Dear Secretary of State for Education,

**OfS recommendation of a body suitable for designation under Schedule 4 to HERA (Assessing Higher Education: Designated Body)**

1. As you will be aware the Higher Education and Research Act 2017 (HERA) provides for the designation of a body to perform the OfS’s assessment functions as set out in section 23 (assessing the quality of, and the standards applied to, higher education), and to provide advice to the OfS under section 46 (advice to the OfS on the granting, variation or revocation of degree awarding powers) (together "the assessment functions"). This letter sets out the OfS’s recommendation of a body suitable to perform the assessment functions, based upon a review of the conditions set out in paragraph 4 of Schedule 4 to HERA.

2. In summary, we consider that there is only one body that is suitable to perform the assessment functions. That body is the Quality Assurance Agency for Higher Education (QAA) and we recommend that the QAA is designated to perform those functions.

3. In August 2017, the Department for Education (DfE) invited Expressions of Interest (EoI) from organisations wishing to be considered for designation. One organisation expressed an interest in being designated as the quality body, the QAA.

4. In October 2017 under section 118 of HERA, the DfE consulted in accordance with paragraph 1 of Schedule 4 to HERA.

5. In formulating this recommendation, the OfS Board met on the 29th January 2018 and considered a range of evidence including the consultation responses, QAA’s expression of interest and other publicly available information. The Board was also able to reflect on HEFCE’s experience of working with QAA over a number of years.

6. The response to the consultation was overwhelmingly positive, with the vast majority of respondents stating that the QAA meets all of the designation conditions outlined in Schedule 4 of HERA. There were 158
responses to the consultation, 155 of which were in favour of designation, with one respondent against designation, and two that were unsure. The consultation invited respondents to suggest any other organisation that was considered suitable for designation, however there were no additional organisations suggested for designation.

7. The Board made an assessment of the evidence against the conditions as set out in paragraph 4 of Schedule 4 to HERA.

**Condition A: the body is capable of performing the assessment functions in an effective manner**

8. The QAA submission states that since 1997 QAA has carried out work on behalf of HEFCE and the other UK HE funders to assess the quality and standards of higher education. The QAA’s submission uses examples to highlight how the various aspects of the work that it has undertaken are relevant to the guidance and assessment functions it would assume if it were to be designated.

9. Analysis of the consultation responses shows that the QAA is well-respected and has long-standing, extensive experience of assessing and supporting the development of the quality assurance systems and standards that underpin the higher education sector. The organisation is recognised internationally as a highly capable, trustworthy and competent provider of quality assurance services.

10. Consultation responses state that the QAA’s review methods have been developed and adapted to meet the needs of an increasingly diverse sector, including the use of peer review, which has given the QAA credibility within the sector. It has played a key role in the development of practice, for example through the development of the subject benchmark statements, provision of guidance for all providers in the sector and oversight of the UK Quality Code for Higher Education (UKQC). The QAA’s recent approach to the consultation on a revised UKQC demonstrates an outcomes-based approach as well as a simplified model.

11. The consultation shows that the QAA has experience of working with diverse institutions and has demonstrated understanding of the different types of provider within the sector and the need to adapt its approach when working across a diverse sector.

12. Though overwhelmingly in favour of designation, some respondents raised issues in relation to the capacity and capability of the QAA to deliver the expectations of the OfS, and expressed concerns about the extent to which it would be able to transition successfully to a new proportionate and risk-based approach.

13. The QAA undoubtedly has a track record of assessing quality across the UK higher education sector and has developed its approach to some extent to reflect the changing needs of an increasingly diverse sector. A major challenge for the designated body will be to fully understand the philosophical approach that underpins the OfS’s regulatory framework and to ensure that the design and operation of quality assessment activities is coherent with this. Our judgement is that the QAA will need to address the implications of this shift at a strategic level and ensure that it is able to lead the organisation through changed thinking and working practices. In particular, we would expect further work to be needed to: fully realise a risk- and outcomes-based approach to review; ensure that the review process is designed and supported by individuals with appropriate regulatory and/or investigatory skills rather than relying solely on peer review; ensure that an appropriate balance is found between its historically close relationship with the sector and successfully adopting the regulatory role required of a designated body.

14. Our assessment is that the QAA satisfies Condition A.

**Condition B(a): the persons who determine the strategic priorities of the body represent a broad range of registered higher education providers**

15. Consultation responses suggest that the QAA operates a governance structure which includes and ensures strong student engagement through student representatives and its Student Advisory Committee. However, some respondents to the consultation said that the arrangements of a designated body should be more reflective of the diversity of the sector (including providers with and without degree awarding powers).

16. QAA is a company limited by guarantee and a registered charity. The company's members are the UK HE representative bodies: GuildHE Limited, Higher Education Wales, Universities Scotland, and Universities UK (UUK).

17. QAA’s strategic priorities are determined by its Board, rather than by its company members. The QAA submission states that the structure of its Board ‘embodies co-regulation, representing all sections of English and wider UK higher education, including students, universities, further education colleges and alternative
providers’. The Board is responsible for developing and overseeing the strategic direction, policy development, finances, and performance of QAA. There are 18 members of the Board; six members are independent of the sector and the QAA submission states that ‘the independent directors are the largest group, ensuring that no one sector interest can dominate’. The full composition of the Board is as follows:

- four members appointed jointly by the four UK higher education funding bodies;
- four members appointed jointly by the UK representative bodies (GuildHE, Universities Scotland, Universities UK and Universities Wales);
- six independent members (drawn from industry and the professions);
- one independent member with experience of alternative providers;
- one nominated member by the UK Association of Colleges;
- one independent student member;
- one member nominated by the National Union of Students.

18. There are eight members from ‘traditional’ HE providers (three from English providers) and one representative from a provider delivering HE in further education. There are no representatives from alternative providers, though alternative provider interests are represented by Independent HE.

19. Our judgement is that while these arrangements provide representation for each of the main groups of providers in England (i.e. HEIs, FECs and alternative providers), the QAA may wish to consider whether the composition of its Board could better represent a broad range of the providers that will be registered with the OfS.

20. Our assessment is that the QAA satisfies Condition B(a).

Condition B(b): the body commands the confidence of registered higher education providers

21. 98% of respondents to the consultation were in favour of designation of the QAA. The consultation responses demonstrate that QAA is well-respected across the sector and is seen as having long-standing experience assessing quality and standards with a diverse range of providers. The responses highlight that QAA has demonstrated understanding of the different types of provider within the sector and the need to adapt its approach to reflect this diversity.

22. Our assessment is that the QAA satisfies Condition B(b).

Condition B(c): the body exercises its functions independent of any particular higher education provider

23. The QAA’s submission describes the organisation as the ‘UK’s independent quality body’. It goes on to state that QAA judgements are ‘made by teams of independent peer reviewers, following published process and their judgements cannot be influenced’.

24. Review teams currently consist of at least two peer reviewers, each of whom is trained before carrying out reviews and whose work is monitored and evaluated. All reviews are overseen and moderated by Quality Specialists from the QAA’s staff. All providers have recourse to a published appeals process, which is overseen by the QAA’s Governance Team, with appeals being conducted by dedicated appeal reviewers. We therefore believe that, as far as is possible, the QAA has in place appropriate checks and balances to ensure the independence of review judgements within its current review methods.

25. This view is corroborated by the majority of consultation responses. The consultation respondents were generally very positive about the QAA’s independence and were confident in the processes that the QAA operates. There were some comments from respondents in the alternative provider sector about the need to ensure that the designated body is flexible in its approach in order to support a greater diversity of providers, focusing on student outcomes rather than prescribing particular processes or approaches.

26. Our assessment is that the QAA satisfies Condition B(c).

Condition C: the body consents to being designated under Schedule 4 of HERA

27. By submitting an EoI the QAA has consented to being named as a possible designated quality body. We therefore assume that it consents to being designated if successful. If the Secretary of State decides to designate the recommended body, the Secretary of State will notify the body of the designation before the date on which the designation takes effect.

28. Our assessment is that the QAA satisfies Condition C.
Condition D: the body is a body corporate and is not — (a) a servant or agent of the Crown, or (b) a body to which the Secretary of State appoints members

29. The QAA is incorporated as a company limited by guarantee and so is a 'body corporate'. As a registered charity, it is not, nor can it be, a servant or agent of the Crown. According to its articles of association, the QAA's members are appointed by the members themselves (following consultation with the QAA Board) and not by the Secretary of State.

30. Our assessment is that the QAA satisfies Condition D.

Overall conclusion

31. Having reviewed the evidence, the OfS Board considers that the Quality Assurance Agency for Higher Education (QAA) is the only body suitable to perform the assessment functions and recommends to the Secretary of State that the QAA is designated to perform those functions.

Yours sincerely,

Nicola Dandridge
Chief Executive, Office for Students