

## Russell Group evidence submission to Industry and Regulators Committee inquiry into the Office for Students

### 1. Summary

- 1.1 **Our universities welcome intelligent regulation as a means to protect students, to secure the strong international reputation of the sector, and ensure providers are delivering consistently against quality baseline thresholds.**
- 1.2 The Office for Students' (OfS) statutory duties as set out in the Higher Education and Research Act 2017 (HERA) are clear and remain important in ensuring that students have access to high-quality education. However, we have concerns over the OfS's interpretation and application of these duties and consider this has led to **a regulatory framework operationalised by the OfS that differs from that originally intended by HERA.**
- 1.3 We question whether the OfS has a sufficient understanding of the burden it places on providers through its regulatory framework, and how that is operationalised, and therefore its ability to assess whether its approach is risk-based and proportionate, as required by HERA.
- 1.4 **We believe there are a number of areas where OfS could take a more effective and efficient approach to regulating, including:**
  - (a) **Taking a truly risk-based, proportionate approach to regulation**, that adheres to the Regulator's Code and allows for consideration of an institution's compliance history and own risk-management systems in the design of the regulatory monitoring, procedures and decisions.
  - (b) **Committing to a more consistent and stable approach to regulation.**
  - (c) **Addressing the issue of increasing data burden**, by adopting thresholds on reporting, reviewing the number of requests for high-quality/ low-risk providers, and addressing areas where regulation is duplicated or data collected and published for other purposes can be reused by the Regulator.
  - (d) **Re-establishing trust and improving communication with the sector**, by establishing an annual formal feedback mechanism, taking greater regard of consultation responses and increasing its engagement with students and providers.
  - (e) **Ensuring its resources are allocated appropriately**, making efficiencies where it can and working with the sector to take a more targeted approach to regulation.

### 2. A risk-based, proportionate approach to regulation

- 2.1 In performing its functions, the OfS is asked to follow "*principles of best regulatory practice, including principles that activities should be – (i) transparent, accountable, proportionate and consistent, and (ii) targeted only at cases in which action is needed*"<sup>1</sup>. **In practice regulatory activities continue to expand, adding unnecessary and unintended burden on low-risk providers, and diverting resources away from delivering high-quality teaching and student experience to compiling data, detailed reports and engaging with the Regulator.**
- 2.2 The OfS is first and foremost a regulator and therefore should closely adhere to the Regulators' Code<sup>2</sup>, which came into statutory effect in 2014. The Code provides a clear, flexible, and principles-based framework for how regulators should engage with those they

---

<sup>1</sup> Section 2, clause 1(g) <https://www.legislation.gov.uk/ukpga/2017/29/section/2/enacted>

<sup>2</sup> <https://www.gov.uk/government/publications/regulators-code>

regulate. As per the Legislative and Regulatory Reform Act<sup>3</sup> a regulator *must* have regard to the Code in determining any general policy or principle. If a regulator decides to depart from the Code then it should have good reason to do so, and this should be made clear to those it is regulating.

- 2.3 We have identified a few areas where we think the OfS could improve its approach to regulation through closer alignment with the Code. For example, in accordance with the Regulators' Code (1.1 and 3.1) we believe the OfS could do more to: avoid imposing unnecessary regulatory burdens, choose proportionate approaches, and take an evidence-based approach to determining priority risks in their area of responsibility.
- 2.4 **We consider that one of the key tenets of achieving risk-based and proportionate regulation is the application of 'earned recognition' in which those who are regulated can demonstrate a record of compliance and thus that they are low-risk.** This approach is recommended in the Regulators' Code (3.4) and reinforced by the principle that "regulatory activities should be targeted only at cases in which action is needed"<sup>4</sup>. The OfS now has five years' worth of evidence to draw on in this respect, in addition to decades (or more) of relevant compliance evidence from the previous regulatory system, to take appropriate steps to reduce the burden placed on the majority of universities and other providers. This could include developing a list of trusted institutions. Alongside this, when determining a risk profile of a provider, the OfS could consider compliance history with its E conditions which relate to governance. **By ensuring that a university's internal processes and risk-management systems are robust and there is evidence of good governance, we believe the OfS could take a more risk-based approach to other areas of regulation.**

### 3. Complexity of the regulatory framework

- 3.1 Since its establishment, the OfS has, on several occasions<sup>5</sup>, changed its approach to regulating providers. For example, all six of the ongoing conditions of registration that relate to a provider's quality, standards and outcomes (B conditions), have been amended in the past year and a further two have been added for initial registration (B7 and B8)<sup>6</sup>.
- 3.2 To ensure compliance, providers review internal practices every time a change is made to the regulatory framework. **Given the frequency of changes, these reviews have required considerable staff time and resource and have often been made more challenging because of the timelines given for implementation.** For example, on 26 July 2022 the OfS published 800 pages on the outcomes of its Teaching Excellence Framework (TEF) and Student Outcomes consultations for providers to consider ahead of the revised B3 condition of registration taking effect on 3 October 2022.
- 3.3 Some regulatory changes have been welcome and indeed have reduced burden. For example, under the Office for Fair Access (OFFA) universities had to submit a new access agreement every year. The OfS has since changed this requirement so that most plans are expected to be approved for four years. It has also removed the annual monitoring return for these plans.
- 3.4 **However, in other areas, changes to the regulatory framework have added burden such as the amendment to Condition B4 (assessment and awards) in 2022.** As a result of this change, institutions are now required to retain appropriate records of students'

---

<sup>3</sup> <https://www.legislation.gov.uk/ukpga/2006/51/part/2>

<sup>4</sup> Part 2, section 21, clause 2(a) of Legislative and Regulatory Reform Act (2006) <https://www.legislation.gov.uk/ukpga/2006/51/part/2>

<sup>5</sup> Seven revisions to the regulatory framework since July 2020, <https://www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/>

<sup>6</sup> <https://www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/>

assessed work for five years after the end date of a course. We believe that this requirement is too broad and unnecessarily burdensome. A recent survey estimated a minimum cost in the range of £270,000 to £1m per institution to establish new systems to collect, collate and organise this information<sup>7</sup>, with larger providers estimating set-up costs of around £5m and annual running costs of £1m. In many cases, the assessment materials required are not in digital form, so the physical storage and retrieval infrastructure required will be substantial. It is also not clear how, when and on what basis the OfS will seek to access these records. The retention period relating to this requirement was not consulted on.

- 3.5 **It should also be noted that changes to the timelines of policy development and uncertainty around upcoming requirements create burden on providers.** For example, whilst we welcome the fact that providers were not required to submit new Access and Participation Plans (APPs) this year, policy development has created considerable burden. Over an 18-month period, providers have been required to submit variations to their APPs, respond to a consultation on proposals to change the OfS's approach to access regulation, and many began to develop new APPs in anticipation of new requirements and guidance.
- 3.6 It is not only the frequent changes and the volume of requests to providers, but the level of detail required that contributes to high levels of burden. In addition to regular and scheduled requests for information and data from providers, the OfS utilises *ad hoc* requests to gather further information. Often *ad hoc* requests are issued at short notice and the rationale is not communicated effectively to institutions. An example of an *ad hoc* request came in May 2022, where a sample of providers were contacted at short notice by the OfS in relation to additional assurance activity resulting from a National Audit Office (NAO) audit of the OfS's finances. Providers were asked for extremely detailed evidence of spending receipts for capital projects, including itemised reporting of purchases of less than £1, with only 5 days' notice to respond. Final responses from individual providers totalled more than 120 pages. The NAO has since told us that the OfS "*should consider at the grant design phase, in consultation with providers, the practicalities of securing the assurance they will need*" and that they "*would hope that the OfS's learning from this year and the recommendations we [the NAO] have made will ease the burden and certainly trigger a more timely engagement than proved the case this year.*"<sup>8</sup>
- 3.7 Following this, the OfS recently announced new capital monitoring guidance<sup>9</sup>, which includes interim annual reports as well as "proof of expenditure" deep dives every 3 years. These deep dives will require providers to present evidence such as invoices, purchase orders, staff time sheets and GANTT charts. These reports will monitor both formula and competitive bidding elements of capital funding where allocations can be relatively small c.£30,000. It is unclear what the justification for this level of monitoring is and we are seeking to work with the OfS (and NAO) to ensure the requirements provide the necessary assurance, whilst being proportionate.
- 3.8 More granular monitoring of student outcomes by the OfS and the publication of associated data (for example at course level and mode of study) has also increased burden on providers as they seek to analysis large data sets to understand their risk of being investigated by the OfS. This is made more challenging given the uncertainty around the Regulator's prioritisation criteria (it has yet to publish its confirmed criteria for the 2023 assessment cycle). One Russell Group university reported to us that the changes have required them to review 180 pages of instructions and technical documentation, from the OfS, to process c. 700,000 rows of data and c. 300 data fields. As a consequence, they have also had to

---

<sup>7</sup> Estimated by AHUA members

<sup>8</sup> Personal communication to Dr Tim Bradshaw, CEO, Russell Group, from Colin Wilcox, Director, Education and Financial Audit, NAO, 24 August 2022.

<sup>9</sup> <https://www.officeforstudents.org.uk/publications/guidance-on-monitoring-of-capital-funding-2022-23/>

rebuild entire data sets and internal reports to align to the new definitions – all of which diverts resource from other student support activities.

- 3.9 Finally, HERA describes that OfS guidance must not relate to, specifically “(a) *particular parts of courses study, (b) the content of such courses, (c) the manner in which they are taught...*”<sup>10</sup>. **However, in practice the Regulator has begun to issue guidance on these matters.** For example, OfS guidance on Condition B4 (assessment and awards)<sup>11</sup> requires providers to ensure the effective assessment of students’ technical proficiency in the English language. Whilst we acknowledge that it is important to have a command of the language a student is studying in, the OfS is specifying areas that institutions should pay particular regard to in their assessment of a student’s abilities, and this does not appear to be in line with HERA’s intentions.
- 3.10 **Changes the OfS has made to its regulatory framework have also meant a step away from alignment across UK higher education providers, increasing the complexity of the regulatory landscape.** For example, the removal of references to the UK Quality Code in the English framework and removing the summative question in the National Student Survey (NSS), which signal a move away from a UK-wide approach to quality. Such moves risk unintended consequences on student perceptions of quality, particularly for prospective international students.

#### 4. Data burden

- 4.1 Universities are among the most highly regulated bodies in the UK. Last year a Russell Group member conducted a full compliance mapping exercise which identified 120 external bodies with compliance oversight of institutional activity. **Providers are regularly asked to provide data to bodies with regulatory oversight but within the OfS (and between multiple regulators) there are examples of misalignment from the principle of ‘asking once’, as per the Regulator’s Code.**
- 4.2 One member of the Russell Group recently estimated that 1,025 days p.a., spread across multiple personnel, were spent on statutory data returns submitted to the OfS, HESA and other statutory return bodies such as OfSTED. This figure excluded time spent on *ad hoc* data requests. Large, burdensome returns require universities to hire teams of skilled data analysts but the pool of experts to recruit specialists from is dwindling. **It is becoming more difficult for universities to respond to data returns as they increase in complexity.**
- 4.3 We acknowledge steps made by the OfS to remove some data requirements, including the HESA data collection on estates and non-academic staff. We also note that it has conducted a review to ensure its requirements are proportionate, including a consultation in 2021 and its Data Futures programme. However, whilst the intentions here have been welcome, our universities report an overall net increase in returns and data requests from the OfS and HESA. For example, whilst Data Futures intended to reduce data burden and make data in returns such as the HESES, ITT (Teacher Training) Return, and Medical and Dental Survey unnecessary, this opportunity has not been realised. One Russell Group university has highlighted that for the Student Return the number of individual data fields has increased from 4.5 million in 2019/20 to 7.2 million in 2021/22. The university predicted a further increase to c.9 million data fields for the 2022/23 collection (under Data Futures). Universities are often sent validation queries on these returns, which frequently focus on individual students and do not seem proportionate or risk-based. For example, querying the non-continuation of 4 students and querying term time addresses of 44 students where postcodes did not match. These detailed queries hold up the entire submission of the return.

<sup>10</sup> Section 2, clause 5 <https://www.legislation.gov.uk/ukpga/2017/29/section/2/enacted>

<sup>11</sup> <https://www.officeforstudents.org.uk/media/084f719f-5344-4717-a71b-a7ea00b9f53f/quality-and-standards-conditions.pdf>

One Russell Group university reported that the increased burden of the student return has increased staff required to complete this from 1.5 FTE to 4 FTE in recent years.

- 4.4 To ensure it is adhering to the principle of 'asking once', it would be helpful if the OfS could identify more ways to utilise data already accessible rather than request providers to return this directly or to the designated data body. We would also welcome the OfS aligning its financial data requests with other statutory bodies, where possible.
- 4.5 A recent example from a Russell Group university suggests the OfS is also not taking a risk-based approach to Prevent accountability and data returns. After having their Prevent systems praised by the OfS, the university in question was asked to explain why it was not reporting more than two Prevent related welfare cases by providing assurances to the Regulator on how its staff recognise risk.

## 5. Communication with the sector

- 5.1 Sector-wide consultations are the predominant method utilised by the OfS to gather sector feedback on changes to the regulatory framework. In five years the OfS has directly hosted 33 consultations, often for periods of 5 to 8 weeks<sup>12</sup>. **In addition to the volume and short timeframes for consultations, the documents are also sometimes difficult to interpret:** By its own (former) measure, only 60% of OfS regulatory documents in 2020/21 met its readability target, with over 600,000 words published by the Regulator.
- 5.2 There are substantial resource implications of coordinating institutional responses, and our universities would welcome more advanced notice of how the Regulator plans to consult. We would encourage the OfS to implement **an annual consultation schedule and commit to a consultation period of at least 12 weeks, as per the Government's Code of Practice**<sup>13</sup>, recognising there might be exceptional circumstances where the OfS may need to collect sector feedback quickly and at short notice.
- 5.3 Whilst our universities welcome consultation, there is some scepticism that the OfS is always genuine in seeking feedback on its proposals. This has resulted from the OfS frequently going against sector feedback and/or only making minimal changes to its approach. For example, whilst approximately two thirds of respondents tended to disagree or strongly disagree with the proposed rating scheme for the TEF, this proposal was taken forward with no changes. **We would welcome further clarity on how the OfS uses sector feedback to ensure it is making informed and effective decisions in relation to quality and standards.**
- 5.4 Last year the NAO<sup>14</sup> recommended that the OfS should communicate more effectively with the sector to build trust and set out ways to secure provider feedback. In accordance with the Regulator's Code (2.6) we recommend the OfS establishes a mechanism for inviting regular 'customer' feedback, including but not limited to satisfaction surveys. **This feedback mechanism would ensure that providers, sector stakeholders and students have a formal route to providing feedback and comment on the Regulator's approach and its ways of working.** We also propose this process takes place on an annual basis and the OfS publishes a response to this feedback (as per the Regulator's Code 6.5).

---

<sup>12</sup> <https://www.officeforstudents.org.uk/publications/consultations/>

<sup>13</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/100807/file47158.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100807/file47158.pdf)

<sup>14</sup> <https://www.nao.org.uk/wp-content/uploads/2022/03/Regulating-the-financial-sustainability-of-higher-education-providers-in-England-Summary.pdf>

## 6. Relationship with providers

- 6.1 Research commissioned by the OfS<sup>15</sup> this year found that most Accountable Officers<sup>16</sup> saw the OfS as ‘seeking conflict with providers’, ‘unnecessarily tough’, and hosting ‘technocratic and unnecessary processes’. **The OfS seems to have lost the trust of the sector and universities anecdotally report that they feel unable to engage with the OfS, either informally or formally, for ‘fear’ of regulatory action.** For example, the OfS recently conducted a Blended Learning Review, where providers who volunteered were assured that it would be an exercise in gathering intelligence and best practice, rather than leading to regulatory action. It has since been reported to us that this was not the case, and some providers were issued with warning letters of regulatory breaches. Providers may not be inclined to participate in future voluntary exercises if they are unclear about the potential regulatory implications.
- 6.2 As part of the significant changes which were made in moving from HEFCE to the OfS, the team responsible for maintaining contact with institutions on a regional basis was cut. Whilst the OfS put in place named contacts for each institution at the start of the pandemic, individuals at our universities are sometimes unaware this is the case and senior members of staff have had limited opportunity to develop established, trusted relationships that provide a channel for informal discussions. **We believe that improving the level of contact between OfS staff and individual providers would improve the OfS’s understanding of local context, limit opportunities for any misunderstanding of the Regulator’s requirements and increase efficiency and effectiveness.** This would help reduce burden for institutions and the Regulator.
- 6.3 The Russell Group has been trying to work constructively with the OfS but has often been frustrated with the lack of engagement and commitment from the OfS on areas such as regulatory burden. Recent communications<sup>17</sup> from the OfS on refreshing its engagement with the sector are welcome and we look forward to a genuine dialogue with the OfS. **Improved two-way communication between the Regulator and those it regulates will benefit both sides, in particular in terms of delivering regulatory efficiency and value for money.**

## 7. Student Engagement

- 7.1 **Whilst the OfS’s ‘Student Engagement Strategy’ is encouraging, there are still a number of barriers to student engagement with OfS policy development.** We recognise that the OfS has a student panel that advises its Board, informs policy development across the organisation, and the Chair of the panel sits on the OfS Board. However, we do not feel that one representative is enough to capture the student voice at a governance level. We would suggest that the Board has more than one student member, as is common practice among our universities, to ensure students feel comfortable raising their opinion and a more diverse range of opinions are heard.
- 7.2 **Russell Group students’ unions have indicated to us that they participate in consultations and OfS events, but that the Regulator could do more to ensure these are student-friendly.** One aspect that would help is for the OfS to more carefully consider the timings of its engagement with students. For example, following the recent TEF, we collected feedback from students responsible for coordinating their institution’s student submission. Many respondents noted the timing of the exercise proved difficult. The exercise took place as many new sabbatical officers were starting their positions and guidance was

<sup>15</sup> [https://www.officeforstudents.org.uk/media/f86acfa2-5c6e-4e6e-9af5-40dada342862/ofs\\_provider-engagement-research-report.pdf](https://www.officeforstudents.org.uk/media/f86acfa2-5c6e-4e6e-9af5-40dada342862/ofs_provider-engagement-research-report.pdf)

<sup>16</sup> An accountable officer is a person who reports to the OfS on behalf of a provider,

[https://www.officeforstudents.org.uk/media/fbda735-b768-40f3-b835-1ed20451aefc/ofs2018\\_29.pdf](https://www.officeforstudents.org.uk/media/fbda735-b768-40f3-b835-1ed20451aefc/ofs2018_29.pdf)

<sup>17</sup> <https://www.officeforstudents.org.uk/news-blog-and-events/blog/refreshing-our-engagement-with-providers/>

published late. Students felt the template provided by the OfS was unhelpful and they lacked clarity on the purpose and scope of the TEF. Furthermore, whilst the OfS welcomes student engagement through consultations, much of the language used in these documents is technical and requires specialist knowledge of the sector making them inaccessible to most students.

- 7.3 **Students would welcome a greater understanding of what the OfS is and what value it brings to their student experience. We would also welcome further work from the OfS to communicate how its regulatory approach has brought benefits to students.**

## 8. OfS's increasing responsibilities

- 8.1 It is worth noting subsequent legislation to HERA has led to further prescription on how the OfS should regulate the sector, including the Skills and Post-16 Education Bill which “*put beyond doubt the fact that the OfS can determine minimum expectations to be used in the regulation of quality*”<sup>18</sup> through the use of absolute measures of performance (for example continuation, completion and progression rates). The Lifelong Learning (Higher Education Fee Limits) Bill, if it receives royal assent, will also have implications for the OfS and expand its responsibilities to include the regulation of modular provision.
- 8.2 The Higher Education (Freedom of Speech) Bill will increase the functions of the OfS, including new monitoring of overseas funding, a new Director of Free Speech and Academic Freedom and the establishment and administration of a complaints scheme which, for the first time, will see the Regulator having powers to intervene in activities of students' unions. The OIA, the independent body for higher education complaints, has raised concerns publicly, which we share, on the confusion a new route for free speech complaints could cause for students. It will be important for the OfS to limit this confusion in the design and communication of its scheme. Furthermore, the new Free Speech Champion will have the responsibility to oversee a complex area of regulation which involves a range of statutory duties. We have sought amendments to the legislation to help guarantee the individual appointed has the necessary experience and legal knowledge to defend free speech and work with universities to help them manage competing legal responsibilities.
- 8.3 Between 2018 and 2023 the OfS received 25 letters from the Secretaries of State. Given the OfS must have regard to guidance issued from ministers, these missives have undoubtedly contributed to the changing priorities of the Regulator. Guidance, along with the legislative changes noted above, has meant an unstable regulatory landscape with increased regulatory activity by the OfS in areas such as grade inflation, harassment and sexual misconduct, freedom of speech and mental health and wellbeing. **This expansion of the OfS's remit and responsibilities is a concern given the questions ourselves and others in the sector have raised around the current interpretation and application of the Regulator's statutory duties.**

## 9. Designated Quality Body

- 9.1 A further example of additional responsibility is the OfS taking on the role of the Designated Quality Body on an interim basis. The OfS has been engaging with the sector on principles that will guide the functions of the DQB, as the responsibilities move in-house. One of these principles outlines the intent to ‘*draw on the independent expert academic judgement, where appropriate*’. We believe that there should be a greater emphasis on the role of academic judgement, which as currently worded implies this may be optional. Whilst the OfS has committed to expanding its pool of academic experts as their assessment activity increases,

---

<sup>18</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1035459/Skills\\_and\\_Post-16\\_Education\\_Bill\\_November\\_2021\\_policy\\_notes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1035459/Skills_and_Post-16_Education_Bill_November_2021_policy_notes.pdf)

it is still unclear how the regulator plans to utilise these experts in practice. **The sector needs to understand how academic judgement will be used by the OfS and this should be communicated to providers clearly to ensure transparency.**

- 9.2 We believe that the original intent of HERA was to establish a DQB independent of sector and political interference. Independence can ensure that the DQB has the confidence of registered providers and supports alignment with the internationally credible Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG). The ESG is a quality standard that is easily understood by other countries in the UK and across Europe (comprising EU member states and beyond). It has been a model of good practice that has been adapted in the ASEAN quality standards and African quality standards. Much of the original design of the ESG centres around an independent DQB, helping to separate judgements on higher education quality from politics. As the ESG says, "*Independence is important to ensure that any procedures and decisions are solely based on expertise*"<sup>19</sup>.
- 9.3 The UK has a strong international reputation for higher education provision, and **we would encourage the OfS and Department for Education (DfE) to work to address issues of non-compliance with the ESG and reflect the importance of alignment with international standards when considering the longer-term arrangements for the DQB.** This is needed to avoid damaging international confidence in the English system and the potential impacts on international student recruitment and international university partnerships.
- 9.4 Finally, in Schedule 4 of HERA there is a requirement that, "*after the end of each annual reporting period, the designated body must prepare and send to the OfS a report about the performance of the assessment functions during the period*". **We would recommend that after a 12-month interim period (by April 2024) – and assuming that another DQB has not been established by then – the OfS should publish a report on its performance as the DQB and present this to the DfE.**

## 10. Value for money

- 10.1 Whilst we want the OfS to be adequately resourced, the cost of the OfS taking on more responsibility falls on providers and ultimately students through the tuition fees they pay. The cost to providers comes directly through OfS registration fees and indirectly through the additional cost of complying with regulation (staff, data systems etc.).
- 10.2 Recently it has been indicated to us that the Secretary of State is considering increasing OfS fees by around 13% for academic year 2023/24. This is in direct contrast to the OfS's commitment, in Autumn 2020<sup>20</sup>, to undertake an efficiency review enabling it to reduce registration fees by 10%, in real terms, by the end of the 2022/23 academic year. **It is unclear how the OfS is scrutinising its own costs and using its resources in an efficient and effective way, as per its statutory duty**<sup>21</sup>. The DfE's initial impact assessment<sup>22</sup> anticipated the regulation of 507 providers by 2022/23 at a cost of £30.6 million (raised by registration fees). Currently, there are just 415 registered providers against costs of £28 million, but for this level of activity the original impact assessment implies a cost of around £23 million. **Before any fee increase, we would encourage the DfE and OfS to consider ways in which the Regulator could make efficiency savings. We also think it**

<sup>19</sup> Page 23, [https://www.engqa.eu/wp-content/uploads/2015/11/ESG\\_2015.pdf](https://www.engqa.eu/wp-content/uploads/2015/11/ESG_2015.pdf)

<sup>20</sup> <https://www.officeforstudents.org.uk/advice-and-guidance/regulation/reducing-regulatory-burden/government-guidance/>

<sup>21</sup> HERA, Section 2, clause 1(f) <https://www.legislation.gov.uk/ukpga/2017/29/section/2/enacted>

<sup>22</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/784986/Impact\\_assessment\\_Introducing\\_registration\\_fees\\_for\\_Office\\_for\\_Students.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/784986/Impact_assessment_Introducing_registration_fees_for_Office_for_Students.pdf)



**will be important for the OfS to clearly communicate the additional value to students and the wider sector of any additional income.**

- 10.3 Currently the OfS uses several different measures as an indicator of the value for money providers deliver for students. These include the National Student Survey (NSS), continuation rates, completion rates, graduate outcomes and universities' financial data. **It would be difficult to develop an objective metric that captures the nuance of how students perceive value for money.**
- 10.4 Previously the NSS included a summative question about the overall quality of a student's course. Our universities value the insight that the NSS gives into a students' academic experience, including having the confidence to say that the vast majority of students are satisfied with their experience. Against strong sector feedback (90% of consultation respondents<sup>23</sup>), the OfS continued with its proposal to remove this question from the survey. During the consultation on changes to the NSS, we commented that this summative question was valuable to both providers and students, and that there was no comparable survey, in terms of scale, that could provide this information.

## **11. Financial sustainability of the higher education sector**

- 11.1 HERA states that the OfS must monitor the financial sustainability of registered higher education providers. The OfS is also required to produce a summary for the financial year in their annual report. Whilst this summary and the projection of future changes to sustainability are welcome, there is little commentary or analysis on the policy or interventions needed to ensure sustainability and protect the quality of provision for students. **The OfS has a statutory duty to protect students therefore we would encourage the OfS to work more closely with the DfE, the Department for Science, Innovation and Technology (DSIT) and other Government departments, as well as UK Research and Innovation (UKRI), to support a holistic view of the pressures facing universities and the necessary policy and financial interventions to support the sector's long term overall financial health.**
- 11.2 Historically, the income English universities receive from student fees and grants to teach UK undergraduate students has approximately covered the cost of delivering this activity. However, Russell Group analysis estimated that in 2021/22 the average amount universities were required to subsidise the teaching of UK domestic students was £1,750 per student per year. We project this will increase to £4,000 by 2024/25 which is equivalent to 43% of the current standard tuition fee of £9,250 in England.
- 11.3 Deficits are being driven by an increase in the cost of delivering high-quality education alongside a decrease in resource and inflationary pressures. The decrease in funding is a result of the freeze in the student fee cap (since 2017) and Government not accompanying this real-terms drop in funding with a proportionate increase in grant funding. The OfS found that between 2018/19 and 2021/22 per student support for education in England declined by 19.3% in real terms<sup>24</sup> and the Russell Group estimates that **by 2024/25 per student funding will be lower in real-terms than in 2011/12, before higher fees were introduced - indeed, it will be at its lowest point this millennium.** Universities now face deficits across

---

<sup>23</sup> [https://www.officeforstudents.org.uk/media/c896af2e-f4b0-400d-a5db-76cdf6b0db86/consultation-on-changes-to-nss\\_analysis-of-responses-and-decisions.pdf](https://www.officeforstudents.org.uk/media/c896af2e-f4b0-400d-a5db-76cdf6b0db86/consultation-on-changes-to-nss_analysis-of-responses-and-decisions.pdf)

<sup>24</sup> [https://www.officeforstudents.org.uk/media/c7329f54-2668-431e-ba14-616892a26586/recurrent\\_funding\\_2021\\_22\\_outcomes\\_of\\_consultation\\_final\\_for\\_web.pdf](https://www.officeforstudents.org.uk/media/c7329f54-2668-431e-ba14-616892a26586/recurrent_funding_2021_22_outcomes_of_consultation_final_for_web.pdf)

all subjects. For example, in 2021/22 we estimated that on average the sector subsidised each medical student each year by £2,460 and many STEM students by £1,940 each year<sup>25</sup>.

- 11.4 Universities continue to address these issues by working even more efficiently. Examples of efficiencies from our universities include: using purchasing consortia to drive down the cost of goods and services; centralising decision making and services; automating processes; and sharing campuses, residences and equipment with other universities. **However, it is not possible to make these efficiencies at a scale, year on year, to cover the increased funding deficit without negatively impacting teaching, research and the student experience.**
- 11.5 The activity that makes the largest surplus for many across the sector, and is therefore primarily used to cover these deficits, is the education of international students. Unlike UK domiciled undergraduate students, there is no tuition fee cap for international students, which means universities can set tuition fees at a level that reflects their international reputation, quality of teaching, and in line with the global market. Surpluses made on this activity have typically been used to support research activity<sup>26</sup>, providing significant additional value to the UK as a science and research powerhouse, but are now increasingly being diverted to cover domestic teaching deficits as well.
- 11.6 It is important to note that all surplus income is used to support university activity. Contrary to comments made by former Secretary of State Jo Johnson to this committee, **universities strive to make their finances transparent and accessible to students and stakeholders. Russell Group universities publish annual reviews or financial statements that detail publicly accessible financial information<sup>27</sup>.**
- 11.7 **There is an opportunity over the next couple of years for the sector and Government to come together and look at a new funding formula that will protect the pipeline of skills and high-quality education for the benefit of students and the wider UK economy and society. The OfS should look to engage and support universities to address the risks to the financial sustainability of the sector, which risk negatively impacting on quality and choice for students.**

---

<sup>25</sup> [https://www.russellgroup.ac.uk/media/6079/final\\_external\\_briefing\\_sustainability.pdf](https://www.russellgroup.ac.uk/media/6079/final_external_briefing_sustainability.pdf)

<sup>26</sup> Noting that in 2020/21, English research council funding accounted for approximately 71% of the total cost of overall activity, a decrease from 76% in 2016/17. TRAC, [https://www.officeforstudents.org.uk/media/d4b74bf2-a06c-464b-8b97-c892a08d32a9/annual-trac-2020-21\\_sector-summary-analysis.pdf](https://www.officeforstudents.org.uk/media/d4b74bf2-a06c-464b-8b97-c892a08d32a9/annual-trac-2020-21_sector-summary-analysis.pdf)

<sup>27</sup> For example at UCL <https://www.ucl.ac.uk/about/how/financial-information> and at University of Manchester <https://www.manchester.ac.uk/discover/governance/corporate-documents/university-finances-at-a-glance/>