RUSSELL GROUP

Russell Group response to registration fees consultation

1. Summary

- Whilst we welcome the Government's commitment to a risk-based and proportionate approach to the calculation of registration fees, the proposals outlined in the consultation do not deliver on this approach. Larger established providers would be expected to cross-subsidise smaller and new entrants without any reference to the risk posed by individual institutions. Indeed, this could be interpreted as a hypothecated tax on existing providers to help cut the cost of market entry for others. We therefore recommend that provider size and category of registration should not be used as the primary means by which to calculate registration fees.

- A more proportionate approach is needed which would better reflect the risk profile of different types of providers based on institutional track-record. We recommend that an assessment of track-record based on assurance of quality and financial sustainability is factored into any fee model which is introduced. This would involve a fee reduction for providers where HEFCE and QAA have not had cause to intervene or provide additional support over the course of recent years.

- The commitment by Government to cover costs associated with the transition to the new body and any work associated with broader government policies, economic and societal outcomes is welcome. We urge the Department to ensure that the cost of such activities continue to be fully covered by Government over the long-term.

- Should the Government wish to provide financial support for the entry of new providers, these additional costs should be funded centrally rather than passing on the costs to established providers. We support the proposals for the Office for Students (OfS) to have the power to make additional charges for specific services and one-off processes. These charges should be linked exclusively to cases where intervention is required and should lead to a corresponding reduction in fees for institutions that do not incur such charges.

- The creation of the OfS coincides with a period of significant uncertainty and increasing financial pressure on HEIs. It will be important for the new regulator to consider the context within which providers are operating and take account of these pressures within any registration fee model proposed. We consider that a greater emphasis should be placed on efficiency savings and we would like to see the Government incorporate an automatic annual efficiency factor into their funding proposals in order to keep fees down over time.

- Any resources which providers must pay over to the OfS represent funds which cannot be spent on the core mission of a university: teaching, research and innovation. It is therefore reasonable to expect that registration fees are kept to a minimum in order to maximise the extent to which HEIs can focus on their primary functions. Over the longer-term, the maximum annual increase in registration fees should be limited to inflation given that increases in the tuition fees universities charge for undergraduate courses will also be limited to no more than inflation in current proposals relating to the Teaching Excellence Framework.

2. Recommendations regarding the proposed model for setting registration fees

Provider size and registration category

2.1 We welcome the Government's commitment to a risk-based and proportionate regulatory framework with institutions where significant ongoing assurance is not required benefitting from a lighter-touch approach. However, the focus on setting fees based on the size of a provider and registration category rather than the risk posed with regard to quality and financial sustainability undermines the key principle of achieving a risk-based and proportionate system.

2.2 This approach is likely to lead to established providers with a strong track record on quality paying a disproportionate share of the operating costs for the OfS. No correlation between provider size and regulatory cost has been proven and research has found that a substantial part of regulatory costs in general are fixed irrespective of provider size.[1] [2]

2.3 Indeed, there is evidence to suggest that larger providers are less likely to require more oversight or support from regulators than smaller providers. A recent QAA report on alternative providers found that "providers with unsatisfactory judgements tended to have fewer higher education students". The QAA also note that this trend "concurs with our reviews of further education colleges, where there is an apparent relationship between a college's review outcome and its volume of higher education students: the size of provision seems to correlate positively with better outcomes".[3]

2.4 **The proposals outlined in the consultation suggest that larger established providers are likely to be expected to cross-subsidise smaller and new entrants without any reference to the risk posed. Indeed, this could be interpreted as a hypothecated tax on existing providers to help cut the cost of market entry for others. We therefore recommend that provider size and category of registration should not be used as the primary means by which to calculate registration fees.**

Institutional track-record

2.5 The proposed funding model does not consider institutional track record and does not acknowledge that different providers of the same size and in the same category of registration may present very different risk profiles. A more proportionate approach is needed which would better reflect the risk profile of different types of providers based on institutional track-record. Such an approach would better accord with the principles outlined in the consultation that any model should be "proportionate to the cost of regulating a provider".

2.6 High quality established providers, where the OfS should have little concern, should be charged lower fees than providers requiring more assistance or intervention posing greater risks to the reputation of the UK's HE system with long-term financial and reputational consequences.

2.7 Research demonstrates that providers entering the sector are more likely to receive an unsatisfactory rating as a result of their QAA review than more established institutions.[4] Furthermore, an assessment by the CMA of the regulatory framework for HE suggests that differentiating between providers for regulatory purposes by quality or risk may be more appropriate than differentiating between types of providers.[5]

[1] The Government acknowledges in the consultation document that: "it is not yet clear at this early stage in the move to a new regulatory system whether there will be a direct correlation between a provider's size, and the cost of regulating them."

[2] https://www.sec.gov/info/smallbus/acsec/bradford-doessizematter.pdf

[3] http://www.qaa.ac.uk/en/Publications/Documents/HER-AP-Findings-2013-15.pdf

[4] http://www.lse.ac.uk/accounting/CARR/publications/riskandregulation-31-predicting-quality-failures-in-higher-education.pdf

[5] https://assets.publishing.service.gov.uk/media/550bf3c740f0b61404000001/Policy_paper_on_higher_education.pdf

2.8 **We recommend that an assessment of track-record based on assurance of quality and financial sustainability should be factored into the calculation of registration fees to avoid highly compliant, high quality providers subsidising those with problems or new entrants**. **This would involve a fee reduction for providers where HEFCE and QAA have not had cause to intervene or provide additional support over the course of recent years.**

2.9 The scale of registration fee charges should be determined based on:

(a) A financial stability factor – considering one or more financial ratios
(b) A quality factor – linked to the extent or nature of QA intervention required historically (in future this could be linked to how any outstanding concerns are addressed following the annual provider review)
(c) A survivability factor – this could be set at 10 years (or more), meaning fees would essentially reduce for new providers after they have demonstrated a period of successful operation (in other words, a factor that is linked to protecting the wider reputation of UK higher education).

Costs covered by Government

2.10 The commitment by Government to cover costs associated with the transition to the new body is welcome. We also support the principle that the work the OfS does to achieve broader government policies, economic and societal outcomes will be funded (at least in part) by the Government. **We urge the Department to ensure that the cost of such activities continue to be fully covered by Government over the long-term.**

New entrants

2.11 We question the extent to which the proposed system effectively accounts for the financial sustainability of new entrants. While we acknowledge the Government's intention to open up the sector to further competition, we challenge the premise that placing a proportionate regulatory registration fee on new providers would be a significant barrier to entry.

2.12 Providers entering the UK HE sector are buying into a strong global brand with a reputation for high quality provision. An influx of new providers would expose the sector to a higher level of risk and could undermine the high-quality reputation UK HE providers have worked hard to achieve and maintain. According to HEPI, "the new regulatory framework will be labour-intensive for the Office for Students – the Impact Assessment estimates that it will oversee 580 institutions in 2018/19, rising to over 800 ten years later – which may be hard to manage, leading to reputational risk for the whole UK higher education sector".[6]

2.13 Given the benefits new providers will incur in joining the sector, and the potential risks posed to existing providers, we consider it appropriate for new entrants to bear at least some of the costs associated with the regulatory activity required to monitor their performance. **Should the Government wish to provide financial support for the entry of new providers, these additional costs should be funded centrally rather than passing on the costs to established providers.**

2.14 **In addition, we support the proposals for the OfS to have the power to make a limited number of additional charges for specific services and one-off processes that would not be applicable to all providers. These additional charges should be linked**

[6] http://www.hepi.ac.uk/wp-content/uploads/2017/01/Hepi_The-alternative-providers-of-higher-education-Report-90-04_01_17-Screen2.pdf

exclusively to cases where intervention is required. This approach should lead to a corresponding reduction in fees for institutions that do not incur such charges.

3. Introducing greater efficiency savings

3.1 **Whilst we welcome the safeguards set out in the Higher Education and Research Bill which ensure transparency with regard to the performance of the OfS and the final fee model, greater emphasis should be placed on efficiency savings when transitioning to this new model of regulation.** We note that the business case for the OfS outlines an intention to introduce an estimated 10% efficiency saving resulting from merging functions and the introduction of more efficient systems such as the risk-based regulatory framework. However, whilst limited information has been provided about how the operating costs for the OfS have been forecast, it appears as though the total admin costs of HEFCE (minus 7% for the research and knowledge exchange functions transferring to Research England) and the total admin costs associated with OFFA will simply be transferred across to the OfS.[7]

3.2 **We would like to see the Government incorporate an automatic annual efficiency factor in order to keep fees down over time**. This should reflect the cost reductions which could be achieved through merging HEFCE and OFFA's back office functions as well as reducing duplicated functions such as communications and relationship management. Broader savings may also be realised through shared services and economies of scale. It may be appropriate for the new body to consider outsourcing some functions instead of employing full-time staff.

3.3 Such an approach would be in line with broader commitments which the Government has made to ensure resources are used efficiently and effectively and that regulatory costs are kept to a minimum. For example, the National Audit Office recently recommended that government departments "need to take a more active role in reducing regulatory costs and assessing the impacts of their regulatory decisions." [8] In addition, the Business Impact Target aims to reduce the cost of regulation by £10 billion between 2015 and 2020 by providing greater incentives for regulators to design and deliver policies that better meet the needs of business.[9] Given that students and universities will essentially become customers of the OfS, we would particularly welcome efforts made by the Government to boost productivity and ensure that the resources utilised by the new regulator deliver maximum value.

3.4 **Any resources which providers must pay over to the OfS represent funds which cannot therefore be spent on the core mission of a university: teaching, research and innovation**. **It is reasonable to expect that registration fees are kept to a minimum in order to maximise the extent to which HEIs can focus on their primary functions.**

3.5 **Over the longer-term, the maximum annual increase in registration fees should be limited to inflation given that increases in the tuition fees universities charge for undergraduate taught courses will also be limited to no more than inflation in current proposals relating to the Teaching Excellence Framework.**

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[7] Based on the 2014/15 administrative costs, we have calculated the costs transferring to the OfS as follows: HEFCE (93% of £25m): £23.25m + OFFA: £1.6m =Total (2014/15): £25m. Adjusting for RPIX, we have estimated costs for 2018/19 to be of the order of £27.5m. We note (based on the OfS budget) that new provider support is expected to be around £2m in 2018/19 and we have assumed that these are additional costs. This brings our estimate for the OfS operating costs to around £30m which is of a similar order to the £30.9m figure used in the published budget.

[8] https://www.nao.org.uk/report/the-business-impact-target-cutting-the-cost-of-regulation/

[9] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574972/Business_Impact_Target_Guidance.pdf