

Quality and standards conditions

General ongoing conditions of registration

Condition B1: Academic experience

Scope

B1.1 This condition applies to the quality of higher education provided in any manner or form by, or on behalf of, a provider (including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider).

Requirement

B1.2 Without prejudice to the principles and requirements provided for by any other condition of registration and the scope of B1.1, the provider must ensure that the students registered on each **higher education course** receive a high quality academic experience.

B1.3 For the purposes of this condition, a high quality academic experience includes but is not limited to ensuring all of the following:

- a. each **higher education course** is **up-to-date**;
- b. each **higher education course** provides **educational challenge**;
- c. each **higher education course** is **coherent**;
- d. each **higher education course** is **effectively delivered**; and
- e. each **higher education course**, as appropriate to the subject matter of the course, requires students to develop **relevant skills**.

B1.4 Insofar as **relevant skills** includes technical proficiency in the English language, the provider is not required to comply with B1.3.e to the extent that it is able to demonstrate to the OfS, on the balance of probabilities, that its English language proficiency requirements, or failure to have English language proficiency requirements, for one or more students, are strictly necessary as a matter of law because compliance with B1.3.e in respect of that student, or those students:

- i. would amount to a form of discrimination for the purposes of the Equality Act 2010; and
- ii. cannot be objectively justified for the purposes of relevant provisions of that Act; and

- iii. does not fall within an exception or exclusion provided for under or by virtue of that Act, including but not limited to provisions of the Act that relate to competence standards.

Definitions

B1.5 For the purposes of this condition B1:

- a. “**appropriately informed**” will be assessed by reference to:
 - i. the time period within which any of the developments described in the definition of **up-to-date** have been in existence;
 - ii. the importance of any of the developments described in the definition of **up-to-date** to the subject matter of the **higher education course**; and
 - iii. the time period by which it is planned that such developments described in the definition of **up-to-date** will be brought into the **higher education course** content.
- b. “**coherent**” means a **higher education course** which ensures:
 - i. there is an appropriate balance between breadth and depth of content;
 - ii. subjects and skills are taught in an appropriate order and, where necessary, build on each other throughout the course; and
 - iii. key concepts are introduced at the appropriate point in the course content.
- c. “**educational challenge**” means a challenge that is no less than the minimum level of rigour and difficulty reasonably expected of the **higher education course**, in the context of the subject matter and level of the course.
- d. “**effectively delivered**”, in relation to a **higher education course**, means the manner in which it is taught, supervised and assessed (both in person and remotely) including, but not limited to, ensuring:
 - i. an appropriate balance between delivery methods, for example lectures, seminars, group work or practical study, as relevant to the content of the course; and
 - ii. an appropriate balance between directed and independent study or research, as relevant to the level of the course.
- e. “**higher education course**” is to be interpreted:
 - i. in accordance with the Higher Education and Research Act 2017; and
 - ii. so as to include, for the avoidance of doubt:
 - A. a course of study;
 - B. a programme of research;
 - C. any further education course that forms an integrated part of a higher education course; and

D. any module that forms part of a higher education course, whether or not that module is delivered as an integrated part of the course.

f. “**relevant skills**” means:

- i. knowledge and understanding relevant to the subject matter and level of the **higher education course**; and
- ii. other skills relevant to the subject matter and level of the **higher education course** including, but not limited to, cognitive skills, practical skills, transferable skills and professional competences.

g. “**up-to-date**” means representative of current thinking and practices in the subject matter to which the **higher education course** relates, including being **appropriately informed** by recent:

- i. subject matter developments;
- ii. research, industrial and professional developments; and
- iii. developments in teaching and learning, including learning resources.

Summary

Applies to: all registered providers

Initial or general ongoing condition: general ongoing condition

Legal basis: section 5 of HERA

Guidance

Condition B1.1

1. The reference to higher education provided “in any manner or form” includes any higher education course (whether or not that course is recognised for OfS funding purposes, or any other purpose), at any level, and with any volume of learning. This means, for example, that postgraduate research courses, the study of modules or courses leading to microcredentials, and apprenticeships are included within the scope of this condition. It also includes courses provided face-to-face, by distance learning, or a combination of delivery approaches.
2. This condition applies to any higher education provided “by, or on behalf of, a provider”. This includes higher education provided to all of the students who are registered with a registered provider, taught by a registered provider or studying for an award of a registered provider (or where these services are provided on a registered provider’s behalf). This includes UK-based and non-UK-based students, and courses delivered through partnership arrangements both within the UK and internationally.

3. The reference to “including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider” means that a provider is required to comply with the provisions of this condition where it is the awarding body for a course, whether or not that provider has any other role in the design or delivery of that course.
4. Where a provider is not the awarding body for a course, this condition applies to a course the provider itself delivers, or which is delivered on its behalf, regardless of the identity of the awarding body, whether or not that awarding body is registered with the OfS, or the nature of any partnership agreement. For the avoidance of doubt, this means for example, that a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by Pearson is responsible for compliance with this condition in relation to those courses. Similarly, a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by another higher education provider, whether that awarding provider is located in England or elsewhere, is responsible for compliance with this condition in relation to those courses.
5. In practice, these provisions may result in more than one registered provider being responsible for compliance with this condition in relation to the same course.

Condition B1.3

6. The subject matter of this condition includes matters that relate to the curriculum and pedagogy for higher education courses. The OfS would expect to draw on expert academic judgement, including from subject experts, before reaching a view that the condition was not satisfied in relation to such matters.
7. The requirement of condition B1 is expressed as a principle that can be satisfied in different ways. To assist providers in understanding how the OfS may interpret this principles-based requirement in practice, the following paragraphs provide a small number of illustrative examples. These examples are not exhaustive.
8. In relation to “up-to-date” and “appropriately informed”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:
 - a. The subject matter of a course is not representative of current thinking and practices. For example, course content, including topics and reading lists, that is not informed by research and scholarship, or does not reflect professional developments, such as the adoption of the latest professional or industry standards, would likely be of concern.
 - b. The pedagogy of a course is not representative of current thinking and practices. For example, a course delivered wholly or in part online that does not use pedagogy appropriate to digital delivery, would likely be of concern.
 - c. The length of the period during which aspects of the course have not been updated. For example, a course that has not been updated for a number of years such that its content or pedagogy do not reflect current rigorous academic thinking in that subject area, or more generally, would likely be of concern. This may depend on the subject matter of a course, for example, for an accounting course, tax modules are likely to require frequent updating, whereas management accounting modules may need less frequent updating.

- d. The scale and nature of the changes needed to ensure the course is up-to-date. For example, a course that requires significant changes to ensure its content or pedagogy reflect current rigorous academic thinking in that subject area, or more generally, would likely be of concern. Similarly, a course with an out-of-date core component would likely be of concern.
 - e. The impact on students and others of an out-of-date course. For example, a course that does not contain content that is required by a professional, statutory or regulatory body (PSRB), whether or not that course has recently been updated, would likely be of concern. The OfS would be particularly concerned about a course that was not up-to-date where this could reasonably be viewed as creating a risk to the public, for example a course that provided graduates with the recognition to practice medicine or to teach in schools.
 - f. Whether a provider has plans to make changes to a course to ensure it is up-to-date. For example, plans to make changes to a course that post-date the OfS's interest in that course are less likely to reduce concerns.
9. In relation to “educational challenge”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:
- a. An integrated masters' course with a final year of study that does not provide sufficient rigour and difficulty, for example because students at different stages of the course are taught together in a way that does not recognise the different challenge needed, would likely be of concern.
 - b. An undergraduate degree course with an integrated foundation year, where the foundation year does not provide sufficient rigour and difficulty such that students are not prepared for successful study in the undergraduate course, would likely be of concern.
 - c. A research degree course that is focused on a research question that provides limited scope for original ideas would likely be of concern.
10. In relation to “coherent”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:
- a. The content of a course is too narrow. For example, a three-year undergraduate degree that does not provide appropriate opportunity, in light of the course content, for students to study optional subjects beyond a mandatory core, either because the course was designed without such options, or because options are not in practice available, would likely be of concern.
 - b. The content of a course is too broad. For example, a 20 credit module that contains too much material for students to demonstrate the depth of understanding expected for the course, would likely be of concern.
 - c. Students are not secure in foundational topics. Students do not learn key, foundation concepts before moving onto more difficult topics, for example, a course that requires competence in mathematics does not teach these concepts before or alongside the topics they underpin would likely be of concern.

- d. Practical or practice-based components are not taught in an appropriate order. For example, laboratory practical sessions are delivered in a disconnected way from related theory.
- e. Skills are not taught at the right time. For example, research skills courses not being available for research students at the appropriate time before or during their research programme, would likely be of concern.
- f. Module choices do not ensure students are able to construct a coherent pathway. For example, a course that offers students a wide choice of modules but where choices do not result in a coherent learning experience, would likely be of concern.

11. In relation to “effectively delivered”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:

- a. The range of learning activities is too narrow. For example, a course that is predominantly taught through large-scale lectures and does not provide opportunities for small group teaching would likely be of concern.
- b. Learning activities are not delivered effectively. For example, insufficient opportunities for students to engage directly with teaching staff, including where parts of a course are delivered remotely, would likely be of concern.
- c. The research environment does not support students’ learning. For example, a postgraduate research course without regular and effective supervision sessions, or without opportunities for structured engagement with other researchers, would likely be of concern.
- d. Professional or practice-based elements are not integrated with academic elements. For example, an apprenticeship that does not require academic reflection on work-based learning would likely be of concern.
- e. Assessment is not designed into the course. For example, assessment activities not being scheduled to consolidate students’ learning, or feedback not sufficient or timely to support learning, would likely be of concern.

12. In relation to “relevant skills”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:

- a. A course that does not require students to develop and demonstrate intellectual skills, such as evaluating evidence, mobilising an argument, and solving problems, consistent with the subject and level of the course, would likely be of concern.
- b. A course designed to lead to a particular profession that does not require students to develop and demonstrate the skills necessary for success in that profession, for example, where specific skills are required for a relevant PSRB accreditation, would likely be of concern.

Condition B1.4

13. In order to successfully rely on the exception in B1.4, the nature of the evidence a provider would need to put forward would go beyond articulating potential legal concerns or matters to which it has had regard in its decision-making and would require compelling evidence and reasoning on matters of law. As the exception in B1.4 only applies ‘to the extent’ that a provider can demonstrate a conflict with the Equality Act 2010, it would not be sufficient for a provider to put forward evidence and reasoning about its requirements (or absence of requirements) in general terms; rather, a provider would need to address the particular requirements (or absence of requirements) which it is seeking to justify under the exception, and the particular courses to which these relate.
14. To give an example, citing this exception, a provider could seek to demonstrate that it is obliged, in order to avoid discrimination under the Equality Act 2010, to design its course requirements in a manner which makes certain allowances for students with dyslexia or other learning disabilities on some courses. If this was the case, the OfS would expect the provider to demonstrate, in the context of the particular courses at issue, that any allowances made were strictly necessary to avoid discrimination under the Equality Act 2010, with reference to compelling evidence and reasoning which supports this. The OfS expects that potential conflicts between requirements relating to English language proficiency and the Equality Act 2010 will only arise in rare cases, and therefore that this exception is likely to be invoked only in limited circumstances, for example in relation to students with particular learning disabilities.

Information gathering, assessment of evidence and enforcement

15. The OfS will use its general risk-based approach to monitoring as set out in the regulatory framework.
16. Where monitoring activity produces intelligence or evidence that suggests there may be compliance concerns for an individual provider, the OfS may adopt one or more of the following approaches in any order:
 - a. Engage with a provider to ensure it is aware of the issues.
 - b. Gather further information it considers relevant to the scope of the potential concerns, from a provider or from elsewhere on a voluntary basis, to facilitate an assessment of whether there is, or has been, a breach of one or more conditions.
 - c. Use its investigatory powers where that is considered appropriate for any reason.
17. Where the OfS considers it appropriate to use its investigatory powers it may conduct an investigation itself, or may ask the designated quality body, or another appropriate body or individual, to gather further information it considers relevant. An investigation will normally involve a visit to the provider and interviews with relevant staff and students.
18. Having gathered further relevant information as necessary, the OfS will reach a view about a provider’s previous and ongoing compliance with the condition. Where the OfS takes the view that there is or has been a breach of the condition, it will write to the provider to set out the reasons for its provisional decision and set out the evidence it has used to reach this view. The

provider is able to submit any further information it considers relevant in a representations process and the OfS will consider this before reaching a final decision.

19. Where the OfS has decided that there is, or has been, a breach of this condition, it will consider the use of the full range of its enforcement powers. This includes the imposition of a monetary penalty, suspension of elements of a provider's registration, for example its access to student support funding or OfS public grant funding, or deregistration. The OfS is likely to require improvement, to mitigate the impact of poor performance on students, or to incentivise future compliance by this and other providers. The OfS will follow any statutory consultation process as it takes enforcement action.
20. Where the OfS considers there to be an increased risk of a breach or a relevant wider regulatory concern, it may impose one or more specific ongoing conditions of registration and will also consider whether additional monitoring requirements are appropriate, for example, a requirement to report additional matters as reportable events.
21. Where there is, or has been, a breach of this condition, or the OfS has imposed a specific condition of registration, the ways in which the OfS may take this into account include, but are not limited to, the following:
 - a. A provider's eligibility to participate in the TEF. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may be taken into account in determining its eligibility to participate in the TEF.
 - b. A provider's existing TEF rating. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may affect any existing TEF rating.
 - c. Regulation of degree awarding powers. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for new or extended degree awarding powers.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for new or extended DAPs. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for new or extended DAPs where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.

The OfS would take this approach whether or not the authorisation sought is to gain new powers, or extend existing powers, for example by time, level or subject.

- d. Regulation of university, and university college, title. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for university or university college title.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for university or university college title. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for university or university college title where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.
- e. The criteria for allocation of OfS public grant funding. In accordance with any separate OfS policies on matters relating to public grant funding, the OfS may decide to take account of a provider's current and previous compliance with this condition in determining allocations of some types of OfS public grant funding.

Condition B2: Resources, support and student engagement

Scope

B2.1 This condition applies to the quality of higher education provided in any manner or form by, or on behalf of, a provider (including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider).

Requirement

B2.2 Without prejudice to the principles and requirements provided for by any other condition of registration and the scope of B2.1, the provider must take all reasonable steps to ensure:

- a. each **cohort of students** registered on each **higher education course** receives **resources** and **support** which are sufficient for the purpose of ensuring:
 - i. a high quality academic experience for those students; and
 - ii. those students succeed in and beyond higher education; and
- b. effective **engagement** with each **cohort of students** which is sufficient for the purpose of ensuring:
 - i. a high quality academic experience for those students; and
 - ii. those students succeed in and beyond higher education.

B2.3 For the purposes of this condition, “all reasonable steps” is to be interpreted in a manner which (without prejudice to other relevant considerations):

- a. focuses and places significant weight on:
 - i. the particular academic needs of each **cohort of students** based on prior academic attainment and capability; and
 - ii. the principle that the greater the academic needs of the **cohort of students**, the number and nature of the steps needed to be taken are likely to be more significant;
- b. places less weight, as compared to the factor described in B2.3a., on the provider’s financial constraints; and
- c. disregards case law relating to the interpretation of contractual obligations.

Definitions

B2.4 For the purposes of this condition B2:

- a. “**academic misconduct**” means any action or attempted action that may result in a student obtaining an unfair academic advantage in relation to an **assessment**, including

but not limited to plagiarism, unauthorised collaboration and the possession of unauthorised materials during an **assessment**.

- b. “**appropriately qualified**” means staff have and maintain:
 - i. expert knowledge of the subject they design and/or deliver;
 - ii. teaching qualifications or training, and teaching experience, appropriate for the content and level of the relevant **higher education course**; and
 - iii. the required knowledge and skills as to the effective delivery of their **higher education course**.
- c. “**assessment**” means any component of a course used to assess student achievement towards a **relevant award**, including an examination and a test.
- d. “**cohort of students**” means the group of students registered on to the **higher education course** in question and is to be interpreted by reference to the particular academic needs of those students based on prior academic attainment and capability.
- e. “**engagement**” means routine provision of opportunities for students to contribute to the development of their academic experience and their **higher education course**, in a way that maintains the academic rigour of that course, including, but not limited to, through membership of the provider’s committees, opportunities to provide survey responses, and participation in activities to develop the course and the way it is delivered.
- f. “**higher education course**” is to be interpreted:
 - i. in accordance with the Higher Education and Research Act 2017; and
 - ii. so as to include, for the avoidance of doubt:
 - A. a course of study;
 - B. a programme of research;
 - C. any further education course that forms an integrated part of a higher education course; and
 - D. any module that forms part of a higher education course, whether or not that module is delivered as an integrated part of the course.
- g. “**physical and digital learning resources**” includes, as appropriate to the content and delivery of the **higher education course**, but is not limited to:
 - i. physical locations, for example teaching rooms, libraries, studios and laboratories;
 - ii. physical and digital learning resources, for example books, computers and software;

- iii. the resources needed for digital learning and teaching, for example, hardware and software, and technical infrastructure; and
 - iv. other specialist resources, for example specialist equipment, software and research tools.
- h. “**relevant award**” means:
- i. a **research award**;
 - ii. a **taught award**; and/or
 - iii. any other type of award or qualification in respect of a **higher education course**, including an award of credit granted in respect of a module that may form part of a larger **higher education course**,
- whether or not granted pursuant to an authorisation given by or under the Higher Education and Research Act 2017, another Act of Parliament or Royal Charter.
- i. “**research award**” and “**taught award**” have the meanings given in section 42(3) of the Higher Education and Research Act 2017.
- j. “**resources**” includes but is not limited to:
- i. the staff team that designs and delivers a **higher education course** being collectively **sufficient in number, appropriately qualified** and deployed effectively to deliver in practice; and
 - ii. **physical and digital learning resources** that are adequate and deployed effectively to meet the needs of the **cohort of students**.
- k. “**sufficient in number**” will be assessed by reference to the principle that the larger the cohort size of students, the greater the number of staff and amount of staff time should be available to students, and means, in the context of the staff team:
- i. there is sufficient financial resource to recruit and retain sufficient staff;
 - ii. the provider allocates appropriate financial resource to ensuring staff are equipped to teach courses;
 - iii. **higher education courses** have an adequate number of staff, and amount of staff time; and
 - iv. the impact on students of changes in staffing is minimal.
- l. “**support**” means the effective deployment of assistance, as appropriate to the content of the **higher education course** and the **cohort of students**, including but not limited to:
- i. academic support relating to the content of the **higher education course**;

- ii. support needed to underpin successful physical and digital learning and teaching;
- iii. support relating to understanding, avoiding and reporting **academic misconduct**; and
- iv. careers support,

but for the avoidance of doubt, does not include other categories of non-academic support.

Summary

Applies to: all registered providers

Initial or general ongoing condition: general ongoing condition

Legal basis: section 5 of HERA

Guidance

Condition B2.1

22. The reference to higher education provided “in any manner or form” includes any higher education course (whether or not that course is recognised for OfS funding purposes, or any other purpose), at any level, and with any volume of learning. This means, for example, that postgraduate research courses, the study of modules or courses leading to microcredentials, and apprenticeships are included within the scope of this condition. It also includes courses provided face-to-face, by distance learning, or a combination of delivery approaches.
23. This condition applies to any higher education provided “by, or on behalf of, a provider”. This includes higher education provided to all of the students who are registered with a registered provider, taught by a registered provider or studying for an award of a registered provider (or where these services are provided on a registered provider’s behalf). This includes UK-based and non-UK-based students, and courses delivered through partnership arrangements both within the UK and internationally.
24. The reference to “including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider” means that a provider is required to comply with the provisions of this condition where it is the awarding body for a course, whether or not that provider has any other role in the design or delivery of that course.
25. Where a provider is not the awarding body for a course, this condition applies to a course the provider itself delivers, or which is delivered on its behalf, regardless of the identity of the awarding body, whether or not that awarding body is registered with the OfS, or the nature of any partnership agreement. For the avoidance of doubt, this means for example, that a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by Pearson is responsible for compliance with this condition in relation to those courses. Similarly, a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by another higher education provider, whether that awarding provider is located in England or elsewhere, is responsible for compliance with this condition in relation to those courses.
26. In practice, these provisions may result in more than one registered provider being responsible for compliance with this condition in relation to the same course.

Condition B2.3

27. The requirement of condition B2 is expressed as a principle that can be satisfied in different ways. To assist providers in understanding how the OfS may interpret this principles-based requirement in practice, the following paragraphs provide a small number of illustrative examples. These examples are not exhaustive; nor are they provided as rules that, if followed, would constitute compliance with the condition.
28. “Cohort of students” includes students registered on postgraduate research courses, whether or not those courses are designed for students to study and progress as ‘a cohort’.
29. “Academic misconduct” includes presenting work for assessment that is not the work of the student being assessed and includes but is not limited to the use of services offered by an essay mill.

30. Where the condition contains requirements that relate to the staff team for a course, the OfS's focus is likely to be on the staff team as a whole, rather than on individuals within that team. The staff team includes individuals employed by a provider or otherwise deployed to teach on a course.
31. The following is an illustrative non-exhaustive list of examples that would not be likely to satisfy these requirements:
- a. A staff team comprised solely of inexperienced teachers is not likely to be appropriately qualified.
 - b. A staff team with narrow collective expertise in a subject area is not likely to be appropriately qualified if the range of options available to students extend beyond that collective expertise.
 - c. A staff team in which none of the individuals hold a teaching qualification or have been trained to undertake teaching is not likely to be appropriately qualified.
 - d. A staff team that is over-reliant on visiting teachers to deliver large or significant elements of a course is not likely to be appropriately qualified.
 - e. A staff team that does not conduct research at the forefront of relevant discipline(s) is not likely to be appropriately qualified to provide supervision to research students.
32. Where the condition contains requirements that relate to learning resources, a provider is expected to fund the provision of these resources, without additional charge beyond the course fee, where this is a reasonable step to take to ensure that the cohort of students registered on a course receive sufficient resources for the purpose of ensuring a high quality academic experience and success in and beyond higher education. A provider may determine the approach it takes to making such resources available to students, for example, by loaning resources to students for the duration of the course.
33. In relation to "physical and digital learning resources" the following is an illustrative non-exhaustive list of matters relating to 'physical learning resources' that would fall within the definition:
- a. Appropriate laboratory and technical resources for STEM subjects.
 - b. Appropriate studio, performance, and technical resources for creative subjects.
34. In relation to "physical and digital learning resources" the following is an illustrative non-exhaustive list of matters relating to 'digital learning resources' that would fall within the definition:
- a. Appropriate hardware. Students have, or have reliable and consistent access to, the hardware that allows them to effectively access all course content. Hardware is of the specification required to ensure that the student is not disadvantaged in relation to their peers.
 - b. Appropriate software. Students have, or have reliable and consistent access to, the software they need to effectively access all aspects of course content.

- c. Robust technical infrastructure. Technical infrastructure and systems work seamlessly and are repaired promptly when needed.
- d. Reliable access to the internet. Students have reliable and consistent access to an internet connection. Reliability and bandwidth of the internet connection are at a sufficient level to ensure that a student is not disadvantaged in relation to their peers.
- e. A trained teacher or instructor. Students have a trained teacher or instructor who is equipped to deliver high quality digital teaching and learning.
- f. An appropriate study place. Students have consistent access to a quiet space that is appropriate for studying.

35. In relation to “support” the following is an illustrative non-exhaustive list of matters that would fall within this definition:

- a. Academic support includes support to help students with course content or on placements, to identify and address knowledge or skills gaps, and make decisions about future study choices. It includes, for example, mentor support that disabled students may need to support their learning.
- b. Support needed to underpin successful physical and digital learning and teaching includes support to help students make best use of digital learning.
- c. Support relating to avoiding academic misconduct includes support for essay planning and accurate referencing, and advice about the consequences of academic misconduct.
- d. Careers support includes the information, advice and guidance students need to identify their capabilities and the way in which these may be suited to particular careers, and to articulate these in a way likely to result in successful job applications.

36. “Support” does not include other categories of non-academic support, for example, the provision of welfare and counselling services for students.

37. In relation to “engagement” the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:

- a. Membership of, and effective contribution to, the provider’s committees. An absence of student membership of, or effective contribution to, a provider’s governing body may be of concern, depending on the size and corporate structure of the provider. An absence of student membership of, or effective contribution to, a provider’s committees responsible for academic governance and learning and teaching would likely be of concern. An absence of student membership of, or effective contribution to, learning and teaching committees, or course-level committees, in a subject area, or department, would likely be of concern.
- b. Student feedback. Students not given a range of opportunities, either individually or collectively, to provide feedback on their course and the way it is delivered would likely be of concern.

- c. Maintaining academic rigour. Changes, as a result of student feedback provided through any mechanism, to the content of a course, or the way the course is delivered or assessed that, in the reasonable view of the OfS do not maintain the academic rigour of the course would likely be of concern.

Information gathering, assessment of evidence and enforcement

38. The OfS will use its general risk-based approach to monitoring as set out in the regulatory framework.
39. Where monitoring activity produces intelligence or evidence that suggests there may be compliance concerns for an individual provider, the OfS may adopt one or more of the following approaches in any order:
- a. Engage with a provider to ensure it is aware of the issues.
 - b. Gather further information it considers relevant to the scope of the potential concerns, from a provider or from elsewhere on a voluntary basis, to facilitate an assessment of whether there is, or has been, a breach of one or more conditions.
 - c. Use its investigatory powers where that is considered appropriate for any reason.
40. Where the OfS considers it appropriate to use its investigatory powers it may conduct an investigation itself, or may ask the designated quality body, or another appropriate body or individual, to gather further information it considers relevant. An investigation will normally involve a visit to the provider and interviews with relevant staff and students.
41. Having gathered further relevant information as necessary, the OfS will reach a view about a provider's previous and ongoing compliance with the condition. Where the OfS takes the view that there is or has been a breach of the condition it will write to the provider to set out the reasons for its provisional decision and set out the evidence it has used to reach this view. The provider is able to submit any further information it considers relevant in a representations process and the OfS will consider this before reaching a final decision.
42. Where the OfS has decided that there is, or has been, a breach of this condition, it will consider the use of the full range of its enforcement powers. This includes the imposition of a monetary penalty, suspension of elements of a provider's registration, for example its access to student support funding or OfS public grant funding, or deregistration. The OfS is likely to require improvement, to mitigate the impact of poor performance on students, or to incentivise future compliance by this and other providers. The OfS will follow any statutory consultation process as it takes enforcement action.
43. Where the OfS considers there to be an increased risk of a breach or a relevant wider regulatory concern, it may impose one or more specific ongoing conditions of registration and will also consider whether additional monitoring requirements are appropriate, for example, a requirement to report additional matters as reportable events.
44. Where there is, or has been, a breach of this condition, or the OfS has imposed a specific condition of registration, the ways in which the OfS may take this into account include, but are not limited to, the following:

- a. A provider's eligibility to participate in the TEF. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may be taken into account in determining its eligibility to participate in the TEF.
- b. A provider's existing TEF rating. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may affect any existing TEF rating.
- c. Regulation of degree awarding powers. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for new or extended degree awarding powers.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for new or extended DAPs. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for new or extended DAPs where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.

The OfS would take this approach whether or not the authorisation sought is to gain new powers, or extend existing powers, for example by time, level or subject.

- d. Regulation of university, and university college, title. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for university or university college title.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for university or university college title. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for university or university college title where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.

- e. The criteria for allocation of OfS public grant funding. In accordance with any separate OfS policies on matters relating to public grant funding, the OfS may decide to take account of a provider's current and previous compliance with this condition in determining allocations of some types of OfS public grant funding.

Condition B4: Assessment and awards

Scope

B4.1 This condition applies to the quality of higher education provided in any manner or form by, or on behalf of, a provider (including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider).

Requirement

B4.2 Without prejudice to the principles and requirements provided for by any other condition of registration and the scope of B4.1, the provider must ensure that:

- a. students are **assessed effectively**;
- b. each **assessment** is **valid** and **reliable**;
- c. **academic regulations** are designed to ensure that **relevant awards** are **credible**;
- d. subject to paragraph B4.3, in respect of each **higher education course**, **academic regulations** are designed to ensure the effective assessment of technical proficiency in the English language in a manner which appropriately reflects the level and content of the applicable **higher education course**; and
- e. **relevant awards** granted to students are **credible** at the point of being granted and when compared to those granted previously.

B4.3 The provider is not required to comply with B4.2d to the extent that:

- a. a **higher education course** is assessing a language that is not English; or
- b. the provider is able to demonstrate to the OfS, on the balance of probabilities, that its **academic regulations**, or failure to have any **academic regulations**, for assessing technical proficiency in the English language for one or more students are strictly necessary as a matter of law because compliance with B4.2d in respect of that student, or those students:
 - i. would amount to a form of discrimination for the purposes of the Equality Act 2010; and
 - ii. cannot be objectively justified for the purposes of relevant provisions of that Act; and
 - iii. does not fall within an exception or exclusion provided for under or by virtue of that Act, including but not limited to provisions of the Act that relate to competence standards.

Definitions

B4.4 For the purposes of this condition B4:

- a. “**academic misconduct**” means any action or attempted action that may result in a student obtaining an unfair academic advantage in relation to an **assessment**, including

but not limited to plagiarism, unauthorised collaboration and the possession of unauthorised materials during an **assessment**.

- b. “**academic regulations**” means regulations adopted by the provider, which govern its **higher education courses**, including but not limited to:
- i. the assessment of students’ work;
 - ii. student discipline relating to academic matters;
 - iii. the requirements for **relevant awards**; and
 - iv. the method used to determine classifications, including but not limited to:
 - A. the requirements for an award; and
 - B. the algorithms used to calculate the classification of awards.
- c. “**assessed effectively**” means assessed in a challenging and appropriately comprehensive way, by reference to the subject matter of the **higher education course**, and includes but is not limited to:
- i. providing stretch and rigour consistent with the level of the course;
 - ii. testing **relevant skills**; and
 - iii. **assessments** being designed in a way that minimises the opportunities for **academic misconduct** and facilitates the detection of such misconduct where it does occur.
- d. “**assessment**” means any component of a course used to assess student achievement towards a **relevant award**, including an examination and a test.
- e. “**credible**” means that, in the reasonable opinion of the OfS, **relevant awards** reflect students’ knowledge and skills, and for this purpose the OfS may take into account factors which include, but are not limited to:
- i. the number of **relevant awards** granted, and the classifications attached to them, and the way in which this number and/or the classifications change over time and compare with other providers;
 - ii. whether students are **assessed effectively** and whether **assessments** are **valid** and **reliable**;
 - iii. any actions the provider has taken that would result in an increased number of **relevant awards**, and/or changes in the classifications attached to them, whether or not the achievement of students has increased, for example, changes to assessment practices or **academic regulations**; and
 - iv. the provider’s explanation and evidence in support of the reasons for any changes in the classifications over time or differences with other providers.

- f. **“higher education course”** is to be interpreted:
- i. in accordance with the Higher Education and Research Act 2017; and
 - ii. so as to include, for the avoidance of doubt:
 - A. a course of study;
 - B. a programme of research;
 - C. any further education course that forms an integrated part of a higher education course; and
 - D. any module that forms part of a higher education course, whether or not that module is delivered as an integrated part of the course.
- g. **“relevant award”** means:
- i. a **research award**;
 - ii. a **taught award**; and/or
 - iii. any other type of award or qualification in respect of a **higher education course**, including an award of credit granted in respect of a module that may form part of a larger **higher education course**,
- whether or not granted pursuant to an authorisation given by or under the Higher Education and Research Act 2017, another Act of Parliament or Royal Charter.
- h. **“relevant skills”** means:
- i. knowledge and understanding relevant to the subject matter and level of the **higher education course**; and
 - ii. other skills relevant to the subject matter and level of the **higher education course** including, but not limited to, cognitive skills, practical skills, transferable skills and professional competences.
- i. **“reliable”** means that an **assessment**, in practice, requires students to demonstrate knowledge and skills in a manner which is consistent as between the students registered on a **higher education course** and over time, as appropriate in the context of developments in the content and delivery of the **higher education course**.
- j. **“research award”** and **“taught award”** have the meanings given in section 42(3) of the Higher Education and Research Act 2017.
- k. **“valid”** means that an **assessment** in fact takes place in a way that results in students demonstrating knowledge and skills in the way intended by design of the assessment.

Summary

Applies to: all registered providers

Initial or general ongoing condition: general ongoing condition

Legal basis: section 5 of HERA

Guidance

Condition B4.1

45. The reference to higher education provided “in any manner or form” includes any higher education course (whether or not that course is recognised for OfS funding purposes, or any other purpose), at any level, and with any volume of learning. This means, for example, that postgraduate research courses, the study of modules or courses leading to microcredentials, and apprenticeships are included within the scope of this condition. It also includes courses provided face-to-face, by distance learning, or a combination of delivery approaches.
46. This condition applies to any higher education provided “by, or on behalf of, a provider”. This includes higher education provided to all of the students who are registered with a registered provider, taught by a registered provider or studying for an award of a registered provider (or where these services are provided on a registered provider’s behalf). This includes UK-based and non-UK-based students, and courses delivered through partnership arrangements both within the UK and internationally.
47. The reference to “including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider” means that a provider is required to comply with the provisions of this condition where it is the awarding body for a course, whether or not that provider has any other role in the design or delivery of that course.
48. Where a provider is not the awarding body for a course, this condition applies to a course the provider itself delivers, or which is delivered on its behalf, regardless of the identity of the awarding body, whether or not that awarding body is registered with the OfS, or the nature of any partnership agreement. For the avoidance of doubt, this means for example, that a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by Pearson is responsible for compliance with this condition in relation to those courses. Similarly, a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by another higher education provider, whether that awarding provider is located in England or elsewhere, is responsible for compliance with this condition in relation to those courses.
49. In practice, these provisions may result in more than one registered provider being responsible for compliance with this condition in relation to the same course.

Condition B4.2

50. The requirement of condition B4 is expressed as a principle that can be satisfied in different ways. To assist providers in understanding how the OfS may interpret this principles-based requirement in practice, the following paragraphs provide a small number of illustrative examples. These examples are not exhaustive; nor are they provided as rules that, if followed, would constitute compliance with the condition.
51. “Academic misconduct” includes presenting work for assessment that is not the work of the student being assessed and includes but is not limited to the use of services offered by an essay mill.
52. In relation to “assessed effectively”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:
- a. An undergraduate degree course in which students at different stages of the course are taught together on a module and assessed in the same way, but without differentiation in the marking criteria, would likely be of concern.
 - b. A course that assesses a limited range of subject matter, or knowledge and skills would likely be of concern.
 - c. An integrated higher or degree apprenticeship end-point assessment that does not meet the requirements of external quality assurance monitoring, for example because it is not delivered in line with the published EPA plan, would likely be of concern.
 - d. A course that is accredited by a PSRB and does not meet the requirements for assessment set by that body would likely be of concern.
 - e. An absence of feedback on students’ performance before a final essay or exam, or feedback not returned in time for students to learn from it before the next assessment, would likely be of concern.
 - f. Assessments designed in a way that allows students to gain marks for work that is not their own would likely be of concern.
 - g. A provider not taking reasonable steps to detect and prevent plagiarism, students’ use of essay mills, or other forms of academic misconduct by students, would likely be of concern.
 - h. Selection of examiners for research students in a way that does not preserve academic rigour would likely be of concern.
53. In relation to “valid” and “reliable”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition:
- a. An assessment that tests in practice the things it was designed to assess. For example, an assessment that focuses only the material taught at the end of a long course is, on its own, is unlikely to provide a valid assessment of that course.

- b. An assessment that results in differences in the marks awarded to students demonstrating the same achievement. For example, different marks awarded to projects or dissertations where students have worked on different topics but have demonstrated the same level of achievement suggest that the assessment design may not be reliable.
54. In relation to “credible”, the following is an illustrative non-exhaustive list of examples to demonstrate the approach the OfS may take to the interpretation of this condition, and to identifying circumstances in which it is likely to be concerned about the credibility of a provider’s qualifications:
- a. An increase in the number or proportion of first class or 2i degrees awarded over time. For example, where a provider is unable to provide evidence to account for an increase in the proportion of first or 2i classifications it has awarded.
 - b. Changes to academic regulations. For example, where a provider has changed its degree classification algorithm, or other aspects of its academic regulations, such that students are likely to receive a higher classification than previous students without an increase in their level of achievement.
 - c. Research degrees awarded to recognise a student’s contribution to the output of their research group rather than their individual contribution to knowledge.
55. Where a provider has an evidenced explanation of the reasons for an increase in awards or the classifications of awards, the OfS is more likely to place weight on this evidence if it pre-dates the OfS’s interest and demonstrates that the provider has routinely satisfied itself that its approach has not resulted in increased awards or classifications, regardless of whether or not the achievement of students has increased. An absence of rigorous evidence and evaluation in advance of changes a provider makes, or has made, to its academic regulations or assessment practices, is likely to cause concern.

Condition B4.3

56. In order to successfully rely on the exception in B4.3(b), the nature of the evidence a provider would need to put forward would go beyond articulating potential legal concerns or matters to which it has had regard in its decision-making and would require compelling evidence and reasoning on matters of law. As the exception in B4.3(b) only applies ‘to the extent’ that a provider can demonstrate a conflict with the Equality Act 2010, it would not be sufficient for a provider to put forward evidence and reasoning about its academic regulations in general terms; rather, a provider would need to address the particular aspects of its academic regulations which it is seeking to justify under the exception, and the particular courses and assessments to which these aspects relate.
57. To give an example, citing this exception, a provider could seek to demonstrate that it is obliged, in order to avoid discrimination under the Equality Act 2010, to design its academic regulations in a manner which makes certain allowances for students with dyslexia or other learning disabilities on some courses. If this was the case, the OfS would expect the provider to demonstrate, in the context of the particular courses and assessments at issue, that any allowances made were strictly necessary to avoid discrimination under the Equality Act 2010, with reference to compelling evidence and reasoning which supports this. The OfS expects that potential conflicts between requirements relating to English language proficiency and the

Equality Act 2010 will only arise in rare cases, and therefore that this exception is likely to be invoked only in limited circumstances, for example in relation to students with particular learning disabilities.

Information gathering, assessment of evidence and enforcement

58. The OfS will use its general risk-based approach to monitoring as set out in the regulatory framework.
59. Where monitoring activity produces intelligence or evidence that suggests there may be compliance concerns for an individual provider, the OfS may adopt one or more of the following approaches in any order:
 - a. Engage with a provider to ensure it is aware of the issues.
 - b. Gather further information it considers relevant to the scope of the potential concerns, from a provider or from elsewhere on a voluntary basis, to facilitate an assessment of whether there is, or has been, a breach of one or more conditions.
 - c. Use its investigatory powers where that is considered appropriate for any reason.
60. Where the OfS considers it appropriate to use its investigatory powers it may conduct an investigation itself, or may ask the designated quality body, or another appropriate body or individual, to gather further information it considers relevant. An investigation will normally involve a visit to the provider and interviews with relevant staff and students.
61. As part of its approach to assessing compliance with this condition, the OfS is likely to need access to students' assessed work, including for students who are no longer registered on a course. A provider is therefore expected to retain appropriate records of students' assessed work for such regulatory purposes for a period of five years after the end date of a course. Where possible, a provider is expected to retain records of student assessments in an anonymised form by removing students' personal data from the records. However, in doing so, it should ensure that removal of students' personal data would not limit the OfS's ability to assess the provider's compliance with condition B4, including by ensuring that all of the work of an individual student can be identified from the records.
62. Where students' personal data cannot be anonymised as described in paragraph 61, the OfS would still expect a provider to retain this data for five years after the end date of a course.
63. The absence of records of students' assessed work may lead the OfS to make negative inferences about a provider's compliance and/or may result in the OfS taking targeted regulatory action to address the risk that it is unable to monitor compliance and regulate effectively.
64. Having gathered further relevant information as necessary, the OfS will reach a view about a provider's previous and ongoing compliance with the condition. Where the OfS takes the view that there is or has been a breach of the condition it will write to the provider to set out the reasons for its provisional decision and set out the evidence it has used to reach this view. The provider is able to submit any further information it considers relevant in a representations process and the OfS will consider this before reaching a final decision.

65. Where the OfS has decided that there is, or has been, a breach of this condition, it will consider the use of the full range of its enforcement powers. This includes the imposition of a monetary penalty, suspension of elements of a provider's registration, for example its access to student support funding or OfS public grant funding, or deregistration. The OfS is likely to require improvement, to mitigate the impact of poor performance on students, or to incentivise future compliance by this and other providers. The OfS will follow any statutory consultation process as it takes enforcement action.
66. Where the OfS considers there to be an increased risk of a breach or a wider regulatory concern, it may impose one or more specific ongoing conditions of registration and will also consider whether additional monitoring requirements are appropriate, for example, a requirement to report additional matters as reportable events.
67. Where there is, or has been, a breach of this condition, or the OfS has imposed a specific condition of registration, the ways in which the OfS may take this into account include, but are not limited to, the following:
- a. A provider's eligibility to participate in the TEF. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may be taken into account in determining its eligibility to participate in the TEF.
 - b. A provider's existing TEF rating. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may affect any existing TEF rating.
 - c. Regulation of degree awarding powers. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for new or extended degree awarding powers.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for new or extended DAPs. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for new or extended DAPs where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.

The OfS would take this approach whether or not the authorisation sought is to gain new powers, or extend existing powers, for example by time, level or subject.

- d. Regulation of university, and university college, title. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for university or university college title.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for university or university college title. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for university or university college title where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.
- e. The criteria for allocation of OfS public grant funding. In accordance with any separate OfS policies on matters relating to public grant funding, the OfS may decide to take account of a provider's current and previous compliance with this condition in determining allocations of some types of OfS public grant funding.

Condition B5: Sector-recognised standards

Scope

B5.1 This condition relates to the standards applied to higher education provided in any manner or form by, or on behalf of, a provider (including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider).

Requirement

B5.2 Without prejudice to the principles and requirements provided for by any other condition of registration and the scope of B5.1, the provider must ensure that, in respect of any **relevant awards** granted to students who complete a **higher education course** provided by, or on behalf of, the provider (whether or not the provider is the awarding body):

- a. any standards set appropriately reflect any applicable **sector-recognised standards**; and
- b. awards are only granted to students whose knowledge and skills appropriately reflect any applicable **sector-recognised standards**.

Definitions

B5.3 For the purposes of this condition B5:

- a. “**higher education course**” is to be interpreted:
 - i. in accordance with the Higher Education and Research Act 2017; and
 - ii. so as to include, for the avoidance of doubt:
 - A. a course of study;
 - B. a programme of research;
 - C. any further education course that forms an integrated part of a higher education course; and
 - D. any module that forms part of a higher education course, whether or not that module is delivered as an integrated part of the course.
- b. “**relevant award**” means:
 - i. a **research award**;
 - ii. a **taught award**; and/or
 - iii. any other type of award or qualification in respect of a **higher education course**, including an award of credit granted in respect of a module that may form part of a larger **higher education course**,

whether or not granted pursuant to an authorisation given by or under the Higher Education and Research Act 2017, another Act of Parliament or Royal Charter.

- c. “**research award**” and “**taught award**” have the meanings given in section 42(3) of the Higher Education and Research Act 2017.
- d. “**sector-recognised standards**” means the standards contained in the document of that title published by the OfS from time to time.

Summary

Applies to: all registered providers

Initial or general ongoing condition: general ongoing condition

Legal basis: section 5 of HERA

Guidance

Condition B5.1

68. The reference to higher education provided “in any manner or form” includes any higher education course (whether or not that course is recognised for OfS funding purposes, or any other purpose), at any level, and with any volume of learning. This means, for example, that postgraduate research courses, the study of modules or courses leading to microcredentials, and apprenticeships are included within the scope of this condition. It also includes courses provided face-to-face, by distance learning, or a combination of delivery approaches.
69. This condition applies to any higher education provided “by, or on behalf of, a provider”. This includes higher education provided to all of the students who are registered with a registered provider, taught by a registered provider or studying for an award of a registered provider (or where these services are provided on a registered provider’s behalf). This includes UK-based and non-UK-based students, and courses delivered through partnership arrangements both within the UK and internationally.
70. The reference to “including, but not limited to, circumstances where a provider is responsible only for granting awards for students registered with another provider” means that a provider is required to comply with the provisions of this condition where it is the awarding body for a course, whether or not that provider has any other role in the design or delivery of that course.
71. Where a provider is not the awarding body for a course, this condition applies to a course the provider itself delivers, or which is delivered on its behalf, regardless of the identity of the awarding body, whether or not that awarding body is registered with the OfS, or the nature of any partnership agreement. For the avoidance of doubt, this means for example, that a provider delivering, or allowing another provider to deliver, courses leading to a qualification awarded by Pearson is responsible for compliance with this condition in relation to those courses. Similarly, a provider delivering, or allowing another provider to deliver, courses

leading to a qualification awarded by another higher education provider, whether that awarding provider is located in England or elsewhere, is responsible for compliance with this condition in relation to those courses

72. In practice, these provisions may result in more than one registered provider being responsible for compliance with this condition in relation to the same course.

Condition B5.2

73. "Relevant award" includes, but is not limited to, the awards made by a provider in relation to an apprenticeship.

Information gathering, assessment of evidence and enforcement

74. The OfS will use its general risk-based approach to monitoring as set out in the regulatory framework.

75. Where monitoring activity produces intelligence or evidence that suggests there may be compliance concerns for an individual provider, the OfS may adopt one or more of the following approaches in any order:

- a. Engage with a provider to ensure it is aware of the issues.
- b. Gather further information it considers relevant to the scope of the potential concerns, from a provider or from elsewhere on a voluntary basis, to facilitate an assessment of whether there is, or has been, a breach of one or more conditions.
- c. Use its investigatory powers where that is considered appropriate for any reason.

76. Where the OfS considers it appropriate to use its investigatory powers it will ask the designated quality body to gather further information it considers relevant. An investigation will normally involve a visit to the provider and interviews with relevant staff and students.

77. As part of its approach to assessing compliance with this condition, the OfS and the designated quality body are likely to need access to students' assessed work, including for students who are no longer registered on a course. A provider is therefore expected to retain appropriate records of students' assessed work for such regulatory purposes for a period of five years after the end date of a course. Where possible, a provider is expected to retain records of student assessments in an anonymised form by removing students' personal data from the records. However, in doing so, it should ensure that removal of students' personal data would not limit the OfS's ability to assess the provider's compliance with condition B5, including by ensuring that all of the work of an individual student can be identified from the records.

78. Where students' personal data cannot be anonymised as described in paragraph 77, the OfS would still expect a provider to retain this data for five years after the end date of a course.

79. The absence of records of students' assessed work may lead the OfS to make negative inferences about a provider's compliance and/or may result in the OfS taking targeted regulatory action to address the risk that it is unable to monitor compliance and regulate effectively.

80. Having received relevant information from the designated quality body, the OfS will reach a view about a provider's previous and ongoing compliance with the condition. Where the OfS takes the view that there is or has been a breach of the condition it will write to the provider to set out the reasons for its provisional decision and set out the evidence it has used to reach this view. The provider is able to submit any further information it considers relevant in a representations process and the OfS will consider this before reaching a final decision.
81. Where the OfS has decided that there is, or has been, a breach of this condition, it will consider the use of the full range of its enforcement powers. This includes the imposition of a monetary penalty, suspension of elements of a provider's registration, for example its access to student support funding or OfS public grant funding, or deregistration. The OfS is likely to require improvement, to mitigate the impact of poor performance on students, or to incentivise future compliance by this and other providers. The OfS will follow any statutory consultation process as it takes enforcement action.
82. Where the OfS considers there to be an increased risk of a breach or a relevant wider regulatory concern, it may impose one or more specific ongoing conditions of registration and will also consider whether additional monitoring requirements are appropriate, for example, a requirement to report additional matters as reportable events.
83. Where there is, or has been, a breach of this condition, or the OfS has imposed a specific condition of registration, the ways in which the OfS may take this into account include, but are not limited to, the following:
- a. A provider's eligibility to participate in the TEF. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may be taken into account in determining its eligibility to participate in the TEF.
 - b. A provider's existing TEF rating. The OfS will set out in its TEF guidance the way in which a provider's current and previous compliance with this condition may affect any existing TEF rating.
 - c. Regulation of degree awarding powers. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for new or extended degree awarding powers.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for new or extended DAPs. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for new or extended DAPs where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.

The OfS would take this approach whether or not the authorisation sought is to gain new powers, or extend existing powers, for example by time, level or subject.

- d. Regulation of university, and university college, title. Where the OfS makes a final decision that there is, or has been, a breach of this condition, or where the OfS imposes a specific condition of registration due to regulatory concerns under this condition, it will take that into account in the following ways:
 - i. Where there is a finding that a breach of this condition has taken place or is ongoing, 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 and would be likely to suspend the provider's eligibility to be authorised for university or university college title.
 - ii. Alternatively, without using the power under section 16 of HERA, in circumstances where a finding has been made that a breach of this condition has taken place or is ongoing, the OfS may decide that the provider is not suitable to be authorised for university or university college title. In a similar way, the OfS may also decide that the provider is not suitable to be authorised for university or university college title where the OfS has imposed a specific condition of registration due to regulatory concerns relating to this condition.
- e. The criteria for allocation of OfS public grant funding. In accordance with any separate policies on matters relating to public grant funding, the OfS may decide to take account of a provider's current and previous compliance with this condition in determining allocations of some types of OfS public grant funding.

Initial conditions of registration

Condition B7: Quality

Scope

B7.1 This condition applies to the quality of higher education to be provided in any manner or form by, or on behalf of, a provider (including, but not limited to, circumstances where a provider would be responsible only for granting awards for students registered with another provider).

Requirement

B7.2 Without prejudice to the principles and requirements provided for by any other condition of registration and the scope of B7.1, the provider must:

- a. have **credible** plans that would enable the provider, if registered, to comply with conditions B1, B2 and B4 from the date of registration; and
- b. have the **capacity and resources** necessary to deliver, in practice, those plans.

Definitions

B7.3 For the purposes of this condition B7:

- a. “**capacity and resources**” includes, but is not limited to:
 - i. the financial resources of the provider;
 - ii. the number, expertise, and experience of the staff employed, and to be employed, by the provider;
 - iii. the physical and digital learning resources deployed, and to be deployed, by the provider and
 - iv. the provider’s management and governance arrangements.
- b. “**credible**” includes, but is not limited to, evidence of the provider’s past performance delivering higher education.

Summary

Applies to: all providers seeking registration

Initial or general ongoing condition: initial condition

Legal basis: section 5 of HERA

Guidance

Condition B7.1

84. This condition applies to the courses that the provider plans to provide when it is registered.
85. The reference to higher education provided “in any manner or form” includes any higher education course (whether or not that course is recognised for OfS funding purposes, or any other purpose), at any level, and with any volume of learning. This means, for example, that postgraduate research courses, the study of modules or courses leading to microcredentials, and apprenticeships are included within the scope of this condition. It also includes courses provided face-to-face, by distance learning, or a combination of delivery approaches.
86. This condition applies to any higher education provided “by, or on behalf of, a provider”. This includes higher education provided to all of the students who are registered with a registered provider, taught by a registered provider or studying for an award of a registered provider (or where these services are provided on a registered provider’s behalf). This includes UK-based and non-UK-based students, and courses delivered through partnership arrangements both within the UK and internationally.
87. The reference to “including, but not limited to, circumstances where a provider would be responsible only for granting awards for students registered with another provider” means that a provider is required to comply with the provisions of this condition where it would be the awarding body for a course, whether or not that provider would have any other role in the design or delivery of that course.
88. Where a provider would not be the awarding body for a course, this condition applies to a course the provider itself would deliver, or which would be delivered on its behalf, regardless of the identity of the awarding body, whether or not that awarding body is registered with the OfS, or the nature of any partnership agreement. For the avoidance of doubt, this means for example, that a provider that would deliver, or allow another provider to deliver, courses leading to a qualification awarded by Pearson is responsible for compliance with this condition in relation to those courses. Similarly, a provider that would deliver, or allow another provider to deliver, courses leading to a qualification awarded by another higher education provider, whether that awarding provider is located in England or elsewhere, is responsible for compliance with this condition in relation to those courses.
89. In practice, these provisions may result in more than one registered provider being responsible for compliance with this condition in relation to the same course.

Condition B7.2

90. The OfS is likely to draw on evidence submitted by a provider as part of its application for registration to make a judgement about whether the provider has “credible” plans in accordance with this requirement. For example, evidence submitted about the policies and processes a provider proposes to have in place to ensure compliance with ongoing conditions B1, B2 and B4, and evidence of how the provider intends to assess its own compliance with those conditions, is likely to be relevant.
91. Where a provider seeking registration has previously delivered, or is currently delivering, higher education courses, the “plans” required under this condition may include evidence relating to

the provider's experience of delivery of those courses. The OfS will have regard to that evidence in determining whether the condition is satisfied.

92. Where a registered provider is seeking registration in a different category of registration, this requires the OfS to deregister the provider and make a new registration decision by deciding whether each of the initial conditions is satisfied. In these circumstances "date of registration" means the date of the new registration.

Condition B7.3

93. The OfS is likely to draw on evidence submitted by a provider as part of its application for registration to make a judgement about whether the provider has the "capacity and resources" necessary to deliver, in practice, its plans. For example, evidence submitted in relation to a provider's financial viability and sustainability, or its management and governance arrangements are likely to be relevant.

Assessing compliance

94. The OfS will assess compliance with this initial condition for all providers seeking registration. It may commission the designated quality body to conduct an assessment of quality to provide information to the OfS to inform the OfS's decision about whether the condition is satisfied. An assessment by the designated quality body will involve the submission of specified information to the designated quality body and will normally involve a visit to the provider and interviews with relevant staff and students.
95. The OfS reserves the right where it judges it appropriate to conduct an assessment of quality itself or to ask another appropriate body or individual to gather relevant information and, in these circumstances, would not commission the designated quality body to undertake assessment activity.
96. Where a provider, or another legal entity that the OfS considers to be operating substantially the same higher education business, has previously been registered, a history of non-compliance with ongoing conditions B1, B2 or B4 is likely to result in a judgement that initial condition B7 is not satisfied.
97. Where the OfS considers this initial condition to be satisfied, but that there is an increased risk of a breach of one or more of the general ongoing conditions for quality (conditions B1, B2 and B4), or a wider regulatory concern, it may impose one or more specific ongoing conditions of registration and will also consider whether additional monitoring requirements are appropriate, for example, a requirement to report additional matters as reportable events, or to have an additional assessment by the OfS, the designated quality body, or other appropriate body.

Condition B8: Standards

Scope

B8.1 This condition relates to the standards to be applied to higher education to be provided in any manner or form by, or on behalf of, a provider (including, but not limited to, circumstances where a provider would be responsible only for granting awards for students registered with another provider).

Requirement

B8.2 Without prejudice to the principles and requirements provided for by any other condition of registration and the scope of B8.1, the provider must demonstrate, in a **credible** manner, that any standards to be set and/or applied in respect of any **relevant awards** granted to students who complete a **higher education course** provided by, or on behalf of, the provider (if registered), whether or not the provider is the awarding body, appropriately reflect any applicable **sector-recognised standards**.

Definitions

B8.3 For the purposes of this condition B8:

- a. “**credible**” includes, but is not limited to, evidence of the provider’s past performance delivering higher education.
- b. “**higher education course**” is to be interpreted:
 - i. in accordance with the Higher Education and Research Act 2017; and
 - ii. so as to include, for the avoidance of doubt:
 - A. a course of study;
 - B. a programme of research;
 - C. any further education course that forms an integrated part of a higher education course; and
 - D. any module that forms part of a higher education course, whether or not that module is delivered as an integrated part of the course.
- c. “**relevant award**” means:
 - i. a **research award**;
 - ii. a **taught award**; and/or
 - iii. any other type of award or qualification in respect of a **higher education course**, including an award of credit granted in respect of a module that may form part of a larger **higher education course**,

whether or not granted pursuant to an authorisation given by or under the Higher Education and Research Act 2017, another Act of Parliament or Royal Charter.

- d. “**research award**” and “**taught award**” have the meanings given in section 42(3) of the Higher Education and Research Act 2017.
- e. “**sector-recognised standards**” means the standards contained in the document of that title published by the OfS from time to time, and which apply as at the date of the provider’s application for registration.

Summary

Applies to: all providers seeking registration

Initial or general ongoing condition: initial condition

Legal basis: section 5 of HERA

Guidance

Condition B8.1

98. This condition applies to the courses that the provider plans to provide when it is registered.
99. The reference to higher education provided “in any manner or form” includes any higher education course (whether or not that course is recognised for OfS funding purposes, or any other purpose), at any level, and with any volume of learning. This means, for example, that postgraduate research courses, the study of modules or courses leading to microcredentials, and apprenticeships are included within the scope of this condition. It also includes courses provided face-to-face, by distance learning, or a combination of delivery approaches.
100. This condition applies to any higher education provided “by, or on behalf of, a provider”. This includes higher education provided to all of the students who are registered with a registered provider, taught by a registered provider or studying for an award of a registered provider (or where these services are provided on a registered provider’s behalf). This includes UK-based and non-UK-based students, and courses delivered through partnership arrangements both within the UK and internationally.
101. The reference to “including, but not limited to, circumstances where a provider would be responsible only for granting awards for students registered with another provider” means that a provider is required to comply with the provisions of this condition where it would be the awarding body for a course, whether or not that provider would have any other role in the design or delivery of that course.
102. Where a provider would not be the awarding body for a course, this condition applies to a course the provider itself would deliver, or which would be delivered on its behalf, regardless of the identity of the awarding body, whether or not that awarding body is registered with the

OfS, or the nature of any partnership agreement. For the avoidance of doubt, this means for example, that a provider that would deliver, or allow another provider to deliver, courses leading to a qualification awarded by Pearson is responsible for compliance with this condition in relation to those courses. Similarly, a provider that would deliver, or allow another provider to deliver, courses leading to a qualification awarded by another higher education provider, whether that awarding provider is located in England or elsewhere, is responsible for compliance with this condition in relation to those courses.

103. In practice, these provisions may result in more than one registered provider being responsible for compliance with this condition in relation to the same course.

Condition B8.2

104. This requirement is designed to assess a provider's ability to comply with ongoing condition B5, if it is registered. In assessing the "standards to be set and/or applied" under this requirement, the OfS will consider whether it is satisfied that: (a) the standards to be set for a provider's courses appropriately reflect sector-recognised standards; and (b) the awards to be granted for those courses will only be granted to students with knowledge and skills which also appropriately reflect sector-recognised standards. This is the case whether or not a provider is the awarding body for a course.

105. Where a provider seeking registration has previously delivered, or is currently delivering, higher education courses, the OfS may have regard to evidence relating to the standards set for those courses, and achieved by students receiving those awards in practice, in determining whether initial condition B8 is satisfied.

106. Where a registered provider is seeking registration in a different category of registration, this requires the OfS to deregister the provider and make a new registration decision by deciding whether each of the initial conditions is satisfied. In these circumstances, the OfS's assessment of this condition will relate to the courses the provider plans to provide from the date of the new registration.

Assessing compliance

107. The OfS will assess compliance with this initial condition for all providers seeking registration. It will commission the designated quality body to conduct an assessment of standards to provide information to the OfS to inform the OfS's decision about whether the condition is satisfied. An assessment by the designated quality body will involve the submission of specified information to the designated quality body and may involve a visit to the provider and interviews with relevant staff and students.

108. The purpose of a standards assessment is for the designated quality body to scrutinise the courses that the provider will deliver when it is registered, whether or not they are currently delivered, and reach a judgement about whether the standards set in those courses appropriately reflect sector-recognised standards.

109. Where a provider has applied to be authorised for New DAPs at the same time as its application for registration, the OfS will commission a New DAPs test from the designated quality body and may ask the designated quality body to include in its advice separate information that would allow the OfS to determine whether initial condition B8 is satisfied.

110. Having received relevant information from the designated quality body, the OfS will reach a view about whether the initial condition is satisfied. Where a provider, or another legal entity operating substantially the same higher education business, has previously been registered, a history of non-compliance with ongoing condition B5 is likely to result in a judgement that initial condition B8 is not satisfied.
111. Where the OfS considers this initial condition to be satisfied, but that there is an increased risk of a breach of the general ongoing condition for standards (condition B5), or a wider regulatory concern, it may impose one or more specific ongoing conditions of registration and will also consider whether additional monitoring requirements are appropriate, for example, a requirement to report additional matters as reportable events, or to have an additional assessment by the designated quality body.