



**OfS consultation on regulating student outcomes**  
**Response from the Chartered Association of  
Business Schools**

17<sup>th</sup> March 2022

### **General questions regarding this consultation**

**Question 1: Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.**

**Proposed comments:** In general, our members found the proposals straightforward and clear.

**Question 2: In your view, are there ways in which the objectives of this consultation (as set out in paragraph 7) could be delivered more efficiently or effectively than proposed here?**

**Proposed comments:** We do not have any alternative suggestions as to how the objectives of the consultation could be delivered more effectively than suggested. However, we would recommend putting in place safeguarding measures against potential gaming of the proposed system.

### **Proposal 1: Revising condition B3 and associated guidance in the regulatory framework**

**Question 3: Do you agree or disagree that the proposed wording of condition B3 will enable the OfS to meet its policy objectives? If you disagree, what changes do you think are necessary to do so?**

**Proposed response:** Disagree

**Proposed comments:** We agree with the principle that providers should attempt to deliver positive outcomes for students from all backgrounds, whilst recognising that this will not be possible in every single case. It is not clear, however, that the proposed wording of condition B3 will enable the OfS to meet its policy objectives. As the OfS defines 'positive outcomes' according to the proportion of providers attaining numerical thresholds in relation to certain indicators, this entails the use of metrics as a proxy for evaluating teaching quality and will result in a desk-based exercise. The quality and availability of data will be a strong determining factor in enabling the OfS to achieve its objective in relation to condition B3 and we know this can be fraught with complexity.

As articulated in our previous consultation responses on the TEF, we believe the exercise should be metrics-informed rather than metrics-driven so that actual enhancements to teaching are not overlooked and institutions do not become overly concerned with improving metrics as a primary goal rather than as a by-product of improved delivery. We therefore agree that if such an approach is to be adopted a provider's contextual information should be taken into account if their outcome data is not at or above the numerical thresholds. From our member schools, we know that business schools and their parent universities cover a broad range of missions and interface with different local economic circumstances. A uniform categorisation would not reflect that diversity. We also agree that there should be some leeway in the proposed definitions of 'positive' outcomes to allow for the benefit of doubt about what constitutes a positive outcome at the point of constructing numerical measures of student outcomes.

We agree that where it is not clear whether a particular outcome should be viewed as positive, it should be interpreted as either positive or neutral for the purposes of constructing student outcome measures. This would help to guard against the risk of certain outcomes being unjustifiably considered as 'negative'. We also agree that regulatory interventions should only be targeted at the small number of institutions where performance is found to be unacceptably poor.

### **Proposal 2: Constructing indicators to assess student outcomes**

**Question 4: Do you agree or disagree with the proposals for how we will construct student outcome measures? Do you have any alternative suggestions?**

**Proposed response:** Agree

**Proposed comments:** The proposed indicators for the student outcomes measures are largely sensible but are quite ambitious in scope and we would question the extent of coverage available for the split and subject-level data. Missing data, particularly in the case of small student cohorts or new providers, may prevent an accurate appraisal of student outcomes at some institutions. At some institutions the cohorts will also be too small to generate data for the split metrics which means that insights into certain student groups will be missing.

As outlined in our responses to the phase one and two consultations, it is important that the local employment market is taken into context if using employment as a measure of progression, so we welcome the proposal in para 90 to use a geography of employment and earnings indicator to help capture some of the labour market differences experienced by graduates living in different parts of the UK. As mentioned in our submission to the phase two consultation, our members would find it useful if outcomes were tracked by type of entry qualification, whether students are commuter students, and mode of delivery (in-person or distance learning). Also worth considering is the impact that graduate employment may have on the third sector, including social impact roles, which may not be highly paid but have a positive impact on the lives of others.

### **Proposal 3: Setting numerical thresholds for student outcome indicators**

***Question 5: Do you agree or disagree with our proposed approach to setting numerical thresholds set out in Annex E? If you disagree, please provide reasons and any alternative suggestions.***

**Proposed response:** Agree

**Proposed comments:** The proposed approach to setting numerical thresholds for continuation, completion, and progression is logical, and we agree that there are sufficient differences in the nature of provision by level and mode of study to warrant the thresholds being disaggregated in the format proposed. Setting a numerical threshold at the average of the providers registered with the OfS would seem to be a sensible starting point provided that such an approach does not result in a significant proportion of HEIs failing to meet it. We do not believe it would be logical to set thresholds that many HEIs in England could not meet, so careful consideration of the potential outcomes of different approaches to setting thresholds is needed. It is important that the criteria used to set the thresholds is as objective as possible, but we appreciate that some interpretation may be required in certain instances, such as for an indicator where the entire HEI sector in England was not high performing, or where there may be a lack of robust data.

It is important that the wider context in which institutions operate is always borne in mind, including, for example, the impact from the Covid-19 pandemic in cases where a provider's results have suddenly fallen below the numerical threshold in recent years. Someone interpreting the results of the numerical thresholds may not be aware that providers have implemented assessment regulations to ensure students are not disadvantaged from the impact of the pandemic, which is important context.

We agree with the proposal to use analysis on the likely impact of student characteristics on historical performance, as this recognises that there are observed differences between outcomes for groups of students with certain shared characteristics, and this must be taken into context. On a related point, we would hope that the use of numerical thresholds to evaluate outcomes would not have the unintended impact of disincentivising institutions from recruiting students from more challenging backgrounds. We recommend monitoring this.

**Question 6: Do you agree or disagree with the proposed numerical thresholds set out in summary in Table 1 and shown in full in See ‘Setting numerical thresholds for condition B3’ (available at <https://www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/student-outcomes/>)?**

**Proposed response:** Agree

**Proposed comments:** None

**Proposal 4: Publishing information about the performance of providers in relation to the OfS’s numerical thresholds**

**Question 7: Do you agree or disagree with our proposal to publish information about individual providers’ student outcomes and performance in relation to our numerical thresholds, as well as sector-wide data, on our website?**

**Proposed response:** Agree

**Proposed comments:** We think that the publication of the outcomes data would be useful for prospective students, but it would need to be accompanied by appropriate guidance as we cannot assume that all users will understand the statistics. We have a concern about how anonymity will be handled when providers are subject to investigation for a potential breach of condition B3. If details of the investigation, including the identity of the provider, are publicly disclosed before the outcome of the investigation is determined, a provider may suffer undue reputational damage if the investigation subsequently finds that no breach of condition B3 occurred.

**Proposal 5: Making judgments about compliance with condition B3, including consideration of context**

**Question 8: Do you agree or disagree with the proposed approach to assessment set out in Annex F? Is there anything we could do to improve the clarity of this information for providers?**

**Proposed response:** Agree

**Proposed comments:** Whilst we are broadly in agreement with the steps outlined in Annex F for assessing compliance with condition B3 we would reiterate our concern articulated in the phase two consultation that such assessments should not be overly burdensome to the extent that prospective new providers decide it is not worth entering the market.

**Question 9: Do you agree or disagree with our proposed general approach to prioritisation? If you disagree, do you have any alternative suggestions for how we should approach prioritisation?**

**Proposed response:** Agree

**Proposed comments:** The proposed approach to prioritisation appears to represent a reasonable balance between achieving meaningful oversight of student outcomes whilst minimising administrative burden for providers. We agree that the prioritisation approaches should be mixed, including broader thematic concerns, severe breaches of under-performance that could impact a large number of students, and instances where breaches could adversely affect particular groups of students. As the proposed approaches to prioritisation are varied and may change from year-to-year, it’s important that the OfS provides regular guidance as to which approaches it will be applying, and the concerns it is currently seeking to identify and address through prioritisation.

***Question 10: Do you think that the OfS should adopt Option 1 or Option 2 (see paragraphs 207) when defining the scope of each assessment for ongoing condition B3?***

**Proposed response:** Option 2

**Proposed comments:** We think that Option 2 makes more sense in enabling the OfS to form a comprehensive view of a provider's compliance with condition B3 as it would entail the assessment of performance for all indicators that are below the numerical threshold. A single more focused engagement with the OfS as proposed under Option 2 is also likely to be preferable than repeated smaller engagements, but it is important that providers are not over-burdened with lengthy drawn-out interventions.

***Question 11: Do you agree or disagree with our proposals for considering the context of an individual provider when assessing compliance with condition B3?***

**Proposed response:** Agree

**Proposed comments:** The proposed approach addresses our previous concerns that providers may not have adequate opportunity to explain the context in which they operate, as they will now be able to submit a wide range of qualitative supporting information. Testing a provider's performance against its benchmark is also a reasonable approach but its effectiveness will depend on the methodology and quality of data from which the benchmark is derived, which is likely to present its own challenges. In relation to actions a provider may take to improve its performance in certain numerical thresholds, it's important that adequate time is given to judge the effectiveness of these plans in driving performance improvement as this may take several years to come to fruition.

#### **Proposal 6: Addressing statistical uncertainty in the assessment of condition B3**

***Question 12: Do you agree or disagree with the proposed approach to using statistical measures when considering a provider's performance in relation to numerical thresholds?***

**Proposed response:** Agree

**Proposed comments:** We are broadly in agreement that statistical measures should be used to assess a provider's performance but we re-iterate that qualitative information must supplement the use of metrics.

***Question 13: Do you have any suggestions for additional steps the OfS could take to provide greater clarity about the impact that the proposed approach to statistical confidence may have for individual providers?***

**Proposed comments:** None

#### **Proposal 7: Taking regulatory action when a breach is identified**

***Question 14: Do you agree or disagree with our proposals to impose an 'improvement notice' where we find a breach of condition B3?***

**Proposed response:** Agree

**Proposed comments:** None

***Question 15: Do you agree or disagree with our proposals to take account of a provider's compliance history in relation to condition B3 for the purpose of determining eligibility for other benefits of OfS registration?***

**Proposed response:** Agree

**Proposed comments:** None

**Proposal 8: Timing of implementation**

***Question 16: Do you agree or disagree with the proposals for the implementation of the proposed approach to regulating student outcomes? If you disagree, do you have suggestions for an alternative timeline?***

**Proposed response:** Neither agree nor disagree

**Proposed comments:** Although we recognise that the suggested timings would enable the proposed approach to be implemented in 2022, providers will have limited time to adjust to the new system and the proposed schedule looks tight. In particular, the four-week window for providers who are subject to regulatory action to respond to the concerns raised by the OfS seems very short, and a six-week window would perhaps be more reasonable. Given that the OfS is proposing to implement a completely new system whilst universities are still busy adapting to the 'new normal' resulting from Covid-19, we think it would be reasonable to allow institutions more time to respond to any regulatory concerns during the first year of the new system.

**Considering regulatory burden on registered providers**

***Question 17: Is there anything else we could consider that would reduce regulatory burden for providers while regulating minimum requirements for student outcomes?***

**Proposed comments:** None

## **About the Chartered ABS**

The Chartered ABS is the voice of the UK's business and management education sector and our members consist of 120 business schools and higher education providers across the UK, as well as affiliate stakeholders, corporate members and international partners. The UK's business and management education sector represents 1 in 5 university students and contributes £3.25bn to the UK economy. Its management students go on to lead global businesses and its entrepreneurs contribute to our dynamic economy. Its research has an impact across society and helps to turn our capacity for invention into viable businesses.