



Department
for Business
Innovation & Skills

**APPLYING STUDENT NUMBER
CONTROLS TO ALTERNATIVE
PROVIDERS WITH DESIGNATED
COURSES**

Consultation

NOVEMBER 2012

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Introduction

1. In the Higher Education White Paper 'Students at the Heart of the System' (June 2011) we set out our vision for how the higher education sector in England should become more diverse and responsive to the needs of students.¹ A key plank of that strategy is to reduce the barriers which may artificially restrict the growth of alternative provision. Over time we wish to create a more level playing field of regulation between similar providers. As part of that process we are reforming the system of designation for student support purposes for alternative providers. We have been careful to set appropriate conditions to improve student protection while minimising bureaucracy.
2. The Government response to the Higher Education White Paper and associated Technical Consultation, published June 2012, stated that we would consult on the process of applying student number controls to alternative providers who have courses designated for student support purposes.² This is part of a review of the existing course designation system for alternative providers, including introducing more robust and transparent requirements on quality assurance, financial sustainability and management and governance. An overview of our plans for the new course designation system is contained in Chapter 1, with Chapter 2 focusing on the student number control aspect of the new system.

Scope

3. This consultation is relevant to alternative providers of higher education courses who wish to have courses designated for student support purposes, allowing eligible students to access loans and grants from the Student Loans Company. Alternative provider means any provider of higher education courses which is not in direct receipt of recurrent funding from the Higher Education Funding Council for England (HEFCE) or from equivalent funding bodies in the Devolved Administrations; or does not receive direct recurrent public funding (for example, from a local authority, or from the Secretary of State for Education); and is not a Further Education College.
4. Higher education is a devolved matter in Scotland, Wales and Northern Ireland so all references to higher education in this document refer to England only, unless otherwise indicated.

¹ Available at: <http://bis.gov.uk/assets/biscore/higher-education/docs/h/11-944-higher-education-students-at-heart-of-system.pdf>

² Available at: <http://www.bis.gov.uk/assets/biscore/higher-education/docs/g/12-890-government-response-students-and-regulatory-framework-higher-education>

How to respond

Issued: 28 November 2012

Respond by: 23 January 2013

5. When responding, please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.
6. The Consultation Response form is available electronically at www.bis.gov.uk/Consultations (until the consultation closes). The form can be submitted by email or by letter to:

Email: HE.consultation@bis.gsi.gov.uk.

Letter:

Simon Batchelor,
Higher Education Directorate,
Department for Business, Innovation and Skills,
2 St Pauls Place,
125 Norfolk Street,
Sheffield, S1 2FJ.
Telephone: 0114 207 5015.

Questions about the policy issues raised in the document can be sent to the same postal or email address.

7. You may make printed copies of this document without seeking permission. BIS consultations are digital by default.

Confidentiality and data protection

8. Any response you send us will be seen in full by BIS. We intend to publish a summary of the consultation documents and we may also publish responses in full. 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, amongst other things, with obligations of confidence.
9. 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 regarded as binding on the Department.

Purpose

10. The purpose of the consultation is:

- to provide an overview of the shape and purpose of the new system for alternative providers that wish their students to be able to access student support from the Student Loans Company;
- to seek responses to specific proposals on student number controls, where we are consulting on options; and
- to invite views, particularly from alternative providers, on aspects of how this will operate in practice.

Rationale for reform

11. Alternative providers are currently able to apply for eligible higher education courses to be designated for the purpose of students accessing tuition and maintenance support from the Student Loans Company. The maximum tuition fee loan for new eligible students on specifically designated courses provided by alternative providers has been raised to £6,000 (full-time students) and £4,500 (part-time students) from 1 September 2012. Students can access all other forms of support on the same basis as students at publicly-funded providers, such as maintenance loans and grants. Table A.1 in Annex A shows that the total value of financial support for students studying at alternative providers has grown from £19 million in 2006/07 to £100 million in 2011/12. However, alternative providers are generally not subject to the same regulatory conditions as publicly-funded institutions. For example, alternative providers are not subject to tuition charge caps or the requirements of the independent Director for Fair Access. We do not propose to change these arrangements for supporting students at alternative providers at this point in time.

12. The Higher Education White Paper ‘Students at the Heart of the System’ was published in June 2011 and proposed a single regulatory framework for all providers of higher education whose students benefit from financial support from the public purse. The subsequent Technical Consultation ‘A New Fit-For-Purpose Regulatory Framework for the Higher Education Sector’ followed on 4 August 2011 and described the single regulatory framework in more detail. In particular, six possible conditions for all higher education providers that wish to be designated for student support were set out as:

- quality;
- dispute resolution;
- information;
- tuition charge caps and fair access;
- public expenditure controls (whether in the form of student number controls or another system); and
- financial sustainability.

13. Following the consultation with the higher education sector, the Government response document of June 2012 noted that many respondents stressed that we do not yet know what the full effect of the new funding arrangements will be, hence it was unclear what form of regulatory framework would be appropriate. The Government decided not to introduce primary legislation to establish a single regulatory framework at this time but to move towards a more consistent and coherent regulatory system. Instead, the conditions for alternative providers with courses designated for student support purposes will be strengthened by applying student number controls, more robust quality assurance conditions and more detailed checks on financial sustainability, management and governance. The quality assurance conditions will include an assessment of the quality of public information and access to the Quality Assurance Agency for Higher Education's (QAA) Concerns process in the event of evidence that a provider is failing to meet expectations on quality and standards.³ We are also encouraging alternative providers to provide more information to prospective students on the courses they offer and to consider joining the Office of the Independent Adjudicator's Voluntary Scheme to ensure that unresolved student complaints are independently reviewed. We will keep this under review and may, if we deem it necessary, look again at dispute resolution and information requirements.

Definitions

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

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

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

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

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

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

³ More information on the QAA's Concerns process is available here: <http://www.qaa.ac.uk/complaints/concerns/Pages/default.aspx>.

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.

HESA is the Higher Education Statistics Agency, the official agency for the collection, analysis and dissemination of quantitative information about UK higher education. It is a private limited company funded by subscription from UK Higher Education Institutions and is not a Government body. It was established in 1993 following the Further and Higher Education Act 1992, which sets out a duty to Higher Education Institutions to give information to their respective Funding Councils across the UK (including HEFCE).

Publicly-funded providers refers to any provider of higher education courses which receives recurrent funds from HEFCE or the Skills Funding Agency or equivalent bodies in the Devolved Administrations or from the Secretary of State for Education.

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-related costs, such as for capital funding for teaching or for widening access 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. More detail is available here: <http://www.hefce.ac.uk/pubs/year/2012/201219/>.

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

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

Chapter 1. Overview of the new designation system

1.1 Introduction and legal framework

1.1.1 This chapter sets out:

- the legal framework for designation;
- the new designation framework;
- the new criteria for designation;
- how the new system will operate; and
- transitional arrangements and implementation dates.

1.1.2 The Teaching and Higher Education Act 1998 (Section 22(1)) empowers the Secretary of State to designate eligible courses for the purposes of higher education student support. The Secretary of State exercises this power by or under the Education (Student Support) Regulations 2011 ('the regulations').

1.1.3 At present, eligible higher education courses provided by publicly-funded institutions, such as most universities and further education colleges in the UK, are automatically designated for student support under the regulations. We intend to change the criteria for automatic designation in the regulations to tie this more clearly to publicly-funded institutions that are subject to student number controls. Eligible courses delivered at alternative providers in the UK may be specifically designated on a course by course basis at the discretion of the Secretary of State. Applications are assessed against course eligibility criteria and, since November 2011, all providers applying for course designation for the first time have been subject to further checks. The checks include consideration of the management, governance and financial sustainability of the organisation.

1.2 The new designation framework

1.2.1 It is our intention to introduce an enhanced designation process to include more robust and transparent quality assurance, financial sustainability, management and governance requirements and student number controls. These requirements are in addition to the existing individual course designation requirements. The new arrangements will initially apply to all providers applying for new course designation(s) from the 2013/14 academic year. We will start reviewing existing designations from April 2013, and providers will be notified individually when they are due to be subject to a review. The methods and timeframe for applying student number controls are explained in more detail in the following chapter.

Principles

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

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

1.2.3 Where possible the principles applied to providers covered by the designation framework will be consistent with those applied to providers directly funded by HEFCE. The framework and criteria will be applied in a proportionate manner to reflect the different types of institutions and take account of size, growth rates and the specialist nature of some provision. Providers applying for course designation should be open and honest and provide any information that they think is relevant.

Scope

1.2.4 The following sections describe the new designation criteria and system and how it will apply to alternative providers.

1.3 New criteria for designation

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

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

The criteria relating to financial sustainability, management and governance and quality assurance will be undertaken at provider level whilst the third criterion relating to course eligibility will be assessed at course level.

1.3.2 The following sections provide an outline of the requirements but further detailed guidance will be provided in early 2013. As part of the approval letter providers will be given a student number limit relating to their designated full-time undergraduate courses. Further details and issues for consultation are set out in Chapter 2.

Financial sustainability, management and governance requirements

1.3.3 The overall purpose of the new financial sustainability, management and governance (FSMG) checks will be to ensure that the designated course provider is financially viable and sustainable with a low risk of failure on financial grounds over the medium term. This will give students confidence that they should be able to complete their courses.

1.3.4 The FSMG checks will be informed by information supplied by the provider and this will include, as a minimum:

- evidence to demonstrate that the organisation is owned, managed and run by ‘fit and proper persons’ (a detailed definition will be developed based on similar tests used elsewhere in Government);
- detailed information on governance structures;
- full independently audited financial statements for the last 3 years (abbreviated accounts will be insufficient);
- business plan including full financial forecasts for the current year and future 3 years. This will need to include forecasts for the current year and future 3 years, including commentary on the assumptions being made and how any financial risks are being managed. New entrant provider or new entities without a track record will need to demonstrate strong support from a parent company or guaranteed financial backing along with their business plan; and
- evidence of student attendance policies and procedures.

1.3.5 Providers will also be required to:

- nominate an accountable officer who would sign up on behalf of the provider to a clear set of responsibilities as a condition of course designation;
- supply any additional information that may be requested for the assessment and monitoring to be undertaken;
- provide the Department and those working on our behalf a right of access to people, information and premises of providers to verify information provided; and
- notify any change of ownership or control, which would in turn automatically require a re-assessment of designation.

1.3.6 There will also be an ongoing monitoring requirement, which is likely to include:

- relevant information to be submitted by the provider on an annual basis;
- a requirement that the provider is continuing to meet the designation entry requirements;
- the responsibility to notify the Department of any material change in circumstances in relation to the provider; and
- annual audited financial statements and financial forecasts.

1.3.7 The new process will also place obligations on providers in respect of any recruitment agencies they use. In particular, providers will, for the purpose of their designation, be held fully accountable for the actions of any third party recruitment agency they choose to use, and will be required to ensure that any fees paid to such agencies in respect of the recruitment of students are disclosed to the student before they enrol. Additionally, providers with designated courses will not be able to transfer or franchise their designation to a third party without the Department’s consent.

Quality assurance requirements

1.3.8 The Government’s response to the Higher Education White Paper stated that we will ‘bring alternative providers into the quality assurance framework operated by

the QAA, to provide important protection for students and maintain confidence in our HE system. This will ensure that all higher education provision that attracts public funding has consistent, independent, external quality assurance.'

1.3.9 The QAA currently assesses the quality of higher education provision in all institutions that are funded by HEFCE and is responsible for the UK Quality Code for Higher Education, which sets out the expectations that higher education providers are required to meet. We are working with the QAA to develop the detail of a proportionate quality assurance review process, which will be a requirement of designation for student support for courses at all alternative providers, in addition to the requirement that their provision must be validated by a UK awarding body if they do not have degree-awarding powers themselves. Further details of that review process will be announced within the wider guidance on designation for student support, due to be published in early 2013.

1.3.10 In summary, the proposed QAA process is likely to involve:

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

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

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

1.3.11 Further detail will be provided in the new year but in the meantime, as there will be a long lead-in time to complete the QAA review process, providers may wish to contact the QAA or to visit the QAA website to find out more about the QAA's role and the UK Quality Code for Higher Education.⁴

1.3.12 The underlying principle of this requirement is that all higher education provision which attracts public funding for its students should be subject to independent, external quality assurance review. We are aware of concerns amongst some providers that our requirements should not duplicate other quality assurance review processes and we wish to avoid duplication and overlap wherever possible. **We will**

⁴ www.qaa.ac.uk

therefore apply the principle that QAA subscribers and alternative providers that have successfully undergone a recent review by QAA for Educational Oversight (in order to apply for Highly Trusted Sponsor status) meet the quality assurance requirement for the purpose of designation for student support. We will confirm details of the terms and requirements which will be acceptable as part of the publication of wider guidance. One requirement is likely to be evidence that the provider has delivered approved higher education programmes in the UK for at least 12 months at the date of application.

Course eligibility requirements

1.3.13 The general course eligibility criteria are set out in the Education (Student Support) Regulations 2011 (as amended) and the designation application pack, which is available on request from the Student Loans Company. Further background and the current criteria for designation are reproduced in Annex B.

1.3.14 When applying for course designation, providers are currently required to submit the following information to the Student Loans Company:

- a prospectus or an internet weblink that provides full details about the course;
- a validation document from the validating body that demonstrates that a recognised UK award-making body validates the course to be run at specified locations at the specific alternative provider; and
- for full-time courses, a timetable that demonstrates the intensity of study and the days and hours for the course.

Lighter-touch approach for very small providers

1.3.15 The Department is considering a lighter-touch level of regulation in some areas for very small alternative providers for which the cost of full compliance would be disproportionate. A provider's level of risk may, however, vary across the criteria for designation and we will consider proportionality in approach against the extent to which it will meet the principles we have established at paragraph 1.2.2. Further details will be provided in early 2013.

1.4 How the new system will operate

1.4.1 As proposed in the Higher Education White Paper, HEFCE will lead on administering the new course designation system, working closely with a range of other organisations, including the Student Loans Company and the QAA. HEFCE has significant experience and expertise in undertaking assessments and monitoring of higher education providers. The Department will seek advice from HEFCE within the overall designation framework and criteria to inform designation decisions.

1.4.2 HEFCE will undertake the assessments and provide advice to BIS. Final decisions on designations will remain the responsibility of the Secretary of State. Once a provider has been approved for designation, it will be issued with an approval letter. The approval letter will set out the initial duration of the designation arrangements, review arrangements, conditions of designation such as compliance with a student

number control and any information/data requirements, monitoring arrangements, potential sanctions, and the need to notify BIS/HEFCE of relevant change of circumstances. The accountable officer will be required to sign the approval letter on behalf of the provider to confirm that the provider agrees to the term and conditions of designation. BIS will maintain a register of designated providers and courses. Further detailed guidance on the overall process and application procedures will be published in the New Year.

- 1.4.3 HEFCE will undertake regular monitoring of providers and if providers no longer meet the criteria their designation will be reviewed and they may be removed from the designation list. The framework criteria and process may be subject to refinement over time.

Devolved Administration arrangements

- 1.4.4 The Department will work with the Student Loans Company and the devolved administrations to encourage reciprocal arrangements in approval and course designation arrangements including the sharing of information where this is possible.

1.5 Transitional arrangements and implementation dates

- 1.5.1 The new designation system will be informed by the outcome of this consultation. We will apply the new principles to all new and existing providers applying for new course designation from the 2013/14 academic year. Reviews of existing designations incorporating the new principles will start from April 2013 onwards. Our priority will be to review providers with the largest numbers of students accessing student support. Our intention is that any transitional arrangements should be appropriate and proportionate.

Chapter 2. Consultation on the application of student number controls

2.1 Introduction

2.1.1 A key responsibility of any Government is to maintain control of the public finances and minimise the risk of unsustainable growth in budgets. We set out our broad approach in the Higher Education White Paper:

‘As the balance of public investment shifts from grants to loans, the Government must **maintain control of its financial exposure**. At present HEFCE has powers to set conditions, such as limits on the number of publicly-supported students, on the teaching grant it allocates. As more money flows through graduate contributions, this requires amendment so that similar conditions can be set on institutions that access the student support system.’⁵

2.1.2 The Government operates a student number control policy through HEFCE, which implements its technical aspects. Student number controls currently apply to HEFCE-fundable UK and EU students who begin full-time undergraduate or Postgraduate/Professional Graduate Certificate in Education (PGCE) study at HEFCE-funded institutions. If an institution exceeds its student number control then HEFCE reduces the teaching grant it pays to the institution by an amount determined each year by BIS, to offset the additional cost to Government. This grant reduction is repeated in following years unless the institution recruits sufficiently below its limit in a later year. Limiting the recruitment of students at HEFCE-funded providers in this way reduces the risk of unplanned costs to the Government.

2.1.3 From the academic year 2012/13 onwards, the Government asked HEFCE to ‘free up’ a proportion of places at the institutions it funds through the introduction of a high grades policy. This means that students with particular grades at A-level or certain other qualifications are exempt from the student number control and can be recruited freely by institutions. For 2012/13, this applied to students achieving A-level grades of AAB+ or certain other qualifications, and for 2013/14 it will apply to students achieving ABB+ at A-level or certain other qualifications.

2.1.4 We are committed, as far as possible within the current legal framework, to reducing the anomalies in the way different types of institution are treated. We have therefore decided to bring alternative providers within the scope of the number control system. In this chapter we set out options for how that can be achieved.

⁵ HM Government (2010) *Higher Education: Students at the Heart of the System*, para 6.9a, p. 67.

2.2 Possible methods of applying student number controls

2.2.1 We have identified two possible student number control methods, one of which may require a transition period. Both methods share the following assumptions below.

Assumptions

- The student number control will be a single limit per provider and will apply to all of the provider's full-time courses which have been designated for student support purposes. This means that the provider must decide how to apportion their numbers to designated courses and gives flexibility for providers to move numbers from one designated course to another.
- As with HEFCE-funded providers, we do not currently intend for the student number control to apply to part-time students or to any postgraduate students aside from those on postgraduate teacher training courses (PGCE). Part-time undergraduate students could come under student number controls in future years, subject to Ministerial decisions.
- The student number control will not apply to non-designated courses, which gives the provider freedom to increase numbers on non-designated courses without pressure on the public purse.
- As with HEFCE-funded providers, the student number control will not apply to non-EU students, as they are not eligible for publicly-funded grants and loans.
- As with HEFCE-funded providers, the number control will only apply to certain students starting full-time study, rather than to those in all years of study at a provider. This is typically easier for a provider to implement but gives less flexibility to compensate for fluctuations in cohort sizes across years.

Method 1: Control based on eligible students

Explanation

2.2.2 The student number control for a provider would be based on the number of UK and EU students starting full-time study on designated courses in the year of application. This would cover students who are eligible to apply for loans and grants from the Student Loans Company, regardless of whether or not the eligible students had in fact accessed publicly-funded student support. Providers would be required to supply data to HEFCE, probably in the form of an aggregate survey of forecast student numbers (an 'early survey'). This would be required in the autumn of each academic year, and would focus on the number of full-time students eligible for student support who begin a designated course in that academic year. Further information may also be required through this survey: for instance, if the high grade policy (ABB+ in 2013/14) is implemented, providers would be required to separately identify the number of full-time eligible students beginning designated courses who have the relevant high-grade entry qualifications. The control would be flexible enough to recognise that some providers run courses outside of the traditional academic yearly cycle, such as courses starting in January.

2.2.3 The data provided would be subject to credibility checks by HEFCE staff, including comparison with data from the Student Loans Company. Returning this data to HEFCE would be a condition of course designation. HEFCE would provide more

detailed guidance on completing the early survey. Providers may wish to read the guidance for the Higher Education Students Early Statistics (HESES) survey which HEFCE requires from institutions it funds (available at <http://www.hefce.ac.uk/pubs/year/2012/201225/>). The HESES survey as a whole is much more complex than that which would be required of alternative providers. However, it may give an understanding of HEFCE's approach to monitoring student numbers. Table 6 in Annex C of the HESES document gives the data HEFCE collects from publicly funded institutions to monitor recruitment against the student number control. Particular associated guidance can be found in Annexes D and H of the HESES document.

Timing

- 2.2.4 If the student number control is to be implemented in 2013/14 as planned, it would not be possible to use the data from the early survey (which would be carried out for the first time in autumn 2013) to set the student number control limits. Instead, HEFCE would require a separate one-off data return from alternative providers in Spring 2013 which it would use to calculate the student number control limits. If the student number control is implemented in 2014/15, HEFCE could carry out an initial early survey in autumn 2013, which could be used to set the student number control limits for 2014/15 onwards.

Method 2: Control based on students accessing student support funding

Explanation

- 2.2.5 The student number control for a provider would be based on the actual number of full-time students accessing loans and grants from the Student Loans Company rather than the wider category of all those eligible to apply. This would primarily involve the use of existing Student Loans Company data and calculating a student number limit based on new entrants accessing student support during an academic year.

Timing

- 2.2.6 Method 2 may be implemented from the 2013/14 academic year using Student Loans Company data from 2012/13, and possibly from previous years. Since data for the whole academic year would not be available at the point of setting the student number control limits, adjustments would be made to take into those student at alternative providers who access student support later in the academic year.

Possible addition: submission of data to the Higher Education Statistics Agency (HESA)

- 2.2.7 Additionally, Method 1 and Method 2 could also incorporate a requirement for alternative providers with designated courses to submit data to HESA, alongside the submission of data to HEFCE if required. Submitting data to HESA is currently optional for alternative providers. There are a number of reasons why submission of data to HESA may be required or optionally undertaken, as it:

- allows the provision of information in the student interest;
- supports a more sophisticated student number control system; and
- provides specific information about the student population at alternative providers.

Provision of information in the student interest

2.2.8 Submitting data to HESA can allow providers to participate in both the National Student Survey (NSS) and the Destination of Leavers from Higher Education (DLHE) survey. The NSS measures the satisfaction and opinion of students about their studies and experience before they finish their course. This gives prospective students comparative information and could be a useful benchmarking tool for providers. The DLHE survey provides information about the employment and salary levels of graduates who have completed their courses, which also gives prospective students comparative information. This would also allow providers to participate in Key Information Sets, published on the Unistats website, which give a wide range of useful and consistent information to prospective students and can be a marketing and benchmarking tool for providers.⁶

A more sophisticated student number control system

2.2.9 Submitting data to HESA would allow alternative providers to benefit from the high grades policy, enabling the recruitment of unrestricted numbers of high grade students (ABB+ in academic year 2013/14). Data submission to HESA could also assist with the monitoring of student numbers under Method 1.

Information on the student population at alternative providers

2.2.10 HESA can also collect information on, for example, a student's background (such as the main equal opportunities classifications), their course and pattern of study in a year. HESA data on students can be linked to other data sources, such as the National Pupil Database and the Individualised Learner Record submitted by Further Education Colleges and could support widening participation policies.

Subscription

2.2.11 It is necessary to subscribe to HESA to submit data. Fuller data than that outlined above can also be submitted voluntarily, if of interest, to the level provided by publicly-funded higher education institutions. This would provide benefits such as benchmarking and analysis of trend data and combining with local business intelligence systems. For example, providers may wish to submit data about non-EU, postgraduate and part-time students. The annual subscription rate varies depending on whether a full or partial subscription is chosen and is based on two components – an institutional fixed fee and a student per capita rate. Submitting a full HESA student data return is demanding and is likely to require an export facility and adoption of standards that may impact on local data management systems, with associated investment and data processing costs. For the smallest providers, a

⁶ <http://unistats.direct.gov.uk/>

much lighter level of data collection on student numbers might be appropriate. Participating in the National Student Survey will incur costs additional to the HESA subscription cost.

Timing

2.2.12 HESA data is collected at the end of the relevant academic year, which means it could not be used to inform the setting of student number controls in 2013/14, although it could be used for retrospective monitoring. At the earliest, alternative providers could submit 2013/14 data to HESA in autumn 2014, which HEFCE could use to modify student number control limits for academic year 2015/16.

2.2.13 The key characteristics of Method 1 and 2, including the benefits and limitations, are set out in the table below.

Table 2.1: Comparison of Method 1 and Method 2 (without HESA data submission)

	Method 1 – Control based on eligible students	Method 2 – Control based on students accessing funding
Policy objective to create a more level playing field	More similar to the student number control system in operation at HEFCE-funded providers than Method 2, so is closest to the policy objective of moving towards a more level playing field between all higher education providers in England.	Less similar to the student number control system currently in place at HEFCE-funded providers so less effective in meeting the policy objective than Method 1.
Information provision	Providers would be required to supply additional data to HEFCE in autumn each year. This would focus on the number of full-time students eligible for student support.	Could be implemented using existing data collection from the Student Loans Company.
High grade policy (e.g. ABB+ in 13/14)	Would require data submission to HESA.	Would require data submission to HESA.
Timing	Would require a one-off survey to implement this system for academic year 2013/14 before full implementation in 2014/15.	It may be possible to implement this system for academic year 2013/14.
Other benefits	May be easier for providers to implement, as the number of eligible students is under their control, unlike the number of their students who choose to access student support.	May allow a more precise control of the student support costs associated with alternative providers.
Other limitations	Additional burden/cost for providers and HEFCE in the form of the requirement for a new data return.	Requires providers to make estimates of how many of their students will receive student support, which may be hard to predict and could lead to more frequent over-recruitment (or under-recruitment) than Method 1.
Summary	A more sophisticated number control system, which is more similar to the system already in place for publicly-funded providers than Method 2. Greater sophistication comes with greater costs for providers and HEFCE.	A less sophisticated number control system, which would be more difficult for providers to accurately align their recruitment with their number control limit. A 'lighter-touch' approach for providers and for HEFCE than Method 1.

A dynamic system, responsive to student demand

- 2.2.14 In line with our core principle that students should be at the heart of the higher education system, any student number control system we implement for alternative providers must be capable of responding dynamically to changes in student demand. Providers who are successful in attracting students should be allowed to grow their number allocations over time and providers that do not continue to make an attractive offer to prospective students should not automatically receive the same student number allocations year on year.
- 2.2.15 Given that that we not yet made policy decisions on future student number controls for 2014/15 and beyond for HEFCE-funded providers, it would be premature to commit to exactly how the student number control system will operate for alternative providers in 2014/15 and beyond at this stage. However, we are committed to implementing a dynamic system which responds to student choice and allows for a diverse HE sector. We will announce decisions for future years at appropriate points, taking into account the responses to this consultation and evidence on the operation of the new system when available.

2.3 Treatment of small providers

- 2.3.1 One key message from respondents to the August 2011 Technical Consultation ‘A New Fit-For-Purpose Regulatory Framework for the Higher Education Sector’ was that a single regulatory framework would not be appropriate for alternative providers with small numbers of students accessing student support. Alternative providers are typically smaller than publicly-funded institutions and may be less able to absorb the compliance costs of a regulatory system primarily designed for much larger organisations.
- 2.3.2 We have borne these previous consultation responses in mind when considering how best to apply student number controls to alternative providers. Annex A (Table A.2) shows that a relatively small number of larger providers account for the great majority of the Department’s expenditure on student support at alternative providers. Alternative providers with a small number of students accessing loans and grants can be managed within the context of the Department’s student finance budget. This means that we can consider some form of exemption for alternative providers in this category and we will consult on how narrow or broad the definition of ‘small’ should be (see consultation question in the following section). If a provider with a small number of students were to grow sufficiently then the exemption would no longer apply and we will ensure that any number control system will not incentivise large-scale expansion in short timeframes by taking any such behaviour into account when setting future number controls.

2.4 Sanctions

- 2.4.1 If a publicly-funded provider exceeds its student number control HEFCE has the power to withdraw teaching grant in that and subsequent academic years at a rate determined by the Government. The rate withdrawn reflects the additional costs to Government of the unplanned student support.

2.4.2 Alternative providers do not receive teaching grant and so this system is not available to BIS. However, a system to disincentivise over-recruitment could be put in place. For example, one such system could be that:

- HEFCE advise BIS on a suitable entrant control limit for a provider, which BIS will then set. If an alternative provider exceeds their entrant control number, BIS writes to the provider explaining that the additional financial cost to the Government of the unplanned students sum to a particular amount and how this can be returned to Government;
- the financial cost per student will be calculated by the Department and the provider will be able to contest the extent of their over-recruitment; and
- if the provider fails to comply the Department reserves the right to remove designation for student support purposes from some or all of the provider's courses.

Consultation questions

- **Question 1:** Respondent details:
 - Name of organisation (or name of person if the response is a personal response and is not submitted on behalf of an organisation)?
 - What type of organisation is it? (e.g. Alternative Provider, HEI, FEC, Regulatory Body etc.)
- **Question 2:** Do you have a preference for Method 1 (control based on eligible students) or Method 2 (control based on students accessing funding)? If so, why is this?
- **Question 3:** What is your view on submission of data to HESA? Do you think designated courses at alternative providers should participate in the Key Information Set and therefore complete the National Student Survey and Destination of Leavers in Higher Education survey (if student numbers are large enough to permit this)?
- **Question 4:** Are there any other methods for controlling student numbers on designated courses at alternative providers that you would recommend instead of Method 1 or Method 2?
- **Question 5:** Do you agree that there should be an exemption from student number controls for alternative providers with small numbers of students accessing student support? If so, do you have suggestions as to how the Department should define 'very small'?
- **Question 6:** Equality considerations: Do you think that the proposals for applying student number controls will have any equality implications (e.g. positive, negative, or neutral) for people with protected characteristics (as set out in the Equality Act 2010), or people from low income groups?⁷ What impacts might there be and do you have any evidence of possible impacts?
- **Question 7:** Do you have any other comments on the proposals within this consultation document?

⁷ Section 149(1) of the Equality Act 2010 imposes a duty on Ministers to have due regard to three specified equality matters when exercising their functions. These are: a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by the Act; b) advancing equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and c) fostering good relations between people who share a relevant protected characteristic and people who do not share it. The Equality Duty covers the following protected characteristics: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. The duty to have due regard to the need to eliminate discrimination also covers marriage and civil partnerships.

Annex A – Student number data

Table A.1 Growth in student support costs at alternative providers, 2006/07 to 2011/12

Academic Year	Number of Alternative Providers**	Number of Students accessing support***	Student Support (£m)****	Proportion of total student loan funding #
2006/07	64	3,280	19.1	0.5%
2007/08	60	2,820	18.5	0.4%
2008/09	65	3,270	22.7	0.4%
2009/10	82	4,230	29.2	0.4%
2010/11	94	5,860	42.2	0.6%
2011/12	110	12,240	100.3	n/a

Source: Student Loans Company Management Information

Notes: *All figures are for Academic Year as at 31 August of relevant Academic Year except 2006/07 where figures are as at 31/08/08

** Alternative provider figures show the number of alternative providers with specifically designated courses with students accessing student support in the relevant year

*** Student numbers show total number of English and EU students (rounded to nearest 10) studying on a specifically designated course and accessing any form of student support. This includes full-time, part-time and postgraduate students (eligible for Disabled Students' Allowance only).

**** Student support shows the total amount of student support paid to students on specifically designated courses and includes all types of loans and grants

Figures are based on proportion of total student loan funding (not grants) awarded to students studying at alternative providers.

Table A.2 Number of full-time students accessing student support at alternative providers in academic year 2011/12

Institution	Number of students [1]	Amount Paid (£)[2]
GREENWICH SCHOOL OF MANAGEMENT	2,400	22,674,600
BPP UNIVERSITY COLLEGE OF PROFESSIONAL STUDIES	1,070	9,332,900
LONDON SCHOOL OF SCIENCE & TECHNOLOGY	990	9,950,100
THE ACADEMY OF CONTEMPORARY MUSIC	770	5,964,400
BIMM	700	5,534,900
THE LONDON COLLEGE, UCK	480	4,447,300
GUILDHALL COLLEGE	390	1,711,300
UNIVERSITY OF BUCKINGHAM	350	2,501,200
THE INSTITUTE OF CONTEMPORARY MUSIC PERFORMANCE	350	3,025,900
ESSEX INTERNATIONAL COLLEGE	250	1,459,700
ANGLO-EUROPEAN COLLEGE OF CHIROPRACTIC	220	1,609,700
BRITISH SCHOOL OF OSTEOPATHY	220	2,120,200
ICE ACADEMY	190	1,454,100
SAE INSTITUTE	190	1,744,300
HOLBORN COLLEGE	150	1,289,700

Institution	Number of students [1]	Amount Paid (£)[2]
LONDON CENTRE OF CONTEMPORARY MUSIC	130	1,057,600
MOUNTVIEW ACADEMY OF THEATRE ARTS	130	1,149,200
MOORLANDS COLLEGE	120	1,071,800
LONDON COLLEGE OF ACCOUNTANCY (LCA BUS. SCH)	110	992,100
EAST LONDON COLLEGE	110	1,085,500
LONDON SCHOOL OF THEOLOGY	110	1,093,300
REGENTS THEOLOGICAL COLLEGE	100	833,300
TECH MUSIC SCHOOLS	100	980,600
REGENT'S COLLEGE - LONDON SCHOOL OF FILM MEDIA	90	724,300
LONDON SCHOOL OF ACADEMICS	80	897,300
MATTERSEY HALL ASSEMBLIES OF GOD BIBLE COLLEGE	80	702,800
THE ARTS EDUCATIONAL SCHOOLS LONDON	70	606,100
ACADEMY OF LIVE AND RECORDED ARTS	60	530,300
CCP GROUP	60	584,200
LONDON CHURCHILL COLLEGE	50	300,300
MONT ROSE COLLEGE OF MANAGEMENT & SCIENCES	50	414,000
CLIFF COLLEGE	50	405,400
COLLEGE OF INTEGRATED CHINESE MEDICINE	50	385,100
NAZARENE THEOLOGICAL COLLEGE	50	426,500
NORLAND COLLEGE	50	345,900
ST PATRICK'S INTERNATIONAL COLLEGE	50	370,200
THE COLLEGE OF LAW	50	127,900
THE INSTITUTE OF BUSINESS AND MANAGEMENT	50	490,600
UCFB COLLEGE OF FOOTBALL BUSINESS LTD	50	425,100
EXCEL COLLEGE	40	472,200
STEVE ALLISON ASSOCIATES	40	373,600
ARCHITECTURAL ASSOCIATION SCHOOL OF ARCHITECTURE	40	303,900
CITY & GUILDS OF LONDON ART SCHOOL	40	348,500
CREATIVE ACADEMY	40	315,100
FUTUREWORKS TRAINING LTD	40	354,100
IFS SCHOOL OF FINANCE	40	351,700
ISLAMIC COLLEGE FOR ADVANCED STUDIES	40	358,300
MANCHESTER INTERNATIONAL CHRISTIAN COLLEGE	40	418,500
SPRINGDALE COLLEGE	40	370,100
CENTRE FOR HOMEOPATHIC EDUCATION	30	298,700
CHRIST THE REDEEMER COLLEGE	30	343,900
DELAMAR ACADEMY OF MAKEUP	30	177,000
EUROPEAN BUSINESS SCHOOL	30	164,500
INTERNATIONAL COLLEGE OF ORIENTAL MEDICINE	30	259,400
MET FILM SCHOOL	30	269,300
OAK HILL THEOLOGICAL COLLEGE	30	202,900
OXFORD BUSINESS COLLEGE	30	215,000
RICHMOND, THE AMERICAN INTL UNIVERSITY IN LONDON	30	206,800

Institution	Number of students [1]	Amount Paid (£)[2]
SPURGEONS COLLEGE	30	289,400
WILLIAM BOOTH COLLEGE	30	281,500
EDGE HOTEL SCHOOL	20	61,000
AMERICAN INTERCONTINENTAL UNIVERSITY LONDON	20	163,200
CENTRE FOR ALTERNATIVE TECHNOLOGY	20	162,200
COURT THEATRE TRAINING COMPANY	20	221,300
KENSINGTON COLLEGE OF BUSINESS	20	161,800
LUTHER KING HOUSE EDUCATION TRUST	20	174,600
QUEENS COLLEGE BIRMINGHAM	20	176,400
REDCLIFFE COLLEGE	20	178,400
ST JOHNS COLLEGE - NOTTINGHAM	20	128,800
THE COLLEGE OF TRADITIONAL ACUPUNCTURE	20	146,400
TRINITY COLLEGE BRISTOL	20	177,000
ALL NATIONS CHRISTIAN COLLEGE	10	117,800
BELFAST BIBLE COLLEGE (DUNMURRY)	10	40,500
CENTRE FOR NUTRITION EDUCATION	10	61,500
GLASGOW ACADEMY OF MUSICALTHEATRE ARTS	10	33,400
INTERNATIONAL CHRISTIAN COLLEGE	10	60,500
LONDON SCHOOL OF BUSINESS & MANAGEMENT	10	72,600
MIDDLESEX COLLEGE OF LAW	10	95,700
NEWBOLD COLLEGE	10	64,700
ST. MELLITUS COLLEGE	10	90,800
THE MGA ACADEMY OF PERFORMING ARTS	10	25,400
TRINITY SCHOOL OF MINISTRY	10	78,000
WALES EVANGELICAL SCHOOL OF THEOLOGY LTD	10	52,800
WILLIAMS COLLEGE	10	137,800
16 PROVIDERS WHICH HAVE FEWER THAN 5 STUDENTS EACH ⁸	30	192,900
Total	11,680	100,069,600

Source: Student Loans Company Management Information

[1] Rounded to nearest 10

[2] Rounded to nearest 100

Note: Table A.2 refers to full-time students only so the figures used do not correspond to those in Table A.1, which covers both full-time and part-time students.

⁸ NOTTINGHAM TEACHING COLLEGE; METANOIA INSTITUTE; CAVENDISH COLLEGE; ICON COLLEGE OF TECHNOLOGY AND MANAGEMENT; INSTITUTE FOR ARTS IN THERAPY AND EDUCATION; JOAN PATTERSON ASSOCIATES; KING'S THEOLOGICAL COLLEGE; LONDON FILM SCHOOL; MAGNA CARTA COLLEGE; NORTHERN COLLEGE OF ACUPUNCTURE; OPEN COLLEGE OF THE ARTS; SOUTH LONDON CHRISTIAN COLLEGE; THE INTERACTIVE DESIGN INSTITUTE; MEDIPATHWAYS; WESLEY COLLEGE & WEST DEAN COLLEGE.

Annex B – Course eligibility criteria

SPECIFIC DESIGNATION – BACKGROUND AND CRITERIA – 2012/13 Academic Year

Background to Course Designation

For 2012/13 the Education (Student Support) Regulations 2011 set out the conditions for course designation in regulations 5 (full-time), 139 (part-time), 161 (postgraduate) and schedule 2.

Eligible courses delivered at alternative providers may be specifically designated by the Secretary of State under the following regulations in the Education (Student Support) Regulations 2011 - regulation 5(10) (full-time), regulation 139(7) (part-time) and regulation 161(4) (postgraduate).

Specific designation is specific to the course and not to the institution. Each subsequent course would need to be designated in its own right.

Specific Designation Criteria

The following paragraphs outline the current criteria for course designations:-

- a. The course must be of at least one academic year's duration;
- b. It must be of a standard higher than that of advanced level of the General Certificate of Education; the National Certificate, National Diploma of the Business and Technician Education Council or the Scottish Qualifications Authority.

Types of Courses and Validation

- c. Courses should lead to one of the following qualifications: a first degree (including Integrated/Undergraduate Masters), Foundation Degree, Diploma of Higher Education (DipHE), Certificate of Higher Education (CertHE), Higher National Diploma (HND), or Higher National Certificate (HNC) or an Initial Teacher Training qualification;
- d. A first degree course which leads to the award of a professional qualification and where a first degree (or equivalent qualification) would normally be required for entry to a course leading to the award of that professional qualification is **not** a designated course;
- e. All courses should be validated by a body with UK degree awarding powers who are primarily responsible for monitoring quality and ensuring that academic standards are maintained. The validating body should be on the Department's list of Recognised Bodies which can be found at <http://www.bis.gov.uk/policies/higher-education/recognised-uk-degrees>.

(There are currently two exceptions to this condition: firstly, Higher National Diplomas or Higher National Certificates which are awarded by Edexcel or the Scottish Qualifications

Authority: and secondly, Initial Teacher Training Courses which are subject to their own approval processes.)

- f. The duration of a **part-time course** starting before 1 September 2012 must not exceed twice the period ordinarily required to complete a full-time course leading to the same qualification. A **part-time course** starting on or after 1 September 2012 must not exceed four times the period ordinarily required to complete a full-time course leading to the same qualification.

Postgraduate Courses

Courses leading to postgraduate qualifications may be designated for the purposes of Disabled Students Allowance only.

Annex C – Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone: 020 7215 6402

E-mail: john.conway@bis.gsi.gov.uk

However, if you wish to comment on the specific policy proposals you should contact the policy lead (see paragraph 6 of the Introduction).

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

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