

Consultation Questions

1. What do you think about how we propose to measure intensity of study?

- **What are the benefits of this approach?**
- **Do you have any concerns about this approach? If so, what and why?**

GuildHE agrees to the proposed approach to measure the intensity of study, our providers offer many different forms of delivery including accelerated programmes, degree apprenticeships and part-time study and welcome a new way of accurately measuring student numbers.

2. What do you think about our proposal to include overseas activity once reliable data becomes available?

- **What are the benefits of this approach?**
- **Do you have any concerns about this approach? If so, what and why?**

Whilst in principle we believe that TNE data should be included in provider student numbers, we must be careful to ensure that the rules of home-based collaboration are replicated in the overseas calculation. For example, an overseas campus owned/co-owned by a UK university should, of course, be included as those students will be directly registered with the UK HEI and these students will have access to the protection of the OfS. But a validation only collaboration may need to be treated differently, and in the same way as UK collaborative provision, the student may be registered with the partner institution, rather than the validating partner.

Our main concern with this consultation more generally relates to exactly what the OfS is regulating. Is it based on how the provision is funded, is it about protecting the standards of UK HE awards, or is it about Level 6+ on the FHEQ or Ofqual register? We recognise it is in practice combination of these, but not all providers of L6+ provision (on either qualifications framework) need to apply to the OfS register unless they want Tier 4 or access to the student loan book. The OfS needs to be very clear with the sector about exactly what it is regulating and how it will protect students' interests in non-traditional delivery models especially.

We do not believe that providers who deliver education overseas and whose students do not receive a UK award should be included in their calculation of student numbers.

3. What do you think about our proposal to include all higher education provision, including provision the OfS will not generally fund, such as provision listed on the Ofqual register of regulated qualifications?

- **What are the benefits of this approach?**
- **Do you have any concerns about this approach? If so, what and why?**

There is no value to the students on non-FHEQ L4+ awards to be regulated twice. All it does by including these students in the calculation of student numbers is inflate the regulatory cost for providers. Doing so, would in our opinion further confuse the HE and FE landscape, as not all providers in this space are required to register with the OfS, or would receive any benefits of doing so if they do not deliver prescribed HE.

There may however be a case for the OfS to collect intelligence of how the provider is managing their non-FHEQ awards, in order to see a rounded view of a provider as a whole. But these students should not be used to calculate student numbers and there should not be any additional burden on providers to supply this data to the OfS, or could trigger a monitoring visit from the OfS, but be passed on to Ofqual and Ofsted.

Your communications around working with other parts of the sector have focused solely to date on how you will work with UKRI and Research England. Yet for the purposes of this consultation, we would like to see far more on how you will be working with the FE sector, and ESFA in particular in sharing intelligence if indeed the OfS wishes to 'co-regulate' non-prescribed HE qualifications.

It is also important to add that these FE students studying non-prescribed courses do not have access to the same rights as HE registered students, they are not protected by the OIA, do not complete the NSS, Graduate Outcomes etc, so there is limited comparable data for the OfS to use in its regulatory functions, and shouldn't be used in TEF.

However, we recognise that this approach is of benefit for some OFQUAL mapped qualifications such as apprenticeships. It could also support us to collect data on the quality of this provision delivered by OfS registered providers compared to those unregulated by the OfS. And it will help the OfS to have a well-rounded understanding of providers and the courses they deliver.

We, therefore, agree in principle that the OfS could collect this data - as long as there is no additional burden on providers to give this data. The OfS will need to work with the ESFA to data share so providers only need to submit it once. But we do not believe that for the purposes of calculating student numbers, these students should be included, as they will receive no additional benefits of being regulated twice.

4. What do you think about our proposal to use existing data, where possible, to calculate student numbers?

- **What are the benefits of this approach?**
- **Do you have any concerns about this approach? If so, what and why?**

GuildHE supports processes that minimise the burden on providers. Many institutions are small and have limited resources, so agree with the OfS working with other agencies to share information. Our only concern is at present the ESFA ask for different data in a different format. We hope the OfS can come to an agreement with the ESFA on data sharing so that providers undertake minimal additional data and work towards a common approach to data collection.

5. We have proposed that the same approach to counting student activity should apply across all the regulatory activities mentioned above (i.e. to assess applications for degree awarding powers and university title, to determine mandatory participation in the TEF and to determine what band a provider is in for registration fees).

- **Do you have any concerns about its application to one or more of these activities?**
- **If so, which one(s) and why?**

Student number calculations are of course complicated because on the one hand, a single provider is overall responsible for academic standards, but both the validating institution and the delivery provider have responsibility to provide a good quality student experience. We don't believe therefore that registered student numbers should only be used in calculating eligibility for TEF, and students apply most often to the delivery provider, rather than the validating institution. Although much of the validated provision will be covered by a 'registered student' approach at the delivery providers which will provide accurate data to prospective students, using registered data would potential be skewed for larger providers with franchised provision.

The terminology is also very complicated at present. 'Registered student' status is based solely on where the money goes, and not necessarily based on who has responsibility for academic standards and learning opportunities. We hope that with a new regulatory framework, the OfS may wish to think again about the labels used to provide more transparent information to students and the public.

We agree that the principles for calculating student numbers should be the same across all of OfS regulatory functions, but DAPs and University Title are different regulatory processes to the TEF. The TEF provides ongoing reassurance to the sector that providers are monitoring their provision appropriately and provide a good quality student experience, but DAPs and University Title are the start of a provider's journey to manage their own academic standards.

We would like to reiterate here our objection to the OfS regulating non-prescribed HE formally in its processes. The same data will not be available for this provision and so should

not be included in TEF etc. However, intelligence on non-prescribed HE could be useful in the DAPs/University title process. It may also be true that overseas distance learners are also not eligible to complete the NSS/Graduate Destinations etc.

6. Overall, what do you think about the proposed principles of the new method for calculating student numbers?

- **Is there anything you would like to see added? If so, what and why?**
- **Is there anything you would like to see changed? If so, what and why?**

GuildHE supports the development of a methodology to more effectively capture the intensity of study, but hope the OfS will use this opportunity to better define the terms 'taught' and 'registered' students as their meaning has been changed post HERA. In order for the OfS to monitor the quality of UK HE it must look at both who validates the programme and who teaches it, as well as who receives the direct funding. Students usually apply to the provider they wish to attend, rather than to a validating institution and then choose which site to be taught at and so in order to protect the student interest, the OfS must give due regard to taught student data and how the course is being delivered.

We are concerned that the OfS approach to TNE and non-HE funded provision is unfair. The OfS continues to say that 'HE providers don't have to register with the OfS unless they want to receive the benefits of direct funding, student finance and Tier 4'. Yet overseas and non-prescribed HE do not get to redeem any of these benefits and are not taking any HE designated public money from the system. Non-prescribed HE that is ESFA funded is also covered by another regulator. Therefore we disagree that these students should be calculated in student numbers for the purposes of determining a registration fee when there is no direct benefit to these students or the providers.