

Response to Office for Students consultation on regulating access and participation

1. Summary

1.1 We welcome the intention for the new regulatory approach to be risk-based and underpinned by evidence, and to support providers to be strategic and ambitious. The move to multi-year access and participation plans and the focus on building the evidence base is particularly helpful in this regard, but we have a number of concerns about whether all elements of the proposed regulatory approach will deliver on the above intentions. In particular:

- The new regulatory approach should **reflect the diversity of the sector** and the complex and varied nature of the challenges different institutions face with regard to promoting access and participation. The approach to setting aims and targets, monitoring and reporting, publishing data and assessing performance, should all be flexible enough to account for provider context, recognising differences in institutional mission, geographical location and student demographics.
- In keeping with the general duties of the OfS, **the approach to regulating access and participation should be transparent and accountable**. Further clarity is needed regarding the definition of risk and how this will be applied in practice to ensure institutions can reasonably predict how they will be classified and take any appropriate action. We would therefore welcome a published methodology for classifying risk.
- The effectiveness of the access and participation dataset in identifying the most under-represented and disadvantaged students will be critical to the success of the regulatory model and must therefore be accurate and fit-for-purpose. We have **a number of concerns about the proposed dataset** including the following:
 - some of the proposed indicators are not always effective in identifying students from deprived backgrounds (POLAR has been described as “too blunt”, for example)
 - data for some measures (e.g. free school meals and the Multiple Equalities Measure) is not available to providers at the point of admission
 - the current proposals for the dataset do not sufficiently capture the intersectionality of characteristics of under-representation and disadvantage.
- The regulator should **consult further with the sector to agree a range of appropriate indicators** for use in setting targets and tracking performance. Alongside the commitment to establish the Evidence and Impact Exchange, we would also like to see the regulator working with DfE and UCAS to make available datasets used to indicate disadvantage and measure progress at each stage within the education system.
- The approach to target-setting could do more to **incentivise collaborative working** rather than encouraging institutions to compete with one another for a small pool of suitably qualified applicants. We would like to see any aims and targets specified by the regulator agreed through consultation with the sector drawing on practitioners’ expertise.
- Whilst the intention to **reduce unnecessary regulatory burden** is welcome, it is unclear to what extent the proposed new regulatory approach delivers on this, even for those providers classified as “low risk”. Producing information on anticipated resource requirements for providers would be helpful to ensure a reduction in regulatory burden is delivered in practice. We would also urge the regulator to consider how the approach to access and participation could be future-proofed to ensure regulatory expectations remain proportionate to the funding available to providers to meet them.

2. Context

- 2.1 We welcome the opportunity to respond to the Office for Students (OfS) consultation on regulating access and participation. We submitted evidence to the regulator earlier in the summer with the aim of feeding into the developing strategy on access and participation, setting out the following key priorities for the OfS:¹
- (a) moving from annual to multi-year plans for all providers to support institutions to set longer-term strategies
 - (b) working with DfE to ensure a coordinated approach to addressing the root-causes of under-representation
 - (c) supporting universities in identifying and disseminating effective practice and ensuring they have the tools available to undertake robust evaluations of their work
 - (d) working with the sector and counterparts in the devolved administrations to develop a basket of measures to underpin effective targeting and performance measurement
 - (e) enabling collaboration by recognising contributions to widening participation sector-wide
- 2.2 We welcome the intention for the new regulatory approach to be risk-based and underpinned by evidence, and to support providers to be strategic and ambitious in their efforts to widen access and promote success and progression. The move to multi-year access and participation plans and the focus on building the evidence base on what works is particularly helpful in this regard.
- 2.3 We have a number of concerns, however, about whether the proposed regulatory approach will deliver on the general duties of the OfS set out under Section 2(1)(g) of HERA 2017 (the principle that regulatory activities should be transparent, accountable, proportionate and consistent). These relate to:
- ensuring all elements of the regulatory approach reflect the diversity of the sector
 - clarity regarding how institutions will be classified as “high” vs. “low” risk
 - the accuracy and appropriateness of the proposed new access and participation dataset for identifying students from the most under-represented groups (and the targets that flow from this)
 - the need to incentivise collaborative and earlier interventions through target-setting
 - the intention to reduce unnecessary regulatory burden and whether this will be delivered in practice given the range of new requirements being introduced (e.g. annual impact reports, action plans, data reporting, self-assessments etc.).

3. Frequency of plans and monitoring cycle

- 3.1 The proposed introduction of multi-year access and participation plans is welcome; moving to multi-year plans should support institutions to set long-term strategies and invest in effective interventions. However, further clarity is needed regarding how the regulator will decide which institutions are “high risk” and how this will be applied in practice to ensure institutions can reasonably predict how they will be classified and then take appropriate action.
- 3.2 The OfS should publish more detailed guidance explaining the instances and factors which would lead an institution to be classified as “high” versus “low” risk. Illustrative scenarios may be helpful in this regard. The regulator should also make clear the process through which an institution may come to be reclassified (moving from low to high risk or vice versa), including

¹ Further details of our five-point plan for regulating access and participation are here: <https://www.russellgroup.ac.uk/policy/policy-documents/five-point-plan-on-access/>

the expected timeframe in certain circumstances and the extent to which a dialogue with the provider would be initiated to address and mitigate concerns.

- 3.3 In accordance with the increasing focus on success and progression as well as access, we would expect the assessment of risk to reflect the full student lifecycle. It should also reflect differences in institutional mission, geographical context and student demographics as these will underpin and influence the way in which targets are set.
- 3.4 We recognise concerns that collecting data on success and progression spend is burdensome and difficult. We would welcome assurance however, that focusing only on monitoring access spend should not be taken as an indication that this activity is more important than action on success and progression.
- 3.5 It would be helpful for the regulator to set out clearer expectations with regard to year-on-year improvements. Achieving consistent improvements over time is likely to require an expansion of the pool of applicants with the ability and desire to undertake higher education, for which a coordinated approach across the whole education system is needed. We would welcome a clearer articulation, underpinned by evidence, of the role universities can play in addressing the causes of under-representation starting from the early years onwards, and how this aligns with the role of schools, charities, community groups, colleges, Government and employers.
- 3.6 Expectations on continuous improvement over time should also reflect the time-lag associated with interventions at school/ pre-16 and with the HESA student record data which will make it difficult for providers to demonstrate impact as quickly as the regulator may wish.

4. Setting aims and targets

- 4.1 We welcome the intention to ensure targets are flexible enough to account for provider context. The approach to setting aims and targets should reflect the diversity of the sector and the complex and varied nature of the challenges different institutions face with regard to promoting access and participation.
- 4.2 We are concerned, however, that an overriding emphasis on direct institutional recruitment in the proposed aims and targets will risk disincentivising collaborative working as universities are forced to compete for a small pool of suitably qualified applicants from under-represented groups; this effect is likely to be exacerbated for selective institutions in particular. Institutions may be deterred from collaborating with each other in the same region, as this makes it difficult to attribute outcomes, and from investing in longer-term interventions working with younger learners. The proposed aims and targets could do more to incentivise work which is valuable but where returns take longer to deliver or are not easily attributable to one institution. We would like to see any aims and targets specified by the regulator agreed through consultation with the sector drawing on practitioners' expertise.
- 4.3 The effectiveness of the access and participation dataset in identifying the most under-represented and disadvantaged students at a national as well as an institutional level will be critical to the success of the regulatory model. It is important to note, therefore, that the proposed indicators on which targets will be set are not always effective in identifying students from deprived backgrounds. For example, whilst POLAR4 is a useful indicator, there are well-documented limitations to this metric:
 - Area-based measures such as POLAR do not always align with definitions of disadvantage used in schools and do not necessarily correlate with socio-economic status: previous evaluations of POLAR have found the classification does not

discriminate well between schools with relatively high and low proportions of free school meal claimants and, in many cases, the correlation with other measures of disadvantage are not as strong as might be assumed.²

- Many areas in London, for example, have high rates of HE participation despite high levels of other kinds of disadvantage: approximately 45% of local areas in London are classified as quintile 5 (Q5) compared with only 1.3% classified as Q1 despite London having a greater proportion of income-deprived children than anywhere else in the country.³

- 4.4 For this reason, the Social Mobility Advisory Group supported by UUK argued that “POLAR on its own is regarded as too blunt an instrument to inform the sector’s work on social mobility”.⁴ In addition, the focus on Q1 compared to Q5 students is a concern as performance in supporting entry for Q2 students will be excluded from targets and reporting. Many students in Q2 are arguably significantly educationally disadvantaged: the latest UCAS data shows they are 20 percentage points less likely to progress to higher education than those in Q5 areas (26.8% of Q2 students progress compared to 46.9% of Q5 students).⁵ Similarly, eligibility for free school meals (FSM) is not always an accurate proxy for deprivation given the time-lag associated with the data and the complex eligibility criteria.⁶
- 4.5 Russell Group universities currently consider a range of indicators of socio-economic and educational disadvantage and focus on the intersection of under-representation, disadvantage and protected characteristics. This involves, for example, using measures of financial deprivation such as ACORN, socio-economic indicators including the Output Area Classification, and focusing on specific groups of under-represented students, such as white working-class boys. The regulatory approach should continue to support institutions to use a range of indicators as appropriate to identify and target initiatives to under-represented students. We are concerned that the current proposals for the dataset do not sufficiently capture the intersectionality of characteristics of under-representation and disadvantage.
- 4.6 There are also likely to be students who will not be captured by the data, including those on degree apprenticeship programmes (as they apply via employers and are often not captured in UCAS data).
- 4.7 We would urge the OfS to consult further with the sector, and with counterparts in the Devolved Administrations, to explore and agree a range of appropriate indicators (both population-based and individual indicators) for use in setting targets and tracking performance. For example, this could include considering the applicability of measures such as ACORN, IMD and IDACI, and whether schools-based indicators including measures of attainment could be incorporated into the dataset. The regulator should also consider the statistical significance of gaps in access, success and progression before placing weight on trends in the data.

² “Further information on POLAR3: An analysis of geography, disadvantage and entrants to higher education”, HEFCE, February 2014

³ “POLAR4 classification: A local geography classification for young participation in higher education”, HEFCE, October 2017; *ibid*

⁴ “Working in Partnership: Enabling Social Mobility in Higher Education: The final report of the Social Mobility Advisory Group”, October 2016

⁵ “Statistical releases – daily Clearing analysis 2018”, UCAS, day 28 data

⁶ Some studies have shown that a small but significant proportion of children not eligible for free school meals are living in poverty and that FSM has limitations in rural areas in particular. See Montemaggi, Bullivant and Glackin (2017) and Taylor (2017).

4.8 Furthermore, some data underpinning the indicators (i.e. students previously eligible for FSM and data underlying the Multiple Equalities Measure) is not available to providers at the point of admission. It would therefore be unfair to expect institutions to achieve targets where they are not able to identify the students who contribute towards the indicator. The OfS should work with DfE and UCAS to unify datasets (such as FSM data) used to indicate disadvantage and measure progress at each stage within the education system enabling more precise identification and monitoring of students so that this can feed into assessment of institutional performance. It may also be helpful to consider how data on eligibility for full maintenance loan support (through the Student Loans Company) could be used.

5. Evaluation and evidence

5.1 We welcome the emphasis on building the evidence base and supporting evaluation. In supporting the creation of the Evidence and Impact Exchange, the regulator should focus on helping universities to identify and disseminate effective practice and help to ensure they have the tools to undertake robust evaluations of their work. In order to be effective, the Exchange should:⁷

- (a) primarily be a tool for practitioners, providing a safe space for sharing good practice and also enabling the sharing of evidence about what has not worked to support a greater understanding of how to maximise impact
- (b) draw on and collate evidence from existing initiatives, as well as identifying and addressing gaps in the evidence base through a series of funded research projects
- (c) ensure it is relevant for all higher education institutions by covering the full student lifecycle; ideally, extend to the whole of the UK given widening access and participation remains a key priority for universities in the devolved administrations as well as in England
- (d) recognise there is no one-size-fits-all solution which can be applied across the sector and evaluation results at one institution will not necessarily be comparable with those at another as a result of differences in context.

5.2 Many universities, including those in the Russell Group, have developed evaluative frameworks and are collaborating with each other and leading academics in the field, to build and apply evidence of “what works” within their institutions and more broadly. The proposed evaluation self-assessment tool should seek to build on, rather than disrupt, this practice. The tool should be developed in partnership, and tested with, a wide range of providers to ensure it adds value to the work already being undertaken in institutions.

6. Funding for access and participation

6.1 Given the ongoing review of post-18 education and funding as well as the ONS review of the treatment of student loans in the national accounts, it is helpful that the OfS does not intend to set specific requirements on the level of access and participation spending at the moment as this would risk pre-empting the outcomes of these reviews.

6.2 We would urge the regulator to consider how the approach to access and participation could be future-proofed to ensure regulatory expectations remain proportionate to the funding available to providers to meet them.

⁷ Further details on our priorities for the Evidence and Impact Exchange can be found here: <https://www.russellgroup.ac.uk/policy/policy-documents/evidence-and-impact-exchange/>

7. Publishing data

- 7.1 We recognise the need for transparency on access and participation data. There is a risk, however, that publishing multiple outputs covering slightly different sets of data (through impact reports, the new dataset and the transparency information alongside existing HESA and TEF splits data) could present a confusing and contradictory picture and therefore mislead applicants and other users.
- 7.2 To avoid deterring prospective applicants, data should be accompanied by relevant contextual information about provider mission, structures and admissions policies as well as broader trends which impact on access and student success at a national level. This means the template for impact reports and the further guidance on publishing transparency information should both be flexible enough to account for the diversity of the sector. The OfS should also consider how to make sure the data it publishes (through the new dataset) is clear, easy to use, and appropriately contextualised.
- 7.3 It would be helpful to identify the primary user group for the various published outputs (whether this is prospective applicants, students, the public, Government or others) and to test how to present data and accompanying narrative information to ensure it is useful.
- 7.4 In addition, we would suggest that data on institutional spend on access should be made available to prospective and current students in the interests of transparency and in line with the regulatory requirement on value for money.

8. Timescale for implementation

- 8.1 We would urge the regulator to ensure providers have sufficient lead-time to implement the new approach to access and participation before they are required to draw up the next round of plans for 2020/21. We are particularly concerned that it may be unrealistic to expect institutions to develop meaningful measures, identify activity to support the achievement of new targets and achieve the necessary internal approvals within the timeframe specified (with detailed guidance issued in February and plans required for early recruiters in April).
- 8.2 Providing more time after the full details of the new regulatory approach have been confirmed before the deadline for submission of plans will enable providers to respond effectively to the new regulatory priorities. We therefore urge the OfS to issue detailed guidance to institutions sooner than intended or to delay the deadline for early recruiters to submit 2020/21 plans, ideally providing at least four months between the publication of detailed guidance and the deadline for plans. This will be particularly important to ensure students and staff across institutions can feed into the development of the new plans.

October 2018