

Russell Group response to OfS consultations on teaching excellence, student outcomes & constructing indicators

1. Summary

- 1.1 This response seeks to address the proposals in all three consultations – on teaching excellence, student outcomes and indicators – and we encourage the OfS to consider responses to all the consultations in the round to better inform implementation.
- 1.2 On the **TEF consultation**, our key priorities include:
 - (a) Greater emphasis on **absolute values** when assessing a provider's performance within the proposed TEF framework alongside benchmarked values, reflecting that students are likely to be particularly interested in understanding absolute performance. Whilst we welcome the removal of the initial hypothesis, universities that have consistently maintained very high performance may also not be able to deliver continuous and significant positive differences from benchmark values, particularly with the increased value of the materiality test.
 - (b) We agree that **NSS data** should not be used as a direct measure of the quality of student experience or teaching. With this in mind, we do not think it appropriate for the student experience aspect to be a limiting factor on the overall award where this is primarily determined by NSS data. In addition, the TEF methodology should ensure providers are not inadvertently disadvantaged where NSS data is unavailable.
 - (c) We welcome the increased weighting of **provider submissions**, in comparison to the previous TEF cycle as this will enable other sources of data on quality and outcomes not captured in the indicators to be considered. The OfS should consider how to reduce the additional burden this will place on institutions, for example, by providing detailed guidance and an optional template for the submissions, to ensure consistency.
 - (d) The proposal to label the **fourth category** as 'Requires Improvement' is in conflict with the overall ambition of the TEF in celebrating excellence above the minimum baseline. A category entitled 'Meets UK Quality Requirements' would avoid confusion and limit reputational damage – as suggested in Dame Shirley Pearce's Independent Review. Alternatively, a category factually stating a provider was 'not awarded a TEF rating at this time' or was 'unclassified' would be acceptable.
 - (e) Sufficient training and guidance will be needed for **TEF panels** to produce fair and consistent assessments, especially given the complexity and volume of the datasets.
 - (f) The timeline for **implementation** of the next TEF exercise is extremely tight. In particular, the six-week window for the preparation of provider submissions is insufficient given the importance placed on these in the new framework. The implementation timeline should be moved back to enable the delivery of a meaningful TEF exercise. At a minimum, the provider submission window should be extended significantly.
- 1.3 Our key priorities on the **student outcomes (B3)** proposals:
 - (a) In principle, we are supportive of numerical thresholds to encourage high quality outcomes for students. However, to ensure providers are regulated in a proportionate and risk-based manner, those with the **most severe breaches** against minimum thresholds should be **prioritised** for regulatory intervention. Further clarity is also required on any future use of split indicators to make compliance judgements as this could be very burdensome.
 - (b) Clarity is also needed on how the OfS intends to use contextual information, at what point in the process this will be considered and how this will be made transparent. This should also consider wider issues such as employment trends as well as a provider's own context.
 - (c) In constructing the progression thresholds, the OfS over-emphasises a binary view of success, with a narrow definition of 'graduate job' and a narrow timeline considered, of 15

months after a qualification has been awarded. We would like to see more exploration of how progression indicators can best reflect performance.

- 1.4 In addition, it will be important to ensure that TEF and student outcomes data is presented clearly if published, with appropriate context, to ensure it can be interpreted easily and unambiguously by members of the public and prospective applicants.

2. Context

- 2.1 We welcome the opportunity to respond to these consultations to help build on the OfS' review of their overall approach to regulating quality and standards and look forward to continuing our engagement. We share the ambition to provide meaningful information to prospective applicants and to promote the enhancement of teaching and learning.
- 2.2 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 particularly welcome the OfS' recent engagement with our members to discuss regulatory burden and the reassurances given that providers performing above the minimum thresholds should experience a tangible reduction in 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 fully enacted.
- 2.3 It is also important for these proposals to anticipate the wider proposals now announced for the Lifelong Loan Entitlement (LLE) where early development of a proportionate regulatory approach will be key. We understand that both transnational education and modular provision are currently not in scope of these TEF/B3 proposals but with possible changes in future. We would expect the OfS to work closely with the sector before proposing any further changes to the regulatory framework, to ensure proposals are future-proofed.
- 2.4 **We encourage the OfS and DfE to keep the TEF under review to ensure the exercise adds genuine value to the sector and is an effective use of OfS and university resources. The OfS and DfE should also seek a better understanding of the burden that the TEF exercise places on individuals and institutions.**

3. A new Teaching Excellence Framework (TEF) framework

Benchmarking methodology

- 3.1 We welcome the OfS' removal of the use of an initial hypothesis in determining TEF awards. There were a number of flaws with this approach including that it did not consider the degree to which the significance flags had been met, leading to cliff-edges. We also welcome the proposed approach to highlighting high benchmark values using the graphical presentation of data and information on statistical certainty.
- 3.2 However, we would encourage the OfS to take greater consideration of absolute performance alongside benchmarked scores. High absolute performance is not sufficiently recognised or rewarded in the proposed framework, and students looking to interpret TEF awards may assume that absolute performance has been considered, and are also likely to be particularly interested in the absolute experience and outcomes they may receive. There are also methodological challenges with a purely contextual approach; universities that have consistently maintained very high performance may not be able to deliver continuous and significant positive differences from benchmark values, particularly with the increased value of the materiality test (to 2.5 percentage points). **Recognition that high benchmarks will**

be harder, or even impossible to beat, should apply across all of the indicators, not only for continuation, and to the split indicators.

- 3.3 In addition, given the complexity of the datasets which panels will need to consider, we propose that a mechanism to highlight high absolute performance (perhaps the top 10-20% of providers on each indicator) be introduced. This could mirror the “star” system from the previous TEF framework. This could also support clear understanding of published datasets.
- 3.4 We note the proposed methodology for split metrics is likely to lead to a significantly higher number of non-reportable metrics, especially at small providers. When considering subject-level data we remain concerned about how the low threshold for non-reportable metrics may impact the rigour of results, with a risk that small samples could skew results - particularly at the split-level – and undermine the usefulness of the overall exercise.

Indicators and aspects

- 3.5 We welcome the OfS’ proposal that NSS indicators should contribute no more than half of the evidence that assessment panels will consider when making judgements on student experience. Given the NSS indicators do not measure teaching quality directly, providing sufficient weight to additional evidence on teaching quality included in the submissions will be important. We agree that the OfS should not use NSS data as a direct measure of the quality of student experience, and that these indicators alone are not sufficient evidence to demonstrate very high (or low) features of student experience. **With this in mind, we do not think it is appropriate for the student experience aspect to be a limiting factor on the overall award where this is primarily determined by NSS data.**
- 3.6 We have previously noted that student disengagement with the NSS as a result of the TEF is a long-term issue and risks undermining the validity of the results. The consultation notes that the NSS is a survey with a high response rate (around 70 percent annually), but there could be a non-response bias.¹ The survey is also vulnerable to external events outside a provider’s control, such as UK and world events, industrial action or NSS boycotts, that could compromise NSS scores. This will be of particular importance when considering the NSS responses collected during the pandemic assessed as part of this TEF cycle.
- 3.7 It is important to highlight that a number of providers may have no published NSS metrics, often providing alternative internal data to supplement their submission. This data is not benchmarked. **The OfS must be clear on how it plans to advise panels on making fair and consistent judgements under these circumstances to ensure providers are not inadvertently disadvantaged by availability of NSS data.**
- 3.8 Ongoing work by the sector would suggest there is value in capturing educational/learning gains but there is not a widely accepted nationally agreed metric or approach and capturing gains may differ between providers. We therefore welcome that the OfS is not proposing a metric on educational gains and would encourage the OfS to keep their definition of educational gains, as assessed in the TEF, as broad as possible. In light of this, we would also ask that the OfS considers any evidence of educational gains in a holistic manner, avoiding a binary definition of success or failure. This will allow providers robustly to capture and demonstrate excellence in this area through their provider submission.

The provider & student submission

- 3.9 **We welcome the increased weighting of provider submissions, in comparison to the previous TEF cycle,** which will allow for better representation of context and additional

¹ ONS, Evaluation of the Statistical Elements of the TEF, page 97

sources of evidence, and will also enable more effective engagement from providers. We believe the written submissions are an opportunity for providers to detail evidence of high teaching quality, productive learning environments, innovation and student outcomes not captured by the proposed metrics.

- 3.10 Increasing the overall weighting of provider submission evidence is a welcome move from a more metric-heavy assessment method, but there is a risk this could create additional burden for providers, particularly in interpreting the complex, split metrics. This burden, however, could be significantly reduced if the OfS develops detailed guidance for providers. An optional template would help institutions navigate the process of determining the types and amount of evidence to submit and support consistency. Any supporting guidance should be published in advance of the data to help reduce burden on providers.
- 3.11 We understand the value of incorporating a student submission as part of the evidence base for TEF assessments, if it can broadly represent the views of the wider student population. However, the proposed timing of the TEF cycle would mean any Sabbatical Officers taking part in the exercise would have just started their elected year, and potentially not have the appropriate training or handover to be well informed on the detail of the exercise. We would welcome further information on the weighting of the student submission and seek assurance that a lack of submission would not negatively impact on a provider's overall TEF rating.
- 3.12 We encourage the OfS to make it clear in their communications that the student submission should be a co-creation exercise between student representatives and providers so students can better navigate the process. In addition, we agree the student submission does not necessarily have to be completed by an education-related sabbatical officer. Other students with a relevant role or experience in representing the provider's students on education or quality matters may be better placed to work with providers on the submission.

Ratings

- 3.13 We remain concerned that the TEF rating descriptors do not recognise the rigorous quality assurance system which institutions must satisfy to operate. There remains a risk that the ratings will be taken at face-value and interpreted simplistically. 'Silver', the most common award in the previous TEF cycle, is easily interpreted as average, and the 'Bronze' rating has a number of negative connotations. This risk is greater when comparing UK higher education provision internationally where there is no comparable rating system. **We propose the gold/silver/bronze ratings be replaced by alternative options which better reflect the nature of the assessment exercise. For example, bringing the TEF closer to the Research Excellence Framework approach using a star grading system.**
- 3.14 We understand the rationale for including a fourth TEF category to allow for greater distinction between those participating in the exercise. However, we consider that the current language of 'Requires Improvement' is in conflict with the overall ambition of the TEF, in celebrating excellence above the minimum baseline. To be performing above the minimum baseline is to demonstrate 'high quality'² provision, but labelling a provider as 'Requires Improvement' in this context would be confusing for applicants and would create a significant reputational risk. We understand the category indicates improvement required to acquire a TEF rating, but ultimately this is open to misinterpretation. **We recommend the OfS use the rating 'Meets Quality Requirements' as an alternative to 'Requires Improvement' – as**

² "This includes the principle that panel members would start with the assumption that, in general, courses should be considered as high quality, given that providers would need to satisfy high quality baseline requirements to be eligible to participate in the TEF and to retain a TEF rating (see proposal 5)." OfS, [Consultation on the Teaching Excellence Framework \(TEF\)](#), page 20

recommended by the Pearce Review. Alternatively, a category factually stating a provider was ‘not awarded a TEF rating at this time’ or was ‘unclassified’ would be acceptable.

Panels and assessment process

- 3.15 We are conscious of the added burden on panels and the complexity of the data that will need to be considered to arrive at consistent judgements. **We recommend the OfS take time to ensure sufficient training, and development of detailed guidance, for panels on how to interpret these data sets.** This, combined with a greater emphasis on consideration of provider submissions should improve the consistency of judgements and, therefore, an efficient approach to the ratings being awarded.
- 3.16 **The representations process on provisional TEF ratings is welcome and appears reasonable.** The OfS should make clear whether panel members are consistent throughout the initial assessment and representation process. Having the same panel members involved in representations could allow for greater understanding of the provider’s context and result in fairer outcomes.
- 3.17 There is, however, a potential reputational risk to providers who engage with the representation process and are therefore not awarded a rating in the initial TEF publication. It may appear to a non-expert, that the provider was deemed not good enough for a rating or did not participate in the exercise. **Whilst we understand the OfS’ intent to conclude the exercise in a timely manner we suggest that the 28-day representation process would not pose significant delay to the process and therefore all sector awards should be published at the same time.** In the case that this is not acceptable, we would encourage the OfS to use the term ‘pending decision’ to indicate a provider’s participation in the exercise and ensure that the process is clearly communicated externally to avoid any unintended consequences to providers making representations.

Timeline for implementation

- 3.18 Given the substantial proposed changes to the exercise and the level of detail included in this consultation, we believe more than the proposed six months is needed before implementation to allow the OfS and sector to fully prepare for and deliver the new exercise. Delaying implementation of the proposed TEF cycle to Spring 2023 would give the OfS sufficient time to consider consultation responses; work with the sector on the final design of the scheme and associated guidance; publish its final decisions; and launch a submission window that gives providers the maximum amount of time, within reason, to develop their submissions. **To ensure the delivery of a meaningful TEF exercise we urge the OfS to move back its implementation timeline. At a minimum, the provider submission window should be extended significantly.**

Publication of data

- 3.19 We question the OfS’ intention to publish TEF (and B3) indicators on an annual basis. Whilst we support the OfS’ commitment to data transparency, **further consideration is needed to ensure datasets can be understood clearly and avoid confusion.** The data which contributes to the outcome of TEF is contextualised by the supporting evidence of the provider and student submission. Whilst we acknowledge this data is made available through other sources, it would not be presented against any minimum thresholds. Without this context and specialist knowledge – which applicants, students and members of the public are unlikely to have – this data could risk being misinterpreted.

4. Regulating Student Outcomes (condition B3)

Construction of the numerical thresholds

- 4.1 We have previously encouraged the OfS to set more challenging baselines at the provider-level. In principle, we are supportive of the numerical thresholds constructed by the OfS to encourage high quality outcomes for students.
- 4.2 However, we are concerned that in constructing the metrics for progression the OfS over emphasises a binary view of success and uses data based on a narrow timeframe, only 2 years after graduation. These narrow definitions of 'graduate job' are informed by outdated SOC codes and give little consideration for students, for example, who go into or create their own start-up businesses. Within the progression methodology, we would encourage the OfS to reconsider how it assesses positive outcomes that might not necessarily be economically active e.g., carers, travelling or retirement.

Prioritisation methodology

- 4.3 We welcome the intention to move toward a more risk-based and proportional approach. In relation to condition B3, this should enable the OfS to target resources and address pockets of low-quality provision. **We recommend the OfS prioritises groups of providers for individual assessment by considering provider-level student outcome data where:**
- (a) performance in relation to numerical thresholds suggests that there may be the most severe breaches according to the distance between the indicator and the relevant numerical threshold (option b, ii.)³
 - (b) there is the strongest statistical confidence performance is below the threshold (option d)
- 4.4 The OfS should focus on low-quality performance at the provider-level rather than taking a more granular approach. **We would not support random sampling of providers, as this is not in line with a risk-based or proportionate approach to regulation.**

Scope of Further Assessment

- 4.5 **We recommend the OfS adopts option b⁴ "assessing all indicators for a provider selected through prioritisation", in relation to the proposed scope of further assessment.** We believe this approach would reduce the chance of high-quality providers, in absolute terms, being identified for further assessment.
- 4.6 We recommend option b, on the condition that the prioritisation exercise is framed around severe breaches of provider-level indicators. It would be unnecessarily burdensome and disproportionate if a provider was identified to have fallen below the minimum threshold on, potentially, a single specific split metric to then undertake a complex assessment.
- 4.7 Under the current proposals, the OfS has the ability to change its approach to prioritisation and the scope of further assessments significantly year by year. To support the principle of risk-based regulation and to provide clarity to the sector, the OfS should adopt a proportionate prioritisation method, and commit to further sector engagement before it makes any significant changes to its approach. For example, if the OfS intended to prioritise statistically significant breaches one year and then focus on single-subject assessments another this re-prioritisation should not be made without genuine sector engagement.

³ OfS, [Consultation on the Teaching Excellence Framework \(TEF\)](#), page 50

⁴ OfS, [Consultation on the Teaching Excellence Framework \(TEF\)](#), page 52

Consideration of context

- 4.8 The proposals indicate the OfS will make initial judgements on whether the provider's context justifies the provider's outcome data. We would encourage the OfS to go beyond the provider's own context and consider wider contextual issues, for example employment sector trends that may explain a specific subject being below a numerical threshold. **We would welcome further detail from the OfS on how they intend to make this process transparent, what the optimal point in the process is for such context to be considered, and their intent to engage with providers at the point they are identified through the prioritisation framework.**
- 4.9 The intention of the OfS appears to be to develop greater cohesion between the TEF and ongoing conditions of registration. To facilitate this, **we recommend the OfS uses both the provider and student submission, from the TEF assessment cycle, as an initial point of information to understand a provider's context.** This would potentially reduce burden on providers, who may have already rationalised performance below a given threshold as part of the TEF exercise. We would, however, still expect the OfS to engage directly with the provider if this evidence is not sufficient to determine positive student outcomes.

Split indicators

- 4.10 To minimise the data burden on providers, we welcome the OfS' decision not to set different thresholds for subject-level split metrics. We understand the OfS will not perform a comparative assessment between subjects but instead judge subjects against a level where all providers should be delivering. Whilst we understand the OfS' desire to ensure standards are upheld across all courses, we are concerned about the robustness of judgements, particularly on courses with small cohorts, and the level of burden this approach would place on providers. **We seek further clarity from the OfS on any future intent to regulate at the course level and encourage them to consult the sector before implementation.**
- 4.11 We note in the OfS' draft strategy it would 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. We would like to seek more information on the OfS' goal for "courses that do not meet our [the OfS'] requirements being improved or closed",⁵ and the statutory powers it would be relying on to achieve this.

Publication of data

- 4.12 We understand student outcome data is available on an annual basis, but this is not benchmarked or compared against any threshold. Under the OfS' proposals, student outcomes data will be published on an annual basis in relation to a provider's individual benchmarks and numerical thresholds. Whilst we encourage the OfS to be as transparent as possible, we are concerned about the unintended consequences of publishing data in this way, particularly where split indicator samples are relatively small.
- 4.13 **Alongside the annual data publication, the OfS should make clear that performance below a threshold does not necessarily equate to 'poor performance'. The OfS should aim to provide any relevant context that might rationalise performance below the threshold, as well as making it clear where a provider has not been subject to further investigation or where there is an evident breach of the condition.**

⁵ OfS, [Consultation on our strategy for 2022-25](#), page 15