

## FAQs re accounts direction

**Regulatory advice 9: Accounts direction (OfS 2018.26) sets out the Office for Students' (OfS's) disclosure requirements for providers that have financial year ends falling on or after 31 July 2018. It is a provider's obligation to comply with the regulatory advice. These FAQs provide examples to illustrate some aspects of the requirements, but it is for each provider to determine how best to comply with the regulatory advice.**

### General

#### **1. When referencing funding body grants or funding council block grants do we refer to HEFCE as one of the funding bodies? Or do we replace 'HEFCE' with 'OfS' and leave the remaining wording?**

In 2017-18, providers will have received grants from the Higher Education Funding Council for England (HEFCE) from 1 August 2017 until 31 March 2018, and then from the OfS and UK Research and Innovation (via Research England) from 1 April 2018 to 31 July 2018. Therefore the notes to the accounts should refer to both HEFCE and the OfS.

#### **2. We are not currently funded by the Office for Students, but have applied to register – does the accounts direction apply to us?**

For providers that are not currently funded by the OfS, if the provider's application for registration is successful it will need to follow the relevant accounts direction for the first full financial year after the date it is registered, irrespective of the date it applied to register. The OfS will publish a subsequent accounts direction in the spring of 2019 that sets out the requirements for financial years ending on or after 31 July 2019.

#### **3. How do we align further education and higher education reporting requirements?**

The requirements of the Education and Skills Funding Agency's and the OfS's accounts direction do not conflict, although they do currently require different levels of detail on some disclosures. Further education colleges and sixth form colleges do not have to follow the OfS's accounts direction until they are registered with the OfS. As is the case for other providers that are new to a higher education accounts direction, a college will need to follow the OfS's accounts direction for the first full financial year after the date it is registered, irrespective of the date it applied to register.

### Senior officer remuneration

#### **4. Does this new guidance increase obligations in terms of disclosure for senior staff and heads of providers?**

This is new guidance and it extends previous obligations for the disclosure of the remuneration of the head of a provider. This gives greater transparency.

The extended disclosure for senior staff is limited to the smaller bands for salary disclosure (reduced to £5,000 bands from HEFCE's previous requirement of £10,000 bands).

For heads of providers, the additional requirements are:

- the disclosure of non-taxable benefits as part of the head of provider's total remuneration

- a justification of the head of the provider's remuneration package
- the disclosure of pay ratios to show the head of the provider's basic salary and total remuneration as ratios of the median figures for all staff.

### **5. Salary band disclosure: How should the number of staff with basic salary of over £100,000 per annum be calculated?**

The £100,000 figure is the full-time equivalent basic annual salary and the number of staff should be calculated on a full-time equivalent basis.

The basic salaries should be determined at the financial year end of the provider. Providers do not need to include staff who joined or left part-way through a year but who would have received salary in these bands in a full year. Where staff are on reduced pay due to parental leave, this should be disclosed on a full-time equivalent basis, as for other staff.

Providers should calculate the basic salary prior to any adjustment for salary sacrifice.

For these reporting purposes, basic salary should exclude bonus payments, market supplements, allowances, and clinical excellence awards and other such payments.

For academics and other staff whose salary is partly funded by another body (such as the NHS, or the research councils through grants and scholarships), the basic salary is the portion paid by or charged to the provider.

### **6. Head of provider remuneration disclosure: What is meant by basic salary?**

This is the basic annual full-time equivalent salary prior to any adjustment for salary sacrifice.

### **7. Head of provider remuneration disclosure: Should performance-related pay be disclosed net of any amounts waived?**

Performance-related pay and other bonuses should be disclosed in full: this means that any amounts waived should be included in the total remuneration as this reflects the amount that was actually awarded to the head of provider; in other words, the disclosure should **not** be net of amounts waived. The amounts waived should be disclosed separately to ensure transparency about the remuneration received by the head of the provider.

Where an individual has a bonus deferred, this should be disclosed in the accounts in the year awarded and in the year paid, with explanatory notes as needed to ensure clarity for users of the accounts.

### **8. Head of provider remuneration disclosure: What should we disclose about pension contributions and payments in lieu of pension contributions?**

Providers should disclose the total amount paid by the employer in pension contributions on behalf of the head of provider during the year. This includes all costs payable by the employer to the scheme due to the head of provider's employment. It excludes any voluntary or additional employee-funded direct contribution or additional voluntary contribution-type arrangements that the head of provider has asked to be set up by their employer and to which the employer does not contribute. There may be a tax benefit of such arrangements or these may be made as part of salary sacrifice arrangements, both of which should be disclosed under 'salary sacrifice arrangements' (see Question 9).

### **9. Head of provider remuneration disclosure: What does the OfS expect to be disclosed under salary sacrifice arrangements given that non-taxable benefits must be disclosed separately?**

Some salary sacrifice schemes that a provider operates may lead to taxable or non-taxable benefits that must be disclosed separately – these should not be duplicated here.

Where salary sacrifice applies to pensions, the employee gives up an amount of salary and in return the employer makes an equivalent contribution directly into the employee's pension on their behalf and delivering National Insurance savings for both employer and employee – this is in addition to the employer's own pension contribution. Where this is the case, the pension contribution figure will be overstating the value of the remuneration (as basic salary has not been adjusted to reflect the salary sacrifice). Providers should also use the 'salary sacrifice arrangements' disclosure to identify (and explain) the amount by which the total remuneration value should be adjusted downwards to allow for the inclusion of the amount that equates to the employer's contribution made on behalf of the employee under such salary sacrifice arrangements for pensions.

These examples are not exhaustive and providers must include any other matters that are relevant under this heading that are not disclosed under other headings for the disclosures about the head of the provider's remuneration.

#### **10. Head of provider remuneration disclosure: Given that detailed disclosures are required about compensation for loss of office, what needs to be disclosed under the head of the provider's total remuneration?**

As the provider must make detailed disclosures about any compensation for loss of office separately in the audited financial statements, the total amount should simply be included here for completeness and cross-referenced to the more detailed disclosures.

#### **11. Head of provider remuneration disclosure: What must we disclose under 'any sums paid under any pension scheme in relation to employment with the provider'?**

The provider should identify separately the cost, if any, of paying into any other pension schemes for the head of the provider that are not disclosed elsewhere in the remuneration disclosure under paragraphs 15b or 42b of the accounts direction.

This should also include the cost to the provider, if any, of putting a pension into payment charged to the provider by the pension scheme in which the head of provider was a member prior to leaving office.

These examples are not exhaustive and providers must include any other matters that are relevant under this heading that are not disclosed under other headings for the disclosures about the head of the provider's remuneration.

#### **12. Head of provider remuneration disclosure: What should we disclose about housing under taxable benefits?**

Providers should use the sums declared for P11D or P60 purposes to arrive at the figure for taxable benefits – this will need to be adjusted as the figures would be collated for a period drawn across two tax reporting years.

#### **13. Head of provider remuneration disclosure: What should we disclose about housing under non-taxable benefits?**

The reason for the addition of requirements to disclose non-taxable benefits is to increase transparency over the full benefits that a head of provider receives from the provider. Where a head of provider has accommodation provided, this means that there are significant living costs that are paid for by the provider itself – rent or mortgage, utilities bills, maintenance, decoration, housekeeping and other such costs. A provider should be able to ascribe a cost to the provision of this benefit – it should know what it pays for utilities at the property, for example.

The provider should also know the proportion of the year that the property is used for official events (including but not limited to formal dinners or receptions for the provider's business) and what is personal use (where there are no official events for the provider) and providers should pro-rate the costs accordingly to ensure that the official use of the property is not included as a benefit to the head of the provider.

Where a property is fully owned by the provider, there may be minimal costs of provision but still a substantial benefit to the head of provider. In such cases, providers should disclose the opportunity cost to the provider of not being able to rent the property out commercially. In such cases, providers should disclose the rental value of the property, and providers should pro-rate the costs accordingly to ensure that the official use of the property is not included as a benefit to the head of the provider.

#### **14. Pay ratio calculation: How many pay ratios must be disclosed?**

The accounts direction sets out that providers must publish two pay ratios:

1. **Basic salary ratio.** A pay ratio based on the head of provider's basic salary as a ratio of the median basic salary of all staff (expressed as full-time equivalent), to ensure that this is compared on a like-for-like basis. This is the basic salary prior to any adjustment for salary sacrifice (where this applies). If the head of provider has been in post for part of the year then the full-year full-time equivalent amount must be used for the ratio, with a separate pay ratio expressed for each head of provider who has been in post during the year.
2. **Total remuneration ratio.** A pay ratio based on the head of provider's total remuneration as a ratio of the median total remuneration of all staff expressed as full-time equivalent (to ensure that this is compared on a like-for-like basis). If the head of provider has been in post for part of the year then the full-year full-time equivalent amount must be used for the ratio, with a separate pay ratio expressed for each head of provider who has been in post during the year – compensation for loss of office should be excluded from the calculation. Total remuneration includes all elements of pay including market supplements, bonuses and responsibility allowances.

The accounts direction states that this should be calculated across all staff pay on a full-time equivalent basis. This means that the calculation of the median figures for all staff should include academic and non-academic staff and include staff who are full-time, part-time, fixed-term, and temporary and those on agency contracts – for those familiar with the Higher Education Statistics Agency's (HESA's) guidance, this includes staff defined by HESA as atypical staff. For simplicity, the calculation of agency staff pay should be based on what is paid to the agency, as providers may not know what an agency pays its staff.

Details of how to calculate the pay ratios are provided in Question 15.

#### **15. Pay ratio calculation: How do we calculate the pay ratios?**

##### **Basic salary ratio**

Providers should calculate the basic salary as follows for both the head of the provider and the whole workforce of the provider:

1. It should be calculated prior to any adjustment for salary sacrifice.
2. It should exclude bonus payments, market supplements, allowances, and clinical excellence awards.

3. For academics and other staff whose salary is part-funded by another body (such as the NHS), the total remuneration is the portion paid by or charged to the provider (this still needs to be calculated on a full-time equivalent basis).
4. It should be calculated on a full-time equivalent full year basis as at the end of the financial year to ensure transparency with the information reported in the financial statements.

If the head of provider has been in post for part of the year then the full-year equivalent amount of total remuneration must be used for the calculation of the ratio, with a separate pay ratio expressed for each head of provider who has been in post during the year.

To calculate the median basic salary of the whole workforce, providers should include all staff on a full-year full-time equivalent basis. Providers should calculate the basic salary for each staff member on a full-year full time-equivalent (FTE) basis and then identify the median basic salary from these data. This means that the calculation of the median figures for all staff should include academic and non-academic staff and include staff who are full-time, part-time, fixed-term, and temporary and those on agency contracts – for those familiar with HESA’s guidance, this includes staff defined by HESA as atypical staff. Where a provider has staff who deliver piece work, it should use its view of how long the task was expected to take as the basis of the full-time equivalent calculation (in setting a rate of pay for the task the provider will have taken a view as to the size of the task and therefore how long it might take).

**Examples:**

An employee works with an FTE of 0.5 for the whole financial year and receives £20,000 in pay their full-year full-time equivalent salary is £40,000 ( $£20,000 \div 0.5$ ).

An employee works with an FTE of 0.75 for six months of the year and receives £15,000 in in pay their full-year full-time equivalent salary is £40,000 ( $£15,000 \div (0.75 \times 0.5)$ ).

The calculation is therefore:

$$\frac{\text{Head of provider basic salary}}{\text{Median basic salary of the whole workforce}}$$

For example: the head of provider earns £250,000 in basic salary; the median basic salary of the whole workforce is £35,000 per annum). The basic salary pay ratio that must be disclosed is:

The head of the provider’s basic salary is 7.1 ( $£250,000 \div £35,000$ ) times the median pay of staff, where the median pay is calculated on a full-time equivalent basis for the salaries paid by the provider to its staff.

**Total remuneration ratio**

Providers should calculate the total remuneration as follows for both the heads of the provider and the whole workforce of the provider:

1. It should be calculated as including basic salary (prior to any adjustment for salary sacrifice), dividends (including dividends paid in lieu of salary), performance-related pay and other bonuses awarded during the year (including any deferred payment arrangements and any amounts waived), employer pension contributions and payments in lieu of pension contributions, , any sums paid under any pension scheme in relation to employment with the provider, other taxable benefits, non-taxable benefits (where these are available only to senior members of staff or are available only to the head of the provider), market supplements, allowances, clinical excellence awards and any other remuneration.

2. For academics and other staff whose salary is part-funded by another body (such as the NHS), the basic salary is the portion paid by or charged to the provider.
3. It should be calculated on a full-time full year equivalent basis as at the end of the financial year to ensure transparency with the information reported in the financial statements.

If the head of provider has been in post for part of the year then the full-year full-time equivalent amount of basic salary must be used for the calculation of the ratio, with a separate pay ratio expressed for each head of provider who has been in post during the year.

To calculate the median total remuneration of the whole workforce, provider should include all staff on a full year full-time equivalent basis. Providers should calculate the total remuneration for each staff member on a full time-equivalent basis and then identify the median remuneration from these data. This means that the calculation of the median figures for all staff should include academic and non-academic staff and include staff who are full-time, part-time, fixed-term, and temporary and those on agency contracts – for those familiar with HESA’s guidance, this includes staff defined by HESA as atypical staff. Where a provider has staff who deliver piece work, it should use its view of how long the task was expected to take as the basis of the full-time equivalent calculation (in setting a rate of pay for the task the provider will have taken a view as to the size of the task and therefore how long it might take).

Examples:

An employee works with an FTE of 0.5 for the whole financial year and receives £20,000 in pay and a bonus of £2,000 their full-year full-time equivalent total remuneration is £44,000 ( $£22,000 \div 0.5$ ).

An employee works with an FTE of 0.75 for six months of the year and receives £15,000 in in pay and a bonus of £1,500 their full-year full-time equivalent total remuneration is £44,000 ( $£16,500 \div (0.75 \times 0.5)$ ).

The calculation is therefore:

$$\frac{\text{Head of provider total remuneration}}{\text{Median total remuneration of the whole workforce}}$$

For example: the head of provider earns £250,000 in basic salary and a further £75,000 in other remuneration; the median total remuneration of the whole workforce is £40,000 per annum. The total remuneration pay ratio that must be disclosed is:

The head of the provider’s total remuneration salary is 8.1 ( $£325,000 \div £40,000$ ) times the median total remuneration of staff, where the median pay is calculated on a full-time equivalent basis for the salaries paid by the provider to its staff.

**16. Pay ratio calculation: Other remuneration, such as bonuses or overtime or benefits in kind, vary over time and for each member of staff – should we take a ‘typical’ point in time or aggregate other remuneration over a period?**

No. The ‘other remuneration’ should be aggregated for staff over the whole year so that the pay ratio reflects the median total remuneration of all staff (the whole workforce) over the year. Providers should report the pay ratio for the financial year to ensure transparency with the information reported in the financial statements. Where overtime is paid to an individual, the individual’s full-time equivalent should be increased to reflect the additional hours remunerated.



**17. Pay ratio calculation: Total benefits in kind for each employee are normally calculated as at the end of the tax year – can we include the total reported for tax purposes in the total remuneration for the year?**

No. The total remuneration should reflect the remuneration of the head of provider and, for the purposes of the ratios, of all staff over the period covered by the disclosure. Providers should report the pay ratio as at the end of the financial year to ensure transparency with the information reported in the financial statements.

**18. Pay ratio calculation: Can we take our identified median basic pay employee and add the median ‘other remuneration’ or should we repeat the total remuneration calculation for every member of staff and identify a new median person?**

The calculation is set out in Question 15. For the total remuneration ratio, providers should calculate the total remuneration for each staff member and then identify the median remuneration from these data.

**19. Pay ratio calculation: Is the pay ratio based on just substantive staff FTE, or would it include atypical staff?**

The pay ratio should be based on all staff – this will include agency workers and any ‘atypical staff’. Providers have the discretion to disclose more information than is required by the accounts direction and so have the freedom if they so wish to disclose additional ratio information that excludes these staff and provides a narrative as to why the difference between the ratios arises.

**20. Pay ratio calculation: Should ‘other remuneration’ for all staff (to be used in the pay ratio) include employer pension contributions and benefits in kind?**

Yes. These are part of the staff remuneration and so should be included in the pay ratio for total remuneration.

**21. Pay ratio calculation: What is the effective date of reporting for the relationship between the head of provider’s remuneration and that for all other employees? And is this the same methodology as the gender pay gap, i.e. all the people who are paid on an effective date?**

The effective date of reporting for the pay ratios is the end of the financial year to ensure transparency with the information reported in the financial statements and should include all staff who are employed during the year.

## **Compensation for loss of office**

**22. Does loss of office mean redundancy payments or settlement agreements or both?**

Compensation for loss of office refers to circumstances in which an individual has left the provider’s employment and this has associated with it some form of compensation, whether this is a cash payment (or equivalent) or non-cash benefit. This may be associated with a settlement agreement, but not necessarily in all cases. This applies to all instances of loss of office, including where it occurs at the end of a fixed-term contract.

**23. Is there a requirement to obtain approval from the OfS to offer financial employment settlements?**

No. There is no requirement to obtain approval from the OfS to offer financial employment settlements.

**24. The text clearly states that a provider must disclose total severance payment and the number of people to whom this is payable. Should this disclosure be on a cash or accruals basis?**

Severance payment disclosures should be disclosed on the same basis as the accounts are prepared, i.e. on an accruals basis. Providers should use their discretion to add a note to explain to users of the accounts what had happened and why, if they feel that any disclosures would benefit from further explanation to assist users of the accounts.

**25. Do the disclosure requirements in paragraphs 18(b-d) and 45(b-d) apply to all staff?**

No. The disclosure requirements in paragraphs 18(b-d) and 45(b-d) apply to only to the head of the provider.

**26. In the disclosure of the head of the provider's compensation for loss of office, what benefits must we disclose under 'benefits other than cash'?**

Provider must report compensation in the form of benefits other than cash – these may include, but are not limited to:

- the continued provision of accommodation
- the continued use of the use of a vehicle
- provision of careers guidance services up to a specified amount
- provision of independent legal advice to the head of provider (such as in relation to severance agreements).

**27. In the disclosure of the head of the provider's compensation for loss of office, what must we disclose under 'additional pension contributions'?**

The provider should identify the cost of any additional payments made into pension schemes as part of the package given as compensation for loss of office, including but not limited to employer-funded pension top-ups. This should also include the cost to the provider, if any, of putting a pension into payment charged to the provider by the pension scheme in which the head of provider was a member prior to leaving office.

## **Additional FAQs**

**28. Pay ratio calculation: It is difficult for me to access information about agency or atypical workers' salaries (or both). Do I have to include these in the pay ratio calculations?**

We are aware that some providers will find it straightforward to include atypical workers and agency workers in the pay ratio calculation and that other providers may find it difficult. Therefore, for this year only, providers may adopt a 'comply or explain' approach in their audited financial statements to atypical and agency workers. This means that if there are particular reasons why a provider is unable to straightforwardly include these in the pay ratios, then a provider may exclude these from the calculations and explain in its audited financial accounts:



- that these have been excluded
- why it was unable to include them as required.

This 'comply or explain' approach may be adopted for this year only (i.e., for the audited financial statements for the year ended 31 July 2018). We have yet to determine whether there will be any changes to the accounts direction for next year. We will consider the patterns of 'comply or explain' as part of these considerations, and so the explanations disclosed in the 2017-18 financial statements will help to inform the next accounts direction.