

## Middlesex University OfS consultation response, December 2017

### SECTION A

**'Securing student success: risk-based regulation for teaching excellence, social mobility and informed choice in higher education. Government consultation on behalf of the Office for Students'**

#### **Part 1**

**1. Do you agree or disagree that these are the right risks for the OfS to prioritise?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree

Middlesex University supports the four objectives and risks however, responsibility for, and risks to, the economic, civic and place-shaping roles of universities are missing. The OfS approach of protecting students and not providers means that the regulatory framework essentially treats universities as 'placeless'. This conflicts with other Government policies, especially the Industrial Strategy. For example, the assertion in paragraph 62 that 'there is nothing wrong, in and of itself, with a provider closing down' is questionable because closure could have serious economic and social impacts. (85)

**2. Given all the levers at its disposal, including but not limited to access and participation plans, what else could the OfS be doing to improve access and participation and where else might it be appropriate to take a more risk-based approach? Please comment.**

Paragraph 11 states that the OfS will not use targets to assess universities' performance on widening access and participation but does not state how instead this performance will be assessed, despite threatening sanctions if it is deemed that there is not 'real progress'. The OfS should continue to work with benchmarked targets for access and participation as Access Agreements currently do.

Middlesex University welcomes the focus on relationships between the HE sector and schools and further education systems, as well as the importance of transition points between stages of learning and the relationships between sectors. The OfS can encourage a joined up approach to tertiary level education which supports learning throughout people's careers rather than positioning academic and vocational education as separate, opposing routes. Further clarification would be welcome on how the OfS intends to support the development of universities' relationships with schools and colleges. (145)

**3. Do you agree or disagree that a new Quality Review system should focus on securing outcomes for students to an expected standard, rather than focusing on how outcomes are achieved?**

**1. Strongly disagree 1.Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly Agree

The standards in the new Quality Review system need to take into account student characteristics and 'distance travelled'. For example, it is much more of a challenge to achieve graduate employment for a student from a family with parents in routine or manual

occupations, or who are non-graduates, than from a senior managerial/professional background. This is also the case for a BAME student when well-documented direct and indirect discrimination persists in the labour market. (70)

**4. Would exploring alternative methods of assessment, including Grade Point Average (GPA), be something that the OfS should consider, alongside the work the sector is undertaking itself to agree sector-recognised standards? Yes or No**

No. There is no need to incur the cost or administrative burden of moving to GPA if the sector sets standards for degree classifications. Students already have transcripts and employers understand the classifications. (33)

**5. Do you agree or disagree that a student contracts condition should apply to providers in the Approved categories, to address the lack of consistency in providers' adherence to consumer protection law?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly Disagree.

Student contracts impose an unnecessary regulatory burden. Students' rights are protected under existing consumer law (eg. consumer protection from Unfair Trading Regulations 2008, Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and the Consumer Rights Act 2015). Students also have recourse through internal complaints procedures (required by the QAA Quality Code and the Office of the Independent Adjudicator (OIA)), the OIA complaint process, and the courts. Middlesex University Students Union has expressed concern about defining the student/university relationship in a contractual way which could lead to a legalistic relationship and narrow students' perceptions and expectations of a university education. Students also expressed concern that time would be wasted pursuing the detail of university and students' respective contractual duties. A contract requires both parties to set out their respective obligations and outlines eventualities which are included or excluded which does not reflect the partnership relationship between universities and students. Standards and good practice for student charters have been developed to support the 'deep, trust-based higher education experiences' the OfS proposes to protect. Student charters focus on the partnership approach which define higher level learning and, alongside safeguards on information provided by universities and ensuring students are able to complete their studies in case of closure, provide sufficient protection of student rights.

The reference in paragraph 28 to teaching hours conflicts with the OfS approach of assessing outcomes and not processes, and with research evidence that teaching hours have no relationship with teaching quality. (243)

**6. What more could the OfS do to ensure students receive value for money? Comment**

A template for value for money statements is needed to provide clarity on expectations of these documents and ensure comparability and consistency across the sector for students. A template would also help to ensure value for money is assured for taxpayers by avoiding unnecessary or excessive administrative burden. The recognition of students' obligations

during their university experience in order to gain optimum value for money from their university experience is welcome. Clarity would also be welcome on how value for money statements interact with other financial reporting obligations so that there is no duplication. (88)

**7. Do you agree or disagree that a registration condition on senior staff remuneration should apply to providers in the Approved categories? Are there any particular areas on which you think the OfS should focus when highlighting good practice?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree.

Middlesex University is looking forward to engaging with the Committee of University Chair's (CUC) new Remuneration Code in 2018. With regard to the Code's recommendations on publishing pay ratios, these should be from top to bottom rather than median given how medians will be affected by factors such as curriculum mix. The comparisons made should also be done after tax (given the UK has a relatively progressive tax system designed to narrow gross pay inequalities and it is these inequalities that is the concern).

It will be important to strike a balance between improving performance on staff remuneration and avoiding unnecessary administrative burden when the CUC Code is likely to provide an appropriate mechanism for the sector to address these issues. The OfS proposals could be simplified by, where there is evidence of institutional risk in this area, maintaining the current requirement in the HEFCE Accounts Directive to publish the numbers of staff paid over £100k pa in £10k bands, and require providers to include in their Annual Accounts a justification for senior pay at institutional level. The current proposals will require detailed justifications for thousands of staff across the sector resulting in a substantial administrative burden. The cost of pensions and the inflexibility of current pension regimes is another factor in the remuneration debate and something universities have little control over. (221)

**8. What are your views on the potential equality impacts of the proposals that are set out in this consultation? Please provide any relevant evidence if you can as this will support future policy development. Comment**

We refer back to our earlier comments around the role of quality standards. It will be important that these take into account student characteristics to ensure that students and institutions are not disadvantaged. For example, it is much more of a challenge to achieve graduate employment for a student from a family with parents in routine or manual occupations, or who are non-graduates, that a senior managerial/professional background, or for a BAME student when well-documented direct and indirect discrimination persists in the labour market. The consultation document speaks of 'weak incentives' for providers to recruit students from disadvantaged backgrounds 'given the cost of their support and their relatively worse outcomes' (paragraph 57 d). The suggestion in the document that benchmarking of outcomes is under review further weakens these incentives. The use of absolute values may influence providers' recruiting decisions and discourage innovative, sustainable approaches to supporting underrepresented groups if these do not have a short-term effect on outcomes. (158)

**Part 2**

**9. Do you agree or disagree that participation in the TEF should be a general condition for providers in the Approved categories with 500 or more students?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree.

Concerns about the reliability and validity of TEF in measuring the quality of teaching remain. The use of bronze, silver and gold categories also create misleading 'cliff-edge' differences between institutions, and in the future subjects, when differences in most key measures are continuous gradations. The consultation document emphasises the role of TEF in providing clearer and better information to applicants and students about 'the outcomes they might expect' with particular reference to applicants who are the first in their families to consider higher education and 'who need particular support to understand their choices'. The complex additional metrics proposed for subject level TEF will be difficult to interpret for applicants. This applies in particular to the teaching intensity measure, which could ignore provision designed to support students from disadvantaged backgrounds, such as peer supported learning. Non-reportable metrics at subject level pose further challenges to providing accurate and valid information, especially in the case of split metrics. Recent NUS research has shown that the TEF does not necessarily reflect outcomes that are important for students, findings that apply to students from underrepresented groups in particular. The TEF is still in the early stages of development with subject level TEF untested and the methodology yet to be well understood by potential and current students. It would be helpful to wait until the pilots have reported and the review of the TEF completed before making participation a condition of registration. (236)

**10. Do you agree or disagree with the proposed ongoing general registration condition requiring the publication of information on student transfer arrangements? How might the OfS best facilitate, encourage or promote the provision of student transfer arrangements?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree.

It would be helpful if the OfS provides a template for student transfer statements in the same way as the document does for student protection plans. Transfers are in the main considered by students who encounter financial difficulties, need to move to another part of the country for financial or personal reasons or, in London in particular, find commuting more challenging and expensive than anticipated. Many providers already publish clear statements of how prior learning is recognised in an accessible place for students and applicants and support students to transfer if they wish to do so. It should not be the role of the OfS to 'encourage' or 'promote' transfer or competition between institutions for transfer students given that transfer may often not be in the student's interest. The risks of transferring for students should not be underestimated, such as losing peer networks and other support mechanisms. (147)

**11. Do you agree or disagree with the proposed approach to sector level regulation in chapter 2?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree.

Middlesex University does not regard 'creative destruction' to be a 'powerful and relevant tool' because of the impact on students, staff and local communities and economies. There are far less damaging ways to promote and pursue innovation. We refer back to our comments in response to question 1 of the consultation on the disconnect between the OfS responsibilities and focus and other Government policies which value the place-based civic and economic contribution of universities in communities and for the broader economy.

A second point is around the overall regulatory burden the new architecture will place on universities. The HERA is clear that regulatory activities should be proportionate and targeted to where action is really needed. The new or changed conditions the OfS will introduce (including student contracts, value for money statements, access and participation plans, student protection plans, reporting on staff pay and student transfer arrangements) represent considerable administrative burden and cost for well-managed and established universities.

On accelerated learning, Middlesex supports accelerated courses as part of the overall course portfolio. However the emphasis on this single mode in the consultation document is disproportionate. There are many different modes such as work-based, part-time and four year, and it is important that students are advised on the right pathway for them. (208)

### **Part 3**

#### **12. If you are a provider, can you provide an indication of which category you would apply for (under these proposals) and why?**

Approved (fee cap).

Middlesex University meets the registration conditions for Approved (fee cap) providers. The University wishes to continue to access public funding for its courses and students, to maintain its existing Tier 4 licence and retain its Degree Awarding Powers. (38)

#### **13. The initial conditions should provide reassurance that providers will meet the general ongoing conditions without creating unnecessary barriers to entry. Given this, are the initial conditions appropriate?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree

The statement in para 163 that greater 'investment, activity and progress on outcomes' will be expected for institutions with greater risk associated with disadvantaged students needs to recognise that this significantly depends on the resources available. Less support is now available because of the cut in the Student Opportunity Allocation. In relation to Student Protection Plans (SPP), there is no legal requirement in the HERA to make it a condition for all providers to have an SPP in place. It is unclear why the requirement is only placed on approved category providers, many of which are highly successful, low risk providers. SPPs should either be required of all providers or those at most risk of failing. (116)

#### **14. Do you agree or disagree with the proposed lists of public interest principles in the Guidance, and who they apply to?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree

We refer again to our answers to questions 1 and 3 above. The approach to providers closing down outlined in the document does not take full account of the civic and economic role of universities in their regions and the social and economic impact of the closure of a university.

The standards in the new Quality Review system need to take into account student characteristics to ensure that universities recruiting disadvantaged students and students from underrepresented groups are supported. (80)

**15. Do you agree or disagree with the proposed approach on the application of conditions for providers wishing to seek a Tier 4 licence?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly Agree

**16. Do you agree or disagree that paragraph 7 and 8 should be removed from Schedule 2 of the Education (Student Support) Regulations 2011, which lists the types of courses that allow with access to the student support system? If you disagree, are you aware of any courses dependent on these provisions to be eligible for support?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly agree

**17. Do you agree or disagree with the proposed approach for the benefits available to providers in the different registration categories?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly agree

The register will itself be seen as a kite mark of quality by potential students and will be used by providers as such. Therefore we would urge the Student Protection Plans to be a requirement of all providers admitted to the basic category, as well as approved categories, to minimise risk to students. (53)

**18. Do you agree or disagree with the general ongoing registration conditions proposed for each category of provider (see the Guidance for further detail)?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly disagree

We are concerned that the requirements of the 'Registered Basic' registration are not sufficiently robust to safeguard students. All providers should be required to deliver well-designed courses that provide a high quality academic experience. All providers should have robust data management systems that enable provision of timely information to OfS.

We do not agree that 'changes in student entry requirements and the qualifications profile of students on entry' should be a lead indicator (paragraph 236) as this is a matter for

autonomous institutions to judge as part of their university missions and strategies, and vary across programmes. (97)

**19. Do you agree or disagree with the proposed approach to risk assessment and monitoring?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree.

We do not agree that 'media reporting' is a factor on which a decision to intervene should be based. Media reporting is frequently inaccurate and sensationalist and there are more reliable routes, such as complaints procedures.

We are concerned about the criteria for imposing 'Specific ongoing conditions' on providers outlined in paragraph 297. Outcomes, such as employment, vary across programmes and time, and are impacted by external conditions. It is unclear how the OfS will ensure that providers are treated fairly with regard to 'Specific ongoing conditions', such as student number controls. It is also unclear who will make these decisions, how they will do so with a more remote relationship with and understanding of the provider, and what the precise triggers for intervention will be. For example, at what point would a deterioration in employment outcomes trigger intervention; would this be at programme or institution level; and how would cause and effect be determined? Similarly, more precise information is needed around the terms of reference for the proposed efficiency reviews and how they will be triggered.

We are also concerned about the practical implications of the intention to seek information flows in as near real time as possible. Data requests from third parties can cause significant additional burdens on providers and the OfS should seek robust data that is fit for its purpose which would rarely require the highly demanding threshold of real time. (235)

**20. Do you agree or disagree with the proposed approach on interventions (including sanctions) and do you agree or disagree with the proposed factors the OfS should take into account when considering whether to intervene and what intervention action to take?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Slightly agree.

We would like to understand more about the statement that the REF and TEF are 'mutually reinforcing'. This does not appear in any policy statements that we are aware of. It would be a welcome development but would need to recognise that while high quality teaching should be a universal expectation, research strengths are often selective in less research intensive institutions.

The references to suspension de-registering and teach out are helpful. However these all pre-suppose that the OfS initiates these actions. Clarification is needed on how matters would be resolved in the event that a provider fails for external reasons. For example, many providers will be legally registered companies which will therefore be subject to companies act insolvency requirements.

We note there is currently no right of appeal against the suspension of a provider from the register, only against de-registration. An appeal mechanism is needed if the suspension lasts for a significant period of time. (155)

**21. Do you agree or disagree with the proposed approach the OfS will take to regulating providers not solely based in England?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly disagree

All requirements on providers should be a single statement inclusive of the range of provision of an institution. Paragraphs 356-358 do not provide sufficient clarity on what is required of institutions seeking registration nor ongoing OfS engagement. For example, will student protection plans or value for money statements be required for overseas campuses (where all students are international and not drawing down UK student loan funding, and local regulatory requirements also apply), and will TNE student progression and completion data be expected to be provided? Clarification of these requirements broken down by type of arrangement (e.g. franchise, validation, overseas delivery) and by provider type (wholly owned campus, joint venture, separate partner institution) would be welcome, noting the need not to increase and preferably to reduce regulatory burden. There is a similar issue with regard to reportable events; at what scale are these expected to be reported (e.g. the current draft would require every Joint Venture and any redundancy programme to be reported, which we regard as disproportionate). (164)

**Part 4**

**22. Do you agree or disagree with what additional information is proposed that the OfS publishes on the OfS Register?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly agree

**23. Do you agree or disagree with the principles proposed for how the OfS will engage with other bodies?**

**1. Strongly disagree 2. Slightly disagree 3. Neutral 4. Slightly agree 5. Strongly agree**

Strongly agree

**24. Do you have any comments on the proposed exercise of OfS functions in relation to validation, in particular in relation to ensuring that the validation service is underpinned by the necessary expertise and operates in a way that prevents or effectively mitigates conflicts of interest? Comment**

For the OfS to undertake validation is a conflict of interest. The OfS would in effect have to register itself, monitor and possibly sanction itself. Any OfS procurement of validation services would also have to be fair and transparent. (39)

**25. Does the information provided offer a sufficiently clear explanation of how a provider will apply for registration in the transitional period and what the consequences of registration are in this period?**

**Yes or No**

Yes

We have reservations about the increase in the regulatory burden on well-established providers in being required to provide new evidence to be permitted onto the register. It

also creates uncertainty for continuing students whose provider will effectively be in limbo pending the outcome of registration. (45)

### **Annex C**

#### **26. Do you have any comments on the above proposal of how the OfS will act as the principal regulator for exempt charities? Comment**

It seems sensible for the OfS to act as principal regulator for exempt charities.

#### **27. Provided that the Secretary of State considers OfS regulation is sufficient for these purposes, should exempt charity status apply to a wider group of charitable higher education providers? In particular, considering that providers in the Approved categories will be subject to conditions relating to Financial Sustainability, Management and Governance, and the provision of information (as set out in the Guidance), do you have any views on whether the OfS's proposed regulation of providers in these categories would be sufficient for the purposes of it carrying out the functions of Principal Regulator? Comment**

The requirements set out for providers in the Approved categories, which include more regulation and oversight than when HEFCE acted as the Principal Regulator for those with exempt charity status, seem to indicate that the regulations proposed would be sufficient for OfS to carry out the functions of Principal Regulator. (50)

## **SECTION B**

### **Designation of a body for English HE information**

#### **Yes/No (Please explain using the further information box (300 words)/not sure**

Yes (agreeing to HESA having this role)

## **SECTION C**

### **Designation of a body to perform assessment functions**

#### **Please state whether, in your opinion, QAA is capable of meeting all of the designation conditions**

#### **Yes/No (Please explain using the further information box (300 words)/not sure**

Yes

In relation to the specific requirements of a quality body to perform the assessment functions, QAA has experience of working with the sector and undertaking assessment of a provider's quality and standards within the context of the higher education frameworks which underpin the sector and within which the delivery of the quality assessment takes place. It has not always been successful in striking the right balance in respect of the burden placed on providers in relation to the methodology of review undertaken, which can result in multiple reviews of a provider via the range of review methods currently in operation, nor in designing methodologies of review that take account of a provider's previous outcomes.

QAA has extensive experience of working with diverse institutions and demonstrated understanding of the different types of provider within the sector and the need to adapt approach when working across the sector. QAA has extensive experience of preparing explanatory and guidance documentation on the nature of the assessment process it undertakes. QAA has experience of identifying and training the staff who will be involved in

undertaking an assessment process but greater attention needs to be paid to training of staff undertaking and managing the assessment in order to ensure a consistency of approach. (207)

## **SECTION D**

### **Simplifying Access to the Market: Degree Awarding Powers and University Title**

**Question 1: Do you agree or disagree that the OfS should consider applications for New DAPs for research awards from providers without a three-year track record of delivering higher education in England?**

Disagree.

The provision of research degrees requires significant research expertise, a thriving research environment and experienced supervisors. A strong research culture, ethos and environment need to exist to support students throughout their programmes. This needs to include research infrastructure for ethics, codes of practice, secure data storage, as well as suitable laboratory facilities where appropriate. It is also essential that staff have experience of successful research supervision. Given that research degrees are typically 3-4 years for full time students, we would suggest that the track record for research degrees should be at least 5 years, not 3, so that it can be determined whether students have been successful in being awarded the degree. (113)

**Question 2: (With reference to question 1) Are there particular circumstances where authorisations of this type would be appropriate? If so what are they?**

Given our answer to question 1, no.

**Question 3: Do you have any comments on the proposed New DAPs test and associated processes? In particular, do you think these tests and processes provide appropriate safeguards whilst enabling high quality new providers to access DAPs?**

Whilst it is acknowledged that the simpler tests and processes have been designed in response to concerns raised by some providers that the process is too complex and restricts competition, the proposals go too far. There are significant concerns relating to the safeguarding of students where providers are untested. It is also of concern that evaluation is based on the probationary plans drawn up by the new providers, ie they are marked by their own criteria, which does not seem appropriate in a new regulatory environment where all are required to meet a standard set of conditions to enter, and remain on, the new register of providers. (107)

**Question 4: Do you consider the proposals for monitoring a provider with New DAPs during the probationary period to be adequate and appropriate?**

As providers draw up their plans during the first year of the probationary period, there is a concern that there will not be adequate monitoring during this period. There is a risk of weak provision with significant impact on students' learning experiences. (42)

**Question 5: Do you agree with the proposals for the OfS and providers to best ensure that students are aware of what type of DAPs, including New DAPs, a provider has? If you think there should be additional information requirements, please give details.**

NDAPs should have to publish the number of years of experience they have, and where they are in the pipeline for approval. This would provide transparency for prospective students who can make their decisions on the level of risk that these providers might provide in relation to their learning experience. (49)

**Question 6: Do you agree or disagree with the suggested change regarding the possible variation of the level 6 TDAPs criterion?**

Disagree.

**Question 7: (With reference to question 6) If the 50 per cent criterion is to be disapplied in some exceptional cases, what factors do you think the OfS should take into account when determining whether an application is an exceptional case?**

Criteria could include the number of students it teaches at each level, its track record in provision of education and whether the courses at level 4 and 5 meet a specific government or local skills need. (36)

**Question 8: Do the application processes for DAPs sufficiently align with the registration processes and conditions?**

Yes

**Question 9: Do you agree or disagree that for providers that have obtained DAPs on an exceptional basis without having the majority of higher education students at level 6 or above (as proposed in question 6), the 55 per cent criterion for University Title should be adjusted to additionally require the majority of higher education students to be on courses at level 6 or above?**

University title confers reputational benefits to the provider and creates greater risks to the reputation of the sector as a whole should the provider have difficulties. Students and other stakeholders associate certain standards, quality and services with a 'university' and lowering the requirement may devalue what it means to be a university.

**Question 10: Do you agree or disagree that student numbers, for the purposes of the 55 per cent criterion for University Title, should be calculated based on the intensity of study, disregarding the mode of study? Please give reasons for your views.**

The criterion should be based on FTE. 'Intensity of study' is not a recognised or well understood measurement.

**Question 11: (With reference to question 10) Do you have any views on how students on accelerated courses should be taken into account, when calculating the percentage of higher education students at a provider? Should these students be counted as 1 FTE, or more?**

These students should be counted as 1 FTE

**Question 12 Do you agree with this assessment of the factors that should be set out in Secretary of State guidance to which the OfS must have regard to when determining applications for University Title? If you disagree, please give reasons. If you believe any additional factors should be included, please indicate what these are with reasons.**

Agree.

**Question 13: Do you agree or disagree with this proposal of implementing the statutory provisions that allow for the revocation of DAPs and University Title and the variation of DAPs?**

It is appropriate for changes of ownership or other significant changes to circumstances to lead to a review. The review should take into account the circumstances around the change, in particular where changes are as a result of seeking efficiencies of provision in the local area. (46)

**Question 14: Do you consider the above proposals regarding a change in circumstances to be sufficiently robust to safeguard the meaning and value of DAPs and University Title?**

See answer to Qn 13. It will be important to provide safeguards where as a result of the change in circumstances a provider is just pushed to the other side of a requirement, and appropriate sensitivity to this would be appropriate. (41)

**Question 15: Do you have any comments on the proposed DAPs criteria as set out in Annex A? Are there specific aspects of the criteria that you feel should be adjusted in light of the OfS's overall regulatory approach, in particular ongoing registration conditions?**

No comments further to the other comments made in this response.

**Question 16: Do you have any comments on the proposals for the assessment of applications for subject specific and Bachelor's only DAPs? Are there specific aspects of the criteria that you feel would either be particularly relevant or not relevant for either of these types of DAPs?**

There should not be special conditions for subject specific DAPs. The requirements relating to environment, infrastructure, expertise, quality and standards should all stand whether a provider provides a broad range of provision or in only one subject. (37)

**Question 17: Do you have any comments on how a subject should be defined for the purpose of subject specific DAPs?**

No, as we do not believe there should be special conditions for subject specific DAPs.

## **SECTION E**

### **OfS registration fees**

**1. Do you support the proposal to charge Registered Basic providers a flat rate annual registration fee?**

**Yes/No/Not Sure Please give reasons if your answer is 'No' or 'Not sure'**

Yes

**2. Do you support the proposal to charge Approved and Approved (fee cap) providers an annual registration fee varied by their size?**

**Yes/No/Not Sure Please give reasons if your answer is 'No' or 'Not sure'**

Not sure

There is a minimum level of monitoring required of all providers. We would support a fixed fee for all providers, and an additional fee relating to student FTE.

**3. Do you support the proposal to measure the size of Approved and Approved (fee cap) providers for the purposes of calculating their annual registration fee on the basis of their full-time equivalent (FTE) higher education (HE) student numbers?**

**Yes/No/Not Sure Please give reasons if your answer is 'No' or 'Not sure'**

Yes

**4. Do you support the proposed banding model to group Approved and Approved (fee cap) providers by their size?**

**Yes/No/Not sure Please give reasons if your answer is 'No' or 'Not sure'**

Not sure

It is not clear how student numbers will be calculated. For example, TNE students outside of the UK place significantly less burden on the OfS as they are subject to regulatory regimes in that jurisdiction and the existing overseas regulatory regime. There is no UK taxpayer subsidy for these students. Any FTE calculation should exclude TNE or overseas campus student numbers. The model arguably has too many bands. The risks to students are greater for smaller providers where resources and expertise will be low, hence the monitoring required by the OfS is likely to be higher. We would support a reduced number of bands, and for the fee for those with higher student numbers to be lower given the risks with these better established providers will be lower. (78)

**5. Do you support the proposed percentage distribution of costs between size bands?**

**Yes/No/Not sure Please give reasons if your answer is 'No' or 'Not sure'**

Not sure

The consultation document states that 'registration fees will incentivise providers to hold the new regulator to account for the overall efficiency of its regulatory approach' but gives no details as to how this will happen. We would like to understand more about how this is intended to work.

In relation to fee levels for Basic providers, Middlesex University feels it would be unacceptable and out of kilter with the general direction of market regulation for the costs associated with one type of provider to be subsidised by another type. A well-founded alternative provider would not be deterred from entering the market by higher fee levels, while the costs to the OfS of regulating a failing provider will be substantial and should not fall disproportionately on those which are operating successfully. It would be unacceptable for the lower risk established providers to be subsidising higher risk new entrants. Similarly student fees will now be paying for registration fees so it will be important that fees are

proportionate and that current students are not supporting a discounted rate for new providers

(179)

**6. Do you support the idea of setting registration fees in the future to reflect the regulatory effort associated with the provider? What do you see as the advantages and disadvantages of this model compared with the proposed fee model?**

**Yes/No/Not sure Please explain your answer, including what you see as the advantages and disadvantages**

Not sure

We would support an ongoing fixed fee for all providers and a fee related to student FTE. Where a provider requires significant intervention or significant additional regulatory oversight this should be subject to an additional fee. (36)

**7. Do you support the principle of a proposed discount for new providers in their first 3 years of fees?**

**Yes/No/Not sure Please give reasons if your answer is 'No' or 'Not sure'**

No

Providers present the greatest risk to students when they are new and likely to have the greatest engagement with the OfS. It is not appropriate for established providers to subsidise new providers. Most new providers would be small, and so likely to be paying the lower level fees. (46)

**8. Please provide any further views you may have on the government's proposals on registration fee subsidies and exemptions.**

None