

Response to the Office for Students' consultation on a new approach to regulating equality of opportunity in English Higher Education

1. Summary

- 1.1 Our universities are committed to widening access and providing transformative opportunities to talented individuals, regardless of background. They are working closely with schools to help raise attainment, as well as providing outreach and transition support to ensure under-represented students can succeed on campus – and these efforts are paying off. Real progress is being made to improve equality of opportunity, with a 34% increase in the number of disadvantaged students at Russell Group universities over the last 5 years.¹ The new regulatory approach should support institutions in making further progress.
- 1.2 In general, the proposed move to an approach centred on risks to inequality should enable providers to continue taking flexible, varied approaches in response to local and national challenges. The enhanced focus on evaluation activities is welcome, as is the chance for a more nuanced and provider-led approach to interpreting progress.
- 1.3 Building on the removal of universal APP monitoring returns earlier this year, the OfS should ensure its approach to regulating access and participation continues to be proportionate and risk-based. This should include reduced reporting and monitoring requirements where institutions are making progress on their plans. Expectations on evaluation should relate to specified thresholds of good practice and quality rather than setting a general expectation for a provider to “significantly increase the volume and quality of evaluation” regardless of their existing approach. This is especially noting the wider pressures on resources as real-terms funding of undergraduate provision continues to fall and deficits across all subjects increase.
- 1.4 Furthermore, whilst our members are committed to engaging with schools in innovative and ambitious ways, raising attainment especially at pre-16 is not an area over which universities have direct control. The OfS' role should centre on supporting cross-system collaboration as opposed to bringing school attainment into regulatory target-setting. Moves to expect providers to take specific and direct responsibility for raising attainment in schools should be re-evaluated.
- 1.5 This is an opportunity for the OfS to set a clear and long-term direction for access and participation regulation. Access and participation interventions require long-term, strategic approaches to support enhanced impact, which reach well beyond the proposed four-year APP cycles. Universities have shown resilience and flexibility in adhering to, and implementing, new access and participation regulation against the backdrop of a global pandemic and national economic difficulties. Universities need confidence that the decisions made in this consultation, especially those around timings, will be in place for the long term.

2. Proposal 1: Risks to equality of opportunity

- 2.1 The proposal to introduce institutional-level equality of opportunity risk registers should provide flexibility for universities in identifying areas of disadvantage on which to focus. We support an approach that respects the local context in which each institution is operating and

¹ OfS Access and Participation dataset, 2022

that gives universities the freedom to use appropriate data sources to measure progress on their targets.

- 2.2 This proposal calls for an increase in the granularity of information required for each intervention, including the specific investment made, rationale and outputs. This is a shift from expectations of the existing APP strategy where providers submit an overview of interventions and their underpinning theory, aims and evaluation. Whilst it is prudent to create a culture of evaluating the merit and effectiveness of individual interventions, this proposal may increase burden and reduce the flexibility these proposals otherwise have the potential to provide. **We would suggest that the template proposed in Annex D for individual interventions is implemented only for interventions that count for a larger part of the overall investment in tackling the identified risk.** This would reduce the number of times that an institution would need to fill out this template and allow for smaller interventions to be included in the APP against each risk, with a proportionate amount of detail.
- 2.3 We would encourage further details on how providers will be asked to engage with the proposed yearly changes to the OfS Register, which universities will need to have regards to. Whilst providers rightly respond already to key changes in risks to equality of opportunity, as shown by agile responses during the pandemic, it will be important to ensure new processes minimise unnecessary bureaucracy. The change to monitoring earlier this year is welcome and a necessary step to build on. The new approach should be used to support stability and consistency rather than creating points within the APP cycle where the OfS' focuses could change.
- 2.4 Whilst this approach supports the use of a wider range of data sources to measure targets based on institutional risks to equality, our members will benefit from comparability between institutions and benchmarking on previous progress made. For that reason, **we encourage the OfS to provide further clarity in the regulatory notice for the data sources that could be used for each of the markers of disadvantage mentioned that fall outside of the current OfS Access and Participation data dashboard.** For example, there could be a shortlist of suggested metrics and data sources to measure socio-economic disadvantage that universities could choose from.
- 2.5 We would ask the OfS to take into consideration the resource that a change in approach may need. Universities have been instructed to create and deliver APPs in a specific way up until now. **It may take time for universities to embed individual equality of opportunity risk registers into their university-wide strategic plans.** We would encourage the OfS to consider the transition period which will be needed for providers to align their approaches with the new OfS strategy; **this transition would be aided, for example, by publication at the earliest possibility of the final guidance and Risk Register.**

3. Proposal 2: Four-year plan duration and publication of information about a provider's delivery of a plan

- 3.1 We support the clarity and stability that defined cycles can provide for institutions as they plan for various submissions. Access and participation interventions require long-term, strategic approaches to deliver positive change and we would favour as much stability as possible during and across different APP cycles, minimising mid-cycle changes. **We would also support recognition that targets, and intervention planning will often exceed the 4-year cycle.**
- 3.2 As noted in our response to the OfS' consultation on publication of information, we would encourage that all published information is appropriately contextualised and avoids the

potential to mislead external audiences. With respect to publication of judgements around a provider's performance against commitments made in APPs, such judgements will naturally be based on complex and varied information. **We would therefore suggest that publication of any judgements of assessment-based information should only be undertaken by OfS in liaison, and with prior consultation with providers, in advance of publication.** We would also encourage the OfS to carefully consider the potential damage to students' and providers' interests of publishing information about any concerns on progress made on APPs before assessments have concluded, their findings have been assured and the institution has had time to respond.

- 3.3 Whilst our members support the move to a four-year cycle, we are concerned that **TEF and APP submissions are now proposed to fall within a few months of each other**, which may increase burden, particularly within institutions where the same department manages both submissions. We would encourage the OfS to consider sequencing of regulatory activities to minimise unnecessary resourcing pressures.
- 3.4 **We would encourage the OfS to coordinate early provision of technical documents**, including the national equality of opportunity risk register (EORR). This would assist universities in early planning. Clarity on APP submission deadlines is needed as early as possible. We'd also encourage OfS to share provider-level views from the APP revisions process earlier this year, to inform planning for the next cycle.

4. Proposal 3: Format and content of an APP

- 4.1 We share the OfS' aspirations to reduce the length of APP submissions and support the high-level suggestions for the format of the main document and summary version. **However, we would encourage the OfS to keep the reporting of elements such as investment and evaluation plans at a high-level** in support of provider autonomy and minimising burden.
- 4.2 **Our members would value access to any insight or user research** that the OfS has carried out to understand how the summary documents may be used by teachers, parents and current and prospective students. For example, if teachers and advisors will likely use the summary document to advise their students of available support, universities may want to include a list of the pre-university programmes and their weblinks for registration. We would encourage the OfS to carry out such testing of summary document usage if this hasn't been done already.

5. Proposal 4: Targets

- 5.1 We share the OfS' ambition for APPs to maintain clear targets, building on the robust planning members already put into their access and participation activities. We welcome the proposal for increased acknowledgement by the OfS of a wider range of metrics to measure progress, recognising the nuance and complexity behind A&P datasets and progress. This is particularly important for universities to set targets within their local context and institutional priorities based on identified risks to equality.
- 5.2 We look forward to working closely with the OfS in exploring data that universities could use to create numerically measurable targets. **This would be further supported through the sharing of a wider range of Government datapoints with universities** (e.g., household income data, benefits in receipt of, whether the student has an education health and care plan and/or a personal education plan in place etc.). We recommend a closer relationship between the Government, the OfS and UCAS to put in place the correct data sharing agreements and establish an appropriate delivery method for the data.

- 5.3 In addition to this, **our members would value working with the OfS on improving access to Free School Meal (FSM) eligibility data. We strongly welcome the provision of FSM data as part of the admissions process and would value further work to deliver this data earlier in the admissions cycle and in a more integrated format.** Our members work extensively with UCAS through their range of advisory groups and would value a joined-up approach between UCAS and the OfS to ensure that the delivery of socio-economic data like FSM is provided to universities in a way that best supports their efforts to deliver progress.
- 5.4 Given the complex, interrelated nature of A&P interventions, nuance is required in understanding and evaluating progress against targets. **Clarity is especially needed on how the OfS will interpret targets related to areas like pre-16 attainment** where universities are significantly involved but where they cannot directly control outcomes – and so targets specifically for universities would be challenging to meaningfully set. It is also hard to make causal conclusions with this kind of work and the complex nature of evaluating A&P progress reinforces the need for a sensitive approach to publication of A&P judgements by the OfS.
- 5.5 As mentioned earlier in this response, we would welcome guidance on the kinds of metrics and data sources the OfS recommends that fall outside of the OfS Access and Participation data dashboard to support comparability and benchmarking in the sector.

6. Proposal 5: Evaluation

- 6.1 We are supportive of the OfS' increased focus on evaluation of access and participation initiatives. Our members already conduct a great deal of evaluation of their interventions and programmes to ensure that participants are receiving a high level of support, that the programme is achieving its intended outcomes and that investments are being made correctly.
- 6.2 **Rather than setting a general expectation for a provider to “significantly increase the volume and quality of evaluation” regardless of current performance, the OfS should focus on specified expectations of best practice and quality in evaluation.** Our members already conduct a great deal of evaluation of their interventions, a ‘significant increase’ for some, would likely lead to evaluation that is too granular and unhelpful. We encourage OfS to provide further detail on these baseline expectations for evaluation in the new Regulatory Advice 6.
- 6.3 **We would also encourage the OfS to recognise funding trade-offs between delivery and evaluation within access and participation budgets.** As above, members are fully committed to enhancing and expanding their evaluative work. However, committing to “significant increases” in activities – without consideration of a provider’s current level of activities or the impact this may have on funding available for wider delivery will be challenging for some and an unnecessary use of time and resources for others.
- 6.4 We also welcome the OfS' acknowledgement that the depth and volume of evaluation will differ between programmes. However, **we would encourage the OfS to adopt a more flexible approach on the level at which evaluation is expected.** For example, it would be a better use of resources for the OfS to assess evaluation approaches at the wider objective level rather than for each specific intervention.
- 6.5 **We encourage the OfS to avoid disincentivising universities creating programmes that may be difficult to evaluate.** For example, programmes that target young people with no fixed address or reported prior attainment such as refugees and those from gypsy or traveller backgrounds. In other cases, projects may require evaluation across a cycle of far longer

than four years, and OfS assessment of such programmes should support long-term and robust approaches to evaluation.

- 6.6 More widely, our members would support further **regulatory incentives for universities to experiment with interventions**, without the fear of being penalised for poor results in their evaluation. We look forward to working with the OfS on how this can be implemented. For example, regulatory support for innovative approaches might involve a note on the evaluation to indicate that the programme was experimental to avoid reputational damage.
- 6.7 In the longer term, we would **encourage the establishment of a national centre of excellence for access and participation evaluation**, potentially hosted by Transforming Student Access and Outcomes (TASO) to improve accessibility of evaluation data for future widening participation professionals. This can support the OfS' goal of greater sharing of best practice across the sector.

7. Proposal 6: Investment

- 7.1 We support the OfS' ambition for greater clarity on investments made by providers to meet A&P targets. However, **sharing of investment information for all interventions as a mandated part of the APP process would lead to unnecessary burden in reporting granular operational decisions** where universities are autonomous. If implemented, information gained would also require sensitive handling and may not be appropriate for external reference or publication.
- 7.2 **We would instead encourage the OfS to ask providers to assign investment information to their overall A&P intervention strategies, rather than individual interventions or programmes.** The level of reporting on investment then needs to be clarified in the final guidance to avoid disparities in the level of detail provided between institutions who may interpret the guidance differently. This less granular approach would mean universities can provide assurance to the OfS that this planning is happening, without further increased regulatory burden.
- 7.3 **Flexibility also needs to be afforded in changing spending priorities to react to current events.** For example, universities are now rapidly responding to Cost-of-Living pressures and acted decisively at the onset of the COVID-19 pandemic. Universities need to be able to monitor and update investment decisions quickly and without unnecessary reporting burden.

8. Proposal 7: Raising attainment in schools and collaboration

- 8.1 It is right that the OfS notes the role that providers can have on raising attainment and aspirations of disadvantaged young people. As evidenced in their individual APP variations submitted earlier this year, our members already make significant investments towards raising attainment and aspirations of young people in pre-16 education, including but not limited to; sponsoring multi academy trusts (MATs), taking a role in creating curricula in local schools, running regular tutoring and mentoring programmes in key subjects like mathematics and taking active and leadership roles in UniConnect partnerships. Our members value this work and will continue to deliver these programmes and partnerships.
- 8.2 Evaluation is a key part of this work, **but it is difficult to prove causal links between interventions with young people and their level of attainment at GCSE and/or A level/BTEC.** We encourage the OfS to consider the wide range of factors that affect a young person's attainment level including school-level interventions and factors within the home. Expectations on universities to evidence improvements in attainment of cohorts of

disadvantaged pre-16 students also risks undermining the work of schools and colleges in driving school attainment.

- 8.3 **We strongly encourage the OfS to consider an approach where universities are not held to direct attainment targets but are instead expected to play a role in *supporting attainment at pre-16 level*.** We believe proportionate monitoring of school attainment activities is more appropriate at the level of the individual initiative; for example, a university might evaluate a GCSE Maths programme by assessing the confidence levels of participants before and after completing the session.
- 8.4 **The attainment raising focus would be better placed in supporting sector efforts to mitigate ‘cold spots’ of university intervention** and outreach through national programmes that universities can feed into. The UniConnect programme also supports work to improve more joined up approaches and provides valuable funding and infrastructure that universities can feed into effectively and would benefit from ongoing investment.

9. Proposal 8: Assessment process

- 9.1 We support the intention to adopt a regulatory framework centred around risk to equality of opportunity. We note the consultation’s proposal that ‘proportionality’ would involve setting expectations of a provider in relation to its capacity and scale of activity. As above, we would encourage the OfS ensures a proportionate approach through its operationalising of these proposals, including so that low-risk universities and those making good progress on targets face less burdensome A&P regulation including reporting burden. In this regard, we encourage clear guidance on expected levels of reporting.