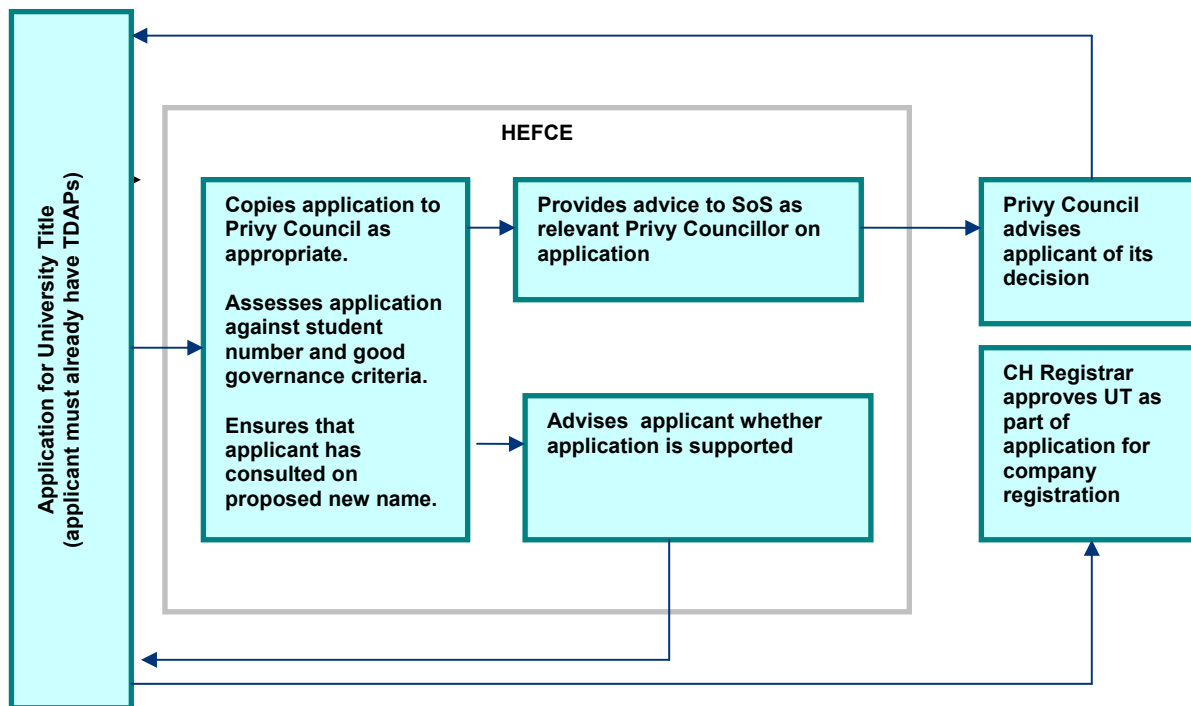


Figure 5: Future process for dealing with University Title

3.4 Recognised and Listed Bodies and Recognised Awards Lists

Current process

- 3.4.1 Legislation on unrecognised degrees¹⁹ was introduced with the intention of protecting the good name of UK higher education by ending the traffic in bogus degrees. This makes it an offence to offer in the course of business something purporting to be a degree from a UK institution unless it is a 'recognised' award.
- 3.4.2 A recognised award is an award granted by a recognised body or an award designated as a recognised award. A recognised body is a body which has been granted degree awarding powers. A body which is a listed body may offer courses that lead to an award granted by a recognised body i.e. it provides courses validated by a recognised body. Recognised bodies, listed bodies and recognised awards are identified in Orders made by the Secretary of State.

Future process

- 3.4.3 In future, HEFCE will be responsible for compiling, maintaining and publishing, the Recognised and Listed Bodies and Recognised Awards lists. As the lead regulator for the HE sector and with responsibility for managing the processes for degree awarding powers and university title, under the new system it will be the body best placed to undertake this role.

Consultation question:

- **Question 10:** We have set out the action that we are going to take to establish HEFCE as the single gateway for entry to the HE sector and to clarify and streamline processes for designating HE providers for student support purposes and for HEFCE funding, for administering the application processes for both degree awarding powers and university title and for compiling, maintaining and publishing the Recognised and Listed Bodies and Recognised Awards Lists. Are there any other processes we should consider in this context?

¹⁹ Sections 214 – 216 of the Education Reform Act 1988

Chapter 4. Reforms to Degree Awarding Powers and University Title criteria

4.1 Introduction

4.1.1 The Government controls entry to higher education through granting the power to award degrees and through university title – the right of an organisation to call itself a ‘university’. These are important safeguards of standards and both the title of ‘university’ and degree awarding powers are protected under law. The White Paper *Students at the Heart of the System* set out the Government’s rationale for reform. We intend to make it easier for new providers to enter the sector by simplifying the regime for obtaining and renewing degree awarding powers so that it is proportionate in all cases. This is essential to drive greater diversity and competition to improve the range and quality of provision available to students. The White Paper said we would review the use of the title ‘university’ so that there are no barriers against smaller institutions. It also undertook to decouple degree awarding powers from teaching in order to facilitate externally-assessed degrees by non-teaching bodies. To this end, we are proposing to:

- Modernise the criteria for taught degree awarding powers by:
 - Providing more flexibility to accommodate applications from non-teaching bodies and bringing forward the necessary legislation to enable this
 - Providing more flexibility around the length and nature of experience required in order to accommodate new and alternative providers
- Review the current university title criterion which requires an institution to have at least 4,000 full time equivalent students before they can apply for university title
- Review the requirements around renewable degree awarding powers to make them more flexible, transparent and accessible and to create a level playing field for potential providers in future
- Simplify the application and renewal process for degree awarding powers and the application process for university title (see section 3.3)
- Introduce a sanction to suspend or remove degree awarding powers where quality or academic standards fall below acceptable thresholds. This change will apply to both taught and research degree awarding powers.

4.1.2 In the main, the proposed changes will only apply to future applications for degree awarding powers and university title. The provisions relating to suspension and removal of degree awarding powers will apply to all holders.

4.2 Degree awarding powers criteria

Current position

- 4.2.1 Any organisation providing higher education, whether publicly-funded or not, is entitled to apply for degree awarding powers.
- 4.2.2 Ministers maintain criteria against which applications for degree awarding powers are considered. For England and Wales applications are currently considered under criteria approved by Ministers in 2004. An organisation that wishes to award its own degrees will be required to demonstrate that it meets the relevant criteria. Scrutiny by the Quality Assurance Agency²⁰ (QAA) determines whether or not an applicant organisation is fit to exercise the powers being sought. The applicant must clearly demonstrate that there can be public confidence, both present and future, in its systems for assuring the academic standards and quality of its degree. The current criteria for taught degree awarding powers are set out in the Annex.
- 4.2.3 We are not proposing any changes to foundation degree awarding powers at this time but have committed to review them in 2012 and will consider whether any changes are needed in the context of that review.
- 4.2.4 Similarly, we propose no immediate changes to the criteria or process for research degree awarding powers, other than introducing a sanction to suspend or remove these powers where quality or academic standards fail (see paragraph 4.2.18).
- 4.2.5 The current criteria and legislation apply in England and Wales. The revised criteria and legislation will apply in England. The Welsh Assembly Government will decide separately on revisions to the criteria and legislation that will apply in Wales in the context of its review of HE governance in Wales.

Future position

- 4.2.6 We propose changes to the current criteria for taught degree awarding powers in order to achieve the objectives set out above. In particular, we propose changes in the following areas:

More flexibility to accommodate applications from non-teaching bodies

- 4.2.7 We intend to bring forward legislation to allow organisations to award taught degrees even if they themselves do not teach. Current practice restricts choice for both student (e.g. the possibility of progressing directly to a degree with a national awarding body) and providers (whose ability to provide higher education is dependent on a university being willing to validate their degrees).

²⁰ This is the body contracted by HEFCE to assess the quality of provision

- 4.2.8 The aim of any changes would be to create a simpler and more transparent system that allows for greater diversity of provision.
- 4.2.9 We are also reviewing the degree awarding powers criteria and process to ensure that barriers to non-teaching bodies are removed. The revised criteria will be supported by clear guidance setting out in detail how the criteria will apply to non-teaching bodies.
- 4.2.10 We believe that broadly the same threshold principles as set out in the current criteria can and should apply and that the key principles of the criteria will be applicable to non-teaching bodies as well.

Consultation questions:

- **Question 11:** Are there any requirements as set out within the current TDAPs criteria (see Annex), including evidence requirements, which would preclude non-teaching bodies from being eligible to apply for taught degree awarding powers?
- **Question 12:** Would it be helpful to specify in the criteria that non-teaching bodies must demonstrate that their delivery partners were competent in the required areas?
- **Question 13:** What evidence requirements should the non-teaching bodies themselves be expected to meet over and above what their delivery partners are able to demonstrate?

More flexibility around the length and nature of experience required in order to accommodate new and alternative providers

- 4.2.11 The current criteria specify that organisations seeking taught degree awarding powers should normally be able to demonstrate that they have had no fewer than four years experience immediately preceding the year of application of delivering higher education programmes at a level at least equivalent to level H (now level 6) of the Framework for Higher Education Qualifications for England, Wales and Northern Ireland (FHEQ).
- 4.2.12 Given degree awarding powers are now subject to regular review, the argument for a four-year track record is weaker than when this requirement was first introduced, when such powers were awarded indefinitely. We are therefore proposing that the length of track record required to engender public confidence in an organisation's capacity to maintain the academic standards of the degrees it offers in the UK and, where relevant, overseas, should in future be more flexible reflecting the different types of degrees on offer. To this end we are proposing that track record in future be linked to the length of the degree programmes on offer e.g. two years for those organisations offering two year degree courses and three years for those organisations offering three year degree courses.
- 4.2.13 There could also be more flexibility in considering applications from organisations whose track record relates to teaching overseas. At present, an overseas track

record can be taken into account but the QAA requires assurance that there is an understanding of the norms and expectations that underpin the UK degree. Where things are done differently overseas, the track record and reputation of the provider may count for little.

4.2.14 We are also keen to explore whether there are other ways in which we could introduce more flexibility into how access to taught degree awarding powers might be secured to take account of different types of experience. For instance, the introduction of taught degree awarding powers in single subjects might offer an alternative way into the system.

Consultation questions:

- **Question 14:** We would welcome your views on our proposal to link track record to the length of the degree programmes on offer and whether you see any risks with this approach.
- **Question 15:** We would welcome views on how else the track record criterion might be applied more flexibly. For example are there different types of track record or experience you think could be taken into consideration?
- **Question 16:** Do you consider that alternative models for entry e.g. single subject taught degree awarding powers would give more scope for new providers to enter the system? Would you be interested in the development of a single-subject model?

Renewable degree awarding powers

4.2.15 The current system is that powers are granted indefinitely to publicly-funded higher education institutions. In England and Wales taught degree awarding powers are granted on a six-yearly renewable basis to alternative providers. The recent funding reforms to higher education now make these distinctions between publicly-funded and non-publicly funded organisations largely irrelevant. We propose therefore that in future all new degree awarding powers will be given on a renewable basis in the first instance, with a view to any applicant ultimately being able to acquire degree awarding powers indefinitely, subject to continuing satisfactory outcomes of periodic quality assurance reviews. However we believe there is scope for flexibility in the renewal process - in particular on the appropriate intervals between renewals leading ultimately to possible degree awarding powers indefinitely - and we are inviting views on this.

Consultation questions:

- **Question 17:** Do you consider a six year period for renewals of degree awarding powers in the first instance is appropriate? If not, what period would you like to see and why?
- **Question 18:** Would you like to see a longer period between subsequent renewals?

- **Question 19:** What do you consider a reasonable number of renewals before being eligible for consideration for degree awarding powers indefinitely, subject to continuing satisfactory outcomes of periodic quality assurance reviews?

Process

4.2.16 We welcome the changes that have already been made to the degree awarding powers process by the QAA in order to support access to the system for alternative providers. For instance, alternative providers are now represented on the Advisory Committee for Degree Awarding Powers. In order to improve the accessibility and transparency of the process further we intend to issue completely revised and extended guidance on degree awarding powers and university title following this consultation and the introduction of any subsequent legislation, including new guidance on renewable degree awarding powers.

Safeguarding academic quality

4.2.17 It is vital that quality and academic standards are maintained. In line with our proposals to introduce a more risk-based approach to quality assurance, we will expect providers that lack a well-established track record, for example those that have recently acquired degree awarding powers, to be subject to more frequent and/or in-depth QAA institutional review.

4.2.18 We will also introduce a sanction to suspend or remove degree awarding powers, however granted, where there is clear evidence that quality or academic standards continue to be below the acceptable threshold and efforts to improve the position have proved unsuccessful. We do not expect to have to use such a sanction except in the case of very serious concerns arising and we will put in place a transparent, evidence based and rigorous process around its use and will consult on the detail. This change will apply to both taught and research degree awarding powers.

4.3 University title criteria

Current position

4.3.1 The current criteria for university title are set out in the attached Annex.

4.3.2 If an organisation has taught degree awarding powers under the 2004 criteria, it may apply for university title. To do so it must demonstrate regard to the principles for good governance in the sector and have at least 4,000 full-time equivalent higher education students, of which at least 3,000 are studying for a degree. An organisation which does not meet the numbers criterion for 'university' title may be eligible for 'university college' title via the same process.

Future position

4.3.3 We want to introduce wider access to university title for smaller providers by reviewing this number criterion and considering whether it should be reduced. Our view is that a reduction in numbers to 1,000 full-time equivalent (FTE) higher education students of which at least 750 are studying for a degree together with a requirement that more than 50% FTE of an organisation's overall student body is studying HE²¹, would open up access without compromising the conception of what constitutes a university in terms of the scale of the higher education offer and student experience involved.

Consultation question:

- **Question 20:** Do you agree with our proposal to reduce the numbers criterion for university title to 1,000 full-time equivalent higher education students of which at least 750 are studying for a degree alongside a requirement that more than 50% FTE of an organisation's overall student body is studying HE? If you do not agree with this proposal could you please explain your reasons and also suggest an alternative proposal and why you think this would be better.

4.3.4 In taking this review forward we are mindful of the fact that university title is prestigious, desirable and precious and we will continue to protect its integrity. We share the concerns that have been expressed to us about lack of clarity over which organisations are allowed to call themselves a university and in what circumstances. We will issue guidance clarifying the permitted use of the word 'university' and related terms - which are protected in law - and will expect HEFCE to monitor it rigorously to prevent its misuse.

²¹ Defined as those on degree-level courses and above.

Chapter 5. Simplifying the process for changing corporate status

5.1 Where higher education institutions want to change their legal status it can be complex and different rules will apply to the different types of institution. It has been argued that it would be helpful to institutions to ease their ability to convert to a legal status of their choosing – for example, to make it easier for them to attract private investment. We need to balance the potential benefits against the concern that, as the assets of a university have been acquired over time, partly as a result of direct public funding, there is a wider societal interest which may need to be protected in any change of status.

5.2 All higher education institutions are legally independent institutions accountable through a governing body that carries ultimate responsibility for all aspects of the institution's affairs. The legal status of universities is generally defined in their own instruments of governance and varies between pre-1992 universities and post-1992 universities and colleges. All higher education institutions have charitable status and most are exempt charities under the Charities Act 1993.

- **Pre-1992 Universities:** Most pre-1992 universities were established by Royal Charter granted through the Privy Council and are 'chartered corporations'. Some were established or reconstituted by a private or public Act of Parliament and are 'statutory corporations'. Their governance structures are laid down in the Act and the institution's charter and statutes. The charter grants power to the corporation and sets out its main objectives. The statutes set out the basic governance framework and the powers of certain office-holders. The statutes give universities power to make ordinances and regulations or rules.
- **Post-1992 Universities and Colleges of Further Education:** Post-1992 universities and colleges of HE are classified as either 'higher education corporations' or 'designated institutions' under the Education Reform Act 1988 and the Further and Higher Education Act 1992. They operate under Instruments and Articles of Government which have been approved by the Privy Council. These give them powers to create bye-laws.
 - **Higher Education Corporations:** The Education Reform Act 1988 established as Higher Education Corporations certain higher education institutions previously maintained by local education authorities. The Act stipulated that any Higher Education Corporation should be conducted in accordance with articles of government approved by the Secretary of State. Model Instruments and Articles of Governance were drawn up by the (then) Department of Education and Science (which were then modified in light of the Further and Higher Education Act 1992).
 - **Designated institutions:** The constitution of designated institutions is more varied. Some are companies limited by guarantee and operate under a Memorandum and Articles of Association which incorporates the Instruments

and Articles of Governance. Others are established as charitable trusts under a Trust Deed or through a Scheme made by the Charity Commissioners. Designated institutions are required, under the provisions of the 1988 and 1992 Acts to have Instruments and Articles of Governance, but their exact nature is not prescribed in legislation.

Consultation questions:

- **Question 21:** Would you welcome legislative change to make the process of changing legal status easier?
- **Question 22:** If so, why? It would be helpful to understand how and why this has been problematic in the past and what the benefits would be of making this process easier.

Consultation Questions Summary

- **Question 1:** Respondent details:
 - Name:
 - Are you responding on behalf of an organisation? If so, which one?
 - What type of organisation is it? (e.g. HEI, FEC, Regulatory Body etc.)

Chapter 1: The introduction of an independent lead regulator

- **Question 2:** We have set out our proposals on what responsibilities HEFCE should have in its role as the lead regulator. In implementing these functions, are there any processes that could be improved, reduced or removed while still protecting the student interest and public funds?
- **Question 3:** Do we need to consider anything additional to the proposals set out to enable HEFCE's role as a student champion in terms of protecting the collective student interest?
- **Question 4:** With regard to HEFCE's role as a student champion, which of the two options is preferred around awarding compensation for collective interest cases – Option 1 where HEFCE would have this ability, or Option 2 where HEFCE would have to refer such cases to the OIA for its decision?
- **Question 5:** Should this remain as an ability to recommend compensation awards, as now with OIA (Option 1) or should we introduce new provisions which will require the governing body to pay compensation (Option 2)?

Chapter 2: A single regulatory framework for provider designation for student support and HEFCE teaching grant

- **Question 6:** This document sets out the regulatory framework for designation for student support and HEFCE teaching grant – are there any processes within this framework that could be improved or reduced to make it more risk-based and ensure proportionate requirements and a level playing field while still protecting the student interest and public funds?
- **Question 7:** While it is not Government's role to underwrite independent providers that have become unviable, how can we best protect the interests of students in the event a provider fails in some way or becomes insolvent?
- **Question 8:** We welcome views on how flexible provision such as two year courses could be encouraged.

Chapter 3: The adoption of a single gateway for entry to the higher education sector

- **Question 9:** Do you agree that it is important to retain the Privy Council as an independent element in the process for awarding, renewing and removing degree awarding powers and university title?
- **Question 10:** We have set out the action that we are going to take to establish HEFCE as the single gateway for entry to the HE sector and to clarify and streamline processes for designating HE providers for student support purposes and for HEFCE funding, for administering the application processes for both degree awarding powers and university title and for compiling, maintaining and publishing the Recognised and Listed Bodies and Recognised Awards Lists. Are there any other processes we should consider in this context?

Chapter 4: Reforms to Degree Awarding Powers (DAPs) and University Title (UT) criteria

- **Question 11:** Are there any requirements as set out within the TDAPs current criteria (see Annex), including evidence requirements, which would preclude non-teaching bodies from being eligible to apply for taught degree awarding powers?
- **Question 12:** Would it be helpful to specify in the criteria that non-teaching bodies must demonstrate that their delivery partners were competent in the required areas?
- **Question 13:** What evidence requirements should the non-teaching bodies themselves be expected to meet over and above what their delivery partners are able to demonstrate?
- **Question 14:** We would welcome your views on our proposal to link track record to the length of the degree programmes on offer and whether you see any risks with this approach.
- **Question 15:** We would welcome views on how else the track record criterion might be applied more flexibly. For example are there different types of track record or experience you think could be taken into consideration?
- **Question 16:** Do you consider that alternative models for entry e.g. single subject taught degree awarding powers would give more scope for new providers to enter the system? Would you be interested in the development of a single-subject model?
- **Question 17:** Do you consider a six year period for renewals of degree awarding powers in the first instance is appropriate? If not, what period would you like to see and why?
- **Question 18:** Would you like to see a longer period between subsequent renewals?

- **Question 19:** What do you consider a reasonable number of renewals before being eligible for consideration for degree awarding powers indefinitely, subject to continuing satisfactory outcomes of periodic quality assurance reviews?
- **Question 20:** Do you agree with our proposal to reduce the numbers criterion for university title to 1,000 full-time equivalent higher education students of which at least 750 are studying for a degree alongside a requirement that more than 50% FTE of an organisation's overall student body is studying HE? If you do not agree with this proposal could you please explain your reasons and also suggest an alternative proposal and why you think this would be better.

Chapter 5: Simplifying the process for changing corporate status

- **Question 21:** Would you welcome legislative change to make the process of changing legal status easier?
- **Question 22:** If so, why? It would be helpful to understand how and why this has been problematic in the past and what the benefits would be of making this process easier.
- **Question 23:** Do you have any other comments on any area of the document 'A new fit for purpose regulatory framework for the higher education sector'?

Responding to this Consultation

Responses to this consultation should be sent via the website www.bis.gov.uk/HEreform by 27 October 2011 – the response form is available at: <https://www.surveymonkey.com/s/LTNJCLL>. Alternatively a response can be submitted by email to HE.consultation@bis.gsi.gov.uk or to the postal address at paragraph 7.3.

Other Information

Confidentiality and data protection

- 7.1 Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure 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. If you want information, including personal data that you provide, to be treated as confidential, please be aware that under the FoIA, there is a statutory Code of Practice with which public authorities must comply and which deals among other things with obligations of confidence.
- 7.2 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic disclaimer generated by your IT system will not, of itself, be binding on the Department.

Help with queries

- 7.3 Questions about the policy issues raised in the document can be addressed to: Simon Batchelor, Higher Education Directorate, Department for Business, Innovation and Skills, 2 St Pauls Place, 125 Norfolk Street, Sheffield, S1 2FJ; Tel: 0114 207 5015. E-mail: HE.consultation@bis.gsi.gov.uk.
- 7.4 This consultation can be found at www.bis.gov.uk/HEreform. If you require a printed copy of this document or a version in a different format please contact BIS Publications Orderline, ADMAIL 528, London, SW1W 8YT; Tel: 0845 015 0010; Fax: 0845 015 0020; Minicom: 0845 015 0030.
- 7.5 If you have any comments or complaints about the way this consultation has been conducted, these should be sent to the address at paragraph 7.3.
- 7.6 The principles of the Code of Practice on Consultations can be found at www.bis.gov.uk/policies/better-regulation/consultation-guidance

Annex – Current criteria for DAPs and UT

The Government's current criteria for the grant of degree awarding powers and university title (August 2004)

Introduction

Organisations based in England and Wales that offer higher education programmes at an appropriate level may seek the power to award their own degrees. Degree awarding powers are granted by the Privy Council. In considering applications for such powers, the Privy Council seeks advice from the Minister with higher education responsibilities. In turn, the Minister seeks advice from the Quality Assurance Agency for Higher Education (QAA). In accordance with Section 76 of the Further and Higher Education Act 1992, powers may be granted in relation to two categories of degrees, commonly referred to as 'taught' degrees and 'research' degrees. These categories are described in the provisions of Section 76.

An organisation that wishes to award its own degrees will be required to demonstrate that it meets the criteria that follow. These reflect the requirements that are common to all bodies that award degrees in England and Wales. In particular, an organisation must be able to show the effectiveness of its present regulatory and quality assurance arrangements and its capacity to meet the expectations on academic standards and quality management as set out in the national Academic Infrastructure¹. In seeking taught degree-awarding powers, organisations should normally be able to demonstrate that they:

- have had no fewer than four consecutive years' experience, immediately preceding the year of application, of delivering higher education programmes at a level at least equivalent to Level H of the *Framework for Higher Education Qualifications* for England, Wales and Northern Ireland (FHEQ) published by QAA;
- normally have the majority of their higher education students enrolled on study programmes which are recognised as being at Level H or above of the FHEQ.

Scrutiny by QAA establishes whether or not an applicant organisation has reached a secure level of fitness for the powers being sought. The applicant must clearly demonstrate that there can be public confidence, both present and future, in its systems for assuring the quality and standards of its degrees.

The following sections list and explain the criteria against which an application for the grant of degree-awarding powers will be considered:

Section 1: criteria for taught degree-awarding powers

Section 2: criteria for research degree-awarding powers

¹ The Academic Infrastructure comprises the two Frameworks for Higher Education Qualifications (FHEQ), one for England, Wales and Northern Ireland, the other for Scotland; subject benchmark statements; programme specifications; and the *Code of Practice for the Assurance of Academic Quality and Standards in Higher Education*.

Two further sections contain criteria for the granting of university title (Section 3); and criteria for the granting of university title to institutions holding taught degree-awarding powers granted under previous arrangements (Section 4).

The criteria are designed to establish that the applicant organisation has a well found, cohesive and self-critical academic community that demonstrates firm guardianship of its standards. To this end, QAA will be judging, through its examination of the evidence provided, and against the criteria, the extent to which an applicant organisation can engender public confidence in its capacity to maintain the academic standards of the degrees it offers in the UK and, where relevant, overseas. While some of the evidence that organisations will provide will be quantitative, some will also be qualitative. All evidence will be subject to peer judgements by senior members of the academic community. An organisation seeking research degree-awarding powers must have first secured taught degree-awarding powers. QAA will, however, process applications for both sets of powers simultaneously if requested by the applicant. In considering an application for research degree-awarding powers alone, QAA will seek evidence that the organisation continues to satisfy all the criteria governing the grant of taught degree-awarding powers and is exercising appropriate stewardship of such powers.

Organisations in the publicly-funded higher education sector² will be granted taught and research degree-awarding powers on an indefinite basis. All remaining organisations will be granted taught and research degree-awarding powers for a fixed term period of six years. At the end of each period of six years, the criteria for the renewal of degree-awarding powers will be that the organisation has:

- subscribed for the duration of those six years to the QAA (or such other external quality assurance organisation as may be specified);
- been subject to an external audit by the QAA; and
- received a judgement of confidence in the organisation made by the QAA at the time of the audit. Organisations which fail to obtain such a judgement will be given reasons for this by the QAA and will be required to prepare and carry out an action plan agreed between the organisation and the QAA. Completion of this action plan to the satisfaction of the QAA will be a criterion for the renewal of the organisation's degree-awarding powers.

In the event of non-renewal of degree-awarding powers, an organisation will be required to put in place secure and clearly stated arrangements to protect the rights and interests of students whose programmes of study may extend beyond the date when the powers lapse. Such protection will normally involve the transfer of students' registrations to an organisation with degree-awarding powers. Students transferred in this way will, if successful in their assessments, be awarded qualifications of the receiving organisation.

Organisations which have been granted degree-awarding powers under other criteria in the past will continue to hold those powers indefinitely.

² In accordance with the provisions of Section 91(5) of the *Further and Higher Education Act (1992)*, institutions in direct receipt of public funding from HEFCE or HEFCW.

Section 1: Criteria for the award of taught degree awarding powers

A: Governance and Academic Management

Criterion A1

An organisation granted taught degree-awarding powers is governed, managed and administered effectively, with clear and appropriate lines of accountability for its academic responsibilities. Its financial management is sound and a clear relationship exists between its financial policy and the safeguarding of the quality and standards of its higher education provision. In the case of an organisation that is not primarily a higher education institution; its principal activities are compatible with the provision of higher education programmes and awards.

Explanation

Degree-awarding organisations must be soundly based in all respects (constitutionally, managerially, financially and academically) so that there can be full public confidence in them and their degrees. It is important that appropriate safeguards are in place to ensure that financial exigencies and other pressures do not jeopardise academic standards or the quality of programmes as specified in the programme specifications.

Evidence requirement

The applicant organisation will be required to provide evidence that:

- its financial planning, quality assurance, and resource allocation policies are coherent and relate to its higher education mission, aims and objectives;
- its higher education activities take full account of relevant legislation, the UK Academic Infrastructure, and associated guidance;
- its higher education mission and associated policies and systems are understood and applied consistently both by those connected with the delivery of its higher education programmes and, where appropriate, by students;
- there is a clarity of function and responsibility at all levels in the organisation in relation to its governance structures and systems for managing its higher education provision;
- there is depth and strength of academic leadership across the whole of its higher education provision;
- it develops, implements and communicates its academic policies and systems in collaboration with those who have responsibility for the delivery of its higher education programmes, and with relevant stakeholders;
- its academic policies, systems and activities are monitored and reviewed and that appropriate and timely action is taken when deficiencies are identified;
- its academic risk and change management strategies are effective;
- it has in place robust mechanisms to ensure that the academic standards of its higher education awards are not put at risk; and

- it has the capability of managing successfully the additional responsibilities that would be vested in it were it to be granted taught degree-awarding powers.

B: Academic Standards and Quality Assurance

Criterion B1

An organisation granted taught degree-awarding powers has in place an appropriate regulatory framework to govern the award of its higher education qualifications.

Explanation

The security of the academic standards of degrees and other higher education qualifications depends in large measure on the regulations which govern their award. These can be expected to cover a wide variety of topics ranging from the approval of degree schemes through to the conduct of student assessments and appeals against academic decisions. Many of them are dealt with in the *Code of Practice for the Assurance of Academic Quality and Standards in Higher Education* ('the Code of Practice') published by the QAA. Organisations that award degrees are required to have in place a comprehensive set of regulations covering these matters.

Evidence requirement

The applicant organisation will be required to provide evidence that:

- the regulatory framework governing its higher education provision (covering, for example, student admissions, progress, assessment, appeals and complaints) is appropriate to its current status and is implemented fully and consistently; and
- it has in prospect a regulatory framework appropriate for the granting of its own higher education awards.

Criterion B2

An organisation granted taught degree-awarding powers has clear and consistently applied mechanisms for defining and securing the academic standards of its higher education provision.

Explanation

Organisations with UK degree-awarding powers need to ensure that their qualifications meet the expectations of the Academic Infrastructure for higher education, published and maintained on behalf of the academic community in the UK by the QAA. Within the Infrastructure the different levels of higher education qualifications and their distinguishing features are described in the appropriate FHEQ. In order to meet these expectations, organisations seeking degree-awarding powers will need to ensure that they have appropriate and effective quality assurance structures and mechanisms in place. The public interest in the consistency and comparability of higher education qualifications requires that all degrees awarded by recognised degree-awarding organisations in the UK should at least meet the expectations of the FHEQ.

Evidence requirement

The applicant organisation will be required to provide evidence that:

- its higher education awards are offered at levels that correspond to the relevant levels of the FHEQ;
- the management of its higher education provision takes appropriate account of the QAA's *Code of Practice*, relevant subject benchmark statements, national guidance on programme specifications, and the requirements of any relevant professional and statutory bodies;
- in establishing, and then maintaining, comparability of standards with other providers of equivalent level programmes, it explicitly seeks advice from external peers and, where appropriate, professional and statutory bodies;
- its programme approval, monitoring and review arrangements are robust, applied consistently, have at all levels a broadly based external dimension and take appropriate account of the specific requirements of different levels of award and different modes of delivery; and
- there is an explicit and close relationship between academic planning and decisions on resource allocation.

Criterion B3

The education provision of an organisation granted taught degree-awarding powers consistently meets its stated learning objectives and achieves its intended outcomes.

Explanation

Organisations offering higher education awards are expected to consider carefully the purposes and objectives of the programmes they are offering. They are also expected to design their curricula and learning support provision in a way that will give diligent students the best chance of achieving the purposes and objectives and the necessary academic standards for the qualification being sought. Organisations offering higher education awards must have the means of establishing for themselves that their intentions are, in practice, being met.

Evidence requirement

The applicant organisation will be required to provide evidence that:

- its strategies for learning and assessment are consistent with stated academic objectives and intended learning outcomes;
- relevant staff are informed of, and provided with guidance on, its policies and procedures for programme design, monitoring and review;
- responsibility for amending or improving new programme proposals is clearly assigned and subsequent action is carefully monitored;
- coherence of programmes with multiple elements or alternative pathways is secured and maintained;
- close links are maintained between learning support services and the organisation's programme planning, approval, monitoring and review arrangements;

- robust arrangements exist for ensuring that the learning opportunities provided to those of its students that may be studying at a distance from the organisation are adequate;
- through its planning, approval, review and assessment practices, it defines, monitors, reviews and maintains its academic standards;
- its assessment criteria and practices are communicated clearly to students and staff;
- its assessment practices fully cover all declared learning objectives, learning outcomes and modes of delivery;
- appropriately qualified external peers are engaged in its assessment processes and that consistency is maintained between internal and external examiners' marking;
- the reliability and validity of its assessment procedures are monitored and that its assessment outcomes inform future programme and student planning; and
- clear mechanisms are in place for use when a decision is taken to close a programme or programme element, and that, in doing so, the interests of students are safeguarded.

Criterion B4

An organisation granted taught degree-awarding powers takes effective action to promote strengths and respond to identified limitations.

Explanation

An organisation that has powers to award its own taught degrees must have in place the means of reviewing critically its own performance. It needs to know how it is doing in comparison with other similar organisations and have in place robust mechanisms for disseminating good practice; it must also be able to identify limitations or deficiencies in its own activities and take timely and effective remedial action when this is called for. This implies both internal and external elements in the periodic review of its activities.

Evidence requirement

The applicant organisation will be required to provide evidence that:

- critical self-assessment is integral to the operation of its higher education provision and that action is taken in response to matters raised through internal or external monitoring and review;
- clear mechanisms exist for assigning and discharging action in relation to the scrutiny, monitoring and review of agreed learning objectives and intended outcomes;
- ideas and expertise from within and outside the organisation (for example on programme design and development, on teaching, and on student learning and assessment) are drawn into its arrangements for programme design, approval and review; and
- effective means exist for encouraging the continuous improvement of quality of provision and student achievement.

C: Scholarship and the pedagogical effectiveness of academic staff

Criterion C1

The staff of an organisation granted powers to award taught degrees will be competent to teach, facilitate learning and undertake assessment to the level of the qualifications being awarded.

Explanation

The capacity and competence of the staff who teach, and who facilitate and assess learning, are central to the value of the education offered to students. Organisations awarding their own degrees have a crucial responsibility to ensure that students' chances of receiving a worthwhile education and securing the necessary academic standards for their qualification are maximised by effective teaching. This includes a responsibility for ensuring that staff maintain a close and professional understanding of current developments in research and scholarship in their subjects and that structured opportunities for them to do so are both readily available and widely taken up. It also means that teaching for degree-level qualifications should reflect, in a careful, conscious and intellectually demanding manner, the latest developments in the subject of study. In the case of organisations offering doctorates undertaken wholly or in part by means of courses of instruction, it is particularly important that teaching is carried out by staff who are active and recognised participants in research and/or advanced scholarship. Organisations also have a responsibility for making certain that the assessment of their students is carried out in a professional and consistent way that ensures the maintenance of the academic standards of their degrees.

Evidence requirement

The applicant organisation will be required to provide evidence that all teaching staff engaged with the delivery of its higher education programmes have relevant:

- academic and/or professional expertise;
- engagement with the pedagogic development of their discipline (through, for example, membership of subject associations, learned societies and professional bodies);
- knowledge and understanding of current research and advanced scholarship in their discipline area and that such knowledge and understanding directly inform and enhance their teaching; and (in the case of those teaching on doctoral programmes offered wholly or in part by courses of instruction) active personal engagement with research and/or advanced scholarship to a level commensurate with the degrees being offered; and
- staff development and appraisal opportunities aimed at enabling them to develop and enhance their professional competence and scholarship.

In addition, the applicant organisation will be required to provide evidence that staff with key programme management responsibilities (for example, programme leaders and assessment coordinators) have relevant:

- experience of curriculum development and assessment design; and
- engagement with the activities of providers of higher education in other organisations

(through, for example, involvement as external examiners, validation panel members, or external reviewers).

D: The environment supporting the delivery of taught higher education programmes

Criterion D1

The teaching and learning infrastructure of an organisation granted taught degree-awarding powers, including its student support and administrative support arrangements, is effective and monitored.

Explanation

The teaching and learning infrastructure – all those facilities and activities that are provided to maximise students’ chances of experiencing a worthwhile education, and of obtaining the qualification they are seeking – is a means to an end. Organisations that award their own degrees are expected to have in place mechanisms for monitoring whether their teaching and learning infrastructure is meeting stated objectives and for responding to identified limitations in a timely and effective manner.

Evidence requirement

The applicant organisation will be required to provide evidence that:

- the effectiveness of its learning and teaching activities is monitored in relation to stated academic objectives and intended learning outcomes;
- students are informed of the outcomes of assessments in a timely manner;
- constructive and developmental feedback is given to students on their performance;
- feedback from students, staff, (and where possible) employers and other institutional stakeholders is obtained and evaluated and clear mechanisms exist to provide feedback to all such constituencies;
- students are advised about, and inducted into, their study programmes in an effective way and account is taken of different students’ needs;
- available learning support materials are adequate to support students in the achievement of stated purposes of their study programmes;
- the effectiveness of any student and staff advisory and counselling services is monitored and any resource needs arising are considered;
- its administrative support systems are able to monitor student progression and performance accurately and provide timely and accurate information to satisfy academic and non-academic management information needs;
- it has in place effective and confidential mechanisms to deal with all complaints regarding academic and non-academic matters;
- the staff involved with supporting the delivery of its higher education provision are given adequate opportunities for professional development;
- the information that it produces concerning its higher education provision is accurate and complete; and
- equality of opportunity is sought and achieved in its activities.

Section 2: Criteria for the award of research degree awarding powers

Criterion 1

The organisation's supervision of its research students, and any teaching it undertakes at doctoral level, is informed by a high level of professional knowledge of current research and advanced scholarly activity in its subjects of study

Explanation

The award of degrees that recognise the creation and interpretation of new knowledge, through original research or other forms of advanced scholarship, places a particular and substantial responsibility upon an awarding body. The organisation's academic staff should accordingly command the respect and confidence of their academic peers across the higher education sector as being worthy to deliver research degree programmes. Organisations wishing to offer research degrees should have in place a strong underpinning culture that actively encourages and supports creative, high quality research and scholarship amongst the organisation's academic staff and its doctoral and other research students.

Evidence requirement

The applicant organisation will be required to demonstrate that the staff involved with the delivery of its research degree programmes have:

- substantial relevant knowledge, understanding and experience of both current research and advanced scholarship in their discipline area and that such knowledge, understanding and experience directly inform and enhance their supervision and teaching;
- staff development and appraisal opportunities aimed at enabling them to develop and enhance their knowledge of current research and advanced scholarship.

In addition, the applicant organisation will be required to provide evidence that:

- a significant proportion (normally around a half as a minimum) of its full-time academic staff are active and recognised contributors to subject associations, learned societies and relevant professional bodies;
- a significant proportion (normally around a third as a minimum) of its academic staff have recent (i.e. within the past three years) personal experience of research activity in other UK or international university institutions by, for example, acting as external examiners for research degrees, serving as validation/review panel members, or contributing to collaborative research projects with other organisations; and
- a significant proportion (normally around a third as a minimum) of its academic staff who are engaged in research or other forms of advanced scholarship, can demonstrate achievements that are recognised by the wider academic community to be of national

and/or international standing (e.g. as indicated by authoritative external peer reviews).

Criterion 2

The organisation satisfies relevant national guidance relating to the award of research degrees

Evidence

The applicant organisation will be required to demonstrate that it satisfies, or has the capacity to satisfy, the expectations of:

- the FHEQ in relation to the levels of its research degree programmes;
- the QAA's *Code of Practice*;
- research degree management frameworks issued by relevant research councils, funding bodies and professional/statutory bodies.

Criterion 3

The applicant organisation has achieved more than 30 Doctor of Philosophy conferments, awarded through partner universities in the UK.

Section 3: Criteria for the award of university title

An organisation wishing to apply for approval to use the title 'University' must:

- have been granted powers to award taught degrees;
- normally have at least 4,000 full time equivalent higher education students, of whom at least 3,000 are registered on degree level courses (including foundation degree programmes); and,
- be able to demonstrate that it has regard to the principles of good governance as are relevant to its sector.

Section 4: Criteria for the award of university title to institutions holding degree awarding powers granted under previous arrangements but not university title

Institutions that have been granted degree-awarding powers prior to the implementation of the criteria shown in Section 1 above may be awarded the title of university on request, provided that they fully meet:

- all the criteria in Section 1 for the award of taught degrees; and,
- the criteria shown in Section 3.

An applicant organisation will be required specifically to demonstrate that it is able to satisfy the criteria given in Section 1(C) above.

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