

## Russell Group response to OfS consultation 2022-25 strategy

### 1. Summary

- 1.1 We welcome the opportunity to respond to this consultation and look forward to continuing our engagement with the OfS as it develops its regulatory approach and refocuses its ambitions for high-quality delivery of higher education in England.
- 1.2 We support the OfS' central priorities: quality and standards, and equality of opportunity. If these priorities are met through effective regulation that truly reduces burden on low-risk providers and protects their autonomy, then this should enable institutions to continue innovating and developing their own approaches to delivering excellent outcomes for students. We agree with the OfS that this is the best approach to ensuring the sector can flourish.<sup>1</sup>
- 1.3 As the OfS looks to finalise this strategy we would recommend that the Regulator:
  - (a) Expands its goal around quality and standards to establish more challenging quality baselines and encourage enhancement above these by working with the Designated Quality Body and encouraging use of its Quality Code.
  - (b) Provides clarity on its goal for "courses that do not meet our [the OfS'] requirements being improved or closed" and the statutory powers it would be relying on to achieve this.
  - (c) Fully consults providers in the implementation of any new powers and policies relating to free speech, including the development of detailed guidance for the sector.
  - (d) Provides more information on how it intends to deliver against its goal to ensure graduates contribute to the Government's levelling up agenda.
  - (e) Works closely with providers and bodies such as QAA to ensure its regulatory approach is appropriate in the context of the Lifelong Loan Entitlement.
  - (f) Engages further with the sector to reduce regulatory burden on low-risk providers and establishes new measures to monitor burden.

### 2. Quality and standards

- 2.1 We agree with the OfS' commitment to ensure "students receive a high-quality academic experience that improves their knowledge and skills with increasing numbers receiving excellent provision"<sup>2</sup>, and that the qualifications "they are awarded are credible and comparable to those granted previously".<sup>3</sup> In addition to these goals, we also believe the OfS should work to ensure comparability of standards across the UK and to maintain the international reputation of degrees awarded in England through its quality conditions.
- 2.2 In terms of the OfS' plans to achieving these goals, we consider that the OfS should go further than providing "greater clarity about the minimum requirements that providers must meet"<sup>4</sup> and introduce more challenging baselines as previously set out in its consultation on quality and standards<sup>5</sup>. This would better enable the OfS to differentiate between providers and implement a more risk-based approach to regulation as well as promoting higher standards in the sector. We also agree that the OfS has a role to play in encouraging enhancement above these baselines and would urge the OfS set out in its strategy a goal

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1 OfS, [Consultation on our strategy for 2022-25](#), paragraph 28, page 11

2 OfS, [Consultation on our strategy for 2022-25](#), page 13

3 Ibid

4 OfS, [Consultation on our strategy for 2022-25](#), page 15

5 "Setting higher, more challenging, numerical baselines that apply to each indicator and all providers." [OfS Consultation on regulating quality and standards in higher education](#), page 9.

around working with the QAA to promote and encourage providers to use the Quality Code for enhancement beyond the minimum baselines.

- 2.3 The OfS' draft strategy sets out an intention for the OfS to use data and regulatory intelligence to identify courses that do not satisfy regulatory requirements for quality. This seems beyond the initial intention of the OfS to supply providers with course-level data to use for internal intelligence and enhancement purposes. Whilst we understand the OfS' desire to ensure standards are upheld across all courses, we are concerned about the level of burden this approach would place on providers. We also seek more information on the OfS' goal for "courses that do not meet our [the OfS'] requirements being improved or closed",<sup>6</sup> and the statutory powers it would be relying on to achieve this.
- 2.4 We would welcome further information on the OfS' intention to "focus on increasing the influence of TEF ratings, to strengthen incentives for improvement across all providers"<sup>7</sup> and to "focus on promoting and improving comparable information about quality for the benefit of prospective students".<sup>8</sup> We are concerned about the potential unintended consequences of both these aims and consider that the OfS should discuss its intended approach fully with the sector before proceeding. For example, the Government accepted Dame Shirley Pearce's proposal<sup>9</sup> that the primary purpose of the TEF should be enhancement of quality, rather than informing student choice and OfS' approach should reflect this position<sup>10</sup>.
- 2.5 Russell Group universities share the OfS' commitment to maintain public confidence in the degree classification system. We agree that the Regulator should evaluate sector changes in degree classification over time and "focus investigatory and enforcement activity on cases where significant increases cannot be explained by our [OfS'] data analysis or other evidence".<sup>11</sup> However, we would note that whilst there has been a steady rise in degree attainment, in recent years, there are likely to be a number of legitimate reasons for this. These include the hard work of students, the efforts of universities to improve teaching quality and student support, and the short-term implementation of 'no detriment' policies as a result of the Covid-19 pandemic.
- 2.6 As part of its approach to evaluate and monitor the rise in degree attainment, we would encourage the OfS to work in collaboration with the Designated Quality Body to review samples of external examiner reports, for example, rather than introducing its own inspection mechanism and duplicating the sector's co-regulation efforts.
- 2.7 We agree with the OfS' goal for "providers [to] secure free speech within the law for students, staff and visiting speakers".<sup>12</sup> Russell Group universities work tirelessly to uphold the robust legal and regulatory responsibilities already in place to help protect free speech and academic freedom within the UK higher education system. Subject to the introduction of new legislation, we welcome that the OfS will look to consult providers in the implementation of any new powers and policies relating to free speech. Such an approach will be important to address uncertainty around how the proposed free speech complaints process will interact with existing procedures and routes to redress. As part of this goal, we would expect the OfS to work in close partnership with the sector to develop detailed guidance ahead of the OfS

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<sup>6</sup> OfS, [Consultation on our strategy for 2022-25](#), page 15

<sup>7</sup> Ibid

<sup>8</sup> OfS, [Consultation on our strategy for 2022-25](#), page 16

<sup>9</sup> DfE, [Government response to Dame Shirley Pearce's Independent Review of the Teaching Excellence and Student Outcomes Framework \(TEF\)](#), January 2021

<sup>10</sup> We do not believe the current TEF model to be an appropriate tool for student information. The methodology of the TEF is complex and, currently, students have a poor understanding of its purpose. A minority of applicants know about the TEF and even fewer believe it to be an important factor in their decision-making process. <https://www.gov.uk/government/publications/research-to-support-the-independent-review-of-tef-surveys-of-he-applicants/research-to-support-the-independent-tef-review-surveys-of-he-applicants#knowledge-of-tef>

<sup>11</sup> OfS, [Consultation on our strategy for 2022-25](#), page 16

<sup>12</sup> Ibid

employing any new powers given to the Regulator through the expected Higher Education Freedom of Speech Act.

- 2.8 We would welcome more information and engagement on how the OfS intends to deliver against its goal to “ensure that graduates contribute to local and national prosperity, and the government’s levelling up agenda”.<sup>13</sup> Further regulatory intervention would be a concern for the sector if the OfS’ intention is to go beyond the monitoring and regulation of quality as set out in its Quality and Standards consultation. We would also welcome further information as to the OfS’ expectations on providers in addressing inequalities in relation to progression to professional employment or postgraduate study and how the OfS would look to regulate in this space through access and participation plans.

### 3. Equality of opportunity

- 3.1 We share the OfS’ commitment to the principle that all students are entitled to the same minimum baseline of quality, regardless of their demographic background or course type and support their approach to achieve this through the regulation of quality.
- 3.2 It is helpful that the OfS has set out that when monitoring access and participation plans, it will increasingly focus its activity on those providers that represent most risk, in line with its overarching ambition to implement a more genuinely risk-based approach to regulation.
- 3.3 We also welcome the OfS’ goal to support the sector “to make progress on access and participation, using funding, information and evidence” and in particular, its pledge to ensure that where evidence about ‘what works’ is lacking, it will seek to generate and disseminate new evidence.
- 3.4 We support the principle that prospective students should be able to choose from a diverse range of courses and providers at any stage of their life and that there should be a wide range of flexible and innovative opportunities. However, before committing to “proactively increase the diversity of provision available to students”<sup>14</sup>, we would urge the OfS to fully consider the evidence that such an increase is needed, for example by evaluating the sector’s current offer against student demand.
- 3.5 Russell Group universities adapted quickly and effectively to greater online delivery during the pandemic and will continue to adapt their programmes to ensure that digital can continue to be used to enhance teaching and learning and enable greater flexibility. Examples of the approach our members are taking to blended learning can be found [here](#). We would encourage the OfS to work closely with the sector to better understand the pedagogical benefits of digital provision and ensure that regulatory requirements pose no barrier to innovation and enhancement.
- 3.6 In addition to working with central government, we would urge the OfS to engage closely with providers and bodies such as QAA to ensure its regulatory approach is appropriate in the context of Lifelong Loan Entitlement (LLE). Russell Group universities already provide flexible pathways to learning and we believe that the LLE has the potential to expand these opportunities for students and encourage more individuals to train, upskill and retrain throughout their lives. However, the expansion of short courses or modular provision should not compromise the quality of UK higher education. It will be important for the Regulator to consider how it can assure itself that provision of such courses across colleges and

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<sup>13</sup> Ibid

<sup>14</sup> OfS, [Consultation on our strategy for 2022-25](#), page 18

universities is high-quality, whilst adapting the regulatory regime to ensure this is proportionate and that appropriate indicators are used to determine quality.

#### 4. Enabling regulation

- 4.1 We support the OfS' commitment to principles-based and risk-based regulation as per the Higher Education and Research Act 2017, which if fulfilled, will better enable the OfS to deliver against their ambition, and the ambition of the Government, to reduce unnecessary bureaucratic burden. We encourage the OfS to ensure the commitment to this approach runs right the way through its operations, requirements and communications so this intention can be translated into reality.
- 4.2 We support the OfS' ambition to "minimise the regulatory burden it places on providers, whilst ensuring action is effective to meet its goals and objectives"<sup>15</sup>. The Russell Group particularly welcomed the regulator's decision to dial down the regulatory requests during the pandemic and would like to see the OfS take the opportunity to embed lessons learned from this process and apply these as it approaches the next three years. Our universities would welcome the opportunity to work closely with the OfS toward their ambition to "test whether reporting requirements in place for all providers are appropriate".<sup>16</sup>
- 4.3 Over the next three years it will be important for the OfS to deliver a truly risk-based approach to regulation and deliver on Government's instruction to reduce unnecessary burden on those providers who present the least regulatory risk. We therefore strongly support the OfS' commitment to vary the regulatory requirements placed on individual providers, according to the risk they pose. However, this should be achieved by reducing requirements for low-risk providers, rather than simply "increasing requirements for providers where we [the OfS] judge risk to be the highest".<sup>17</sup>
- 4.4 We would also encourage the OfS to set out a goal to develop a more robust system of monitoring performance in this area. The current KPM26 does not measure the direct cost of regulation to institutions, we believe the OfS should commit to a more detailed study, with a small sample of providers, to investigate the 'real cost' of regulation.
- 4.5 Within this Strategy, the OfS details future developments to their regulatory approach including a review of access and participation plans, a new iteration of the TEF, and revisiting the current C conditions (to name a few). Such changes in themselves will significantly increase burden on providers and the OfS should set out a goal to acknowledge and mitigate this impact as far as possible.

*December 2021*

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<sup>15</sup> OfS, [Consultation on our strategy for 2022-25](#), page 13

<sup>16</sup> OfS, [Consultation on our strategy for 2022-25](#), page 19

<sup>17</sup> Ibid