

Russell Group response to consultation on Office for Students registration fees

1. Summary

- We welcome the commitment in the Higher Education and Research Act 2017 for the Office for Students to operate in a proportionate and accountable manner, and to take a risk-based approach to regulation. The proposals relating to registration fees do not deliver on this approach however. Larger providers in the “Approved” categories will face high fees whilst smaller providers and those in the registered basic category will pay a minimal fee, irrespective of the risk they pose.
- A more proportionate approach would seek to better reflect the risk which providers pose to students in the calculation of registration fees. Rather than waiting two years before considering introducing a risk-based model, it should be possible to introduce such a model to determine the fee payable immediately using the risk assessment the OfS will undertake as part of the registration process. This would serve to limit the cross-subsidy between providers to ensure the costs imposed are fairer and more transparent.
- In the event this is not considered a viable option, the Government should fund the cost of the regulatory system until an alternative approach which incorporates risk has been determined in order to avoid a disruptive move from one system of fee calculation to a different one in future.
- If provider size is considered as an element within the methodology for calculating registration fees, we would welcome a further consideration of the alternative fee band distribution (Table 2 in the consultation document) with a linear increase in fees rather than the proposed fee band system which involves fees rising faster (i.e. by 30% between bands as opposed to 10%) the larger the provider.
- Formal mechanisms should be introduced to ensure that the regulator operates in an efficient manner and provides value for money for students, providers and taxpayers. An automatic annual efficiency factor should be introduced and maximum annual increases should reflect the broader funding environment for providers. Providers and students should have a formal opportunity to comment on the value for money which the regulator is delivering and the OfS should also use its annual report to consider how to reduce the cost and burden of regulation on the sector.

2. Recommendations regarding the proposed model for setting registration fees

Provider size and type

- 2.1 **The proposed approach to setting registration fees means larger providers in the “Approved” categories (and their students through the fees they pay) will cross-subsidise smaller providers and those in the registered basic category without reference to the risk they pose.**
- 2.2 The Government acknowledges in the consultation document that the proposed approach to setting fees “may be only partly proportionate to the actual costs of regulating providers”, and there is no suggestion that it is reflective of the risks posed to students. Given the commitments in the Act for the regulator to operate in a proportionate and risk-based

manner, we do not therefore consider that provider size and category of registration should be used as the primary basis on which to determine fees.

- 2.3 In the event that the Government remains committed to using provider size as a determinant of registration fees, we would welcome further consideration of the alternative fee band distribution with a linear increase in fees (by 10% between each band - see Table 2 in the consultation document) as opposed to the preferred fee band system (where fees rise more steeply for larger providers by 30% between each fee band).

Establishing a measure for risk

- 2.4 A more proportionate approach would seek to better reflect the risk which providers pose to students in the calculation of registration fees from the outset. Rather than waiting two years before considering introducing a risk-based model, it should be possible to introduce such a model to determine the fee payable immediately using the risk assessment the OfS will undertake as a prerequisite to registration.
- 2.5 Whilst such a model may be more complex (particularly if it also includes an element taking account of provider size and category), it would serve to limit the cross-subsidy between providers to ensure the costs imposed are fairer and more transparent. In addition, the consultation document notes that greater transparency regarding risk could provide some with a competitive advantage and disadvantage others; however, this does not appear to be an additional risk over and above the intention to publish the specific conditions applying to each provider on the register.
- 2.6 In the event that implementation of a risk-based model from the outset is not considered a viable option, we recommend that the Government should fund the cost of the regulatory system until an alternative approach which incorporates risk has been determined. This would reduce the uncertainty and turbulence for providers involved in potentially moving from one system of fee calculation (based on provider size and category) to a different one (based on risk) in future.

New entrants

- 2.7 While we support increased competition in the sector, it should be acknowledged that providers entering the UK HE sector are buying into a strong global brand. Given the benefits new providers will incur in joining the sector as well as the potential risks posed to students and the broader reputation of the sector, 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 other providers.

Other fees

- 2.8 **We welcome the intention to charge separate fees for additional or one-off activities.** We would encourage the OfS to give further consideration to the types of activities which should fall into this category in order to limit the degree of cross-subsidisation across the sector. Activities which could be included within this category include applications for Degree Awarding Powers and University Title, support for market exit and student transfer.
- 2.9 Greater clarity is needed regarding activities referred to in the previous consultation on registration fees as achieving broader government objectives, such as those that realise

economic and societal benefits.¹ It would be helpful for the Government to reconfirm its commitment to funding these kinds of activities including the public sector administrative costs of running the TEF and other initiatives such as Unistats.

3. Recommendations regarding the efficient use of regulatory funds

- 3.1 **The lack of information on the projected running costs of the OfS is a concern.** The Act requires that the OfS uses its resources in an efficient, effective and economic way. The OfS must be accountable for its costs and seek to achieve value for money as the costs of meeting the registration fees levied will indirectly fall on students through their fees.
- 3.2 The Government expects that registration fees will incentivise providers to hold the new regulator to account and ensure it runs efficiently in line with the requirements in the Act. It is unclear how providers could do so, however, as no specific mechanisms are in place to ensure the efficiency of the regulator and providers are not entitled to withhold payment of fees.
- 3.3 **We recommend that formal mechanisms be introduced to ensure that the regulator operates in an efficient manner and provides value for money for students, providers and taxpayers** including:
- An automatic annual efficiency factor should be introduced to keep registration fees down over time. This should reflect the cost reductions that could be achieved through merging HEFCE and OFFA and as a result of the discontinuation of some elements of HEFCE's work in particular, for example the significant reduction in the relationship management role.
 - The proposal to consult on fee increases should be taken further with a cap imposed on maximum annual increases which reflects the broader funding environment (for example, being capped so they never increase more than percentage increases in the headline tuition fee rate).
 - The OfS should use its annual report to consider the cost and burden of regulation on the sector and commit to working with other regulators to ensure that the burden is minimised and proportionate.
 - Providers and students should have a formal opportunity to comment on the value for money which the regulator is delivering, perhaps through an annual consultation process or a standing committee to hold the regulator to account.

December 2017

¹ See: <https://consult.education.gov.uk/he-landscape-reform/office-for-students-registration-fees/>