

GuildHE response to:

# OfS Strategy

19th February 2025

## About GuildHE

*GuildHE is an officially recognised representative body for UK higher education, championing distinction and diversity in the sector. In this role, GuildHE works alongside UUK as joint guardians of the sector to advocate for institutions within our memberships and on behalf of the entire system.*

*GuildHE is the most diverse representative body in the UK, serving 67 institutions across the nations and comprising universities, university colleges, further education colleges and specialist institutions. Our members are small and large, rural and urban, practice-based and online, publicly and privately funded– the diversity of our membership enables us a unique and valuable perspective into the challenges and opportunities within and for the sector at any given time. Members are principally focused on vocational and technical higher education and include major providers of professional programmes in education and community service; healthcare; agriculture, food, and the built environment; business and law; and the creative arts.*

## Consultation Questions

### **Question 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?**

GuildHE is supportive of the areas of focus outlined in the strategy consultation, but there are several questions about how these will be implemented which we wish to highlight in our response.

We agree with the mission to “support institutions to deliver [these] wider public benefits” but to do this, we strongly encourage the OfS to work collaboratively with the sector to come up with ways in which we can promote wider public benefits beyond short-term employability measures. We want to see success or impact measured differently to take account of the excellence across the whole sector, not just in large-scale, multi-faculty universities. New measures should better respond to and reflect diverse students' motivations and expectations of HE. To understand the broader societal impact of higher education, the OfS should establish a project in collaboration with DfE, ONS and academic and policy experts to map the impact at national and regional levels.

To foster truly impactful collaborative activities between providers and between providers and the OfS, we must move beyond outdated market-driven ideologies that hinder cooperation within the higher education sector. The current regulatory framework inadvertently discourages innovation and partnerships in both teaching and research and has led to some of the communication and relationship challenges we have experienced in the sector. The OfS should make clear how it will respond constructively to the new government agenda about the purpose and value of HE and implement approaches that move away from strict market regulation.

The proposed strategy appears to want to expand the regulator's role without adequately considering which OfS activities could be stopped or deprioritised. The strategy doesn't mention any activities that the OfS will cease. The Chancellor of the Exchequer has recently indicated to regulators across sectors that she expects them to reduce burden to enable growth. This is as relevant to the OfS as it is to any other regulator.

## **Student interest**

We fully support objectives related to student interest. However, policymakers, regulators, and HE institutions must work with students as active partners, not only as consumers. We are concerned that OfS's reliance on surveys, polling, and a small student panel does not encourage embedding the principles of student partnership into its work. OfS should more strongly encourage and grow student engagement activities within the institutions it regulates and utilise networks such as NUS and Students' Unions to support its work.

We also agree with OfS analysis that, whilst students may not prioritise institutional financial sustainability, it is in their long-term interest as it enables their qualifications to hold value over time. However, we are concerned with the proposals for OfS involvement in discussions with students on matters beyond the control of both the OfS and higher education providers. This could raise student expectations and lead to misunderstandings about the OfS's remit, resulting in the OfS's resources being misdirected and mission creep. Such actions may also be perceived as regulatory overreach, particularly in the context of the government's drive for leaner regulation.

Whilst we understand the framing around the student interest to be related to consumer issues, not everything in the student interest is a consumer interest, and not all students are legally defined as consumers (only those who take out a UG fee loan). Furthermore, there are other regulators in the country whose specific responsibility is to protect consumer interests in the broadest sense. A more coherent collaborative system is needed between OfS, CMA, Trading Standards and ASA, for example, to reduce duplication and ensure efficient regulation wherever possible.

Throughout the document, the OfS refers to "promises" HEIs provide students. We do not think this language is correct or helpful. HEIs provide information to applicants on the scope of programmes, but due to the very nature of academic practice, some courses change over time (often for the better), which has always been the case to ensure up-to-date curriculum contents and teaching pedagogies, for example. For the most part, therefore, providers are not making promises to students, but setting out a framework of expectations with regards to the shape, feel and outcomes of their courses.

## **Sector Resilience**

We agree with the statement that effective leadership and accountability mechanisms reduce students' exposure to the consequences of risk concerning sector finances. However, this section ignores the huge financial pressures placed upon the HE sector that are not of its own making. Without increased financial support, institutions are making tough decisions about course closures, staff employment and student support, all of which may have consequences for the student experience.

While we agree that the OfS needs to better understand institutional financial pressures, it cannot be a passive viewer of the data. If it wants to support students' interests, it must collaborate with the sector to make the case for additional government funding to protect our world-leading HE delivery. It must also reconsider and address its role in increasing the financial and regulatory burden on the sector by minimising these.

Diversity is a necessary ingredient for a successful and sustainable higher education sector. Global educational experts and commentators contend that the loss of diversity in mission and distinctiveness is a major contributor to the declining public support for higher education in the United States and other countries with large higher education systems, including Australia. This homogenisation, evident in institutional, mission, operational, and aspirational similarities, leads to a scenario where every institution strives to ["be all things to all people" and thereby offer "the same thing for only some of the people."](#) Unlike their more generalist counterparts, specialist HEIs prioritise depth over breadth. They delve into specific disciplines, professions or industries, providing students with a more comprehensive and nuanced understanding of their chosen field. Many require a high number of contact hours (over 25 per week) to fulfil the learning requirements. This focused approach fosters knowledge and skills that is often unmatched elsewhere and is increasingly in demand to tackle 21st-century challenges.

Community-oriented HE providers also have a distinctive mission to serve their regional areas and to offer HE experience to those who would otherwise be unable to access it. There are HE institutions that heavily invest in academic and pastoral student support, have low student-staff ratios, offer online or blended delivery, and institutions whose teaching staff is primarily drawn from current practitioners. There are also providers who are best served to support students with specific disabilities, those who are research-intensive, those who are faith based, or offer students opportunities to work directly with industry during their studies. We cannot and should not undertake discussions of institutional efficiencies and sector resilience without ensuring a strategy to protect the diversity of our sector. Without this, we risk sleepwalking into mergers and consolidations that strip out these choices for students, homogenises the sector, and the OfS fails in its duty under HERA to protect sector diversity.

Furthermore, there must be a much better relationship and understanding of all of HE's business, not just UG teaching and learning. Partnering with Research England, UKRI, DSIT, DHSC, DCMS etc will be vital to both understanding our income sources and how we contribute more broadly to economic and societal growth.

Whilst the strategy provides some indication of the work OfS may undertake to improve institutional governance, it must be aware of the collaborative approach to governance enhancement GuildHE, UUK, and CUC are [already undertaking](#) together. Furthermore, HEIs are noting a considerable increase in governor engagement with regulation already, and we reject the premise suggesting that financial resilience is all a case of good governance instead of the broader financial pressures facing the sector.

## **Equality of Opportunity**

GuildHE members are deeply committed to equality of opportunity, and our members strive to improve the diversity of students who enter HE and enter professional occupations. However, HE providers are one piece of a complex puzzle in equality of opportunity, and the number of pressures and challenges placed on our sector, combined with the wider system (such as schools, local authorities and the NHS), can prevent our efforts from being as effective. We have been asked to do more and more with fewer and fewer resources. We have been plugging school attainment gaps, providing clinical mental health

support to backfill NHS capacity and battling against cost of living challenges where student income is not keeping up. Our efforts so far have led to a narrowing of the equality gap despite stretched resources. However, the OfS should be realistic in how HEIs can continue to provide these activities and the resources that we must use to support our current students.

Whilst we often link equality of opportunity to student outcomes and quality, it should also be thought of in relation to sector resilience and maintaining choice for students. Not all HEIs are equipped to support all diverse students, and not all students want the same thing from their HE experience. Furthermore, the OfS recognises the financial pressures of running specialist HE provision which contributes to student choice and, therefore equality of opportunity, as many of these institutions are globally renowned for training the most successful graduates. However, specialist institutions need additional funding support to continue to operate. We are therefore supportive of the world-leading and performing arts specialist funding streams and hope to continue discussing with the OfS the future of grant funding to enable our specialist institutions to best offer their unique student experience to diverse students.

## **Quality and Enhancement**

GuildHE has long advocated for changes to the regulatory framework and greater transparency in OfS's investigations of academic quality issues. At present, it is felt that the current regulatory approach does not adequately support diversity in higher education. This is not just an issue of an institution's size but also the varied aspirations and institutional missions, with some HEIs focusing on unique and specialised education. The quality assurance framework should be flexible enough to allow the ambitions of individual providers to flourish. Unfortunately, the current proposed strategy does not clearly reflect this necessity.

The proposed integrated approach to quality may address inconsistencies in OfS's past quality reviews. For example, the OfS's current approach to data is complex and inconsistent. Different datasets are used to monitor various aspects of quality which is not ideal with TEF, APP, and B3 all using different student populations and algorithms. The "[Evaluation of the Revised Condition of Registration on Student Outcomes \(B3\): Case Study Thematic Report](#)" noted amongst other things, a narrow focus on metrics at the expense of broader educational goals, and the regulatory burden that impacts workload and resources, especially in the current financial climate. Small or specialist providers cannot rely on the data from the Student Data Dashboard for internal reporting or monitoring due to issues such as outdated data, data suppression, and data rounding.

Furthermore, we have offered our support to the OfS in developing new, efficient, and transparent processes for registration, DAPs, and UT. It is unacceptable that some of our members have waited eight months for their DAP applications to be processed, and the OfS still considers them to be 'at early stages'. These processes are essential for institutional development, student experience, and the sector's financial health.

The OfS's current quality approach has created unnecessary tension between sector-agreed standards and OfS requirements, which is a key frustration for the sector. We recommend that the OfS leverage existing sector-agreed standards and best practices and promote UK-wide alignment and collaboration. This will help institutions understand core expectations set by academics, which is particularly important for new and evolving HE institutions and recognises universities as autonomous awarding institutions. It is also crucial for our global reputation and for students in the UK who have a free choice of providers. ESG compliance (or an equivalent way we can signal the credibility of our quality

processes internationally) is something which the OfS urgently needs to work towards to support our international activities. We look forward to working with the OfS to develop this new integrated approach to quality.

While the suggestion of a Quality Risk Register is intriguing, we are concerned that it may draw unwarranted attention from our global partners, potentially impacting their assessment of the English sector's health. Quality and equality of opportunity are different; academic standards require compliance with all aspects, not just specific activities. The EORR was developed after extensive consultation with the sector, but its effectiveness in improving provider behaviour has not yet been evaluated. We would like more information about the potential contents and use of a quality risk register before providing further feedback.

TEF has been a valuable exercise for the sector to reflect on its practice and has incentivised enhancement in some providers. However, the exercise is overburdensome, the data overly complex, and the exercise itself could be considered unfair for providers with smaller data sets or those who cannot afford to hire external consultants to write their submissions. Furthermore, whilst many institutions have benefitted from the marketing that comes with a Gold-Silver-Bronze award system, there is no robust data to show it has genuinely influenced student behaviour or improved the international understanding of how we assure quality in our sector. In fact, it has led to some misunderstandings as TEF is seen as a quality marker rather than an "above baseline" measurement tool. Any future assessment of provider quality should be an integrated process which meets ESG compliance requirements. A process that removes the element of 'competition' from enhancement activities would also strengthen our global position. Providers should be commended for impactful activities rather than rated. We also strongly welcome an approach that genuinely recognises a provider's context - something that can only really be accounted for through concentrated dialogue between assessors and the provider.

We are less sure of the extent to which the OfS can and should be the key driver of enhancement in the sector. Not only does it have a fractious relationship with providers who do not yet [trust the OfS to operate in an enhancement-led collaborative way](#), but there are inherent tensions between the OfS's duties to monitor and penalise providers and enhancement activity which promotes experimentation and offering support to the sector to enact good practice. It would also require more staff resources, and we are not supportive of an increase in OfS fees. Any sector-wide enhancement programme is best managed by a sector agency experienced in enhancement, such as the QAA, since they operate in a UK-wide context (which is good for our global standing and UK students), have a wealth of experience in evaluating and embedded enhancement across the sector, and are more connected to quality practitioners and academics in the sector than OfS resources could allow.

The capacity to increase resources to support an enhanced data infrastructure to support TNE regulation is also not, in our opinion, available. JISC is still working through implementing data futures (including the new in-year approach), there is a consultation on the staff record, and providers only have finite resources to meet continuously changing data requirements. We are also unsure of the practicalities of centralised regulation when overseas provision is based on a mutually shared purpose that may not always align with the specific needs of the English regulator. A one-size-fits-all approach or imposing standards based on an English context would therefore be unsuitable and reductive.

**Question 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 groups of students, or for individuals on the basis of their protected characteristics?**

The sector's diversity is its strength. We must avoid policies that undermine the unique contributions of our diverse institutions and must actively invest to protect them. Many of our concerns and recommendations around how we believe the OfS should reform to meet its duty to encourage and maintain diversity in the sector were echoed in the House of Lords investigation into the OfS and subsequently picked up by Sir Behan's review, but there is more which needs to happen quickly to secure our world-leading status for the future.

This primarily relates to the need for the OfS to demonstrate a much greater commitment to, and active pursuit of, its responsibility to maintain a diverse higher education sector under the Act in its new work plan that flows from this strategy. Current decisions being made about operational resources (such as pausing OfS registration, DAPs and UT) work against the interest of protecting the diversity of our sector. Similarly, current structures for competition funding and an inflexible regulatory framework also jeopardise sector diversity. While the OfS SPG grant formula considers student numbers, other funding initiatives often favour larger institutions, creating an uneven playing field. The significant disparity in resources for bid writing between providers, coupled with tight deadlines for bidding and project delivery, creates an uneven playing field. Additionally, the focus on high return on investment thresholds, which smaller institutions often struggle to meet, further disadvantages them. An analysis of where funding competitions have been successful shows that specialist and FE providers are not gaining the full benefit of these funding opportunities. There should, therefore, be a requirement to ensure that diverse institutions are provided funding and that the funding supports genuine innovation and collaboration in the sector.

More transparency is needed about how OfS's work will not stifle innovation and will be fit for purpose in this age of HE reform, which will include more mergers, federations, cost-sharing and partnership activities. Therefore, the regulatory framework needs urgent reform to ensure it meets the needs of our modern sector. Franchise providers who will be asked to register from August will struggle to meet many of the conditions of registration. The LLE will fundamentally change how success is measured and in its current form, it actively works against provider collaboration. For example, we represent all of the HEIs who were once part of the Conservatoire for Dance and Drama. As they went through the registration process, it was clear that this would be impossible as a federated model as the OfS required individual providers to have ownership and oversight of all activities and resources which impacted D1, E2 and E3 conditions. There will be interest and drive from providers to develop new partnerships and federations to meet the financial challenges. The OfS cannot have a regulatory process which frustrates this pursuit.

We have examples from our members of time delays, lack of clarity and heavy-handed communications when dealing with OfS colleagues, which are particularly challenging for institutions with smaller staff teams. We recognise that the OfS resources are finite, but it is no different in our institutions, which do not have the luxury of pausing their regulatory compliance. In fact, our smaller members pay disproportionately for the privilege of being regulated. For example, a provider with 25 students pays a flat fee of £14,220, which is no less than £568 per student or 6% of total tuition fees (approved fee cap) compared to a provider with more than 20,000 students paying a flat fee of £214,485 which is no less than £10.70 per student or 0.11% of tuition fee income (approved fee cap).

This shows that regulatory fees are unbalanced, unfair and not based on the quality or risk of the provider. We strongly recommend that this is rectified to level the playing field.

Furthermore, the OfS does not have a genuine understanding or respect for the different resources of providers of various sizes. It imposes universal abbreviated deadlines for activities and inquiries, which disadvantages smaller HEIs that do not have the absorptive capacity within their teams to respond that quickly. In most cases, it is the same 1-2 people undertaking all OfS queries, data, consultations, etc.

The OfS's activities are primarily centred around traditional undergraduate programmes, and as such the current priorities outlined in this strategy do not adequately address the specific needs of PGRs or Postgraduate Taught Students. Whilst there is less comparable data on PG students, they are still important students in our ecosystem and the OfS could do far more to support their student interests.

**Question 3: Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.**

Despite being the primary funders of the OfS, HEIs have not received any indication of how the OfS plans to implement the Lord's recommendations on resource accountability. HEIs have a right to understand how the OfS ensures value for money and efficiency in its work plans, especially as annual fees have significantly increased (18% last year), but provider experience has not improved.

There are numerous examples of OfS inefficiency, including:

- Failure to respond promptly (or at all) to providers who have submitted evidence as requested by OfS.
- Four-month delays in responding to provider registration requests.
- Eight-month delays in responding to provider DAPs requests (multiple examples).
- Significant delays in informing providers of APP acceptance and sign-off.
- Registration and university title application processes taking more than 2 years to complete.
- Delays to consultation publications which then squeeze the time for providers to respond.
- The perceived reliance on lawyers and expensive external consultants.

The Strategy provides warm words on developing “*relationships [with HE providers] based on respect, confidence, trust and reciprocity*” but the document offers no specific examples of how this will be achieved, and no resources allocated to meet this aim. Therefore, we agree with UUK that the OfS needs to establish a provider panel or other processes, such as an annual survey to monitor and evaluate its impact on the sector and ensure that it provides a good service that does not significantly increase institutional burden and cost. Furthermore, more resources must be deployed to build trust between the OfS and providers.

While we agree with the strategy's aims, we are also less sure of the extent to which the proposed actions that underpin them are the right ones. It is unclear to what extent these will be future-proofed, and some are incredibly specific without proper consultation with the sector before they have been included in the strategy (for example, the quality risk register or the model contract).

There are also several areas where the OfS have provided no indication of future activity. For example, how it will rise to the challenge of regulating the LLE, how it will improve its internal processes to make registration and DAPs more efficient, how it will monitor and reflect on regulatory burden and its role in provider sustainability, and how it will have regard for its duty to protect the diversity of the sector. The

document also does not indicate the timeline of delivering any of its commitments, so it is challenging to understand the short, medium and long-term plan.

While the aim to lessen regulatory burden through improved data intelligence and collaboration with other regulators is referenced, no specific actions have been provided to achieve this. In fact, the proposals show an instance where the OfS plans to assume a duty currently held by another regulator (CMA). Collaborative activity is increasingly crucial for the OfS. As Higher Education Institutions expand their operations and offer more tertiary and innovative qualifications, it will be essential for the OfS, ESFA and PSRBs to work together to minimise regulatory burden. The Lifelong Learning Entitlement and Growth and Skills Levy will also be key drivers of qualification diversification. Therefore, a stronger commitment to working with Skills England is needed - not just in analysing the value of qualifications but also in collaborating on quality assurance and regulatory processes that may result from skills reform.

Furthermore, we agree with the UUK proposals to bring together government departments and regulators to share data and intelligence better to ensure an efficient and effective regulatory approach.

**Question 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?**

This is in line with many other organisations. However, the sector is undergoing a period of significant change and stretch. Therefore, the OfS may wish to consider whether this is flexible enough to accommodate issues that have not yet surfaced. While the overarching four themes may be fit for purpose, the specific activities within them will probably not stand the test of time.

While the regulator should be independent of the Government and the strategy provide stability irrespective of political developments, there are several areas we know the OfS will need to respond to, including the LLE, franchise provider registration, Access and Participation priorities and freedom of speech complaints scheme and consumer protection powers which remain subject to legislative changes. Furthermore, we are all aware of the government's intention for sector reform to which the OfS will need to have regard for in any future work plan setting. We recommend the OfS consider a mid-term review of the progress and content of the strategy.

**Question 5**

**5a) Do you think that our proposed 'I statements' appropriately and clearly describe the impact that delivery of our strategic objectives should have on our key stakeholders?**

We are not sure of the purpose of the I statements, but they do make sense as markers of aims to work towards. However, we are not convinced that if the strategy is achieved, all of these would be 'true' as the public perception of HE is vast, political and often misconstrued. Furthermore, the strategy contains many different aims, objectives, intentions, and deliverables, but not all of them are reflected in the I Statements, and not all of these statements can be SMART.

Some of the statements are also not clear. "I am fairly and effectively assessed, and confident that prospective employers will recognise the value of the qualification that I achieve" - these are two

different issues, and won't, for the most part, have a good understanding of how an employer would recognise their specific qualification outside of the 'prestige' market, which forms part of the public understanding of universities.

"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." and "I'm getting what I was promised when I signed up for my course – my hopes and expectations when I chose it are being met." are too similar and misdirects students into thinking that their hopes and expectations are aligned with the way in which the course was communicated to them. "I understand my rights as a student and I know what to do if I feel I am not getting what I expected" is a much better statement - and would enable the OfS to understand student expectations and if they were practically aligned with a provider's comms. As we have mentioned previously, we are not comfortable with using the word "promise" as for the most part, providers are not making promises to students but setting out a framework of expectations regarding the shape, feel and outcomes of their courses.

**5b) Do you think that the strategic objectives distilled in our proposed 'I statements' are the right ones? Do you propose any additional 'I statements'?**

For providers, we would like to see more thought put into the I Statements as users of the OfS. So for example

- "I believe that the OfS works efficiently and is supportive of the health of the HE sector as a whole."
- "I believe the OfS understands different HE providers and their unique contexts."
- "I feel the OfS have built sufficient confidence, trust and reciprocity in its processes to enable effective collaboration."
- "I agree that the OfS has enabled efficient and effective regulation which works in partnership with others to reduce sector burden."