

Russell Group response to consultation on OfS Strategy for 2025 to 2030

1. Do you have any comments to make on the OfS's proposed strategy for 2025 to 2030 or the priorities set out within it?

Summary

- 1.1 **We support the OfS's central priorities** of quality, the wider student interest and sector resilience. We also agree that the integration of equality of opportunity should be prominent across all three priorities. However, we are concerned that the strategy might lead to regulatory creep and an expansion of regulatory activity.
- 1.2 Truly risk-based regulation would reduce burden on highly compliant institutions and enable the OfS to focus its resource on pockets of risk in the sector. **We would like to see the OfS apply this principle consistently across all areas of its new strategy. This should include identifying areas of work that the OfS could stop doing.** The OfS is already well-resourced and should not be looking to expand any further.
- 1.3 Proposed new activities such as the Integrated Quality Model and Quality Risk Register are currently underdeveloped yet will play a core part of the new strategy. The OfS has also set out work around consumer protection for which it does not yet have the relevant legal powers. **The OfS needs to demonstrate how it will prioritise current and planned work within existing resource and conduct transparent impact and cost-benefit analysis of any new activity.**
- 1.4 We believe there is the opportunity for the OfS to review and rationalise its current and future work plans against new strategic priorities. Existing or new regulatory activity should have a clear benefit to students, institutions and the taxpayer. The OfS should not duplicate the work of other organisations or regulators. **This would ensure the OfS is using its resource efficiently and ensure compliance with its duties set out in HERA.**
- 1.5 We are encouraged to see the OfS recognise the financial challenges facing higher education, and we encourage the OfS to publish more detail on how it will continue monitoring and supporting the financial health of the wider sector. **The OfS should continue to build trust with the sector** to support providers which may be most at-risk of market exit in an early, preventative manner.
- 1.6 **We welcome the opportunity to revisit the OfS's approach to quality to bring the English framework into alignment with the European Standards and Guidelines (ESG).** Early engagement on proposals for a new Integrated Quality Model has been constructive, and we encourage this to continue ahead of any formal consultation.

OfS strategic goals and underlying principles

- 1.7 Proportionate and risk-based regulation is a core tenet of the Regulators' Code, and we are keen to see the OfS continuing to apply the principles of the Code across all areas of its work. We therefore welcome the OfS's acknowledgement that it should have regard to the Regulators' Code as part of its new strategy, and recognition of the importance of transparency and basing regulatory activities on risk. The OfS should consider further improving its approach to consultation and engagement to build understanding and trust with students and the wider sector. To achieve this, we recommend following the government Code of Practice on Consultation and committing to the recommended 12-week consultation

period. The OfS could also look to adopt a consistent publication template for consultation responses to ensure publications are transparent and mutually beneficial.

- 1.8 **We have welcomed the OfS's efforts to increase stakeholder engagement, for example through roundtables and calls for evidence.**
- 1.9 However, there is still work to be done to establish clear communication around decision-making processes and the timing of work. For example, in March 2024 the OfS hosted a call for evidence on its approach to public grant funding, but the sector is yet to see any analysis of evidence submitted, a formal consultation of proposals or statement of outcome. **We therefore welcome the intention to set out planned activity in an annual business plan calibrated to reflect the resources available.**
- 1.10 We agree with the principle that regulatory activities should be transparent, accountable, consistent and, most importantly, proportionate. **We would like to understand how the OfS plans to prioritise activities set out in its strategy and encourage transparency around its decision-making processes.**
- 1.11 To ensure strategic priorities can be met, **we would encourage the OfS to make efficiencies where possible and to acknowledge these in its annual business plan.** This would further demonstrate how the OfS is making effective use of public funds. The OfS should not seek to increase its operational resource further. Instead, it should ensure it has sufficient flexibility in existing staff and resources to deliver its work plans and respond to other emerging issues.

Quality – high quality education

- 1.12 **We want to work with the OfS to further develop its approach to driving continuous improvement and we support the intention that enforcement activity will be targeted at cases where low quality is identified.**
- 1.13 With this aim, we are keen to continue working with the OfS on its approach to a new Integrated Quality Model (IQM) to simplify existing activity by bringing B3 student outcomes, the TEF and quality assessments together. We believe the primary aims of any new IQM should be to drive continuous improvement, encourage enhancement and bring the English regulatory framework closer to European quality alignment.
- 1.14 **We want to understand more about the planned Quality Risk Register (QRR) and what benefits it would bring for regulatory intelligence and an institution's approach to quality.** As it stands, the QRR is an underdeveloped idea and should not feature so prominently in the strategy. It should not be developed until a full evaluation of the Equality of Opportunity Risk Register (EORR) is conducted to better understand the relative pros and cons of a risk register as a tool for ongoing monitoring.
- 1.15 We agree that students should benefit from high-quality courses wherever they study. However, **we disagree that the OfS should fold transnational education (TNE) courses into its quality framework.** The OfS does not have jurisdiction overseas and any attempt to enforce its quality framework on overseas campuses may restrict an institution's ability to comply with local regulations. Given the finite resource of the OfS, further expansion of its activities into the TNE space could see the regulator spread too thinly and unable to deliver effective regulation in priority areas.

Quality – student choice

- 1.16 The OfS’s plan to work with government and Skills England to develop a shared understanding of the national and regional skills needed to support economic growth would support cross-agency working. The OfS already holds a wealth of data on the sector’s size and shape, as well as student outcomes. This data can inform Skills England’s future skills assessments and the role that higher education providers can play.
- 1.17 We welcomed the recent increase in the undergraduate fee cap and have recommended further investment in higher education in phase 2 of the Spending Review. There remains a real risk that the unit of resource required to improve or even maintain the current variety of courses and activity across the sector will continue to decline in real terms. Without a more sustainable funding system, student choice is likely to become more restricted, particularly for students who are less geographically mobile. The OfS should describe how it plans to build on existing work monitoring the financial health of the sector and take a role in contingency planning where necessary – for example, in facilitating discussions where there may be a risk that certain courses could become unavailable across a region or the country if providers make similar decisions in the face of financial pressures. **The OfS could also look to advocate for an increased funding settlement to protect funding for strategically important and high-cost subjects.**

Students benefiting from rich and rewarding education environments

- 1.18 The OfS has set out a refreshed approach to understanding students’ experiences and concerns by working less formally. It should set out how it will determine which matters identified by students would trigger formal regulatory action – with the emphasis on decisions being proportionate and risk-based. Without a pre-defined threshold for regulatory action, the OfS may risk appearing to act either arbitrarily or influenced by the media or government. **We encourage the OfS to work collaboratively with the sector on matters relating to the student interest to avoid duplicating existing activities and increasing burden on institutions. We stand ready to work with the OfS to identify and disseminate best practice around these issues.**

Students receiving the higher education experiences they were promised

- 1.19 We are concerned about the OfS’s proposal to secure powers to “further champion the student interest and intervene as appropriate to ensure that students get what they were promised”. Consumer protection responsibilities already exist under bodies such as the CMA, NTA and OIA. Furthermore, from autumn 2025, the CMA’s enforcement powers will be strengthened by the Digital Markets, Competition and Consumers Act. The public benefit of OfS also having consumer protection enforcement powers is not clear. **If OfS does look to secure these powers, it will be important to justify the associated costs and ensure clarity on their scope and relationship with the powers of other regulators such as the CMA.**
- 1.20 The OfS could be helpful in developing a model student contract with the sector, the CMA and the OIA for providers to use as a template. This would need to recognise that a one-size-fits-all approach will not be appropriate for the diverse range of providers OfS regulates. It should therefore be a light-touch template that sets out sections the OfS would expect to see in a student contract and that would be needed for a provider to be compliant. **An overly prescriptive model contract would restrict an institution’s autonomy to define individual student contracts that reflect their unique offer and student population.**

Sector resilience

- 1.21 We welcome that the strategy recognises the significant financial challenges facing the sector and support the ambition to build trust and encourage institutions to be transparent about their financial position. This will be critical as the OfS looks to build a better understanding of the financial challenges facing individual institutions and the wider sector.
- 1.22 We understand the OfS's motivation to collect data more frequently and flexibly in a way that minimises regulatory burden. However, achieving this is likely to be challenging. We are also concerned by the OfS's plans to "expand [its] data audit programme to identify and address areas of concern". Whilst this statement could relate to increasing the integrity of data, we seek reassurance that any additional data collection will be proportionate and targeted, informed by the OfS's understanding of an institution's risk. Ideally, any new data collection should come with clear information on why the data is necessary and how it will be used, as well as a pilot/impact assessment of the collection.
- 1.23 To improve its approach to data collection, the OfS should first consider lessons from Data Futures and conduct a review of current requirements. We are particularly concerned by findings in the recent independent report on Data Futures by PwC, which highlighted the significant negative impact on university staff involved in the Data Futures project. **As a matter of urgency, OfS should set out the mitigation measures it will take to address staff wellbeing and other concerns raised in the PwC report.**
- 1.24 The OfS should ensure that the data it requests from institutions is necessary for regulatory purposes and cannot be accessed via any other public source. The Independent Review of the OfS recommended that the DfE and OfS engage with the sector in an ongoing, constructive dialogue to reduce unnecessary data burden. We therefore welcome the OfS's commitment to embed the principle of 'collect once, use many times', as per the Regulators' Code. It is also encouraging to see the OfS prioritise working with other regulators and agencies to synthesise data and avoid duplication. **The OfS should look to publish more detail on how it intends to minimise data burden and avoid duplication.**
- 1.25 On plans for the OfS to monitor and communicate the impact of financial pressures on student choice, **we would encourage the OfS to resume the publication of its annual size and shape dataset.** This has not been updated since September 2022.
- 1.26 It is positive to see the strategy document referring to an enhanced focus on good governance. However, it remains unclear how the OfS will apply this in practice. **We would welcome further detail on the OfS's planned approach to monitoring compliance with the current E conditions (regarding governance).** The OfS should make clear how it plans to take a more active, yet proportionate, approach to identifying and addressing barriers to strong governance.
- 2. Do you have any comments about any unintended consequences of the proposed strategy or the priorities set out within it, for example for particular types of providers, particular students, or for individuals on the basis of their protected characteristics?**
- 2.1 We would reiterate comments made throughout this consultation response regarding the importance of a proportionate and targeted approach to regulation. It is important that the OfS remains agile and can act with pace where it identifies an area of concern or an emerging risk. The Regulators' Code suggests that regulators should choose a proportionate approach that **considers risk at every stage of decision-making, recognising the compliance record of those they regulate.** The OfS has applied this principle in its

approach to quality, for example, and made efforts to focus its attention on those providers that are at greatest risk of breaching these conditions of registration. Yet for the most part, the current regulatory framework applies consistently across the 400+ institutions regardless of compliance history.

- 2.2 The OfS now has more than six years' worth of evidence and information on most registered institutions. Truly risk-based regulation would reduce burden on highly compliant institutions and, at the same time, benefit the OfS by better focusing its resource on pockets of risk in the sector. **We would like to see the OfS apply this principle consistently, across all areas of work, as it looks to implement its new strategy.**
- 2.3 We have welcomed the OfS's intention to explore options for alignment with European standards for quality. However, to achieve this, the OfS would need to increase its focus on the experience and outcomes of postgraduate taught (PGT) and postgraduate research (PGR) students. There are currently almost 760,000 PGT students enrolled at UK universities and a further 123,000 PGR students. As with undergraduate students, the postgraduate student community is not a homogenous group and will have different priorities and concerns. Historically, the OfS's work has primarily centred around undergraduate students. The OfS will need to consider how postgraduate students are captured in its approach to a quality and regulatory framework. For example, there are limits to the outcomes and experience data collected on postgraduate students at present. **We would encourage the OfS to revisit the experience survey pilot and understand the limitations and opportunities of the current Postgraduate Taught Experience Survey (PTES). In consultation with the sector, the OfS could develop a proportionate approach to monitoring the experience of these students without over-burdening institutions with a sizeable proportion of postgraduate students.** The OfS should work closely with UKRI to avoid any duplication of requests or efforts.

3. Are there any aspects of the proposals you found unclear?

- 3.1 The Independent Review of the OfS recommended that "to increase efficacy, the OfS needs to concentrate on doing fewer things more effectively". Yet, the strategy document makes numerous references to "extending [the OfS's] focus". We would ask the OfS to make it clear what it is not going to do under its new strategy, and how it will ensure regulatory requirements and activities are necessary to achieving its strategic priorities. **A review and rationalisation of work against new strategic priorities could allow the OfS to operate more efficiently and ensure compliance with its duties set out in HERA.** Such a review could also look at the impact of its activities on providers, to minimise burden where possible and avoid duplicating efforts elsewhere in the sector.
- 3.2 Throughout the OfS's strategy document, there are references to working with external partners (such as the OIA and CMA) and engaging with wider government bodies (Skills England, UKRI and the Industrial Strategy Council). However, there is no reference to engagement or alignment with the wider UK regulatory framework. Lessons can be learned from working with other regulators, both inside and outside the higher education sector. We believe the sector and students would benefit from a greater understanding of how the OfS engages with its counterparts in the devolved nations, other regulators and government agencies. **The OfS should consider how it builds awareness of this work and how it applies best practice to its own strategy and activities.**

4. Our previous strategies have covered periods of three years. For this strategy, we are proposing an extended strategy period of five years. Do you have comments on this proposal?

4.1 The challenges facing the higher education sector require long-term solutions. It is therefore important that the regulator's strategic approach signals stability and consistency to support longer-term planning and change. Any organisational strategy should be applied to everyday activity. **For the OfS to be accountable to its strategy, it should use its annual business plan to report progress on its objectives and reflect how priorities may shift to reflect a rapidly changing sector/environment.** We would also encourage the OfS to include a statement that explains how any regulatory change or action connects to achieving its strategic objectives in consultations and publications.

5. (a) Do you think that our proposed "I" statements appropriately and clearly describe the impact of delivery of our strategic objectives should have on our key stakeholders? (b) Do you think that the strategic objectives distilled in our proposed "I" statements are the right ones? Do you propose any additional "I" statements?

5.1 We find some of the "I" statements to be more useful than others. Whilst they are ambitious, they are also potentially unrealistic in what the OfS, and sector more generally, can accomplish with the resources currently available to them. For example, a taxpayer agreeing with the statement "I am proud of England's higher education sector". This statement is more likely to be influenced by a more complex range of external facing factors, beyond the control of the OfS or an individual institution. Whereas it is easier to understand how, if the OfS is achieving its strategic objective, a student might state "I understand my rights as a student, and I know what to do if I feel I am not getting what I was promised from my institution".

5.2 We would like more clarity on how "I" statements will be used as indicators of success. For example, does the OfS intend to undertake periodic interviews with students, institutions, taxpayers and employers? Without this information, we would be unable to comment on whether these "I" statements are an effective use of OfS resource or way of describing the extent to which the OfS is achieving its strategic objectives.

5.3 There is currently no formal mechanism for the OfS to invite regular feedback from those it regulates. The Regulators' Code (Section 6) recommends this as best practice, and we would therefore encourage the OfS to consider how it might use these proposed "I" statements to collect regular feedback on its own performance on an annual basis.

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