

Office for
Students

The logo for the Office for Students, featuring a dark blue square with a yellow square in the top right corner containing the letters 'OfS' in white.

OfS

Understanding the new quality and standards conditions

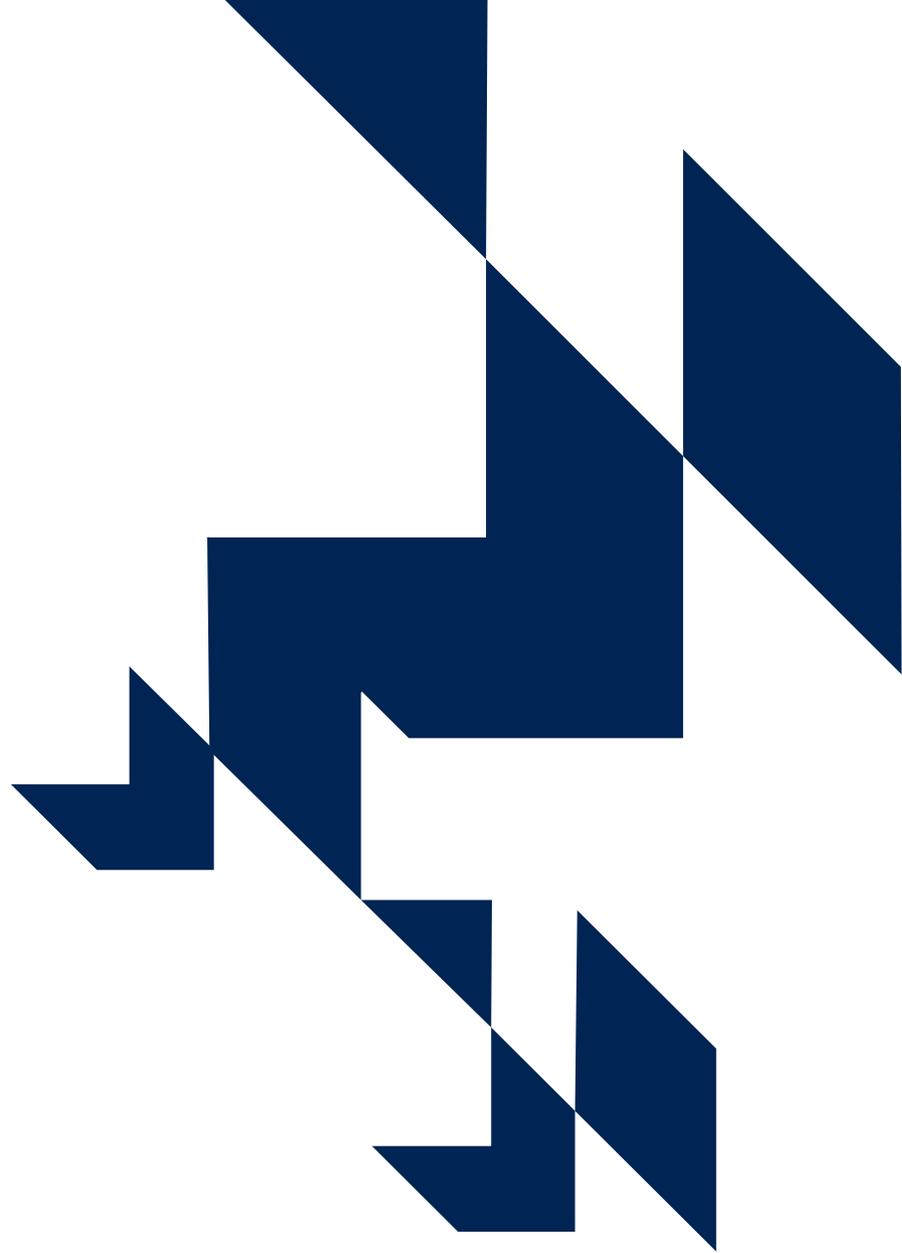
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31 May 2022

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The consultations



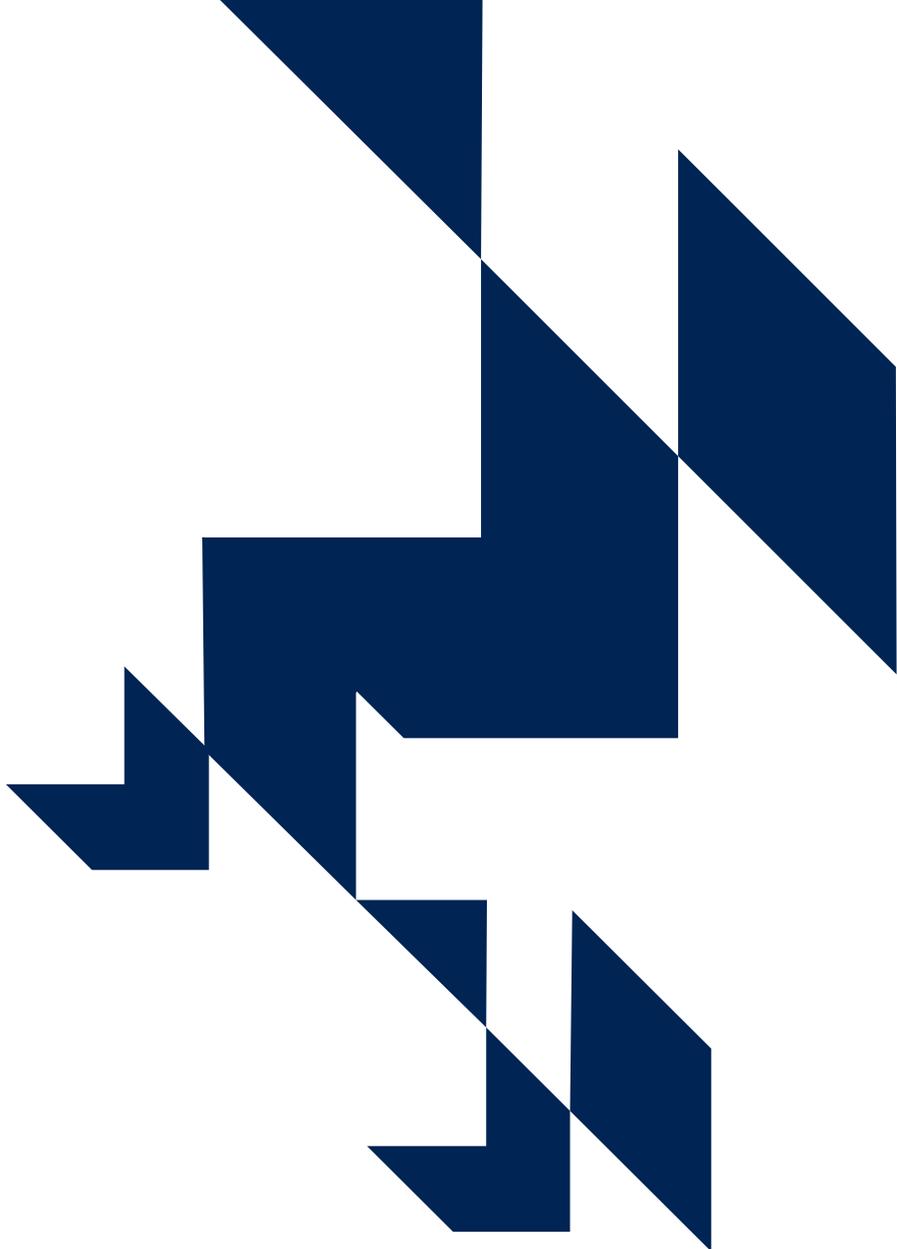
Consultation phases

- Phase one (November 2020): Consultation on quality and standards.
- **Phase two (July 2021): Consultation on quality and standards conditions.**
- Phase three (January 2022):
 - Consultation on the regulation of student outcomes.
 - Consultation on the TEF.
 - Consultation on constructing student outcome and experience indicators for use in OfS regulation.

Consultation on quality and standards conditions

- 157 responses.
- Broad support for the proposed conditions.
- Questions about implementation.
- Comments and suggestions on the drafting of the new and revised conditions proposed.
- We have set out a detailed analysis of responses in [Consultation on quality and standards conditions: Analysis of responses to consultation and decision](#)

New and revised conditions



New and revised conditions

- Each condition, including the definitions, is set out in full in the orange box.
- Guidance is also provided following each condition.

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

Principles-based regulation

The new and revised conditions:

- continue to be predominantly principles-based
- respond to the diversity of the sector and its appetite for innovation
- maximise the scope for a provider to develop courses that are in line with its mission, context, and align with the interests of other parties such as PSRBs
- do not set out detailed expectations for how providers should organise their internal policies and procedures.

Condition B1: Academic experience

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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.

Some points to consider

- The role of provider judgement in ensuring courses remain up-to-date.
- Ensuring courses remain up-to-date while also being compliant with consumer law.

Condition B2: Resources, support and student engagement

- Focus on ‘each cohort of students’ registered on ‘each higher education course’.
- Provider must take ‘all reasonable steps’.

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.

Condition B4: Assessment and awards

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.

- Sets out a number of important interlocking concepts concerned with the value of awards.
- These include:
 - ‘Assessed effectively’
 - Academic regulations are designed to ensure that relevant awards are credible’
 - Relevant awards granted to students are credible at the point of being granted and when compared to those granted previously.

Condition B4: English language proficiency

- ‘Academic regulations are designed to ensure effective assessment of technical proficiency in the English language’.
- ‘in a manner which appropriately reflects the level and content’ of the course.
- Provider is not required to comply
 - when a course is assessing a language that is not English.
 - Where ‘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...are strictly necessary as a matter of law...’

Condition B5: sector recognised standards

- Threshold standards and degree classification descriptors set out a broad description of standards
- Classification descriptors for Level 6 bachelors' degrees

Requirement

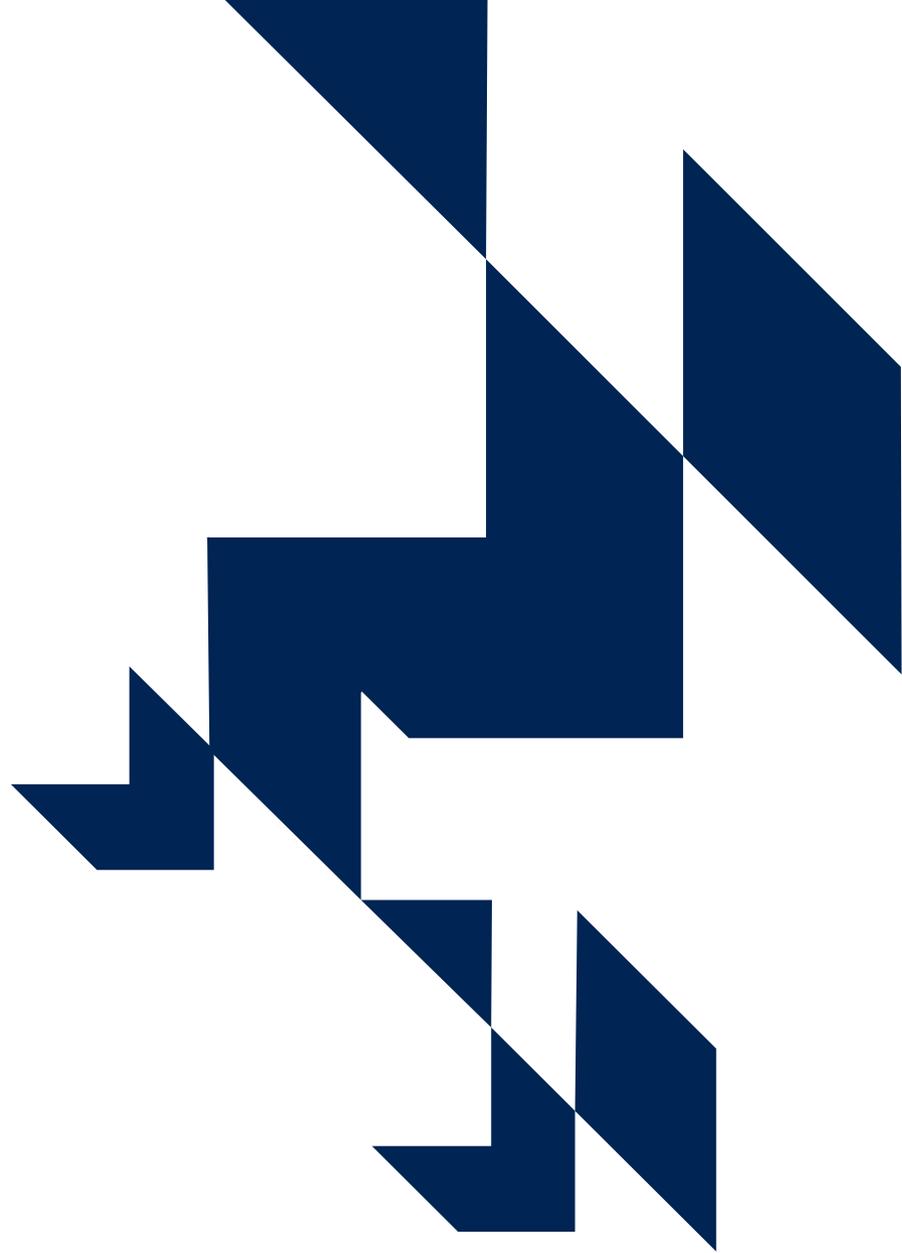
B5.2 Without prejudice to the principles and requirements provided for by any other condition of registration and the scope of B5.1, the provider must ensure that, in respect of any **relevant awards** granted to students who complete a **higher education course** provided by, or on behalf of, the provider (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**.

Conditions B7 and B8

- New initial conditions relating to quality (B7) and standards (B8).
- New providers must meet these conditions to be registered.
- Recognise that applicants to the register may not have a track record of delivery.
- Will also be relevant in situations such as requests by providers to change registration category.

Implementation



Timing of implementation

- Revised ongoing conditions (B1, B2, B4 and B5) came into effect on 1 May 2022 for registered providers.
- New initial conditions (B7 and B8) came into effect on 1 May 2022: transitional arrangements are set out on our website.

Provider engagement and investigation

- We will operate a risk-based approach to monitoring and a targeted approach to intervention.
- The revised regulatory framework guidance sets out a flexible approach to provider engagement and investigation about quality matters.
- We will use expert academic judgement where we need this to inform our regulatory decisions.
- Where appropriate we will use our enforcement powers.

Approach to implementation

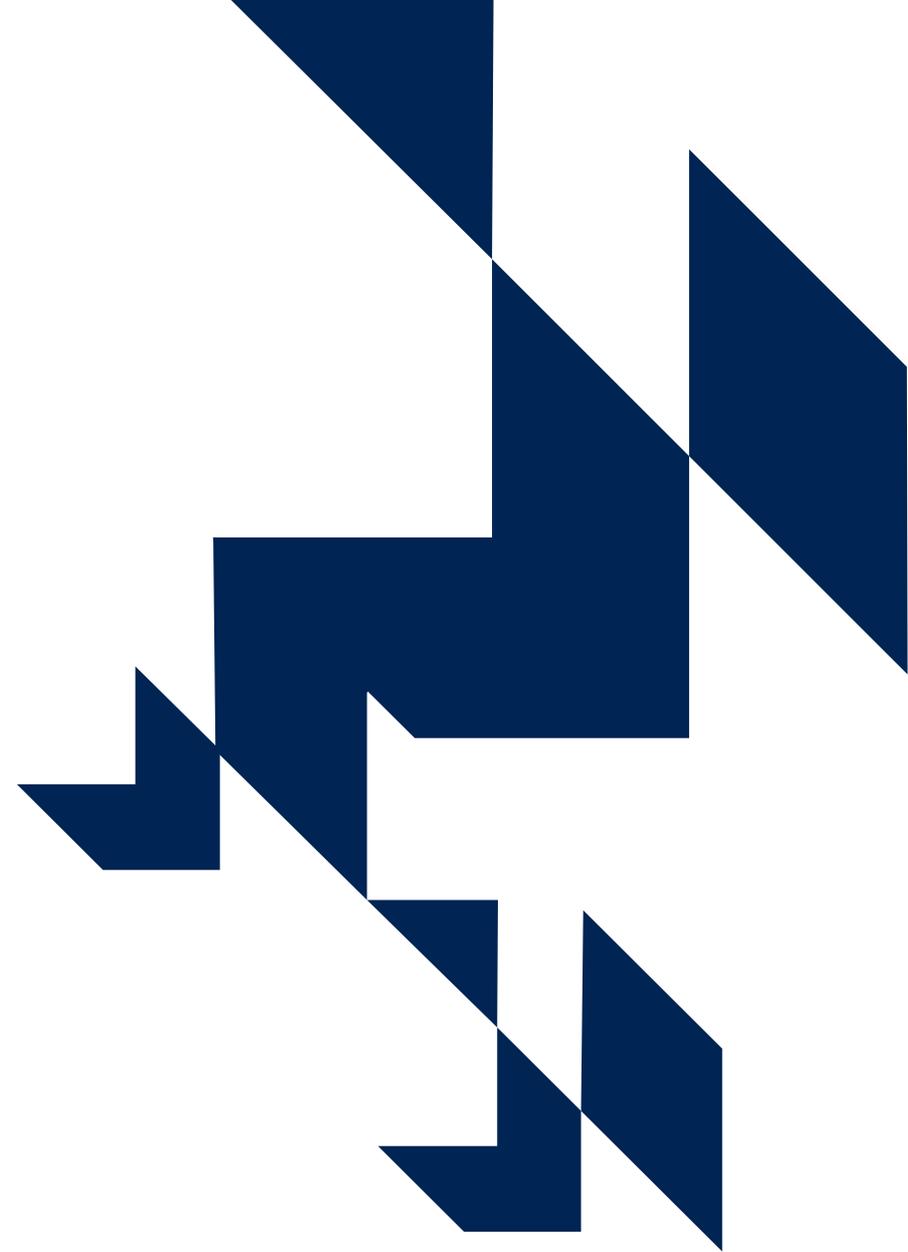
- In any year we expect to undertake the following types of activity:
 - proactive investigations of individual providers under regulatory ‘themes’
 - responsive investigations of individual providers based on specific regulatory intelligence such as notifications and reportable events
 - reviews of approaches to learning and teaching in practice.
- Unless there is evidence of a significant concern about a provider, we will not actively investigate:
 - **TNE courses** or the obligations of awarding bodies for courses delivered under **partnership arrangements** until May 2023
 - matters relating to **English language proficiency** until October 2022.

Thank you for listening

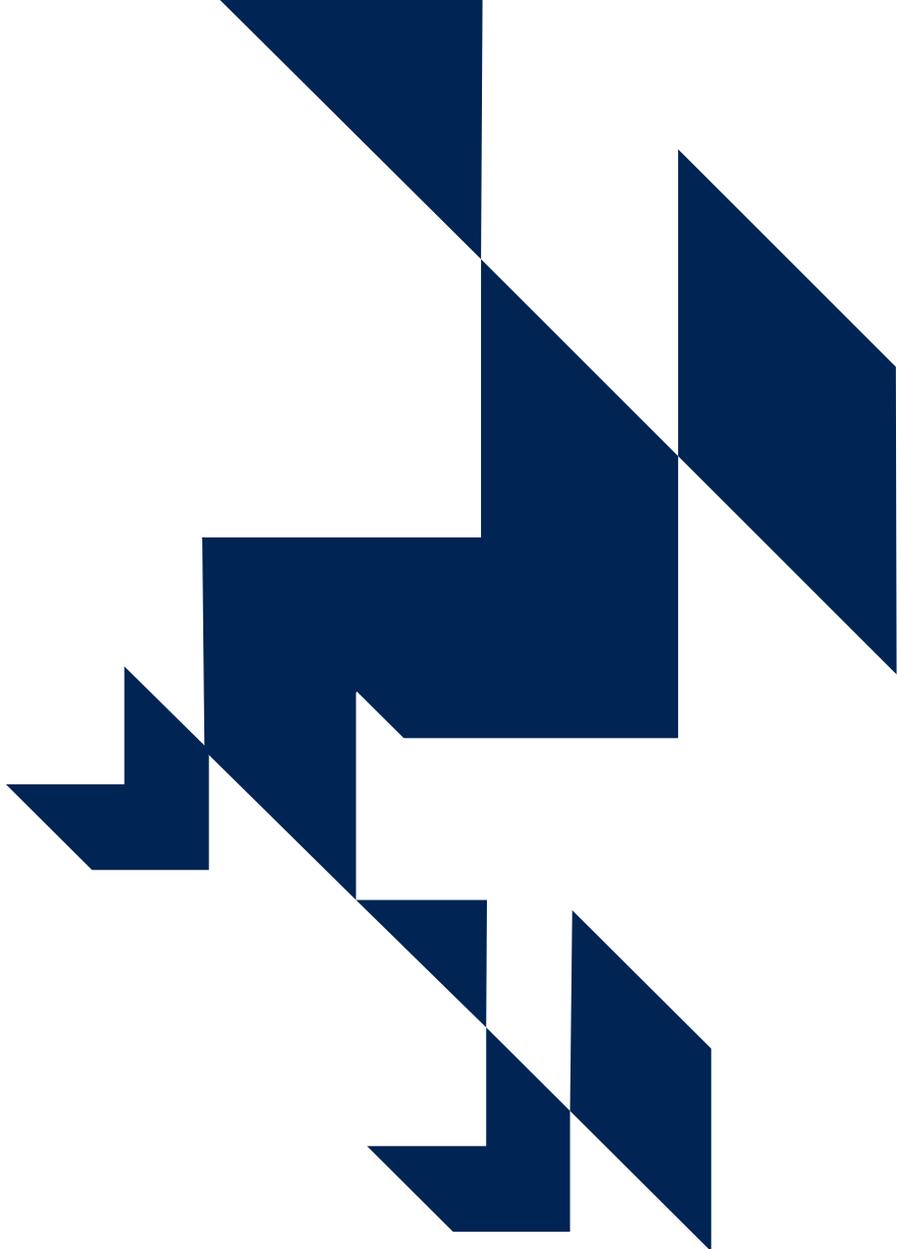
Q&A will start in 3 minutes

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Q&A



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