

**Consultation**

**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**

# **Consultation on a new approach to regulating equality of opportunity in English higher education**

**Including regulation of access and participation  
plans**

This consultation runs from **6 October 2022** to  
**10 November 2022**.

**Reference** OfS 2022.59

**Enquiries to** [app@officeforstudents.org.uk](mailto:app@officeforstudents.org.uk)

**Publication date** 6 October 2022

The Office for Students is the independent regulator for higher education in England. We aim to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers.

### **Our four regulatory objectives**

All students, from all backgrounds, and with the ability and desire to undertake higher education:

- are supported to access, succeed in, and progress from, higher education
- receive a high quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure
- are able to progress into employment or further study, and their qualifications hold their value over time
- receive value for money.

# Contents

<b>Foreword</b> .....	<b>3</b>
<b>Introduction</b> .....	<b>9</b>
Our regulatory approach .....	10
Why do we need access and participation plans? .....	10
Why are we proposing to reform our approach to equality of opportunity? .....	10
How are we developing our approach? .....	12
Summary of consultation proposals.....	13
Documents referred to in this consultation.....	15
<b>Consultation proposals and questions</b> .....	<b>16</b>
<b>Annex A: Glossary</b> .....	<b>44</b>
<b>Annex B: List of consultation questions</b> .....	<b>49</b>
Questions relating to specific proposals .....	49
Questions relating to all proposals.....	52
<b>Annex C: Draft Regulatory notice 1</b> .....	<b>53</b>
<b>Annex D: Draft access and participation plan template</b> .....	<b>54</b>
<b>Annex E: OfS Equality of Opportunity Risk Register (EORR)</b> .....	<b>63</b>
Sources of evidence .....	63
Format.....	63
Illustrative example .....	64
<b>Annex F: Fictional illustrative examples of how a provider can meet the OfS's expectations</b> .....	<b>66</b>
<b>Annex G: Consideration of alternative proposals</b> .....	<b>72</b>
Make no changes to the existing approach to access and participation plans .....	72
Ask providers to address only risks to equality of opportunity in relation to clear gaps in access, success and progression for their own students .....	72
Ask providers to tackle specific risks to equality of opportunity based on our own analysis.....	73
Ask providers to request further variations to their plans .....	74
<b>Annex H: Matters to which we have had regard in formulating our proposals</b> .....	<b>75</b>
Duty to protect academic freedom .....	75
The OfS's general duties .....	75
The public sector equality duty .....	79
Guidance issued by the Secretary of State.....	79
The Regulators' Code .....	81

# Foreword

When I joined the Office for Students as Director for Fair Access and Participation at the beginning of this year, I said that all those of us who work in education, whether in nursery, school, college or university, are united by an absolute belief that every part of our education system should create and foster equality of opportunity and offer and enhance real and enduring social mobility. Since then, I have been privileged to meet colleagues across higher education who have demonstrated their contribution to this work.

Whether it be the bold civic leadership of Sheffield Hallam, the innovative and impactful curricular work with schools demonstrated by the University of Leicester, or the close-knit, enduring collaboration between providers in York, I have seen genuinely impressive marks of universities putting their shoulder to the wheel to make a difference to their current students, to those who may be higher education students in the future, and to their wider communities. I have seen further education colleges, whether in the North East, the Midlands, or London, tightly intertwined with their local economy, bridging the gap within our tertiary education sector for the benefit of students, both young and those returning to education, to support their career progression, in partnership with local employers.

I have also met with school leaders and teachers, access professionals and evaluation experts, charity leaders and frontline staff, to fully appreciate the scale of the current impact of higher education's work in these areas, but also to receive useful and constructive feedback on how the sector can improve and expand this work.

And, of course, there are wider contexts with which the work I lead at OfS must contend. We are all recovering from the coronavirus pandemic, the greatest disruption of our society since the Second World War, and now also dealing with the impacts of global crises on inflation and the cost of living, and the very real risk that the cumulative effect of all those impacts may cost us, as a society, decades of progress on social mobility. We continue to see attainment gaps between young people from the least privileged socioeconomic groups and their more affluent peers, which have obvious effects both on who gets into higher education, and how well they succeed once they are there. Our economy demands greater flexibility in engaging with higher education to ensure technical and vocational learning is available to those who need it, especially those for whom education was less successful earlier in life.

It is in light of these challenges, and reflections from the rich and thoughtful discussions and experiences with those inside the higher education sector and beyond, that this consultation appears. The Office for Students is here offering a framework for the work we believe regulation can do in enhancing the quality, cohesion, and impact of higher education's contribution to equality of opportunity in our society.

As the regulator for higher education, the OfS of course believes that universities and colleges can and should make a huge difference to the life chances of those they educate. We also contend there is a wider mission for higher education – a civic and moral duty to always seek out new ways to serve our society, better ways to ensure that those historically excluded from higher education can benefit from it. For regulation to be valuable and effective in the realm of equality of opportunity, it must provide focus on the problems we seek to tackle and a guarantee that all those regulated will contribute to this work according to their capacity and resource.

To better achieve this in future, we propose to move away from a model in which the OfS cascades through the higher education system a set of national targets on equality, pressing providers to adopt their own targets in imitation of our own, to one in which providers themselves will undertake serious and sustained analysis of their own context and mission, and identify the most serious risks to equality of opportunity they face, and outline measures to mitigate these.

To support this, the OfS plans to create an 'equality of opportunity risk register', which we will expect universities and colleges to consider in creating their plans. This will help ensure that sector-wide risks shared by all those in higher education are properly addressed by providers, while also appropriately respecting the autonomy and pluralism of the higher education sector.

This new approach shares out between higher education providers and their regulator the work of determining the gravest challenges to equality of opportunity. Decisions about how best to mitigate those risks are ones that the OfS will take a view on, but we propose that universities and colleges themselves should lead on shaping the appropriate interventions to mitigate those risks, led by the evidence. In return, we expect providers to contribute to a significant, ongoing expansion of that evidence base through meaningful commitments to undertake and publish high quality evaluations of the work they commit to in their access and participation plans.

Those at the frontline do not have to themselves be researchers but need to understand what evidence suggests is best practice, and should be willing to feed back on their own work. That feedback should go to researchers who are keen to identify and improve the impact of practitioners' time and effort, and write with that audience in mind. Institutional leaders need to ensure that those involved in widening participation have the clout within the organisation to change direction where the research suggests it is needed, and build the partnerships inside the provider and out which allow the work to be done. Everyone must be open to the possibility that favoured interventions may prove not to be effective, and that activity perhaps previously seen as undesirable, may be more useful.

Whatever interventions universities and colleges pursue, we do know that partnership working – between higher education providers, with schools and colleges, as part of third sector initiatives – will be crucial. In particular, there can be little doubt that poor attainment in earlier years is a huge risk to equality of opportunity in higher education: I expect more, and more impactful, strategic, enduring, mutually-beneficial partnerships with schools and with the third sector.

The scale, quality, and inventiveness of the work universities and colleges have committed to in their recent variations to their current access and participation plans has been a huge influence on the development of proposals here, demonstrating as it does that the higher education sector really does understand its responsibilities to future students as well as those already attending.

These reforms aim to be a balanced and sensible response to challenges the higher education sector faces, which give appropriate space to institutional autonomy, and recognise the need to match the expectations we lay on universities and colleges to the needs of the task. We outline here significant changes in our expectations on monitoring and evaluation for all providers, and we are being explicit that our expectations for the volume of work providers will undertake should relate much more closely to their capacity, and smaller providers in particular should benefit from these changes.

This consultation proposes a new approach to the regulation of equality of opportunity in higher education that seeks greater involvement from schools, third-sector organisations, and employers. We want to make access and participation plans more accessible for students and their families. That is why we are keen to hear from everyone with an interest in equality of opportunity in higher education, not only those who provide that education, and I look forward to hearing what you think.

**John Blake**

**Director for Fair Access and Participation, Office for Students**

October 2022

## About this consultation

The Office for Students is proposing to take a new approach to regulation of equality of opportunity in English higher education, including access and participation plans. We would like to hear your views on the proposals presented in this consultation.

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### Timing

Start: **6 October 2022**

End: **10 November 2022**

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### Who should respond?

We welcome responses from anyone with an interest in equality of opportunity in higher education, and UK higher education more generally. This includes, but is not limited to:

- staff, academics and leaders at higher education providers that will be designing or implementing access and participation plans (APPs)
  - past, present and future students, particularly those who have not experienced equality of opportunity
  - schools and further education colleges, employers, third sector organisations and policy bodies
  - equality of opportunity practitioners and researchers
  - persons representing or promoting the interests of employers or graduates.
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### How to respond

Please respond by **noon on 10 November 2022**.

Please use the online response form available at <https://survey.officeforstudents.org.uk/s/equalityofopportunityconsultation/>

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### How we will treat your response

We will summarise and/or publish the responses to this consultation on the OfS website (and in alternative formats on request). This may include a list of the providers and organisations that respond, but not personal data such as individuals' names, addresses or other contact details.

If you want the information that you provide to be treated as confidential, please tell us but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

The OfS will process any personal data received in accordance with all applicable data protection laws (see our privacy policy).<sup>1</sup>

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<sup>1</sup> See [www.officeforstudents.org.uk/ofs-privacy/](http://www.officeforstudents.org.uk/ofs-privacy/).

We may need to disclose or publish information that you provide in the performance of our functions, or disclose it to other organisations for the purposes of their functions. Information (including personal data) may also need to be disclosed in accordance with UK legislation (such as the Freedom of Information Act 2000, Data Protection Act 2018 and Environmental Information Regulations 2004).

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## Next steps

Subject to feedback from this consultation, we intend to make decisions on the design of future APPs in spring 2023. We intend to publish an outcomes document summarising our analysis of the consultation responses along with decisions and supporting rationale. We also intend to set out next steps in the policy and implementation process for the new approach to APPs for 2024-25 onwards in spring 2023.

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## Enquiries

Email: [APP@officeforstudents.org.uk](mailto:APP@officeforstudents.org.uk)

Alternatively, call our public enquiry line on 0117 931 7317.

We are holding a consultation webinar on Tuesday 18 October 2022. This event will provide an opportunity for you to ask any questions you may have. Information on this event is available at: [www.officeforstudents.org.uk/news-blog-and-events/events/consultation-on-a-new-approach-to-regulating-access-and-participation/](http://www.officeforstudents.org.uk/news-blog-and-events/events/consultation-on-a-new-approach-to-regulating-access-and-participation/).

If you require this document in an alternative format, or you need assistance with the online form, contact [digitalpublishing@officeforstudents.org.uk](mailto:digitalpublishing@officeforstudents.org.uk). (Please note: this email address should not be used for submitting your consultation response.)

## Related consultations

You may wish to read about:

- Our revised approach to regulating student outcomes, and the indicators which underpin that regulation and the use of data in access and participation.

This is available at:

[www.officeforstudents.org.uk/outcomes-and-excellence/](http://www.officeforstudents.org.uk/outcomes-and-excellence/)

- Our revised quality and standards conditions that higher education providers registered with the Office for Students must meet.

This is available at:

[www.officeforstudents.org.uk/publications/consultation-on-quality-and-standards-conditions/](http://www.officeforstudents.org.uk/publications/consultation-on-quality-and-standards-conditions/)

- Our revised approach to the publication of information about higher education providers

This is available at:



<https://www.officeforstudents.org.uk/publications/supplementary-consultation-on-publication-of-information-about-higher-education-providers/>

For more information about our work to date on equality of opportunity, please visit the OfS website: [www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/access-and-participation-plans/](http://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/access-and-participation-plans/).

## Introduction

1. This consultation sets out proposals for the future approach to regulating equality of opportunity in English higher education. A significant focus of the Office for Students' (OfS's) proposed reforms is the next cycle of access and participation plans which we propose should come into effect from 2024-25 onwards. Access and participation plans set out how higher education providers will ensure all students, regardless of their characteristics or background, can access, succeed in and progress from higher education.
2. As part of this consultation, we are publishing:
  - The proposed Regulatory notice 1: Access and participation plan guidance (**Annex C**, available as a separate document)
  - The proposed template for an access and participation plan and accessible summary (**Annex D**)
  - Information about the proposed Equality of Opportunity Risk Register (EORR) (**Annex E**)
  - Fictional and illustrative examples of how a provider could meet the OfS's expectations (**Annex F**).
3. To support a provider in the development of its access and participation plan, and taking account of the responses to this consultation, we will provide effective practice advice and exemplars to accompany Regulatory notice 1 and the access and participation plan template. This will likely include a revised Regulatory advice 6 and guidance on arrangements for monitoring access and participation plans.
4. An English higher education provider is required to have an approved access and participation plan if it is registered in the Approved (fee cap) category of the OfS Register and wishes to charge above the basic tuition fee limit for 'qualifying persons' on 'qualifying courses'. This requirement stems from section 12 of the Higher Education and Research Act 2017 (HERA) and is reflected in ongoing condition of registration A1.<sup>2</sup>

**Condition A1:** An Approved (fee cap) provider intending to charge fees above the basic amount to qualifying persons on qualifying courses must:

- i. Have in force an access and participation plan approved by the OfS in accordance with HERA.
- ii. Take all reasonable steps to comply with the provisions of the plan.

5. A provider needs to submit an access and participation plan for assessment and approval by the OfS.

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<sup>2</sup> See <https://www.legislation.gov.uk/ukpga/2017/29/contents/enacted>.

## Our regulatory approach

6. The OfS seeks to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers. Our objectives as a regulator reflect the things that matter most to students: equality of opportunity to access high quality courses, achieve successful outcomes, and progress into employment, further study and to lead fulfilling lives.
7. The two areas of focus for the OfS in our 2022-2025 strategy are quality and standards and equality of opportunity in higher education.<sup>3</sup> These underpin our regulatory objectives, are closely connected and mutually reinforcing.
8. The more closely an issue relates to quality and standards or equality of opportunity, the more likely we are to consider regulatory activity either to ensure compliance with any relevant baseline expectations or to incentivise performance above them.

## Why do we need access and participation plans?

9. Access and participation plans are one of the regulatory tools the OfS deploys to facilitate the achievement of our policy objectives, and our decisions in connection with such plans are an example of where we have had regard to equality of opportunity, as stipulated in HERA and the Equality Act 2010.
10. Access and participation plans set out how individual higher education providers will improve equality of opportunity for students to access, succeed in and progress from higher education.
11. Some groups of people have historically been less likely to achieve the qualifications needed to study in higher education and these gaps in achievement are apparent from a young age.
12. There has also been inequality between groups once they get into higher education and some people have been more likely to do well than others, even when their prior academic attainment is the same.
13. Our ambition is that future generations should have an equal opportunity to access and succeed in higher education, and to achieve successful and rewarding careers.
14. To achieve this ambition we set out for providers that intend to charge above the basic fee limit, our requirement for access and participation plans through Regulatory notice 1: Access and participation plan guidance.

## Why are we proposing to reform our approach to equality of opportunity?

15. In light of our current strategy and its focus on equality of opportunity, we are reviewing the tools available to us for promoting equality of opportunity through our regulation of individual providers. This includes our regulation of access and participation plans (APPs), but also includes our wider powers and duties, as set out in the regulatory framework.

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<sup>3</sup> Available at [www.officeforstudents.org.uk/publications/office-for-students-strategy-2022-to-2025/](http://www.officeforstudents.org.uk/publications/office-for-students-strategy-2022-to-2025/).

16. The context within which prospective and current higher education students are studying and providers are operating has changed since the OfS's first strategic period from 2018-21.<sup>4</sup> The coronavirus pandemic has profoundly impacted all those involved in higher education and other domestic and global events continue to change the context in which higher education is operating.
17. Further, following the recent reforms of our approach to the regulation of quality and standards, we need to ensure that our approach to equality of opportunity, including access and participation plans, complements and strengthens our work to ensure providers are delivering positive outcomes for all their students.
18. On 8 February 2022, the Director for Fair Access and Participation (DFAP) set out priorities in this area for the next four years and outlined how the OfS would work with higher education providers, students, and other stakeholders to deliver them.<sup>5</sup> These priorities included:
  - a. Providers developing, enhancing and expanding partnerships with schools and other local and national organisations, to help raise the pre-16 attainment of young people from underrepresented groups across England.
  - b. Providers developing more diverse pathways into and through higher education through expansion of flexible Level 4 and 5 courses and degree apprenticeships.
  - c. Providers ensuring access to higher education for students from underrepresented groups leads to successful participation on high quality courses and good graduate outcomes.
  - d. Providers improving the quality and volume of evaluation of access and participation plan activity.
  - e. Providers making access and participation plans more accessible in a way that prospective and current students, their parents, and other stakeholders can easily understand.
19. All providers with an access and participation plan were asked to request variations to their plans for the 2023-24 academic year to address these priorities. At the time of launching this consultation, we have received 231 requests for variations; our assessment of these so far demonstrates providers' willingness and capabilities to address these sector-level strategic priorities.
20. To continue to deliver on these priorities, we wish to refocus access and participation plans so that they more clearly set out how providers will address both sector-level risks to equality of opportunity as well as provider-specific risks.
21. The plans should respond to some of the longer-term challenges which may be caused or exacerbated by the coronavirus pandemic, notably the widening gap in attainment in schools,<sup>6</sup>

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<sup>4</sup> Available at [www.officeforstudents.org.uk/publications/office-for-students-strategy-2018-to-2021/](http://www.officeforstudents.org.uk/publications/office-for-students-strategy-2018-to-2021/).

<sup>5</sup> Available at [www.officeforstudents.org.uk/news-blog-and-events/events/next-steps-in-access-and-participation/](http://www.officeforstudents.org.uk/news-blog-and-events/events/next-steps-in-access-and-participation/).

<sup>6</sup> See <https://explore-education-statistics.service.gov.uk/find-statistics/key-stage-2-attainment/2021-22>.

and any further issues that may arise because of increased costs of living. They should also continue to focus on eliminating persistent disparities between the access, success and outcomes of groups of students who do not currently experience equality of opportunity in higher education.

## How are we developing our approach?

22. In developing the proposals in this consultation for reforming our approach to regulating equality of opportunity, we consider that the OfS's relevant functions are those relating to or supplementary to:
  - a. The approval of access and participation plans.
  - b. Advice on good practice related to the promotion of equality of opportunity.
23. We have set out in **Annex H** the matters that we have had regard to in formulating our proposals.
24. In performing our access and participation functions, we are subject to a duty under section 36 of HERA to protect academic freedom. Annex H sets out the way we consider our proposals achieve this.
25. This consultation seeks views on the broader framing of our equality of opportunity work, through the creation of an Equality of Opportunity Risk Register (EORR) and envisages that much, although by no means all, activity that providers undertake to address these risks will be recorded and accounted for through a provider's access and participation plan.
26. In seeking to refine the tools available to the OfS to regulate and support the work which is needed, this consultation focuses largely on access and participation plans, but also seeks views on collaboration between higher education providers, schools and colleges – particularly in respect of the provision of information, advice and guidance to prospective students, outreach and attainment raising.
27. The consultation also considers and seeks views on the cross-cutting work that underpins all these activities: evaluation (including how the OfS champions good practice); the use of data; how collaboration can help providers achieve more; and broader issues such as engagement between schools, further and higher education providers.
28. In developing these proposals, we have considered alternative proposals. The alternative proposals are in Annex F along with an explanation of why the alternative proposals are not being taken forward.

## Summary of consultation proposals

### Section 1: Scope of an access and participation plan

#### Proposal 1: Risks to equality of opportunity

- We propose that a provider's access and participation plan should be focused on 'risks to equality of opportunity'.
- We propose that a provider should have regard to the OfS Equality of Opportunity Risk Register (EORR) when identifying its risks to equality of opportunity.

#### Proposal 2: Four-year plan duration and publication of information about a provider's delivery of a plan

- We propose to reduce the normal maximum duration of plan approval to four years.
- We propose that a plan should be written as a strategic document that is set out over a four-year period.
- We propose that we should normally expect to publish information about our judgement about whether or not a provider has appropriately delivered the commitments in its approved access and participation plan.

### Section 2: Contents of an access and participation plan

#### Proposal 3: Format and content of an APP

- We propose that a provider should include an accessible summary in its access and participation plan.
- We propose that a provider's access and participation plan should include intervention strategies which are linked to named objectives and address the provider's risks to equality of opportunity.
- We propose that a provider should follow a standard format when writing its access and participation plan which includes introduction and strategic aims, risks to equality of opportunity, objectives, intervention strategies, whole provider approach, student consultation and provision of information to students.
- We propose that a provider's plan should not exceed 30 pages. There is no minimum length for an access and participation plan. This page limit would exclude any annexes detailing a provider's assessment of performance, the accessible summary, and supporting documents setting out fees, investment and targets.

#### Proposal 4: Targets

- We propose that objectives should be translated into numerical targets with measurable outcomes-based milestones set over the duration of a plan.

- Targets should be captured in a targets and investment plan.

### **Proposal 5: Evaluation**

- We propose that a provider should be expected to significantly increase the volume and quality of evaluation across its access and participation activity.
- We propose that a provider should be expected to supply more information about what it will evaluate and when.
- We propose that a provider should be expected to set out how and when it intends to publish its evaluation results.

### **Proposal 6: Investment**

- We propose that a provider should be expected to include information on how much it is investing in each intervention strategy.
- We propose to no longer ask a provider for information on access investment in the targets and investment plan document.
- We propose to continue to ask a provider for information on financial support and research and evaluation investment in the targets and investment plan document.

### **Proposal 7: Raising attainment in schools and collaboration**

- We propose that there are key sector-level priorities in the EORR that we would expect to be reflected in the majority of APPs. In particular we expect providers to address in their plan the key sector-level priority on raising pre-16 attainment in schools through the development of strategic partnerships with schools.
- We invite feedback on how the OfS could support providers to develop strategic partnerships to raise attainment in schools.
- We also invite feedback on how the OfS might use other tools, such as funding, evidence of effective practice and its convening powers to support collaboration and partnership to address core risks to equality of opportunity.

## **Section 3: Access and participation data**

### **Proposal 8: Assessment process**

- We propose that the OfS will use the published access and participation data dashboard and other contextual provider data to conduct an analysis of a provider's data, to understand a provider's context during the APP assessment process.

## Documents referred to in this consultation

In this consultation we refer to the following documents:

### **Securing student success: Regulatory framework for higher education in England**

(available at: [www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/](http://www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/))

This publication sets out the OfS's approach to regulation of English higher education providers.

### **Regulatory notice 1: Access and participation plan guidance**

This publication will set out how the OfS will regulate equality of opportunity and what we expect to see in an access and participation plan. An illustrative draft has been included as Annex C (available alongside this consultation).<sup>7</sup>

It will replace the current version of Regulatory notice 1: Access and participation plan guidance (available at: [www.officeforstudents.org.uk/publications/regulatory-notice-1-access-and-participation-plan-guidance/](http://www.officeforstudents.org.uk/publications/regulatory-notice-1-access-and-participation-plan-guidance/)).

### **Regulatory advice 6: How to prepare your access and participation plan**

This publication will include further information to help providers to write their access and participation plans and will be made available on our webpages as part of final guidance relating to Regulatory notice 1.

It will replace the current version of Regulatory advice 6: How to prepare your access and participation plan (available at: [available at www.officeforstudents.org.uk/publications/regulatory-advice-6-how-to-prepare-your-access-and-participation-plan-effective-practice-advice/](http://www.officeforstudents.org.uk/publications/regulatory-advice-6-how-to-prepare-your-access-and-participation-plan-effective-practice-advice/)).

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<sup>7</sup> See [www.officeforstudents.org.uk/publications/consultation-on-a-new-approach-to-regulating-equality-of-opportunity-in-english-higher-education/](http://www.officeforstudents.org.uk/publications/consultation-on-a-new-approach-to-regulating-equality-of-opportunity-in-english-higher-education/).



# Consultation proposals and questions

## Section 1: Scope of an access and participation plan

### Proposal 1: Risks to equality of opportunity

#### What are we proposing?

##### Summary of proposals

- We propose that a provider's access and participation plan should be focused on 'risks to equality of opportunity'.
- We propose that a provider should have regard to the OfS Equality of Opportunity Risk Register (EORR) when identifying its risks to equality of opportunity.

29. We propose that a provider's plan should focus on its own 'risks to equality of opportunity' and that a provider has regard to the sector-wide OfS EORR when identifying these risks. A provider should identify its 'risks to equality of opportunity' by conducting an assessment of its performance using the OfS access and participation data dashboard as the primary source of evidence, where possible.

30. Some student groups may have experienced inequality in respect of higher education at different stages of the student lifecycle. For example:

- a. Economically disadvantaged students and students from low participation areas have been less likely to access higher education than their peers.<sup>8</sup>
- b. Care experienced students have been less likely to access higher education and complete their studies than their peers.<sup>9</sup>
- c. Disabled students have been less likely to progress to highly skilled employment or further education than their peers.<sup>10</sup>
- d. Black students have been less likely to be awarded a 1<sup>st</sup> or 2:1 than white students.<sup>11</sup>

31. Further, there may be other barriers to higher education which means certain students may not have experienced equality of opportunity. For example:

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<sup>8</sup> See [www.officeforstudents.org.uk/data-and-analysis/access-and-participation-data-dashboard/](http://www.officeforstudents.org.uk/data-and-analysis/access-and-participation-data-dashboard/).

<sup>9</sup> See <https://explore-education-statistics.service.gov.uk/find-statistics/widening-participation-in-higher-education> and [www.officeforstudents.org.uk/publications/differences-in-student-outcomes-further-characteristics/](http://www.officeforstudents.org.uk/publications/differences-in-student-outcomes-further-characteristics/).

<sup>10</sup> See [www.officeforstudents.org.uk/data-and-analysis/access-and-participation-data-dashboard/](http://www.officeforstudents.org.uk/data-and-analysis/access-and-participation-data-dashboard/).

<sup>11</sup> See [www.officeforstudents.org.uk/data-and-analysis/access-and-participation-data-dashboard/findings-from-the-data/](http://www.officeforstudents.org.uk/data-and-analysis/access-and-participation-data-dashboard/findings-from-the-data/).

- a. Students from certain geographic regions, including rural and coastal areas, may have had context-specific risks to equality of opportunity.
- b. Students with fewer financial resources have been disproportionately affected by the recent increase in the cost of living.

32. The OfS is proposing to categorise each of these instances as a **risk to equality of opportunity**. The EORR, which will be published on the OfS website, identifies a range of sector-wide risks to equality of opportunity and characteristics of students likely to be affected by such risks.

### **Sector-wide EORR**

33. To help a provider identify its own risks to equality of opportunity for current, past and future students, we propose publishing a sector-wide EORR on the OfS website. This will identify key sector-level risks to equality of opportunity and highlight which student groups are most affected by each one. We would aim to publish the first version of the EORR alongside the publication of Regulatory notice 1 in February 2023.

34. We propose the EORR would be updated annually, or in exceptional circumstances in response to a major event, to reflect current risks to equality of opportunity. We would aim to work with a range of stakeholders such as students, subject experts, and the Centre for Transforming Access and Student Outcomes in Higher Education (TASO) on an ongoing basis to identify the current and emerging risks using robust evidence.

35. We propose that the EORR would include the following information:

- a. The identified risk to equality of opportunity.
- b. An objective associated with the risk to equality of opportunity which indicates that it is an OfS equality objective.
- c. The students to whom the risk relates.
- d. The evidence used to identify the risk and an assessment of impact.

36. We will periodically set out the mitigations for the risks contained in the EORR that the OfS is pursuing above and beyond the activity laid out by providers in their APPs.

37. More information about the EORR can be found in **Annex E**, including an illustrative example and information about proposed methodology.

38. We propose that a provider should have regard to the sector-wide risks to equality of opportunity when developing its access and participation plan. However, a provider will not be expected to address all risks in the EORR.

39. We expect that a provider will address both sector-wide and provider-specific risks as is proportionate to its size, context, mission and the nature of the risks identified and the actual or potential impact of these on its prospective and current students.

40. We propose that each provider should identify the greatest risks to equality of opportunity that it will address in its plan by conducting an assessment of its performance.
41. We propose that an assessment of performance would involve a provider interrogating its data and other evidence sources to identify current and prospective students who are at greatest risk of not experiencing equality of opportunity.
42. We propose that a provider should include a summary of its assessment of performance as an annex to its plan.
43. As with current access and participation plans, we propose that the assessment of performance should primarily be based on data from the access and participation data dashboard, where possible. It may additionally refer to other evidence sources including:
  - a. Other OfS data sources.
  - b. Any other relevant, reliable provider or sector-level data or evidence related to equality of opportunity for students.
44. Depending on its size and context, a provider may identify a greater number of risks to equality of opportunity than it would have the capacity to address through its access and participation plan. In such a case, a provider should present a clear rationale for the risks it has chosen to focus on in its plan.
45. For a discussion on our consideration of alternative proposals, please see **Annex F**.

### **Why are we making the proposal?**

46. At present access and participation plans are focused on a list of target groups including:
  - a. Students from areas of lower higher education participation, lower household income and/or lower socioeconomic status groups.
  - b. Some black, Asian and minority ethnic (BAME) students.
  - c. Mature students.
  - d. Disabled students (those in receipt of disabled students' allowance (DSA) and those who have declared a disability but are not in receipt of DSA).
  - e. Care leavers.
  - f. Specific groups including carers, students estranged from their families, people from Gypsy, Roma and Traveller communities and children of military families.
47. We are proposing to broaden the definition of who and what may be included in an access and participation plan by focusing plans on 'risks to equality of opportunity'. These risks may include, encompass multiple, or be broader than named student groups and lifecycle stages.
48. Early stakeholder engagement has indicated that this will allow a provider's access and participation plan to take greater account of its context and to be more responsive to emerging or increasing risks. This is in addition to a provider's plan continuing to address longer-term,

persistent issues in relation to access and participation, for example how school attainment gaps affect access to higher education.

49. Further, we do not anticipate that all the risks identified in the EORR would be most appropriately addressed through a provider's access and participation plan. Some may be better addressed through other aspects of our provider-level regulation, OfS-funded programmes or our forthcoming revised equality objectives.<sup>12</sup>
50. Adopting risks to equality of opportunity as the conceptual framework for its access and participation plan means a provider will be able to present a transparent and evidence-based rationale for prioritisation of activity and resource. This should enable a provider to take a proportionate approach to the development and delivery of its access and participation plan relative to its size, context, and mission.
51. We are proposing that a provider should only include a summary of its assessment of performance in order to ensure that plans remain accessible documents, and avoid the need for a provider to set out a full assessment of performance for areas that are less relevant to its students, context and performance.
52. For information on matters to which we have had regard in reaching our proposals, see **Annex H**.

#### **What would the effect of the proposal be?**

53. Moving to a risk-based approach to conceptualising equality of opportunity aligns with the OfS's risk-based approach to regulation. We take the view that we should use our resources to greatest effect and that it is appropriate for us to regulate in relation to the greatest risks that a provider has identified for its current and prospective students.
54. Notwithstanding this approach to determining the focus and content of access and participation plans, which in turn will be the primary focus of our provider-level regulation for the promotion of equality of opportunity, we expect that a provider will continue to understand, anticipate and address the needs of its students as part of adequate and effective management and governance arrangements. In doing so, a provider must also have regard to equality of opportunity, as stipulated in the Equality Act 2010.<sup>13</sup> As such, we would not expect that as a result of focusing its plan on the greatest risks to equality of opportunity that a provider should neglect the needs of students not captured by its plan.
55. Further, we consider that this approach has the benefit of enabling our regulation to be appropriately responsive to the changing higher education environment, in addition to addressing long-standing and persistent barriers to equality of opportunity for named student groups.
56. It is our view that this approach will give a provider the opportunity to reflect the current higher education environment in its plan to a greater extent than the current approach allows.

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<sup>12</sup> See [www.officeforstudents.org.uk/about/equality-and-diversity/objectives-for-student-equality/](http://www.officeforstudents.org.uk/about/equality-and-diversity/objectives-for-student-equality/).

<sup>13</sup> See <https://www.legislation.gov.uk/ukpga/2010/15/contents> and <https://www.gov.uk/government/publications/public-sector-equality-duty>.

57. We believe this approach will mean that the regulatory burden imposed on a provider in relation to our expectations for its APPs is appropriate to its size, context and mission because our requirements would provide a transparent and rational basis for prioritisation of the provider's resources.

We expect to see a degree of consistency between the issues addressed in a provider's current access and participation plan and any plan developed as a result of these proposed reforms.

### Questions

1. To what extent do you agree with our proposals relating to risks to equality of opportunity? Please provide an explanation for your answer.
2. If you consider our approach should differ, please explain how and the reasons for your view.

## Proposal 2: Plan duration and publication of information about a provider's delivery of a plan

### What are we proposing?

#### Summary of proposals

- We propose to reduce the normal maximum duration of plan approval to four years.
- We propose a plan is written as a strategic document that is set out over a four-year period.
- We propose that we should normally expect to publish information about our judgement about whether or not a provider has appropriately delivered the commitments in its approved access and participation plan.

59. We propose that initial approval of a plan should continue to be for one year and that approval would then automatically roll over for each subsequent year for a maximum of three years, unless the OfS expressly notifies a provider in writing that a new plan needs to be submitted for approval. This means that the normal maximum duration of a plan would be four years in total.

60. The letter notifying a provider that its plan has been approved would also set out the length of the approved roll-over period for that plan. The OfS would not normally expect to ask a provider for a new four-year access and participation plan within the first two years after submission.

61. We also propose that a provider's plan should be set out over a four-year period.

62. We propose that we should normally expect to publish information about our judgement about whether or not a provider has appropriately delivered the commitments in its approved access and participation plan.

## Why are we making the proposal?

63. Setting plans over four years will enable providers to continue to have a strategic focus which will allow them to implement and evaluate longer-term activity, while also adapting to changes in the higher education environment or emerging patterns for their groups of students. This will ensure that new plans can address emerging risks and reflect any new priorities in a timely manner.
64. The OfS has set out its approach to publishing information about higher education providers and individuals connected to them in Regulatory advice 21.<sup>14</sup> We would follow this general policy when making decisions about publishing information about any investigation, or assessment relating to condition A1, as well as an individual provider's compliance with condition A1 and any action the OfS has taken in response to actual or likely non-compliance.
65. We are now proposing an additional element to the general policy in Regulatory advice 21. Without making findings in respect of a provider's compliance with condition A1, the OfS may decide to publish information about its views on whether or not a provider has properly delivered the commitments in its approved access and participation plan. The OfS would expect to have regard to the factors set out in Regulatory advice 21 in making such publication decisions and, if a final decision is made to publish information, the OfS would normally expect to include a statement to make clear that the OfS has not made any findings about the provider's compliance with conditions of registration where this is the case.
66. The OfS may take further action if it identifies areas of potential concern in relation a provider's delivery of its APP. In such cases, the OfS may ask a provider for more information. This may result in further regulatory intervention on the basis set out in the regulatory framework and elsewhere, as appropriate.
67. For information on matters to which we have had regard in reaching our proposals, see **Annex G**.

## What would the effect of the proposal be?

68. We have considered the regulatory burden of moving to a four-year rather than a five-year cycle but on balance we are currently of the view that moving to a four-year cycle for the majority of access and participation plans is likely to have a relatively neutral effect on burden.
69. This is because it will reduce the need for any interim measures, such as the recent universal variation process, to allow providers to more quickly address key changes in the higher education context and emerging risks to equality of opportunity.
70. We take the view that our proposal to publish information about our views on whether or not a provider has properly delivered the commitments in its approved access and participation plan, i.e. information that is not currently captured in our general policy, would create appropriate incentives for all providers to satisfy our expectations for the delivery of their APPs. In these circumstances we currently consider that publication would be in the interests of current and future students, the public, and providers that do meet our expectations.

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<sup>14</sup> See [Regulatory advice 21: Publication of information - Office for Students](#).

## Questions

3. To what extent do you agree with our proposals relating to a four-year plan duration and publication of information about a provider's delivery of a plan? Please provide an explanation for your answer.
4. If you consider our approach should differ, please explain how and the reasons for your view.

## Section 2: Content of an access and participation plan

### Proposal 3: Format and content of an APP

#### What are we proposing?

##### Summary of proposals

- We propose that a provider should include an accessible summary in its access and participation plan.
- We propose that a provider's access and participation plan should include intervention strategies which are linked to named objectives and address the provider's risks to equality of opportunity.
- We propose that a provider should follow a standard format when writing its access and participation plan which includes introduction and strategic aims, risks to equality of opportunity, objectives, intervention strategies, whole provider approach, student consultation and provision of information to students.
- We propose that a provider's plan should not exceed 30 pages. There is no minimum length for an access and participation plan. This page limit would exclude any annexes detailing a provider's assessment of performance, the accessible summary, and supporting documents setting out fees, investment and targets.

##### Access and participation plan summary

71. We propose that a provider with an access and participation plan should be expected to produce an accessible summary of the plan which it will publish.

72. We propose that the plan summary should concisely set out the following:

- a. What an access and participation plan is and provide a link to the provider's full access and participation plan.
- b. Key points – summarising a provider's context, the provider's overarching strategic aim and key challenges, and the main areas of focus in the access and participation plan.
- c. Fees charged – setting out maximum fees for full-time and part-time students the provider will charge and including a link where readers can find further fee information.
- d. Financial support available – setting out any financial support the provider intends making available to students and the eligibility criteria.
- e. Information for students – describing how the provider will make information on fees and financial support available to students.



- f. Intervention strategies – summarising the key interventions to achieve a provider’s objectives and targets set out in the access and participation plan.
- g. Student participation – setting out how a provider’s students have and will be involved in the planning, monitoring, evaluation and delivery of access and participation work.
- h. Evaluation – setting out how a provider’s intervention strategies are evidence-informed and how activities will be evaluated for impact on aims and objectives.
- i. Contact details at the provider for readers who would like further information.

73. We further propose that a provider’s plan summary should not exceed three pages. The summaries need to be concise and accessible to students, their advisers and other external stakeholders and so should be kept short.

74. A provider should ensure that only information contained in its approved access and participation plan is included in the summary. A provider should note that the summary does not change or replace the status of its full access and participation plan.

75. An example of the plan summary template is provided at Annex D. We propose to publish this together with a completed fictional example on publication of the final guidance.

### **Intervention strategies and expected outcomes**

76. We propose that for each objective a provider has identified, its access and participation plan should include details of the intervention strategies it will deliver to address the risk and achieve the objective. Our expectation is that each intervention strategy contains sufficient detail for the OfS to assess whether it will make a meaningful and effective contribution to equality of opportunity.

77. Intervention strategies will be expected to provide a greater level of detail about how a provider expects to meet its objectives than the current approach which asks a provider to set out, at a high level, the strategic measures it will deliver. The intervention strategies will also be expected to more clearly and explicitly link to a specific objective or objectives.

78. We propose that each intervention strategy will be expected to include details of:

- a. The interventions that will be put in place to achieve the objective(s).
- b. The evidence used to underpin the interventions’ design.
- c. The theory of change, including relevant outputs and outcomes. A provider should include details of the outcomes it expects to achieve across the duration of the plan. A provider should also include interim outcomes to monitor and adapt interventions at an early stage, and longer-term outcomes where equality of opportunity will not be achieved across the duration of the plan.<sup>15</sup>

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<sup>15</sup> TASO has created resources on a ‘theory of change’, including what it is and how to create one. See <https://taso.org.uk/evidence/our-approach-to-evaluation/step-1-diagnose/>.

- d. Details about the financial commitment required to deliver the interventions.
- e. A description of how each outcome will be monitored and evaluated, including details of when evaluation outcomes will be shared and published and the format they will take.

79. The OfS will expect a provider to set out how its intervention strategies are part of a 'whole provider approach', as set out in the draft of Regulatory notice 1 at Annex C, which ensures that students are supported to succeed throughout their time at the provider through clear and explicit leadership and the engagement of staff across all departments and services.

## Format

80. We propose that there should be a standard structure for access and participation plans as set out in our proposed revised Regulatory notice 1 (see **Annex C**), and that we will continue to provide a template which we would strongly encourage providers to use. We have updated our draft template (see **Annex D**) to reflect the proposed changes to the plans which are set out in this document.

81. With a view to making plans clearer and easier to understand we propose the format of a provider's access and participation plan should be:

- **Introduction and strategic aim:** A provider is expected to use the introduction to set out its context, mission, and overarching strategic aim as they relate to the delivery of equality of opportunity for students.
- **Risks to equality of opportunity:** The key risks to equality of opportunity identified by a provider's assessment of its own performance and consideration of the EORR which will be addressed in the plan.
- **Objectives:** Corresponding objectives for each of the risks to equality of opportunity identified. The objectives set should be timebound and measurable.
- **Intervention strategies and expected outcomes:** An outline of the evidence-informed interventions a provider will deliver to meet each of its objectives. Each intervention strategy should relate to a specific objective and include details of the individual interventions that underpin it, theory of change, including expected outcomes, how it will be evaluated, the resource required to deliver the intervention strategy and details of how each outcome will be monitored and evaluated. This should also include a timetable for when associated evaluation outcomes will be published and the expected format this will take.
- **Targets:** Where appropriate objectives should be translated into numerical targets with measurable outcomes-based milestones as part of the targets and investment plan document.
- **Whole provider approach:** A description of how staff from departments and services across the provider are led and engaged to ensure that its students are supported to access, succeed in and progress from their time at the provider.

- **Student consultation:** A plan should demonstrate how students have had the opportunity to express their views about the content of the plan before it was submitted for approval, and what steps were taken as a result.
- **Evaluation of the plan:** An outline of how a provider will strengthen and undertake evaluation of the activities delivered in the plan, including plans for publication of that evaluation.
- **Investment:** Investment information alongside each intervention to support evaluation. Information about a provider's investment in financial support for students and research and evaluation in the targets and investment plan document.
- **Provision of information to students:** A plan must detail how prospective students are provided with information about the fees they will be charged for the duration of their course. It must also set out how a provider will inform students about any financial support to which they are entitled, including the eligibility criteria and the level of financial support students will be offered in each year of study.
- **Annex A: Assessment of performance:** A provider is expected to set out the elements of its assessment of performance that were used to identify the risks to equality of opportunity the plan will address. Only those elements that directly relate to the identified risks need be included: the OfS does not require the inclusion in the plan of all the analysis a provider undertakes. However, the OfS may request additional information where that is considered appropriate.

82. To support a provider to write accessible intervention strategies at the level of detail required by the OfS, we are proposing to supply a template to be used for each intervention strategy centred around a theory of change.<sup>16</sup> An example of this can be found at **Annex D**.

83. A theory of change sets out the causal mechanisms through which an intervention is expected to achieve its outcomes.<sup>17</sup> For each intervention strategy we would expect a provider to set out:

- The risk, objective and target the strategy is addressing
- The inputs (including financial investment), outputs and outcomes
- Any assumptions that have been made in the theory of change
- The evidence base for the intervention strategy including references
- Details about how progress against each outcome will be monitored and evaluated where appropriate.

84. We propose that the following supporting documents should be included with a providers' submission of a plan:

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<sup>16</sup> TASO has created resources on a 'theory of change', including what it is and how to create one. See <https://taso.org.uk/evidence/our-approach-to-evaluation/step-1-diagnose/>.

<sup>17</sup> Available at <https://www.gov.uk/government/publications/the-magenta-book>.

- A targets and investment plan (TIP)
- A fee information document (FID)
- An accessible summary of a plan
- An optional student submission.

## **Page limits**

85. We propose that there should be an expected page limit for a provider's access and participation plan and associated accessible plan summary. This should be set at a level that does not unduly constrain providers from submitting evidence they consider necessary. The page limit should be higher than for previous access and participation plans given that we expect a provider to expand on the level of detail provided, particularly on the intervention strategies it will deliver and the evaluation plans it intends to put in place.
86. We therefore propose an expectation of no more than 30 pages for a provider's access and participation plan. The limit would exclude any annexes and the accessible plan summary. This represents an increase from the previous suggested page limit of 20 pages and reflects the expectation of a greater level of detail on intervention strategies within a provider's plan but also that the assessment of performance will be in a separate annex. We do not propose setting a minimum page limit.
87. If a provider exceeds the proposed page limit, it is likely to take longer for us to assess the plan thereby delaying an approval decision.

## **Why are we making the proposals?**

88. An access and participation plan is a regulatory document which the OfS uses to hold a provider to account for its progress in improving equality of opportunity. Plans must be sufficiently detailed, evidence based and robust to allow for effective, risk-based regulation. However, the level of detail and complexity in a provider's plan may make it difficult for students and the public to readily understand what the key challenges are that a provider intends to address, how it intends to address them and how it will measure its success.
89. We consider that, a provider will need to develop a relatively complex and detailed document to meet our expectations. We also take the view that it is important that students, prospective students, their advisers and other members of the public are able to readily see the risks to equality of opportunity a provider has identified, the action it will take to address those risks, the financial support it will offer to students meeting its criteria and the fees it will charge for its courses. Expecting a provider to produce a summary of its plan will therefore ensure that key information is transparent and accessible to the public.
90. The proposal for a provider's plan to include intervention strategies will allow for greater clarity about exactly what a provider is going to do to meet each of the objectives it has set. The current approach asks a provider to set out, at a high level, the strategic measures it will take to deliver its objectives but these measures are often not explicitly linked to a specific objective. This can make it difficult to determine whether a provider has taken all reasonable steps to deliver the provisions of its plans as required in condition A1 of the regulatory framework. Furthermore, within the proposed approach there is a clear expectation that a provider will

include, within each intervention strategy, a description of how it will evaluate the interventions and how the results of its evaluations will be published and shared. This will deliver the dual benefits of ensuring that providers are delivering continuous improvement in practice to improve outcomes for students through adapting its interventions in response to evidence and of increasing the volume and quality of evaluative evidence in the higher education sector.

91. We consider that a common structure will help a provider supply the information the OfS needs to make approval decisions. While the template would not be mandatory, we would strongly advise a provider to use the template to ensure clarity and enable a timely assessment of its access and participation plan.
92. We have had regard to our general duty relating to the principles of best regulatory practice, particularly matters relating to proportionality and to our general duty relating to the efficient, effective and economic use of the OfS's resources. We consider that without a page limit for access and participation plans, there is a risk that providers would produce unnecessary volumes of information. This would have the overall effect of creating additional burden on both providers and the OfS.
93. In previous guidance for access and participation plans we imposed requirements for how monitoring and decision-making regarding relation to a provider's access and participation plan should work, including specifying a role for a provider's governing body. We are proposing to change our approach because we have heard from providers that these requirements create unnecessarily regulatory burden. We take the view that a provider may put in place appropriate delegation arrangements for monitoring and decision-making in relation to its APP.
94. The targets and investment plan, fee information document and optional student submission are features of the current approach to access and participation plans. These documents provide supplementary, clear information relating to a providers' plan which are also used for publication. We have set out our proposals for the addition of a summary of a plan in this consultation document.

#### **What would the effect of the proposals be?**

95. The effect of the proposals would be to ensure that a provider's access and participation plan is clear, accessible to students and the wider public, and structured in a way that limits regulatory burden on both a provider and the OfS.
96. The proposals would ensure that the structure of a provider's access and participation plan is coherent and clearly sets out the risks to equality of opportunity identified, the objectives set to address the risks, what the provider is going to do to meet its objectives through clearly linked intervention strategies and how it will know those strategies are working.
97. Adopting a standard approach to setting out the key aspects of a plan via templates enables a structured and consistent approach to their assessment. This in turn enables the OfS to make the best use of its resources and undertake assessments in a fair and consistent manner.
98. Removing specific requirements for the involvement of a provider's governing body in monitoring and decision-making of an APP reduces regulatory burden, and allows each provider to consider how best to structure its oversight of the content and implementation of its

plan so it can respond appropriately to changes in the nature of risks to equality of opportunity or evidence of impact from interventions.

## Questions

5. To what extent do you agree with our proposals related to the **format and content of an APP**? Please provide an explanation for your answer.
6. If you consider our approach should differ, please explain how and the reasons for your view.

## Proposal 4: Targets

### What are we proposing?

#### Summary of proposals

- We propose that objectives should be translated into numerical targets with measurable outcomes-based milestones set over the duration of a plan.
- Targets should be captured in a targets and investment plan.

99. As with the current approach, targets are expected to correspond to a provider's objectives. A provider should translate its objectives into associated numerical outcomes-based targets in the targets and investment plan document. Where possible these targets should be measurable using the OfS access and participation data dashboard.

100. However, we recognise that one or more of a provider's objectives may not easily translate into a target based on the OfS access and participation data dashboard. In particular, this will be the case for objectives relating to raising pre-16 attainment. In these instances we would expect providers to set measurable targets that are based on intermediate-outcomes associated with their intervention strategies.

101. We envisage that providers may include numerical outcomes-based targets based on interventions and outcomes related to:

- a. Access, continuation, completion or progression outcomes for students based on the OfS access and participation data dashboard.
- b. Sustained engagement with pre-16 and post-16 students or working with the community or employers to support mature student access to higher education.
- c. Strategic partnerships with schools to raise attainment.
- d. Collaborative targets across different types of providers, or a regional or geographical target which may relate to promoting equality of opportunity for underrepresented groups nationally.

102. As in our current approach, targets should be:

- Stretching
- Outcomes based
- Measurable on a consistent basis, with baseline data where possible
- Set over a maximum of four years, and include annual or interim milestones which can be used to monitor progress.

### Why are we making this proposal?

103. The setting of outcomes-based targets in an access and participation plan provides effective indicators of whether a provider is making positive progress in addressing its risks to equality of opportunity. By having either directly linked or proxy targets with annual milestones reflecting its objectives a provider will be able to monitor whether it is on track to meet them and in cases where it is not, take steps to address any aspects of its intervention strategy that may not be effective.
104. Targets allow stakeholders, such as students, to hold providers to account for the delivery of their plans and form a basis for meaningful engagement around addressing any lack of progress.
105. Outcomes-based targets and annual milestones also provide an effective way for the OfS to undertake risk-based monitoring of the delivery of a provider's access and participation plan using the information it holds, including data in the access and participation data dashboard.
106. We are proposing that targets should be set over a maximum of four years, recognising that some interventions may not require the full duration of a plan to achieve a stated objective.

### What would the effect of the proposal be?

107. The proposal does not represent a significant change from the current approach. It would allow a provider to set a potentially greater range of targets while still providing an effective means of assessing progress year on year and signalling where the provider may need to adjust its plan to more effectively deliver its objectives.

### Questions

7. To what extent do you agree with our proposals related to **targets**? Please provide an explanation for your answer.
8. If you consider our approach should differ, please explain how and the reason for your answer.

## Proposal 5: Evaluation

### What are we proposing?

#### Summary of proposals

- We propose that a provider should be expected to significantly increase the volume and quality of evaluation across its access and participation activity.
- We propose that a provider should be expected to supply more information about what it will evaluate and when.
- We propose that a provider should be expected to set out how and when it intends to publish its evaluation results.

108. We propose that a provider should be expected to significantly increase the volume and quality of evaluation across its access and participation activity.
109. We propose that details of planned evaluations, timelines for the publication of evaluation evidence and the methodologies to be used should be included in a provider's plan.
110. We propose that a provider should be expected to publish and share the results of its evaluation both of what works and what does not work to increase both the volume and quality of the evidence base for access and participation activity across the sector.
111. We propose that a provider should also be expected to engage routinely with the latest research and evaluation evidence available to contribute to refinement, and where necessary, review of its own activity. We also propose that a provider should be expected to set out a robust evaluation strategy for how it will strengthen its evaluation activity overall.

#### Intervention-level evaluation

112. We propose that as part of each intervention strategy (see paragraphs 76-79) a provider should be expected to describe how it will evaluate each outcome in its intervention strategy. This includes details of when evaluation outcomes will be shared and published and the format they will take.
113. Where a provider is not able to deliver significant aspects of its access and participation plan, including securing expected evaluation outcomes to its planned timetable, we would expect it to consider use of our reportable events process.

#### Why are we making the proposal?

114. We consider it important that the sector generates and publishes rigorous and objective evidence of what works and what does not work in raising school attainment, improving access to and student success in higher education, and securing positive outcomes for students.



115. To effectively promote equality of opportunity, deliver value for money and ensure that activity leads to positive outcomes for students, a provider needs evidence that its practice is effective and in the interests of efficiency be able to draw on existing evidence to further develop and refine its approaches.

### **What would the effect of the proposal be?**

116. We intend that our proposals will contribute to the growth of the evidence base and evidence eco-system related to access, participation and equality in higher education through the generation and dissemination of evidence.<sup>18</sup>

117. Through strengthening our expectations for evaluation and evaluation plans for an intervention strategy, providers will more effectively demonstrate what works and what does not work in addressing their objectives. This should enable a provider to adjust its activity on the basis of the evidence it generates and thereby deliver more effective interventions.

118. The proposal to expect a provider to publish and share the results of its evaluation will contribute to the growth of a stronger evidence base across the sector. Over the longer term, this should deliver efficiencies as a provider will be able to draw on existing, robust evidence of what works for which students in what contexts generated by other providers. This will ensure that from the outset the provider has some assurance that it can effectively deliver tried and tested interventions that work to reduce risks to equality of opportunity for particular student groups.

### **Questions**

9. To what extent do you agree with our proposal related to **evaluation**? Please provide an explanation for your answer.

10. If you consider our approach should differ, please explain how and the reason for your answer.

## **Proposal 6: Investment**

### **What are we proposing?**

#### **Summary of proposals**

- We propose that a provider should be expected to include information on how much it is investing in each intervention strategy.
- We propose to no longer ask a provider for information on access investment in the targets and investment plan document.
- We propose to continue to ask a provider for information on financial support and research and evaluation investment in the targets and investment plan document.

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<sup>18</sup> See [www.officeforstudents.org.uk/news-blog-and-events/blog/evaluation-evaluation-evaluation/](http://www.officeforstudents.org.uk/news-blog-and-events/blog/evaluation-evaluation-evaluation/).

119. We are proposing that a provider includes information about the approximate level of funding it intends to invest in each intervention strategy. This will allow a provider to evaluate the effectiveness of the activity delivered against its cost, helping a provider to understand whether the intervention represented good value for money compared to others it delivers. The proposed format of how the approximate investment would be recorded in a provider's plan is shown in the access and participation template in **Annex D**.
120. It is important to reiterate that the purpose of including this information in relation to each intervention strategy is to help the OfS assess the credibility of the strategy and aid a provider's evaluation. A provider will **not** be expected to report actual spend against these estimates in its Annual Financial Return to the OfS.
121. As a result of the approach described above, we are proposing to no longer collect information in the targets and investment plan related to total access spend.
122. We propose to retain investment information related to financial support and research and evaluation in the targets and investment plan document, and the requirement that expenditure on these activities is subsequently reported within the OfS Annual Financial Return.

### **Why are we making this proposal?**

123. A key priority for our access and participation plan reforms is related to improving the quality and volume of evaluation and better understanding 'what works'. Including investment information will help the OfS assess the credibility of the intervention strategies a provider intends to adopt and help both the provider and the sector to understand the effectiveness and value for money of its activities.
124. The current approach to access and participation plans does not expect a provider to estimate its predicted expenditure on student success and progression activity. This is because the OfS recognised that providing an overall level of investment in these stages of the student lifecycle was often difficult for a provider given the need to try and disaggregate such investment from its broader learning, teaching and student support budgets. However, by asking a provider to describe the individual interventions in an intervention strategy, we are of the view that it should be possible to indicate an approximate level of expected spend on those intervention strategies in many cases.

### **Questions**

11. To what extent do you agree with our proposals related to **investment**? Please provide an explanation for your answer.
12. If you consider our approach should differ, please explain how and the reason for your answer.

## Proposal 7: Raising attainment in schools and collaboration

### What are we proposing?

#### Summary of proposals

- We propose that there are key sector-level priorities in the EORR that we would expect to be reflected in the majority of APPs. In particular we expect providers to address in their plan the key sector-level priority on raising pre-16 attainment in schools through the development of strategic partnerships with schools.
- We invite feedback on how the OfS could support providers to develop strategic partnerships to raise attainment in schools.
- We also invite feedback on how the OfS might use other tools, such as funding, evidence of effective practice and its convening powers to support collaboration and partnership to address core risks to equality of opportunity.

#### Strategic partnerships to raise attainment in schools

125. We propose that providers should, through the commitments they make in their plans, address key sector-level and provider-level risks to equality of opportunity related to access for students from lower socioeconomic backgrounds or low participation areas by including at least one objective related to strategic partnerships to raise pre-16 attainment in schools. This may be alongside other objectives and interventions related to access to higher education such as work to diversify pathways into and through higher education.
126. We envisage that engaging in strategic partnerships with schools may include, but are not limited to the following types of interventions:
- a. Delivery of activity and resources to upskill and support existing teachers including through formal continuous professional development programmes and sharing of resources.
  - b. Providing targeted academic enrichment programmes to learners either directly or through working with third sector organisations.
  - c. Tackling non-academic barriers to learning.
  - d. Sponsoring or establishing a school.
  - e. Establishing school governor networks and governor training programmes.
127. We propose that interventions should be evidence-informed and clearly targeted at particular groups of students. A provider will be expected to evaluate the impact of any initiatives designed to support raising attainment.
128. Our proposals envisage that a provider may also wish to improve efficiency of delivery by collaborating with other providers through initiatives to raise attainment in schools.

129. We are also inviting views through this consultation on how the OfS might support providers to achieve effective and strategic school partnerships to raise attainment at a sector level.

### Why are we making the proposal?

130. In April 2022, the OfS published an Insight brief entitled ‘Schools, attainment and the role of higher education’.<sup>19</sup> It reported that ‘disparities between the attainment of pupils start in primary school, but their effects are complex and lasting. They can affect individuals’ participation and performance in higher education and their prospects in later life’.
131. Data from the Department for Education (DfE) shows large disparities in GCSE outcomes, which are an important indicator of future participation in higher education. In 2019-20, just 24.7 per cent of students in receipt of Free School Meals (FSM) achieved a grade 5 or higher in their English and Maths GCSEs, compared with 49.9 per cent of young people who are not in receipt of FSM.<sup>20</sup> This ‘disadvantage gap’ is also evident in progression rates to higher education: in 2020-21, only 28.1 per cent of students who were in receipt of FSM at GCSE progressed into higher education, compared with 46.8 per cent of those not in receipt of FSM.<sup>21</sup>
132. The issue of learning loss during lockdowns caused by the coronavirus pandemic has been widely acknowledged for both primary and secondary pupils, but the evidence shows that those pupils from more disadvantaged backgrounds suffered greater learning loss than their more advantaged peers.<sup>22</sup> The same research found that there were regional disparities with pupils in parts of the north of England and the Midlands experiencing greater losses. There was also an increase since the beginning of the pandemic in children eligible for FSM.<sup>23</sup> Digital and learning poverty was an important factor, with many more pupils from deprived backgrounds reporting that they had no access to quiet study spaces, as well as limited access to technology to participate.<sup>24</sup>
133. Further research suggests that without ‘remedial’ interventions the loss of learning time during the coronavirus pandemic is likely to have long-lasting negative impacts on educational progression, particularly for students from low-income households.<sup>25</sup> The widening gap in school attainment between different groups of young people and the consequent impacts on their future education progression is of ongoing concern and one of the most significant causes of the inequality of opportunity we see in access to higher education. Therefore, expecting higher education providers to significantly expand their

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<sup>19</sup> Available at [www.officeforstudents.org.uk/publications/schools-attainment-and-the-role-of-higher-education/](http://www.officeforstudents.org.uk/publications/schools-attainment-and-the-role-of-higher-education/).

<sup>20</sup> See [Widening participation in higher education, England, 2017/18 age cohort – Official Statistics](#).

<sup>21</sup> See [Widening participation in higher education, academic year 2020/21 – Explore education statistics – GOV.UK](#) ([explore-education-statistics.service.gov.uk](http://explore-education-statistics.service.gov.uk)).

<sup>22</sup> See <https://epi.org.uk/publications-and-research/epi-research-for-the-department-for-education-on-pupil-learning-loss>.

<sup>23</sup> See <https://explore-education-statistics.service.gov.uk/find-statistics/free-school-meals-autumn-term/2020-21-autumn-term>.

<sup>24</sup> See <https://www.suttontrust.com/our-research/a-levels-and-university-access-2021>.

<sup>25</sup> See <https://ifs.org.uk/inequality/wp-content/uploads/2021/03/BN-Inequalities-in-education-skills-and-incomes-in-the-UK-the-implications-of-the-COVID-19-pandemic.pdf>.

partnerships and work with schools to raise attainment will ensure that the sector can make a critical contribution to addressing this most significant risk to equality of opportunity in higher education.

134. Information on matters to which we have had regard in reaching our proposals is in Annex H.
135. While we have a general duty to have regard to the need to encourage competition amongst providers, we currently take the view that collaboration amongst providers and third sector organisations is important to minimise the burden of engagement on schools and colleges, avoid duplication, eliminate ‘cold spots’ and enable providers to engage harder to reach groups such as care leavers. Collaboration may also facilitate better and more efficient targeting, tracking and evaluation and promote the sharing of effective practice.<sup>26</sup>
136. In April 2022 we asked providers with an existing access and participation plan to respond to a set of key sector-level strategic priorities, including raising pre-16 attainment, by making a voluntary variation to their plan. The response from providers was encouraging and demonstrated that a significant number of providers are contributing to the pre-16 raising attainment agenda.

### **What will the effect of the proposal be?**

137. We intend that our proposals will contribute to improved rates of attainment amongst student groups that currently do not experience equality of opportunity in accessing, succeeding in or progressing from higher education.
138. By improving rates of attainment, we anticipate that these groups will be better equipped to access, succeed in and progress from higher education, thus promoting equality of opportunity for all student groups throughout the student lifecycle. Raising attainment rates of students who do not experience equality in access to, success in and progression from higher education should also contribute to improving disparities in regional access to higher education, many of which are underpinned by disparities in attainment.<sup>27</sup>

#### **Question**

13. To what extent do you agree with our proposals related to **raising attainment in schools and collaboration**? Please provide an explanation for your answer.
14. How might the OfS support providers to develop strategic partnerships to raise attainment in schools?
15. What support would help foster collaboration between higher education providers, schools and colleges around information advice and guidance (IAG), outreach and attainment raising, and why?

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<sup>26</sup> Available at [www.officeforstudents.org.uk/publications/formative-evaluation-of-uni-connect-phase-two-survey-of-school-and-college-staff](http://www.officeforstudents.org.uk/publications/formative-evaluation-of-uni-connect-phase-two-survey-of-school-and-college-staff).

<sup>27</sup> Available at <https://epi.org.uk/publications-and-research/disadvantage-gaps-in-england/>.

16. If you consider our approach should differ, please explain how and the reasons for your view.

### Section 3: Aspects of the existing approach to access and participation plans that will be retained

#### Student submissions

139. Collaboration between providers and their students is important to understand how equality of opportunity is experienced by students and to put in place effective mechanisms to address barriers to access, success and progression.
140. Regulations 3 (1) (a) and (b) of The Higher Education (Access and Participation Plans) (England) Regulations 2018, provide that when approving a plan the OfS must have regard to whether students were given the opportunity to express their views about the content of the plan prior to submission and what steps were taken in response to the views provided.
141. The OfS expects, therefore, that providers involve students as active partners in the development, implementation and evaluation of their access, success and progression work. Where a provider's student population is demonstrably diverse, it should be actively seeking a representative view from different student groups.
142. The OfS expects providers to demonstrate how they have meaningfully engaged students in access and participation activity. A provider is specifically expected to demonstrate how students were provided with the opportunity to express their views about the content of its plan before it was submitted for approval and what steps were taken as a result. Furthermore, if the views of students did not result in any steps being taken, a provider is expected to include an explanation of why students' views were not followed.
143. The OfS encourages students, student unions and student representatives to comment on the way they have been consulted and involved in their provider's access and participation work. This information may be provided within the access and participation plan or as a separate submission appended to the provider's access and participation plan. Providers are expected to make this opportunity clear to their students, student unions or other representative bodies. If provided, the OfS will use this information as supporting evidence in its assessment to understand whether the plan has satisfied the student consultation and involvement expectations set out in Regulatory notice 1.
144. The OfS will continue to assess providers' engagement with students and the provision of opportunities to enable meaningful student participation and contribution to access and participation plans and wider access and participation activities.

#### Monitoring condition A1

145. With a view to reducing ensuring an appropriate level of regulatory burden we are reviewing our approach to monitoring condition A1 (access and participation plans). We expect to continue to take a highly risk-based approach to monitoring of access and participation plans, using the information we already hold rather than requiring each provider to submit a detailed annual monitoring return. This is the approach we took in the most recent year.

146. Where our general monitoring activity identifies areas of concern, we may ask a provider for more information. This may result in intervention and sanctions as set out in the regulatory framework.<sup>28</sup>
147. We will give appropriate consideration to a provider's context, including the nature and scale of risks to equality of opportunity it has identified during our monitoring activity.
148. The OfS has set out its approach to publishing information about higher education providers and individuals connected to them in Regulatory advice 21.<sup>29</sup> We would follow this general policy when making decisions about publishing information about any investigation, or assessment relating to condition A1, as well as an individual provider's compliance with condition A1 and any action the OfS has taken in response to actual or likely non-compliance.
149. We are now proposing an additional element to the general policy in Regulatory advice 21. Without making findings in respect of a provider's compliance with condition A1, the OfS may decide to publish information about its views on whether or not a provider has properly delivered the commitments in its approved access and participation plan. The OfS would expect to have regard to the factors set out in Regulatory advice 21 in making such publication decisions and, if a final decision is made to publish information, the OfS would normally expect to include a statement to make clear that the OfS has not made any findings about the provider's compliance with conditions of registration where this is the case.
150. The OfS may take further action if it identifies areas of potential concern in relation a provider's delivery of its APP. In such cases, the OfS may ask a provider for more information. This may result in further regulatory intervention on the basis set out in the regulatory framework and elsewhere, as appropriate.

### **Provision of information to students**

151. We are not proposing to make any changes to our approach to considering whether a provider meets requirements to publish information about their provision of information to students. These requirements are set out in The Higher Education (Access and Participation Plans) (England) Regulations 2018.
152. As such, a plan must contain:
- a. Details of the arrangements in place to ensure that prospective students are provided with information about the fees they will be charged for the duration of their course.
153. We also expect that providers will include a commitment to make information available to students about the financial support to which they are entitled as a result of the provisions in an access and participation plan. This should include the eligibility criteria and set out the level of financial support students will be offered in each year of their course.

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<sup>28</sup> Available at [www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/](http://www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/).

<sup>29</sup> See [Regulatory advice 21: Publication of information - Office for Students](#).

## Whole provider approach

154. We are not proposing to make changes to our current expectations that a provider should take a whole provider approach to the design and delivery of its plan.
155. Our expectation is that ‘a whole provider approach’ is one in which there is alignment and consistency across the organisation to create an approach from which all students benefit irrespective of where they are located within the provider. The essential features of a whole provider approach are:
- a. Students are supported to access, succeed in and progress from their time at a university or college.
  - b. Staff from departments, services and units across the provider are engaged.
  - c. There is clear and explicit leadership and provider commitment to access, success and progression.
  - d. A pragmatic approach to change developing a culture and structure that promotes and supports inclusivity and consistency.
156. Furthermore, an access and participation plan is expected to demonstrate that a provider has paid due regard to its obligations in relation to the Equality Act 2010. Where relevant, the OfS expects this would include an explanation of how a provider’s access and participation strategies align with other strategies developed to achieve the provider’s published equality objectives.

## Section 4: Access and participation data

### Proposal 8: Assessment process

#### What are we proposing?

##### Summary of proposals

- We propose that the OfS will use its published access and participation data dashboard and other contextual provider-level data to conduct an analysis of a provider’s performance, to understand a provider’s context during the APP assessment process.

157. We are not proposing to make significant changes to the general principles that we use to underpin our assessment process, which are:
- a. **A student focus:** Regulation is designed primarily to protect the interests of students, short, medium and long term (especially those who are at risk of not experiencing equality of opportunity), rather than those of a provider.
  - b. **Continuous improvement:** In outcomes and the practice which underpins outcomes by:



- i. Addressing the greatest risks to equality of opportunity in student access, success and progression for student groups among a provider's own students and key sector-level risks.
  - ii. Improving practice, including through robust evaluation and sustained engagement with schools and with employers.
- c. **Proportionality and targeting:** Our expectations of a provider are related to its context and capacity for activity, which in turn is related to the scale of its higher education activities.

158. The OfS expects a provider to conduct an assessment of its own performance, using the access and participation data dashboard as its primary source where possible, to identify the provider's largest risks to equality of opportunity. This should form the basis of the commitments in its access and participation plan.

159. Separately, we propose that the OfS will review a provider's data to understand its context as part of our assessment. We will consider outcomes for different student groups, primarily using the OfS access and participation data dashboard and will review information to understand a provider's context, such as student numbers and relevant sector-wide data. This can appropriately consider the commitments in a provider's proposed plan.

160. In considering a provider's proposed plan we will also:

- a. Take account of the statistical uncertainty associated with risks to equality of opportunity we identify in a provider's data. Such uncertainty is greatest when it is a result of small student numbers, which may also lead to greater volatility in the time series. We explain our approach to presenting and interpreting statistical uncertainty in our published 'Description of student outcome and experience measures'.<sup>30</sup>
- b. Consider the materiality of a particular risk to equality of opportunity by considering information about the absolute number of students involved, the proportion of a provider's students this represents, and a provider's context.
- c. Understand how many students the provider has from particular groups for which we have identified a key sector-level risk to equality of opportunity.
- d. Consider groups where there are data limitations, particularly in relation to minority groups, or student groups where there are low numbers in higher education overall, such as care leavers.

161. As part of conducting an assessment, we will also consider the other information we holds about a provider, such as relating to previous access and participation plan decisions and the reasons for these, outcomes from our general monitoring activity, or to our assessment of compliance with other conditions of registration.

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<sup>30</sup> See [www.officeforstudents.org.uk/publications/description-and-definition-of-student-outcome-and-experience-measures/](http://www.officeforstudents.org.uk/publications/description-and-definition-of-student-outcome-and-experience-measures/).

## Why are we making this proposal?

162. It is important we understand a provider's context during our assessment of its plan. This is to ensure we can assess whether a provider has addressed its risks to equality of opportunity in a manner that is appropriate for its size, student population and context.

## What will the effect of the proposal be?

163. In analysing the data in the access and participation data dashboard and other relevant contextual provider information, we will be able to have regard to proportionality considerations in our assessment. It will also allow us to challenge a provider if a risk to equality of opportunity is not addressed in its plan.

### Question

17. To what extent do you agree with our proposal related to the **assessment process**? Please provide an explanation for your answer.

18. If you consider our approach should differ, please explain how and the reasons for your view.

## The OfS access and participation data dashboard

164. The OfS constructs an access and participation data dashboard each year to provide a sector-level picture of the differences in access and participation across the student lifecycle, as well as information for individual providers.<sup>31</sup>

165. The dashboard supports a transparent approach to our regulation of access and participation across the student lifecycle. It can demonstrate potential risks to equality of opportunity and also a provider's approach to developing strategic aims, objectives, targets and intervention strategies. It can also therefore support monitoring and evaluation of the work that a provider undertakes as set out in its plan to address its risks to equality of opportunity.

166. As such, the dashboard provides a comprehensive, consistent and high-quality data source that improves the accessibility of valuable information for providers and other stakeholders.

## Changes to the dashboard

167. In January 2022 we consulted on our approach to constructing student outcome and experience indicators for use in OfS regulation, and we published our decisions following responses that we received to that consultation in July 2022.<sup>32</sup>

168. As a result of the consultation, we have decided to retain a similar approach to the broad structure of indicators and split indicators created for the access and participation data dashboard.

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<sup>31</sup> Available at [www.officeforstudents.org.uk/publications/a-new-approach-to-regulating-access-and-participation-in-english-higher-education-consultation-outcomes/](http://www.officeforstudents.org.uk/publications/a-new-approach-to-regulating-access-and-participation-in-english-higher-education-consultation-outcomes/).

<sup>32</sup> Available at [www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/](http://www.officeforstudents.org.uk/publications/student-outcomes-and-teaching-excellence-consultations/outcome-and-experience-data/).

169. The changes we decided to make in relation to the access and participation data dashboard were focused on ensuring alignment with the definitions of the indicators used for other regulatory purposes including our regulation of student outcomes and in the Teaching Excellence Framework (TEF): these changes will be introduced through a supplementary publication of the access and participation data dashboard later in 2022, before they are adopted in the annual updates to that resource from spring 2023 onwards. Further information about the changes that will be made to the access and participation data dashboard can be found in paragraphs 135 to 225 of the July 2022 consultation response.
170. In paragraphs 222 to 225 of our response to the indicators consultation, we described the consideration we gave to the development of new access and participation plans to come into effect from 2024-25 as influencing decisions about the construction of the access and participation data dashboard.
171. As a result of our consultation on constructing student outcome and experience indicators we decided to introduce additional student characteristics into the access and participation dashboard. These include the Tracking underrepresentation by area (TUNDRA) and Association between characteristics of students (ABCS) measures. We decided to incorporate further characteristics (care experience, estrangement, household residual income, IDACI quintile, parental higher education experience, socioeconomic classification) into the sector-level information reported through our annual publications of equality statistics. For the additional characteristics reported through the equality statistics, we will continue to assess the feasibility of reporting these at provider level: we intend that they would be reported through the access and participation data dashboard if or when it becomes possible for that resource to include both sector- and provider-level information about these characteristics. We decided to remove those characteristics that are based on classifications that have been more recently updated to newer versions (such as POLAR4 and the 2015 version of IMD) from the dashboard from 2025 onwards.

### **Other data sources**

172. The OfS expects a provider to base its assessment of performance primarily on data in the OfS access and participation data dashboard. Providers may additionally use evidence and data from sources including:
- a. The EORR on the OfS website.
  - b. Additional data published by the OfS, including our sector-level statistics.
  - c. Any other relevant, reliable provider or sector-level data or evidence related to equality of opportunity for students.
173. Where c. might be relevant, we would expect a provider to verify matters relating to the collection and analysis of such data if the OfS requests this in order to make an assessment about the credibility of the data.

## Section 5: General questions

174. Please see below some general questions related to the proposed approach to regulating equality of opportunity through access and participation plans.

### Questions

19. Do you have any feedback on the whole proposed approach to regulating equality of opportunity in English higher education, including regulation of access and participation plans as described in the draft Regulatory notice 1 (Annex C)?
20. Do you foresee any unintended consequences resulting from the approach set out in this consultation? If so, please indicate what you think these are and the reasons for your view.
21. Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.
22. Do you have any comments about the potential impact of these proposals on individuals on the basis of their protected characteristics?

# Annex A: Glossary

## ABCS

Associations between characteristics of students (ABCS) is a set of analyses that seeks to better understand how outcomes vary for groups of students holding different sets of characteristics.

## Access

Access into higher education.

## Access and participation

Access and participation refers to the work providers to do to both widen access for groups that have historically been underrepresented in higher education, and to ensure that once in higher education they are supported to continue their studies and achieve positive outcomes.

## Access and participation plan (APP)

An access and participation plan sets out how a provider will sustain or improve access, student success, and progression beyond higher education for students from disadvantaged and underrepresented groups in higher education. This is a requirement for providers in the 'Approved (fee cap)' category of registration that wish to charge above the basic fee limit.

## Approved (fee cap) registration category

A category of registration whereby providers can access direct grant funding and charge above the basic fee limit. A provider registered in this category must have an approved access and participation plan if it wishes to charge above the basic fee limit.

## 'Cold spots'

Used in reference to strategic outreach for school students, geographical areas where there is a lack of information, advice and guidance and outreach provision. They are also areas where there is a lack of higher education provision locally.

## Conditions (ongoing, initial, specific)

'Conditions' and 'conditions of registration' are general terms used to mean all types of condition that a provider must satisfy in order to become and remain registered. They include:

- initial conditions of registration, which a provider must satisfy as part of its application to join the OfS Register of providers
- general ongoing conditions of registration, which a provider must satisfy after it has joined the Register in order to maintain its registered status
- specific conditions of registration, which are additional conditions imposed by the OfS on a particular provider to mitigate or manage specific risks or concerns that it has identified.

## **Cost of living**

Cost of living refers to the overall costs to households of essential purchases and activities, such as heating, food and housing costs. At times, prices for many essential goods may increase faster than household income, resulting in a fall in real income, and this can represent serious challenges to households.

## **Coronavirus pandemic**

This is an ongoing global pandemic of COVID-19 which has had detrimental effects to individuals' health and general wellbeing. This also relates to the effect the pandemic had on education, particularly those at school age who experienced disruption during their studies.

## **Data**

Facts and figures, both quantitative and qualitative, which can be collected, processed and analysed in order to generate additional information. References to 'information' can be taken to include 'data' as one source of information.

## **Degree apprenticeships**

An apprenticeship is a full-time job where an employee also undertakes off-the-job training paid for by the employer. A degree apprenticeship is an apprenticeship where the employee is studying towards an undergraduate or postgraduate degree as part of their apprenticeship.

## **Director for Fair Access and Participation (DFAP)**

The DFAP is responsible for overseeing the performance of the OfS's access and participation functions. These functions, set out in HERA, are:

- a. Refusal to renew an access and participation plan (section 21)
- b. Access and participation plans (section 29 to 34)
- c. Advice on good practice (section 35)
- d. Duty to protect academic freedom in performing certain access and participation functions (section 36)
- e. Power of the Secretary of State to require a report (section 37).

The DFAP is also empowered by HERA to report on the OfS's wider work on equality of opportunity.

## **Diverse pathways**

Increasing both the type of higher education students can access, such as degree and higher level apprenticeships and Levels 4 and 5 technical qualifications, and the way students can study such as through distance learning, blended learning or part-time.

## **Equality of opportunity**

In the context of higher education, 'equality of opportunity' means that individuals are not hampered in accessing and succeeding in higher education as a result of their background or circumstances they cannot fairly influence.

## **Equality of Opportunity Risk Register (EORR)**

A risk register setting out the greatest sector-wide risks to equality of opportunity in English higher education.

### **Higher education provider**

An institution that delivers higher education, as defined in Schedule 6 of the Education Reform Act 1988. A provider can be a body with degree awarding powers or deliver higher education on behalf of another awarding body.

### **IDACI**

Income Deprivation Affecting Children Index (IDACI) is a measure of the proportion of children under the age of 16 in low-income households for an area.

### **IMD**

Index of Multiple Deprivation (IMD) is a measure of multiple deprivation of small areas, often referred to with the year the data was last updated. IMD measures are available covering the whole of the UK, but they are separately defined with respect to each of the four nations of the UK so direct comparison between the indices is not possible. For the purposes of access and participation regulation, the OfS normally considers the English IMD with respect to English-domiciled students.

### **Intervention**

Interventions set out in an access and participation plan are evidence-informed activities that are delivered by providers to reduce the risks to equality of opportunity for different groups of students.

OfS interventions are actions taken by the OfS (including the possibility of imposing sanctions), including to address either a breach of conditions of registration by a provider, or an increased risk of a provider breaching its conditions.

### **Intervention strategy**

Intervention strategies in an access and participation plan are a set of interventions that set out how a specific objective will be met.

### **Outcome**

The result of an activity or input which is measuring impact and related to level of performance against the activity objective.

### **POLAR4**

The participation of local areas (POLAR) classification looks at how likely young people are to participate in higher education across the UK and shows how this varies by area. POLAR4 uses data for young people that entered higher education between the academic years 2009-10 and 2014-15 (aged either 18 or 19). POLAR4 is used as an historical measure, which may be used with TUNDRA to lead to more insights about higher education participation than one measure alone.

## **Raising attainment in schools**

Also referred to as raising attainment, the outcomes produced by strategic relationships between higher education providers and schools to improve the academic outcomes achieved by disadvantaged young people in schools.

## **‘Reducing the gaps’**

Reducing the participation and achievement gaps between students who are underrepresented in higher education and their peers with the aim of reaching equality of opportunity. Also known as ‘closing the gap’.

## **Registration**

The process by which a provider applies to be on the OfS Register of approved higher education providers.

## **Regulatory framework**

The regulatory framework is designed to mitigate the risk that the OfS’s primary objectives are not met. It states how the OfS intends to perform its various functions and provides guidance for registered higher education providers on the ongoing conditions of registration.

## **Risks to equality of opportunity**

Risks to equality of opportunity occur when an individual, because of circumstances that the individual did not choose, may have their choices about the nature and direction of their life reduced by the actions or inactions of another individual, organisation or system.

## **Socioeconomic status**

A concept that relates to a person or household’s social and economic standing in society. Measures of socioeconomic status include household income, occupation or level of education, for example.

## **Student success**

For the purposes of access and participation regulation, part of the whole student lifecycle which focuses on addressing the barriers that prevent students from underrepresented groups from continuing through the early stages of their course, or from completing a higher education qualification.

## **Teaching Excellence Framework (TEF)**

The TEF is a scheme operated by the OfS that aims to incentivise excellence in teaching, learning and student outcomes. The scheme rates higher education providers for excellence above a set of minimum requirements for quality and standards which they must satisfy if they are registered with the OfS. The TEF aims to incentivise a higher education provider to improve and to deliver excellence above these minimum requirements, for its mix of students and courses.



## **Theory of change**

A theory of change is 'a visual representation of a programme's inputs, activities, outputs, outcomes and underlying causal mechanisms'.<sup>33</sup>

## **Tracking system**

A database used for evaluation which longitudinally tracks participants who have taken part in access and participation activity.

## **TUNDRA**

Tracking underrepresentation by area (TUNDRA) is an area-based measure that uses tracking of state-funded mainstream school pupils in England to calculate young participation. TUNDRA is a supplement to POLAR4. Using both of these together can lead to more insights about higher education participation than one of the measures alone.

## **Underrepresented groups**

The OfS use the term 'students from underrepresented groups'. It includes all groups of potential or current students for whom the OfS can identify gaps in equality of opportunity in different parts of the student lifecycle.

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<sup>33</sup> See <https://taso.org.uk/evidence/our-approach-to-evaluation/step-1-diagnose/>.

# Annex B: List of consultation questions

## Questions relating to specific proposals

When answering questions about the extent to which you agree to a proposal, we ask you to choose from the following:

- Strongly agree
- Tend to agree
- Tend to disagree
- Strongly disagree
- Don't know or prefer not to say

In responding to the questions in this consultation, we would encourage you to consider the potential for any unintended consequences of the proposals on particular types of provider or students, or on individuals on the basis of their protected characteristics.

### Proposal 1: Risks to equality of opportunity

- We propose that a provider's access and participation plan should be focused on 'risks to equality of opportunity'.
- We propose that a provider should have regard to the OfS Equality of Opportunity Risk Register (EORR) when identifying its risks to equality of opportunity.

## Questions

1. To what extent do you agree with our proposals relating to **risks to equality of opportunity**? Please provide an explanation for your answer.
2. If you consider our approach should differ, please explain how and the reasons for your view.

### Proposal 2: Four-year plan duration and publication of information about a provider's delivery of a plan

- We propose to reduce the normal maximum duration of plan approval to four years.
- We propose that a plan should be written as a strategic document that is set out over a four-year period.
- We propose that we should normally expect to publish information about our judgement about whether or not a provider has appropriately delivered the commitments in its approved access and participation plan.

## Questions

3. To what extent do you agree with our proposals relating to a **four-year plan duration and publication of information about a provider's delivery of a plan**? Please provide an explanation for your answer.
4. If you consider our approach should differ, please explain how and the reasons for your view.

### Proposal 3: Format and content of an APP

- We propose that a provider should include an accessible summary in its access and participation plan.
- We propose that a provider's access and participation plan should include intervention strategies which are linked to named objectives and address the provider's risks to equality of opportunity.
- We propose that a provider should follow a standard format when writing its access and participation plan which includes introduction and strategic aims, risks to equality of opportunity, objectives, intervention strategies, whole provider approach, student consultation and provision of information to students.
- We propose that a provider's plan should not exceed 30 pages. There is no minimum length for an access and participation plan. This page limit would exclude any annexes detailing a provider's assessment of performance, the accessible summary, and supporting documents setting out fees, investment, and targets.

## Questions

5. To what extent do you agree with our proposals related to the **format and content of an APP**? Please provide an explanation for your answer.
6. If you consider our approach should differ, please explain how and the reasons for your view.

### Proposal 4: Targets

- We propose that objectives should be translated into numerical targets with measurable outcomes-based milestones set over the duration of a plan.
- Targets should be captured in a targets and investment plan.

## Questions

7. To what extent do you agree with our proposals related to **targets**? Please provide an explanation for your answer.
8. If you consider our approach should differ, please explain how and the reason for your answer.

### Proposal 5: Evaluation

- We propose that a provider should be expected to significantly increase the volume and quality of evaluation across its access and participation activity.
- We propose that a provider should be expected to supply more information about what it will evaluate and when.
- We propose that a provider should be expected to set out how and when it intends to publish its evaluation results.

### Questions

9. To what extent do you agree with our proposal related to **evaluation**? Please provide an explanation for your answer.
10. If you consider our approach should differ, please explain how and the reason for your answer.

### Proposal 6: Investment

- We propose that a provider should be expected to include information on how much it is investing in each intervention strategy.
- We propose to no longer ask a provider for information on access investment in the targets and investment plan document.
- We propose to continue to ask a provider for information on financial support and research and evaluation investment in the targets and investment plan document.

### Questions

11. To what extent do you agree with our proposals related to **investment**? Please provide an explanation for your answer.
12. If you consider our approach should differ, please explain how and the reason for your answer.

### Proposal 7: Raising attainment in schools and collaboration

- We propose that there are key sector-level priorities in the EORR that we would expect to be reflected in the majority of APPs. In particular we expect providers to address in their plan the key sector-level priority on raising pre-16 attainment in schools through the development of strategic partnerships with schools.
- We invite feedback on how the OfS could support providers to develop strategic partnerships to raise attainment in schools.

- We also invite feedback on how the OfS might use other tools, such as funding, evidence of effective practice and its convening powers to support collaboration and partnership, to address core risks to equality of opportunity.

## Questions

13. To what extent do you agree with our proposals related to **raising attainment in schools and collaboration**? Please provide an explanation for your answer.
14. How might the OfS support providers to develop strategic partnerships to raise attainment in schools?
15. What support would help foster collaboration between higher education providers, schools and colleges around information advice and guidance (IAG), outreach and attainment raising, and why?
16. If you consider our approach should differ, please explain how and the reasons for your view.

## Proposal 8: Assessment process

- We propose that the OfS will use the published access and participation data dashboard and other contextual provider data to conduct an analysis of a provider's data, to understand a provider's context during the APP assessment process.

## Questions

17. To what extent do you agree with our proposal related to the **assessment process**? Please provide an explanation for your answer.
18. If you consider our approach should differ, please explain how and the reasons for your view.

## Questions relating to all proposals

19. Do you have any feedback on the whole proposed approach to regulating equality of opportunity regulating equality of opportunity in English higher education, including regulation of access and participation plans as described in the draft Regulatory notice 1 (Annex C)?
20. Do you foresee any unintended consequences resulting from the approach set out in this consultation? If so, please indicate what you think these are and the reasons for your view.
21. Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.
22. Do you have any comments about the potential impact of these proposals on individuals on the basis of their protected characteristics?

## **Annex C: Draft Regulatory notice 1**

The draft Regulatory notice 1 is published alongside this consultation document at:

[www.officeforstudents.org.uk/publications/consultation-on-a-new-approach-to-regulating-equality-of-opportunity-in-english-higher-education/](http://www.officeforstudents.org.uk/publications/consultation-on-a-new-approach-to-regulating-equality-of-opportunity-in-english-higher-education/).

# Annex D: Draft access and participation plan template

## Access and participation plan template

This template is designed to be used in conjunction with:

1. **Regulatory notice 1:** Access and participation plan guidance (OfS 2022.XX)
2. **Regulatory advice 6:** How to prepare your access and participation plan – effective practice advice (OfS XXXX.XX)
3. The **checklist of requirements** for access and participation plans
4. The exemplars highlighting our expectations

Prompts are provided in this template in grey. Please remove all grey text before submitting a plan.

This template includes the titles and subtitles you are expected to use in your access and participation plan. If you use an alternative template, or your plan is more than 30 pages (including your annexed assessment of performance), it may take longer to process your plan.

Please make sure that your document complies with the Web Content Accessibility Guidelines 2.1. Published PDFs should, for example, include structured headings, alternative text where appropriate, and a title in the document properties.

**[Name of provider]**

## **Access and participation plan 2024-25 to 2027-28**

### **Summary**

The summary should be accessible, clear, and simple for students, parents/guardians, and others with an interest in equal opportunities that may have little or no knowledge of access and participation or the regulations which govern it. Please keep sentences and paragraphs short, and avoid acronyms and jargon. Infographics can be used instead of text.

If you are embedding a link in text, please make sure the text describes the content of the link ('Read the report on degree outcomes' not 'Read the report here'). It is your responsibility to ensure the links embedded in the document are kept up to date and that a request to vary the plan is made where the links are changed.

### **What is an access and participation plan?**

Access and participation plans set out how higher education providers will improve equality of opportunity for underrepresented groups to access, succeed in and progress from higher education.

You can see the full access and participation plan for [insert provider name] at [the webpage where the approved plan will be published].

### **Key points**

In reflecting what to include in this section you may want to consider the type of provision you offer, your size, geography, and make-up of the student body. You can draw on contextual information contained in your access and participation plan and key challenges identified in your assessment of performance. You should also briefly summarise the main areas you are seeking to improve in your access and participation work.

### **Fees we charge**

- List the maximum fees charged for full-time and part-time students. If you deliver accelerated degrees, please state the maximum fee for this as well as the maximum full-time fee.
- State whether an inflationary increase will be applied, and which measure is being used (this must be copied exactly from the fee information document).

Maximum full-time fees:

Maximum part-time fees:

Maximum accelerated degree fees:

Inflationary increase statement:

### **Financial help available**

- The list of bursaries and/or fee waivers that will be available for your target students must be the same as those listed in your plan. This must include:
  - The amount given in each year of study
  - The group(s) being targeted and the eligibility criteria.
- List the hardship fund(s) available and the eligibility criteria.



### **Information for students**

- Description of how you provide information on fees and financial support to prospective and current students, prior to them starting their course and for the duration of their course.

### **What we are aiming to achieve**

- Describe overall aim(s).
- List the risks to equality of opportunity and associated measurable objectives you plan to address in the access and participation plan, including the anticipated timeframe you expect you achieve these by.

### **What we are doing to achieve our aims**

- Briefly list your intervention strategies, for example strategic relationships with schools to increase access to higher education courses at your provider, and how they will be evaluated (keep this high level).
- Where the findings of your evaluations will be published.

### **How students can get involved**

- A statement on how students were consulted on the plan prior to submission.
- A description of the meaningful ways students can be involved in the monitoring, evaluation and implementation of the plan.

### **Contact details for further information**

- How to contact relevant staff at the provider who are responsible for the plan (this can differ from the contact details supplied in the fee information and outcomes and investment plans).

## **[Name of provider]**

### **Access and participation plan 2024-25 to 2027-28**

#### **Introduction and strategic aim**

This section should include contextual information about your provider that will help the OfS, students and other readers to understand the context, size, and mission of the provider. It should also describe the overarching strategic aim with respect to equality of opportunity.

For more information about how to complete this section see:

- Regulatory notice 1, page x

#### **Risks to equality of opportunity**

This section should summarise the key risks to equality of opportunity which will be addressed in the plan. These should have been identified in the assessment of performance.

Example: “Risk 2.1: The University of Poppleton recruits low proportions of students eligible for free school meals and from low participation areas, particularly students from white and Asian backgrounds, in science and maths subject areas. Access is a risk also identified by the OfS equality of opportunity risk register. As a provider with mostly quantitative-focused courses, there is a risk that our student population will not be diverse and therefore neither will the industries our students graduate into. For more information on our analysis of this issue, please refer to section X the assessment of performance annex.”

For more information about how to complete this section see:

- Regulatory notice 1, page x
- Regulatory advice 6, page x

#### **Objectives**

For each risk to equality of opportunity there should be at least one corresponding measurable objective.

Examples:

Objective 3.1: We will increase the number of students eligible for free school meals and from POLAR4 quintile 1 attending our provider to 25 per cent by 2030-31, by working in partnership with schools to address prior attainment in maths and transition to higher education.

Objective 3.2: We will eliminate gaps in progression outcomes for students eligible for free school meals and from POLAR4 quintile 1 by 2027-28, by providing those students and graduates with the experience, support and guidance needed to secure highly skilled employment or further (higher) study.”

For more information about how to complete this section see:

- Regulatory notice 1, page x
- Regulatory advice 6, page x

#### **Intervention strategies and expected outcomes**

For each objective there should be an intervention strategy which includes reference to the risk and objective it is addressing, the evidence base, details about the individual interventions that comprise the intervention strategy, the theory of change including outcomes, details about the

financial resource to deliver the intervention and details about how each outcome will be monitored and evaluated. We suggest using the following format to describe each intervention strategy:<sup>34</sup>

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<sup>34</sup> The Centre for Transforming Student Access and Outcomes (TASO) 2022, Theory of Change, [www.taso.org](http://www.taso.org). Reproduced and amended with permission. TASO's theory of change and other useful materials can be found here: <https://taso.org.uk/evidence/evaluation-guidance-resources/toc/>. These can be used in line with the Creative Commons Non-Commercial License: <https://creativecommons.org/licenses/by-nc/4.0/>.

## Intervention strategy

<b>Risks to equality of opportunity</b>	What is the current risk to equality of opportunity? What problem is the intervention strategy trying to address or resolve?
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<b>Objectives and targets</b>	To which objective does this intervention relate? Which target(s) does this objective relate to?
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Inputs	Activities	Outputs	Outcomes	
<b>Process</b>			Outcomes	Impact
What are the human and organisational resources required to achieve your desired outcomes?	Outline the interventions you believe (supported by your rationale and assumptions) will bring about your desired change. Activities mobilise your inputs to produce outputs.	What are the results/deliverables of the activity relevant to the achievement of your outcomes?	Short and intermediate-term outcomes which must be in place for your interventions to work and for your long-term outcomes to be achieved.	What is the long-term outcome which relates to the 'problem'? What will result from the removal of the problem?

<b>Rationale and assumptions</b>	What are your assumptions? Your assumptions explain the contextual underpinnings of the theory of change. Assumptions are conditions necessary for the success of the intervention. Your rationale explains why one outcome is needed to achieve another. Assumptions and rationales (often supported by research) strengthen the plausibility of the theory and the likelihood that its stated goals can be achieved.
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<b>Investment</b>	How much financial resource will you allocate to deliver the intervention over the four years? Where the intervention relates to a broader intervention, a proportion may be used where it relates to students who do not experience equality of opportunity. If a figure cannot be provided, a rationale should be included. This investment figure should not include the investment towards research and evaluation activity.
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## **The intervention strategy**

This section should include:

- A summary of the intervention(s) planned that make up the intervention strategy.
- References for the evidence used.
- If the intervention strategy or an intervention within the strategy is collaborative, include who the collaborative partner is, your role within the partnership, and which (if any) of the expected outcomes or indicators have been agreed collaboratively.
- Any timebound written commitments related to the intervention strategy, including any review points.

## **Evaluation plan**

This section should include:

- How each outcome in the intervention strategy will be robustly and objectively monitored and evaluated, including the methodologies, timescales and the type of evidence that will be generated in relation to each outcome (in line with the OfS standards of evidence)
- Where methodologies are to be determined, a written commitment on when you will publish the methodologies that will be used
- A summary of how and when you will share and publish the findings of your evaluation, including a description of the mechanisms in place to enable the outcomes of the evaluation to influence practice.

For more information about how to complete this section see:

- Regulatory notice 1, page x
- Regulatory advice 6, page x

## **Whole provider approach**

This section should set out how the provider is taking a whole provider approach to addressing equality of opportunity, and how the provider has paid due regard to its obligations in the Equality Act 2010.

For more information about how to complete this section see:

- Regulatory notice 1, page x
- Regulatory advice 6, page x

## **Student consultation**

This section should detail how students have been consulted on the plan. It should also include how they will be involved in the design, implementation, and evaluation of the plan, including the ways in which students will be engaged in a meaningful way. Please do not include a student submission in the plan.

For more information about how to complete this section see:

- Regulatory notice 1, page x
- Regulatory advice 6, page x

## Evaluation of the plan

This section should detail your overarching approach to evaluation of the activity set out in your plan, including details of how you will publish the outcomes of your evaluation.

For more information about how to complete this section see:

- Regulatory notice 1, page x
- Regulatory advice 6, page x

## Provision of information

This section should describe how you provide information on fees and financial support to prospective and current students, prior to them starting their course and for the duration of their course.

For more information about how to complete this section see:

- Regulatory notice 1, page x

## Annex A: Assessment of performance

This section should only include the elements of your assessment of performance that identified risks to equality of opportunity and gaps in your performance. Where the assessment of performance has identified a concern that will not be a focus on the 2024-25 to 2027-28 plan, you must state in this annex the reason for this.

For more information about how to complete this section see:

- Regulatory notice 1, pages x
- Regulatory advice 6, page X

Example: **Ethnicity: Asian students**

### Access

Sources: OfS A&P data dashboard, Census 2021, internal EDI data.

There was a 3 percentage point gap for Asian students compared with the 18-year-old national population in 2021-22. This gap is not statistically significant due to the small population of this group in our provider. This gap has remained consistent over the last 5 years of data (see graph 3.1). While this is a relatively small group at our provider, our 2021 internal EDI data shows that the majority of our Asian students are of Indian heritage.

As over 75 per cent of our student population is recruited locally, and the town's Asian population is 2.5 per cent (source: Census 2021), our 2024-25 to 2027-28 plan will not specifically target Asian students at the access stage of the lifecycle. However, if our performance for this group significantly worsens, we will reconsider this and request a variation to the plan that will set out an appropriate intervention strategy.

### Continuation

Sources: OfS A&P data dashboard, Equality of opportunity risk register: risk X, internal EDI data

In 2020-21, there was a continuation gap of 7 percentage points for Asian students compared with white students. When considering the continuation gap for all Asian students and specifically

Indian students at our provider, our 2021 internal EDI data shows very little difference in our performance, so we have only included the gap for all Asian students at our provider. This gap is not statistically significant due to the small population of this group in our provider. Due to the size of this group in our student population, we have not analysed the extent to which the continuation gap is structural or unexplained.

Table 2.6 shows a gap has been present in each year over the last 5 years of data, and that the continuation rates for all students have decreased in the latest year of data. Our provider acknowledges that continuation rates for all students need to improve, in particular for some of our target groups, and improving these outcomes for all students will be a priority for the duration of the plan.

<b>Table 2.6</b> Source: OfS access and participation data dashboard Year	<b>Asian students (%)</b>	<b>White students (%)</b>	<b>Gap (percentage point)</b>	<b>All students (%)</b>
2016-17	74	80	6	79
2017-18	80	86	6	83
2018-19	79	82	3	81
2019-20	79	84	5	84
2020-21	76	83	7	82

## **Annex B: targets, investment, and fees**

The OfS will append the following items from the fees and targets and investment documents when an access and participation plan is published:

1. Targets
2. Investment summary
3. Fee summary

# Annex E: OfS Equality of Opportunity Risk Register (EORR)

## Sources of evidence

1. We propose that the risks set out in the EORR are identified using the following data and evidence sources:
  - a. The OfS access and participation data dashboard.
  - b. Other OfS data sources.
  - c. Any other relevant, reliable provider or sector-level data or evidence related to equality of opportunity for students.

## Format

2. We propose the OfS Equality of Opportunity Risk Register (EORR) would include the following information in relation to English higher education:
  - The **risk** to equality of opportunity. A risk to equality of opportunity occurs when an individual, because of circumstances that the individual did not choose, may have their choices about the nature and direction of their life reduced by the actions or inactions of another individual, organisation or system.
  - An **objective** associated with the risk to equality of opportunity which indicates where this is an OfS equality objective.<sup>35</sup>
  - The **student groups** to whom the risk relates. This may include, but is not limited to:
    - i. Students from lower socioeconomic backgrounds.
    - ii. Students from areas with low participation in higher education.
    - iii. Students with certain characteristics, including students who are carers, care-experienced students, students who are estranged from their families, students from Roma, Gypsy and Traveller communities, refugees and asylum seekers, and children of military families.
    - iv. Students with a protected characteristic identified by the Equality Act 2010 who do not experience equality of opportunity.
    - v. Students who experience multiple barriers to higher education or who are identified when looking at intersections of characteristics, such as male students from low socioeconomic backgrounds.

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<sup>35</sup> See [Objectives for student equality - Office for Students](#).



- The **evidence** used to identify the risk and an assessment of impact.

3. The OfS will periodically identify the **mitigations** for the risks set out in the EORR that it is pursuing in addition to the activity of providers through their APPs.

### Illustrative example

<b>Risk</b>	<p>Insufficient student diversity in access to higher education, especially in highly selective higher education providers. Including but not limited to the following sub risks:</p> <ul style="list-style-type: none"> <li>• Knowledge gaps between students from different socio-economic backgrounds appearing prior to and throughout compulsory education, leading to attainment gaps at 16 and 18.</li> <li>• Some students are less likely to receive quality careers information, advice, and guidance for students than their peers.</li> </ul>
<b>Objective</b>	<p>Promote equality of opportunity in access for all students from all backgrounds.</p>
<b>Which students does this affect?</b>	<p>All student groups who do not currently experience equality of opportunity, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Students from lower socioeconomic backgrounds</li> <li>• White students from low socioeconomic backgrounds</li> <li>• Disabled students</li> <li>• Mature students</li> <li>• Care experienced and estranged students</li> <li>• Students with caring responsibility</li> <li>• Gypsy, Roma and Traveller communities</li> <li>• Refugees and asylum seekers</li> <li>• Children from military families</li> <li>• Students with intersecting characteristics.</li> </ul>

<p><b>Why is it a risk?</b></p> <p><b>Level of impact?</b></p>	<p>The <a href="#">OfS access and participation data dashboard</a> highlights a 17.7pp difference between students from the most and least represented areas (using POLAR4 data) entering higher education in 2020-21.</p> <p><a href="#">Research</a> suggests that attainment at age 16 can explain almost all of the difference in future academic achievement.</p> <p>Further <a href="#">experimental data from the OfS (ABCS)</a> suggests white, male British students who received free school meals and students from Gypsy, Roma and Traveller communities are the least likely to enter higher education.</p> <p>An <a href="#">OfS briefing</a> highlights that in 2018-19, 13 per cent of care experienced students were in higher education by age 19, as against 43 per cent for all other school students.</p> <p>Other groups also face specific barriers in accessing higher education. See the <a href="#">OfS briefings</a> for further information about each group.</p>
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## Annex F: Fictional illustrative examples of how a provider can meet the OfS's expectations

1. In producing our proposed guidance for access and participation plans, we have been clear that our expectations of the scale and range of work undertaken by a provider should reflect the size of that provider's higher education student population, its capacity to make meaningful change in the area it is concerned with, the nature and impacts of the risks identified and other elements of its context.
2. For this reason, it will be a matter for discussion between the OfS and an individual provider about the scale and range of activity that would meet our expectations in this area. We have provided six fictional illustrative examples to show our expectations, and examples of the factors we would be likely to consider in assessing a plan.

### University of Edgestow

**Size:** 12,000 qualifying students

#### **Context**

A multi-faculty provider with an international reputation for teaching and research. Historically, a highly selective provider drawing a much larger proportion of its undergraduates from the independent sector than is consistent with the number of such students in the wider population. Identified issues around both access and progression for students from Afro-Caribbean backgrounds in its previous APP: admission numbers for this group have risen but continued gaps in degree outcomes. The provider is in a generally affluent area of the country, but there are significant areas of deprivation within driving distance.

#### **Risks to equality of opportunity**

Risk to equality of opportunity in relation to insufficient diversity in access, particularly in relation to socioeconomic and ethnic groups. Knowledge gaps between students from different groups known to be disadvantaged or underrepresented in higher education appearing prior to and throughout compulsory education, leading to attainment gaps at 16 and 18.

Risk to equality of opportunity for students from Afro-Caribbean backgrounds in relation to degree outcomes.

#### **Expectations**

As a selective provider, Edgestow needs to consider carefully how it can deploy its teaching and research to ensure that more applicants, from a more diverse range of socioeconomic and ethnic backgrounds, are ready and able to be admitted. This suggests a significant contribution to *both* pre-16 attainment raising *and* ensuring that information about and support through its admission processes are available so that such students feel confident in engaging. That the provider has strong and internationally recognised expertise in teaching

and research suggests that this work should be national in scope, although it would be appropriate if the provider's immediate location was included within this activity.

Already identified challenges around Afro-Caribbean students' access and success clearly still need to be addressed – further evaluation of why and how admissions numbers have increased but outcomes have not improved are likely to highlight where action is most required, which may include academic intervention but may also be pastoral, financial, or even extra-curricular in nature. Given outcomes have not improved in the previous APP period, it would be unlikely that continuation of existing interventions would meet our expectations, and new approaches ought to be considered.

## St. Luke's University

**Size:** 25,000 qualifying students

### Context

St. Luke's is a large, modern provider, drawing much of its student population from within 25 miles of its main campus, on the edge of medium-sized town. It has a strong track record in providing vocationally orientated qualifications and supporting continuing professional development for the staff of local employers, and a significant number of its qualifying students are mature entrants and/or commuter students. Its intake is drawn from across the socioeconomic spectrum, but there are very few students from ethnic minority backgrounds. As a result of the relatively recent construction of a large military installation located outside the town, it has a higher-than-average number of students from military families.

### Risks to equality of opportunity

Risk to equality of opportunity for students from military families in terms of access to and successful outcomes from higher education.

Risk to equality of opportunity for ethnic minority students in terms of access to higher education.

### Expectations

Students from military families are unlikely to make up a majority at St. Luke's, but with its higher than average number of such students, St. Luke's is a holder of a significant portion of the risk for this group nationwide. We would expect the provider to consider whether it needs to do more to ensure access, success and progression for this group of students.

In terms of access for other groups, the lack of ethnic diversity amongst its student population may be of interest, but we would expect the provider to examine this in the context of its general recruitment. St. Luke's students are drawn from a relatively small and tightly defined geographic area – if the provider's recruitment broadly matched that area's demography, differences in intake between this provider and the national average would be less of a concern. However, such a local focus does imply a strong need to serve especially closely the local area's needs, and we would expect significant work on partnerships with local schools, colleges and employers, both on raising attainment to ensure maximum levels

of choice for local students (whether they chose St. Luke's or not) but also on ensuring that vocational courses provided by the provider mesh tightly with local economic needs.

## Rudge Park College

**Size:** 200 qualifying students

### **Context**

Rudge Park has a large further education provision of 20,000 students but has a much smaller intake for its higher education courses. It is students studying on these higher education courses which brings Rudge Park under the regulation of the OfS, and for which it has a current APP. Many of Rudge Park's higher education students studied at the college before entering into higher education. The provider's analysis of its current cohort of 'qualifying' students reveals that many of them had re-sat their GCSE in English, Maths or both at the provider.

### **Risk to equality of opportunity**

Knowledge gaps between students from different groups known to be disadvantaged or underrepresented in higher education appearing prior to and throughout compulsory education, leading to attainment gaps at 16 and 18.

### **Expectations**

Although larger in total than many of the smallest solely-higher education providers, Rudge Park's APP commitments are judged in the context of its qualifying student population. For this reason, we would expect a commitment to far fewer interventions in its APP, perhaps dealing only with the two most serious risks to equality of opportunity identified, but these should be of the same standard as those conducted in other providers. In terms of the content of those interventions, the small number of students make it difficult to draw firm conclusions about need but given that many of these students needed to re-sit English and/or Maths GCSE, a valid area of activity would be school partnerships to share best practice both to reduce the numbers needing to re-sit in the longer term, and to support those prospective higher education students resitting now.

We might also expect the provider to increase the proportion of its students entering higher education by diversifying modes of study in its higher education offering, including significantly increasing the proportion of students going on to higher and degree apprenticeships, Level 4 and 5 courses, including Higher Technical Qualifications, and offering more flexible study such as part-time modes.

## Dartmouth University

**Size:** 750 qualifying students

### **Context**

Dartmouth is a small, specialist provider focused on creative and performing arts, with selective admissions based largely on audition. A review of relevant data highlights significant gaps in recruiting white men from socioeconomically disadvantaged backgrounds across all its courses, especially classical music. This is the result both of limited applications to its courses from this group, and the group is less likely to be accepted onto the course. The provider's own analysis of its graduates' longer-term outcomes suggests that ethnic minority graduates from Dartmouth are less likely to be working in creative and performing arts three years after graduation than white graduates, regardless of socioeconomic background.

### **Risks to equality of opportunity**

Risk to equality of opportunity for white men from socioeconomically disadvantaged backgrounds in term of access to higher education.

Risk to equality of opportunity for ethnic minority graduates to progress from higher education.

### **Expectations**

As a small provider, we would expect Dartmouth to focus on fewer risks to equality of opportunity, but its interventions to be of the same standard as for all other providers. As its access issues are shared by similar specialist providers in the sector, it may be appropriate for Dartmouth to seek to work collaboratively and for all providers to record information about such collaboration in their APPs. We would expect their work to include expanding creative and performing arts opportunities for relevant students at a younger age to expand both interest and aptitude ahead of auditions, as well as considering whether all prospective students are being given appropriate advice about how to navigate the audition process.

The racial disparities in the post-graduation experiences of students may also be an area to explore and identify whether these outcomes are a direct result of issues within the provider, or if this reflects wider trends in the sector. In the first case, we would expect to see a strong focus on addressing such challenges in the APP; in the second, we would expect the provider to consider how to utilise its influence within the economy and its sector to change practices.

## Felpersham University

**Size:** 12,000 qualifying students

### **Context**

Felpersham provides undergraduate and postgraduate teaching across three faculties: Education, Law and Humanities. It offers no foundation degrees, or degree apprenticeships, and has repeatedly stated that it is not interested in developing more vocational oriented courses. It has an extensive campus near a small town and is the only higher education provider in its largely rural region. It recruits broadly nationwide. In recent years, several technology companies have moved into its local area, and now compete with agriculture as the major economic driver of local and regional life.

### **Risks to equality of opportunity**

Insufficient/inappropriate range of higher education qualifications, courses and/or varied modes of study available to students, preventing them from being able to find the most appropriate study options for them.

Knowledge gaps between students from different groups known to be disadvantaged or underrepresented in higher education appearing prior to and throughout compulsory education, leading to attainment gaps at 16 and 18.

### **Commentary**

In general, the OfS will review the risks identified in a provider's APP against the mission it has identified for itself. However, at times, a particular provider may be the only viable provider within a local area, and we would expect it to respond in that context. In this case, as the only higher education provider in the region, it is likely Felpersham will need to reconsider its approach to vocational education – the local economy has clear needs for appropriate higher education, and the provider could play a useful role, either by delivering such courses itself or seeking partnerships to make such learning available. A similar issue may hold with school partnerships: although this provider recruits nationally, if it is the only provider most local schools can engage with because of infrastructure, it may need to take a leading role – and could collaborate with other providers – to ensure that risks to equality of opportunity are appropriately mitigated.

## University of Wrotesley

**Size:** 28,000 qualifying students

### **Context**

Located in a large city and with a strong history of civic engagement, Wrotesley became a university in 1992 and now has a highly diverse intake. Most groups of students outperform their peers in other providers if prior attainment is taken into account, with few differentials in outcomes amongst its own students. Wrotesley has a close relationship with other higher and further education providers in its city, and with local and regional government, employers, and other stakeholders. Its school partnerships programme includes schools directly controlled by a subsidiary multi-academy trust and other partner schools.

### **Risk to equality of opportunity**

No significant risks to equality of opportunity identified.

### **Expectations**

Wrotesley has already undertaken significant effective action to reduce the risks to equality of opportunity appropriate to its size. We would expect this provider's APP to capture the most significant areas of this work as it continues, but we would also encourage providers at the leading edge of this work to consider how they might innovate further, evaluate their work and share the findings, and explore new, more challenging areas of work to enhance equality of opportunity.



## Annex G: Consideration of alternative proposals

1. Alternative options within the broad parameters of the proposed framework, and that relate to particular proposals, are discussed in the main body of this document. We have also considered the alternatives set out below.

### **Make no changes to the existing approach to access and participation plans**

2. We have considered not making any changes to the existing approach to access and participation plans, including retaining the cycle of plans being refreshed for 2025-26 onwards.
3. We have discounted this approach because since 2018, when the current approach to access and participation was first developed, the broader environment within which higher education operates has changed. The coronavirus pandemic and the consequent national lockdowns have led to a widening of the gap in attainment at key stage 2 between those from disadvantaged backgrounds and their more advantaged peers. Analysis of the 2021-2022 SAT results published by the DfE in September<sup>36</sup> showed that the proportion meeting expected standards was lower for all pupils than it was in 2019, but for those from disadvantaged backgrounds their attainment has fallen further and so the gap in attainment for these pupils has widened.
4. We have a duty to have regard to guidance from the Secretary of State for Education. The most recent guidance from the Secretary of State<sup>37</sup> the OfS to consider whether the current approach to access and participation plans enabled us to set expectations for providers so they would increase their engagement with schools to raise attainment, increase the diversity and flexibility of their higher education provision, ensure that students from disadvantaged backgrounds are recruited onto high quality courses, and significantly increase the volume and quality of evaluation of activity to improve access to, success within and progression from higher education. We agree with these aims in light of the changed context for higher education and concluded that changes to the current approach would necessary to achieve them.

### **Ask providers to address only risks to equality of opportunity in relation to clear gaps in access, success and progression for their own students**

5. The statutory guidance we received from ministers sets out a view that higher education providers should 'play a key role, and have a key interest, in raising school standards, increasing pupils' aspirations, and levelling the playing field for future students across the country'. We agree with this view in the light of the changed context for higher education.

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<sup>36</sup> Available at <https://explore-education-statistics.service.gov.uk/find-statistics/key-stage-2-attainment/2021-22>.

<sup>37</sup> Available at [www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/).

6. It is also our view, underpinned by a significant body of research, that unless gaps in attainment at key stage 4 are addressed then there will be persistent gaps in access to, success in and progression from higher education.<sup>38 39</sup>
7. This has led to our proposal that providers should demonstrate, through the commitments in their access and participation plans, their approach to supporting pre-16 raising attainment.
8. Our recent request for providers to make variations to their existing access and participation plans to take account of key sector-level strategic priorities, including raising attainment activity, demonstrated that higher education providers also understand the importance of their role in this work and consider that they can make a meaningful contribution to it.<sup>40</sup>
9. As well as the importance of raising pre-16 attainment, there are other key sector-level risks to equality of opportunity which might not otherwise be addressed by providers if they considered only their performance for their own students. We anticipate that this will include risks relating to a lack of flexible and diverse provision.

## **Ask providers to tackle specific risks to equality of opportunity based on our own analysis**

10. We have considered setting out where we believe the greatest risks to equality of opportunity are for each provider as a starting point for negotiating the content of its plan and considering the action that a provider intends to take. This may have a benefit of reducing some analytical burden for providers and securing further control over how the sector could address particular key sector-level risks to equality of opportunity.
11. It is our view that this is not an appropriate approach, including because we have a general duty to have regard to the need to protect institutional autonomy and we consider that such an approach would place insufficient weight on autonomy. However, we will continue to produce a suite of data, analysis and insight briefings in order to support providers to understand where their own greatest risks to opportunity may be located with respect to their students.<sup>41</sup> We will also challenge a provider during our consideration of its plan if we are concerned that the plan does not credibly identify and address the risks that we consider to be key challenges for that provider in relation to particular student groups we have identified as at risk of equality of opportunity.

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<sup>38</sup> See

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/317276/R353\\_-](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/317276/R353_-)

[The link between secondary school characteristics and university participation and outcomes FINAL.pdf.](#)

<sup>39</sup> Claire Crawford, Paul Gregg, Lindsey Macmillan, Anna Vignoles, Gill Wyness, Higher education, career opportunities, and intergenerational inequality, Oxford Review of Economic Policy, Volume 32, Issue 4, WINTER 2016, Pages 553–575. Available at

<https://academic.oup.com/oxrep/article/32/4/553/2236521?login=false>

<sup>40</sup> Available at [www.officeforstudents.org.uk/publications/advice-on-requests-to-vary-access-and-participation-plans-2023-24/](http://www.officeforstudents.org.uk/publications/advice-on-requests-to-vary-access-and-participation-plans-2023-24/).

<sup>41</sup> See [www.officeforstudents.org.uk/data-and-analysis/](http://www.officeforstudents.org.uk/data-and-analysis/).

## **Ask providers to request further variations to their plans**

12. The current cycle of access and participation plans came into force from 2020-21 and plans were intended to last for a maximum duration of five years, up to 2025-26. In April 2022 we asked providers to make amendments to their plans for 2023-24 onwards. It was our view that it would be appropriate to consult on any proposed changes to the future cycle of plans rather than to invite any further mid-cycle, variation requests.

## **Annex H: Matters to which we have had regard in formulating our proposals**

### **Duty to protect academic freedom**

1. In performing our access and participation functions in connection with the development of proposals set out in the consultation, we are subject to the duty in section 36 of HERA to protect academic freedom. This means that we are required to protect, in particular:

‘the freedom of institutions:

- (a) to determine the content of particular courses and the manner in which they are taught, supervised and assessed,
- (b) to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases, and
- (c) to determine the criteria for the admission of students and apply those criteria in particular cases.’

2. We have carefully considered whether our proposals could be inconsistent with this duty and have concluded they are not. This is because our proposals do not relate directly or indirectly to the matters set out in (a) to (c) above and it remains the case that providers can determine their own approach to these matters as they see fit.

### **The OfS’s general duties**

3. In formulating our proposals, we have had regard to the OfS’s general duties in section 2 of HERA. We consider that the proposals in this consultation are particularly relevant to general duties (a), (b), (c), (d), (e), (f) and (g), which relate to: institutional autonomy; quality, choice and opportunities for students; competition where this is in the interests of students; value for money; equality of opportunity; efficient use of the OfS’s resources; and best regulatory practice.
4. In formulating these proposals, we have given particular weight to (a) (b), (d) (e) and (g): institutional autonomy; promoting quality, choice and opportunities for students; value for money; equality of opportunity; and best regulatory practice.

### **Institutional autonomy**

5. We note that section 36 of HERA has the effect of amending the OfS’s general duty that relates to institutional autonomy such that, where the OfS is performing its access and participation functions, the definition of institutional autonomy relates only to the need to have regard to ‘the freedom of English higher education providers within the law to conduct their day to day management in an effective and competent way’.
6. We also note that some of the proposals set out in this consultation relate to other OfS functions, such as those connected with conditions of registration, and we have therefore also considered the full applicable definition of institutional autonomy (which includes matters relating to academic freedom) in respect of those relevant functions. However, as explained in the section above on academic freedom, we do not consider that any of the proposals set out

in the consultation have an impact on academic freedom and have therefore focused our considerations on ‘the freedom of English higher education providers within the law to conduct their day to day management in an effective and competent way’.

7. Our proposals are focused on expecting providers to identify the risks that exist to equality of opportunity for their students and wider context. We are providing our view of key sector-level risks to equality of opportunity to support this process but a provider has significant latitude to determine for itself the risks on which its access and participation plan should focus. We do expect to engage with providers that do not present plans with meaningful and effective provisions for approval, and we take the view that this is appropriate to ensure that each provider is making an appropriate contribution to promoting equality of opportunity in higher education. As such, we consider it is important that each provider systematically considers its own potential contribution to, and mitigation of, these risks. We propose that they should do so in relation to a sector-level expression of risks, which is a non-exhaustive reference point, as well as through consideration their own performance for different student groups at particular points of the student lifecycle.
8. It is important that the OfS can intervene to ensure that current and future students experience equality of opportunity prior to, throughout and beyond their higher education experience where there are concerns about the progress a provider is making in understanding and addressing these risks.
9. The general approach set out in the regulatory framework and expanded on in this consultation attaches weight to institutional autonomy in respect of a provider determining the contents of its access and participation plan. However, we are giving weight to autonomy insofar as this is consistent with the need to protect the interests of students and, in particular, students from underrepresented groups. Where a plan does not demonstrate that a provider has undertaken a credible assessment of risks to equality of opportunity, or where the measures it sets out are not based on credible evidence, we propose that its autonomy is likely to carry less weight than the interests of current and future students.
10. Similarly, we would not consider it appropriate for autonomy to outweigh taxpayers’ interests where our expectations for addressing risks to equality of opportunity are not met. Taxpayers should expect that higher education providers are providing for people with diverse experiences and characteristics. To propel some groups rather than other groups through a publicly funded higher education system would risk not delivering society’s full potential.
11. Where a plan does demonstrate a credible assessment of risks to equality of opportunity, we deem that a provider should have the autonomy to determine its own priority risks and associated aims, objectives and targets to address these. Provided that we consider these targets to be reasonable and the strategies credible, we aim to avoid unnecessary challenge.
12. We have considered the risk that expecting providers to set out more detailed information about intervention strategies than in the existing regime, including levels of investment against each intervention, might be seen to limit institutional autonomy – whereby a provider might set the outcomes it intends to achieve, and be responsible for delivering these in the manner it sees as most appropriate. We are also conscious that this might be perceived to create a more rigid framework which hampers providers’ ability to develop and refine the details of intervention strategies over time rather than upfront in a plan for approval. It is our provisional

view that our engagement with a provider can be most effective and constructive at the design stage of a plan, and that we are likely to see only incremental progress in achieving equality of opportunity if we were to take an approach more tightly focused on outcomes in this area.

13. Our provisional view is that this means that the interests of students outweigh the interests of a provider in this situation, and that an approach to regulating access and participation that involves providers identifying and setting out how they will address their most significant risks to equality of opportunity, and the OfS holding them to account for this over the duration of a plan, is an appropriate way to protect students' interests. This view is consistent with the OfS's general duty to have regard to the need to protect institutional autonomy.

### **Promoting quality, choice and opportunities for students**

14. Our proposals are designed to extend choice and opportunities for students from groups underrepresented in higher education. We propose to achieve this by expecting each provider to identify, set out and implement credible approaches to address risks to equality of opportunity for such students. This would mean that students from all backgrounds would have a wider range of choices in terms what, where and how to study. It would also result in extended opportunities for them. Our focus on increasing the diversity and flexibility of higher education provision and the need to robustly evaluate the effectiveness of the interventions a provider delivers is also important in this context.
15. We consider that our proposals also complement and reinforce our approach to regulating the quality of higher education courses. For example, we are implementing an approach to regulating student outcomes which sets minimum requirements for continuation, completion and progression that apply to students from all backgrounds. Our proposed approach to access and participation plans reiterates our view that it is not appropriate to set lower expectations for students from some backgrounds as that would serve to reinforce their disadvantage.

### **Value for money**

16. Value for money in the provision of higher education is important for both students and taxpayers. Students normally pay significant sums for their higher education and incur debt for tuition fees and maintenance costs whether or not their course provides equality of opportunity for them.
17. Similarly, taxpayers contribute significantly to higher education through the provision of government-backed student loans and, for some providers, public grant funding. This investment is unlikely to represent value for money if, for example, some students are less likely than others to be admitted into and supported to succeed in and beyond their higher education experience.
18. To protect the interests of students and taxpayers, our provisional view is that it is appropriate to regulate access and participation plans in the way proposed in this consultation. Our proposals seek to ensure that the investment of students and taxpayers is focused on providers and courses that provide equality of opportunity for students.
19. Our proposals focus on both increasing activity to raise attainment in schools and also addressing the most significant risks to equality of opportunity for individual providers. This is intended to ensure that students are equipped to access higher education and succeed on their

course by raising attainment in schools so that prospective higher education students gain the qualifications required to access higher education and are better prepared for their studies.

20. Our strong focus on improving the quantity and quality of evaluation is designed to optimise providers' activities and so ensure only the most effective strategies are delivered. This will improve the likelihood of relevant students completing their studies, achieving successful outcomes during their higher education and beyond. We consider that this provides value for money for individual students and taxpayers as graduates become productive members of society. In turn, society will benefit from the experiences and perspectives of a diverse set of graduates in a wide range of employment contexts.

## **Equality of opportunity**

21. We consider it important that students from underrepresented groups, or groups who are otherwise disadvantaged historically in relation to access and success in higher education, are able to access higher education that is right for them if they so choose, and then succeed in and beyond higher education and do so as the same rates as students who are not from such backgrounds.
22. We have considered whether our proposal for introducing a sector-level risk register and the expectation that providers will select only those risks which they identify as the most relevant for them is likely to create disincentives for providers to focus on identifying and addressing particular risks related to small groups of students from underrepresented groups.
23. However, our proposals are clear that the risks set out in the EORR, and to which we expect providers to respond in their own contexts, are not a matter only of the quantity of individuals affected, but also the severity of impact, the likelihood of impact, and the extent to which individuals can be legitimately considered to have made a meaningful choice about their access to and success in higher education. Therefore, we envisage a sharper focus on specific objectives, with increased ambition in tackling these in a shorter timescale, alongside an expectation of significantly more detailed interventions with clearer plans for evaluation. It is our provisional view that, in time, this will enable the sector to make faster progress overall in relation to the most persistent equality of opportunity risks, and generate more useful evidence to underpin the adoption of effective practice in the future. This in turn will benefit all student groups.
24. To mitigate the risk that some of the most underrepresented and vulnerable groups may be omitted in the focus of providers' plans we will monitor the coverage of plans in relation to these groups and advise providers if there are areas in which they may be able to contribute to addressing sector-level risks where those at risk are disproportionately highly represented at an individual provider.
25. We need to understand what works and does not work (and for who in what contexts) in access and participation. Our proposals, specifically around strengthening providers' evaluation activity, will help to contribute to this, and thereby to improving equality of opportunity, through the generation and dissemination of evidence relating to the interventions delivered through plans.

## **Best regulatory practice**

26. We currently consider that our proposals appropriately engage with the principles of best regulatory practice. In particular, we consider that our proposals have appropriately considered matters relating to proportionality. For example, we have set out our expectation that we are likely to expect a smaller provider to seek to address a smaller number of risks to equality of opportunity than a larger provider. We also propose to focus on those providers where we consider to be the greatest risks to equality of opportunity. We also consider that our proposals to continue to adopt a focused and risk-based approach to monitoring providers' delivery of the commitments in their access and participation plans to illustrate the ways in which our activities would be targeted only at cases in which action is needed.

## **The public sector equality duty**

27. We have had regard to Schedule 1, paragraph 21 of HERA, which extends the Equality Act 2010, and therefore the public sector equality duty, to the OfS. This requires the OfS to have due regard to eliminating unlawful discrimination, to foster good relations between different groups and to take steps to advance equality of opportunity.

28. Our proposals in this consultation are focused on addressing risks to equality of opportunity for students from groups underrepresented in higher education, including those with particular protected characteristics. We are seeking to ensure that all students, regardless of their personal characteristics or background, can access, succeed in and progress from higher education. We have identified material risks to equality of opportunity for students with some particular protected characteristics – for example, intersections between racial background and disability, specifically mental ill-health, disparities in both access and outcome for certain racial groups, and imbalances in access and success by sex– and will set these out in the EORR we are publishing alongside the results of this consultation. Our proposal would mean that providers would be encouraged to address these risks in their access and participation plans. We are also inviting respondents to the consultation to identify any additional impacts of our proposals on people with particular protected characteristics.

29. We are currently reviewing our approach to equality matters, including through these changes to our regulation of access and participation. Our objective is to ensure that this leads to the publication of revised equality objectives by spring 2023. These revised equality objectives will set out how the OfS will demonstrate compliance with the public sector equality duty, and publishing these in parallel with our response to this consultation will allow us to ensure our approach to equality matters is consistent with our strategic approach to the regulation of equality of opportunity.

## **Guidance issued by the Secretary of State**

30. We have had regard to guidance issued to the OfS by the Secretary of State under section 2(3) of HERA, particularly the guidance issued in November 2021 called 'The future of access and participation plans':<sup>42</sup>

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<sup>42</sup> The statutory guidance cited is available at [www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/guidance-from-government/).



31. We have had regard in particular to the following aspects of that guidance:

- a. The need to retain focus on access of low income students and white British young males in receipt of FSM; BAME students and in particular Black attainment. We propose to achieve this through the sector-level risk register to which each provider should have regard when determining its greatest risks to equality of opportunity.
- b. Providers should not be incentivised, nor rewarded, for recruiting disadvantaged students onto courses where too many students drop out or that do not offer good graduate outcomes. Our proposals address this primarily through ensuring alignment of our regulation of both quality and standards and equality of opportunity.
- c. Access and participation plans should better support raising aspirations and standards in education. The OfS should require providers to promote equality of opportunity before entry to higher education, and support schools to drive up academic standards. Providers should support and be given full credit for activities that support students in other positive outcomes including: apprenticeships; vocational education; access to other universities – not solely judged on increasing access to their own institution. Our proposals seek to achieve this through the introduction and prominence of our expectations for providers to commit to raising attainment activity in their plans.
- d. The new approach should relieve burden and bureaucracy and ensure that students and parents are clear on providers' commitments to equality of opportunity. Plans should be short, concise, and both accessible and easy to understand. We have set out in our proposals how we propose to reduce burden, particularly through a risk-based approach to monitoring and having regard to proportionality considerations in our expectations for a provider's particular contributions to advancing equality of opportunity. We propose to introduce accessible summaries of plans in order to support the information needs of prospective students and their advisers.
- e. Plans should have due consideration of regional inequalities, prior attainment in schools and a focus on the findings of the white working-class boys report.
- f. Diversifying modes of study in higher education – the OfS should strongly encourage providers to set targets to significantly increase the proportion of students onto higher and degree apprenticeships, Level 4 and 5 courses (including Higher Technical Qualifications), and utilising flexibility of access such as part-time. While we propose to encourage providers to diversify modes of study, we take the view that this provision should be designed in the interests of all prospective students rather than as an alternative to traditional routes of study for underrepresented groups so as not to undermine our aim for equality of opportunity throughout the higher education sector.
- g. Plans should focus on results and best practice. Our proposals would mean that plans retain a focus on aims and objectives, and that targets should be set where relevant. We would expect to see intervention strategies setting out how a provider will achieve its aims, objectives and targets and for a provider to demonstrate that it has considered the best available evidence on which to base its approach. Furthermore, we expect the plans themselves to contribute to the generation of higher quality evidence for the future.

- h. KPMs and national targets should align with the new focus of access and participation and equality of opportunity. We are developing the OfS's KPMs in a way that is complementary to the proposals set out in this document.
- i. There should be a shift away from marketing activities. Students' needs and requirements should be in the spotlight. We agree that students' needs and requirements should be the focus of plans.

## The Regulators' Code

32. We have had regard to the Regulators' Code.<sup>43</sup>

33. Section 1 of the code is particularly relevant, which discusses the need for regulators to carry out their activities in a way that supports those they regulate to comply and grow. Our proposals to include further detail on the intervention strategy that providers intend to adopt allows us to provide critical challenge where necessary to achieve change in the interests of students. Likewise, our approach to encouraging providers to significantly increase their evaluation activity, and to commit to the publication of the outcomes of this, will allow the sector to grow its evidence base in relation to effective interventions which might be adopted elsewhere.

34. Section 3 describes how regulators should seek to base regulatory activities on risk. Our proposals to focus access and participation plans on the greatest risks to equality of opportunity at provider and sector level seek to achieve this.

35. Section 5 of the code is also particularly relevant in its discussion of the need for regulators to ensure that clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply:

- a. Paragraph 5.1 provides for regulators to provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities.
- b. Paragraph 5.2 provides for regulators to publish guidance and information in a clear, accessible and concise format.

36. We consider that our proposals particularly encapsulate these aspects of the code.

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<sup>43</sup> Available at <https://www.gov.uk/government/publications/regulators-code>.



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