



Department
for Business
Innovation & Skills

**ALTERNATIVE PROVIDERS OF
HIGHER EDUCATION**

**IMPROVING QUALITY AND VALUE
FOR MONEY**

CONSULTATION RESPONSE FORM

FEBRUARY 2015

Alternative Providers of Higher Education: Improving Quality and Value for Money consultation response form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **27/03/2015**.

Your name: **Nick Johnstone**

Your organisation (if applicable): **GuildHE**

Address: **Woburn House, 20 Tavistock Square, London WC1H 9HB**

Please return completed forms to:

AP.HE.Consultation@bis.gsi.gov.uk

Or

Jenny Wyman
HE Alternative Providers Consultation Response
Level 1, 2 St Paul's Place
125 Norfolk Street
Sheffield S1 2FJ

Please select from the following list the option that best describes you as a respondent.

	Alternative higher education provider (designated)
	Alternative higher education provider (no designated courses)
	Awarding organisation
	Central government
	Charity or social enterprise
	Further Education College
	Higher Education Institution
	Individual (Please describe any particular relevant interest: student, teaching staff etc.)

	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
X	Representative body
	Small business (10 to 49 staff)
	Trade union or staff association
	Other (please describe)

List of questions

Q1. Do you agree that the Government should introduce a requirement for alternative providers to ensure minimum standards of English language proficiency in all four components for its students? Please give reasons for your answer.

Yes – provided the rationale is to support students' learning and ensure appropriate access to HE, and not to restrict entry on non-academic grounds.

Reasons

Proficiency in English language is clearly important for studying courses delivered in English in this country. Evidence does suggest that the level of proficiency can drive up attainment and student satisfaction, and can help improve overall quality of the learning and teaching environment. We recognise areas where concerns have been recently raised about proficiency and standards.

Standards should be set at a level which is appropriate to higher learning while not creating unnecessary barriers to entry to HE for students.

Any new policy should be oriented towards improving students' learning opportunities and environment, and providing assurance that a student is qualified and suited for a course. We would not accept this policy if it is subsequently used without regard for that as a lever to depress the numbers of students for whom English is not a first language.

While language tests can be – and are – used to indicate a student's capability to study in this country, they are not an absolute guarantee of that capability. Any new regulations must recognise that increasing minimum language requirements does not single-handedly guarantee a student will be more likely to succeed in higher

education; many other factors influence a student's suitability for a given course. Therefore we would urge caution before placing too much reliance on language testing as an entry-threshold.

It would be difficult to support this measure if it does not provide demonstrable assurance that a student is qualified and suited for a course.

It is also in students' interests that other structures are in place in an institution while students are in attendance – including further opportunities for improving English language.

We understand the proposals would introduce requirements for students which are not currently subject to such controls through separate Home Office requirements. While we understand that the Home Office is, independently, a significant driver for non-EU students, policy decisions relating to study eligibility for other students should be driven by other considerations – such as the advice of the PAC quoted in the consultation document, Edexcel's consultation on Higher Nationals requirements, and the responses to the present consultation.

We would therefore caution against creating an overly compliance-focused admissions culture. Such approach to language requirements, while it may help to control minimum standards and abuses of the system, risks marginalizing the importance of any good practice already in place at providers whose practices are already satisfactory and unhelpfully incentivising those providers to focus mainly on compliance culture instead. A balanced approach is important, so Government should consider whether improved practice can be encouraged, before then considering how it must be mandated.

Finally, if standards are applied to certain parts of the sector, Government will need to consider whether there are any implications for fairness and competition across different types of provider. There is an argument for equitable application of minimum standards across all providers.

Q2. Should the requirement to ensure minimum standards of English language proficiency apply to all alternative providers on the same basis? Please give reasons for your answer.

Yes

Reasons

As above – there is an argument that standards should be applied equitably across all providers. If this requirement is to be introduced then once a provider has met a threshold standard, they have met this requirement.

A small number of courses are taught in languages other than English. Such cases could be excepted from this requirement, as there would be no academic rationale for requiring English language proficiency.

Q3. What is the potential impact on protected groups of a requirement for providers to ensure a minimum standard of English language proficiency? How could the impact you identify be mitigated?

We have identified a number of potential impacts as follows:

- Students transitioning from one level of qualification (e.g. Level 3) to a higher level. These students may need to complete the higher language requirement during their existing study – potentially at their own expense and at risk of distracting from their current studies.
- Dyslexic students and students with other learning difficulties may need specific support.
- The pressure on language testing centres will also need careful consideration – and co-ordination by BIS and Home Office on how to support them given increased testing volume.

BIS should consider how publicly-funded institutions deliver support for pre-sessional courses, how they fund this work, and how these methods and funding structures can be translated to the alternative provider sector. If public funding is available, it should be available to all institutions with loan-designated courses.

Q4. Do you agree that the minimum standard of English language proficiency required should be set at International Level B2? Please give reasons for your answer.

Yes, but with the caveats mentioned under Q1 above

Reasons

Level B2 seems acceptable, but see also our answer to Q1 above.

Q5. What further actions could strengthen arrangements for ensuring students are recruited with a minimum standard of English language proficiency, and what action is already underway? Which organisations are best placed to support a strengthening of these arrangements?

If the other proposals in this consultation are introduced (on information provision and measures of provider performance), we expect they will help strengthen standards by focusing institutions' attention on the impact that low levels of English language may have on, for example, student drop-out rates. Providers will also need to ensure they provide accurate and useful information about what tuition the student will receive.

See also our response to Q2 above.

Q6. How can we ensure that the introduction of a minimum standard of English language proficiency does not have an unintended adverse effect on existing good practice?

Government will need to be wary of one-size-fits-all approaches. An approach which is too tightly mandated could overlook any existing good practice and unnecessarily constrain institutions whose students' language proficiency is already sufficient. Both BIS and Home Office will need to bear this in mind.

A way of recognising this might be to allow providers to articulate clearly what their own processes are for managing this aspect of admissions (during annual monitoring).

See also our response to Q5 above, on the impact that the other proposals in this consultation (information-provision, performance measures) may have.

Q7. Do you agree that alternative providers should ensure that students have a minimum standard of English language proficiency before they start their course, rather than learning English alongside the course? Please give reasons for your answer.

Yes – but see also our point above (Q2) about students transitioning within the UK from Level 3 courses.

Q8. Do you agree in principle that alternative providers should be required to provide information to prospective students through the Key Information Set? Please give reasons for your answer.

Yes

Reasons

The Key Information Set has been developed with the information needs of students and potential students in mind. It is appropriate that students should be able to access comparable information on all HE providers regardless of their constitutional form. The proposed requirement would align information requirements for all APs more closely with the HEFCE-funded sector.

Many APs are already subscribing to HESA and providing returns to HEFCE, and a number already participate in KIS.

We would, however, ask BIS to recognise where this proposal will create additional burden at other providers (e.g. involvement in DLHE and NSS), and to consider how to support such providers.

Where APs are already providing information to sector agencies, it will be important that the proposed information requirements do not create duplication.

HEFCE-funded institutions have a long history of familiarity with datasets such as DLHE and NSS, and how to use their outcomes to manage continuous improvement. This is particularly important if the same data from APs is to be made available for student choice. Providers unfamiliar with KIS will need time – and probably support – to properly understand their data and take action where required.

The same applies to the proposed use of this data to measure performance for student number controls. If performance-related controls are introduced, it would be appropriate for BIS to be sensitive to this during the introductory phase.

Q9. Do you agree that small providers should also be required to provide the Key Information Set to prospective students? Please give reasons for your answer.

Yes – but with some caveats

Reasons

Students should have access to information about providers irrespective of size. However, we are very conscious of issues of cohort-size and burden in the smallest providers – including (but not limited to) those that are highly specialized in their provision.

We have considered ways to address this issue in our response to Q10 and Q12 below.

Q10. What alternative ways are there of providing comparable reliable information on employment outcomes and student satisfaction ratings to prospective students at small providers?

HEFCE is currently consulting on small-cohort thresholds for Unistats. We would urge BIS to consider the findings of that consultation and their relevance to the proposal here.

It may be useful to consider whether, for institutions that are highly specialised within one JACS, the rules on aggregation can be relaxed without impacting their reliability.

It may also be useful to consider how very small providers can be assisted by central bodies in data-collection and presentation. A good recent example of a process co-ordinated by HEFCE is the shared process established around new arrangements for managing DLHE in FE Colleges earlier in this Parliamentary period.

Q11. What issues should the Government be aware of in requiring providers to publish the Key Information Set starting in the 2016/17 academic year?

Introduction in 2016/17 would only allow for a very short lead-in time for providers not currently participating in KIS. The burden of transition will be greatest for those providers – and may entail significant costs in IT systems engineering to comply with HESA requirements.

We would expect most providers to be at least somewhat familiar with the KIS or with the measures it consists of – especially given its student-facing role. However, as mentioned above (Q9), some providers will be less familiar than others, and will

need to properly understand their data and how to use it to manage improvements. Since there will be some overlap between the HESA data supplied for KIS and that supplied for the “performance measures” proposed for controlling student numbers, BIS may wish to consider this when thinking about how the performance measures would be implemented.

There is also the small provider issue we raised above under Q10.

It is also worth noting that, although we support the principle of the provision of information for students, this requirement creates another barrier to entry to the system.

Q12. What interim measures could be introduced to make better information available to students before the full Key Information Set is available?

If the proposal for KIS participation is implemented, providers will want to concentrate their efforts on preparing for the KIS rather than being distracted by interim measures.

But more broadly, there may be elements of the HE Review or course designation process that can be used at low-burden in the interim. But it must depend on whether this can be done without distracting from KIS preparation, and whether the information could be useful for students – and would not be confusing to those who rely on the KIS for information at other providers.

Beyond this, BIS may wish to consider other activity relating to information-provision currently ongoing in the HE sector: the review of Unistats thresholds, the review of NSS, the CMA’s guidance on consumer protection for students, HEFCE’s review of quality assessment. The HE Public Information Steering Group (HEPISG) may also be able to inform the development of policy.

Fundamentally, standards should prohibit misleading and false advertising in HE. Students will be seeking information to inform their HE choices which extend beyond the comparative information provided in the KIS. On its own, participation in KIS may not fully solve problems around false advertising. There will be aspects which need to be picked up through other routes, e.g. HE Review. BIS’s proposals around number controls may help here.

Q13: Do you agree with the overall approach to base student number controls for alternative providers on performance? Please give reasons for your answer.

Yes – but with the caveats below

Reasons

We support the proposal to exempt alternative providers with Degree Awarding Powers from number controls. We also welcome the flexibility for other alternative providers in 2015-16.

For the proposed system from 2016-17: we support the Government if its aspiration is to protect the HE system, students and the public purse from less reputable providers, and to promote high-quality alternative providers. We would not, however, support the imposition of number controls for their own sake, since we agree with the Chancellor of the Exchequer that the cap on student numbers is a cap on aspiration, and we support the role that high-quality private provision can play in promoting diversity and choice for students where there is genuine demand for the options APs deliver. The system must therefore have quality and the wider student and public interest at its heart.

If Government is to go ahead with the proposed system, we ask that affected providers are given as much clarity as possible about the year-on-year implications and likely numbers in the system. This is essential for stable business-planning and for managing internal processes to meet the requirements of the proposed system. Alternative providers have been subject to a number of new regulatory measures over this Parliament in the absence of an HE Bill; some introduced at relatively short notice. This has made planning challenging for these institutions. Based on the consultation document, it is easy to see how the proposed mechanism allows Government to plan ahead, but less easy to see how affected providers could do so.

We recognise the intention is to manage numbers of students regardless of mode of study – although Government should be mindful of significant recent downturn in part-time numbers in the system overall. Part-time study and distance learning promote diversity of choice and access to HE. Therefore *poor quality* should be the only acceptable reason for depressing the number of part-time or distance learning options available to students.

This also goes for other forms of provision. High-quality alternative providers bring diversity to the English HE system and promote competition in the sector – which was the original intention of this Government in opening the HE system. It is crucial that any mechanism BIS decides to introduce is sensitive to this diversity of provision, and does not unnecessarily constrain it.

Q14. Do you agree that there should be a basic allocation and a performance-based allocation? Please give reasons for your answer

Not sure

Reasons

We find it difficult to agree fully without more information about what the thresholds for receiving either of these allocations would be. See our responses above (Q13) and below (Q15).

A 'basic' allocation help to support stable planning, whereas a performance-related element could introduce uncertainty – so in the interest of institutions being able to maintain resource for students on affected courses, it would be extremely important to strike the right balance between these two allocations.

Also, given widespread concerns about the overall decline of part-time study (see above Q13), it may be useful for BIS to consider how the allocations could protect numbers for certain modes or types of provision such as PT.

Q15. Do you agree that there should be a minimum quality standard that providers must meet in order to receive any allocation of places? Please give reasons for your answer.

Yes

The consultation proposal will allow BIS to ensure money is not wasted on poor-quality provision. All GuildHE members recognise the need to provide assurance that their provision is high quality, irrespective of a provider's corporate or constitutional form, where they are in receipt of public funding. This serves to protect the student interest as well as the reputation of the English HE sector and the reputation of individual high-quality providers. Providers which do not meet a high quality threshold should not receive public funding.

However, the consultation document does not define what the minimum quality standard would be – nor how far above compliance a provider would need to be in order to qualify for the “performance pool” of additional numbers. Without this definition, alternative providers will find it difficult to plan for the next couple of years.

Providers already participating in KIS and those with recent HE Review should be able to get a clearer sense of their position than others, but there is some lack of clarity for all affected APs.

In considering what the baseline would be, BIS will want to consider how HE Review could inform this baseline.

(See also our responses to Q13 and Q14 above.)

Q16: Which option for allocating performance pool places do you prefer, formula or competitive bidding? Are there other approaches which should be considered?

There are merits to both approaches but formula potentially allows for greater planning certainty

A formula-based allocation would be possible based on the management information APs will be providing the Government. It would allow Government to remain in control of overall numbers, while minimising the burden to institutions. This would reduce the burden on institutions given the high volume of changes which the consultation proposes to introduce over the same short period. It would also allow providers to plan with more certainty.

We can also see some merit in a competitive system – for example, as a means of driving up quality, or encouraging providers to meet other specific priorities such as an enhanced student experience.

Either way Government will have a range of powerful levers over APs. We would expect BIS to also bear year-on-year volatility in mind when considering how to apply those levers. It is not yet clear to us how large the fluctuations might be year on year.

Other approaches

Looking beyond the next couple of years, and in the event that the HE system remains uncapped for HEIs, FECs and APs with Degree Awarding Powers, BIS may wish to consider whether it may, at some point, become desirable to uncapped numbers for alternative providers which have been performing well under this system.

Q17. Do you agree with the types of performance information proposed as the basis for measuring alternative provider performance in the context of setting student number controls? Please give reasons for your answer and suggest any other measures that should be considered.

Yes (broadly)

Reasons and other measures

The five proposed “performance measures” reflect in large part indicators which are already published for HEFCE-funded institutions based on data and information supplied by such institutions.

The proposal would apply this data and information more precisely to number controls than has been done for HEFCE-funded institutions.

Quality should be the primary driver of the system. When deciding on the final basket of indicators, BIS will therefore need to ensure the measures it chooses are all capable of informing decisions on quality.

The proposals on number controls give Government some strong levers over APs – but it is important that no single measure from the basket is used as a lever in isolation. The assessment of providers must be “in the round” as to a provider’s capability.

BIS should also take track record into account, to help distinguish between performance problems and short term fluctuations in particular measures.

HEFCE-funded institutions have a long history of familiarity with datasets such as DLHE, NSS or Performance Indicators, and how to use their outcomes to manage continuous improvement. Providers unfamiliar with these data sets will need to learn how to understand their data and take action where required. If performance-related controls are introduced, it would be appropriate for BIS to be sensitive to this during the introductory phase.

It is also vital that the data is applied to controlling numbers without stifling diversity in modes or forms of provision, or the ways students prefer to access HE. We have

mentioned part-time and distance learning in a number of responses above. High-quality alternative providers bring other forms of diversity to the English HE system and promote competition in the sector – the original intention of this Government in opening the HE system up to APs. It is crucial that any mechanism introduced is sensitive to this diversity of provision, and does not unnecessarily constrain how APs deliver. It may therefore be necessary to consider the focus of HE Review or to bear in mind the modular nature of how some students access courses taught at APs. It may be that other measures are better indicators for certain types of provision such as part-time.

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes



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Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000
Email: enquiries@bis.gsi.gov.uk

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