

# Our Response to the Office for Students' consultation on access and participation plans

This is our response to the Office for Students' (OfS) consultation on the regulation of access and participation plans (APPs) in England. It covers its eight proposals and our recommendations.

## Executive Summary

We are broadly supportive of the OfS' proposed risk-based, university-led approach to regulating equality of opportunity in higher education. This includes the need to enhance the evaluation of 'what works' and to support attainment raising in schools. However, we are concerned about the short window the OfS has given the sector to engage and respond, how much turnaround time there will be for APP submission and approval, and would value further clarity on certain OfS expectations.

We want the OfS to:

1. Commit to ongoing close engagement with the sector between autumn and spring to prevent surprises as universities work to develop and signoff new APPs.
2. Minimise burden through the APP process, in particular avoiding duplicating effort between the Teaching Excellence Framework (TEF) and new access and participation reporting.
3. Issue additional information sooner than proposed. In particular, this should include the new Equality of Opportunity Risk Register (EORR), and what would meet the OfS' expectations on how universities should partner with schools.
4. Be mindful of the challenging financial environment for students and universities, and the impact this could have over the medium-term.

We look forward to working with the OfS in the months ahead to ensure the new approach provides universities with the flexibility they need to deliver their ambitions in widening access, participation and student success.

## Proposal 1: Risks to equality of opportunity

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- We propose that a provider's access and participation plan should be focused on 'risks to equality of opportunity'.
- We propose that a provider should have regard to the OfS Equality of Opportunity Risk Register (EORR) when identifying its risks to equality of opportunity.

### **To what extent do you agree with our proposals relating to risks to equality of opportunity? Please provide an explanation for your answer.**

**Answer:** Tend to agree

1. We broadly support the proposed approach to the risks to equality of opportunity. In principle, we support a university-led, risk-based approach to improving access and participation. However, the OfS must provide further clarity about how the Equality of Opportunity Risk Register (EORR) will be constructed and the implications of a university choosing not to focus on a specific risk on the EORR.
2. The proposed approach is for universities to take a risk-based and context-led approach to their APPs. If a university does not consider a sector-wide risk to be of particular priority to them, it must be made clear how the OfS would respond to this. The diversity of the sector is something to celebrate, and we welcome the OfS' willingness to accept universities' own evidence when setting out the context within which they operate. It is important that universities retain autonomy over their access and participation activity, while being able to contribute to and learn from others in the sector's evidence around the risks to equality of opportunity. This includes focusing on

institution-specific risks that are in line with a university's context, mission, capacity and strategic objectives.

3. The OfS must be clear about what impact the annual updating of the EORR will have on universities, and of its expectations relating to the updating of APPs if a university does not address a particular risk in its plan. The inference is that universities would need to request a variation to their plan in order to update them should new sector-wide risks be identified through EORR updates. However, this would create significant burden for universities – particularly smaller universities – and would undermine the strategic focus of an APP.
4. If the EORR is updated annually and universities are not expected to request a variation to their plan as a result of these updates, it is unclear what benefits this approach would provide. Universities cannot practically utilise the updated risks to equality of opportunity until the next cycle of APPs, leading to plans becoming outdated. We recommend that the OfS considers the benefits of updating the EORR annually and is explicitly clear about the expectations of universities in updating plans accordingly.
5. We recommend the OfS publishes the first iteration of the EORR sooner than February 2023 to give universities more time to consider what this might mean for their future approach, which is due for submission in the spring. This consultation is only five weeks long, which has presented a challenge for many respondents across the sector. Moving forward, the OfS must carefully consider what steps it can take to ensure the process is not rushed. This means universities having sufficient time to engage meaningfully with students and key stakeholders – including schools – to be able to develop the most appropriate future approach.

**If you consider our approach should differ, please explain how and the reasons for your view.**

6. We recommend the OfS publishes the EORR prior to February 2023 to allow universities an opportunity to use the register and develop their approach to improving equality of opportunity without being constrained by a short timescale. The current proposal to publish the register in February and for universities to submit their plans in spring risks universities being unable to fully consult with relevant stakeholders and carry out a detailed assessment of the risks to equality of opportunity.

## **Proposal 2: Plan duration and publication of information about a provider's delivery of a plan**

### **Proposal 2: Plan duration and publication of information about a provider's delivery of a plan**

- We propose to reduce the normal maximum duration of plan approval to four years.
- We propose a plan is written as a strategic document that is set out over a four-year period.
- We propose that we should normally expect to publish information about our judgement about whether or not a provider has appropriately delivered the commitments in its approved access and participation plan.

### **To what extent do you agree with our proposals relating to a four-year plan duration and publication of information about a provider's delivery of a plan? Please provide an explanation for your answer.**

**Answer:** Tend to agree

7. We welcome the proposed four-year duration, however the publication of information about a university's delivery of a plan is of concern.
8. A reduction from five to four-year APPs will still encourage universities to maintain a long-term, strategic approach to addressing access and participation challenges, driven by evaluation of activities.
9. The publication of the OfS' judgement about whether a university has delivered on its APP requires further consideration. The proposal states that new plans should 'address emerging risks and reflect any new priorities in a timely manner.' It is unclear the extent to which this proposal (a) would suggest a university needs to request a variation to its plan if deemed to not be delivering, and (b) how it would impact a university's ability to implement

and evaluate longer-term activity within the four-year period. We believe that universities should not be required to continually update their APPs as this could disrupt the strategic and long-term focus of the plan, and instead should be invited to update their plans at the end of the four-year cycle with regard for an updated EORR.

10. Likewise, we are concerned that this proposal could have unintended outcomes and work against what a university is trying to achieve. We are unclear about who benefits from the publication of information – particularly a negative judgement – as it could potentially stifle innovation and risk-taking, as well as collaboration with a university. We believe that universities should not be penalised if their activities do not lead to the desired outcome, as instances such as this also contribute to the sector’s evidence around ‘what works’ and what does not, as stated in proposal 5. By publishing information about the delivery of a university’s plan, the opportunity for universities to be innovative could be affected and risks disincentivising the piloting of new activities or approaches to improving equality of opportunity.
11. In the event the OfS has concerns about a university’s delivery of its plan, the additional information required is concerning. The proposal suggests that there is little margin for error or an opportunity for interventions to not have the desired impact. We suggest the OfS invites universities to query its decision before any information is made public. We also suggest that the OfS provides more information about whether this monitoring process would take place year-on-year, during the approval process, or at the end of the four-year period.

**If you consider our approach should differ, please explain how and the reasons for your view.**

12. We think the incentive not to breach condition A1 is sufficiently strong and universities should not need additional incentives. Therefore, we suggest that the OfS does not publish a judgement about whether a university has delivered on its plan without first providing an opportunity for universities to query the decision with the OfS.

## Proposal 3: Format and content of an APP

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- We propose that a provider should include an accessible summary in its access and participation plan.
- We propose that a provider's access and participation plan should include intervention strategies which are linked to named objectives and address the provider's risks to equality of opportunity.
- We propose that a provider should follow a standard format when writing its access and participation plan which includes introduction and strategic aims, risks to equality of opportunity, objectives, intervention strategies, whole provider approach, student consultation and provision of information to students.
- We propose that a provider's plan should not exceed 30 pages. There is no minimum length for an access and participation plan. This page limit would exclude any annexes detailing a provider's assessment of performance, the accessible summary, and supporting documents setting out fees, investment and targets.

### **To what extent do you agree with our proposals related to the format and content of an APP? Please provide an explanation for your answer.**

**Answer:** Tend to agree

13. We are generally supportive of the proposals related to the format and content of an APP. However, the OfS must recognise the increased regulatory burden being placed on universities compared to previous APP cycles.
14. Universities are being asked to include significantly greater levels of detail in their plans compared to previous years which is reflected in the additional page limits and template structure. For smaller universities with less resource and capacity, this will create particular levels of burden. In these instances, other regulatory activity such as submissions for the TEF may disincentivise

smaller teams from producing detailed and innovative plans due to constraints on resource.

15. We welcome the increased page limit to ensure consistency of the length of APPs across the sector and to encourage universities to be concise in their plans. However, the proposal will prove challenging for many universities due to the increased expectation from the OfS to include more detail about interventions, evaluation and justification for the risks being addressed.
16. A university will be required to justify why it has not addressed a particular risk in its plan. This could take up considerable space in a university's plan. We encourage the OfS to accept short justifications for why a university has not addressed a particular risk. It is important that universities retain autonomy over their access and participation activity and a short justification should be understood in the context and mission of the university.
17. We ask that the OfS provides further clarity on what constitutes 'sufficient detail' in the context of assessing whether an intervention will make a meaningful and effective contribution to equality of opportunity. This will differ based on the size of the team developing a university's plan and the activity itself. While headlines of what should be covered in the plan are provided, the expectations of the level of detail needed for the OfS to make an assessment remains unclear.
18. The proposed APP template includes information on the university's consultation with students. Within the current timescales, we believe that universities will find it challenging to be able to engage meaningfully with students. Universities are concerned about the timeline, and the OfS should be alive to these concerns and consider what flexibility there might be in pushing back the APP submission deadline.
19. We are not supportive of the term 'intervention'. The term suggests that young people and students are a problem and carries a different meaning for different universities. With students being one intended audience for accessible summaries, the OfS should consider terminology here. For clarity and consistency across the sector, we ask that the OfS uses 'activity'.

**If you consider our approach should differ, please explain how and the reasons for your view.**

20. We recommend that the OfS is clear about its expectations about the level of detail universities need to include in their plans and confirm that short justifications for not addressing a particular risk to equality of opportunity will be accepted in line with the university's context and mission.

## **Proposal 4: Targets**

<b>Proposal 4: Targets</b>
<ul style="list-style-type: none"><li>• We propose that objectives should be translated into numerical targets with measurable outcomes-based milestones set over the duration of a plan.</li><li>• Targets should be captured in a targets and investment plan.</li></ul>



**To what extent do you agree with our proposals related to targets? Please provide an explanation for your answer.**

**Answer:** Tend to agree

21. We support the proposals related to targets overall, including the flexibility for universities to set non-numerical targets where applicable.
22. To further support universities with proposals in this area, we ask that the OfS provides more information about what 'attainment' means in the context of working with schools. It is challenging to set a non-numerical target in this context (and certain other contexts) without being clear about the parameters of how attainment is being defined. The OfS should make clear the ways in which institutional and Uni Connect targets intersect with APPs. The consultation does not indicate whether a university's targets should be kept separate to Uni Connect targets, even when the two are working towards the same objective. We recommend that the OfS issues guidance on this to support universities when developing their targets.



23. The inclusion of milestones to monitor progress is welcomed. However, we encourage the OfS to ensure that a university is not automatically made to change its plan if outcomes data is unavailable within the four-year period (for example, if it relates to progression, particularly employment). The OfS should therefore consider whether intermediate outcome targets could be appropriate in a wider variety of contexts, and allow room for continued evaluation within a university's targets.

24. Most targets are derived from the OfS data dashboards which is welcomed due to its consistency. However, we ask for flexibility where there is a strong argument that a university has used its own reliable data source.

**If you consider our approach should differ, please explain how and the reasons for your view.**

25. We encourage the OfS to provide further guidance on how targets for access and participation and external outreach activity intersects in APPs, and to ensure that universities are not penalised for including continued evaluation in their targets beyond the four-year period.

## **Proposal 5: Evaluation**

<b>Proposal 5: Evaluation</b>
<ul style="list-style-type: none"><li>• We propose that a provider should be expected to significantly increase the volume and quality of evaluation across its access and participation activity.</li><li>• We propose that a provider should be expected to supply more information about what it will evaluate and when.</li><li>• We propose that a provider should be expected to set out how and when it intends to publish its evaluation results</li></ul>

## **To what extent do you agree with our proposal related to evaluation? Please provide an explanation for your answer.**

**Answer:** Tend to agree

26. We support the OfS' call for enhanced efforts to evaluate interventions, in support of understanding 'what works' and what does not. To support the sector in this space, we would like to see a renewed financial commitment in Transforming Access and Student Outcomes (TASO), which plays a key role in developing the sector's evidence base in access and participation, and skills in evaluation.
27. To support universities with evaluation, the OfS must be aware that evaluation should allow for activities not to work, and universities encouraged to adapt their activities to emerging evidence without being penalised. If students are on a journey through a particular activity, removing this before completion could negatively impact students. We believe the OfS should allow universities flexibility to adapt, pivot or phase out activities if evaluation data suggests an activity is ineffective. This should also be built into the timeframe around evaluation. We welcome further clarity on whether universities are expected to resubmit plans or request a variation to their plans if an evaluation suggests an activity is ineffective.
28. The OfS' proposal on evaluation encompasses universities across the sector, however many – particularly smaller – universities will find it challenging to complete new or robust evaluations of activities. We encourage the OfS to be mindful of the current evaluation capabilities of universities and consider whether the expectations outlined in this proposal can be achieved by every university in England. Some, for example, might need to create new posts to deliver what is expected, or upskill staff in areas such as Theory of Change.
29. The consultation suggests that evaluation data will allow universities to 'ensure that activity leads to positive outcomes for students.' This might not be true in all cases. We urge the OfS to be aware of the challenges with attributing an outcome to a particular activity. Being able to link causality is often unverifiable and we therefore recommend incorporating a multifactorial approach to evaluation.
30. There needs to be more clarity on evaluation, specifically where data does not reveal positive outcomes from an activity within the proposed four-year cycle.

We are unclear about whether a university would be expected to change the activity strategy, despite the possibility of positive data being accessible after four years. The OfS should be explicitly clear about whether a university is able to include an activity and evaluation strategy that extends beyond four-years, and whether or not this can be deemed “credible”.

**If you consider our approach should differ, please explain how and the reasons for your view.**

31. N/A

## **Proposal 6: Investment**

<b>Proposal 6: Investment</b>
<ul style="list-style-type: none"><li>• We propose that a provider should be expected to include information on how much it is investing in each intervention strategy.</li><li>• We propose to no longer ask a provider for information on access investment in the targets and investment plan document.</li><li>• We propose to continue to ask a provider for information on financial support and research and evaluation investment in the targets and investment plan document.</li></ul>



**To what extent do you agree with our proposals related to investment? Please provide an explanation for your answer.**

**Answer:** Tend to agree

32. We are broadly supportive of the proposals related to investment. However, we ask that the OfS provides clarity on what information about investment is needed for each activity strategy to ensure consistency across universities.

**If you consider our approach should differ, please explain how and the reasons for your view.**

33. N/A

## **Proposal 7: Raising attainment in schools and collaboration**

### **Proposal 7: Raising attainment in schools and collaboration**

- We propose that there are key sector-level priorities in the EORR that we would expect to be reflected in the majority of APPs. In particular we expect providers to address in their plan the key sector-level priority on raising pre-16 attainment in schools through the development of strategic partnerships with schools.
- We invite feedback on how the OfS could support providers to develop strategic partnerships to raise attainment in schools.
- We also invite feedback on how the OfS might use other tools, such as funding, evidence of effective practice and its convening powers to support collaboration and partnership to address core risks to equality of opportunity.

**To what extent do you agree with our proposals related to raising attainment in schools and collaboration? Please provide an explanation for your answer.**

**Answer:** Tend to agree

34. We support the ultimate objective of universities supporting attainment raising in schools. However, we would like further clarity on how the OfS defines 'attainment' in this context. The OfS suggests that universities should be 'tackling non-academic barriers to learning,' yet we are unclear what this may or may not mean in practice and what role universities are expected to play in achieving this.

35. We would also like to see further clarity about the OfS' expectations about universities' responsibilities in this space. In their collaborative work with

schools, universities should be driven by the kinds of valued support and of the needs of a school (or schools) and local community. This means flexibility is key, and that the accepted approach must avoid being prescriptive when it comes to delivery models.

36. Given the financial pressures facing universities as well as schools both now and in the years ahead, we are mindful that universities are being asked to focus more financial resource on school pupil attainment raising activity, all while efforts to ensure value for money remain in focus. As outlined, universities have budgets to cover outreach and access activity to support disadvantaged students to enter higher education. It is very important that this activity is not in any way compensating for any reductions in the school sector's budgets.

### **How might OfS support providers to develop strategic partnerships to raise attainment in schools?**

37. We believe it is the role and responsibility of universities and schools to develop relationships locally based on local need and a university's offer and strengths, and not for the OfS to steer. These partnerships have been, and continue to be, developed successfully by universities across England based on the needs of schools and local communities.
38. There is a role for the OfS to play in showcasing examples of good practice and 'what works' in relation to raising attainment. For universities who have few strategic partnerships or are having difficulties connecting with hard-to-reach areas, these examples can guide approaches to developing strategic partnerships with schools in England.

### **What support would help foster collaboration between higher education providers, schools and colleges around information advice and guidance (IAG), outreach and attainment raising, and why?**

39. We would like to see a renewed commitment from government in the Uni Connect programme (UCP) which has played a key role in fostering collaboration and effective partnerships in recent years. The UCP provides and supports a considerable amount of outreach activity, working with schools and colleges to support attainment raising. With declining financial

commitments for the programme from government, this has led to a reduction in the services regional partnerships are able to provide; thereby leaving 'cold spots' and harder to reach areas without outreach support. This does not support our ambition for greater equality of opportunity. We therefore ask the OfS to continue to commission work on the impact of the Uni Connect programme and the evidence around 'what works' in relation to university outreach.

**If you consider our approach should differ, please explain how and the reasons for your view.**

40. We suggest the OfS widens its definition of attainment and those who require support from universities, in addition to making explicitly clear its expectations around the role of universities in this area. There is a role for the university sector to play in raising attainment, however it must be considered in relation to the needs and capabilities of schools and their university partners.

## **Proposal 8: Assessment process**

<b>Proposal 8: Assessment process</b>
<ul style="list-style-type: none"><li>• We propose that the OfS will use its published access and participation data dashboard and other contextual provider-level data to conduct an analysis of a provider's performance, to understand a provider's context during the APP assessment process.</li></ul>



**To what extent do you agree with our proposal related to the assessment process? Please provide an explanation for your answer.**

**Answer:** Tend to agree

41. Overall, we are supportive of the proposal related to the assessment process.

42. However, we ask that the OfS reconsiders the timescales for publishing the updates to the APP data dashboard. Universities will require sufficient time to review the data dashboard when carrying out an internal assessment of its performance and the identification of risks. If the updates to the data dashboards are not due to be published until spring 2023, this will create unnecessary burden for universities to complete their assessments within a short period. Universities must go through extensive approval processes via governance committees for their APPs and this timescale does not account for that.
43. The consultation notes the importance of a university addressing ‘its risks to equality of opportunity in a manner that is appropriate for its size, student population and context.’ As outlined previously, it is critical that the context given by the university is trusted by the OfS assessor. Universities will address certain risks and will disregard others based on their own data, context, objectives and mission. If these decisions are justified, it is unclear whether the OfS would still ‘challenge a provider if a risk to equality of opportunity is not addressed in its plan.’
44. The proposal also states that the OfS ‘decided to incorporate further characteristics...into the sector-level information reported through our annual publications of equality statistics,’ yet there is little reference to ethnicity in the consultation document. The awarding gap between Black, Asian and minority ethnic students and white students still remains and it is essential that this is added to the sector’s data on improving equality of opportunity in higher education.

**If you consider our approach should differ, please explain how and the reasons for your view.**

45. N/A

**Do you have any feedback on the whole proposed approach to regulating equality of opportunity in English higher education, including regulation of access and participation plans as described in the draft Regulator notice 1 (Annexe C)?**

46. The proposed approach is generally welcomed.

47. More information is required about the exact content needed in a plan to avoid delays in the approval process. The Regulatory notice 1 states, 'Where a provider does not include all requested content in its plan, this is likely to delay approval as additional content is sought.' We are unsure as to what constitutes 'all requested content' as the guidance does not stipulate the level of detail needed in the APP template beyond 'sufficient'. Likewise, the OfS should clarify what 'additional content' would be requested in the event an APP is not approved to avoid unnecessary burden for universities if they are to revisit their plan and follow internal approval processes for a second time.
48. The Regulatory Notice 1 states that a university is expected to give 'a brief explanation about why those risks are not being prioritised for action within the plan.' We are unclear about whether a university is expected to provide an explanation for every risk on the EORR that is not regarded in a university's plan. If so, this will constitute a considerable portion of a university's plan which, given the revised page limit and expectation for more detail, will prove challenging for universities with less capacity to address every risk.
49. The OfS notes that it may query any significant risks that are not addressed in a university's plan 'unless a credible explanation has been given.' As with many aspects of the consultation, further clarity is needed about what the OfS means by 'a credible explanation.' This is a subjective phrase which will be interpreted differently by universities. The OfS must be explicitly clear about what it expects from universities in the APP process to avoid universities revisiting plans.
50. We are unclear about how the OfS can make a judgement about whether a plan is 'sufficiently ambitious' without providing guidance as to what constitutes 'ambitious.' Universities will not be able to adhere to the OfS' guidance without the appropriate level of information needed to meet expectations.
51. As the OfS progresses its APP approach, it must acknowledge the increasing pressures faced by universities and their students within the cost-of-living crisis. At the time of responding, evidence already shows high levels of concern among current students about financial pressures, with future impacts uncertain. [Polling](#) by Savanta ComRes on behalf of UUK found that disadvantaged students are much less likely to feel confident about managing their finances over the next 12 months. Just 68% of those from the most disadvantaged groups feel confident compared to 77% for more advantaged groups. As well as focusing on future students through outreach and school



partnerships, the OfS must be mindful of the importance of universities being able to continue delivering a high-quality student experience within an increasingly challenging financial climate. This is exacerbated by the freeze on tuition fees, with their value eroding over time. Sufficient flexibility must be built into the new APP process to allow universities to respond to this evolving crisis.

52. We are unsure if the proposed approach will reduce regulatory burden for universities. The proposals indicate a significant uplift in university resource for APPs. While this reflects the goal to enhance equality of opportunity in higher education, we are concerned about the reality of these proposals on the capacity of universities to meet the OfS' expectations. Likewise, the overlap between APPs and TEF is creating challenges for universities who oversee these initiatives. We recommend that the OfS considers the regulatory burden these activities create and seeks to reduce this in order to incentivise and motivate universities to continue to develop their work in these areas.

**Do you foresee any unintended consequences resulting from the approach set out in this consultation? If so, please indicate what you think these are and the reasons for your view.**

53. While the approach will encourage universities to continue to ensure equality of opportunity, the increasing demands and expectations from the OfS could potentially lead to an overly regulated approach to access and participation. As has been explained in this response, universities must be given space to be innovative in how they approach access and participation. This includes activities not achieving the desired outcome in order to contribute to the evidence around 'what works' and what does not. We must encourage universities to be creative and incentivised to do more without fear of being punished if an approach does not have the desired impact within the four-year period.
54. The timescales for the approval of APPs appears challenging for the OfS, given the increased level of detail required from universities in their plans. It is important that universities receive a high-quality assessment of their plan which could be at risk if the turnaround time is short.

**Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.**

We have outlined the aspects of the proposals we found unclear throughout our response and are explained in detail under the previous questions.

**Do you have any comments about the potential impact of these proposals on individuals on the basis of their protected characteristics?**

55. The definitions outlined in the consultation must be widened to include disadvantaged young people beyond ‘students from low socioeconomic background or low participation areas.’ We recognise the importance the OfS places on disadvantaged young people but urge that sufficient focus and thought is also given to other groups of students for whom equality of opportunity has a long way to go. These include:

- Black, Asian and minority ethnic students
- students from Gypsy, Roma and traveller communities
- refugees
- care leavers
- disabled students

56. Linked to the above, we are concerned about the potential impact on groups that are harder to evaluate, for example students from the Gypsy, Roma and traveller community, and refugees. The focus on enhanced evaluation could discourage work with these communities as there are difficulties that come with evaluation, including using post codes or participation of local areas (POLAR) as a method of evaluation which these students may not easily fit into. If these students are overlooked, there will be limited evidence around ‘what works’ to support these students and ensure they have equality of opportunity in higher education.

57. While we are supportive of the focus on schools, we urge the OfS to maintain focus on driving the sector forward across different characteristics beyond socioeconomic background. We want to see the OfS continue to provide good practice across all protected characteristics.