

Our response to the Office for Students ‘Consultation on our strategy for 2022–25’

Universities UK (UUK) is the collective voice of 140 universities in England, Scotland, Wales, and Northern Ireland. Its mission is to create the conditions for UK universities to be the best in the world, maximising their positive impact locally, nationally, and globally. Universities UK acts on behalf of universities, represented by their heads of institution.

Question 1 – Proposal 1: Do you have any comments to make on the OfS’s proposed strategy for 2022 to 2025 or the priorities set out within it?

We welcome the opportunity to comment on the latest Office for Students (OfS) strategy for 2022–25. The strategy outlines priorities within quality and standards and equality of opportunity, many of which are supported by our members as being central to making sure students receive the very best education the sector can offer. It is helpful to have these restated and to see a degree of continuity with areas the regulator has been focused on most recently. This will enable institutions to engage constructively by continuing the conversation and should ensure greater compliance with the regulatory framework.

The ongoing commitments to principles-based regulation and minimum baselines are also positive. Allowing institutions the space to tailor their offer to the types of students they work with, from admission to graduation, the courses they specialise in, and the partnerships they have, is important to give students choice and appropriate support. Similarly, commitments to reduce bureaucracy and develop ‘enabling regulation’ will free up institutions to focus on delivering for students.

A general reflection, however, is that while it is important to set out goals and activities, and to outline the approach taken to regulating providers, we think the

strategy lacks an overarching vision for the OfS itself as a regulator. There is little that is new in the strategy or that considers how, as an organisation, the OfS will operate, respond to new and emerging issues, and establish itself as an independent voice acting in the interest of students.

Good regulation, as set out in the Regulators' Code, needs to be driven by the interests of those the regulation is seeking to protect and be conducted in a way that supports those being regulated to comply and thrive. For the OfS, this means prioritising the interests of students and then working constructively with the sector to design regulation that can be effective, clear, and enabling.

Student engagement is largely absent from the document. Only two goals explicitly reference its role in understanding and addressing the issues (sexual harassment and consumer protection). The OfS needs to provide more information on how students will be involved in the ongoing development and implementation of the strategy and its goals, and how their views will be used to shape its priorities and regulatory approach. The OfS student engagement strategy should not be seen as separate to this main strategy, but instead a central part of it.

The OfS also needs to be more confident in resisting becoming a vessel for multiple, potentially contradictory policy agendas. Despite being presented as the prioritisation of two key areas of activity, each area's goals and actions remain wide-ranging and numerous, suggesting a lack of clear focus. This is in part a reflection of external and legislative developments, for example the inclusion of freedom of speech and levelling up. But the OfS must consider how to be effective in managing a diverse and growing portfolio while not overloading itself or providers and staying focused on issues that matter to students. This requires much clearer strategic priorities than currently set out, including how they will negotiate decisions on emerging political issues and their incorporation.

It must also consider how the component goals of the strategy work together as a whole, including how the priorities interact. For example, there is potential tension where priorities include looking at ensuring access, success and progression and improving quality of teaching and learning, while simultaneously threatening increased interrogation of increases in the awarding of upper degree classifications and disincentivising recruitment of students from disadvantaged backgrounds through a strict rules-based assessment of outcomes data.

The document places almost all its emphasis on monitoring activities and enforcement. Higher education providers should be held accountable and where there is evidence of regulatory breaches or non-compliance – especially where there

is a clear and significant risk to students – the regulator needs to issue a robust response. This protects students and the reputation of the sector. We also recognise that this approach has potential to be more proportionate and less burdensome in places, while protecting institutional autonomy. However, it is not the only approach the OfS needs to consider. With all the work currently underway in the sector – collectively through UUK and other sector agencies, and at an institutional level – the OfS needs to be more confident in its strategy about where it can embrace opportunities to collaborate and share practice in pursuit of common goals.

Quality and standards and equality of opportunity are both priorities for our members. This includes activities to address grade inflation that have led on behalf of the UK Standing Committee for Quality Assessment with a statement of intent and work on degree outcomes statements, degree algorithms, and external examiners. Most recently, we have developed a framework in England, centred on best practice in using metrics to ensure courses provide good value and outcomes for students, while meeting the changing needs of employers and the economy. This will be launched in early 2022.

We have also led the development and implementation of good practice guidance, sector support, and step change frameworks on mental health, sexual misconduct and racial harassment, and addressing the BAME attainment gap. These are all areas mentioned in the OfS strategy. We would encourage the regulator to work constructively with us on these issues, and to allow providers the space to continue innovating.

The OfS suggests it will consider funding small scale regulatory ‘sandbox’ activities to experiment with more innovative and flexible approaches. This is a positive development. In the long-term, any innovations must still meet the requirements of the OfS, and the regulator should be cautious of funding particularly high-risk activities that even at a small scale could have a potentially detrimental impact on students. However, the OfS should avoid overly narrow parameters when allocating funding that might limit the level of innovation providers are willing to propose and explore. There are opportunities, if the OfS is minded to pursue these, for them to support and stimulate positive change by being more open in what they will consider. For example, the short course funding trial which supported 22 providers to develop an array of courses.

We consider the access and participation refresh, in particular, an opportunity to work towards equality of opportunity, and to consider where resources are best directed, not only by individual universities but through collaborative, regional programmes, and infrastructure. The reset will be disruptive, so it will be important

for the OfS to prioritise lesson learning from current access and participation plans (APPs), work with providers, and welcome innovative thinking. This could include:

- Extending support for the state school sector to accelerate education recovery, with a strong focus on how to expand and strengthen university–school partnerships aimed at improving attainment for those in primary school as well as older pupils that may be considering higher education.
- Ensuring that ‘place’ is at the heart of a future approach. This includes levelling up their local areas by collaborating with regional actors to address specific local needs, eg more social workers or teachers.
- Giving more weight to further promoting student success, with commitments to tackle differential experiences on campus, and a focus on employability.

Government and the OfS also need to ensure long-term sustainable funding for the Centre for Transforming Access and Student Outcomes in Higher Education (TASO) and meaningful engagement with the sector ahead of regulatory and funding changes. This will support providers to go further in identifying and sharing impactful practice among universities and identifying gaps.

The third strand of the strategy focuses on ‘enabling regulation’, including minimising the regulatory burden. We support this continued priority for the OfS, building on what has been welcome activity over the past 12 months. This has included more streamlined communications, changes to Data Futures, and updated definitions and guidance on reportable events (forthcoming). We would encourage the OfS to continue monitoring this, collecting feedback from the sector, and working with us to identify and address areas where the burden may be unavoidable but could be better managed. This could include publishing more up-to-date timelines for consultations, to help providers schedule their response work, and to think carefully about the timing and sequencing as they relate to other demands on providers at any given time.

They should also consider whether the current KPMs are the most useful tool for monitoring this. Under KPM 26, the understanding of the regulatory approach is measured by the number, word count, and readability scores of OfS documents. Arguably, this says very little about how well understood the approach is by providers and the quality of the communication.

The strategy should also include more thought on how an approach that covers all students and all provision, including courses overseen by other funders, regulators and even jurisdictions in the case of transnational education, can be managed in a

way that does not duplicate effort or create contradictory requirements. We have highlighted this issue previously in our response to the [OfS phase 2 consultation on quality and standards](#). How the OfS intends to work with regulatory partners needs to be more explicit in the strategy.

On freedom of speech and academic freedom, the regulatory and legal context can make the job of balancing different, sometimes seemingly competing duties, challenging. Judgements on individual cases can be complex and time-consuming. Here, we believe that any additional duties placed on universities must be proportionate. We recommend that the OfS Director for Freedom of Speech and Academic Freedom – who will be expected to oversee and make judgements on this complex legal landscape – have experience of either the higher education or legal sector.

There is further space to reduce bureaucracy in a revised access and participation plan model, particularly around annual impact reporting, and to remove instances where there is a duplication in reporting requirements to OfS. The process could also be more student-focused and place-focused, centred around targets that are most appropriate to a university's local and regional social mobility challenges, its mission, and its own student population.

Question 2 – Proposal 1: Do you have any comments about any unintended consequences of the proposed strategy or the priorities set out within it, for example for particular types of provider, particular types of student, or for individuals on the basis of their protected characteristics?

There is a risk that in adopting an approach focused too heavily on compliance, particularly within communications activities, the OfS inadvertently damages the reputation of the higher education sector in England. External audiences need to know that there is robust regulation in place and that non-compliance is being appropriately targeted. However, too much public emphasis on this risks misrepresenting the sector as problematic. We would like to see more sharing and highlighting of good practice, of which there is a lot. For example, more use of case studies and co-created guidance. This would support the OfS in its regulatory function by showing providers the kinds of things that they could be doing, minimising the likelihood of breaches and non-compliance, while also showing external stakeholders – in the UK and internationally – that provision in the vast majority of cases is high quality.

As it implements its strategy, the OfS should also consider the implications of its actions and approach for the sector in other UK nations and the international reputation of UK higher education. This requires meaningful and early dialogue with the funders and regulators in the devolved administrations. The document makes only brief reference to the devolved administrations. Despite the divergence in regulatory approaches, we think there is still value in learning from each other and would encourage the OfS to be open to more cross-UK collaboration. This is important particularly in cases where partnership arrangements, such as validated or franchised provision, exist across nations.

On quality and standards specifically, the OfS needs to be careful not to develop an approach that is too narrowly defined by outcomes. This could have unintended consequences for providers' ability to provide courses that support levelling up, improve social mobility, and deliver student choice. Providers should not lower their expectations or standards when admitting students from disadvantaged backgrounds, and they should ensure support is in place to help these students achieve their desired outcomes. However, too strict a focus on outcomes may make providers more risk averse in their admissions decisions and local partnerships.

The statement that 'courses that do not meet our requirements [will be] improved or closed' needs to be managed carefully to ensure that improvement plans are the priority. Forcing courses to close should be a last resort, and the decision must consider not only student outcomes in an absolute sense but the wider value the course is providing, for example, as a pipeline into local industries and public sector employers which are central to the levelling up agenda. The OfS will also need to consider the availability of similar courses in a locality so that prospective students who are less mobile (eg students in work, students with caring responsibilities, and disabled students) are not limited in their opportunities to study in higher education.

Question 3 – Proposal 2: Do you have any comments to make on the proposed addition to the regulatory framework?

No further comments.

Question 4 – Are there aspects of proposals 1 and/or 2 you found unclear? If so, please specify which, and tell us why.

It remains unclear how the OfS intends to regulate alongside other regulatory bodies that also have a role to play in higher education. The OfS should explore what opportunities there are to align processes or to outline greater clarity of roles.

For example, there is a risk that a new OfS Complaints Scheme to oversee claims regarding free speech – as proposed in the Higher Education (Freedom of Speech) Bill – will duplicate the role of the existing ombudsman for student complaints, the Office of the Independent Adjudicator (OIA). Students should have the opportunity to make a complaint where they feel a provider has fallen short in their duty to promote freedom of speech or academic freedom. However, it is not clear how the new OfS scheme will interact with the existing OIA scheme with a risk that the former will duplicate the role of the latter. We would welcome the opportunity to work with the OfS on the design and development of the proposed new scheme when it is introduced to ensure it does not create confusion for students looking to raise a complaint.

Under ‘Providers secure free speech within the law for students, staff and visiting speakers’, the wording that the OfS ‘will report our regulatory activity for individual providers to ensure that all providers understand what is expected of them’ is unclear. We support improved transparency on the number of external speakers and events occurring within English providers, including the number of rejected speakers. This data is currently published on a collective and anonymised basis by OfS. However, the wording in the new strategy appears to suggest data on individual institutions will be published. It would be helpful to clarify if this is correct and to consider any potential implications of doing so.

Similarly, under ‘Students receive a high-quality academic experience that improves their knowledge and skills, with increasing numbers receiving excellent provision’, the OfS states it will ‘report on our regulatory activity for individual providers’. We would welcome more information on how far this extends. Transparency and information-sharing is important, but we would expect the OfS to be mindful of the reputational risk of reporting on minor breaches or investigations if not sufficiently contextualised, which could go on to impact on areas like recruitment.

We welcome the focus on lifelong learning and flexible study. The government’s lifelong loan entitlement is a major opportunity for the higher education sector to meet the skills challenges employers are facing. However, given the size of this

reform programme the OfS needs to provide more detail and clarity on how it will support the technical and flexible education agenda going forward. This includes:

- how the OfS will work with UCAS and the SLC to support effective advice and guidance for students
- how pilots of the short course trial will be evaluated and any best practice shared ahead of a full rollout in 2025
- how the OfS will ensure regulation is appropriate for flexible study modes

Within the OfS's goal on consumer protection, the strategy talks about establishing 'requirements that set the student protection norms for the higher education sector'. The use of 'norms' suggests a more prescriptive approach than we would anticipate within a principles-led regulatory approach. We agree that students must receive accurate, up-to-date, and clear information at the point of application and have access to fair contractual terms and complaint handling procedures. However, providers should retain the autonomy to design these in ways that meet their students' needs.

Question 5 – Do you have any other comments?

No further comments.