

**Publication date:** 1 May 2022

## Other amendments to the regulatory framework

The Office for Students (OfS) published revised ongoing conditions of registration B1, B2, B4 and B5 and new initial conditions of registration B7 and B8 on 2 March 2022.<sup>1</sup>

In our consultation on these conditions, we signalled our intention to make consequential amendments to the guidance in the regulatory framework published in February 2018 (OfS 2018.01)<sup>2</sup> to reflect final decisions on these conditions and the guidance that underpins them. This document sets out these consequential amendments.

The consequential amendments form part of the regulatory framework and therefore constitute material published by the OfS under section 75 of the Higher Education and Research Act 2017. The amendments should be read in conjunction with the whole regulatory framework.

The guidance set out in the regulatory framework (OfS 2018.01) is amended as follows:

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<sup>1</sup> See [Quality and standards conditions of registration \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).

<sup>2</sup> OfS 2018.01; see [Securing student success: Regulatory framework for higher education in England \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).

## a. Guidance on subcontractual arrangements

After paragraph 66, insert:

“66a. For the avoidance of doubt, the guidance about subcontractual arrangements in this section is subject to the effect of any condition of registration.”

Amend the first row of the table on page 36 to read as follows (new wording underlined):

“The provider’s subcontractual arrangements	The Register will include information relating to a provider’s subcontractual arrangements. A lead provider may subcontract teaching of some or all of a course to a delivery provider or to another organisation. The lead provider remains responsible for the students studying at the delivery provider ( <u>subject to the effect of any condition of registration</u> ). The Register entry for the lead provider will include information about those providers delivering its courses under subcontractual arrangements.”
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Amend the definition of ‘delivery provider’ on page 159 (Glossary) to read as follows (new wording underlined):

### “*Delivery provider*

In the context of a **subcontractual** arrangement, the provider that delivers higher education provision to students on behalf of another higher education provider (the **lead provider**). The lead provider remains responsible for the students (subject to the effect of any condition of registration).”

## b. Guidance on overseas activities

After paragraph 88, insert:

“88a. For the avoidance of doubt, paragraph 88 is subject to the effect of any condition of registration.”

## c. Definition of provider

Amend the definition of ‘provider’ on page 162 (Glossary) to read as follows (new wording underlined and removed wording struck out):

### “*Provider*

Unless the context otherwise requires, a~~An~~ English higher education provider as defined in section 83 of HERA. A provider can be a body with **degree awarding powers** or deliver higher education on behalf of another awarding body.”

#### d. Definition of standards

Amend the definition of 'standards' on page 163 (Glossary) to read as follows (new wording underlined and removed wording struck out):

***"Standards***

**Unless the context otherwise requires, the standards set ~~for~~ by bodies with ~~degree awarding powers~~ for their courses, programmes and modules and expected to be achieved in order for an award to be made."**

#### e. Definition of UK Quality Code for Higher Education

Remove the definition of 'UK Quality Code for Higher Education' from page 164 (Glossary).

#### f. Amendments relating to initial conditions

Amend paragraph 97 to read as follows (new wording underlined and removed wording struck out):

**"With the exception of any condition that expressly provides that it only has effect as an initial condition, e**~~E~~**ach initial condition of registration will become a general ongoing condition of registration when a provider has been registered. This means that a provider is required to satisfy these conditions both as it seeks registration and on an ongoing basis throughout the duration of its registration."**

Amend the definition of 'Baseline requirements (and relationship with conditions)' on page 158 (Glossary) to read as follows (new wording underlined and removed wording struck out):

***"Baseline requirements (and relationship with conditions)***

Expressed in **conditions** of registration that seek to deliver the OfS's four primary regulatory objectives, as set out in Part I. Except where they refer to access and participation, they are expressed as outcomes, setting out the minimum level a provider must achieve and demonstrate in order to be registered. **With the exception of any condition that expressly provides that it only has effect as an initial condition, a**~~A~~**ll are general ongoing conditions of registration, some are also initial conditions of registration which must be satisfied during application to the register."**

## g. Amendments to degree awarding powers guidance

Add the following footnote to paragraph 231c:

“12A. See also paragraph 282B.”

Add the following footnote to paragraph 258c:

“13A. See also paragraph 282B.”

After paragraph 282, insert:

### “Quality and standards conditions

282A. Where the OfS makes a final decision that there is, or has been, a breach of ongoing quality and standards conditions B1, B2, B4 and/or B5,<sup>14A</sup> the OfS will consider using its power under section 16 of HERA to suspend the aspects of the provider’s registration that relate to the authorisation of DAPs. The OfS would be likely to suspend the provider’s eligibility to be authorised for new<sup>14B</sup> or extended<sup>14C</sup> DAPs.

282B. Alternatively, where the OfS makes a final decision that there is, or has been, a breach of ongoing quality and standards conditions B1, B2, B4 and/or B5<sup>14D</sup> or where the OfS has imposed a specific condition of registration due to regulatory concerns relating to one or more of those conditions, the OfS may decide that the provider is not suitable to be authorised for new<sup>14E</sup> or extended<sup>14F</sup> DAPs.

282C. For information about how the OfS will treat a provider’s compliance history in respect of conditions B1, B2, B4 and B5 in the context of DAPs decisions where a merger, acquisition or other corporate change occurs, see paragraph 372 of the Analysis of responses to consultation and decision document.<sup>14G</sup>”

<sup>14A</sup> As revised in: [Quality and standards conditions of registration \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).

<sup>14B</sup> In this context ‘new’ means powers that the provider has not previously held, whether or not it seeks to hold those powers on a probationary basis.

<sup>14C</sup> For example, an order extending a provider’s DAPs by time, level or subject.

<sup>14D</sup> As revised in: [Quality and standards conditions of registration \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).

<sup>14E</sup> In this context ‘new’ means powers that the provider has not previously held, whether or not it seeks to hold those powers on a probationary basis.

<sup>14F</sup> For example, an order extending a provider’s DAPs by time, level or subject.

<sup>14G</sup> [Consultation on quality and standards conditions - Analysis of responses \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).

## h. Amendments to university title guidance

After paragraph 306, insert:

### “Quality and standards conditions

306A. Where the OfS makes a final decision that there is, or has been, a breach of ongoing quality and standards conditions B1, B2, B4 and/or B5,<sup>16A</sup> the OfS will consider using its power under section 16 of HERA to suspend the aspects of the provider’s registration that relate to the authorisation of university or university college title. The OfS would be likely to suspend the provider’s eligibility to be authorised for university or university college title.

306B. Alternatively, where the OfS makes a final decision that there is, or has been, a breach of ongoing quality and standards conditions B1, B2, B4 and/or B5<sup>16B</sup> or where the OfS has imposed a specific condition of registration due to regulatory concerns relating to one or more of those conditions, the OfS may decide that the provider is not suitable to be authorised for university or university college title.

306C. For information about how the OfS will treat a provider’s compliance history in respect of conditions B1, B2, B4 and B5 in the context of university or university college title decisions where a merger, acquisition or other corporate change occurs, see paragraph 372 of the Analysis of responses to consultation and decision document.<sup>16C</sup>”

<sup>16A</sup> As revised in: [Quality and standards conditions of registration \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).

<sup>16B</sup> As revised in: [Quality and standards conditions of registration \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).

<sup>16C</sup> [Consultation on quality and standards conditions - Analysis of responses \(officeforstudents.org.uk\)](https://www.officeforstudents.org.uk).