

## Prioritisation Framework

### Issue

1. The Office for Students (OfS) is expected to identify many more possible areas for investigation in individual providers than it has resources to conduct. A prioritisation framework allows a risk-based regulator to decide which investigations to conduct and to focus its time, energy and attention in a consistent way.

### Recommendations

2. This paper is for decision, and asks the board to approve the adoption of the proposed prioritisation framework set out in paragraph 13.

### Further information

3. Further information is available from Nicola Dandridge ([nicola.dandridge@officeforstudents.org.uk](mailto:nicola.dandridge@officeforstudents.org.uk)).

### Members' interests

4. The following members of the board are closely involved in providers that the OfS regulates and therefore have an interest in its powers and the way that these are used:

- David Palfreyman (University of Oxford)
- Monisha Shah (Rose Bruford College of Theatre and Performance)
- Professor Steve West (University of the West of England)
- Verity Hancock (Leicester College)

5. As this paper deals with regulatory approaches and not regulatory action in relation to specific providers we do not consider it necessary for these board members to recuse themselves from the discussion of this paper.

## Discussion

6. It is common practice for regulators to adopt a prioritisation framework, and the proposed framework was developed with reference to those of other organisations.<sup>1</sup> The framework was also developed with reference to the OfS regulatory framework, particularly the intervention factors set out in paragraph 167<sup>2</sup>.

7. In reviewing the framework it is important to note that its purpose is to set out broad principles rather than a rigid decision making process. There may be instances where we choose not to examine all the factors before making a decision, and likewise from time to time we may consider factors not listed in the framework.

8. The prioritisation framework is subservient to the OfS's general duties set out in section 2 of the Higher Education and Research Act 2017 (HERA), and more detailed in focus. It is primarily a practical application of the duty to have regard to the need to use the OfS's resources in an efficient, effective and economic way, though elements are relevant to other general duties as well.

9. Once approved, the framework will first be applied to decisions about regulatory investigations in relation to registered providers, and whether or not to take them forward. It will subsequently be integrated into the OfS's portfolio management processes, providing a mechanism to prioritise all activity across the organisation in a consistent way, while still enabling significant judgements to be made when balancing the framework's different elements.

10. As in the example in paragraph 14, there will be cases where will not pursue any action if it is judged to be insufficiently high priority using the framework. In any event, the final decision on the level of prioritisation will in each case rest with the Chief executive.

11. The framework may be refined and adjusted over time, in which case it will be brought before the board for re-approval. The framework will be made public on our website.

## Prioritisation framework

12. There are four prioritisation principles: Impact, Strategy, Origin, Resources. Work will generally be prioritised according to these broad principles, and we may also take account of other relevant factors. All prioritisation takes place in accordance with the need to have regard to our general duties and the regulatory framework.

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<sup>1</sup> Examples include:

- The Competition and Markets Authority ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299784/CMA16.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/299784/CMA16.pdf))
- The Advertising Standards Authority (<https://www.asa.org.uk/news/new-prioritisation-principles-to-guide-our-work.html>)
- The Office of Rail and Road (<http://orr.gov.uk/about-orr/how-we-work/how-we-prioritise-our-activities>)
- The Civil Aviation Authority (<https://publicapps.caa.co.uk/docs/33/CAP1233%20PrioritisationPrinciplesfortheCAAsConsumerProtectionCompetitionLawandEconomicRegulationWork%20May%202015.pdf>)
- OfWat ([https://www.ofwat.gov.uk/wp-content/uploads/2016/03/prs\\_inf\\_100920ca98priority.pdf](https://www.ofwat.gov.uk/wp-content/uploads/2016/03/prs_inf_100920ca98priority.pdf))
- The Pensions Regulator (<https://www.thepensionsregulator.gov.uk/en/about-us/how-we-regulate-and-enforce/our-approach-to-regulating>)

<sup>2</sup> Securing student success: regulatory framework for higher education in England, OfS 2018.01

13. The framework:

**Strategy** - how relevant is the work to our strategic objectives?

- Does the work relate to one or more of our strategic objectives?
- What will be the impact of action/inaction on our key performance measures?
- How does it fit with the rest of our business plan and current activity?
- Are we best placed to address the issue?
- Have we taken previous action?

**Impact** - what difference will the work make?

- What is the direct impact (of the issue) on students and citizens? If it is only potential, what is the likelihood of impact?
- What is the likely efficacy of our activity? What difference will it make compared to the counterfactual of not acting?
- What is the indirect impact of the issue?
- What will the impact on the reputation of the sector be?
- What is the likelihood of the issue coming up again?

**Origin** - why are we considering this work?

- How did we become aware of the issue?
- Are there any mitigations already in place?
- Is the issue still ongoing?
- Did the issue begin and end before the OfS became operational (1 April 2018)?

**Resources** - do we have the capacity to do the work?

- What will the resource requirements be?
- What is the opportunity cost of doing the work?

14. As an example of how the framework might be applied, consider the origin factor. One element of the origin of a piece of work is when the issue took place; the framework explicitly looks at whether an issue occurred before or after the OfS became operational in April 2018. In the absence of exceptional circumstances, we would not investigate challenges to the conduct of predecessor bodies the Office for Fair Access and the Higher Education Funding Council for England, i.e. issues that began and ended before April 2018.

Recommendation: The board is invited to approve the adoption of the proposed prioritisation framework set out in paragraph 13 above.