

Russell Group response to OfS consultation on quality and standards

1. Summary

- 1.1 We welcome the opportunity to respond to this consultation to help build on Phase One of this review and look forward to continuing our engagement with the OfS as it develops its approach to quality and standards.
- 1.2 We support the OfS' commitment to principles-based and risk-based regulation as per the Higher Education and Research Act 2017, which if fulfilled, will better enable the OfS to deliver against their ambition, and the ambition of the Government, to reduce unnecessary bureaucratic burden. We encourage the OfS to ensure the commitment to this approach runs right the way through its operations, requirements and communications so this intention can be translated into reality.
- 1.3 Our response includes a series of recommendations which we ask the OfS to consider as it develops its approach, including for the OfS to:
 - (a) Work to avoid any unintended consequences of removing reference to the Quality Code on the sector's international reputation and comparability of standards across the UK.
 - (b) Encourage providers to undertake enhancement activities in relation to quality and continue to engage with the Designated Quality Body to promote and incentivise this.
 - (c) Conduct an impact assessment on extending its remit to transnational education activities and clearly set out how it would use contextual information when investigating providers operating overseas.
 - (d) Engage with the academic community when making decisions about compliance through already existing frameworks established by the Designated Quality Body rather than duplicating efforts in this space.
 - (e) Work with the sector to develop a better understanding of the pedagogical benefits of digital teaching and learning to ensure regulatory requirements pose no barrier to innovation and enhancement.
- 1.4 In terms of implementation, we are concerned that the OfS plans to introduce these changes mid-way through the academic year and before decisions are made on condition B3 (student outcomes). We would recommend that the OfS delays implementation so that changes relating to all of its conditions of registration are introduced at the same time.

2. Proposals 1 and 2 - Ongoing Conditions of Registration

- 2.1 We agree with the principles behind the proposed revisions to the ongoing conditions B1, B2 and B4, the associated changes to the OfS' regulatory framework, and most of the expectations set out within the detail of the proposals. However, there are instances where the OfS' approach encroaches on institutional autonomy as afforded by the Higher Education and Research Act 2017. For example, under condition B4.3 where the OfS sets out expectations around assessment that specify institutions should look to penalise students for a lack of proficiency in the English language. We recommend the OfS reviews such expectations to ensure they allow for appropriate institutional autonomy, including on how students are assessed.
- 2.2 We share the OfS' commitment to the principle that all students are entitled to the same minimum baseline of quality, regardless of their demographic background or course type. We believe that the contextual factors, outlined by the OfS, are comprehensive and would encourage the OfS to consider external factors outside the provider's control. Ensuring a

thorough and genuine consideration of these factors will help avoid any unintended negative consequences on widening participation efforts.

- 2.3 In general, we welcome the clarity of guidance that accompanies the proposed conditions and the approach the OfS proposes to take to gathering evidence and considering compliance issues. We understand that the OfS will use a provider's current and previous compliance with the B conditions, to determine eligibility for some types of public grant funding. We would ask the OfS to share details of its anticipated consultation on this as soon as possible to better understand the regulator's intentions.

Quality Code

- 2.4 Whilst we recognise the rationale for removing the Quality Code as a regulatory tool, we do not think that the OfS has given adequate consideration to the impact its removal will have on the international reputation of quality in UK higher education and the UK-wide comparability of standards. One specific concern relates to the impact of removing reference to the Code on active student engagement. The proposed guidance for the condition B2 includes requirements for student involvement and defines a minimum requirement, but with no reference to inclusivity, co-creation or collective voice.
- 2.5 **We would therefore ask that the OfS sets out the ways in which it will work with the QAA to promote and encourage providers to use the Quality Code for enhancement beyond the minimum baselines.**

Transnational education (TNE) & non-UK based students

- 2.6 We understand the rationale behind the OfS' intention to extend its regulatory mandate to include higher education provided to all students, both UK-based and non-UK based. However, it is important any activity by England's regulatory body doesn't negatively impact on the UK's reputation abroad or restrict the ability of high-quality providers to develop their TNE programmes and international partnerships.
- 2.7 We are also concerned that the extension of regulatory interactions abroad will create unnecessary regulatory burden when provision is funded and overseen by other jurisdictions. We are currently unclear on how the OfS will use contextual information when investigating providers operating in particular territories and how the OfS would manage conflict of dual regulation.
- 2.8 **Before proceeding with any regulation in this space, the OfS should:**
- (a) **conduct an impact assessment of the proposals on providers and the sector's international reputation.**
 - (b) **clearly set out how it intends to use contextual information when investigating providers operating in overseas territories.**
- 2.9 **The OfS should also be able to demonstrate it has established constructive dialogues with other governments and regulators about its intentions.** This will be necessary to avoid any unintended consequences, for example political fallout that could result from the OfS' activities implying that another jurisdiction's regulatory approach might be insufficient.

Online, flexible delivery

- 2.10 Russell Group universities adapted quickly and effectively to greater online delivery during the pandemic and will continue to adapt their programmes to ensure that digital can continue to be used to enhance teaching and learning and enable greater flexibility. For example:

- (a) During the pandemic the geography department at the University of Liverpool created a 'virtual laboratory', filming, editing and narrating over 150 videos of lab measurements and over 500 microscope images, in the first semester alone. In the 2021/22 academic year the virtual laboratory will continue to be available alongside in-person lab practicals. Since introducing blended learning, module leaders have observed an increase in the quality of the assessment outputs from students.
- 2.11 Further examples of the approach our members are taking to blended learning can be found [here](#). Russell Group universities continue to develop innovative approaches to teaching and learning and are very willing to share their experience and practice with the OfS and other providers. **We would encourage the OfS to work closely with the sector to better understand the pedagogical benefits of digital provision and ensure that regulatory requirements pose no barrier to innovation and enhancement.**
- 2.12 In the consultation document the OfS references that a cause for concern would be "a course delivered wholly or in part online that does not use pedagogy appropriate to online delivery". **Whilst we agree with the principle behind this statement, we also consider that it will be important for the OfS to take current circumstances related to Covid-19 into account when assessing courses delivered during the pandemic.**

Degree classifications

- 2.13 **We welcome the OfS' decision not to include data surrounding degree classifications within their metrics of quality indicators.**
- 2.14 However, we are concerned at the extension of the definition of 'sector-recognised standards' to allow the regulation of undergraduate degree classifications. Whilst we support the sector-developed standards, described by UKSCQA, as a voluntary code of practice, we do not support their formal embedding into the regulatory framework. These standards were not designed for official regulatory purposes and could restrict a providers' ability to act with autonomy.
- 2.15 In December 2020, UUK and GuildHE, on behalf of UKSCQA, published a [progress review](#) of universities' efforts to protect the value of their qualifications. Significant progress is being made in the sector in tackling concerns about grade inflation through the UKSCQA statement of intent and degree outcome statements.
- 2.16 We recognise the need for continued progress to be made and Russell Group institutions are committed to upholding academic standards and the value of students' qualifications over time. In January 2021, the Russell Group published [a statement](#) setting out the approach of our universities to ensure fair assessment and protecting the integrity of degrees.

Access and admissions

- 2.17 **We welcome the decision by the OfS not to create a separate condition relating to access and admissions.** In our response to the Quality and Standards Phase One consultation we raised concerns that these indicators would mean providers would be judged on applicant choice rather than an institution's efforts or performance. It is vital that providers should continue to be able to judge whether an applicant is suitable for and able to complete their chosen course.

3. Proposal 4 - Evidence gathering and investigation

- 3.1 We are supportive of the OfS taking a risk-based approach and the steps set out in the event that compliance concerns are raised by general monitoring seem reasonable. However, it is

disappointing that the OfS has not taken this opportunity to set out the ways in which it will seek to reduce the regulatory and data burden on registered providers. We would welcome meaningful engagement with the OfS on this and would highlight the importance of enabling regional-dialogue and improving channels of communication to reduce this burden.

- 3.2 We would encourage the OfS to engage with the academic community when making decisions about compliance. This should involve utilising existing frameworks, established by the Designated Quality Body, to ensure access to reasoned and evidence-based judgements from experts without duplicating efforts and introducing unnecessary burden and bureaucracy.
- 3.3 In particular, we would encourage the OfS to focus equally on the identification of good practice drawing on previous iterations of review systems by the Designated Quality Body, and still used in Scotland and Wales.
- 3.4 We would suggest amending the sentiment in Annex 1, in respect to condition B1, changing this from the 'OfS would expect to draw on expert academic judgement' to the **'OfS will draw on expert academic judgement'**. This would guarantee the role of external academic expertise in decisions relating to quality, and should be reflected in conditions B2 and B4, respectively.
- 3.5 External Examiners are vital in the process of confirming standards and quality across the sector. In December 2020, UUK and GuildHE, on behalf of UKSCQA, published a [progress review](#) of universities' efforts to protect the value of their qualifications. This includes details on the role of external examiners to support the value of degree outcomes. We would encourage the OfS to work in collaboration with the Designated Quality Body to review samples of external examiner reports, for example, rather than introducing its own inspection mechanism and duplicating the sector's co-regulation efforts.

4. Proposal 5 - Regulation of Degree Apprenticeships

- 4.1 We support the OfS' commitment to ensuring all higher education courses meet the required standard of quality. 14 Russell Group universities deliver higher apprenticeships and in 2019/20, 1,654 learners started higher apprenticeships at Russell Group universities.
- 4.2 The Institute for Apprenticeships and Technical Education (IfATE) is currently consulting on a set of proposed changes to their existing policies that affect the development, approval and operation of degree apprenticeships. We are concerned that this and the OfS' consultation are happening in isolation and would encourage the OfS to work closely with IfATE to analyse the responses to both consultations and ensure these are considered together when deciding on their regulatory approach.
- 4.3 **We would welcome further detail on how IfATE and the OfS will work with providers to avoid conflicting quality mechanisms in regards to external quality assurance and end-point assessments.**

September 2021